



CITY OF KIRKLAND

CITY COUNCIL

Penny Sweet, Mayor • Jay Arnold, Deputy Mayor • Neal Black • Kelli Curtis
Amy Falcone • Toby Nixon • Jon Pascal • Kurt Triplett, City Manager

Vision Statement

Kirkland is one of the most livable cities in America. We are a vibrant, attractive, green and welcoming place to live, work and play. Civic engagement, innovation and diversity are highly valued. We are respectful, fair and inclusive. We honor our rich heritage while embracing the future. Kirkland strives to be a model, sustainable city that values preserving and enhancing our natural environment for our enjoyment and future generations.

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • TTY Relay Service 711 • www.kirklandwa.gov

AGENDA

KIRKLAND CITY COUNCIL MEETING

City Council Chamber

Tuesday, September 7, 2021

5:30 p.m. – Study Session

7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.kirklandwa.gov. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

PLEASE CALL 48 HOURS IN ADVANCE (425-587-3190) if you require this content in an alternate format or if you need a sign language interpreter in attendance at this meeting.

1. CALL TO ORDER

2. ROLL CALL

3. STUDY SESSION

- a. Solid Waste Contract Procurement Update

4. EXECUTIVE SESSION

- a. To Discuss Potential Litigation

5. HONORS AND PROCLAMATIONS

- a. Eastside Welcoming Week Proclamation
- b. National Hispanic Heritage Month Proclamation
- c. Recovery Month Proclamation

6. COMMUNICATIONS

- a. Announcements
- b. Items from the Audience
- c. Petitions

EXECUTIVE SESSIONS may be held by the City Council only for the purposes specified in RCW 42.30.110. These include buying and selling real property, certain personnel issues, and litigation. The Council is permitted by law to have a closed meeting to discuss labor negotiations, including strategy discussions.

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

*7. PUBLIC HEARINGS**8. SPECIAL PRESENTATIONS*

- a. COVID-19 Update
- b. Resolution R-5434 Update
- c. Geo-Notification Application Demonstration

*9. CONSENT CALENDAR**a. Approval of Minutes*

(1) August 4, 2021

*b. Audit of Accounts**c. General Correspondence**d. Claims*

(1) Claims for Damage

e. Award of Bids

(1) Trailer Mounted LED Screen – Approve Purchase

f. Acceptance of Public Improvements and Establishing Lien Period

(1) 124th Avenue NE Sidewalk Improvements Project

(2) NE 116th Street Crosswalks Upgrade Project

*g. Approval of Agreements**h. Other Items of Business*

(1) Resignation of Tourism Development Committee Member

(2) Ordinance O-4767, Granting Olympic Pipeline Company LLC, a Delaware Limited Liability Company, Its Successors and Assigns, a Nonexclusive Franchise to Construct, Operate, Maintain, Remove, Replace and Repair Existing Pipeline Facilities, Together with Equipment and Appurtenances Thereto, for the Transportation of Petroleum Products Within and Through the Franchise Area of the City of Kirkland

(3) Resolution R-5489, Allocating the City's Portion of 2022 and Corona Virus (CV) -2 Community Development Block Grant (CDBG) Funds

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

***QUASI-JUDICIAL MATTERS** Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

- (4) Ordinance O-4765, Relating to Noise in Parks and Amending Section 11.80.090 and Section 11.80.100 of the Kirkland Municipal Code
- (5) Second Quarter 2021 Crime Dashboard
- (6) Animal Services Program Update
- (7) Safety Camera Program Update
- (8) July 2021 Sales Tax Revenue
- (9) 2020 Impact Fee Report
- (10) Second Quarter Investment Report
- (11) Declaration of Surplus Vehicles and Equipment
- (12) Procurement Report

10. BUSINESS

- a. Transportation Impact Fee Policy Discussion Follow Up
- b. Community Responders Program Execution Plan, FTE Conversions, and Additional Full-Time EMTS for the Mobile Integrated Health Unit
- c. Proposed Purchase of Real Property – 11825 100th Avenue NE (Village Plaza)
 - (1) Resolution R-5490, Authorizing the City Manager to Execute a Real Estate Purchase and Sale Agreement for Property Located at 11825 100th Avenue NE in Kirkland and Known as the Village Plaza for Public Purposes and Approving an Interfund Loan from the Water Sewer Capital Fund in Connection Therewith
- d. Proposed Communications Master Use Permit – Zayo – First Reading
 - (1) Ordinance O-4766, Granting Zayo Group, LLC, A Delaware Limited Liability Company ("Zayo"), as Successor-In-Interest to Abovenet Communications, Inc. ("Abovenet"), a Non-Exclusive Communications Master Use Permit for the Right, Privilege, and Authority to Make Use of Permit Area for Wireline Communications Purposes
- e. Interim Affordable Housing Targets for Kirkland

ITEMS FROM THE AUDIENCE

Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

11. REPORTS

- a. *City Council Regional and Committee Reports*
- b. *City Manager Reports*

(1) Calendar Update

12. ITEMS FROM THE AUDIENCE

13. ADJOURNMENT

**CITY OF KIRKLAND****Public Works Department****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800****www.kirklandwa.gov**

MEMORANDUM

To: Kurt Triplett, City Manager

From: John MacGillivray, Solid Waste Programs Supervisor
Julie Underwood, Director of Public Works

Date: August 26, 2021

Subject: SOLID WASTE CONTRACT PROCUREMENT UPDATE

RECOMMENDATION:

It is recommended that the City Council receive a presentation about the status of the solid waste contract procurement process, provide direction regarding the acceptance of certain provisions and services included in the proposal submitted by Waste Management, Inc. Council discussion and direction about options related to the resulting rate increase will follow at future Council meetings.

This memo has a tremendous amount of information for the City Council to consider. For discussion purposes, the scenarios contained in this memo assumes that the Council will adopt an ordinance regarding a rate increase taking effect on January 1, 2022 no later than the November 3 Council meeting in order to comply with rate increase notification requirements in State law, and would coincide with the award of the contract. Nevertheless, the timing of any rate increase is Council discretion, and staff is prepared for return to Council for continued discussion on this detailed and complex contract.

BACKGROUND:

The last Kirkland competitive solid waste contract procurement process that resulted in a contract award occurred in 2002 with an effective date of October 1, 2003. Because of the complexities associated with the major annexation in 2011, that seven-year contract with Waste Management, Inc. (WMI), was renegotiated in 2010, with an effective date of July 1, 2011 and an expiration before extensions of June 30, 2018. In 2017, the City conducted a competitive solid waste contract request-for-proposals (RFP) process. Three proposals were received, but after considering the three proposals—all of which included retail rate increases ranging between 6- to 17-percent—the City Council opted to exercise the first of the City's two available two-year contract extensions in lieu of awarding a new contract, thereby extending the term of the City's current contract with WMI through June 30, 2020. On February 26, 2020, staff exercised the second and final two-year extension, extending the contract term through June 30, 2022.

CONTRACT PROCUREMENT AND APPROVAL PROCESS OVERVIEW

On March 17, 2021, the City issued an [RFP](#) and [draft contract](#) for the procurement of solid waste collection services beginning July 1, 2022. The issuance of the RFP was preceded by several months of preparation that included a community survey; individual hauler interviews; a [procurement update to the City Council](#) on December 8, 2020; City Attorney's Office legal and consultant review; and an [industry review](#) opportunity for the incumbent and potential competing service providers to provide input on the draft RFP and contract prior to the release of the RFP. Also influential to the provisions and services in the draft RFP and contract were the goals, actions, and/or commitments made in the City's *2019 Comprehensive Solid Waste Management Plan*, its *Sustainability Master Plan*, and City Council Goals.

A total of 149 questions and comments were received and addressed during industry review from four prospective service providers including WMI (62), Recology (43), Republic Services (23), and Cedar Grove Composting (21). Each comment and revision requested was considered and addressed within the framework of: maintaining the general integrity of the services and provisions requested by the City in the RFP and the draft contract; not undermining the fairness of the process by favoring one competitor over another, and; looking for opportunities for compromise, where possible. Many revisions were made to the pre-release RFP and contract drafts based upon input received from all active participants in the industry review process, and revisions were made to encourage competition and foster inclusion, transparency, and fairness.

In the end, the incumbent, WMI, was the only service provider that submitted a proposal in response to the RFP, and it has expressed no interest in considering a contract extension or a shorter-term contract. The WMI proposal can be reviewed at this [link](#). Upon review, staff determined the proposal submitted by WMI was submitted under the presumption of a competitive environment and is entirely absent of collusive activity. It is clear to staff and the City Attorney's Office that WMI had no foreknowledge that competitors would choose not to submit proposals nor did WMI collude with competitors to ensure a lack of competition. In addition to the Form 5 Certification of Proposal submitted with its proposal, WMI also signed a post-submittal non-collusion affidavit willingly at the request of the City.

The three other prospective proposers (Cedar Grove Composting, Recology, and Republic Services) that participated in the industry review process chose not to submit proposals. Recology and Republic Services each sent letters to the City explaining their decisions. Recology cited a lack of a nearby operations facility to serve Kirkland and its limited CNG fueling capacity. Republic Services cited several issues such as its preference for an alternative, higher CPI escalator index; unembedded recycling service; contamination fees charges to residents and businesses; contract extensions by mutual consent; and lower performance fees related to labor disruptions. The established RFP process provided opportunities for proposers to address their concerns through responses to alternatives in the RFP (ex. alternative CPI index); through requesting contract modifications in the proposal per the term of Section F: Base Contract Modifications; and/or resolving issues during the contract finalization/negotiation phase after provisional award.

At its September 7, 2021 study session staff will provide an overview to the City Council of the services and provision in the draft contract, the WMI proposal, alternatives called out in the RFP, and discuss options to manage rate increases.

Assuming the contract is provisionally awarded to WMI, the contract finalization phase will begin, which may include tasks such as:

- Negotiating and incorporating contract exclusions and modifications requested by the proposer or the City;
- Incorporating RFP alternatives selected by the City Council;
- Retaining or deleting unrequested services and provisions;
- Finalizing wholesale rates;
- Addressing errata and formatting the draft contract; and
- Final legal review.

Once the recommended contract is finalized, staff will return to seek the Council's final contract review, approval and award. At the time of contract award, the Council also should consider and act on retail rate increase options, which are discussed later in this staff report. Per State law, residents must be notified of solid waste rate increases within 45 days of the effective date of the increase. If the Council chooses to adopt a new rate increase ordinance to be effective on January 1, 2022, then the new rates would have to be adopted no later than the November 3, 2021 City Council meeting. The November 17, 2021 Council meeting is too late and falls within the 45-day notification period. The Council has the authority to adopt new retail solid waste rates at any time during the calendar year, so a rate increase or increases could be established at any time in 2022. Again, any rate increase is subject to 45-day public notification requirements.

QUALITATIVE PROPOSAL REVIEW PROCESS

Though only one proposal was received, the City's Proposal Evaluation Team (PET), consisting of four City staff and one member from the King County Solid Waste Division, reviewed and scored the proposal based upon the scoring criteria identified in the RFP in order to ensure the viability and responsiveness of the WMI proposal. City PET members included the Public Works Director, the Solid Waste Programs Supervisor, the Solid Waste Coordinator, and the Education and Outreach Specialist. The scoring criteria used included: Customer Service (35 points); Contract Implementation and Compliance (40 points); Operations (45 points); Collection, Processing, and Education (40 points), and; Innovation and Creativity (20 points). The proposer itself also was evaluated based upon an interview (20 points), virtual operations and recycling center tours (20 points), and reference checks (30 points). Out of 250 possible points, the WMI proposal received an average score of 187.4 points or 75%. The WMI proposal in 2017 received a rating of 78%.

The breakdown of the scoring by section is shown on the next page in *Table 1: Qualitative Review Scoring*. Areas for improvement included: the WMI website, a discussion of a strike contingency plan, inclement weather response, the need for a more robust virtual operations and recycling center tours using photos and video, and a stronger overall interview. A better performance in these areas would have resulted in a "good" proposal rating (80%+) versus an "average" proposal rating (75%).

Table 1: Qualitative Review Scoring

Criteria	Points Available	Total Points Available*	Total Points Received	Average Points Per Scorer	Percentage
Customer Service	35	175	136.5	27.3	78%
Contract Implementation and Compliance	40	200	163	32.6	81.5%
Operations	45	225	162	32.4	72%
Collection Processing and Education	40	200	167	33.4	83.5%
Innovation and Creativity	20	100	74.5	14.9	74.5%
Interview	20	100	68.5	13.7	68.5%
Virtual Recycling Center Tour	10	50	28.5	5.7	57%
Virtual Operations Facility Tour	10	50	27	5.4	54%
Reference Checks	30	150	110	22	73.3
Total	250	1,250	937	187.4	75%

*Total points from five individual PET member scores. For example, Customer Service has 35 points available per PET member which equals five times 35 or 175 total points available.

CONTRACT, REQUEST-FOR-PROPOSAL, AND ALTERNATIVES DISCUSSION

This section of the staff report outlines the provisions and services in the RFP and draft contract that were requested by the City. The provisions were either:

- Retained from Kirkland's current solid waste contract;
- Deleted from Kirkland's current solid waste contract;
- New services and provisions in the draft solid waste contract;
- Alternatives requested in the RFP; and/or
- Services and provisions not requested by the City.

Retained Contract Services and Provisions

The following *Table 2: Retained Contract Services and Provisions* summarize services and provisions retained from Kirkland's current solid waste contract with WMI as presented to City Council during a contract procurement update at the December 8, 2020 study session.

<i>Table 2: Retained Contract Services and Provisions</i>	
Item	Description
Weekly Residential Trash, Recycling, and Compost Collection	Year-round weekly collection
Variable Cart and Container Sizes	Six trash cart sizes for residential customers. Four cart sizes and seven dumpster sizes available for multifamily/commercial customers. Six drop box and compactor sizes for roll-off customers
Cart Colors	Green = garbage, Blue = recycling, Gray = yard and food waste. The cost to make a cart color change to make garbage carts gray and compost carts green would approach \$1.5 million.
Embedded Residential Recycling and Compost Service	Recycling and compost service provided at no additional cost to residential customers.
Embedded Multifamily/Commercial Recycling Service	Recycling service provided at no additional cost to multifamily property and commercial customers.
Multifamily/Commercial Organics Collection	Organics-only collection service provided to multifamily and commercial customers upon City approval. Subsidized 100% in retail rates
Solid Waste Services at City Facilities, Parks, Downtown	Provision of trash and recycling collection service at City facilities, parks, and downtown core at no additional cost
Big Belly Trash and Recycling Container Maintenance	Contractor responsible for cleaning and maintaining units and paying for wireless notification software license
Curbside Bulky Waste Collection	On-call, fee-based residential curbside collection service for CFC and non-CFC appliances, furniture, mattresses and box springs, and miscellaneous bulky items
Curbside Electronics Collection	On-call curbside collection of electronic items with motherboards at no additional cost

Table 2: Retained Contract Services and Provisions

City Billing	City will continue to bill residential and commercial customers for solid waste services
Inclement Weather Drop-off Sites	Trash and recycling drop-off sites established for residents if two consecutive weeks of service is missed due to inclement weather
Annual Recycling Guide Mailers	Annual recycling guides printed by contractor and mailed to residents and businesses
CPI-W Collection Component Escalator	Industry standard CPI-W service component escalator
Disabled Carry-out Service	Free carry-out service for resident with proof of a disability
Senior Low-income and Disabled Discounts	City retains ability to offer discounts to senior low-income and/or disabled customers
Christmas Tree Collection	During the first two weeks each January, whole Christmas tree collected at the curb from single family and multifamily residents

Deleted Contract Services and Provisions

Table 3: Deleted Contract Services and Provisions below, itemizes the services and provisions in Kirkland's current contract that were not included in the draft contract.

Table 3: Deleted Contract Services and Provisions

Deleted Item	Provision
Aluminum foil	Not recoverable, vaporizes during smelting process
Plastic bags/film	Removed per recommendation in King County Responsible Recycling Task Force Report
Shredded paper	Removed per recommendation in King County Responsible Recycling Task Force Report
Motor oil	Accepted for recycling at most auto parts stores
Compact fluorescent light bulbs (CFLs)	Accepted at several locations through the Washington State LightRecycle Washington Program
Enclosure gate unlocking and opening fees	Multifamily and commercial customer no longer charged for enclosure gate unlocking and opening

New Contract Services and Provisions

The following are highlights of the new services and provisions in the draft solid waste contract.

Table 4: New Contract Services and Provisions

Item	Description
Fleet of CNG Collection Vehicles	A new fleet of 2022 model year natural gas-fueled trucks as a preferred environmental alternative to diesel. Contractors generally need nine months to order and take delivery of new collection vehicles. If the contract award occurs after October 2021, the deployment date for the new collection vehicles will be adjusted accordingly after the July 1, 1022 effective date of the new contract.
Lower Cost Bulky Waste Collection	Reduced cost of appliances, furniture, mattresses to \$30/item. Reduced cost of CFC appliances to

Table 4: New Contract Services and Provisions

	\$40/item. Increased affordability to combat illegal dumping
Multifamily On-call Bulky Waste Collection	On-call bulky waste collection for multifamily properties to combat illegal dumping
Multifamily and Commercial Education and Outreach	Outreach tailored to help businesses, multifamily property manager and tenants increase recycling and reduce contamination
Transcreated Education and Outreach Materials	Transcreated education and outreach materials required to be posted on WMI website in Chinese, Russian, and Spanish languages, at a minimum
Annual Educational Cart Tagging	Targeted educational cart tagging to residential customers to promote waste reduction, recycling, and behavior change
No Cap on Commercial Recycling Volume	Unlimited recycling service available to commercial customers (with limits to ensure the volumes provided match a customer's actual production of recyclable materials)
Work Stoppage Performance Fees	Specific, escalating performance fees specifically applicable to work stoppages. Requires a strike contingency plan, credits to customers, and drop-off sites
Spill Response and Abatement Protocols	Requirements for response times, City notification, clean-up, and subcontracting
City Event Services	Solid waste services provided at no additional cost at City or City-sponsored events. Up to six events per year
Extended Customer Service Center Hours	Call center open on Saturdays between 8 a.m. and 5 p.m.
Contamination Reduction Plan	Defined protocols to provide education and enforcement to reduce residential and commercial recycling contamination
Contamination Fees	Recycling and/or compostable contamination fees allowed with written consent of City
Curotto-style Attachments for Residential Trucks	Requires Curotto-style can attachments for residential recycle and yard/food waste trucks to allow drivers to identify contamination as materials are dumped
Small Food Waste Containers	A 12- to 16-gallon sized food scrap container for customers residing in townhomes or other dwellings without yards
Contract Term	10.5-year contract term to align expiration of contract with end of biennial budget cycle. One two-year extension at City's discretion
Revised Accepted Recyclables List	Plastic bags and clamshells, aluminum foil, and shredded paper no longer accepted

Request-for-Proposals Alternatives

The following is a list of RFP alternatives for which the City requested pricing from proposers. The decision to accept or forego any or all of the alternatives is at the sole discretion of the City. Each alternative is presented below with a description of each alternative (in italics) taken directly from the

RFP, an increase or decrease in the annual gross contractor revenue requirement provided by WMI, staff discussion and analysis, and a staff recommendation of Accept, Consider, or Decline.

1. Collection Vehicle Fleet

The Base Contract includes requirements for new CNG-fueled vehicles at the start of the Contract Term. Under this alternative, collection vehicle chassis must be no older than model year 2020 and at no time older than ten years (from the first date of service when new) through the Contract term, including extensions. Proposers may also include a proposal for a full fleet or a phase-in transition to electric or alternatively fueled collection vehicles.

Increase/Decrease in Annual Revenue Requirement: None proposed.

Discussion: Not applicable.

Staff Recommendation: None

2. Bulky Waste Collection Service

Each year, through the use of an on-demand, call-based service, the Contractor would provide a curbside collection service to handle bulky materials at no additional charge to Single-Family Residence Customers. Each Customer would be allowed to dispose of up to one (1) bulky household item each calendar year at no additional cost, including but not limited to large household appliances, mattresses, sofas, furniture, barbecues, and exercise equipment. Any additional requests for curbside bulky waste collection would be charged at the established retail rates.

Increase in Annual Revenue Requirement: \$38,490/year

Discussion: This alternative would provide each residential customer with one curbside bulky waste pick-up per year at no additional cost. This service may help decrease illegal dumping activity and will provide convenience to residential customers, particularly to those unable to haul their own bulky waste to transfer stations or other private sector disposal/recycling locations. The increased cost is reasonable when balanced against the likely popularity of the service and anticipated reduction in illegal dumping.

Staff Recommendation: Accept

3. Every-other-week Single Family Garbage Collection

The Base Contract includes weekly single-family garbage collection. Under this alternative, garbage collection would be shifted to every-other-week (EOW), using the same sized carts currently at Customers' locations.

Decrease in Annual Revenue Requirement: \$3.55 per customer per month, or approximately \$964,634 per year to the contract based upon July 2021 customer count data.

Discussion: This alternative would shift trash collection from weekly to EOW for all residential customers. The draft contract requires the City to provide the contractor at least 180 days'

(six months) notice before the effective date of a transition to EOW service so the earliest this change could take place is January 1, 2023. Recycling and yard/food waste collection would continue to be weekly to provide customers with enough capacity to recycle and compost more to off-set the loss of garbage volume attributable to EOW service. Most cities in King County have weekly garbage collection, with outliers being the City of Renton and unincorporated King County. When EOW garbage and recycling service was introduced in 2009 in the City of Renton, the recycling diversion rate only increased by two percentage points.

In a pre-procurement public survey of Kirkland residents, 57% of respondents were opposed to EOW garbage service, 35% were in support, with the remaining 8% neutral. EOW garbage service would reduce carbon emissions, though staff estimates it has the potential to increase recycling diversion marginally, as has been the case in cities that already had high performing recycling programs, such as Kirkland. EOW garbage service has several drawbacks, however, including:

- More garbage left outside carts, or cart lids left open, both of which contribute to litter and attract urban wildlife;
- Less efficient service, because drivers must exit their vehicles frequently to collect uncontained materials;
- An increase in contamination when customers opt to dispose of extra trash in their recycling and/or compost carts in lieu of placing out extras for an extra fee, or choose not to increase the size of their trash container to compensate for EOW service;
- Scheduling and recovery issues in the event of delayed service due to inclement weather events; and
- Majority opposition, as documented in the public survey. The relatively small rate reduction [about 4 percentage points (pp)] may be outweighed by public opposition.

Every-other-week service does not reduce a customer's bill by 50%. Rather, it only reduces costs related to the garbage collection component of the rate because the amount of tonnage disposed (the disposal component) remains the same along with the recycling and yard/food waste collection costs. Furthermore, the aforementioned \$3.55 per customer per month amount would not be a direct passthrough. The reduction would be allocated through a percentage reduction allocated proportionally to all service levels. For instance, a customer billed \$8.97 per month for a 10-gallon garbage service would not receive \$3.55 off their bill but would receive only a small fraction of the \$3.55. Conversely, a customer paying \$76.50 for a 96-gallon garbage service would have their monthly bill reduced by more than \$3.55. Given the relatively small savings per customer, the anticipated size of the retail rate increase, and the previously discussed drawbacks, staff is not recommending a shift to EOW service at this time.

Every-other-week Recycling Service

The opportunity to shift to EOW recycling service was not included as an alternative in the RFP for the following two reasons. First, if the City did opt to shift to EOW trash service,

customers would need to keep, at a minimum, their current weekly 64-gallon recycling carts under the assumption EOW trash service would compel a large percentage of customers to be more conscientious in diverting more recyclable items from their trash into their recycling carts. Second, there are approximately 23,000 64-gallon residential recycling carts deployed in Kirkland, which is the default recycling cart size. If the City were to switch to EOW recycling, customers would need new, larger 96-gallon recycling carts to increase their available EOW recycling capacity, which is a standard cart size for cities with EOW recycling. Nonetheless, WMI has indicated that the City could save approximately \$2.60 per customer per month (\$706,492 per year to the contract) if WMI purchased and deployed the replacement 96-gallon recycling carts, or \$3.25 per customer per month (\$883,116/year) if the City purchased the 96-gallon recycling carts itself.

Staff Recommendation: Decline at this time but consider for the future. The draft contract allows the City to transition to EOW service upon six months' notice to the contractor.

4. Free November Single Family Residence Yard Waste Extras

In 2019 and 2020, the City piloted a program in which single family residential customers could place out an unlimited number of properly prepared extra units of yard waste during the month of November at no additional cost to the customer. The program was intended to assist residents in the disposal of large volumes of organic materials (leaves) and to encourage residents to assist the City with urban flooding. In 2019, customers placed out 5,571 extra units of yard waste. In 2020, customers placed out 7,656 extra units of yard waste. This alternative would implement this service effective in November 2022 and in each November through term of the Contract. Each single family residential Customer would be allowed to place out no more than five extra units of yard waste per week at no additional cost only during the month of November.

Increase in Annual Revenue Requirement: \$47,090

Discussion: For the 2019/2020 budget biennium, City Council approved \$65,000 in pilot funding to subsidize unlimited free residential yard waste extras for the month of November only (\$30,000 in 2019 and \$35,000 in 2020). Over the 2019/2020 biennium, \$73,891 actually was expended, whereas the biennial cost proposed by WMI is over \$94,000 or about \$21,000 more than that. The pilot was discontinued after 2020. The pilot was implemented in part to restore the unlimited, year-round yard waste extras provided to customers before annexation to assist some customers with costs related to leaf and woody debris disposal, and in part to encourage residents to assist Surface Water Maintenance crews with urban flooding by removing leaves from drains. The pilot generally was well received and used by residents, but there were several instances where the program was "enthusiastically over-used," and there is no factual or anecdotal evidence that the program helped reduce urban flooding. For those reasons, the program was discontinued after 2020.

Staff Recommendation: Consider

5. Contractor Billing Agent

The Base Contract assumes the City will continue to bill its single-family, multifamily, and commercial customers for service and the City and the Contractor will share specific customer

service responsibilities. This alternative shifts all billing and customer service responsibility to the Contractor under a billing agent relationship. Under this alternative, the Contractor would bill customers City-specified rates, funds are collected by the Contractor on behalf of the City, and the Contractor is paid by the City rate for collection services provided.

Increase in Annual Revenue Requirement: \$509,509 per year

Discussion: The City has billed its customers for solid waste services for decades. Bill preparation and mailing is provided by a subcontractor and customer service and support is provided Utility Billing staff. Under a billing agent relationship, the contractor would cover all costs associated with billing Kirkland customers. Funds received by the billing agent would be deposited in a City account from which the City would pay the contractor on a monthly basis. The City would retain the difference between the wholesale contractor rates and the City retail rates to fund administrative and waste reduction and recycling program expenses. The City would retain retail rate-setting authority.

The current cost for the City to bill its customers for solid waste services is approximately \$146,000 per year or \$363,000 less than the pricing in the WMI proposal. A shift to a billing agent relationship still would require some staff time to reconcile the receivables and review the monthly contractor invoices, but ultimately it could result in the possible reduction of Utility Billing FTE's. Given that the City can continue to bill its customers for solid waste services at a much lower cost than WMI, staff does not recommend this alternative.

Staff Recommendation: Decline

6. Alternative Service Fee Escalation Component

The Base Contract includes an aggregate Consumer Price Index escalator on the service fee component. Under this alternative, the Proposer may propose a substitute index used to calculate annual service fee escalations. The floor and ceiling limits contained in the draft contract would be retained with this alternative escalator.

Decrease in Annual Revenue Requirement: \$402,625

Discussion: This RFP alternative allowed proposers to propose an alternative CPI index. The collection component escalator in the draft contract is the June-to-June Seattle-Tacoma-Bellevue Metropolitan Area for the U.S. City Average Urban Wage Earners and Clerical Workers, all items (Revised Series) (CPI-W1982-84=100) prepared by the United States Department of Labor, Bureau of Labor Statistics. The CPI-W is released no later than July 15 of each year and 100% of the CPI-W is applied to the collection component for the ensuing year with a cap of 5%. For example, an adjustment to the Contractor's collection service charge for 2023 will be based on the CPI-W for the twelve (12) month period ending June 30, 2022. If the CPI is negative, the contractor rates remain unchanged.

In its proposal, WMI has proposed to use the Water, Sewer, Trash (WST) index as an alternative to the CPI-W. It is important to note that the annual "savings" of \$402,625 noted above is artificial, because WMI has assumed and built in an annual rate of inflation higher than the CPI-W in the collection component of its wholesale rates and it is willing to give back some or all of the difference if the City is willing to accept the WST index over the CPI-W

index. Historically, the WST index averages more than the CPI-W. The WST index has averaged 3.84% over the past ten years and 4.45% over the past twenty whereas the CPI-W has averaged 2.48% over the past ten years and 2.46% over the past twenty. The WST index is about 1.4 percentage points higher on average than the CPI-W over past 10 years and two percentage points over past 20 years. Over the past five years, there is a slight difference between the CPI-W and the WST indices, but such difference was reduced due to the 6.29% CPI-W increase to be effective on January 1, 2022.

The 2023 collection cost component will be around \$17 million. 1.8% of \$17 million is \$306,000 and 2.1% of \$17 million is \$357,000. Consultant analysis estimates that the CPI-W will stay lower by more than the WMI give back of \$402,625 over next ten years, therefore unless WMI is willing to escalate the giveback at the WST percentage increase each year, then staff is recommending staying the course with the CPI-W escalator in the draft contract.

CPI-W and WST Indices Comparison		
Period	CPI-W	WST
5-year Average	3.13%	3.30%
10-year Average	2.48%	3.84%
20-year Average	2.46%	4.45%

Staff Recommendation: Decline

The following are two options to manage recycling commodity revenues. The draft contract included a placeholder for a mechanism to manage the value of recyclable commodities. Alternatives seven and eight were included in the RFP to illustrate the difference between the status quo—the contractor retaining all revenues and paying all expenses related to the marketing and sale of recyclable commodities—versus a riskier floor/ceiling revenue/cost sharing mechanism.

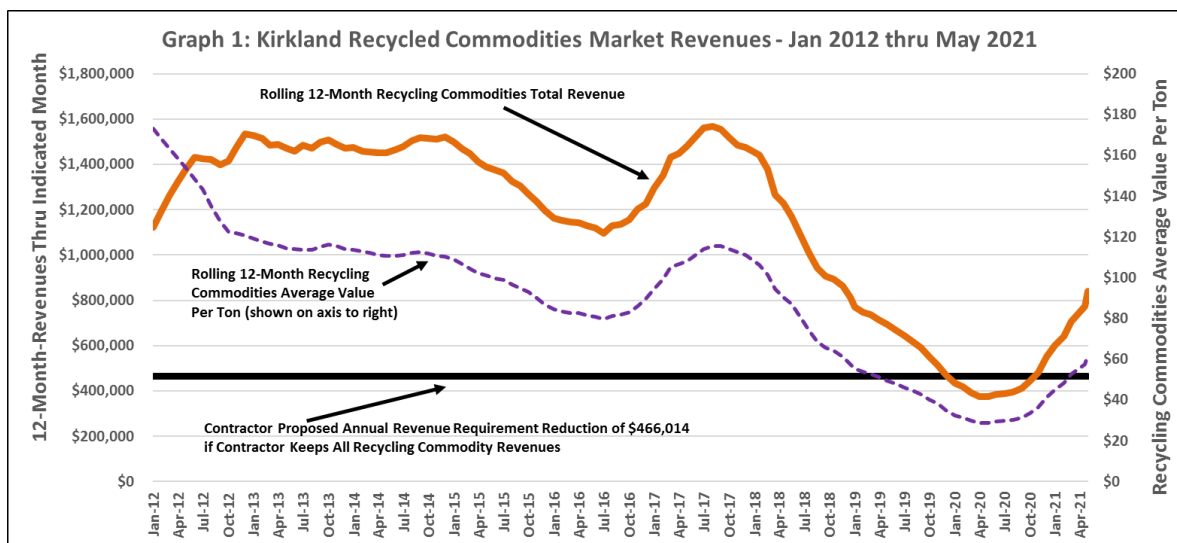
7. Contractor Retains All Commodity Revenues/Pays all Expenses

Under this alternative, the Contractor retains all commodity revenues and pays all commodity expenses during the term of the contract, like earlier City contracts.

Decrease in Annual Revenue Requirement: \$466,014

Discussion: In most current municipal solid waste contracts in King County, including Kirkland, the contractor is responsible for the collection, processing, and marketing of recyclable commodities and bears all the risk associated with the sales and value of the commodities. This places the risk and reward entirely upon the contractor and insulates the City from having to pay more in the event of a downturn in the price of recyclable commodities, but also prevents the city from receiving additional revenue when average market prices are high.

In recent years, the restrictions (the “China Sword”) China placed on imports of recyclables from the United States caused the prices of many commodities like mixed paper and plastics to crash to all-time lows. Costs rose accordingly as processors were compelled to find less profitable alternative domestic and international commodity markets, and to ensure bales of recyclables were almost entirely free of contaminants. Recently, the average market prices of some recyclable commodities—such as aluminum, mixed paper, and some plastics—are beginning to rebound, although it’s difficult to predict if the growth will continue with any degree of certainty. The average combined revenues from the sales of Kirkland’s recyclable commodities is shown in *Graph 1* and shows recycling commodity markets are beginning to gradually rebound.



Source: Sound Resource Management

Based upon analysis of WMI-provided average commodity pricing and residual disposal data by consultant Sound Resource Management, it is estimated that if the commodity markets in the next ten years are similar to the last 1.5 years, WMI would make around \$507,000 from the sales of Kirkland recyclable commodities. However, WMI also would be responsible for paying between \$306,000 and \$600,000 (depending on the King County disposal fee) for the disposal of residuals (contaminants) from recycling processing. The net revenue would range between positive \$201,000 to negative \$93,000, which in either case does not cover the \$466,014 rate decrease offered in the proposed alternative. Therefore, staff believes the \$466,014 in annual savings is reasonable and a good deal for the City bearing in mind that the attractiveness of the deal wanes if the average commodity markets prices increase or residual tonnages decrease (or a combination of both) over the term of 10.5-year contract. When coupled with the avoidance of risk, staff recommends acceptance of this alternative.

Staff Recommendation: Accept

8. Contractor Retains All Material Revenues/Pays all Expenses Within Price Floor and Ceiling

Under this alternative, the Contractor retains commodity risk and reward within a band of \$25-\$156/ton average commodity value. In the event that average published commodity value drops below \$25/ton, the City will compensate the Contractor for lost revenues based on the

difference between actual published value and the \$25/ton floor. In the event that average published commodity value exceeds \$156/ton, the Contractor will compensate the City for excess revenue based on the difference between actual published value and the \$156/ton ceiling.

Decrease in Annual Revenue Requirement: \$117,000

Discussion: Some cities have elected to take on some of the risk associated with the sales of recyclable commodities in recent contracts. One mechanism to share the risk is to negotiate a floor and ceiling arrangement with the contractor. If the average commodity market prices dip below the floor, the City would have to provide additional compensation to the contractor to make up the difference between the floor and the lower actual average market price. If the average market prices rise above the ceiling, the City would receive additional compensation from the contractor between the ceiling and the higher actual market price. Given the general volatility of recycling commodity markets and uncertainty surrounding the ability of markets to sustain growth and the associated costs to administrate a floor and ceiling arrangement, staff recommends declining this alternative in favor of Alternative 7 above.

Staff Recommendation: Decline

Unrequested Contract Services and Provisions

The WMI proposal includes several provisions and services that were not requested by the City in the draft contract or RFP. These provisions and services may or may not be of interest to City Council. The following is an overview of the unrequested provisions and services offered by WMI for City Council's consideration, including a staff analysis, cost information, and a recommendation to accept, consider, or decline.

1. Big Belly Solar-powered Trash Receptacles

In 2011, 48 Big Belly HC3-model solar-powered trash containers were installed in the downtown area. At 24 of the 48 locations, there are kiosks with a Big Belly SC3-model recycling receptacle attached to the HC3 trash compactor. The cost of the Big Belly units was included in the new contract with WMI effective July 1, 2011. The Big Belly trash units compact waste, which adds capacity and theoretically reduces the number of times per week the containers must be emptied if the operator uses the wireless notification software properly. The software advises WMI when the containers are at or near capacity and need to be scheduled for service. The Big Belly recycling containers have no compaction capability but were retrofitted with wireless notification hardware around 2016 at a substantial cost to the City. The recycling unit hardware is hardwired across to the HC3 compactor unit and uses the solar power generated by the HC3 to power the recycling units' fullness monitoring hardware. The containers have been exceptionally effective at addressing litter issues downtown in waterfront parks and have provided residents and visitors with public recycling opportunities. WMI is responsible for maintaining and servicing the units and paying for the annual wireless notification software license.

In its proposal, WMI is proposing to replace only the trash units with new HC5 Big Belly units. The older HC3 units are no longer being manufactured. Staff estimates the retail cost of the

replacements is between \$120,000 and \$150,000. In addition to the cost, there are several areas of concern about replacing the units:

- The SC3 recycling units are not compatible with the new HC5 trash compactors. At the 24 kiosk locations, the old SC3 recycling containers would have to be detached from the old HC3 trash units, a new side skin purchased (if available), and the recycling unit remounted to the sidewalk adjacent to the new HC5 trash unit.
- Solid Waste invested \$31,000 to retrofit the SC3 recycle units with wireless notification hardware and that investment and capability would be lost unless matching new SC5 recycling units were provided along with the new HC5 trash units.
- Solid Waste recently invested several thousand dollars to apply new vinyl wraps at several locations to improve the appearance of the containers. That project is ongoing as funding becomes available to install more wraps.
- The existing Big Bellies are aging but remain in working order and, when maintained regularly to the manufacturer's specifications, will continue to function well into the foreseeable future.

Staff Recommendation: Consider. Staff is supportive of considering the replacements if matching recycling units are provided at the kiosk locations at no additional cost and if the City is made whole on its recycling unit wireless notification hardware and vinyl wrap investments. Staff also is open to a gradual deployment of new units to deflect costs over time. Otherwise, staff recommends that this unrequested item be deleted. Instead, staff recommends that the City replace the units as cash reserve and/or grant revenues become available, and that the associated replacement costs related to this unrequested item be deducted from the WMI wholesale rates.

2. Electric Collection Vehicle Pilot

Waste Management is proposing to pilot a Class 8 electric solid waste collection vehicle in Kirkland within the first five years of the contract. Electric collection vehicle technology is not yet on par with diesel or CNG-fueled collection vehicles in terms of reliability and efficiency, but it may become viable within the next few years. According to WMI, there would be no additional cost to the City to pilot an electric collection vehicle. The vehicle will be purchased by WMI corporate and will be made available to regional operations upon request for pilots throughout the country.

Staff Recommendation: Accept. Electric vehicles support the goals and actions in the City's *Sustainability Master Plan*, and staff welcomes the opportunity to assess the viability of electric collection vehicles and explore opportunities for an eventual transition to a full electric fleet as technology allows.

3. Electric Route Manager Vehicles and Box Trucks

At the start of the contract, WMI will purchase and deploy two Nissan Leaf electric vehicles for route manager transportation and two electric box trucks to be used by cart delivery and curbside bulky waste drivers. The deployment of more electric vehicles supports the goals in

the *Sustainability Master Plan*. This could save around \$87,000 at the start of the contract by substituting gas or diesel-powered route manager and box truck vehicles in lieu of electric vehicles.

Staff Recommendation: Accept

4. Miscellaneous Unrequested Services and Provisions

The following is a list of several miscellaneous unrequested services and provisions with zero to nominal impact on rates. Where data are available, estimated or actual costs have been provided. Given the limited rate impact of these unrequested provisions and services, staff is not opposed to accepting them, unless noted otherwise.

- **Community Events Donation.** Waste Management would provide \$40,000 to the City each year to be used to support community events. The funding may be distributed at the City's discretion by the City Manager's Office and the appropriate department.
- **Green4Good Community Grant.** The federal government provides an alternative fuels tax credit of up to \$100,000 annually to businesses. If the tax credit is reinstated by Congress on an annual basis, WMI is proposing to share up to 50% (\$50,000) of the proceeds of the tax credit with the City in the form of a community grant program geared toward supporting community sustainability initiatives. If accepted, the scoping of the community grant will determine the lead City department to administer the grant program.
- **Dedicated Route Manager.** A route manager would be dedicated to Kirkland to providing daily operational support to Kirkland staff. Staff sees little value in this offering as all WMI route managers are and always have been readily accessible to staff at any time.
- **Additional WMI Outreach Staff Time.** Additional WMI public education staff time would be provided to Kirkland to support site visits to multifamily and commercial customers, for cart tagging, and for special events. The proposal does not specify the number of additional hours that would be provided and therefore staff is unable to estimate the usefulness of the additional staff time nor calculate the impact on rates.
- **Additional Recycling Collection Event.** The draft contract requires the contractor to hold one recycling collection event each year to accept difficult-to-recycle items. This addition would provide Kirkland with one additional event per year. The cost of these events is not significant because event fees charged by vendors, if any, are nominal.
- **Multifamily Textile Recycling.** Through the WM ReTRN Program (Recovering Textiles Right Now), large multifamily properties would be offered clothing drop-off containers at no additional cost. The WMI proposal does not define "large multifamily" so contract language would be required to identify which and how many properties would be eligible for this service.

- **Multifamily Move-in/Move-out Program.** This on-call service would be provided to property managers to assist with the removal of bulky waste materials left behind after tenants move out for a fee per item. This service is not distinguishable from the provisions in the draft contract where on-call bulky waste collection service already is made available to multifamily property managers.
- **EcoCarts.** Replacement carts provided to customers are manufactured with a percentage of post-consumer recycled resin. The WMI proposal does not specify the percentage of recycled plastic resin in the carts, but staff supports the use of post-consumer recycled plastics wherever possible to help close the recycling loop.
- **Driver Uniforms.** Driver uniforms would be made from fiber from recycled plastic bottles.
- **Recycle All-Stars Program.** Customers with recycling contamination issues that show improvement over time would be eligible to receive a free month of trash collection service. One of ten eligible customers would be selected to receive the award by WMI. Presumably, WMI would provide the City with a credit for the one month's free service, which would be formalized in contract language.
- **Smart Truck Technology.** Currently, multifamily and commercial collection vehicles are equipped with photo and video cameras to monitor contamination. Videos and photos are reviewed by WMI staff and customers with contamination are notified via letter or email with a snapshot of the contamination. In the new contract, the technology would be extended to single family residential to help combat contamination. It is unclear how WMI will be able to implement the technology successfully in the single-family sector because there are about 50,000 residential recycling and yard/food waste carts serviced per week.
- **Slotted Recycling Container Lids.** To prevent contamination, slotted lid recycling containers would be offered to multifamily and commercial customers. The slots prevent plastic bags of recyclables and unbroken down cardboard boxes from being placed in recycling containers. Kirkland piloted slotted lids at three multifamily properties in the past and discontinued the pilot after receiving negative feedback from property managers.

NEW CONTRACT WHOLESALE SOLID WASTE RATES

As will be discussed in future Council meetings, WMI's proposed wholesale rate increase is substantial. The following section includes a detailed discussion of retail and wholesale rates to set the stage for an ensuing presentation of the proposed WMI wholesale rates.

Wholesale and Retail Rates Primer

Kirkland's Solid Waste Utility is a self-sustaining enterprise fund, similar to the other City utilities (domestic water, sanitary sewer, and surface water). Historically, the City has chosen to contract for solid waste collection services in lieu of providing those services directly and has contracted with WMI without interruption for about 40 years. Waste Management bills the City for collection, processing, and disposal services provided through a wholesale rate schedule for each service level: residential, multifamily, and commercial. The WMI wholesale rates are comprised of a collection component and a disposal component.

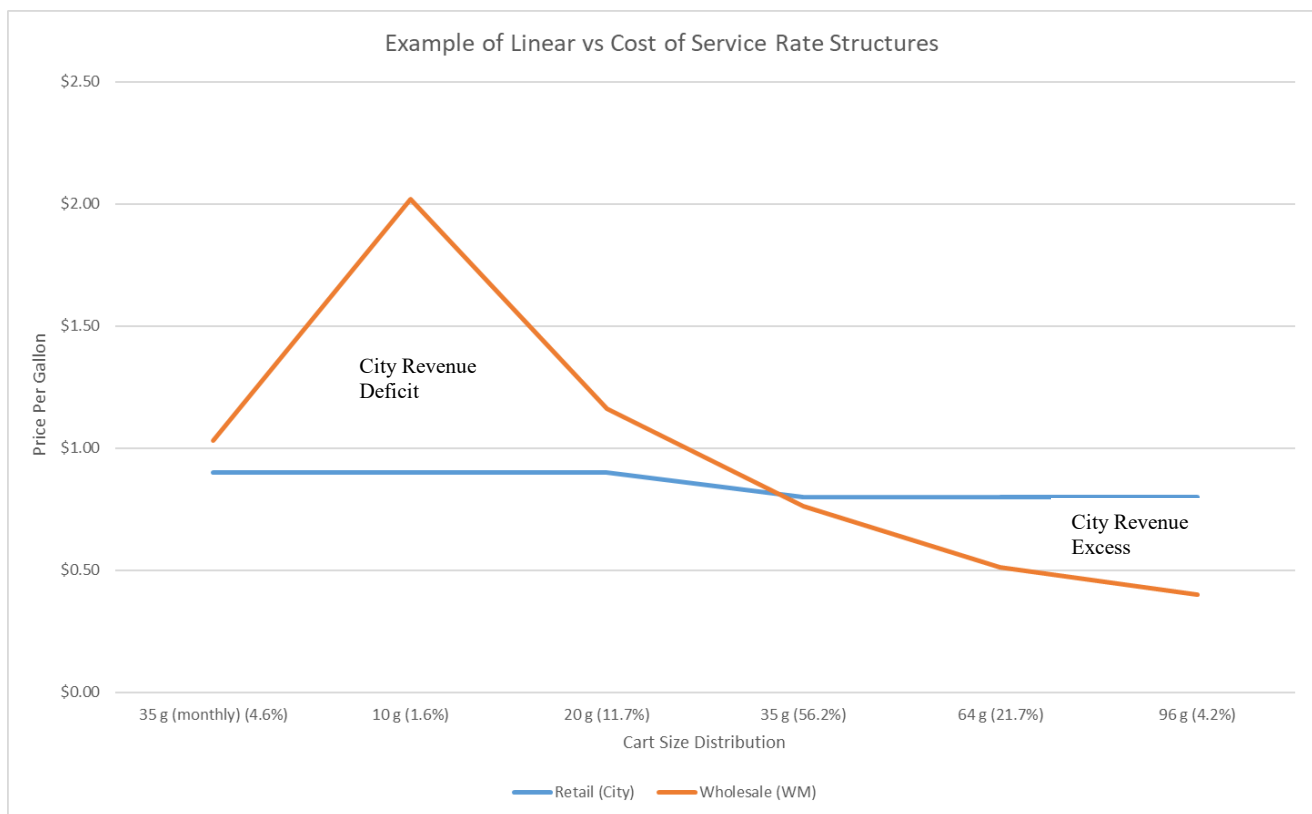
The collection component of the rate is cost-of-service and includes all operational and administrative costs associated with the collection, transportation, and processing of trash, recycling, and yard/food waste, plus a profit margin. The collection component is escalated annually by the June-to-June CPI-W consumer price index. Cost-of-service rates reflect the revenue requirement that must be collected for each service level for the contractor to fully recover its costs associated with collection. With cost-of-service service rates, the price per gallon is higher for smaller carts and containers but lower for larger carts and containers because it's more expensive for the contractor to collect and haul less material. When charged directly to the customer, cost-of-service rates encourage customers to upsize their trash service level to take advantage of a lower price-per-gallon bargain and does not, therefore, encourage waste reduction or recycling behaviors.

The disposal component of the wholesale rate includes costs borne by the contractor to dispose of Kirkland's trash through the King County Solid Waste system according to a disposal fee set by the King County Council. At the start of a contract, an estimate of the average weight for each cart or container service level is made and remains in place over the term of the contract. The monthly disposal fee rate for each service level is calculated by dividing the average container weight for each service level by 2,000 pounds (a ton), multiplying the quotient by the King County disposal fee per-ton rate, and then multiplying the product by 4.333 (the number of service intervals in a month). The resulting number is the disposal component, which is added to the collection component to arrive at the total wholesale service fee for each service level. Waste Management is compensated by the City on a monthly basis for services rendered by calculating the number of customers at each service level multiplied by the service fee for each service level.

The City Council retains retail rate-setting authority, and the City bills its customers retail rates for solid waste collection services on a bi-monthly basis. Two-year retail rates typically are adopted to coincide with the biennial budget process. The City's retail rates are estimated by calculating a revenue requirement to cover wholesale rate payments to WMI; escalators to the wholesale collection component; any increases in King County's disposal fee; plus a margin to pay for City Solid Waste and Utility Billing staff, recycling programs, and administrative and operating expenses. As opposed to the contractor's cost-of-service rate structure, the City's retail rates are linear, meaning that the price per gallon across all service levels is the same. This creates a subsidy between sectors in which the higher priced larger carts subsidize lower pricing for smaller carts and containers. The linear rate structure, therefore, provides most customers with the opportunity to downsize or "right size" their

garbage service level by taking advantage of recycling and compost services provided at no additional cost.

As shown in the example below, by overlaying City linear retail rates over the wholesale contractor cost-of-service rates an imbalance is created in which the wholesale rates paid to WMI for smaller carts are higher than the retail rates and vice versa. The City operates at a deficit for the smaller cart and container service levels but makes a profit on the larger cart and container service levels. Since linear rates encourage downsizing, the linear rate model must build in an estimated rate of downsizing else the City will experience revenue shortfall. The goal with linear retail rates is to strike a revenue neutral balance to ensure the City achieves its annual revenue requirement to sustain the financial integrity of the Solid Waste enterprise fund.



Wholesale Rates Proposal

The rate proposal received from WMI includes an average 53.3% wholesale rate increase. By comparison, the City of Auburn awarded its solid waste contract to WMI in October 2021 with an average 48% wholesale rate increase. Auburn received a second proposal from Republic Services that included a rate increase proposal approximately \$500,000 higher annually than the WMI proposal or about a 50.8% wholesale rate increase. Because of market conditions, staff anticipates that in the future other cities that undertake competitive procurements or negotiations will experience rate increases on par with or greater than the increases seen in Auburn and now Kirkland.

The wholesale rate increase breakdown by service sector is shown below in *Table 5 Proposed Wholesale Rate Increase*.

<i>Table 5: Proposed Wholesale Rate Increase</i>	
Sector	Increase (%)
Single Family	57%
Multifamily/Commercial	49.9%
Roll-off	14.4%
Average	53.3%

Table 6: Comparison of Current and Proposed Revenue Requirement and Monthly Payment below, shows a comparison between the annual WMI revenue requirement in its proposal and the projected average monthly payment to WMI versus current. Staff had considered proposing to use some cash reserves to mitigate the rate increase or defer the rate increase between the July 1, 2022 contract effective date and January 1, 2023, but the cash reserve balance as of this writing is \$1,759,157 and thus is too small to use for rate increase mitigation or deferment; the reserve policy for the Solid Waste Utility is to maintain a minimum cash reserve balance of at least one month's payment to WMI plus operating expenses (\$2,300,000). As such, increasing the cash reserve balance to around \$2.3 million as a component of a retail rate increase will have to be considered to comply with cash reserve policy.

<i>Table 6: Comparison of Current and Proposed Revenue Requirement and Monthly Payment</i>			
	Current	Proposed	Difference
Annual Revenue Requirement	\$13,715,749	\$21,020,679	\$7,304,930
Average Monthly Payment	\$1,142,979	\$1,751,723	\$608,744
Six Month Payment	\$6,857,874	\$10,510,338	\$3,652,464

There are several drivers behind the drastic increase in solid waste collection costs.

- Corporate-mandated **profit margins** (estimated to be between 25%-30%)
- **Inflation** related to labor, maintenance, and fuel. According to labor cost data provided by WMI, and dependent upon the labor agreements:
 - Driver wages have increased between 31% and 70% since 2012.
 - Driver pensions have increased between 45% and 158% since 2012.
 - Driver health and welfare benefits have increased between 42% and 65% since 2012.
- **Recycling costs**, including investments in sorting technology, processing costs, disposal of contaminants, and low and volatile recycling commodity prices
- **Market reset**. The City's last competitively procured and awarded contract was in 2002. The current contract was negotiated in 2011. Kirkland's wholesale rates have been artificially low for several years and have not kept pace with growth and increasing costs.

For the purposes of a high-level comparison of residential wholesale rates charged by WMI in its other local cities, *Table 7: WMI Wholesale Residential Rate Comparison* below, shows the relative difference between Kirkland's current wholesale rates; the proposed new WMI wholesale rates; the cities of Auburn, Federal Way, and Newcastle; and unincorporated King County. It's important to

note that this is not a true apples-to-apples comparison, and the contractual services and provisions have not been equalized between cities. There are several factors that influence and impact rates in a given jurisdiction, ranging from proximity to a transfer station, to the unique mix of services and provisions in an individual city's contract, to whether the contract was procured competitively or negotiated. Nor does *Table 7* represent the retail rates which Kirkland will charge to its customers. It's important to note also that all of the cities shown have every-other-week recycling service and two have unembedded yard waste service for which customers must pay a fee in addition to the garbage rate.

Table 7: WMI Wholesale Residential Rates Comparison*

Service Level	Kirkland (Current)	Kirkland (Proposed) 7/1/22	Auburn 10/1/21	Federal Way 9/1/20	Newcastle 3/1/19	King County WUTC**
20 gallon	\$23.45	\$37.99	\$31.17	\$28.33	\$31.78	\$33.35
35 gallon	\$27.02	\$43.77	\$34.98	\$33.44	\$38.78	\$39.57
64 gallon	\$33.19	\$53.77	\$46.40	\$43.37	\$48.20	\$49.18
96 gallon	\$38.79	\$62.84	\$62.19	\$58.24	\$60.18	\$58.84
Recycling	Weekly	Weekly	EOW	EOW	EOW	EOW
Yard Waste	Weekly	Weekly	Weekly	Weekly Subscription – Extra \$11.98/mo	Weekly	Weekly Subscription – Extra \$13.00

*Rate data provided by WMI

**Unincorporated King County area where solid waste collection services and rates are governed by the Washington Utilities and Transportation Commission and provided by WMI through exclusive rights to service certain territories through a "G" certificate.

NEXT STEPS:

This update is to provide the Council with background on the contract elements, contract options and the resulting increase in wholesale rates. Staff is seeking any questions or feedback from the Council. Staff will provide a second briefing to the Council on options for setting the retail rates that Kirkland charges solid waste utility customers to implement the contract. The next briefing will include policy choices that impact rates, potential cost saving options, and a discussion of ways to phase in the rate increases. Upon receiving direction from Council on a preferred rate increase implantation strategy and the provisional award of the contract to WMI, staff will engage with WMI to finalize the details of the draft contract and will develop a corresponding new retail rate ordinance to adoption at a Council meeting to be determined. Staff anticipates a robust education and outreach effort to residents and businesses using multiple communications channels in well in advance of the July 1, 2022 contract start date to explain any changes in service, new services, and rate increases.



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033
425.587.3001

MEMORANDUM

To: Kurt Triplett, City Manager

From: Joy Johnston, Interim Communications Program Manager
David Wolbrecht, Senior Neighborhood Services Coordinator

Date: August 26, 2021

Subject: EASTSIDE WELCOMING WEEK PROCLAMATION

RECOMMENDATION:

That Mayor Sweet join the mayors of Bellevue, Issaquah, Redmond and Sammamish in proclaiming September 10 through September 19, 2021 as Eastside Welcoming Week.

BACKGROUND DISCUSSION:

The Mayor has proclaimed Eastside Welcoming Week alongside other Eastside cities since 2016. Eastside Welcoming Week is part of national Welcoming Week, created by the organization Welcoming America. The cities of Kirkland, Bellevue, Issaquah, Redmond and Sammamish are joining communities across the country in exploring ways to capitalize on diversity as an asset and striving to create a culture and policies that ensure everyone can belong and thrive by addressing disparities, countering hate, understanding history, and helping neighbors come together.

In recognition of Welcoming Week, Kirkland's City Hall for All event will focus on creating a more equitable Kirkland where everyone has a sense of belonging. City Hall for All will be a virtual event this year and will be held on September 18, 2021. This year's event features Mr. Delbert Richardson who is a self-taught community scholar and second-generation storyteller of the national award-winning *The "Unspoken" Truths American History Traveling Museum*. With the use of authentic artifacts, storyboards, and the ancient art of "storytelling," Mr. Richardson teaches American History through an Afro-centric lens which centers those voices of Black people who often are omitted and erased. This unique interdisciplinary approach to teaching challenges and inspires participants of all ages to be curious regarding their beliefs and perceptions as they relate to American History. City Hall for All also includes important and collaborative discussions about how Kirkland is shaped through planning and how to lift up all voices and get involved in these processes. More information is available at www.kirklandwa.gov/CityHallforAll. Additionally, the City is joining other Eastside cities in co-sponsoring a virtual event on September 17 on "Equitable Economic Development: Local Updates, Transformative Models, and Opportunities for Action." More information will be posted the City's website as the event details are published.

This is one of many efforts by the City to strive towards the values articulated in the Welcoming America Standard, a roadmap for communities to become more inclusive toward immigrants, other newcomers, and all residents. Launched in 2009, Welcoming America has spurred a growing movement across the United States, with one in eight Americans living in a Welcoming Community. The City of Kirkland has been a Welcoming America member since 2017.

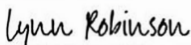
P R O C L A M A T I O N

- WHEREAS,** the Eastside cities of Bellevue, Issaquah, Kirkland, Redmond, and Sammamish have jointly celebrated Eastside Welcoming Week for the past five years; and
- WHEREAS,** these cities recognize the importance of ensuring that all residents feel safe, secure, and welcome; and
- WHEREAS,** East King County is one of the most racially and ethnically diverse regions in Washington State, with over 30% of our residents coming from places outside of the United States; and
- WHEREAS,** realizing our vision for a welcoming community requires actively addressing the lived experiences of those in our community who do not feel welcome, safe, valued, or included; and
- WHEREAS,** recent events have highlighted the historic and current impacts of individual, institutional, and systemic racism that result in harmful disparities in education, employment, income, housing, criminal justice, and quality of life, as well as sense of belonging; and
- WHEREAS,** our community, like others across the nation, has structures, systems, and policies that contribute to injustice, racial inequality, and discriminatory treatment against residents who were born in another country, are Black, Indigenous, other People of Color, LGBTQ, and other identities; and
- WHEREAS,** to capitalize on diversity as an asset, our community must strive to create a culture and environment that ensure everyone can belong and thrive;
- NOW, THEREFORE, WE, THE MAYORS OF BELLEVUE, ISSAQUAH, KIRKLAND, REDMOND, AND SAMMAMISH, WASHINGTON,** jointly proclaim September 10-19, 2021, as

EASTSIDE WELCOMING WEEK

and invite the community to engage in opportunities during Eastside Welcoming Week and beyond to learn, connect across differences, and take joint action to achieve a welcoming, equitable, and inclusive community.

DocuSigned by:



Lynne Robinson, Mayor
City of Bellevue

DocuSigned by:



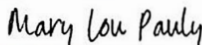
Penny Sweet, Mayor
City of Kirkland

DocuSigned by:



Karen Moran, Mayor
City of Sammamish

DocuSigned by:



Mary Lou Pauly, Mayor
City of Issaquah

DocuSigned by:



Angela Birney, Mayor
City of Redmond





CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033
425-587-3000

MEMORANDUM

To: Kurt Triplett, City Manager

From: Joy Johnston, Interim Communications Program Manager
David Wolbrecht, Senior Neighborhood Services Coordinator

Date: August 26, 2021

Subject: National Hispanic Heritage Month Proclamation

RECOMMENDATION:

That the Mayor proclaim September 15 through October 15, 2021 as National Hispanic Heritage Month in the City of Kirkland.

BACKGROUND DISCUSSION:

Each year, Americans observe National Hispanic Heritage Month from September 15 to October 15, by celebrating the histories, cultures and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean and Central and South America.

The observation started in 1968 as Hispanic Heritage Week under President Lyndon Johnson and was expanded by President Ronald Reagan in 1988 to cover a 30-day period starting on September 15 and ending on October 15. It was enacted into law on August 17, 1988, on the approval of Public Law 100-402.

The day of September 15 is significant because it is the anniversary of independence for Latin American countries Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. In addition, Mexico and Chile celebrate their independence days on September 16 and September 18, respectively.

This proclamation supports Kirkland's Resolution R-5240 declaring Kirkland a safe, inclusive, welcoming community for all people. Celebrating National Hispanic Heritage Month helps to ensure that diversity and inclusion remain a priority and that we continue to welcome diversity in its many forms and embrace opportunities to showcase diversity in our City. Such celebrations that welcome and showcase diversity also support the City's efforts to dismantle structural racism, as called for in Resolution R-5434.

Mr. Luis Navarro, Kirkland resident, will be present to accept the proclamation.



A PROCLAMATION OF THE CITY OF KIRKLAND

Proclaiming September 15 through October 15, 2021 as National Hispanic Heritage Month in the City of Kirkland

WHEREAS, National Hispanic Heritage Month celebrates the history, culture and traditions of the Hispanic community and recognizes the countless contributions made by Hispanic Americans to American society; and

WHEREAS, National Hispanic Heritage Month commemorates the anniversaries of independence for the Latin American countries of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, all of which celebrate independence on September 15, while also aligning with the independence days of Mexico and Chile, which celebrate their independence on September 16 and September 18 respectively; and

WHEREAS, according to United States Census population estimates for 2020, Hispanic and Latino community members represent an estimated 7.7 percent of the population in Kirkland; and

WHEREAS, although the Hispanic population makes up close to 20% of the U.S. population, they only account for about 1% of the country's elected and appointed officials; and

WHEREAS, concentrated effort is needed to amplify the voices of our Hispanic and Latinx population, to increase civic engagement among our Hispanic and Latino community members and encourage their involvement on local boards, commissions and elected bodies; and

WHEREAS, in February of 2017, the Kirkland City Council approved Resolution R-5240 declaring Kirkland a safe, inclusive, and welcoming community for all people and directing the City Manager to engage the community to determine ways for Kirkland to be more safe, inclusive, and welcoming; and

WHEREAS, in August of 2020, the Kirkland City Council approved Resolution R-5434 committing to several actions to examine and dismantle institutional and structural racism in Kirkland; and

WHEREAS, celebrating National Hispanic Heritage Month helps to ensure that diversity and inclusion remains a priority and that we continue to welcome diversity in its many forms and embrace opportunities to showcase diversity in our City;

NOW, THEREFORE, I, Mayor Penny Sweet, on behalf of the Kirkland City Council, do hereby proclaim September 15 through October 15, 2021 as National Hispanic Heritage Month and encourage the Kirkland community to join us as we celebrate the important contributions made by Hispanic Americans, immigrants from Latin America, and the Latino community and recognize and embrace the impact the Hispanic culture has on our lives and in our community.

Signed this 7th day of September 2021,

Penny Sweet, Mayor



CITY OF KIRKLAND
Parks & Community Services
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lynn Zwaagstra, Director
Leslie R Miller, Human Services Supervisor
Jen Boone, Human Services Coordinator

Date: September 7, 2021

Subject: 2021 RECOVERY MONTH PROCLAMATION

RECOMMENDATION:

That the Mayor proclaim September 2021 as Recovery Month in Kirkland, Washington.

BACKGROUND DISCUSSION:

The purpose of National Recovery Month is to promote access to prevention, treatment and recovery, encourage those in treatment, educate to reduce stigma and discrimination, and work together to support recovery services available to those in need.

Each year, Recovery Month offers the opportunity to celebrate recovery successes and support those in recovery to continue living a healthy and fulfilling life. The theme for this year's 32nd Recovery Month is "Recovery for Everyone: Every Person, Every Family, Every Community." This year's theme serves as a reminder that people in recovery and those supporting them are not alone, and that together, we can build a stronger, more resilient community. We are all called to welcome everyone to recovery by lowering barriers to recovery support, creating inclusive spaces and programs, and broadening our understanding of what recovery means for people with different experiences. Free, confidential help is available through the SAMHSA's National Helpline, 1-800-HELP (4357) or 1-800-487-4889 (TDD).

More information about Recovery Month, this year's theme, and recovery stories can be found at www.nationalrecoverymonth.org. Washington Recovery Alliance is partnering with the Seattle Mariners for a local celebration of Recovery Month. Recovery Day at T-Mobile Park is September 12th from 11am to 5pm. Register at <https://www.mlb.com/mariners/tickets/specials/washington-state-recovery>.

The COVID-19 pandemic has been an extremely challenging time for many in recovery. When the gathering of 2020 data is complete, the National Center for Health Statistics is expecting an approximately 31% increase in drug overdose deaths nationwide and an approximately 39% increase in Washington State. Data is available on [NCHS's website](https://www.nchs.gov).

For resources available to those seeking treatment or supporting a loved one with a substance use disorder, please visit:

- Substance Abuse and Mental Health Services Administration, [Recovery and Recovery Support | SAMHSA](#)
- Washington Recovery Alliance, <https://washingtonrecoveryalliance.org/>
- King County Recovery Coalition, <https://kcrecovery.org/>

Chris Hendrickson, Web and Multimedia Content Specialist in the City Manager's Office will accept the proclamation at the September 7, 2021 City Council Meeting.

Attachment: Proclamation



A PROCLAMATION OF THE CITY OF KIRKLAND

Proclaiming September 2021 as "Recovery Month" in Kirkland, Washington

WHEREAS, behavioral health is an essential part of health and one's overall wellness; and

WHEREAS, prevention of mental and substance use disorders works, treatment is effective, and people recover in our area and around the nation; and

WHEREAS, we must encourage relatives and friends of people with mental health and substance use disorders to implement preventive measures, recognize the signs of a problem, and support those in need to appropriate treatment and recovery support services; and

WHEREAS, an estimated 400,000 people in King County are affected by mental health and substance use disorders; and

WHEREAS, education and awareness play a vital role in reducing barriers for people with mental health and substance use disorders by helping to diminish stigma so that people in recovery can access employment and housing, both crucial to long-term recovery; and

WHEREAS, no matter how far down the scale people with mental health and substance use disorders have gone, recovery is always possible, offering boundless opportunities for people with mental health and substance use disorders to live productive, honest and purpose-filled lives, contributing greatly to their communities and society as a whole; and

WHEREAS, to help more people achieve and sustain long-term recovery, the Washington State Department of Social and Health Services and King County Behavioral Health and Recovery Division invite all residents of Kirkland, Washington to participate in National Recovery Month;

NOW, THEREFORE, I, Mayor Penny Sweet, on behalf of the Kirkland City Council, do hereby proclaim September 2021 as "Recovery Month" in the City of Kirkland, Washington and call upon the community to observe this month by supporting and participating in appropriate programs, activities, and ceremonies supporting this year's theme, "Recovery for Everyone: Every Person, Every Family, Every Community."

Signed this 7th day of September, 2021

Penny Sweet, Mayor



CITY OF KIRKLAND
Planning and Building Department
123 Fifth Avenue, Kirkland, WA 98033
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Adam Weinstein, AICP, Director of Planning and Building
Dawn Nelson, Planning Manager
Kurt Aldworth, Building Official
Xiaoning Jiang, Resilience and Technology Officer
Joe Plattner, Geographic Information Systems Supervisor

Date: August 24, 2021

Subject: GEO-NOTIFICATION APPLICATION DEMONSTRATION

RECOMMENDATION

It is recommended that the City Council receives an overview and demonstration of the new geo-notification application that the Development Services group and the Geographic Information Systems team have been developing. Councilmembers are encouraged to ask questions about the content of this memo and provide staff with guidance on the tool development before the final rollout to the community.

BACKGROUND

The City has a public notification process for many land use applications that involves notice boards, publication in the newspapers, and mailings. However, many development projects do not require a land use permit and the associated public notice but may still generate community interest in the immediate or broader neighborhood. Although the community does not have the opportunity to participate in a public process for these types of non-discretionary permits, they still may wish to be informed about upcoming changes and construction in their neighborhood. Often, a neighbor may not be aware of new construction until the equipment shows up on the job site – at which time they contact the City to find out what is happening and how they can learn more. The City also engages in other activities (ranging from code enforcement actions, to City-wide code amendment processes, to the construction of small-scale stormwater improvements) that may not be the subject of widespread noticing, but still may be of interest to some community members.

In 2018, at the urging of City Council, the Planning and Building Department proposed the implementation of a new tool to address this community need. In late 2020, City staff evaluated multiple technology tools and selected the Tyler Socrata "software as a service" (SaaS) solution. This software is owned by the same company as EnerGov, the City's permit tracking software, and thus is easier to manage and more integrated with existing City software systems than other options that staff evaluated.

The geo-notification software will enable Kirkland residents to self-select the information that is useful to them and receive e-mail alerts when new development activities or code enforcement actions are happening near their interest area. The software is also part of a larger City-wide effort to make City project and development information more accessible to the public. A cross-departmental implementation team including Planning and Building, Public Works, Fire Prevention, and IT-GIS was formed in May 2021 to implement the tool.

Please note that this new tool is intended to supplement rather than replace the required land use notification process. Though the phase one pilot project is focused on development activity and code enforcement within the City, the plan is for the tool to expand to provide other location-based notifications to Kirkland residents. Other applications might include CIP Projects, Our Kirkland Service Requests, and Public Safety Calls.

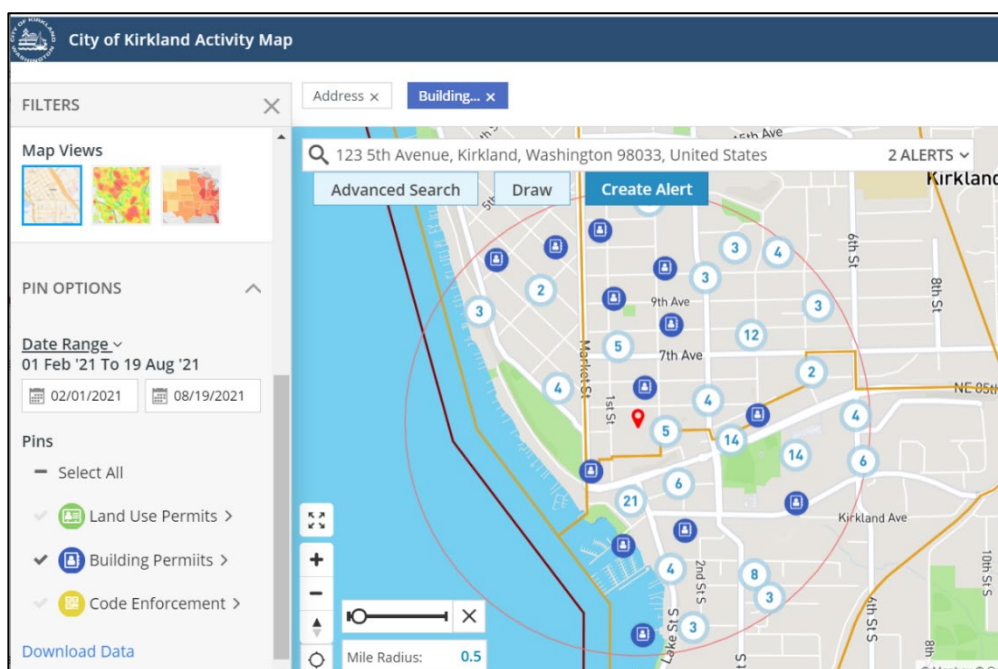
PRIMARY FUNCTIONS

This is a location-based notification tool that would allow community members to receive email alerts when development projects are proposed, or permits are issued, or code enforcement cases are added in the vicinity of their selected location or neighborhood. The tool would enable users to self-select the desired notifications by land use permit, building permit, and code enforcement case type and proximity. The users would be able to:

- View the map for activity and detailed information according to a given timeframe and location;
- Link to the MyBuildingPermit.com site to explore land use and building permit project details;
- Search addresses on the map and receive notifications about activity within a self-selected radius;
- Subscribe to daily, weekly, or monthly email alerts to be notified of what activities have occurred within their interest areas;
- Display development trends using heatmaps;
- Use multiple parameters such as permit type and location to create custom alerts;
- Access and manage alerts as needed;
- Download permit data and print selected records as needed; and
- Export reports.

NEXT STEPS

The team has made significant progress in a short period of time with the help from the vendor and the projected go-live date is October 1, 2021. Staff will be working on final site design, help tools, data clean up, and an advertising campaign over the next month. The working name for the system is Kirkland Activity Map.





KIRKLAND CITY COUNCIL MEETING MINUTES August 4, 2021

1. CALL TO ORDER

Mayor Penny Sweet called the study session to order at 5:30 p.m. and the special meeting to order at 7:30 p.m.

Motion to Excuse Councilmember Jon Pascal's absence due to travel.

Moved by Councilmember Amy Falcone, seconded by Councilmember Neal Black

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Neal Black, Councilmember Kelli Curtis, Councilmember Amy Falcone, Councilmember Toby Nixon, and Mayor Penny Sweet.

2. ROLL CALL

ROLL CALL:

Members Present: Deputy Mayor Jay Arnold, Councilmember Neal Black, Councilmember Kelli Curtis, Councilmember Amy Falcone, Councilmember Toby Nixon, and Mayor Penny Sweet.

Members Absent: Councilmember Jon Pascal.

3. STUDY SESSION

a. 2021-2026 Capital Improvement Program Preliminary Update

Financial Planning Supervisor Robby Perkins-High reviewed the proposed updates to the 2021-2026 Capital Improvement Program (CIP) and received direction regarding the proposed changes for Council adoption in December 2021. Also responding to questions were Financial Planning Manager George Dugdale and Capital Projects Manager Rod Steitzer.

b. Kirkland Avenue/Lake Street Improvements – Northbound to Eastbound Turn

Senior Project Engineer Laura Drake provided an overview of the potential repurposing of the northbound-to-eastbound right turn lane at the Kirkland Avenue/Lake Street intersection and received Council direction.

c. Juanita Drive Multi-Modal Improvements – NE 132nd Street Connection Concepts

Senior Project Engineer Laura Drake provided an update about the proposed Juanita Drive multi-modal improvements and received direction about concepts for a connection along NE 132nd Street between 72nd Avenue NE and Juanita Drive NE.

4. HONORS AND PROCLAMATIONS

None.

5. COMMUNICATIONS

a. Announcements

b. Items from the Audience

Tram Tran-Larson
Laurie Klein
Dana Kapela
Patricia Allen
Dan Wheeler

c. Petitions

6. PUBLIC HEARINGS

None.

7. SPECIAL PRESENTATIONS

a. COVID-19 Update

City Manager Kurt Triplett provided information on recent Delta variant cases, the opening of City Hall, and the use of masks indoors.

b. Resolution R-5434 Update

City Manager Kurt Triplett provided information on recent actions related to the implementation of Resolution R-5434.

8. CONSENT CALENDAR

a. Approval of Minutes

(1) July 20, 2021

b. Audit of Accounts

Payroll: \$5,012,382.69
Bills: \$2,431,929.87
TB0721 Checks #720929-721019
SF726A Wire #378
SF726B Wire #380
SF726C Wire #375

TB0728 Checks #721020-721174
TB0728B Checks #721175-721179
SF730A Wire #385
SF730A Wire #384
SF730B Wire #383
SF730C Wire #386
SF730C Wire #387
P-Card ACH

c. General Correspondence

d. Claims

(1) Claims for Damage

Claims received from Brian Pitzele, and the Woodinville Community Facility, were acknowledged via approval of the consent calendar.

e. Award of Bids

(1) 2020 Neighborhood Safety Program

Council awarded the construction contract for the 2020 Neighborhood Safety Program to NPM Construction of Maple Valley Washington in the amount of \$278,035.00 via approval of the consent calendar.

f. Acceptance of Public Improvements and Establishing Lien Period

(1) NE 124th Street/100th Avenue NE Intersection Improvements

Council accepted the work on the NE 124th Street/100th Avenue NE Intersection Improvements as completed by Prime Electric of Bellevue, Washington, in the amount of \$77,520.00, thereby establishing the statutory lien period and also authorized the return of \$2,374 in Gas Tax funding to the Citywide Transit Study Project (PTC0010000) via approval of the consent calendar.

g. Approval of Agreements

h. Other Items of Business

(1) Public Disclosure Semi-Annual Performance Report

The report was acknowledged via approval of the consent calendar.

(2) Resignation and Appointment of Transportation Commission Member

Council acknowledged the resignation of Brad Haverstein from the Kirkland Transportation Commission, approved the draft response thanking him for his service, and appointed alternate Michelle Quinton to the remainder of the unexpired term ending March 31, 2024, via approval of the consent calendar

(3) Staff and Legislative Workgroup Report

The report was acknowledged via approval of the consent calendar.

(4) IT Stabilization Implementation Update

The report was acknowledged via approval of the consent calendar.

(5) Declaration of Surplus Vehicles and Equipment

The list of equipment/vehicles declared surplus and to be disposed of, as presented, was approved via the consent calendar.

(6) June 2021 Sales Tax Report

The report was acknowledged via approval of the consent calendar.

(7) Procurement Report

The report was acknowledged via approval of the consent calendar.

Motion to Approve the consent calendar.

Moved by Councilmember Amy Falcone, seconded by Councilmember Kelli Curtis

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Neal Black, Councilmember Kelli Curtis, Councilmember Amy Falcone, Councilmember Toby Nixon, and Mayor Penny Sweet.

9. BUSINESS

a. 2021-2022 Budget Adjustment: Capital Fund Beginning Balances and Departmental Position Additions

Financial Planning Manager George Dugdale provided an overview of the ordinance amending the 2021-2022 Budget.

(1) Ordinance O-4764, Amending the Biennial Budget for 2021-2022

Motion to Approve Ordinance O-4764 entitled, "AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING THE BIENNIAL BUDGET FOR 2021-2022."

Moved by Councilmember Neal Black, seconded by Councilmember Kelli Curtis

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Neal Black, Councilmember Kelli Curtis, Councilmember Amy Falcone, Councilmember Toby Nixon, and Mayor Penny Sweet.

b. Rental Protections and Rental Assistance Program Updates

Human Service Supervisor Leslie Miller and Human Services Coordinator Jen Boone provided an update on the initial use of funds for a Kirkland rental relief program and received Council direction.

10. REPORTS

a. City Council Regional and Committee Reports

Councilmembers shared information regarding a King County Regional Law Safety and Justice Committee meeting; an Eastside Transportation Partnership meeting; a Water Resource Inventory Area (WRIA) 8 Salmon Recovery Council meeting; the Totem Lake Park grand opening event; the Kirkland Summerfest event; the Sound Virtual Town Hall on Police Use of Force, Reform; the Reopening of Kirkland City Hall to the public; the National Night Out neighborhood block party events; the Eastside Human Services Forum state legislative agenda development; an upcoming Sound Transit Board meeting; an upcoming iCERV food and school supply drive on August 28th and 29th; Councilmember Curtis' appointment to the King Conservation District's Urban Forestry working group; Councilmember Curtis' appointment to the King Conservation District's election reform subcommittee; and the Plaza of Champions induction ceremony for Wes Carpenter.

b. City Manager Reports

City Manager Kurt Triplett reported on the City Hall reopening and expressed appreciation to the Council for their support of recent COVID related initiatives and the upcoming September 7th hybrid Council meeting.

(1) Department of Ecology Nutrient Removal General Permit Comment Letter

Deputy Director of Public Works John Starbard and Utility Manager Josh Pantzke was available to respond to questions and receive Council feedback.

Motion to Authorize Mayor Penny Sweet to sign a comment letter similar to the draft as presented addressed to the Department of Ecology Puget Sound Nutrient General Permit.

Moved by Councilmember Kelli Curtis, seconded by Councilmember Amy Falcone

Vote: Motion carried 6-0

Yes: Deputy Mayor Jay Arnold, Councilmember Neal Black, Councilmember Kelli Curtis, Councilmember Amy Falcone, Councilmember Toby Nixon, and Mayor Penny Sweet.

(2) Calendar Update

11. ITEMS FROM THE AUDIENCE

None.

12. EXECUTIVE SESSION

Mayor Sweet announced that Council would enter into executive session to discuss potential litigation and the potential acquisition of real estate and would return to the special meeting at 9:40 p.m. for the purpose of adjournment only. City Manager Kurt Triplett, Deputy City Managers Tracey Dunlap and Jim Lopez, and City Attorney Kevin Raymond were also in attendance.

a. Potential Litigation

b. Potential Acquisition of Real Estate

13. ADJOURNMENT

The Kirkland City Council regular meeting of August 4, 2021 was adjourned at 9:40 p.m.

Kathi Anderson, City Clerk

Penny Sweet, Mayor



CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Kathi Anderson, City Clerk
Date: August 25, 2021
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.040).

BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) Park View Plaza Association, LLC

Amount: TBD

Nature of Claim: Claimant states the City's sewer main overflowed into their toilets and resulted in damages to their building's bathrooms and offices.

- (2) Aida, Aki

Amount: \$2,435.55

Nature of Claim: Claimant states damage occurred when she was involuntarily transported to a hospital resulting in medical fees.

- (3) Gallagher, Sarah

Amount: \$1,300.00

Nature of Claim: Claimant states damage occurred to their personal vehicle when a City truck backed into their personal vehicle when it was parked at the Kirkland Parks Maintenance Center.

(4) Hoshaw, Brian

Amount: \$337.88

Nature of Claim: Claimant states damage occurred to the properties door and frame when the Kirkland Fire Department had to repeatedly break into an ill resident's apartment after suffering multiple medical emergencies.

(5) Lord, Mark

Amount: \$3,432.73

Nature of Claim: Claimant states damage occurred to their personal vehicle when the safety gate at a boat ramp came down without their knowledge as they loaded their boat.

(6) Weatherford, Taryn

Amount: \$115,000

Nature of Claim: Claimant states damage resulted from workplace discrimination.

Note: Names of Claimants are no longer listed on the Agenda since names are listed in the memo.



CITY OF KIRKLAND
Department of Parks & Community Services
123 Fifth Ave, Kirkland, WA 98033 • 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lynn Zwaagstra, Director of Parks and Community Services
John Lloyd, Deputy Director of Parks and Community Services

Date: September 7, 2021

Subject: Trailer Mounted LED Screen – Approve Purchase

RECOMMENDATION

Staff recommends the City Council approve the purchase of a trailer mounted LED screen to support future programming that will contribute to the community's recovery from the COVID-19 pandemic.

By taking action on this item under the Consent Calendar, the City Council is approving the purchase order for a 23'x13' LED screen to be used for a variety of programs planned by the Recreation division of the Parks and Community Services Department (PCS).

BACKGROUND DISCUSSION

Throughout the COVID-19 pandemic, Parks and Community Services has continued to serve the community through new and innovative programs and strategies. Staff launched dozens of virtual programs for participants of all ages covering categories ranging from educational, fitness, art, and entertainment. As vaccines became available, case numbers lowered and restrictions were loosened, staff began providing more in-person, outdoor programs including sports, camps, and even a drive-in movie. The drive-in movie was incredibly popular, with a waiting list twice as long as the total number of space available. As such, staff began evaluating ways continue offering movies to the community.

At the [May 4, 2021 City Council Meeting](#), staff presented information on the Summer Action Plan highlighting the benefits of recreation programming within the community. Benefits include physical, emotional and social well-being. Additionally, parks and recreation drive economic growth by providing jobs, drawing people to the area, and driving overall community engagement. Staff immediately implemented several of the programs and strategies outlined in the memo, including pop up dog parks, pop-up sprinkler parks, and increased staffing levels. Planning for other community building events this fall is already underway. To further enhance these programs, staff proposed purchasing a trailer mounted LED screen during the mid-biennial budget adjustment process. A detailed white paper on this matter was included as an attachment to Ordinance-4760 which was approved at the [June 15, 2021 City Council Meeting](#).

Staff highlighted the versatility of a trailer mounted LED screen compared to using a projector, which includes a smaller space required, the ability to utilize the screen during the day, and the ability to use the screen at a variety of events beyond movies.

Staff advertised an invitation for bids on July 27, 2021, with bids due on August 18, 2021. When developing the specifications for this invitation, staff included several options for various size screens as well as an option to bid a used model that meets certain specifications – most importantly the LED screen be new. Following the three-week bid period, only one bid was received, with the bid results presented in Table 1, below. The budget for this purchase is \$250,000 as approved during the June 15, 2021 City Council meeting referenced above.

Table 1: LED Screen Bid Results

Bid Option	Insane Impact
Option 1 23'x13' New	\$263,653.50
Option 2 23'x13' Used	\$241,613.50
Option 3 20'x12' New	\$241,613.50
Option 4 20'x12' Used	n/a
Option 5 17'x10' New	\$164,473.50
Option 6 17'x10' Used	n/a

Conclusion

The original budget was based on quotes received prior to formally seeking bids. The vendor indicated price increases were expected over the summer due to increased cost of materials and chip shortages. These price increases were reflected in the bids submitted. Staff recommend accepting the bid for Option 2, the 23'x13' screen with a used trailer and/components with a new LED screen. The used option comes with the same warranty as the new options. One major advantage of this option is that we expect to get the screen much quicker than a new screen since all the components are already on hand and it does not need to be assembled by the vendor. Additionally, the larger screen is 75% bigger than the 17'x10' option (299 sq ft vs 170 sq ft), and 25% larger than the 20'x12' option for the same price. With the City Council's approval staff will begin the process to complete this purchase and will formalize plans for programs that will utilize this screen as soon as it arrives in Kirkland.

**CITY OF KIRKLAND****Public Works Department****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800****www.kirklandwa.gov**

MEMORANDUM

To: Kurt Triplett, City Manager

From: Rod Steitzer, P.E., Capital Projects Manager
Julie Underwood, Director of Public Works

Date: August 26, 2021

Subject: 124TH AVENUE NE SIDEWALK IMPROVEMENTS—ACCEPT WORK

RECOMMENDATION:

It is recommended that the City Council:

- Accept the work for the 124th Avenue NE Sidewalk Improvements Project, as constructed by Allied Construction Associates Inc., of Everett, Washington, thereby establishing the lien period;
- Retain \$34,029 of surplus funds for plant establishment; and
- Authorize the use of \$23,923 of Surface Water Reserves.

By taking action on this staff report during approval of the Consent Calendar, the City Council is accepting the work performed by the contractor for the referenced project, establishing the statutory lien period, and approving both the return of General Funds and the use of Surface Water Reserve funds.

BACKGROUND DISCUSSION:

The 124th Avenue NE Sidewalk Improvements ("Project") provided non-motorized connections in the Rose Hill and Totem Lake neighborhoods. The Project constructed approximately 4,000 feet of sidewalks on the west side of 124th Avenue NE that are compliant with the Americans with Disabilities Act. The improvements stretch from approximately NE 92nd Street to NE 108th Place, linking single-family and multifamily residential areas, commercial properties, two parks, a fire station, and the Boys & Girls Club (see Attachment A, Vicinity and Area Map). Additionally, these improvements link to Lake Washington School District school walk routes for Mark Twain Elementary, specifically on NE 95th Street, NE 100th Street, and NE 104th Street. The Project also installed surface water quality and volume control improvements.

During the planning and design phases of this Project, staff was aware that there were two private development projects along the Project's boundaries that were progressing at that time and had obligations to construct frontage improvements, including sidewalks consistent with the design of this Project. One is on the northeast corner of 124th Avenue NE and NE 100th Street, and the other is at

10265-124th Avenue NE. Rather than install sidewalks in those areas at the public's expense that inevitably would have become damaged during the construction of those private projects and then would have needed to be repaired at the developers' expense, and given that the developers were required to build and pay for their frontage improvements, staff chose to leave gaps in this Project where the development was underway.

For different reasons, both private development projects stalled. One has begun to reactivate certain permitting processes recently, while the other remains dormant. During its August 4, 2021 Study Session when it received a preliminary update about the 2021-2026 Capital Improvement Plan, the Council concurred to allocate \$280,000 to build temporary sidewalks to fill in those gaps. Formal action on that preliminary budget direction will be sought later in 2021. The plan is to fill in the gaps, one of which is at a bus stop, during 2022 with asphalt surfaces. Installing concrete sidewalks to the same design as this Project will continue to be a permit obligation for these two development sites.

At its December 11, 2018 meeting, the City Council awarded the construction contract for this Project to Allied Construction Associates in the amount of \$1,443,824.00. Construction began on March 25, 2019, was substantially complete in December 2019, and—after a substantial quantity of plants were established in Forbes Lake Park—was physically complete on June 23, 2021. Total payments to the contractor were \$1,607,924.51.

Three change orders totaling \$164,110.76 (10.2%) were issued for the project. Change orders 1 and 2, in the amount of \$9,696.32 and \$24,059.63 respectively, were for additional survey work, resolving utility conflicts, and the removal of obstructions to install the sidewalk supports needed to span sensitive areas near Forbes Lake. Change order 3, totaling \$130,354.81, adjusted construction quantities to account for differing site conditions and field-fit directives.

Budget

The Project is funded through a combination of City and Transportation Improvements Board (TIB) "Complete Streets" funds. The total amounts of funding and expenses are shown in Table 1, below.

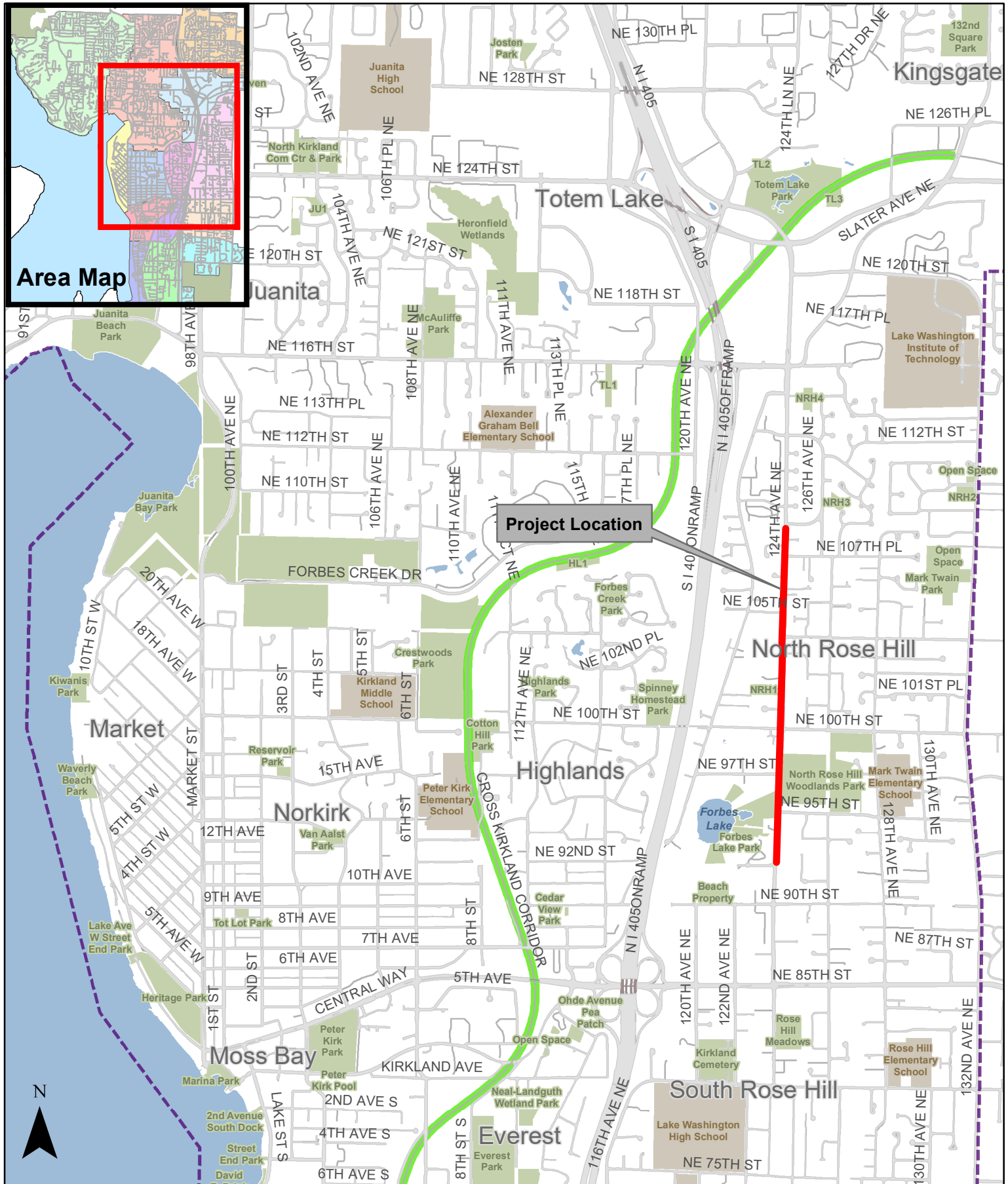
Table 1: Project Funding and Expenses (NMC 0095)

Item	Fund			Total
	Transportation Capital	Surface Water	TIB	
Project Funding	\$1,921,780	\$303,220	\$275,000	\$2,500,000
Design/Inspection/Staff/Permitting	(\$486,597)	(\$119,373)	(\$275,000)	(\$880,970)
Construction	(\$1,400,155)	(\$207,770)	-0-	(\$1,607,925)
Total Project Expenses	(\$1,887,752)	(\$327,143)	(\$275,000)	(\$2,488,895)
Balance	\$35,028	(\$23,923)	-0-	\$11,106

Table 1 reflects a net surplus of \$11,106, which is the sum of a \$34,029 Transportation Capital surplus and a \$23,923 Surface Water deficit. The deficit in the surface water fund is proposed to be met by Surface Water Construction Reserves, and the Transportation Capital surplus is recommended to be used to monitor plant establishment in years two through five of the plant establishment period.

Attachment A: Vicinity & Area Map

Attachment B: Fiscal Note



Vicinity and Area Map

124TH AVENUE NE SIDEWALK IMPROVEMENTS PROJECT

FISCAL NOTE*CITY OF KIRKLAND*

Source of Request														
Julie Underwood, Director of Public Works														
Description of Request														
One-time transfer from Surface Water Construction Reserves to the 124th Ave NE Sidewalk Improvements project (NMC095S100). The remaining funds in the transportation capital portion of the project will be retained for plant establishment.														
Legality/City Policy Basis														
Fiscal Impact														
- One-time transfer of approximately \$23,923 from Surface Water Construction Reserves to NMC095S100.														
Recommended Funding Source(s)														
Reserve	Description	2022 Est End Balance	Prior Auth. 2021-22 Uses	Prior Auth. 2021-22 Additions	Amount This Request	Revised 2022 End Balance	2022 Target							
	Surface Water Reserves	6,949,276	(262,044)	2,784,112	(23,923)	9,447,421	1,788,060							
Revenue/Exp Savings														
Other Source	- Surface Water Construction Reserve transfer from 42325931-599014 (SDR1111001)													
Other Information														
Approximatey \$34,029 will be retained for plant establishment in NMC095M000.														

Prepared By	Robby Perkins-High, Financial Planning Supervisor	Date	August 23, 2021
-------------	---	------	-----------------

**CITY OF KIRKLAND****123 Fifth Avenue, Kirkland, WA 98033 425.587.3000**
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: George Minassian, P.E., Capital Project Supervisor
Rod Steitzer, P.E., Capital Projects Manager
Julie Underwood, Public Works Director

Date: August 26, 2021

Subject: NE 116TH STREET CROSSWALKS UPGRADE—ACCEPT WORK

RECOMMENDATION:

It is recommended that the City Council accept the work for the NE 116th Street Crosswalks Upgrade Project completed by Westwater Construction Company of Renton, Washington, thereby establishing the statutory lien period.

By taking action on this staff report during approval of the Consent Calendar, the City Council is accepting the contract work completed for the NE 116th Street Crosswalks Upgrade Project.

BACKGROUND DISCUSSION:

The City identified the need for improved pedestrian crossings on NE 116th Street in the Juanita neighborhood between 98th Avenue NE and 120th Avenue NE. Two crosswalks already had been enhanced with rectangular rapid flashing beacons (RRFB). Through this project, the City constructed an additional RRFB, upgraded two School Zone Flashing Beacons (SZFB), and made other crosswalk safety enhancements at three other crosswalks along NE 116th Street (see Attachment A, Vicinity & Area Map).

Several school walk routes connect to and/or continue along this corridor, making safety a high priority. These improvements will increase safety for those walking between destinations north of NE 116th Street, such as McAuliffe Park, and destinations south of the NE 116th Street, such as Alexander Graham Bell Elementary School.

On October 20, 2020, the City awarded the NE 116th Street Crosswalks Upgrade Project to Westwater Construction Company in the amount of \$176,430.00. Construction began on December 7, 2020, and work was substantially complete on March 10, 2021. There was one change order, totaling \$17,976.94, to remove and salvage RRFB equipment, remove a tree, restore a fence, relocate street signs, as well as some minor tasks. The tree was removed because its roots became damaged during the project and an arborist determined the tree would not survive. A replacement tree will be planted. As part of the same change order, two

working days were added to the contract. The salvaged RRFB equipment will be used by Maintenance crewmembers to maintain similar equipment around the City.

Budget

This project was funded with REET, General Fund, Impact Fee, and Surface Water sources totaling \$508,548. The total payments made to the contractor were \$191,160.13. The project has a net surplus of \$98,585. Funding and final expenses are shown in Table 1, below:

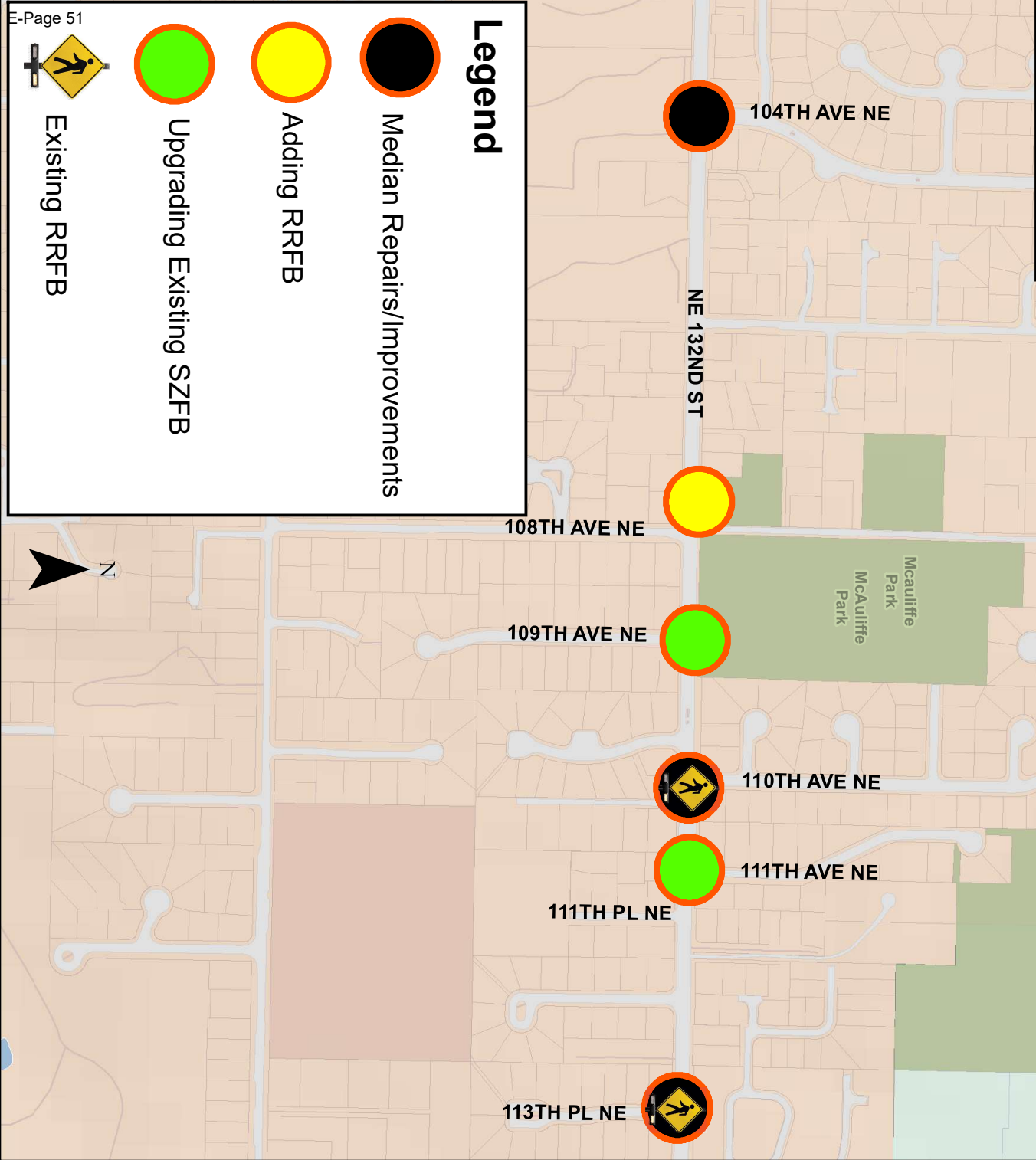
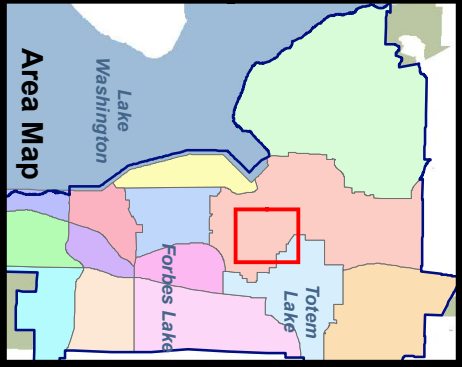
Table 1: Project Funding and Expenses

Items	Fund		Total
	Transportation Capital Fund	Surface Water Fund	
Project Funding	\$462,548	\$46,000	\$508,548
Design/Inspection/Staff/Permitting	(\$184,843)	(\$33,960)	(\$218,803)
Construction	(\$171,637)	(\$19,523)	(\$191,160)
Total Project Expenses	(\$356,499)	(\$53,483)	(\$409,963)
Balance	\$106,068	(\$7,483)	\$98,585

Surface Water Construction Reserves will address the small deficit of Surface Water funds (\$7,483), and the remaining Transportation Capital amount (\$106,068) will be returned to the original funding sources, as detailed in the attached fiscal note (see Attachment B).

Attachment A: Vicinity and Area Map

Attachment B: Fiscal Note



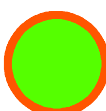
Legend



Median Repairs/Improvements



Adding RRFB



Upgrading Existing SZFB



Existing RRFB



FISCAL NOTE*CITY OF KIRKLAND*

Source of Request							
Julie Underwood, Director of Public Works							
Description of Request							
One-time transfer of \$106,068 in unspent project balance from the transportation capital portion of the NE 116th St Crosswalks Upgrade project (NMC0120100) to funding sources (General Fund, REET 1). One-time transfer from Surface Water Construction Reserves to the project to cover a deficit of \$7,483.							
Legality/City Policy Basis							
Fiscal Impact							
<ul style="list-style-type: none"> - One-time transfer of \$36,000 in General Fund funding from NMC0120100 to General Fund Reserves. - One-time transfer of approximately \$70,068 in REET 1 funding from NMC0120100 to REET 1 Reserves. - One-time transfer of approximately \$7,483 from Surface Water Construction Reserves to NMC012S100. 							
Recommended Funding Source(s)							
	Description	2022 Est End Balance	Prior Auth. 2021-22 Uses	Prior Auth. 2021-22 Additions	Amount This Request	Revised 2022 End Balance	2022 Target
Reserve	General Fund Reserves*	-	-	1,053,747	36,000	1,089,747	N/A
	REET 1 Reserves*	5,097,533	(1,107,350)	101,703	70,068	4,161,954	1,000,000
	Surface Water Reserves**	6,949,276	(286,743)	2,784,112	(7,483)	9,439,162	1,788,060
	*Excess funding will be held within the Transportation Capital Fund for future use. **The above numbers include the proposed use of \$24,699 in Surface Water Construction Reserves for NMC0950000, which is also being presented to City Council on 9/7/21.						
Revenue/Exp Savings							
Other Source							
Other Information							
<ul style="list-style-type: none"> - GF Reserve transfer to 32019001-599014 (GGR320GFCR) - REET 1 Reserve transfer to 32019001-599014 (GGR320R1CR) - Surface Water Construction Reserve transfer from 42325931-599014 (SDR1111001) 							

Prepared By	Robby Perkins-High, Financial Planning Supervisor	Date	August 24, 2021
-------------	---	------	-----------------



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathi Anderson, City Clerk
Michael Olson, Director of Finance and Administration

Date: August 31, 2021

Subject: Resignation of Tourism Development Committee Member

RECOMMENDATION:

That Council acknowledges receipt of the resignation of Jeff Lockhart from the Tourism Development Committee and authorizes the attached draft response thanking him for his service. By approving the consent calendar, the Council authorizes these actions.

BACKGROUND DISCUSSION:

Mr. Lockhart notes increased time needed to dedicate to his role as Executive Director of the Kirkland Performance Center as COVID continues to put pressure on this industry as the reason for his resignation. Efforts to fill this position will begin immediately.

Hello Kirkland City Council,

I trust this email finds you enjoying this summer. It's been a distinct honor to serve on the Kirkland Tourism Committee for three straight years (2018-2021). I'm writing this morning to inform you of my resignation from the committee effective immediately (Tuesday 8.31.21). It's been a tremendous opportunity to serve with this dedicated group of community leaders who are deeply committed to enhancing the tourism development for Kirkland. It's been a pleasure to have worked with this team and to have been selected by the Kirkland City Council to serve our great Kirkland community in this role. As the COVID 19 pandemic unrelentingly wears on and continues to challenge the theater/concert/music industry and KPCs operations in unprecedented ways I am finding it necessary to let some volunteer things go to focus my time and energies on continuing to ensure Kirkland Performance Center's ongoing wellbeing, community service, and innovation in these challenging times.

It's been an honor and a lot of fun to work with the team in this endeavor. Please know I am happy to be consulted to collaborate periodically regarding Tourism Development issues if needed. I am happy to jump on the next meeting to touch base with the team if helpful as well.

All the best,
Jeff



Jeff Lockhart
Executive Director
(425) 761-9549 | jeff@kpcenter.org
350 Kirkland Avenue, Kirkland, WA, 98033
www.kpcenter.org | www.kpcstudios.org



KIRKLAND PERFORMANCE CENTER

DRAFT

August 31, 2021

Jeff Lockhart
Kirkland Performance Center
350 Kirkland Ave
Kirkland, WA 98033

Dear Mr. Lockhart,

We have received your resignation from the Kirkland Tourism Development Committee.

The City Council appreciates your contributions to the Committee during your past service, and we thank you for volunteering your time and talent to serve the Kirkland community.

Best wishes on your current and future endeavors!

Sincerely,

Kirkland City Council

By Penny Sweet,
Mayor



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Stephanie Croll, Senior Assistant City Attorney
John Starbard, Deputy Director of Public Works
Julie Underwood, Director of Public Works

Date: August 26, 2021

Subject: PETROLEUM FRANCHISE RENEWAL—OLYMPIC PIPE LINE—FIRST READING

RECOMMENDATION:

It is recommended that the City Council satisfy a statutory procedure to have a first reading of a proposed renewal of a franchise agreement with Olympic Pipe Line, which franchise renewal may be granted at a future City Council meeting. No action is requested at this time.

BACKGROUND DISCUSSION:

This item is the first reading of a proposed renewal of an existing franchise agreement between the City and the Olympic Pipe Line Company ("Olympic"). In the municipal context, a franchise agreement specifies the terms under which a utility entity not operated by the local government may operate within that local government's rights-of-way. State law ([RCW 35A.47.040](#)) provides that a City Council may not act on an ordinance or resolution adopting a franchise agreement until at least five days have passed from the item's introduction. The introduction does not need to be held as a public hearing.

Olympic began in 1965. Presently, it operates a 400-mile interstate pipeline system that includes 12-inch, 14-inch, 16-inch, and 20-inch pipelines. The pipeline runs along a 299-mile corridor from Blaine, Washington to Portland, Oregon. The system transports gasoline, diesel, and jet fuel. The fuels are delivered to Seattle's Harbor Island; Seattle-Tacoma International Airport; Renton, Tacoma, and Vancouver, Washington; and Portland, Oregon.

For many years, the pipeline ran to the east of Kirkland but not within it. With the June 1, 2011 Juanita-Finn Hill-Kingsgate annexation, however, a segment of the pipeline now is in Kirkland running generally north/south near 136th Avenue NE. In this area, Olympic has two parallel lines—one 16-inch and one 20-inch—that are mostly in private easements. The lines cross City rights-of-way at four locations, so a franchise agreement is necessary (see map, Exhibit A to Attachment A).

The City's first franchise agreement with Olympic began on June 1, 2011, coincident with effective date of the aforementioned annexation. The term of that agreement was ten years and expired on June 1, 2021. Prior to the expiration date, consistent with requirements of the 2011 agreement, Olympic contacted the City to begin negotiations for a renewal of the agreement. Section 4.3 of the 2011 agreement provides that if the parties do not complete the

renegotiation process before the expiration date, the agreement continues on a year-to-year basis until a new agreement is established or the franchise terminated.

Shortly after the annexation, the City undertook a process with the Planning Commission, the Houghton Community Council, the Planning Department (now the Planning and Building Department), and the Fire and Building Department (now the Fire Department) to amend the *Kirkland Zoning Code* to increase public and property owner awareness, attempt to reduce risks, and amend land use requirements in response to the presence of the pipeline within the City limits (see [KMC 118.10](#)). Additionally, the pipeline is regulated by federal laws and the Washington State Utilities and Transportation Commission.

The proposed and recommended franchise agreement is provided (see Attachment A). Summaries of the provisions of the agreement are provided below.

- Section 1. The effective date would be June 1, 2021. Even though on one level the agreement has expired, the agreement provides for it to continue on a year-to-year basis until a new agreement is entered into. June 1 was selected for consistency with the 2011 agreement. The “Franchise Area” is the rights-of-way within Kirkland restricted to the geographical area depicted in Exhibit A to Attachment A, not the entire City.
- Section 2. Through the franchise, the City would grant a non-exclusive right to Olympic Pipe Line to operate its liquid petroleum delivery system business in a limited area of the City’s rights-of-way.
- Section 3. The franchise does not authorize Olympic to install any new pipeline(s) or facilities without the City’s written consent.
- Section 4. The term of the franchise is ten (10) years. Within a specified notice period, Olympic may request an additional ten (10) years, for a total of twenty (20) years. The City has the sole discretion whether to grant the additional ten years. Either party may express its intent to terminate the franchise. If the franchise expires before being renewed, it shall continue on a year-to-year basis until a new franchise is entered into.
- Section 5. The franchise shall not be conveyed to another party, in whole or in part, without the City Council providing consent through ordinance or resolution.
- Section 7. Olympic shall provide detailed plans, obtain a City permit, and—if requested by the City—furnish a bond prior to performing any construction or maintenance in the franchise area, except in the event of an emergency. In the event of an emergency, Olympic may take immediate action provided it notifies the City’s Fire Department and its permitting authority. The City and Olympic will exercise best efforts to coordinate their respective construction work during the term of the franchise.
- Section 8. If Olympic chooses to abandon or cease using any of its facilities in the franchise area, it shall notify the City and will have up to 180 days to remove them at Olympic’s sole expense. Alternatively, Olympic could ask the City for permission to abandon the facilities in place and secure them

in a manner appropriate to a former petroleum product pipeline. If facilities are removed, Olympic shall restore the area where the facilities had been to the City's reasonable satisfaction. If Olympic fails to remove or secure the facilities, the City can cause it to be done itself or seek a judicial order to have the work performed.

Section 11. Olympic will maintain a publicly-available emergency response plan, meet periodically with the City about the plan if so requested in writing, and shall cooperate with the City in the event of a pipeline emergency. Olympic will have available "at all times," at the county level, sufficient emergency response equipment and materials to respond to a spill, leak, rupture, or other release at Olympic's sole expense, including remediation.

Section 12. If a City public improvement requires a relocation of Olympic's facilities, then Olympic will make the changes or relocations at its sole expense. The City will endeavor to provide Olympic with 360 days written notice. Olympic has the right to suggest alternatives and provide relevant supporting data, but the City retains sole discretion. If those facilities need to be changed or relocated again within five (5) years, then the City bears the expense. While this does not apply to private development or third party projects, it does apply to third party projects that facilitate the construction of a project in the City's adopted CIP, TIP, or similar plan. Olympic will complete its work at least ten (10) days prior to the beginning of the public improvement project, or as agreed. The City agrees to assist with Olympic's application for federal, State, or local funds, if any, to accomplish Olympic's required relocation work.

Section 16. Olympic shall maintain insurance for the duration of the franchise, naming the City and its officials, consultants, and volunteers as additional insureds, in the following limits: a) commercial general liability at \$100,000,000 per occurrence; b) automobile liability at \$1,000,000 per person and per accident; c) worker's compensation at \$2,000,000; and d) pollution legal liability not less than \$50,000,000 per occurrence.

Section 17. Olympic shall pay the City an annual franchise fee of \$6,000, which shall escalate by three-percent annually for the term of the franchise.

NEXT STEPS:

The Council can take action on the proposed agreement not less than five days after the first reading. Staff anticipates returning at the September 21 Regular meeting to seek action on the agreement (14 days from first reading).

Attachment A: Proposed Ordinance to Grant Olympic Pipe Line a Non-exclusive Franchise
Exhibit A to Attachment A: Map

ORDINANCE O-4767

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON GRANTING OLYMPIC PIPE LINE COMPANY LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, REMOVE, REPLACE, AND REPAIR EXISTING PIPELINE FACILITIES, TOGETHER WITH EQUIPMENT AND APPURTENANCES THERETO, FOR THE TRANSPORTATION OF PETROLEUM PRODUCTS WITHIN AND THROUGH THE FRANCHISE AREA OF THE CITY OF KIRKLAND.

1 WHEREAS, Olympic Pipe Line Company (hereinafter "Company")
2 entered into a nonexclusive 10-year Franchise Agreement with the City
3 of Kirkland (hereinafter "City") effective June 1, 2011 via Ordinance O-
4 4298, to operate and maintain an existing petroleum pipeline through
5 certain public rights of way and property within the City;

6
7 WHEREAS, the Company has applied for a 10-year extension of
8 this nonexclusive franchise;

9
10 WHEREAS, the City Council finds that it is in the public interest
11 to renew its franchise with Olympic Pipe Line for another 10-year period
12 with an effective date of June 1, 2021; and

13
14 WHEREAS, RCW 35A.47.040 authorizes the City to grant
15 nonexclusive franchises for the use of City rights-of-way, streets, public
16 ways, or other ways.

17
18 NOW, THEREFORE, the City Council of the City of Kirkland do
19 ordain as follows:

20
21 **Section 1. Definitions.** For the purposes of this Franchise
22 and all exhibits attached hereto, the following terms, phrases, words
23 and their derivations shall have the meaning given herein.

24
25 When not inconsistent with the context, words used in the present tense
26 include the future, words in the plural include the singular, and words
27 in the singular include the plural. Words not defined shall be given their
28 common and ordinary meaning.

29
30 1.1 Construct or Construction shall mean removing,
31 replacing, and repairing existing pipeline(s) and/or Facilities and may
32 include, but is not limited to, digging and/or excavating for the purposes
33 of removing, replacing, and repairing existing pipeline(s) and/or
34 Facilities.

35 1.2 Effective Date shall mean June 1, 2021.

36
37 1.3 Environmental Laws shall include the Resource
38 Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the
39 Comprehensive Environmental Response, Compensation, and Liability
40 Act, 42 U.S.C. § 9601 et seq.; the Hazardous Materials Transportation
41 Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act,
42 33 U.S.C. § 1257 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.;
43 the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Federal
44 Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.; the
45 Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the
46 Washington Hazardous Waste Management Act, Chapter 70.105 RCW;
47 and the Washington Model Toxics Control Act, Chapter 70.105D RCW
48 all as amended from time to time; and any other valid and applicable
49 federal, state, or local statute, code, or ordinance or valid and applicable
50 federal or state administrative rule, regulation, ordinance, order, decree,
51 or other valid and applicable governmental authority as now or at any
52 time hereafter in effect pertaining to the protection of human health or
53 the environment.

54
55 1.4 Facilities shall mean the Company's pipeline system,
56 lines, valves, mains, and appurtenances used to transport or distribute
57 the Company's Petroleum Product(s), existing as of the effective date of
58 this Franchise or as those components may be modified or improved
59 consistent with the terms of this Franchise.

60
61 1.5 Franchise shall mean this Franchise and any
62 amendments, exhibits, or appendices to this Franchise.

63
64 1.6 Franchise Area means the Right-of-Way within the
65 jurisdictional boundaries of the City restricted to the geographical area
66 depicted in Exhibit A to this Ordinance, including any areas annexed by
67 the City (but excluding properties upon which the Company holds a
68 private easement, license, or other property interest for its Facilities)
69 during the term of this Franchise, in which case the annexed area shall
70 become subject to the terms of this Franchise.

71
72 1.7 Hazardous Substance means any hazardous, toxic, or
73 dangerous substance, material, waste, pollutant, or contaminant,
74 including all substances designated under the Resource Conservation
75 and Recovery Act, 42 U.S.C. § 6901 et seq.; the Comprehensive
76 Environmental Response, Compensation and Liability Act, 42 U.S.C. §
77 9601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §
78 1801 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1257
79 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances
80 Control Act, 15 U.S.C. § 2601 et seq.; the Federal Insecticide, Fungicide,
81 Rodenticide Act, 7 U.S.C. § 136 et seq.; the Washington Hazardous

82 Waste management Act, Chapter 70.105 RCW; and the Washington
83 Model Toxics Control Act, Chapter 70.105D, RCW; all as amended from
84 time to time; and any other federal, state, or local statute, code or
85 ordinance or lawful rule, regulation, order, decree, or other
86 governmental authority as now or at any time hereafter in effect. The
87 term shall specifically include Petroleum and Petroleum Products. The
88 term shall also be interpreted to include any substance which, after
89 release into the environment, will or may reasonably be anticipated to
90 cause death, disease, behavior abnormalities, cancer, or genetic
91 abnormalities.

92
93 1.8 Improve or Improvements shall mean modifications to,
94 but not a change in the nature of, the existing pipeline(s) or Facilities
95 as required and necessary for safe operation.

96
97 1.9 Maintenance or Maintain shall mean examining, testing,
98 inspecting, repairing, and replacing the existing pipeline and/or facilities
99 or any part thereof as required and necessary for safe operation.

100
101 1.10 Petroleum or Petroleum Products shall include, but is not
102 limited to, motor gasoline, diesel fuel, and aviation jet fuel, and shall
103 exclude natural gas.

104
105 1.11 Pipeline Corridor shall mean the pipeline pathway
106 through the jurisdictional boundaries of the City in which the pipeline(s)
107 and or Facilities of the Company are located, including any Rights-of-
108 Way, , Public Ways, Other Ways, and/or easement over and through
109 private property.

110
111 1.12 Public Ways shall mean any highway, street, alley,
112 utility easement (unless their use is otherwise restricted for other users),
113 or other public Rights-of-way for motor vehicle or other use under the
114 jurisdiction and control of the City.

115
116 1.13 Operate or Operations shall mean the use of the
117 Company's pipeline(s) and/or Facilities for the transportation,
118 distribution and handling of Petroleum or Petroleum Products within and
119 through the Franchise Area.

120
121 1.14 Other Ways means the highways, streets, alleys, utility
122 easements or other Rights-of-Way within the City as encompassed by
123 RCW 47.24.020 and 47.52.090.

124
125 1.15 Rights-of-Way means the surface and the space above
126 and below streets, roadways, highways, avenues, courts, lanes, alleys,
127 sidewalks, easements, Rights-of-Way and similar property, Public Ways
128 or Other Ways and areas located within the Franchise Area.

Section 2. Purpose. The City grants this nonexclusive Franchise to Company to operate and maintain its existing Facilities as a liquid petroleum product delivery system for Company's business. This Franchise is granted subject to the police powers, land use authority and franchise authority of the City and is conditioned upon the terms and conditions contained herein and Company's compliance with any applicable federal, state or local regulatory programs that currently exist or may hereafter be enacted by any federal, state or local regulatory agencies with jurisdiction over the Company. The purpose of this Franchise is to delineate the conditions relating to Company's use of the Franchise Area and to create a foundation for the parties to work cooperatively in the public's best interests after this Ordinance becomes effective. By granting this Franchise, the City is not assuming any risks or liabilities therefrom, which shall be solely and separately borne by Company.

Furthermore, this Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, under, on, across, over, through, along or below any Rights-of-Ways, Public Ways, and Other Ways. This and other franchises shall, in no way, prevent or prohibit the City from using any of its Rights-of-Ways, Public Ways, and Other Ways or affect its jurisdiction over them or any part of them, and the City hereby retains full power to make all changes, relocations, repairs, maintenance, establishments, improvements, dedications or vacations of same as the City may seem fit, including the dedication, establishment, maintenance and improvement of all new Rights-of-Way, streets, avenues, thoroughfares, and Public Ways, or Other Ways.

Section 3. Rights Conveyed.

3.1 Pursuant to the laws of the State of Washington including, but not limited to, RCW 35A.47.040 and RCW 80.32.010, the City hereby grants, under the terms and conditions contained herein, to Company, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and which is authorized to transact business within the State of Washington, and its successors and assigns (subject to and as provided for in Section 5), the right, privilege, authority and Franchise to Construct, Operate, Maintain and Improve its Facilities, together with all equipment and appurtenances as may be necessary thereto, for the transportation and handling of any Petroleum or Petroleum Products, within the existing Pipeline Corridor passing through the Franchise Area, such lands being more particularly described in Attachment 1 which is attached hereto and expressly incorporated herein by this reference.

3.2 This Franchise is only intended to convey a limited right and interest as to that Right-of-Way in which the City has an actual interest. It is not a warranty of title or interest in the City's Right-of Way.

None of the rights granted herein shall affect the City's jurisdiction over its property, streets, or Rights-of-Way.

3.3 The limited rights and privileges granted under this Franchise shall not convey any right to Company to install any new pipeline(s) and/ or Facilities without the express written consent of the City.

3.4 The Company acknowledges and warrants by acceptance of the rights and privileges granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all reasonable risks of the meaning of the provisions, terms and conditions herein. The Company further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and believes that the same are consistent with all local, state and federal laws and regulations currently in effect, including the Federal Pipeline Safety Act (49 U.S.C. 60101 *et seq.*) and the Pipeline Safety Code of Federal Regulations (Title 49 CFR Part 186-199). If in the future the Company becomes aware that a provision of this franchise may be unlawful or invalid, it will not use such potential invalidity to unilaterally ignore or avoid such provision. Instead, the Company will promptly advise the City of the potential invalidity or illegality, and the parties will meet within thirty (30) days and endeavor jointly to cure the invalidity or illegality.

Section 4. Term.

4.1 Each of the provisions of this Franchise shall become effective upon Company's acceptance of the terms and conditions of this Franchise and shall remain in effect for ten (10) years thereafter. At any time not more than three (3) years nor less than one-hundred-eighty (180) days before the expiration of the Franchise term, the Company may make a written request and the City may consider, at its sole discretion, renewing this Franchise for an additional ten (10) year renewal period unless either party expresses its intention in writing to terminate this Franchise at the conclusion of the ten (10) year term.

4.2 The effective date of this Franchise shall be June 1, 2021.

4.3 If the parties fail to formally renew or terminate the Franchise prior to the expiration of its term or any extension thereof, the Franchise shall be extended on a year-to-year basis (or such term as the parties may mutually agree) until a renewed Franchise is executed.

Section 5. Assignment and Transfer of Franchise.

5.1 This Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, nor shall title thereto, either legal or equitable, pass to or vest in any person or entity without

the prior written consent of the City' s Council, acting by ordinance or resolution, which consent shall not be unreasonably withheld. Such consent shall not be deemed to waive any rights of the City to subsequently enforce non-compliance issues relating to this Franchise that existed at or before the time of the City's consent.

5.2 If such consent is given by the City then the Company shall, within thirty (30) days, file with the City a written instrument evidencing such sale, assignment or transfer of ownership, whereby the assignee(s) or transferee(s) shall agree to accept and be bound by all of the provisions of this Franchise.

Section 6. Compliance with Laws and Standards.

Company shall, in carrying out any authorized activities under the privileges granted herein, comply with all valid and applicable local, state and federal laws, including, but not limited to, Title 49 Code of Federal Regulations, Part 195 Transportation of Hazardous Liquids, environmental laws, and any laws or regulations that may be subsequently enacted by any governmental entity with jurisdiction over Company and/or the Facilities.

Section 7. Construction on or within Rights-of Way, Public Properties, Public Ways, and Other Ways.

7.1 This Section 7 shall apply to all Construction and/or Maintenance done by Company in the Franchise Area.

7.2 Except in the event of an emergency, Company shall first obtain all required permits from the City to perform maintenance or construction work on Company's Facilities within the Franchise Area. The permit application shall contain detailed plans and specifications showing the position, depth and location of all such Facilities in relation to existing City Rights-of-Ways, Public Ways, and Other Ways, or other City property, hereinafter collectively referred to as the "Plans." The Plans shall specify the class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures and facilities, erection of permanent structures and facilities, traffic control, traffic turnouts and road obstructions, and all other necessary information. The Company shall file as-built plans and, when available, maps in GIS format with the City showing the final location of the facilities. Such work shall only commence upon the issuance of required permits, and payment of the associated fees, which permits shall not be unreasonably withheld or delayed after submission of a complete application. Except in the event of an emergency, the Company shall provide the City with at least seventy two (72) hours written notice prior to any construction or maintenance on the Company Facilities within the Franchise Area.

272 7.3 In the event of an emergency requiring immediate action
273 by Company for the protection of the pipeline(s) or Facilities, the City's
274 property or the property, life, health or safety of any individual, the
275 Company may take action immediately to correct the dangerous
276 condition without first obtaining any required permit so long as: (1) the
277 Company notifies the City Fire Department through the dispatch system
278 of the emergency; and (2) the Company informs the City permitting
279 authority of the nature, location, and extent of the emergency, and the
280 work to be performed, prior to commencing the work if such notification
281 is practical, or where such prior notification is not practical, the Company
282 shall notify the City permitting authority on the next business day; and
283 (3) such permit is obtained by the Company as soon as practicable
284 following cessation of the emergency.

285
286 7.4 Before undertaking any of the work, installation,
287 improvements, construction, repair, relocation, or maintenance
288 authorized by this Franchise, as a condition precedent to the issuance
289 of any permits by the City, the Company shall, upon the request of the
290 City, furnish a bond executed by the Company and a corporate surety
291 authorized to operate a surety business in the State of Washington, in
292 such sum as may be set and approved by the City as sufficient to ensure
293 performance of the Company's obligations under this Franchise. The
294 bond shall be conditioned so that the Company shall observe all the
295 covenants, terms and conditions and shall faithfully perform all of the
296 obligations of this Franchise, and to repair or replace any defective work
297 or materials discovered in the City's road, streets, or property

298
299 7.5 All work done hereunder by Company or upon Company's
300 direction or on Company's behalf, including any work performed by
301 contractors or subcontractors, shall be undertaken and completed in a
302 workmanlike manner and in accordance with the descriptions, plans and
303 specifications provided to the City. The Company's activities (including
304 work done at the direction of the Company, or by its contractors or
305 subcontractors) shall be conducted in such a manner as to avoid
306 damage or interference with other utilities, drains or other structures,
307 and not unreasonably interfere with public travel, park uses or other
308 municipal uses, and the free use of adjoining property and so as to
309 provide safety for persons and property. The Company's Construction
310 and/ or Maintenance shall be in compliance with all valid and applicable
311 laws and regulations and specifications of governmental agencies with
312 jurisdiction.

313
314 7.6 In case of damage caused by the Company, its agents or
315 employees or by the Facilities of the Company to Rights-of-Way, Public
316 Ways, or Other Ways, the Company agrees to repair the damage at its
317 own cost and expense. The Company shall, upon discovery of any such
318 damage, immediately notify the City. The City will inspect the damage,
319 and set a time limit for completion of the repair. If the City discovers

320 damage caused by the Company to Rights-of-Way, Public Ways, or
321 Other Ways, the City shall give the Company notice of the damage and
322 set a time limit in which the Company must repair the damage. In the
323 event the Company does not make the repair as required in this section,
324 the City may repair the damage at the company's expense.

325
326 7.7 The Company shall place and maintain line markers
327 pursuant to federal regulations within and along the Pipeline Corridor.
328 Additionally, Company agrees to continue its voluntary practice of
329 placing continuous markers underground, when and where appropriate,
330 indicating the pipeline's location each time Company digs to the pipeline,
331 or such other 'industry best practices' as may from time to time be
332 developed as a method of alerting excavators of the presence of the
333 pipeline.

334
335 7.8 The Company shall continuously be a member of the
336 State of Washington one number locator service under (RCW 19.122),
337 or approved equivalent, and shall comply with all such applicable rules
338 and regulations

339
340 7.9 The Company's Facilities shall be located and maintained
341 within the Franchise Area so as not to interfere with the free passage of
342 pedestrian and/or vehicle traffic therein, or with the reasonable ingress
343 or egress to the properties abutting the Franchise Area as they exist at
344 the time of installation of the Facilities.

345
346 7.10. The Company shall, after installation, construction,
347 relocation, maintenance, removal or repair of any of Company Facilities
348 with the Franchise Area, restore the surface of the Franchise Area and
349 any other City property within the Franchise Area which may be
350 disturbed or damaged by such work, to at least the same condition as
351 it was immediately prior to any such work. The City shall have final
352 approval of the condition of the Franchise Area after restoration
353 pursuant to the provisions of applicable City codes, ordinances,
354 regulations, standards and procedures, as now exist or as may be
355 hereafter amended or superseded, provided that such provisions are not
356 in conflict or inconsistent with the express terms and conditions of this
357 Franchise.

358
359 7.11. The City will require the Company to post an appropriate
360 bond, as determined by the City, to ensure satisfactory restoration of
361 the Franchise Area following the completion of the Company's work
362 therein. In lieu of separate bonds for routine individual projects
363 involving work in the Franchise Area, the Company may satisfy the City's
364 bond requirement of this Section by posting an approved indemnity
365 bond with the City pursuant to KMC 19.12.095.

366 7.12. All survey monuments which are disturbed or displaced
367 by the Company in its performance of any work under this Franchise
368 shall be referenced and restored by the Company, as per WAC 332-120,
369 as from time to time amended, and all pertinent federal, state and local
370 standards and specifications.

371 7.13 The Company and the City shall each exercise all best
372 reasonable efforts to coordinate any construction work that either may
373 undertake within the Franchise Areas so as to promote the orderly and
374 expeditious performance and completion of such work as a whole. Such
375 efforts shall include, at a minimum, reasonable and diligent efforts to
376 keep the other party and other utilities within the Franchise Areas
377 informed of its intent to undertake such construction work. The
378 Company and the City shall further exercise best reasonable efforts to
379 minimize any delay or hindrance to any construction work undertaken
380 by themselves or utilities with the Franchise Area.

381
382 **Section 8. Abandonment or Removal of Facilities.**

383 8.1 The Company shall notify the City of any abandoned
384 Facilities or cessation of use of any of its Facilities within sixty (60) days
385 after such abandonment or cessation of use.

386
387 8.2 In the event of abandonment or Company's permanent
388 cessation of use of its Facilities, or any portion thereof within the
389 Franchised Area, the Company shall, within one hundred and eighty
390 days (180) after the abandonment or permanent cessation of use,
391 remove the Facilities at the Company's sole cost and expense. However,
392 with the express written consent of the City, which shall not be
393 unreasonably withheld, the Company may, at Company's sole cost and
394 expense, secure the Facilities in such a manner as to cause it to be as
395 safe as is reasonably possible, by removing all Petroleum Products,
396 purging vapors, displacing the contents of the line with an appropriate
397 inert material and sealing the pipe ends with a suitable end closure, all
398 in compliance with valid and applicable regulations, and abandon them
399 in place provided that portions of the Facilities which are above ground
400 shall be removed at Company's sole cost and expense.

401
402 8.3 In the event of the removal of all or a portion of the
403 Facilities, Company shall restore the Franchise Area as nearly as possible
404 to a condition that existed prior to installation of Company's Facilities.
405 Such property restoration work shall be done at Company's sole cost
406 and expense and to the City's reasonable satisfaction. If Company fails
407 to remove or secure the Facilities and fails to restore the premises or
408 take such other mutually agreed upon action, the City may, after
409 reasonable notice to Company, remove the Facilities, restore the
410 premises or take such other action as is reasonably necessary at
411 Company's expense and the City shall not be liable therefor. This
412 remedy shall not be deemed to be exclusive and shall not prevent the

City from seeking a judicial order directing that the Facilities be removed.

8.4 The City shall not charge the Company franchise fees for pipelines or pipeline segments abandoned or removed in compliance with this Section. However, the City's consent to the abandonment of Facilities in place shall not relieve the Company of the obligation and/or costs to remove, alter or re-secure such Facilities in the future in the event it is reasonably determined, as adjudged in the sole discretion of the City, that removal, alteration or re-securing the facilities is necessary or advisable for the health, safety, necessity and/or convenience of the public, in which case the Company shall perform such work at no cost to the City.

8.5 The parties expressly agree that the provisions of this Section 8 shall survive the expiration, revocation or termination of this Franchise.

Section 9. Operations and Maintenance - Inspection and Testing.

9.1 The Company shall Operate and Maintain its Facilities in full compliance with the applicable provisions of Title 49, Code of Federal Regulations, Part 195, and WAC 480-75-420, as now enacted or hereafter amended, all environmental laws, and any other current or future laws or regulations that are applicable to Company's Facilities, enacted by any governmental entity with jurisdiction over Company or Company's Facilities.

9.2 The City shall use reasonable efforts to inform all excavators subject to a City grading and/or right-of-way permit working within 100 feet of the Company's Facilities of their responsibility to notify the Company at least 48 hours prior to the start of any work and to ensure compliance with the requirements of the State of Washington one number locator service law (RCW 19.122). If the Company becomes aware that a third party conducts any excavation or other significant work that may affect the Facilities, the Company shall conduct such inspections and/or testing as is necessary to determine that no direct or indirect damage was done to the Facilities and that the work did not abnormally load the Company's Facilities or impair the effectiveness of the Company's cathodic protection system. Upon written request, the Company shall report to the City its inspection and findings in person.

9.3 At City's request, the Company shall provide, at its sole cost and expense, a briefing by qualified testing experts to explain the inspection results and Franchisee's proposed corrective action(s) in reference to 9.2. Said qualified testing expert may be an employee or representative of the Company.

Section 10. Encroachment Management.

10.1 The Company shall maintain a written program to prevent damage to its Facilities from excavation activities, as required by applicable state and federal guidelines.

10.2 The Company and the City shall comply with applicable and valid federal, state and local requirements regarding encroachment management, including RCW 19.122 (one-call system).

10.3 The Company shall regularly inspect the surface conditions on or adjacent to the Pipeline Corridor, as required by applicable state and federal regulations.

Section 11. Leaks, Spills and Emergency Response.

11.1 The Company warrants that it will maintain an Emergency Response Plan that is in compliance with the applicable requirements of local, state and federal agencies with jurisdiction. (Emergency Response Plan available on Information Sharing Website). Upon written request by either party, the parties agree to meet periodically to review the Emergency Response Plan and procedure.

The Company's emergency plans and procedures shall designate the Company's responsible local emergency officials and a direct 24 hour emergency contact number for control center operator. The Company shall, after being notified of an emergency, cooperate with the City and make every effort to respond as soon as possible to protect the public's health, safety and welfare.

11.2 The Company shall cooperate with the City and respond to protect public health and safety in the event of a pipeline emergency. The Company warrants that it will at all times have available, on the county level, sufficient emergency response equipment and materials to immediately and fully respond to any spill, leak, rupture or other release of Petroleum Products or Hazardous Substances from Company's pipeline(s) and/or Facilities and that Company shall be solely responsible for all reasonably necessary costs incurred by any agency in responding appropriately to any spill, leak, rupture or other release of Petroleum Products or Hazardous Substances from Company's pipeline(s) and/or Facilities, including, but not limited to, detection and removal of any contaminants from, earth or water, all remediation costs, equipment replacement, and staffing costs, except for any spill, leak, or other release that results from the sole negligence or willful misconduct of the city or its contractors. Any such costs shall be considered extraordinary costs that shall not be borne by the City and shall not be considered administrative expenses of the City. Nothing in this Section shall be construed as limiting the Company's right to seek recovery from third parties.

11.3 Leaks, spills, ruptures and other emergencies shall be investigated and reported as required by applicable state and local regulations and the City shall be notified according to Section 7.3 of this franchise.

Section 12. Required Relocation of Facilities

12.1 In the event that the City undertakes or approves the construction of, or changes to the grade or location of, any water, sewer or storm drainage line, street, sidewalk, or any other Improvement Project and the City determines that the Improvement Project reasonably requires changes to or the relocation of Company's Facilities, then Company shall make such changes or relocations as required herein at Company's sole cost, expense and risk.

12.2 The City shall provide the Company reasonable written notice of any Improvement Project in the interest of public health, safety, welfare, necessity and/or convenience that requires changes to or the relocation of Company's Facilities. The City will endeavor, where practical, to provide the Company at least 360 days prior written notice, or such additional time as may reasonably be required, of such Improvement Project. However, nothing in this Section shall be construed as to relieve Company of its duty and obligation to relocate its Facilities to accommodate any Improvement Project undertaken by the City after written notice of any Improvement Project.

12.3 The City shall further provide the Company with copies of pertinent portions of the final plans and specifications for such Improvement Project so that the Company may make the required changes to or relocate its facilities to accommodate such Improvement Project.

12.4 The Company may, after receipt of written notice requiring changes to or relocation of its Facilities under Section 12.2, submit to the City, within ninety 90 days, written alternatives to such relocation. The City shall evaluate such alternatives and advise the Company in writing if one or more of the alternatives are suitable to accommodate the Improvement Project that would otherwise necessitate changes to or relocation of the Facilities. If so requested by the City, the Company shall submit additional information to assist the City in making such evaluation including actual field verification of the location(s) of the Company's underground Facilities within the Improvement Project area by excavating (e.g., pot holing), at no expense to the City. The City shall give each alternative proposed by the Company full and fair consideration but retains sole discretion to decide whether to utilize its original plan or an alternative proposed by the Company.

12.5 If any portion of the Company's Facilities that has been required by the City to be relocated under the provisions of this section is subsequently required to be relocated again within five (5) years of the original relocation, the City will bear the entire cost of the subsequent relocation.

12.6 The Company shall not be required to relocate its Facilities at its expense for the benefit of private developers or third party projects. However in the event the City reasonably determines and notifies the Company that the primary purpose for requiring such changes to or relocation of the Company's facilities by a third party is to cause or facilitate the construction of an Improvement Project consistent with the City Capital Investment Plan; Transportation Improvement Program; or the Transportation Facilities Program, or other similar plan, then the Company shall change or otherwise relocate its Facilities in accordance with Section 12.1 at Company's sole cost, expense and risk.

12.7 The City shall work cooperatively with the Company in determining a viable and practical route within which the Company may relocate its facilities under Section 12.1, in order to minimize costs while meeting the City's project timelines and objectives. The City's requirements with regard to the required changes or relocation (i.e. depth of cover, distance from other utilities, etc.) must not be unreasonable and must be consistent with applicable federal and state requirements however, nothing in this section shall be construed as to limit the City's police power, land use authority, franchise authority or the City's authority to regulate the time, place and manner of Company's use of the Public Rights-of-Way, Public Ways and Other Ways.

12.8 Upon receipt of the City's reasonable notice, plans and specifications per Section 12.1, the Company shall take all necessary and prudent measures to complete relocation of such facilities so as to accommodate the Improvement Project at least ten (10) calendar days prior to commencement of the Improvement Project or such other time as the parties may agree in writing.

12.9 The City shall take reasonable steps to cooperate with the Company on any effort by the Company to apply for and obtain any local, state or federal funds that may be available for the relocation of the Company's Facilities provided however that the Company's application for any such funds shall not delay the City Improvement Project. To the extent such funds are made available, the Company may apply funds towards the costs incurred to relocate the Company's Facilities.

Section 13. Violations, Remedies and Termination.

13.1 The Company shall be in compliance with the terms of this Franchise at all times. The City reserves the right to apply any of the following remedies, alone or in combination, in the event Company violates any material provision of this Franchise. The remedies provided for in this Franchise are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another, or any rights of the City at law or equity.

13.2 The City may terminate this Franchise if the Company materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms of this Franchise, and fails to cure or make reasonable effort to cure such breach within thirty (30) calendar days of receipt of written notice thereof, or, if not reasonably curable within thirty (30) calendar days, within such other reasonable period of time as the parties may agree upon.

13.3 Either party may invoke the Dispute Resolution clause contained in Section 14 of this Franchise as it deems necessary with regard to termination.

13.4 If the Company's right to operate its Facilities within the Franchise Area is ultimately terminated, the Company shall comply with the terms of this Franchise, regarding removal and/or abandonment and restoration of the Facilities and with all directives of applicable federal and state agencies with jurisdiction.

Section 14. Dispute Resolution

14.1 In the event of a dispute between the City and the Company arising by reason of this Franchise, or any obligation hereunder, the dispute shall first be referred to the representatives designated by the City and the Company to have oversight over the administration of this Franchise. Said officers or representatives shall meet within thirty (30) calendar days of either party's request for said meeting, and the parties shall make a good faith effort to attempt to achieve a resolution of the dispute.

14.2 In the event that the parties are unable to resolve the dispute under the procedure set forth in Section 14.1, then the parties hereby agree that the matter shall be referred to mediation. The parties shall endeavor to select a mediator acceptable to both sides. If the parties cannot reach agreement, then each party shall secure the services of a mediator, who will in turn work together to mutually agree upon a third mediator to assist the parties in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties.

14.3 If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies,

provided, that if the party seeking judicial redress does not substantially prevail in the judicial action, it shall pay the other party's reasonable legal fees and costs incurred in the judicial action.

14.4 Subject to state and federal regulation, the Company shall be permitted to continuously operate its Facilities during dispute resolution.

Section 15. Indemnification

15.1 General Indemnification. Except for environmental matters, which are covered by a separate indemnification in Section 15.2 below, the Company shall indemnify, defend and hold harmless the City, its agents, officers or employees, from any and all liability, loss, damage, cost, expense, and any claim whatsoever, including reasonable attorneys' and experts' fees incurred by the City in defense thereof, whether at law or in equity, arising out of or related to, directly or indirectly, the construction, operation, use, location, testing, repair, maintenance, removal, abandonment or damage to the Company's Facilities, or from the existence of the Company's pipeline and other appurtenant facilities, and of the products contained in, transferred through, released or escaped from said pipeline and appurtenant facilities, from any and all causes whatsoever, except the City's sole negligence and except for a violation by the City of its obligations, if any, under RCW 19.122 (One-Call regulations). If any action or proceeding is brought against the City by reason of the pipeline or its appurtenant facilities, the Company shall defend the City at the Company's complete expense, provided that, for uninsured actions or proceedings, defense attorneys shall be approved by the City, which approval shall not be unreasonably withheld.

15.2 Environmental Indemnification. The Company shall indemnify, defend and hold harmless the City, its agents, officers or employees, from and against any and all liability, loss, damage, expense, actions and claims (except to the extent such liability, loss, damage, expense, actions and claims result from the City's noncompliance with RCW 19.122) either at law or in equity, including, but not limited to, costs and reasonable attorneys' and experts' fees incurred by the City in defense thereof, arising from (a) Company's violation of any environmental laws applicable to the Facilities or (b) from any release of a hazardous substance on or from the Facilities. This indemnity includes but is not limited to (a) liability for a governmental agency's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; (d) liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws; and (e) liability for personal injury, property

696 damage, or economic loss arising under any statutory or common-law
697 theory.

698
699 15.3 The Company agrees that its obligations under this
700 Section 15 extend to any claim, demand, and/or cause of action brought
701 by, or on behalf of, any of its employees or agents. For this purpose,
702 the Company, by mutual negotiation, hereby waives, as respects the
703 City only, any immunity that would otherwise be available against such
704 claims under the Industrial Insurance provisions of RCW Title 51.

705
706 **Section 16. Insurance.**

707 16.1 The Franchisee shall procure and maintain for the
708 duration of the Franchise, insurance, or provide self-insurance, against
709 all claims for injuries to persons or damages to property which may arise
710 from or in connection with the exercise of the rights, privileges and
711 authority granted hereunder to the Franchisee, its agents,
712 representatives or employees. The Franchisee shall provide an
713 insurance certificate, together with an endorsement naming the City, its
714 officers, elected officials, agents, employees, representatives,
715 consultants and volunteers as additional insured, to the City upon the
716 Franchisee's acceptance of this Franchise, and such insurance certificate
717 shall evidence the following minimum coverages:

718
719 A. Commercial general liability insurance including coverage
720 for premises - operations, explosions and collapse hazard,
721 underground hazard and products completed hazard, with limits
722 not less than:

723
724 \$100,000,000 per occurrence and in the aggregate for
725 bodily injury or death to each person; and in the
726 aggregate for property damage resulting from any one
727 accident; and in the aggregate for general liability;

728 **B. Automobile liability for owned, non-owned
729 and hired vehicles with a limit of \$1,000,000 for
730 each person and \$1,000,000 for each accident;**

731 **C. Worker's compensation within statutory limits
732 and employer's liability insurance with limits of not less
733 than \$2,000,000;**

734
735 **D. Pollution Legal Liability, to be in effect throughout
736 the ten (10) year term of this Franchise, with a limit not
737 less than \$50,000,000 per occurrence and in the
738 aggregate to the extent such coverage is reasonably
739 available in the marketplace.**

740
741 **16.2 If coverage is purchased on a "claims made"
742 basis, then the Company warrants continuation of coverage,
743 either through policy renewals or the purchase of an extended**

744 **discovery period, if such extended coverage is available, for not**
745 **less than three (3) years from the date of termination of this**
746 **Franchise and/or conversion from a "claims made" form to an**
747 **"occurrence" coverage form.**

748
749 16.3 Any deductibles shall be the sole responsibility of the
750 Company. The insurance certificate required by this Section shall
751 contain a clause stating that coverage shall apply separately to each
752 insured against whom claim is made or suit is brought, except with
753 respect to the aggregate limits of the insurer's liability.

754
755 **16.4 The Company's insurance shall be primary**
756 **insurance with respect to the City, its officers, officials,**
757 **employees, agents, consultants, and volunteers. Any insurance**
758 **maintained by the City, its officers, officials, employees,**
759 **consultants, agents, and volunteers shall be in excess of the**
760 **Company's insurance and shall not contribute with it.**

761
762 **16.5 In addition to the coverage requirements set forth**
763 **in this Section, the certificate of insurance shall provide that:**

764
765 **"The above described policies will not be canceled**
766 **before the expiration date thereof, without the**
767 **issuing company giving thirty (30) days written**
768 **notice to the certificate holder."**

769
770 **In the event of cancellation or a decision not to renew, the**
771 **Company shall obtain and furnish to the City evidence of self-**
772 **insurance or replacement insurance policies meeting the**
773 **requirements of this Section before the cancellation date.**

774
775 **16.6 The Company shall furnish the City with**
776 **certificates of insurance evidencing the coverage required by**
777 **this Section upon acceptance of this Franchise. The certificates**
778 **and endorsements shall be signed by a person authorized by**
779 **the insurer to bind coverage on its behalf and must be received**
780 **and approved by the City prior to the commencement of any**
781 **work.**

782
783 **16.7 The indemnity and insurance provisions herein**
784 **under Sections 15 and 16 shall survive the termination of this**
785 **Franchise and shall continue for as long as the Company's**
786 **Facilities shall remain in or on the Franchise Area or until the**
787 **parties execute a new Franchise agreement that modifies or**
788 **terminates these indemnity or insurance provisions.**

789
790 **Section 17. Annual Franchise Fee.**

791 17.1 In consideration for granting this Franchise and for the
792 use of the Franchise Area, there is hereby established an annual fee of
793 Six Thousand Dollars (\$6,000).

794
795 17.2 The annual fee shall increase each year throughout the
796 term of this Franchise and any renewal terms by three percent (3%).

797
798 17.3 Each annual payment shall cover the next twelve (12)
799 month period and shall be paid not later than the anniversary date of
800 the Effective Date of this Franchise. Interest shall accrue on any late
801 payment at the rate of twelve percent (12%) per annum. Such interest
802 shall be in addition to any applicable penalties for late payment. Any
803 partial payment shall first be applied to any penalties, then interest, then
804 to principal.

805
806 17.4 The Franchise fee set forth in Section 17.1 does not
807 include, and the Company agrees that it is responsible for, payments
808 associated with the City's administrative expenses including but not
809 limited to the City's expenses incurred in reviewing, inspecting,
810 licensing, permitting or granting any other approvals necessary for the
811 Company to operate and maintain its Facilities or for any inspection or
812 enforcement costs thereunder (i.e., customary permitting fees).
813 Additionally, the foregoing annual fee does not include any generally
814 applicable taxes that the City may legally levy. The Company shall bear
815 the cost of publication of this Ordinance.

816
817 **Section 18. Legal Relations.**

818 18.1 The Company accepts any privileges granted hereunder
819 by the City to the Franchise Area in an "as is" condition. The Company
820 agrees that the City has never made any representations, implied or
821 express warranties or guarantees as to the suitability, security or safety
822 of the location of the Company's Facilities or the Facilities themselves or
823 possible hazards or dangers arising from other uses or users of the
824 Rights-of Way, Public Ways and Other Ways including by the City, the
825 general public or other utilities. As between the City and the Company,
826 the Company shall remain solely and separately liable for the function,
827 testing, maintenance, replacement and/or repair of the Facilities or
828 other activities permitted hereunder.

829
830 18.2 The Company hereby waives its Workers Compensation
831 immunity under Title 51 RCW in any cases involving the City and affirms
832 that the City and the Company have specifically negotiated this
833 provision, to the extent it may apply.

834
835 18.3 This Franchise Ordinance shall not create any duty of the
836 City or any of its officials, employees or agents and no liability shall arise
837 from any action or failure to act by the City or any of its officials,
838 employees or agents in the exercise of powers reserved herein. Further,

839 this Ordinance is not intended to acknowledge, create, imply or expand
840 any duty or liability of the City with respect to any function in the
841 exercise of its police power or for any other purpose. Any duty that may
842 be deemed to be created in the City hereunder shall be deemed a duty
843 to the general public and not to any specific party, group or entity.
844

845 18.4 This Franchise shall be governed by, and construed in
846 accordance with, the laws of the State of Washington.
847

848 **Section 19. Company's Acceptance.** The City may void
849 this Franchise Ordinance if the Company fails to file its unconditional
850 acceptance of this Franchise within thirty (30) calendar days from the
851 final passage of same by the City Council. The Company shall file its
852 unconditional written acceptance with the City Clerk of the City of
853 Kirkland.
854

855 **Section 20. Notice.**
856 20.1 All notices, demands, requests, consents and approvals
857 which may, or are required to be given by any party to any other party
858 hereunder, shall be in writing and shall be deemed to have been duly
859 given if delivered personally, sent by facsimile, sent by a nationally
860 recognized overnight delivery service, or if mailed or deposited in the
861 United States mail and sent by registered or certified mail, return receipt
862 requested, postage prepaid to:
863

864 City:
865 City of Kirkland
866 123 Fifth Avenue
867 Kirkland, WA 98033
868 Attn: Franchise Manager
869

870
871 With a copy to:
872 City of Kirkland
873 123 Fifth Avenue
874 Kirkland, WA 98033
875 Attn: Public Works Director; and
876 City Attorney
877

878
879 Company:
880 Olympic Pipe Line Company LLC
881 Attn: President & Right of Way Dept.
882 2319 Lind Avenue S.W.
883 Renton, Washington 98057

with copy to:
Doug Berry
Miller Nash Graham & Dunn LLP
Pier 70, 2801 Alaskan Way, Suite 300
Seattle, WA 98121

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

20.2 To ensure effective cooperation, the Company and the City shall each designate a representative responsible for communications between the Parties.

Section 21. Miscellaneous.

21.1 In the event that a court or agency of competent jurisdiction declares a material provision of this Franchise to be invalid, illegal or unenforceable, the parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the parties as reflected herein. If severance from this Franchise of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Franchise, either party may apply to a court of competent jurisdiction to reform or reconstitute the Franchise so as to recapture the original intent of said particular provision(s). All other provisions of the Franchise shall remain in effect at all times during which negotiations or a judicial action remains pending.

21.2 Whenever this Franchise sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of this Franchise.

21.3 In the event that the Company is prevented or delayed in the performance of any of its obligations under this Franchise by reason(s) beyond the reasonable control of the Company, then the Company's performance shall be excused during the Force Majeure occurrence. Upon removal or termination of the Force Majeure occurrence the Company shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation or performance that is satisfactory to the

City. The Company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

21.4 The Section headings in this Franchise are for convenience only, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the Section to which they pertain.

21.5 By entering into this Franchise, the parties expressly do not intend to create any obligation or liability, or promise any performance to, any third party, nor have the parties created for any third party any right to enforce this Franchise.

21.6 This Franchise and all of the terms and provisions shall be binding upon and inure to the benefit of the respective successors and assignees of the parties.

21.7 The parties each represent and warrant that they have full authority to enter into and to perform this Franchise, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Franchise, except such as may be routinely required and obtained in the ordinary course of business.

Section 22. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

964 Passed by majority vote of the Kirkland City Council in open
965 meeting this _____ day of _____, 2021.

966
967 Signed in authentication thereof this _____ day of
968 _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

UNCONDITIONAL ACCEPTANCE BY OLYMPIC PIPE LINE COMPANY LLC:
I, the undersigned official of Olympic Pipe Line Company LLC, am authorized to bind Olympic Pipe Line Company LLC and to unconditionally accept the terms and conditions of the foregoing Franchise (Ordinance No. _____), which are hereby accepted by Olympic Pipe Line Company LLC this _____ day of _____ 2021.

OLYMPIC PIPE LINE COMPANY LLC

By: _____

Name: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 2021.

Print Name: _____
Notary Public in and for the State of
Washington,
residing at _____
My commission expires _____

Received on behalf of the City this _____ day of _____, 2021.

Name: _____

Title: _____

Olympic Pipeline

NE 136TH PL

NE 132ND ST





NE 126TH PL

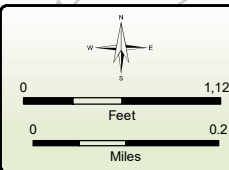
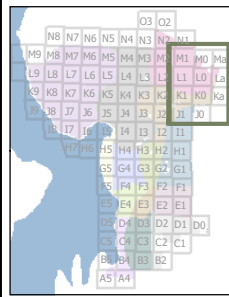
NE 124TH ST


EASTSIDE RAIL CORRIDOR

Olympic Pipeline

Olympic Pipeline Franchise Map

-  Olympic Pipeline
-  City Limit Boundary
-  Streets
-  Right of Way Intersection Areas





Author: City of Kirkland
Name: Olympic_Pipeline_Franchise_Map
Date Saved: 7/9/2021 4:57:01 PM

July 9, 2021



CITY OF KIRKLAND
Department of Parks & Community Services
123 5th Avenue, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lynn Zwaagstra, Director
Leslie R. Miller, Human Services Supervisor

Date: August 26, 2021

Subject: RESOLUTION AUTHORIZING DISTRIBUTION OF 2022 and CV-2 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

RECOMMENDATION

The Kirkland Human Services Commission recommends that the City Council approve the attached resolution distributing Kirkland's 2022 and Coronavirus (CV) -2 Community Development Block Grant (CDBG) funds. By acting on the consent agenda, this resolution and funding distribution will be approved.

BACKGROUND DISCUSSION

The primary objective of the federal Community Development Block Grant program is to support the development of viable urban communities by providing decent housing, a suitable living environment via community facilities and public infrastructure, and expanded economic opportunities, principally for persons of low and moderate income. Funds are distributed to communities nationwide on a formula basis.

The City currently receives its CDBG funds through an agreement with King County as part of a CDBG Consortium of 34 cities and towns. A Joint Recommendations Committee (JRC), comprised of officials representing the participating cities, the Sound Cities Association, and King County, advises the County on CDBG funding and program decisions.

Since 2015 the City of Kirkland has chosen the option of participating within the King County Consortium as a Joint Agreement City. With this option the King County Consortium "passes through" a portion of the CDBG funds to larger member cities known as Joint Agreement cities. These cities allocate their portion of the funds to meet locally identified needs through their own allocation process. Efforts are made by the Consortium to coordinate multi-jurisdictional projects with the Joint Agreement cities. In addition to Kirkland, the cities of Burien, Redmond, Renton, and Shoreline are currently Joint Agreement cities within the County Consortium.

As a participating "Joint Agreement City" Kirkland and King County each receive some of the CDBG funds attributable to the City, with each having different responsibilities for

program administration. The County retains half of available planning/administration funds to provide contract oversight and satisfy Federal administrative requirements. The City retains the other half of the planning and administration allocation, which helps to pay for City staff to provide the necessary program support. The City also receives a portion of the CDBG capital projects and public service program funds to allocate towards eligible projects that are selected by the City.

As part of the interlocal agreement with King County, Kirkland must develop a plan for allocating its portion of CDBG funds every year. Funds for public services and capital projects must be utilized to benefit those with low to moderate income and be consistent with the King County Consortium Consolidated Housing and Community Development Plan.

At the City of Kirkland, the recipient of the public services dollars is determined within the biennial human services grant process. To ensure the activities of the chosen provider qualify under federal guidelines, a provider of services to those experiencing homelessness has always been the recipient. The recommended recipient is not favored over other providers. The total amount of investment in programs to people experiencing homelessness is determined first and then it is decided which providers will receive city general funds and which one receive CDBG dollars. Congregations for the Homeless has been the recipient of the CDBG funds since 2015 and A Regional Coalition for Housing (ARCH) has leveraged the City's capital dollars with other sources of funding.

FUNDING DISTRIBUTION RECOMMENDATION:

The Human Services Commission held a public hearing to receive comment about these recommendations on August 24, 2021. In addition, written feedback was welcomed. No public comments were received. The Commission makes the following recommendation for the 2022 funds:

Public (Human) Services Funding Recommendation: Allocate the available funding (\$41,085 estimate) for homeless services provided by Congregations for the Homeless. CDBG funds will support the services and operation of its 24/7 enhanced shelter for men experiencing homelessness on the Eastside at 555 116th Avenue NE, Bellevue, WA.

Capital Funding Recommendation: Allocate the available funding (\$156,121 estimate) for ARCH, which will select specific housing development projects through a separate request for proposal process. The recommendations on developments to be funded will be acted on by the Kirkland City Council at a regular Council meeting in the first quarter of 2022.

Planning and Administration Recommendation: Allocate the available funding (\$41,085 estimate) for City of Kirkland human services division. CDBG funds will be used to administer the City of Kirkland's CDBG program activities.

In addition to the regular CDBG funds, the City has CDBG-CV funds authorized by the March 2020 CARES Act to address the pandemic. Congregations for the Homeless and Friends of Youth received additional funding from the City Council from the Human Services Reserve Fund this spring and Catholic Community Services will be included in the CDBG-CV3 recommendations in the fall. Therefore, staff recommends that the second tranche of CDBG funds support the Sophia Way.

CDBG – CV Finds: Allocate the available funding (\$97,815) for homeless services provided by The Sophia Way. CDBG CV-2 funds will support the services and operation of its day center for adult women experiencing homelessness on the Eastside at Sophia's Place, 3032 Bellevue Way NE, Bellevue WA. This day center is in operation due to the pandemic.

Attachment A – 2022 and CV-2 CDBG Allocation Resolution

RESOLUTION R-5489

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ALLOCATING THE CITY'S PORTION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR 2022 and CV-2.

1 WHEREAS, on May 20, 2014, the City Council authorized
2 the City of Kirkland's ("City") participation in the King County
3 Community Development Block Grant and HOME Investment
4 Partnerships Program (CDBG/HOME) Consortium as a Joint
5 Agreement City and the City entered into an Interlocal Agreement
6 with King County for that purpose; and
7

8 WHEREAS, on July 21, 2020, the City Council extended its
9 Interlocal Agreement with King County as a Joint Agreement City
10 through 2023; and
11

12 WHEREAS, as a Joint Agreement City, the City receives
13 funds in support of programs and projects that directly benefit our
14 community, including but not limited to home repair, affordable
15 housing, community facilities, public infrastructure, and human
16 services; and
17

18 WHEREAS, as part of the Interlocal Agreement with King
19 County, the City must develop a plan for allocating its portion of
20 the CDBG funds each year; and
21

22 WHEREAS, as part of CARES Act the City received a special
23 allocation of CDBG-Coronavirus (CV) funds to support community
24 efforts to prevent, prepare for, and respond the Coronavirus; and
25

26 WHEREAS, toward developing such a plan, the City's
27 Human Services Commission held a public hearing on August 24,
28 2021, at which time the Commission provided an opportunity for
29 the public to comment on recommendations for the plan, which
30 recommendations are now being forwarded to the Council.
31

32 NOW, THEREFORE, be it resolved by the City Council of the
33 City of Kirkland as follows:
34

35 Section 1. The recommendations of the Human Services
36 Commission are accepted and approved by the City Council.
37

38 Section 2. Based on estimates provided by the United
39 States Department of Housing and Urban Development (HUD),
40 the City intends to allocate 2022 funds as follows:
41

42 (a) \$156,121 of Capital Projects funds to A Regional
43 Coalition for Housing Trust Fund for affordable housing
44 projects;

(b) \$41,085 of Public Services funds to Congregations for the Homeless to support its 24/7/365 enhanced emergency shelter for men experiencing homelessness; and
(c) \$41,085 of Planning & Administration funds to support the City's administration of the CDBG program.

Section 3. Based on estimates provided by the United States Department of Housing and Urban Development (HUD) and the State of Washington Department of Commerce, the City intends to allocate its second tranch of CDBG-CV funds as follows:

\$97,815 to The Sophia Way to support its day center for adult women experiencing homelessness located at Sophia's Place.

Section 4. In the event the funding level actually provided by HUD is more or less than estimated, the above projects, services and administration should receive proportionate increases or decreases based upon the final distribution amount.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2021.

Signed in authentication thereof this ____ day of _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk



CITY OF KIRKLAND
Department of Parks & Community Services
123 Fifth Ave, Kirkland, WA 98033 · 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lynn Zwaagstra, Director of Parks and Community Services
John Lloyd, Deputy Director of Parks and Community Services
Heather Lantz-Brazil, Management Analyst

Date: September 7, 2021

Subject: UPDATE TO MUNICIPAL CODE 11.80 ADDRESSING NOISE IN PARKS

RECOMMENDATION

That the City Council approves changes to the Park Rules as defined in the [Kirkland Municipal Code \(KMC\) 11.80](#) to address recent concerns about inequity in how the rules impact buskers.

BACKGROUND DISCUSSION

Recently there have been several complaints about buskers in parks. Complaints have come from park users and buskers alike. Park users have complained about the noise disturbing them while visiting the park, while buskers complain about other buskers interfering with their ability to play music in the park. This has led to conflicts between buskers about who has the right to play music in a given space, resulting in calls to the Police Department (KPD) and Parks and Community Services (PCS) staff.

At the request of the Council, staff presented a summary of the issue at the July 6, 2021 City Council meeting. Due to the complexity of the issue at hand and the legal issues surrounding regulating busking activities, staff presented multiple potential options for Council to consider including short-term and long-term options. Short-term solutions included disallowing busking in parks and/or updating the KMC to address noise related issues in parks. The long-term solution presented was to further study the legalities and logistics of regulating busking and/or to create a permit process. Council recommended both the short and long-term options.

For short term solutions, staff turned off power to the Marina Park power outlets, rendering them useless for busking or any other activity not planned or permitted by the City. Staff are also proposing a small change to KMC 11.80 to bring it in line with similar noise regulations found in [KMC 11.84A.070](#). Staff will continue to study/evaluate options related to regulating busking and will provide Council with further recommendations at a later time.

Busking is considered a free speech activity, and parks are generally considered to be traditional public forums where individual expression is protected under the free speech clause of the first amendment, regulations need to be carefully crafted to ensure the content of the speech/performance is not what is being regulated. Staff recommend strengthening KMC

11.80.090 by adding defined limits for sound as found in KMC 11.84A.070. The new language prohibits any noise that may be heard 50 feet or more, regardless of the source. This will regulate noise in parks equally, regardless of the source of the noise. Just as a speaker may produce excessive noise, so too might a musical instrument without amplification. However, the language still retains the prohibition on amplification without a permit. Amplified sound is much more available due to current technology and more likely to exceed the 50-foot sound limit. Staff's assessment is that eliminating the amplification restraint will likely increase the number of complaints and conflicts.

By setting 50-foot limits for all noise the proposed code is more equitable and more easily enforced. Additionally, the proposed updates may help overcrowded performance locations and excessive volume conflicts by setting clear limits for all park users and buskers.

In its current form, KMC 11.80.090 addresses "certain vocations and loudspeakers" in parks. The code prohibits selling, soliciting, or peddling in a park without a permit as well as the use of any loudspeaker or sound amplification device without a permit. Staff recommend moving the restriction on selling, soliciting, and peddling be incorporated with KMC 11.80.100 - Business activities in parks, and to update the title of KMC 11.80.090 to "Public disturbance noises in parks." The proposed code changes would read as follows:

11.80.090 Public disturbance noises in parks.

It is unlawful for any person to cause a sound that is a public disturbance noise so as to unreasonably disturb the peaceful enjoyment of public park space. It is also unlawful to operate or use any loudspeaker or sound amplification devices in any park without first obtaining a written permit from the director. Any noise that can be heard 50 feet or more from the source be considered a public disturbance noise regardless of use of amplification or source. Sources of potentially prohibited noise include, but are not limited to musical instruments, radios, stereos, speakers, bullhorns, amplifiers, horns, sirens, and voice (including singing, shouting, yelling and whistling).

11.80.100 Business activity in parks.

It is unlawful to sell, solicit or peddle in any park without first obtaining a written permit from the director. It is unlawful to conduct any type of business activity in any park without first entering into a concession contract according to the rules and regulations of the parks and community services department. As used in this section, "business activity" shall include, but not be limited to, the following:

- (1) Sale of food, beverages or merchandise; or
- (2) Providing classes or other forms of instruction for a fee or other valuable consideration; or
- (3) Use of park facilities for advertising any business, product, or service.

NEXT STEPS:

The Parks & Community Services Department plans to review all PCS related sections of the KMC and will bring forward a comprehensive code update to City Council in the future. This will include defining the rules and regulations associated with busking. As busking is an issue that impacts more than just PCS, this will likely fall outside of KMC 11.80.

Attachment: Ordinance

ORDINANCE O-4765

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO NOISE IN PARKS AND AMENDING SECTION 11.80.090 AND SECTION 11.80.100 OF THE KIRKLAND MUNICIPAL CODE.

WHEREAS, Kirkland Municipal Code ("KMC") Section 11.80.090 relates to certain vocations and loudspeakers, and KMC Section 11.80.100 relates to business activity in parks; and

WHEREAS, Parks and Community Services recommend that KMC Section 11.80.090 be renamed to "Public disturbance noises in parks" and be amended to move the restriction on selling, soliciting, and peddling to KMC Section 11.80.100; and

WHEREAS, eliminating the prohibition on the use of speakers or amplification devices; and

WHEREAS, setting limits for noise, regardless of the source, the proposed code will be more equitable and more easily enforced.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 11.80.090 is amended to read as follows:

11.80.090 ~~Certain vocations and loudspeakers prohibited~~ Public disturbance noises in parks.

It is unlawful to sell, solicit or peddle in any park without first obtaining a written permit from the director. It is also unlawful to operate or use any loudspeaker or sound amplification devices in any park without first obtaining a written permit from the director for any person to cause a sound that is a public disturbance noise so as to unreasonably disturb the peaceful enjoyment of public park space. It is also unlawful to operate or use any loudspeaker or sound amplification devices in any park without first obtaining a written permit from the director. Any noise that can be heard 50 feet or more from the source be considered a public disturbance noise regardless of use of amplification or source. Sources of potentially prohibited noise include, but are not limited to musical instruments, radios, stereos, speakers, bullhorns, amplifiers, horns, sirens, and voice including singing, shouting, yelling and whistling.

Section 2. Kirkland Municipal Code Section 11.80.100 is amended to read as follows:

11.80.100 Business activity in parks.

It is unlawful to sell, solicit or peddle in any park without first obtaining a written permit from the director. It is unlawful to conduct any type of business activity in any park without first entering into a concession contract according to the rules and regulations of the parks and recreation department therefor with the city. As used in this section, "business activity" shall include, but not be limited to, the following:

- (1) Sale of food, beverages or merchandise;
- (2) Providing classes or other forms of instruction for a fee or other valuable consideration; or
- (3) Use of park facilities for advertising any business, product or service.

Section 3. If any provision 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 is not affected.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2021.

Signed in authentication thereof this ____ day of _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

**CITY OF KIRKLAND****Police Department****11750 NE 118th Street, Kirkland, WA 98034-7114 425.587.3400****www.kirklandwa.gov**

MEMORANDUM

To: Kurt Triplett, City Manager

From: Cherie Harris, Chief of Police

Date: August 26, 2021

Subject: Q2 2021 Police Dashboard

Recommendation:

City Council receives an update on Police Proposition 1, and an update on a development on a new interactive, public facing Crime Dashboard as directed by R-5434.

Background:

Included in the quarterly reporting on the crime dashboard is an update on the implementation of Police Proposition 1, which continues as expected. All officers funded through Police Proposition 1 have been hired but there are a few specialty assignments that are not currently filled due to attrition as indicated in this report.

- **Pro-Act (4)** - The Pro-Act Unit consists of a sergeant and four officers, one of which is also the rank of corporal to provide for full-time supervision of the team. The Pro-Act unit continues to impact crime within the city. The unit has been responsive to problem locations attracting criminal behavior within residential neighborhoods and business districts by focusing additional enforcement efforts on those locations experiencing an increase in activity.

In the second quarter of 2021, Pro-Act made 15 arrests, recovered six stolen vehicles and four stolen guns. In addition, they were granted sixteen search warrants leading to the recovery of stolen property consisting of vehicles, tools and clothing with an estimated combined value of \$35,500 dollars. Below is a brief summary of cases that speak to the unique talents and great work that this team provides to the City of Kirkland, specifically targeting prolific criminals:

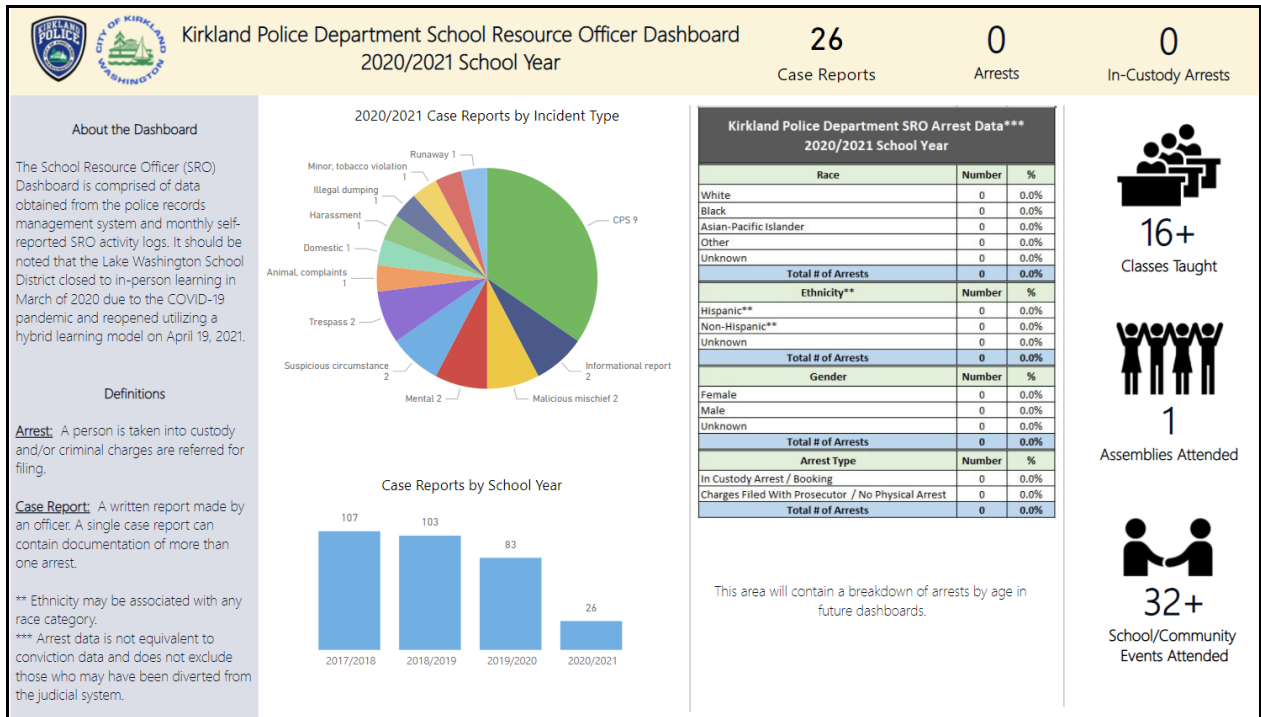
- On 03/31/2021, KPD Officers responded to a robbery that occurred in the 13500 BLK of 115th AVE NE where the homeowner had arranged a meet with an unknown male to purchase an iPad from the male through OfferUp for \$400.00. When the unknown male showed up at the residence, he shoved the homeowner back and entered his home. The unknown male reached into the homeowner's pants pocket and stole the \$400.00. The incident was captured on the homeowner's Ring doorbell. The case was assigned to Pro Act. Through OfferUp, Pro Act was able to identify the suspect. It was also learned that the suspect had committed a second strong-arm robbery a few days later in Lynwood.

After developing a suspect, Kirkland Pro Act was able to locate and arrest the suspect at his residence without incident. He was charged with Robbery in the 2nd degree, Residential Burglary and Theft in 1st degree.

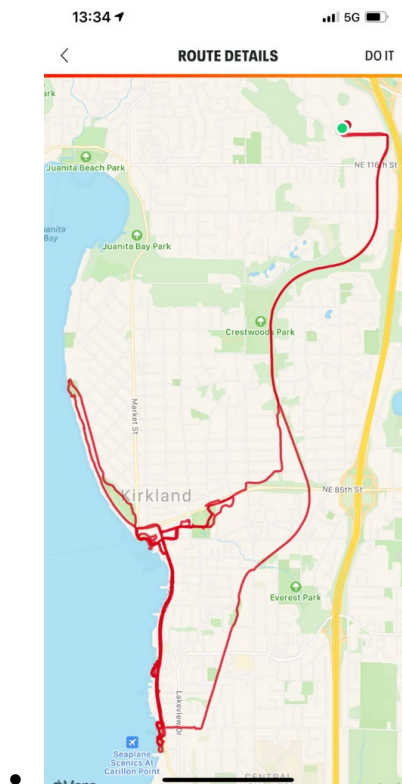
- Pro Act continued efforts in investigating a serial burglar. This individual had committed three residential burglaries in Kirkland over the course of three months. In one incident four firearms were stolen and a BMW X5 SUV was taken from the garage of another home. Since beginning this investigation, Pro Act assisted four law enforcement agencies that have cases with the same suspect, (Renton PD, Puyallup Tribe Police, Pierce County SO, and Federal Way PD) in developing probable cause for this suspect and two of his accomplices. Charges included identity theft, fraud, forgery, theft of motor vehicle, possession of stolen firearm, possession of motor vehicle, and possession of stolen property. Pro Act Officers located the suspect in Federal Way and placed him under arrest without incident. Post Miranda, the suspect provided information implicating himself to the crimes. Pro Act charged the suspect with Residential Burglary, Burglary in 1st Degree, Theft of Firearm (x4), and Violation of the Uniform Firearms Act.
- The Pro Act team has made several arrests of suspects involved in brazen thefts of merchandise from the Lululemon retail outlet. Several of the suspects were tied to similar thefts in Seattle and other surrounding jurisdictions. Pro Act and KPD Crime Analysts have met with the company loss prevention manager to work cooperatively to develop strategies to attempt to reduce these crimes.
- The Pro Act team continues to investigate prolific catalytic converter thefts in Kirkland and expect to provide an update on arrests in the next quarterly report.
- **School Resource Officer (SRO) (4)** –The SRO Unit is supervised by the Community Services Unit (CSU) Sergeant and is staffed by a corporal and three officers. The SRO's returned to their respective schools for the end of the school year.

The SRO Dashboard incorporates statistics from the Department Records Management system and SRO self-reported activity logs. The dashboard contains data on case reports, arrests, and other activity, and will be updated after each school semester. Due to the remote learning/hybrid model that affected the 2020-2021 school year, SRO activity was dramatically reduced. A total of 26 case reports were taken by SROs, none of which involved any arrests. Over 16 classes were taught by SROs, one assembly was attended, and at least 32 community events were attended by SROs during the year.

The Department Crime Analysts continue to build examples of a SRO Dashboard that will eventually be published on the City website. Utilizing the Microsoft Power BI software, the SRO Dashboard will be interactive in a way that allows the user to click on a category of the Case Reports by Incident Type section, such as Trespass and see the race, ethnicity, gender and if appropriate the arrest type. The following example is currently under development:



At the conclusion of the school year the SROs were reassigned to work emphasis patrols on the waterfront and downtown parks. Collectively, the SRO's made over 432 contacts and spent more than 7,505 minutes on directed emphasis patrols in and around the waterfront parks and other parks within the City (in the month of June). An example of the amount of coverage one SRO had during one bike shift was captured and is provided below:



- **Neighborhood Resource Officer (NRO) (1)** – The second NRO, as outlined in Proposition 1, was appointed on August 1, 2020. The NRO is assigned as a co-responder with the Proposition 1 Mental Health Professional (MHP). The NRO was very busy throughout the second quarter. In addition to assisting persons in crisis, the NRO continues to support patrol with complex cases that require long term problem solving of neighborhood disputes or locations that experience reoccurring criminal activity. Some examples of this work are:
 - The NRO worked on determining the needs of multiple unhoused residents throughout the City. This encompassed coordinating with various businesses, resident groups, other City Departments and advocate networks. The NRO was successful in coordinating and connecting unhoused residents who were ready to accept assistance with the resources they needed. As a part of this effort, the NRO also coordinated with specific neighborhood groups that either expressed a desire to help or that are experiencing groups of unhoused residents in their community.
 - The NRO worked with the City of Kirkland Human Services and members within the Special Projects & Economic Development team to address how the business community can support the needs of the unhoused residents. PCC, Tech City Bowl, King County Marine, Kingsgate Library, and downtown businesses met to coordinate presentations and planned a meeting designed specifically to address concerns and equip these community members to have successful interactions and relationships.
 - The NRO conducted a number of community presentations during the second quarter, providing information on the MHP co-responder program and answering questions on a multitude of topics. This also included support for the new Chabad of Kirkland with security planning.
 - The second quarter saw the onboarding of an American Rescue Plan Act Recovery Intern who was assigned to support the Community Services Unit (CSU). The Intern made an immediate impact by using his skills in multimedia development and social media to assist with multiple projects. The intern collaborated with the NRO to help create a presentation that the Risk Management Lieutenant utilized for the City of Kirkland Mental Health Grant request to the Washington Association of Police Chief and Sheriffs (WASPC). This consisted of a presentation to a group of subject matter experts who evaluated the grant request for additional contract MHP's to co-respond with Officers and conduct follow up with persons in crisis.

The second NRO position remains unfilled since the retirement of an Officer in December 2020.

- **Mental Health Professional (MHP)** – The MHP position provided under Proposition 1, continues to be staffed and co-responding with the Proposition 1 NRO to provide mental health resources to those in crisis. During the second quarter the MHP worked with the NRO and Operations Division to help digitize and streamline the referral process used by patrol officers who encounter members of the community in need or crisis. A standardized referral form will be used to provide and share crucial details not only with the Proposition 1 MHP but with the MHPs that work with officers through the North Sound Response Awareness, De-Escalation, and Referral (RADAR) programs. The referral form is scheduled to be fully implemented during the

third quarter and is expected to allow Officers to utilize their mobile phone to complete the necessary contact information.

In the second quarter of 2021, the NRO and MHP had 142 total contacts within the City of Kirkland, which included 52 referrals from Patrol and Investigations, as well as seven requests from the Jail for assistance. These contacts also encompassed referrals from the City of Kirkland Human Services Staff, Code Enforcement and the Department Domestic Violence Advocate. In addition, the MHP with the North Sound Response Awareness, De-Escalation, and Referral (RADAR) program had 23 contacts within the city of Kirkland and 115 total contacts in the cities they serve within King County (Kirkland, Bothell, Lake Forest Park, Shoreline and Kenmore). Some examples of this work included:

- An officer referred a case to the MHP regarding a 24-year old subject who was showing signs of psychosis post-head injury. His mother had tried to engage him in services for almost a full year before he started to escalate to the point of her feeling the need to call 911. The mother had called 3 times due to both property destruction and bizarre behaviors that had her concerned for his safety. The last time the mother called the police was due to the fact that her son had assaulted her. She was conflicted about declaring herself a victim. She felt that she had to "trust the system" to get him help even if he was charged, yet she was very nervous to do so. KPD's DV victim advocate referred his mom to the MHP. The MHP was able to help educate the mother on the process her son would be going through, including the possibility of community court. Subsequently, the MHP was able to advocate for her son and get messages communicated to the prosecutor and defense attorneys regarding the son's condition. When the son was released, the court supported the sentencing which included an inpatient psychiatric clinic of the family's choice that had a specialty in head injury and mental health. The MHP and DV advocate heard back from the family one month after his release that after the young man was discharged from treatment, he acknowledged his mental and behavioral health issues, and was stable at home with his parents.
- A local apartment complex called the police department to report an unwanted vehicle and its occupant in their parking lot. The Kirkland officers that responded discovered that the Hispanic young man was recently released from ICE/immigration, that he was living with his cousin and her family in that apartment complex, and that he had been diagnosed with schizophrenia. The officer (and Sgt) that responded, immediately referred the case to the MHP. The next day the MHP followed up in-person with the officer from the day before and utilized the language line to speak to the family in Spanish. Both the subject and his cousin became emotional when they realized that the Department was there to help and that the young man was not in trouble. The MHP was able to explain that the goal was to get him the help he needed which included an appointment with local healthcare professionals and access to medications. (When they were told that the Department could access low cost healthcare since he didn't have insurance, they were thankful but declined because they couldn't then afford the \$400/month medication.) They had no knowledge of the fact that drug companies accept applications for fully funded medications for people without health insurance. The MHP, along with a Spanish-speaking officer came to the home to help the family fill out and submit the application for no-cost medications.

Through the partnership with the North Sound Response Awareness, De-Escalation, and Referral (RADAR) Program, the Proposition 1 NRO and MHP, and Department Staff were able to successfully submit a Mental Health Grant Application to the Washington Association of Police Chief and Sheriffs (WASPC) securing \$75,500.00 in grant funds to use in continued development of mental health response services.

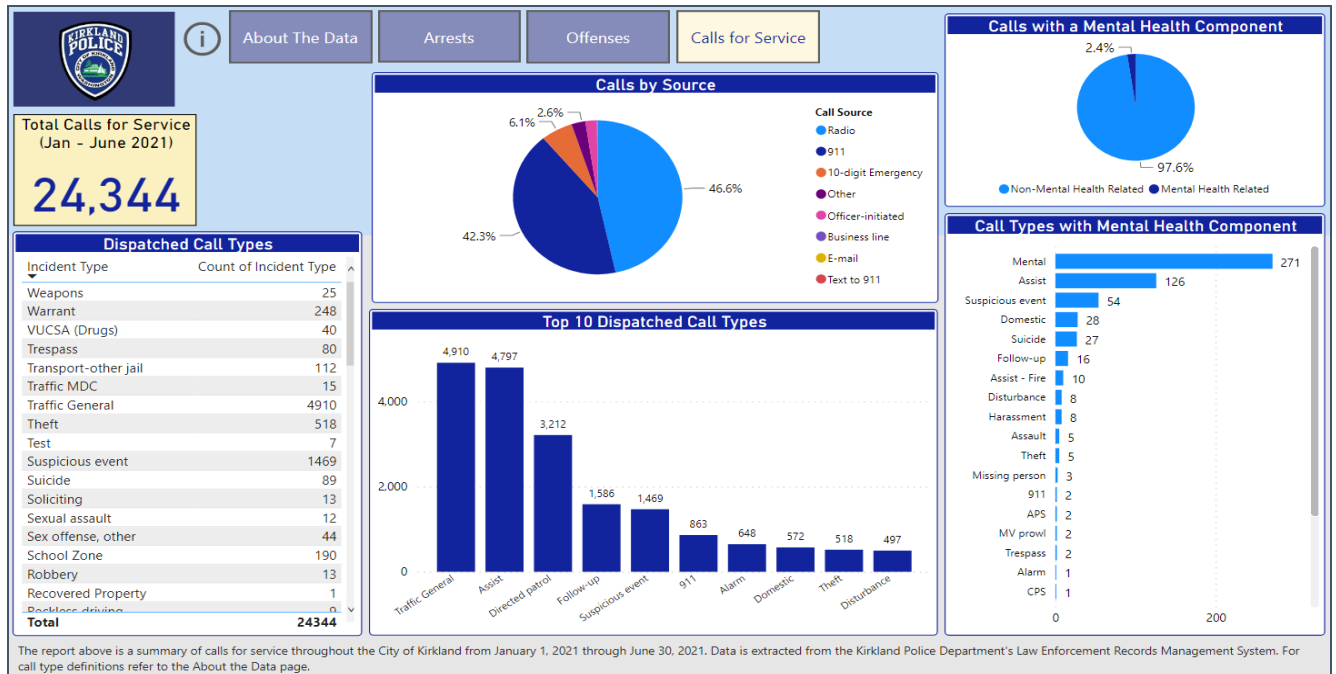
- **Gun Safety program** –Staff has been working hard to develop a series of instructional videos to promote gun safety through both the Department’s website and social media platforms. A Proposition 1 introductory video, as well as the first gun safety video were completed and distributed during the second quarter. A second gun safety video is being finalized and will be distributed in the third quarter. Staff continues to work on implementing a plan to host in person instruction as soon as allowed by the Governor’s phased re-opening approach.

Police Crime Dashboard:

The Department Crime Analysts continue to refine the interactive crime dashboard that comprises three separate reports: Calls for Service, Arrests and Offenses as well as an “About the Data” page. Utilizing the software program “Power BI” the goal is to eventually publish the quarterly crime dashboard into a public facing tool to provide an increase in data reporting and transparency. As reported in the first quarter crime dashboard report, the City of Kirkland Information Technology (IT) Department has established this program as the City standard, and is working toward providing necessary licensing, training and support for this platform, both internally and with the public. In order to make future dashboards accessible, dynamic and sustainable, it is necessary to establish a “gateway connection” to the Police Records Management System hosted by the NORCOM dispatch center. The Department and City IT Staff continue to work cooperatively with NORCOM to accomplish the gateway.

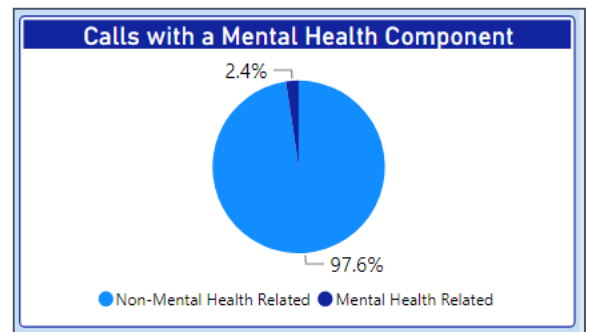
Call for Service Analysis

There were 24,344 dispatched calls for service during the reporting period of **January 1 – June 30, 2021**. This is a 6% increase from the average of the past four years during the same time period. Calls for service include criminal and non-criminal activity, can be community-generated or officer-initiated, handled in the field or over the phone, and do not always result in a police report being written. Call types and descriptions do not indicate a final disposition.



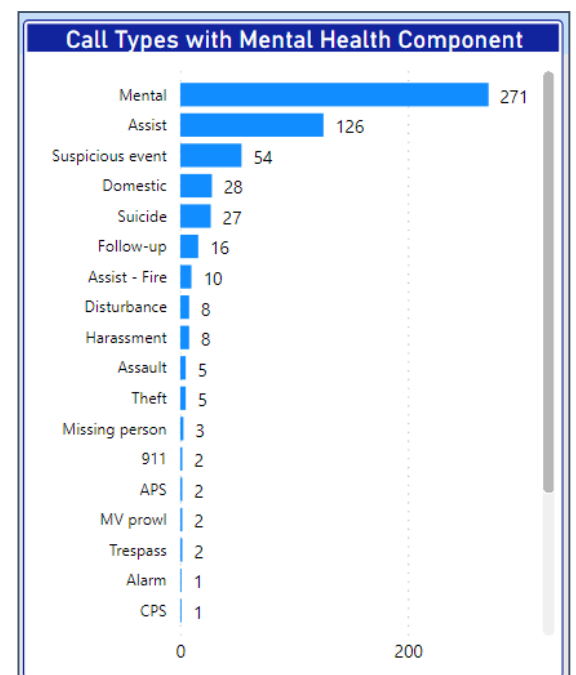
Calls with a Mental Health Component

In order to better track calls for service that include a mental health component, a new clearing code of "E" was added last year. In the first half of 2021, there were 577 dispatched calls that were given a mental health "E" clearing code. This equates to about 2.4% of total dispatched calls during that period. The percentage of calls for service that include a mental health component is expected to increase as the use of the code becomes more consistent.



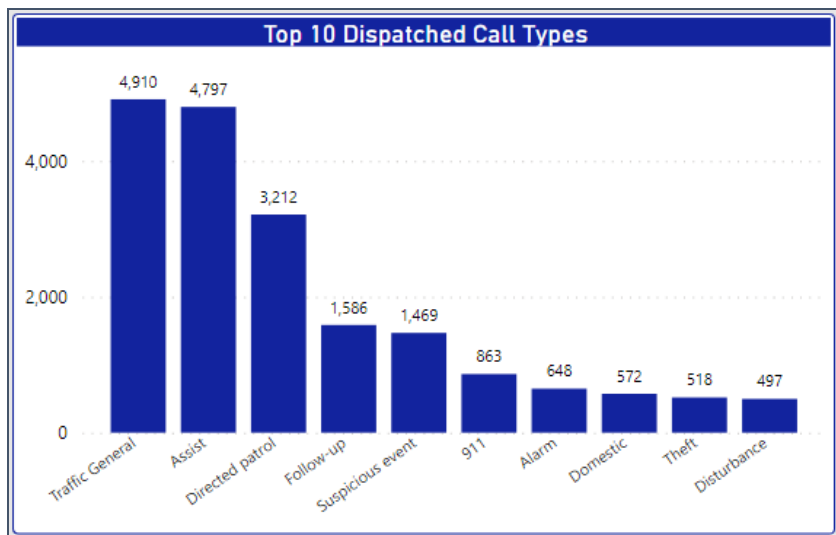
Mental Health Calls by Incident Type

For calls that involved a mental health component, the largest call type category was "Mental" with 271 (47%). Other call types with mental health components include: Assists (126, 22%), Suspicious Events (54, 9%), Domestic (28, 5%), Suicide/Attempted Suicide (27, 5%), as well as several other call types.



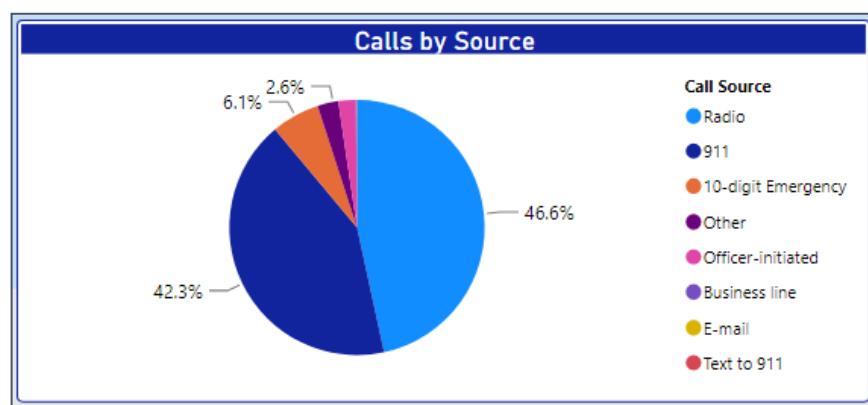
Top 10 Dispatched Call Types

The top dispatched call type was Traffic-General with 26% of the total. Traffic-General includes traffic stops, parking complaints, abandoned vehicles and other traffic related activity. Other top 10 calls for service include Assists, Directed Patrol, Follow-Up, Suspicious Event, 911, Alarm, Domestic, Theft and Disturbance. Combined, the top 10 calls types comprise 78% of the overall dispatched call for service total



Calls by Source

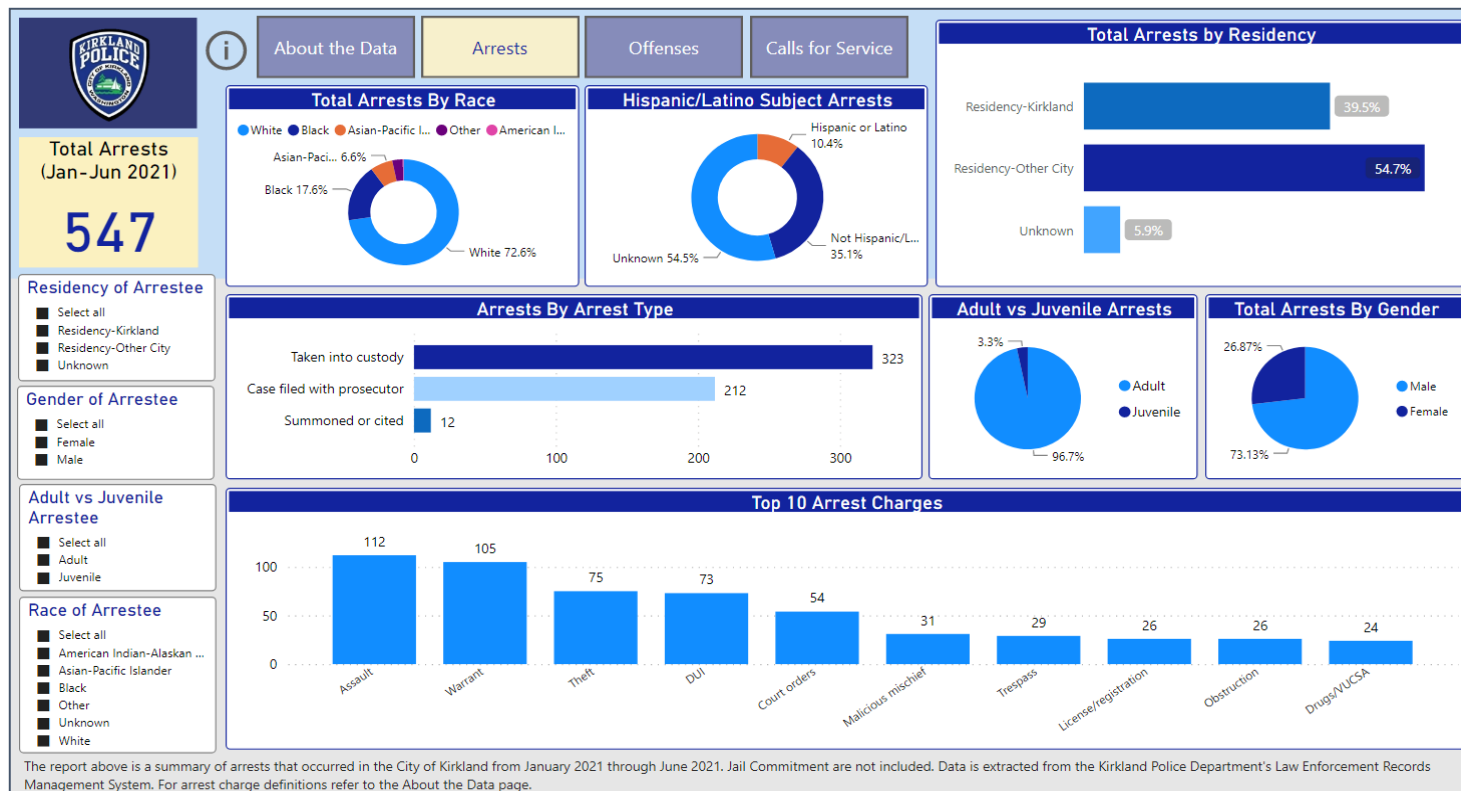
An analysis of call source data shows that nearly half (47%) of calls have a call source of "Radio". This category can represent calls that are either initiated by the officer or that originate in NORCOM.



The second largest portion of calls came from the 911 line (42%). A small percentage of calls came from other phone lines, or via texts or email. The total for "Officer-Initiated" should not be considered accurate due to the number of officer-initiated calls that are assigned a value of "Radio".

Arrest Analysis

There were 547 arrests during the reporting period of **January 1 – June 30, 2021**. This is a 35% decrease from the average of the past four years during the same time period. There were 44 individuals who were arrested more than one time during the reporting period.



Arrests by Race, Gender, and Age

- White:** There were 376 arrests of white individuals during the reporting period of **January 1 – June 30, 2021**. This accounts for 69% of overall arrests. 259 of these arrestees were male (adults – 250, juveniles – 9) and 117 were female (adults – 114, juveniles – 3). It is important to note that the race category of white includes ethnicities such as Hispanic and Middle Eastern.
 - 73% (273 of 376) of these arrests were the result of an officer responding to a dispatched call for service.
 - Officers initiated 27% (102 of 376) of arrests involving a white arrestee.
 - 54% (201 of 376) involved the arrest of a non-Kirkland resident at the time of arrest.
 - 42% (159 of 376) involved the arrest of a Kirkland resident at the time of arrest.
 - The top charge for white arrestees was Assault (79 or 16%) followed by Warrant (65 or 13%) and DUI (61 or 12%).
 - Over half (46 or 58%) of the assault charges for white arrestees were Domestic Violence related.
 - 35 white individuals were arrested more than one time during the reporting period.

White Arrestees by Charge	
Charge	Count
Assault	79
Warrant	65
DUI	61
Theft	45
Court orders	41
Trespass	21
Drugs/VUCSA	20
Malicious mischief	20
License/registration	19
Threats/intimidation	15
Obstruction	14
Possession	13
MV theft	11
Traffic	11
Firearms	7
Burglary, commercial	5
Burglary, possess tools	5
Burglary, residential	5
Harassment	5
ID theft	4
MV prowl	4
Public morals, offenses against	4
Disorderly	3
Sex offenses	3
Weapons (not firearms)	3
Liquor laws	2
Order violations	2
Arson	1
Forgery/counterfeiting	1
Robbery, residential	1
Charge Count Total	490

- Black:** There were 91 arrests of black individuals during the reporting period of **January 1 – June 30, 2021**. This accounts for 17% of overall arrests. 71 of these arrestees were male (69 adults; 2 juveniles) and 20 were female (18 adults; 2 juveniles).
 - 74% (67 of 91) of these arrests were the result of an officer responding to a dispatched call for service.
 - Officers initiated 21% (19 of 91) of arrests involving a black arrestee.
 - 58% (53 of 91) involved the arrest of a non-Kirkland resident at the time of arrest.
 - 29% (26 of 91) involved the arrest of a Kirkland resident at the time of arrest.
 - The top charge for black arrestees was Theft (23 or 18%) followed by Warrant (21 or 16%) and Assault (19 or 15%)
 - 14 of the 19 Assault charges for black arrestees were Domestic Violence related.
 - One Domestic Violence Assault involved a weapon (knife).
 - Six out of the 23 Theft charges were related to Organized Retail Theft.
 - Four black individuals were arrested more than one time during the reporting period.

Black Arrestees by Charge	
Charge	Count
Theft	23
Warrant	21
Assault	19
Malicious mischief	8
Robbery, commercial	7
Obstruction	6
Court orders	5
Drugs/VUCSA	4
Harassment	4
Threats/intimidation	4
Trespass	4
License/registration	3
Possession	3
Traffic	3
DUI	2
Forgery/counterfeiting	2
MV prowl	2
MV theft	2
Burglary, commercial	1
Burglary, possess tools	1
Burglary, residential	1
Disorderly	1
Firearms	1
ID theft	1
Robbery, residential	1
Stalking	1
Charge Count Total	130

- Asian/Pacific Islander:** There were 34 arrests of Asian/Pacific Islander individuals during the reporting period of **January 1 – June 30, 2021**. This accounts for 6% of overall arrests. All of these arrestees were adults (32 males, 2 females).
- Other:** There were 16 arrests where the arrestee's race was listed as "Other". This race category accounted for 3% of the overall arrest total during the reporting period. All of these arrestees were adults (14 males, 2 females).
- Unknown:** There were 29 arrests where the arrestee's race was unknown, accounting for 5% of overall arrests during the reporting period. 23 of these arrestees were male (22 adults, 1 juvenile) and six were female (all adults)

Arrests by Hispanic/Latino Ethnicity, Gender, and Age

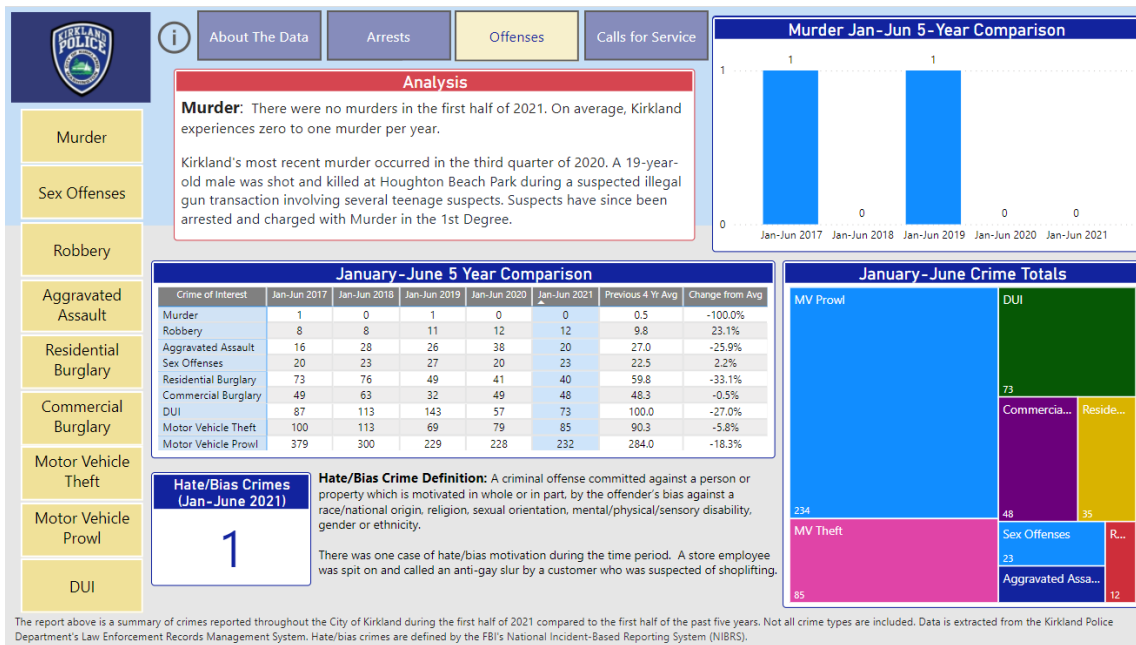
Hispanic/Latino is not identified as a race category, but rather as an ethnicity in accordance with the Federal National Incident Based Reporting System (NIBRS). These arrests are also counted in the above analysis by race. There were 57 arrests involving individuals with Hispanic or Latino ethnicity during the reporting period of **January 1 – June 30, 2021**. 56 of these arrestees were adults (44 males, 13 females). A slight majority of these arrestees (33 or 55%) were not Kirkland residents, while 22 (39%) resided in Kirkland at the time of arrest. Two had an unknown address.

Offense Dashboard Overview and Analysis

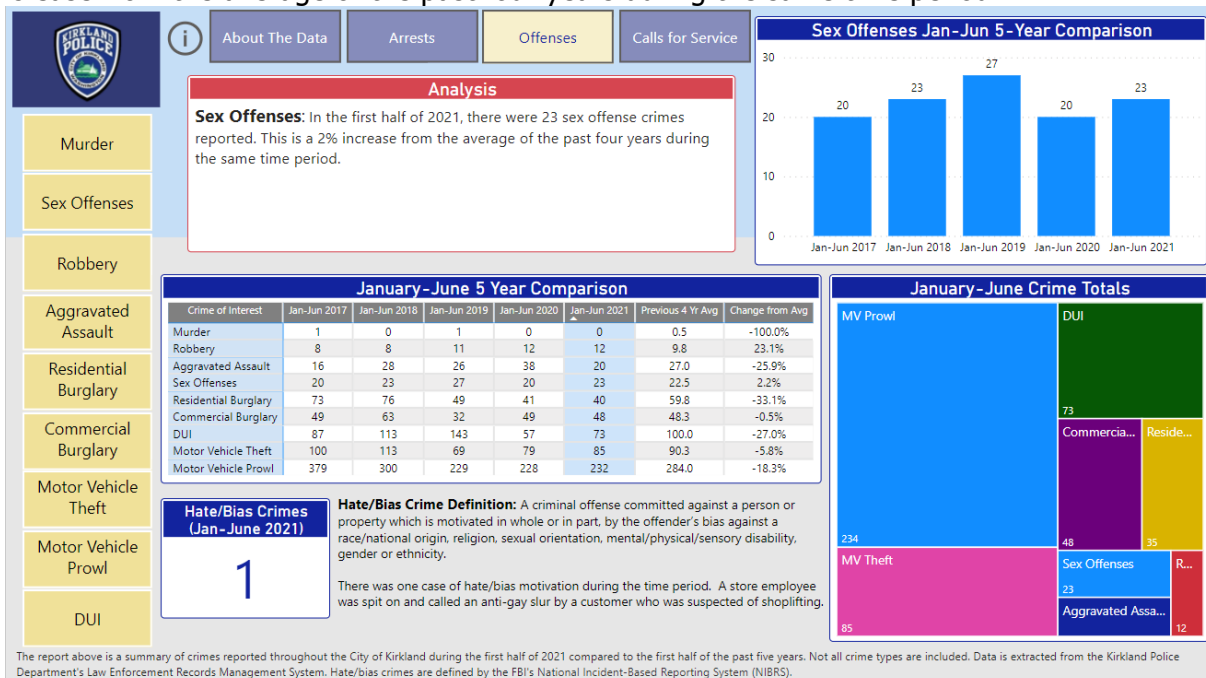
The Offense dashboard presents the total number of criminal offenses for the categories of Murder, Sex Offense, Robbery, Aggravated Assault, Residential Burglary, Commercial Burglary, Vehicle Theft, Vehicle Prowl, and DUI. A section on Hate/Bias crime as well as definitions for crime categories are presented. Future Enhancements may include a Theft category that breaks out Mail Theft and Package Theft. The tracking of these categories will require the use of new

codes in officer reports and possible reconfiguration of Coplogic (online) reports which will take additional time to implement.

Murder: There were no murders in the first half of 2021. On average, Kirkland experiences zero to one murder per year. Kirkland's most recent murder occurred in the third quarter of 2020. A 19-year-old male was shot and killed at Houghton Beach Park during a suspected illegal gun transaction involving several teenage suspects. Suspects have since been arrested and charged with Murder in the 1st Degree.

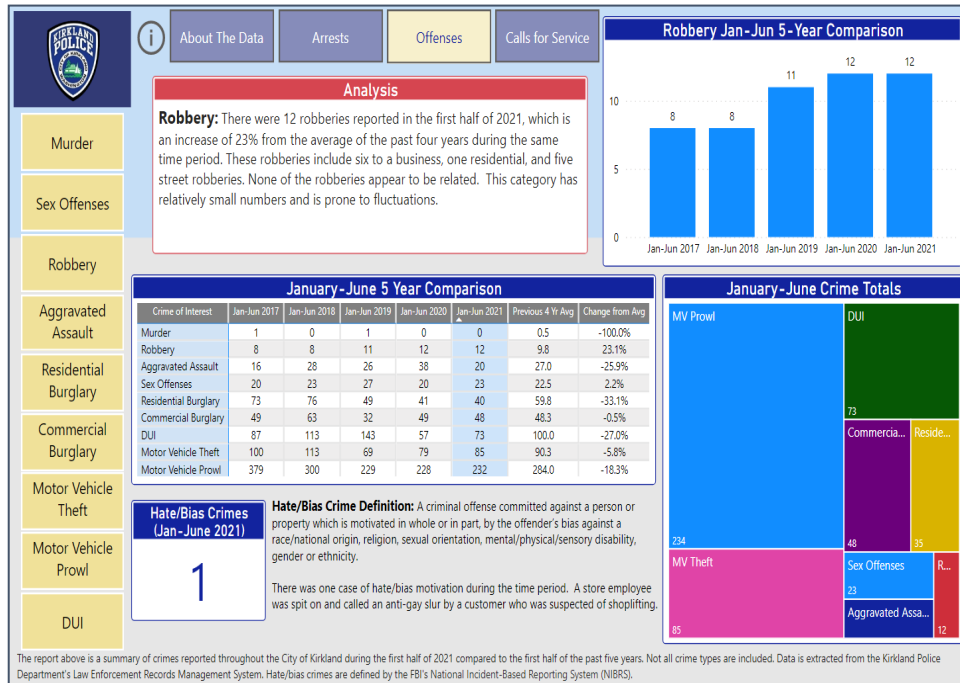


Sex Offenses: In the first half of 2021, there were 23 sex offenses reported. This is a 2% increase from the average of the past four years during the same time period.

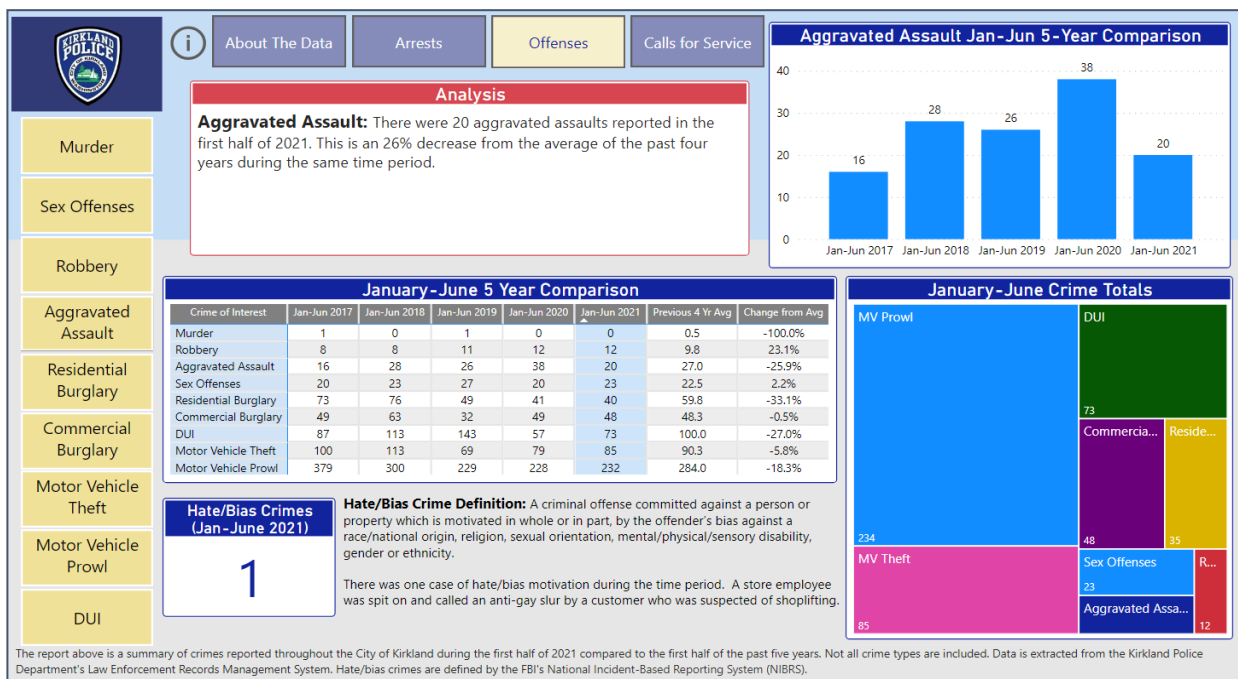


Robbery: There were 12 robberies reported in the first half of 2021, which is an increase of 23% from the average of the past four years during the same time period. These robberies include six in a business (commercial), two residential, and four "street" robberies. None of the robberies appear to be related. This category has relatively small numbers and is prone to fluctuations.

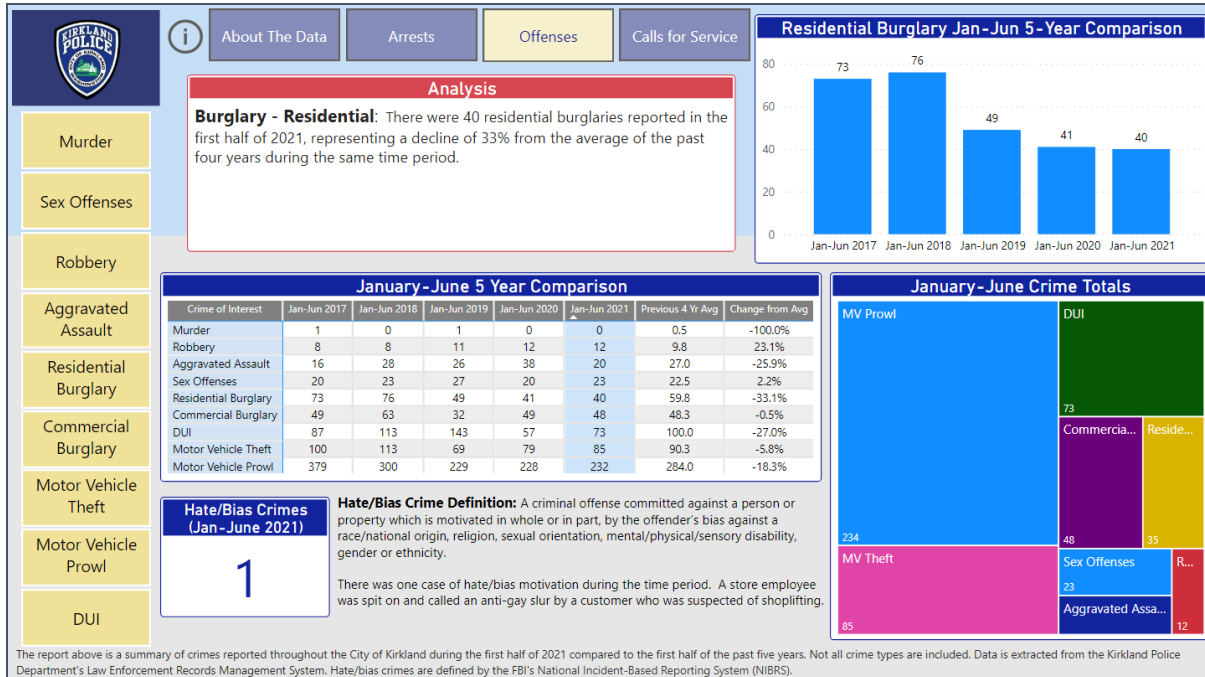
- Four of the six commercial robberies involved a suspect with a gun.
- A residential robbery involved an OfferUp exchange where the suspect crossed the doorway of the victim's home and forcibly took money from the victim's pocket. Another residential robbery involved a dispute over a puppy in which a gun was pointed at the victim.
- One robbery was domestic violence related.
- Of the four "street" robberies, two involved the display of a knife.



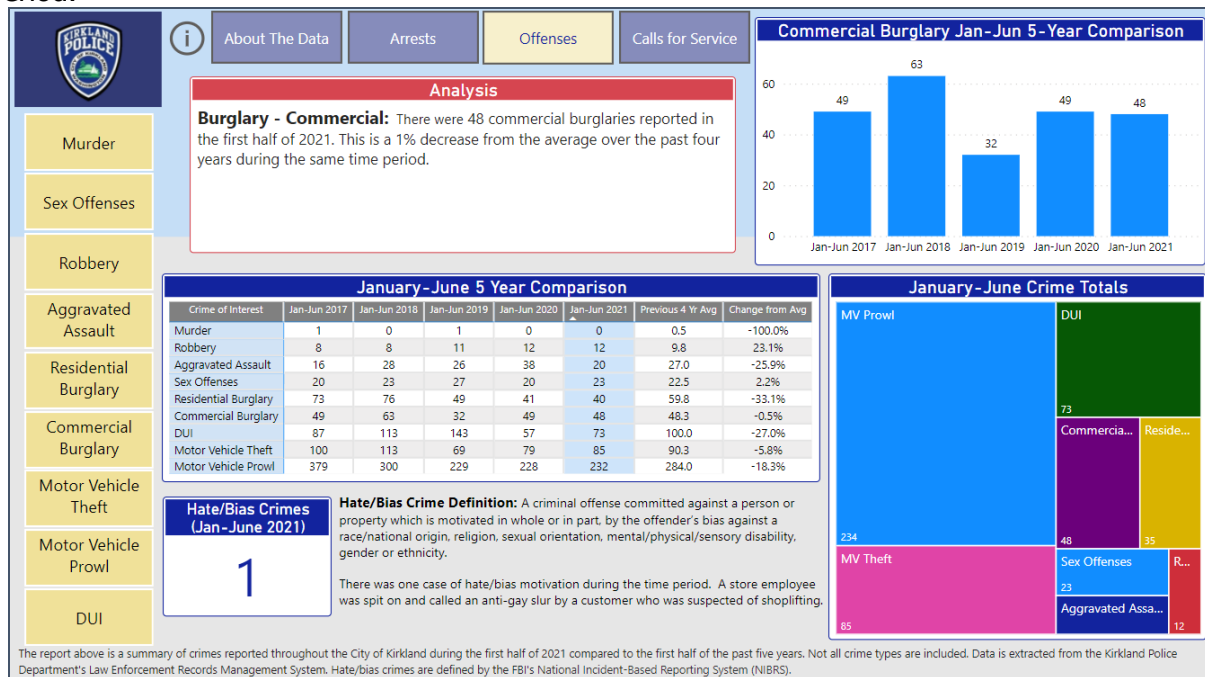
Aggravated Assault: There were 20 aggravated assaults reported in the first half of 2021. This is an 26% decrease from the average of the past four years during the same time period.



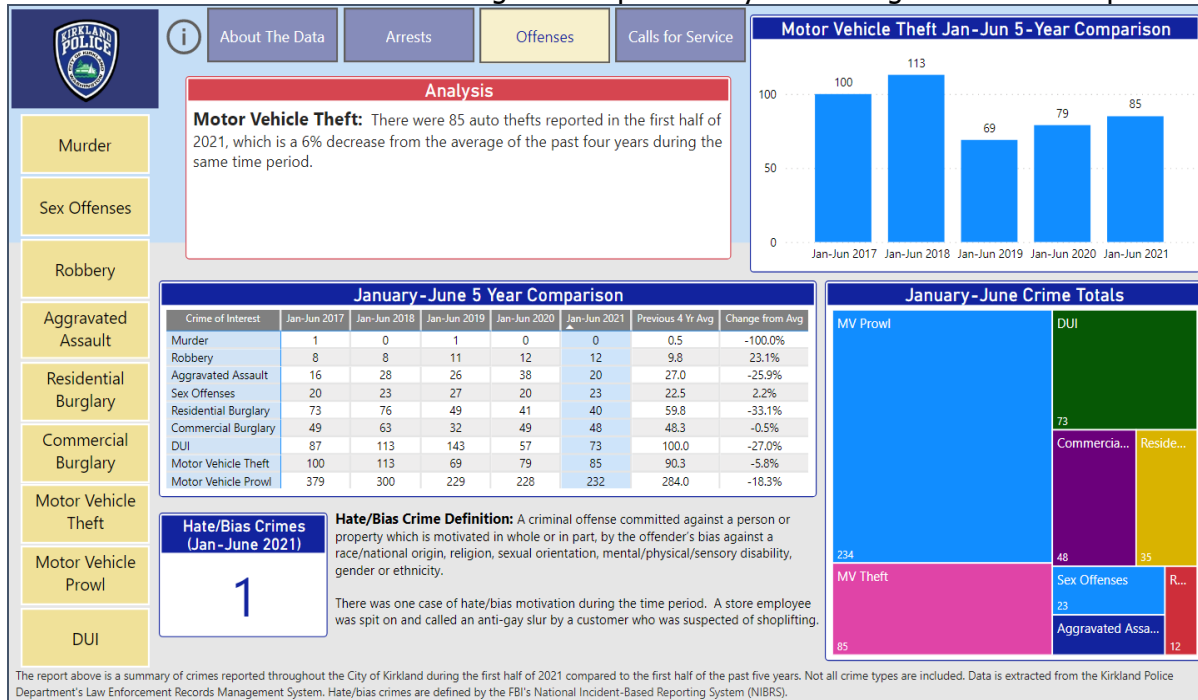
Burglary – Residential: There were 40 residential burglaries reported in the first half of 2021, representing a decline of 33% from the average of the past four years during the same time period.



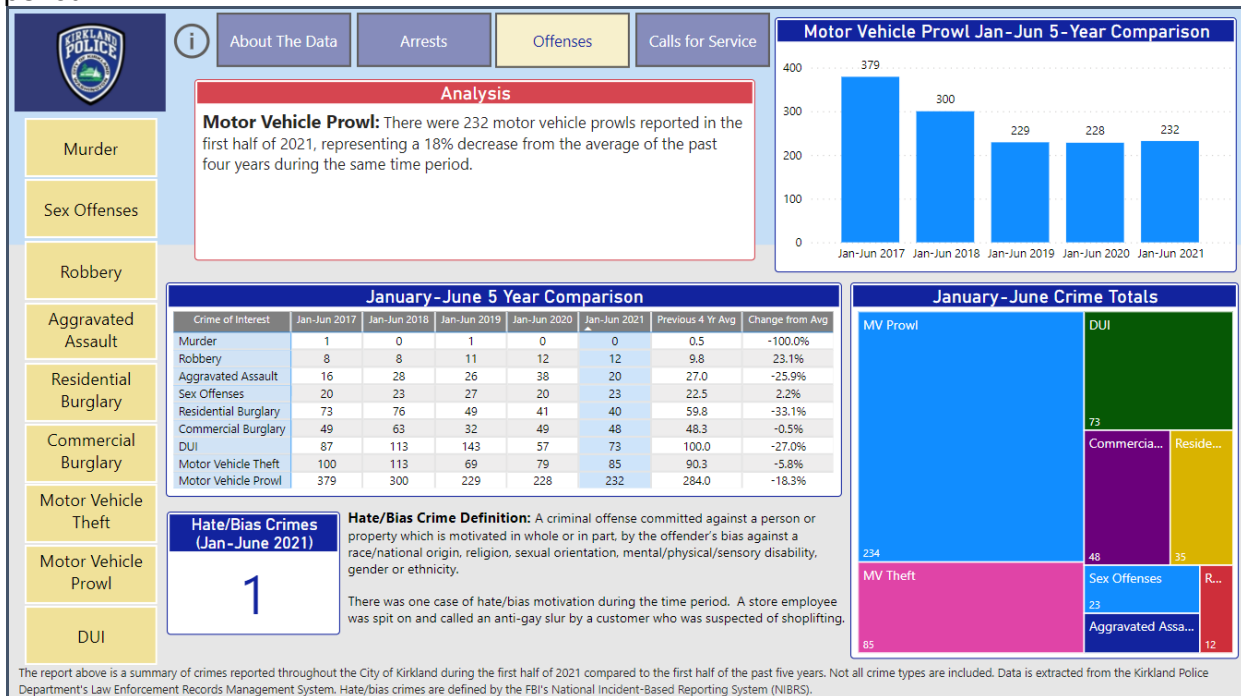
Burglary – Commercial: There were 48 commercial burglaries reported in the first half of 2021. This is a 1% decrease from the average over the past four years during the same time period.



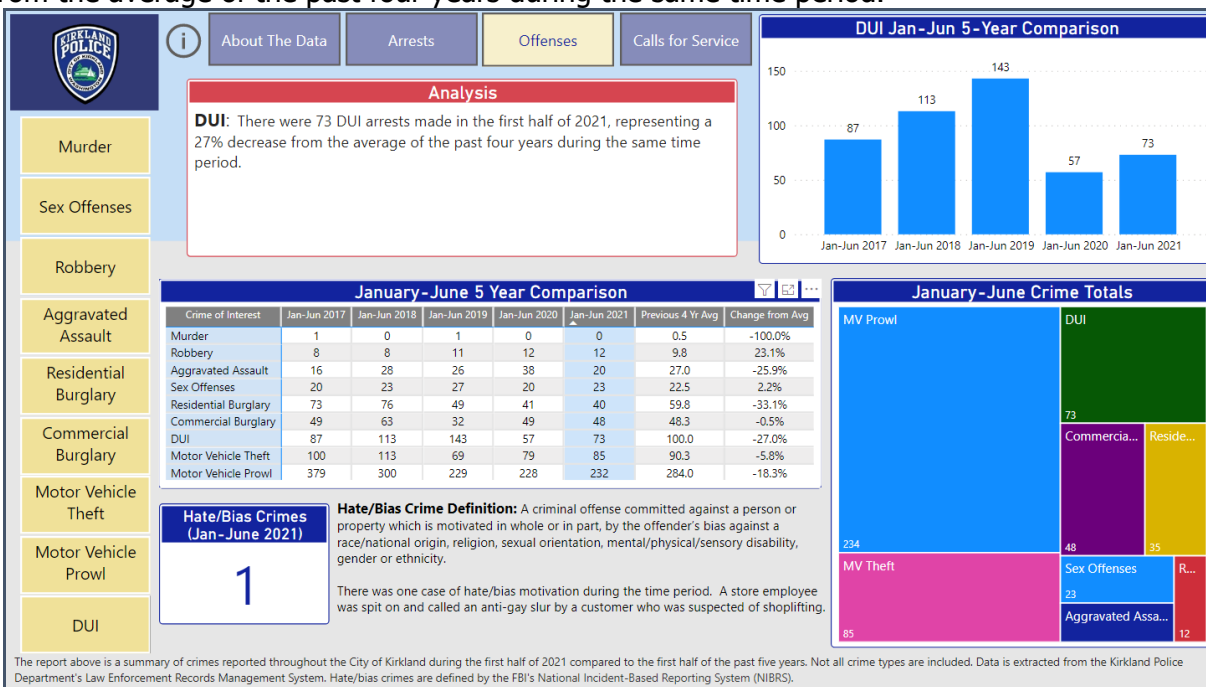
Motor Vehicle Theft: There were 85 motor vehicle thefts reported in the first half of 2021, which is a 6% decrease from the average of the past four years during the same time period.



Motor Vehicle Prowl: There were 232 motor vehicle prowls reported in the first half of 2021, representing a 18% decrease from the average of the past four years during the same time period.



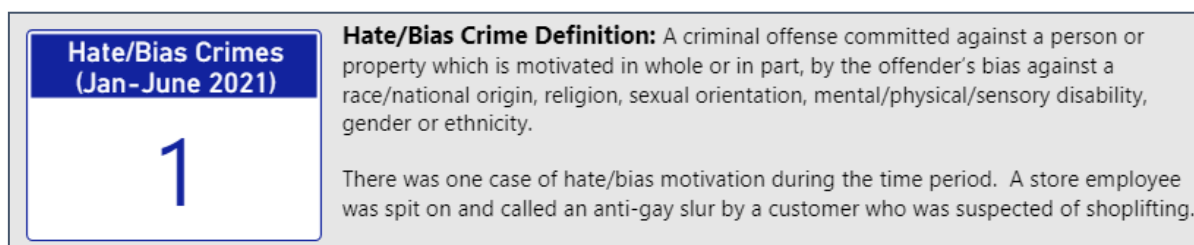
DUI: There were 73 DUI arrests made in the first half of 2021, representing a 27% decrease from the average of the past four years during the same time period.



Hate/Bias Crime

A Hate/Bias crime is defined by the FBI as a criminal offense committed against a person or property which is motivated in whole or in part, by the offender's bias against a race/national origin, religion, sexual orientation, mental/physical/sensory disability, gender or ethnicity.

There was one hate/bias crime reported during the first half of 2021. A store employee was spit on and called an anti-gay slur by a customer who was suspected of shoplifting.



Next Steps:

The Crime Analysts will continue to improve the interactive Crime Dashboard by adding additional data fields as requested by the City Council. The completion of the "gateway connection" is a key component of expanding the Dashboard as is obtaining additional licensing for the Microsoft Power BI product.

**CITY OF KIRKLAND****Police Department****11750 NE 118th Street, Kirkland, WA 98034-7114 425.587.3400****www.kirklandwa.gov**

MEMORANDUM

To: Kurt Triplett, City Manager

From: Cherie Harris, Chief of Police
Mike St. Jean, Deputy Chief of Police

Date: August 19, 2021

Subject: Animal Services Quarterly Report – Q2 2021

Recommendation:

City Council receives an update on the Animal Services Program.

Background:

The ongoing COVID-19 pandemic continues to prevent pet license canvassing. To counter this impact, the decision was made in the 2nd quarter of 2020, to waive late fees and rescind the requirement to provide proof of rabies vaccination at the time of license renewal. Both actions remain in effect.

As reported in the Animal Services 1st Quarter Report, the previous Animal Control Officer Jennifer Mattison, accepted a job offer with the Kirkland Police Department to be a commissioned police officer with a starting date of April 16. She is currently attending the WA Basic Law Enforcement Academy and doing well. A job posting was published utilizing both social media and traditional means of advertisement. Several applications were received, and multiple rounds of interviews have been completed. The Department has issued a conditional job offer to an experienced applicant that is currently in the final background phase of hiring. In the absence of a full time ACO, the Community Service Unit (CSU) and Patrol handled emergent animal issues, to include responding to Q-Alert inquiries. In addition, due to the Department having an excellent working relationship with regional partners, Bothell PD's ACO has responded on several occasions to assist Patrol and participated on the hiring oral board panels.

The following categories of information were developed in collaboration with the previous Council Public Safety Committee:

Expenditures vs. licensing revenue:

2021	Expenditures	Revenue	Donations
1 st Quarter	\$41,825.46	\$40,700.00	\$1,692.00
2 nd Quarter	\$15,917.00	\$43,825.00	\$1,912.00

The following table depicts 2nd quarter sheltering and intake activity:

Everett Shelter Intakes				
Dogs	Cats	Other	Total	Est. Total \$
3	5	0	8	*\$1,560.0
*Shelter Costs - \$1,540.00 Boarding: Case 19-2780 - \$680.00 (see below)				
KPD Intake				
Dog	Cats	Other	Total	Est. Total \$
8	1	2	11	\$660.00
Veterinary Care				
Dogs	Cats	Other	Total	Est. Total \$
0	0	0	0	\$0
Meow Cat Rescue/RASK acceptance of Kirkland Pets				
Dogs	Cats	Other	Total	Est. Total \$
0	0	0	0	\$0
Total Intake and Cost				
11	6	2	19	\$2,220.00

*Case 19-2780: boarding costs related to this case continued, due to several cancellations and continuations surrounding the court proceedings and COVID related delays. On May 5, 2021 in collaboration with the City Attorney's office this dog was released for adoption.

Pet Data activity by month:

Kirkland 2020	Year 1	Year 2	Replace	Total	Kirkland 2021	Year 1	Year 2	Replace	Total
January	379	47	0	426	January	410	40	0	450
February	409	38	1	448	February	324	36	0	360
March	347	50	1	398	March	511	44	0	555
April	261	16	0	277	April	454	36	1	491
May	603	61	0	664	May	482	41	0	523
June	506	37	3	546	June	393	38	1	432
Total	2,505	249	5	2,759	Total	2,574	235	2	2,811

Animal Control Officer Activity: The Officer Mattison only worked 15 days during this quarter, the below numbers are a combination of ACO, Patrol and CSU contacts and does not include many of the normal categories that are captured on the quarterly Department reports.

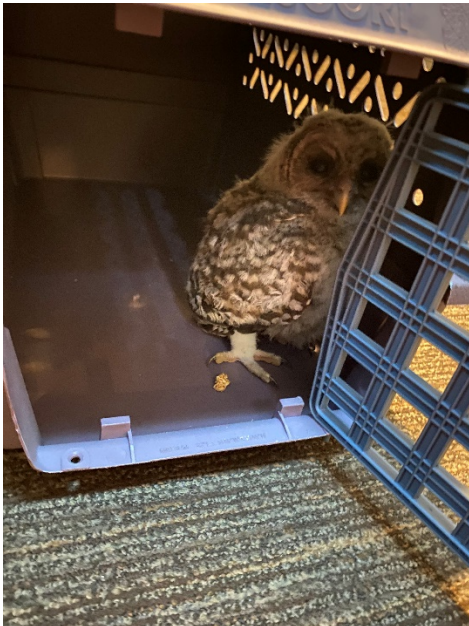
Activity	Quantity
Calls for Service Responded To	201
Cases Written	17
Cases Filed with the Prosecutor	0
Dog Bite Complaints Responded To	20
OUR Kirkland Service Request	45

Parks Enhanced Leash Law Enforcement (Park Rangers - Parks Department):

Activity	Quantity
Written warnings	44
Tickets	10
Contacts	604
License pamphlets handed out	n/a

Notes from a selection of calls patrol and CSU responded to during the 2nd quarter:

- 21-17228 – A baby owl (nestling) was reported to be injured and possibly unable to fend for itself. Concerns grew when the RP heard coyotes howling in the darkness at the time the owl was observed along a busy road. Officers responded and took custody of the owl. Officers later transported the owl (in a crate) to Carnation, where a bird rescue sanctuary is located.



**CITY OF KIRKLAND****Police Department****11750 NE 118th Street, Kirkland, WA 98034-7114 425.587.3400****www.kirklandwa.gov**

MEMORANDUM

To: Kurt Triplett, City Manager

From: Cherie Harris, Chief of Police
Todd Aksdal, Deputy Chief of Police
Veronica Hill, Senior Financial Analyst
Iris Cabrera, Transportation Engineer

Date: August 26, 2021

Subject: SAFETY CAMERA PROGRAM UPDATE – Q2 2021

Recommendation:

City Council receives an update on the implementation of the School Safety Zone Camera program.

Background:

The last School Safety Zone Camera program update was provided to the City Council on May 18th, 2021, and covered the period of time from February 18 – March 31, 2021. The program was suspended on March 12, 2020 as school was cancelled due to the COVID-10 pandemic. The Lake Washington School District remained closed until February 18, 2021.

The following is a report on the School Safety Zone Camera program from April 1 – June 15, 2021.

April 1 – June 15, 2021:

During this timeframe, both Rose Hill Elementary and John Muir Elementary schools remained open for in person learning four days per week. Kamiakin Middle School returned to in person learning for four days per week starting on April 19th, 2021. Between April 1 – June 15, 2021, 4,347 total citations have been issued, using the four cameras in both school zones. There were 38 school days within this time frame, which means that approximately 114.39 citations were issued per day. There were only 23 days in the first quarter and approximately 124.17 citations were issued each day.

As the chart below depicts, southbound 132nd Ave NE continues to be the busiest camera of the four, consistent with the previous reports:

Location	Number of Citations Issued
NB 132 nd Ave NE	1,233
SB 132 nd Ave NE	2,222
EB NE 80 th St	573
WB NE 80 th St	319

Citation Data:

The following bullets are provided to further describe the type of citations that were issued between April 1– June 15, 2021:

- 3,071 citations (71%) were issued to drivers traveling between 26-30 mph and were issued \$136 fines
- 1,276 citations (29%) were issued to drivers traveling 31 mph and faster and were issued \$250 fines
 - 47 mph is the fastest speed that was recorded during the second quarter.
- The average citations issued per zone, per day in the first quarter (February-March) was 32.62. The average citations issued per zone per day in the second quarter (April-June) declined in the second quarter to 28.31.
 - October 2019: 35.57 average citations per zone per day
 - November 2019: 29.93
 - December 2019: 24.85
 - January 2020: 18.63
 - February 2020: 22.90
 - March 2020: 23.47
 - February 2021: 35.58
 - March 2021: 29.44
 - **April 2021: 27.46**
 - **May 2021: 30.28**
 - **June 2021: 27.21**
- Those vehicles registered to a 98033 or 98034 zip code accounted for 28.7% of the issued citations in the second quarter.
 - The city outside of Kirkland with the most citations issued was Woodinville which accounted for 14.3% of the total issued citations in the second quarter.
- Recidivism Rate:
 - 91.3% one citation
 - 6.9% two citations
 - 1.8% have received three of more citations

- Afternoon school zone enforcement accounted for 66.6% of the citations issued, with the morning hours accounting for 33.4% of the citations issued. During this reporting period, the cameras were active during the following hours on Mondays, Tuesday, Thursdays and Fridays:
- - Rose Hill Elementary:
 - 8:20AM–9:20AM before school
 - 1:35PM–2:35PM after school.
 - John Muir Elementary / Kamiakin Middle School:
 - 8:05AM-9:50AM before school
 - 1:20PM-3:05PM after school.

Mitigations and Hearings:

As of July 19, 2021, 554 people receiving citations in the second quarter have requested mitigation hearings (12.7% of total) and 380 people have requested contested hearings (8.7% of total). In addition to the hearing requests, 305 people receiving citations have submitted affidavits stating that they were not the driver of the vehicle (7% of total citations). 181 citations were dismissed when affidavits were submitted stating that the registered owner was not the driver (4.2 % of all citations). Liability was transferred in the remaining 124 instances where the registered owner asserted that they were not the driver (2.8 % of all citations).

The court's website offers customers the ability to electronically submit a written statement and any attachments for the consideration by the Judge or they can still file by mail or drop-box. Contested and Mitigation hearings are currently occurring on Mondays and Tuesdays.

Expenditures through the end Q2 2021*:

Expenditures	2019	2020	Apr-21	May-21	Jun-21	2021	TOTAL
Construction	\$ 27,319	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 27,319
ATS Contract	\$ 26,871	\$ 17,579	\$ 17,000	\$ 17,000	\$ 17,000	\$ 74,679	\$ 119,129
Utilities	\$ 560	\$ 420	\$ 140	\$ 140	\$ 140	\$ 626	\$ 1,606
Police Staffing	\$ 50,284	\$ 166,864	\$ 14,918	\$ 14,684	\$ 14,684	\$ 87,919	\$ 305,067
Court Staffing	\$ 19,308	\$ 60,611	\$ 7,430	\$ 6,796	\$ 7,968	\$ 42,236	\$ 122,155
<i>Total</i>	<i>\$124,342</i>	<i>\$ 245,474</i>	<i>\$ 39,488</i>	<i>\$ 38,620</i>	<i>\$ 39,792</i>	<i>\$205,460</i>	<i>\$ 575,276</i>

**Costs continue to be updated with actual expenses as they are incurred, which is why expenditures from prior months may differ from memo to memo.*

Construction costs:

- No additional construction costs beyond the initial set-up costs are anticipated.

Ongoing costs:

- Costs for monitoring of the cameras resumed in February 2021 (prorated).
- Utility costs allocated from February 2021 (prorated).

Police staffing costs:

- Sustainment staffing costs for 1 FTE Traffic Officer.

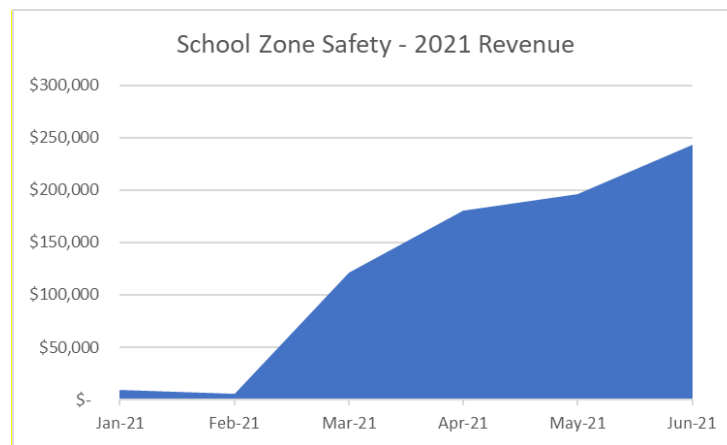
Court staffing costs:

- Sustainment staffing costs for .75 FTE JSA II.
- Professional services charges for court commissioner.

Revenues:

Revenues	2019	2020	Apr-21	May-21	Jun-21	2021	TOTAL
Citations	\$ 400,883	\$ 732,749	\$ 180,513	\$ 196,052	\$ 243,500	\$ 756,437	\$ 1,890,069

The City has generated \$1,890,069 in school zone safety citation revenues through 6/30/2021. For this quarter, the average monthly revenue was \$206,688. June 2021 revenue represents the highest amount collected since the program's inception in October 2019. May 2021 revenues were 3rd highest. YTD 2021 revenues have already exceeded the total revenue for the entire year of 2020.

**Cash Flow Analysis:**

	2019	2020	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21
Expenditures								
Construction	\$ 27,319	\$ -	\$ -	\$ -	\$ -			
ATS Contract	\$ 26,871	\$ 17,579	\$ -	\$ 6,679	\$ 17,000	\$ 17,000	\$ 17,000	\$ 17,000
Utilities	\$ 560	\$ 420	\$ -	\$ 66	\$ 140	\$ 140	\$ 140	\$ 140
Police Staffing	\$ 50,284	\$ 166,864	\$ 14,095	\$ 14,949	\$ 14,589	\$ 14,918	\$ 14,684	\$ 14,684
Court Staffing	\$ 19,308	\$ 60,611	\$ 5,417	\$ 7,108	\$ 7,517	\$ 7,430	\$ 6,796	\$ 7,968
Total Expenditures	\$ 124,342	\$ 245,474	\$ 19,512	\$ 28,802	\$ 39,246	\$ 39,488	\$ 38,620	\$ 39,792
Revenues								
Citations	\$ 400,883	\$ 732,749	\$ 9,291	\$ 5,807	\$ 121,273	\$ 180,513	\$ 196,052	\$ 243,500
Total Revenues	\$ 400,883	\$ 732,749	\$ 9,291	\$ 5,807	\$ 121,273	\$ 180,513	\$ 196,052	\$ 243,500
Council Appropriations								
								\$ 200,000
Balance	\$ 276,541	\$ 487,275	\$ (10,221)	\$ (22,995)	\$ 82,027	\$ 141,025	\$ 157,432	\$ 3,708
LTD Balance	\$ 276,541	\$ 763,816	\$ 753,595	\$ 730,601	\$ 812,628	\$ 953,653	\$ 1,111,086	\$ 1,114,793

The program balance as of 6/30/2021 is \$1,114,793. In June 2021, Council appropriated \$200,000 to support the Neighborhood Safety Program.

CHANGE IN PROGRAM BALANCE	
Beg. Program Balance - April 1, 2020	\$ 760,665
Add: Revenue Apr. '20-June '21	\$ 948,423
Less: Operational Costs Apr. '20-June '21	\$ (394,295)
Less: Re-Appropriations	\$ (200,000)
Ending Program Balance - June 30, 2021	\$ 1,114,793

Speed Study Results:

Public Works has completed three speed studies in the Rose Hill Elementary and John Muir Elementary / Kamiakin school zones. The first speed study was conducted in May 2018 prior to improvements being made in the zones and is considered a baseline study. The 2nd study was conducted in May of 2019 to determine the impacts of signage modifications and installation of flashing beacons. The most recent study was conducted in May of 2021 to determine the impacts of the automated speed safety cameras.

City of Kirkland Traffic Engineers provided the following analysis of the 2019 and 2021 speed study data:

Rose Hill Elementary

- A higher level of compliance was observed in the westbound approach both before and after school.
- Overall higher compliance with the school zone speed limit was observed in 2021. In 2021, 59% of drivers traveled at a speed equal to or lower to 20 mph, compared to 49% in 2019. The overall conclusion is that automated speed safety cameras are having a positive impact.
- Results showed fewer drivers traveling between 20-25 mph. This may be because more drivers were driving equal to or below 20 mph.
- There was an increase in the number of drivers traveling at a speed equal to or greater than 30 mph (17 in 2019 / 30 in 2021).

John Muir Elementary / Kamiakin Middle School

- A higher level of compliance was seen in the morning than in the afternoon.
- The level of compliance was higher in the northbound approach both before and after school.
- Overall higher (but not significantly higher) compliance with the school zone speed limit was observed in 2021. In 2021, 56% of drivers traveled at a speed equal to or lower to 20 mph, compared to 50% in 2019. The overall conclusion is that the automated school safety cameras are having a beneficial impact.
- The results show fewer drivers traveling within the 20-25 mph and 25-30 mph ranges in 2021 in comparison to 2019. This could be attributed to the fact that more drivers are traveling at speeds equal to or lower than 20 mph.

- There was an increase in the number of drivers traveling at a speed equal to or greater than 30 mph (82 in 2019 / 126 in 2021).

Traffic engineers concluded that speed enforcement in the school zones seem to be working, but there is room for improvement since drivers are still exceeding the 20 mph school speed limits and some are driving faster than 30 mph.

Next Steps:

Summer break for the Lake Washington School District began on June 16th, 2021. The school zone cameras have stopped recording violations for the summer. The next safety camera program update will be provided after school starts in the fall of 2021.



CITY OF KIRKLAND

Department of Finance & Administration

123 Fifth Avenue, Kirkland, WA 98033 425.587.3100

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance & Administration
George Dugdale, Financial Planning Manager
Camille Hastings, Recovery Intern

Date: August 19, 2021

Subject: July 2021 Sales Tax Revenue

Background

The Financial Planning Division prepares a monthly sales tax revenue memo analyzing monthly and year-to-date activity by business sector, forecasting sales tax revenue in the current year, and tracking key economic indicators to provide additional context for the state of the economy. The general retail sales tax is the City's largest single revenue source after Property Tax, accounting for 18 percent of total budgeted revenues in the General Fund and, along with property and utility taxes, funding public safety and other general government (i.e., non-utility) services. It is also more sensitive to economic cycles than other tax revenues, therefore it is monitored closely by staff—even more so given the economic disruption and uncertainty caused by COVID-19.

There is a two-month lag between when sales tax is generated and when it is distributed to the City by the Washington State Department of Revenue (DOR). Accordingly, July sales tax revenue relates to May retail activity in Kirkland.

July 2021 vs. July 2020

Business Sector Group	July		Dollar Change	Percent Change	Percent of Total	
	2020	2021			2020	2021
Services	291,722	412,140	120,418	41.3%	12.3%	15.2%
Contracting	647,641	691,154	43,513	6.7%	27.4%	25.4%
Communications	37,539	36,520	(1,019)	-2.7%	1.6%	1.3%
Retail:						
Auto/Gas Retail	510,019	512,471	2,452	0.5%	21.6%	18.8%
Gen Merch/Misc Retail	244,178	320,430	76,252	31.2%	10.3%	11.8%
Retail Eating/Drinking	116,387	179,218	62,831	54.0%	4.9%	6.6%
Other Retail	296,363	336,171	39,808	13.4%	12.5%	12.4%
Wholesale	107,075	102,610	(4,465)	-4.2%	4.5%	3.8%
Miscellaneous	114,663	129,347	14,684	12.8%	4.8%	4.8%
Total	2,365,587	2,720,061	354,474	15.0%	100%	100%

Comparing July 2021 to July 2020, sales tax revenue is up \$354,474, or 15.0 percent. As this period covers activity from May to May, the 2020 revenue reflects the economic impacts of the COVID-19 pandemic in Kirkland, Governor Inslee's "Stay Home, Stay Healthy" order, and recommendations urging residents to wear

face coverings in indoor public settings. A mix of strong growth in 2021 retail activity and economic contraction in the same period in 2020 explain the increase in July 2021 sales tax revenue as compared to July 2020. For example, Retail Eating/Drinking saw a decrease of 29.4 percent when comparing July 2020 to July 2019 but has increased 54 percent (up \$62,831) between July 2020 and July 2021. This sector is showing a strong recovery as the community is vaccinated and businesses reopen with fewer restrictions.

In July 2021, most business sector categories reported growth compared to July 2020, with the most significant gains in Services (up \$120,418 or 41.3 percent) and Gen Merch/Misc Retail (up \$76,252 or 31.2 percent). Communications and Wholesale saw slight decreases, 2.7 percent and 4.2 percent, respectively.

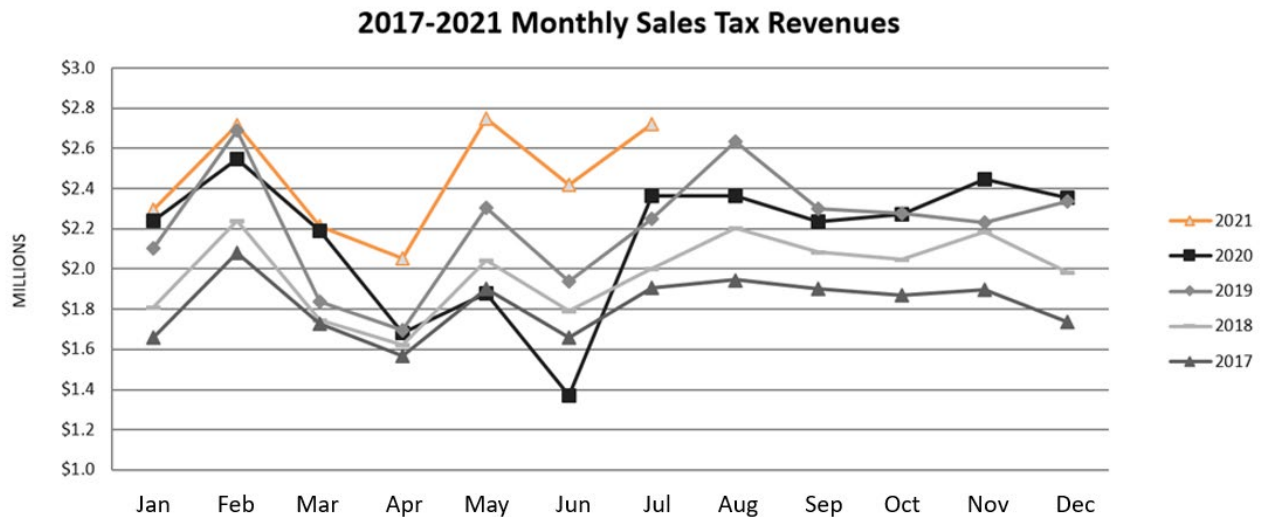
YTD 2021 vs. YTD 2020

Business Sector Group	YTD		Dollar Change	Percent Change	Percent of Total	
	2020	2021			2020	2021
Services	2,007,948	2,541,986	534,038	26.6%	14.1%	14.8%
Contracting	3,762,546	4,369,848	607,302	16.1%	26.4%	25.4%
Communications	287,550	271,379	(16,171)	-5.6%	2.0%	1.6%
Retail:						
Auto/Gas Retail	2,494,183	3,186,228	692,045	27.7%	17.5%	18.6%
Gen Merch/Misc Retail	1,608,601	1,927,585	318,984	19.8%	11.3%	11.2%
Retail Eating/Drinking	841,501	896,499	54,998	6.5%	5.9%	5.2%
Other Retail	1,904,695	2,319,537	414,842	21.8%	13.3%	13.5%
Wholesale	617,344	764,669	147,325	23.9%	4.3%	4.5%
Miscellaneous	747,550	893,270	145,720	19.5%	5.2%	5.2%
Total	14,271,918	17,171,001	2,899,083	20.3%	100%	100%

Year-to-date (YTD) sales tax revenue is up \$2.9 million, or 20.3 percent in 2021 compared to last year.

Looking at business sectors, the most significant growth was in Auto/Gas Retail (up \$692,045 or 27.7 percent, most of which is recovery from a sharp decline in the previous year), Services (up \$534,038 or 26.6 percent), and Wholesale (up \$147,325 or 23.9 percent). Marginal declines occurred in Communications (down \$16,171 or 5.6 percent). Retail Eating/Drinking showing modest growth (up \$54,998 or 6.5 percent), reflecting the lifting of some social distancing and restaurant capacity requirements, which have limited the number of customers that can be served throughout the 2021 YTD period. This report shows May 2021 retail activity, the month that the state updated guidance regarding masks for fully vaccinated individuals.

The graph below shows Kirkland's monthly sales tax revenue through July 2021 compared to the prior four years.



Note: A one-time back payment of \$1,384,689 in November 2020 was excluded from the above graph to allow for more accurate comparison of ongoing revenues.

Key Economic Indicators

Information about wider trends in the economy provides a mechanism to help understand current results in Kirkland and to predict future performance. The combination of consumer confidence, unemployment levels, housing data, inflation, and auto sales provides a broader economic context for key factors in sales tax revenues. Since the sales tax figures reported above are from two months prior, some of the figures in the table below can function as leading indicators for where sales taxes may go in future reports.

Indicator	Most Recent Month of Data	Unit	Month			Yearly Average	
			Previous	Current	Change	2020	2021
Consumer Confidence							
Consumer Confidence Index	July	Index	128.9	129.1	0.2	101.0	112.8
Unemployment Rate							
National	July	%	5.9	5.4	(0.5)	8.1	6.0
Washington State	May	%	5.6	5.0	(0.6)	8.4	6.0
King County	May	%	4.9	4.6	(0.3)	7.6	5.3
Kirkland	May	%	4.2	4.0	(0.2)	6.2	4.5
Housing							
New House Permits (WA)	May	Thousands	47.5	51.8	4.3	44.6	58.1
Case-Shiller Seattle Area Home Prices	May	Index	324.9	335.4	10.5	273.8	313.7
Inflation (CPI-W)							
National	July	% Change	6.1	6.0	(0.1)	1.2	4.1
Seattle	June	% Change	3.7	6.3	2.6	1.9	3.9
Car Sales							
New Vehicle Registrations	June	Thousands	25.5	22.4	(3.1)	19.4	24.2

The **Consumer Confidence Index**¹ increased 0.2 points between June and July, following a jump of over 10 points in the previous month. Consumer confidence is currently at its highest level since March 2020, a potential reflection of consumers' optimism regarding continued economic recovery and a sign that consumer spending will continue to support economic growth in the short-term (Consumer Confidence Survey). Overall confidence seems to be stable and resilient as the economy moves toward reopening fully, but the prevalence of the COVID-19 Delta variant may have a negative impact in the coming months.

¹ The Consumer Confidence Index transitioned to an online survey this year and all monthly indices have been restated and updated with the new methodology from January to May 2021.

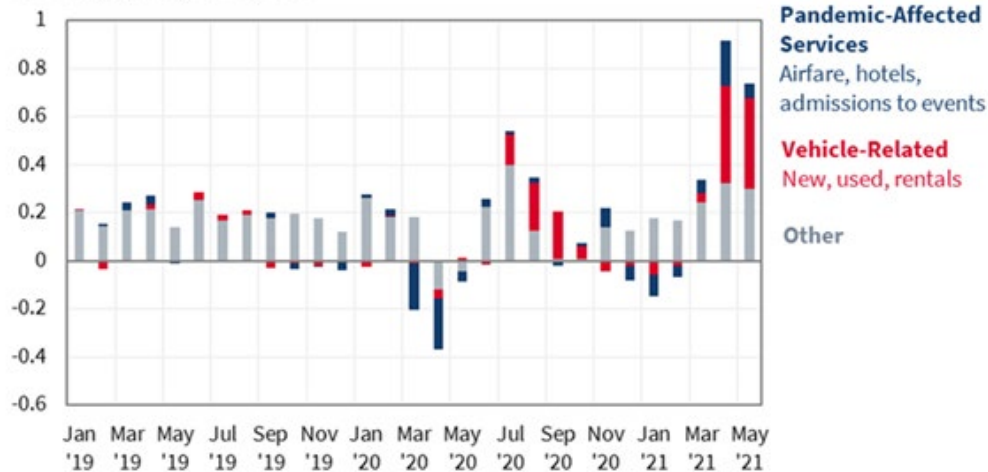
The national **Unemployment Rate** saw a 0.5 percentage point decrease in the past month, from 5.9 percent in June to 5.4 percent in July. Locally, Washington State's unemployment decreased from 5.6 percent in April to 5.0 percent in May. Similarly, King County's unemployment rate decreased by 0.3 percentage points from 4.9 to 4.6 percent (April-May), and Kirkland's decreased from 4.2 to 4.0 percent (April-May).

New Housing Permits in Washington State increased from 47,500 in April to 51,800 in May. The 2021 yearly average of 58,100 remains well above the 2020 average of 44,600 due to increases in the early months of 2021. The **Case-Shiller Home Price Index** saw another increase of 10.5 points in May to 335.4 (following a 9.6-point increase in the previous month), reflecting a continually strong local housing market despite the pandemic.

Inflation, as measured by the CPI-W in the U.S., decreased 0.1 points in July to 6.0 percent. For the Seattle-Tacoma-Bellevue region, the CPI-W increased sharply from 3.7 percent in April to 6.3 percent in June. The CPI-W is reported as the percentage change over the last 12 months so inflation will likely remain higher in 2021 as a result of falling prices in 2020 during the impacts of the first wave of COVID-19 on the national and regional economy. Additionally, the effects of recent federal stimulus and reopening of the economy may contribute to further inflation as vaccines become widely administered. As described in the graph from the White House Council of Economic Advisors below, much of the inflation² is driven by increases in the prices of vehicles and travel, where a sudden return of demand is outpacing supply restricted by the pandemic.

Contributions to Monthly Core CPI Inflation

Percentage points, monthly rate



Source: BLS, CEA analysis.

New Vehicle Registration in Washington State has fluctuated in 2021, increasing to a high of 27,000 in April before decreasing to 25,500 in May and 22,400 in June. Despite this, the 2021 yearly average (24,200) remains above the 2020 average (19,400).

² Inflation measure in the graph is Core CPI, which removes energy and food prices due to their increased volatility. The City of Kirkland uses the CPI-W, which is the Consumer Price Index for Urban Wage Earners and Clerical Workers.



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance and Administration
Nalin Gada, Accountant

Date: August 20, 2020

Subject: 2020 ANNUAL TRANSPORTATION AND PARK IMPACT FEES REPORT

RECOMMENDATION:

Council accept the 2020 Annual Transportation and Park Impact Fee Report. By approving the consent calendar, the Council accepts this report.

BACKGROUND DISCUSSION:

RCW 82.02.070 related to impact fees provides that: "Annually, each county, city or town imposing impact fees shall provide a report on each impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees." This report is presented to the City Council in response to that requirement.

The City began collecting impact fees for transportation in June 1999 and for parks in August 1999. Although impact fees are not required to be tracked and applied to projects by zones per the ordinances, impact fees are being tracked by zones for administrative purposes (see Attachment C for map). Tracking the collection and subsequent transfer of impact fees helps to analyze what area(s) of the City development is occurring in and how funding of future capacity projects is related to the amount of development. On June 1, 2011, the North zone was added due to the annexation of the new neighborhoods.

During 2020, \$681,494 in transportation impact fees and \$560,747 in park impact fees were collected. Attachment A summarizes the 2020 impact fee collections by zone.

The North zone collected 41% of 2020 impact fees with \$508,219 for single-family residential. The largest contribution in the North zone was from DRG Development INC, in the amount of \$91,980 collected for Bristol Lane. The Northeast zone received the most multi-family/non-residential contributions totaling \$69,696 contributed by The Quadrant Corporation for development of Varese by Tri Pointe Homes.

Since June 1, 2010, the Kirkland Municipal Code has provided for the optional deferral of impact fees for single family residences until sale of the property rather than at building permit issuance

to assist with economic development. The KMC was amended again as of May 7, 2013, extending the deferral date indefinitely and on November 17, 2015 the deferral was made permanent and the language was updated to be consistent with State legislation passed in 2015. A lien is filed against the title to the property and impact fees are paid upon closing of the sale of property. As of December 31, 2020, the City had four applicants deferring transportation impact fees of \$20,676 and park impact fees of \$16,555.

Attachment B is a cumulative report showing total transportation and park impact fees collected by zone since inception. The Southwest zone accounts for 33% of the impact fees collected to date totaling \$13,448,398. The North zone new neighborhood has generated \$3,532,788 transportation impact fees and \$2,670,711 park impact fees for a total of \$6,203,499.

The table below shows collections over the last nine years.

Year	Transportation	Parks
2012	\$1,192,687	\$690,487
2013	\$1,332,206	\$714,395
2014	\$2,347,606	\$1,029,793
2015	\$1,225,155	\$1,210,274
2016	\$3,828,030	\$1,192,450
2017	\$1,158,801	\$936,279
2018	\$4,185,237	\$6,290,253
2019	\$2,831,192	\$2,241,344
2020	\$681,494	\$560,747

Beginning January 1, 2017, both Transportation and Park impact fees were indexed to provide for automatic fee increases each January 1st based on the June to June Seattle-Tacoma-Bremerton Area Consumer Price Index. For 2020, rates were adjusted to include CPI increases of 1.7%. On January 2021, rates are increased by 1%.

At year-end 2020, the impact fee fund balance after transfers to fund CIP projects and debt was \$1,914,218 (\$1,084,671 for transportation and \$829,547 for parks). The City's practice is to allocate impact fee-related revenues to qualifying capital projects in the order that they are received (i.e., first-in, first-out). Note that the Washington State Legislature extended the time period to expend impact fees to ten years from collection date. The City Council amended the Kirkland Municipal Code to reflect that change on September 20, 2011.

The 2021-2026 CIP includes \$4.32 million from transportation Impact Fees and \$7.20 million from Parks Impact Fees for a total of \$11.52 million in combined Impact Fees, based on a conservative forecast of future collections of \$1.5 million for transportation and \$1.2 million for parks per year, plus accumulated prior year revenues above expenses. The [CIP Document](#) is located in the Budget and Finance section of the Finance and Administration Department on the City's web page.

The following table shows impact fee revenues expended on projects and debt service payments since 1999.

Year	Project Name (Project Number)		Transportation	Parks
1999 through 2016			\$11,772,130	\$5,002,072
2017	NE 116th St Crosswalk Upgrade	CNM0012001	150,000	
	NE 124th St/124th Ave Pedestrian Bridge	CNM0086100	231,400	
	Juanita Drive Quick Wins	CNM0090000	200,000	
	124th Avenue NE Sidewalk Improvement	CNM0095000	25,080	
	Citywide Greenways - NE 75th Street	CNM0113001	200,000	
	124th Ave NE Roadway Improvement	CST0059101	161,500	
	100th Ave NE Corridor	CST0083000	(206,822)	
	NE 124th St/124th Ave Intersection	CTR0091101	53,900	
	NE 116th/124th NE Northbound Dual Left Turn	CTR0092000	318,600	
	NE 132nd St/116th Way Intersection	CTR0098000	100,000	
	Totem Lake Intersection Improvement	CTR0122000	2,199,600	
	Play Area Enhancements	CPK0066000		10,000
	Totem Lake Park Master Plan	CPK0139200		100,000
2018	NE 124th St/124th Ave Pedestrian Bridge	NMC0861000	2,968,600	
	124th Avenue NE Sidewalk Improvement	NMC0950000	325,000	
	NE 116th/124th NE Northbound Dual Left Turn	TRC0920000	116,400	
	NE 132 St/Juanita High School Access	TRC0930000	113,854	
	2018 Park Play Area Enhancements	PKC0660018		10,000
	Totem Lake Park Master Plan/Phase 1	PKC1390200		914,000
	Parks Maintenance Center	PKC1470000		122,500
2019	NE 52nd Street Sidewalk CKC Connection	NMC0070000	(339)	
	NE 124th St/124th Ave Pedestrian Bridge	NMC0861000	400,000	
	Citywide School Walk Route Enhancements	NMC0870000	420,000	
	Juanita Drive Quick Wins	NMC0900000	(27,360)	
	124th Avenue NE Sidewalk Improvement	NMC0950000	400,000	
	Totem Lake Roadway Repair	STC0060517	845,000	
	100th Ave NE (North Section)	STC0831300	1,204,500	
	100th Ave NE (Mid-North)	STC0831400	1,006,500	
	NE 132 St/Juanita High School Access	TRC0930000	400,000	
	100th Ave NE/Simonds Road	TRC1350000	625,850	
	100th Ave NE/NE 145 Street	TRC1360000	661,850	
	Neighborhood Park Land Acquisition	PKC1333000		918,000
	Totem Lake Park Master Plan/Phase 1	PKC1390200		3,285,200
	Parks Maintenance Bldg Design Services	PKC1471000		400,000
2020	124th Ave NE North Section ROW	STC0591200	314,000	
	Juanita Drive Multi-Modal (On)	NMC0901000	225,000	
	City-Wide Trail Connections (N)	NMC1090000	275,000	
	Citywide Greenways Networks	NMC1130000	125,000	
	NE 132nd Street/108th Avenue N	TRC0940000	61,000	
	NE 85th St/132nd Ave NE Dual Lanes	TRC1390000	629,350	
	NE 124/124 NE Ped Brdg	NMC08610000	629,350	
	Juanita Bch Bthhs	PKC1190100		1,000,000
	132nd Pk Playfields	PKC1340000		2,716,000
	Totem Lk Pk Master Plan Ph 1	PKC1390200		1,724,000
	100th Ave NE/Simonds Road	TRC1350000	(275,850)	
	100th Ave NE/NE 145 Street	TRC1360000	(275,850)	
	100th Ave NE (North Section)	STC0831300	(1,104,500)	
	100th Ave NE (Mid-North)	STC0831400	(842,500)	
Total impact fee revenues transferred to projects through 2020*			\$24,425,244	\$16,201,772
	Impact fees collected through 2020		24,789,084	16,566,312
	Interest accrued through 2020		720,831	465,007
Total impact fee collections and interest			\$25,509,915	\$17,031,319
Impact fee balance			\$1,084,671	\$829,547

Attachments (3)

cc: Julie Underwood, Public Works Director
John Burkhalter, Development Eng Manager
Mary Gardocki, Parks Planning & Dev Manager
Sri Krishnan, Deputy Director Finance & Admin

Rod Steitzer, Capital Projects Manager
Lynn Zwaagstra, Parks & Community Services Director
Adam Weinstein, Planning & Building Director

Attachment A

City of Kirkland

2020 Impact Fee Report - Summary

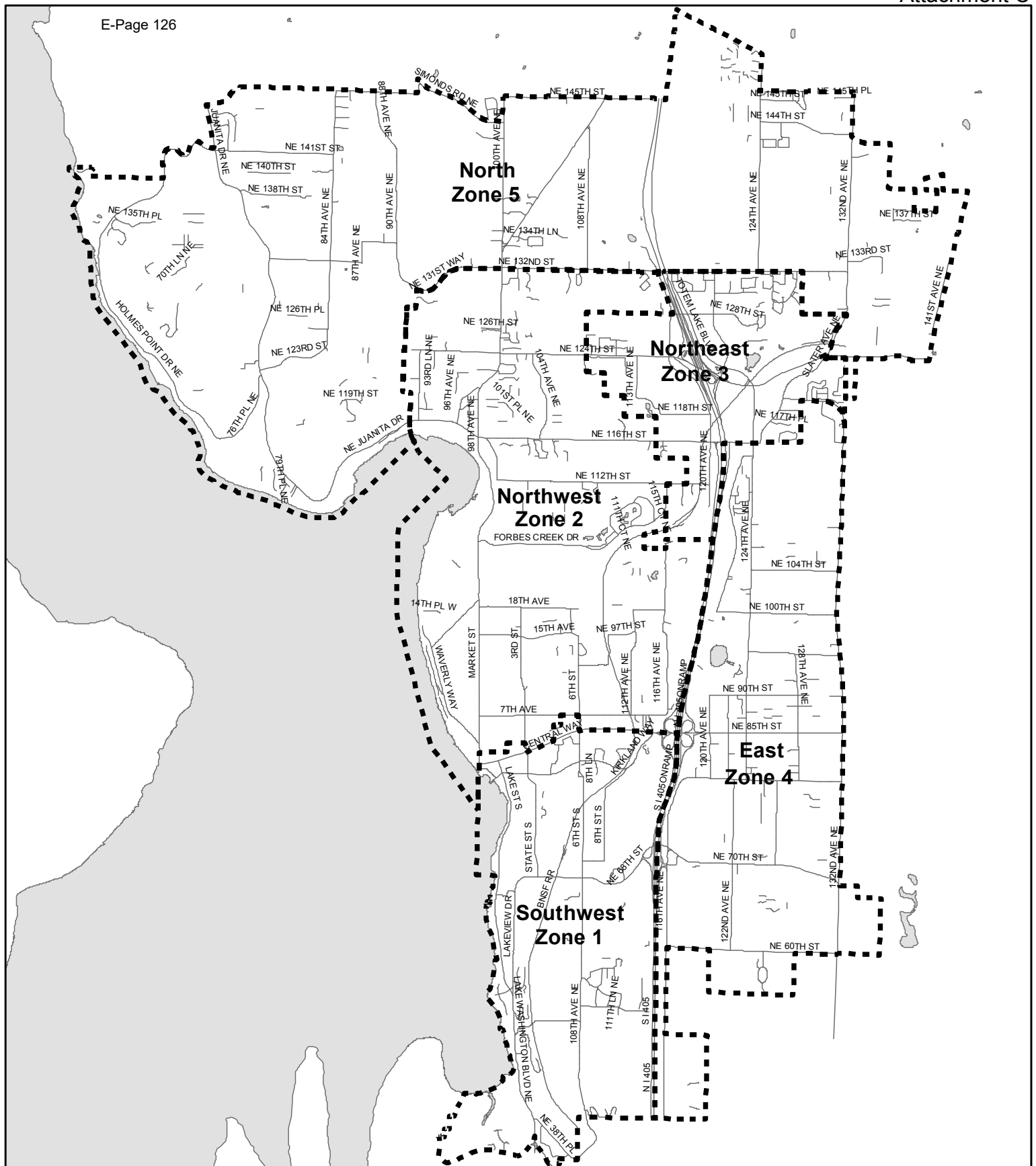
Zone Collected	Amount Collected	
	Transportation	Parks
East - Zone 4		
Single Family Residential	\$247,596	\$186,514
Subtotal East - Zone 4	\$247,596	\$186,514
North - Zone 5		
Multi-Family/Non-Residential	\$0	\$0
Single Family Residential	\$291,290	\$216,929
Subtotal North - Zone 5	\$291,290	\$216,929
Northeast - Zone 3		
Multi-Family/Non-Residential	\$0	\$69,696
Subtotal Northeast - Zone 3	\$0	\$69,696
Northwest - Zone 2		
Multi-Family/Non-Residential	\$5,533	\$4,168
Single Family Residential	\$90,600	\$65,090
Subtotal Northwest - Zone 2	\$96,133	\$69,258
Southwest - Zone 1		
Multi-Family/Non-Residential	\$28,762	\$3,338
Single Family Residential	\$17,713	\$15,012
Subtotal Southwest - Zone 1	\$46,475	\$18,350
Total Collected - All Zone	\$681,494	\$560,747

Attachment B



City of Kirkland Cumulative Impact Fee Report - Summary

1999-2020

Zone Collected	Amount Collected	
	Transportation	Parks
East - Zone 4		
Multi-Family/Non-Residential	\$2,256,764	\$360,381
Single Family Residential	\$2,375,922	\$2,036,488
Subtotal East - Zone 4	\$4,632,686	\$2,396,869
North - Zone 5		
Multi-Family/Non-Residential	\$727,684	\$172,794
Single Family Residential	\$2,805,104	\$2,497,917
Subtotal North - Zone 5	\$3,532,788	\$2,670,711
Northeast - Zone 3		
Multi-Family/Non-Residential	\$4,710,235	\$5,387,109
Single Family Residential	\$30,084	\$16,961
Subtotal Northeast - Zone 3	\$4,740,319	\$5,404,070
Northwest - Zone 2		
Multi-Family/Non-Residential	\$1,671,882	\$597,102
Single Family Residential	\$1,198,528	\$1,062,042
Subtotal Northwest - Zone 2	\$2,870,410	\$1,659,144
Southwest - Zone 1		
Multi-Family/Non-Residential	\$7,938,584	\$3,467,030
Single Family Residential	\$1,074,296	\$968,488
Subtotal Southwest - Zone 1	\$9,012,880	\$4,435,518
Total Collected - All Zone	\$24,789,084	\$16,566,312



Legend

-  Transportation Subarea
 Lakes
 Street Centerline

City of Kirkland Impact Fee Subareas



0 0.25 0.5 1 Miles



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Ave, Kirkland, WA 98033 · 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance and Administration

Date: August 23, 2021

Subject: QUARTERLY INVESTMENT REPORT, 2ND QUARTER 2021

RECOMMENDATION:

It is recommended that the City Council receive the Quarterly Investment Report

BACKGROUND DISCUSSION

This report was previously provided to the Council Finance and Administration Committee and will now be presented to the City Council each quarter on the consent agenda.

The Quarterly Investment report is prepared by the City's Investment Advisor. The City began contracting with an Investment Advisor in late 2014 to supplement limited internal resources, provide for dedicated resources in managing the portfolio and provide for more active trading in the portfolio to ensure the most advantageous yield. The Investment Advisor assists City staff with the management of the City's investment portfolio by providing non-discretionary advisory services for the City's investment portfolio and investment policy. Non-discretionary service means that the City retains control of the portfolio and authorizes all transactions.

Kirkland's Investment Policy, adopted by resolution from the City Council, establishes standards and guidelines for the direction, management and oversight for all the City's investable funds. Government revenues are collected and spent for public purposes and their use must be legal, transparent and accountable to the public. Public funds that are invested must be strongly protected against loss and must be available to be spent if the need arises. Therefore, the primary objectives for the City of Kirkland's investment activities are: legality, safety, liquidity and finally, yield. Additionally, the City diversifies its investments according to established maximum allowable exposure limits so that reliance on any one issuer will not place an undue financial burden on the City.

Investments are limited those securities and deposits authorized by statute (RCW 39.58, 39.59, 43.250, and 43.84.080). The current investment portfolio consists primarily of U.S. Treasury obligations, Government Sponsored Enterprises (GSE's) such as the Federal Home Loan Banks (FHLB), the Washington State Local Government Investment Pool and deposits in banks approved by the Public Deposit Protection Commission (PDPC) where those funds are 100% collateralized and protected by other assets.

The portfolio increase in the second quarter of approximately \$50 million was due to the issuance of debt for transportation and fire capital projects, increased property tax collections from the passage of Fire Prop 1 in 2020 and receipt of the first distribution of ARPA funds.

The attached Quarterly Investment Report includes a brief market commentary and market outlook at the beginning of the report on page 2. Following that, the status of compliance to Kirkland's Investment Policy pages 3 & 4 and a strategic outlook is presented on page 5. A summary of Portfolio characteristics, structure, activity and returns can be found on pages 8-10. The report also includes a full listing of the security holdings in Kirkland's Portfolio is listed on pages 14-17.

The City issued a request for proposals in early 2020 for the Investment Advisor as the original contract and extensions for Government Portfolio Advisors were completed. Although the City did receive multiple qualified submittals for the contract, Government Portfolio Advisors provided the best combination of services and expertise and began their new three-year contract on September 1, 2020.



Quarterly Executive Investment Report City of Kirkland

June 30, 2021

Total Aggregate Portfolio

Market Commentary

Market Yields: The Treasury curve flattened in the second quarter as longer-term yields declined with the 10-year yield lower by 0.27% and the 30-year yield lower by 0.33%. While long-term yields declined, the front-end saw yields rise in response to a more hawkish response out of the Federal Reserve with 2-year yields increasing by 0.09% to end the quarter at 0.25%. The markets also re-priced lower the anticipated peak federal funds rate for the current cycle from 2.35% at the end of the first quarter down to 1.70% to close out June. The message is that the Fed is likely to hike rates sooner than anticipated and this will cool growth and inflation back toward levels consistent with the environment pre-COVID when the federal funds rate was 1.50% and the 10-year Treasury yield traded in a range from 1.50% to 2.00%.

FOMC: The Fed made waves in June with the release of their updated economic and policy rate projections that cast doubt that the modern Fed operates under a new reaction function that is more responsive to labor market conditions than inflation. The Fed upgraded their current year inflation outlook and left their 2023 core PCE inflation estimate stable at 2.1%. Despite this, median expectations from policy makers now forecasts hiking rates twice by the end of 2023 where none were expected just three months earlier. Markets reacted by sending front-end yields higher and longer-term yields lower.

Employment and Inflation: The employment sector continues to heal from the damage inflicted by the pandemic. The labor market added 1.7 million jobs in the second quarter led by large gains in leisure and hospitality where 977 thousand jobs were filled ahead of the summer season. While the gains are impressive by most standards, the pace of job additions has been slower than economists anticipated and still leaves a hole of 6.8 million jobs when comparing the labor market to pre-COVID levels. We continue to monitor the struggling, labor force participation rate which indicates there may be more slack in the labor market than the headline indicator suggest. The focus has now shifted toward the fall when schools and day care facilities fully reopen and extended unemployment benefits expire nationwide. As of the end of the second quarter, there are still over 14 million Americans receiving some form of unemployment compensation which is no doubt a large tailwind to the economy by injecting income.

Quarterly Yield Change

	09/30/20	12/31/20	03/31/21	06/30/21
3 month bill	0.09	0.06	0.02	0.04
2 year note	0.13	0.12	0.16	0.25
5 year note	0.28	0.36	0.94	0.89
10 year note	0.68	0.91	1.74	1.47

Economists' Survey Projections

	Q3-21	Q4-21	Q1-22	Q2-22
Real GDP	7.0	5.0	3.5	3.0
Core PCE (YOY%)	2.7	2.8	2.7	2.1
Unemployment	5.3	4.8	4.5	4.3

Economists' Survey Projections for Rates

	Q3-21	Q4-21	Q1-22	Q2-22
Fed Funds	0.25	0.25	0.25	0.3
2 Year	0.25	0.31	0.38	0.46
10 year	1.79	1.88	1.95	2.02

Market Outlook

GDP: Economic growth in the first quarter came in strong at an annualized pace of 6.4% led by outsized gains in consumer and government spending offset by contractions in private domestic investment and exports. Fueled by stimulus and economic reopening, growth for the second quarter is expected to be even stronger with estimates from the Federal Reserve ranging from 3.2% to 7.8% while the median economist forecast, according to Bloomberg, calling for growth to come in at 10%.

Fed Funds: Uncertainty has increased for the federal funds rate as several policy makers grow increasingly concerned with inflation. The June update from the FOMC now indicates a median expectation of two rates hikes before the end of 2023. Around this median expectation is a wide amount of dispersion as five members are calling for no rate hikes and two members are projecting six. The amount of uncertainty is easy to understand, with over \$5 trillion in stimulus, damaged supply chains, economic reopening, and a successful vaccine campaign has led to historically volatile data that makes it difficult to understand what is happening. The only thing for sure is that no one is sure on the path forward, including Fed members.

Two-year Yield Expectations: 2-year yields were jolted out of their trading range after the release of the Fed's more hawkish projections of future rate hikes. As the Fed pays more attention to inflation, so too will front-end yields. Looking for signs of abating inflation or more durable pressures, we continue to believe it will come down to wages and residential rent trends in the months ahead. Until we get more clarity on inflation, we anticipate 2-year yields will trade in a wider range between 0.15% and 0.30%.

Portfolio Positioning: Last quarter, we were constructive on the three to five-year area to get accounts up to their strategic duration targets. While yields have moved lower, we continue to guide clients to remain neutral around duration given we are likely past peak growth and inflation and face uncertainty in the months ahead around where the economy settles once stimulus wanes. While we are not outright avoiding spread sectors, valuations are at historic lows leading us to be more patient and selective.

Compliance Report

City of Kirkland | Total Aggregate Portfolio



Category

Policy Diversification Constraint	Policy Limit	Actual Value*	Status
US Treasury Obligations Maximum % of Holdings	100.000	29.366	Compliant
US Agency Callable Securities Maximum % of Total Portfolio	25.000	0.000	Compliant
US Agency FFCB Issuer Concentration	30.000	10.717	Compliant
US Agency FHLB Issuer Concentration	30.000	14.829	Compliant
US Agency FHLMC Issuer Concentration	30.000	7.707	Compliant
US Agency FNMA Issuer Concentration	30.000	13.063	Compliant
US Agency Obligations - Primary FHLB, FNMA, FHLMC, FFCB Maximum % of Holdings	100.000	46.316	Compliant
US Agency Obligations - Secondary FICO, FARMER MAC etc. Maximum % of Holdings	20.000	0.000	Compliant
US Agency Obligations Issuer Concentration - Secondary FICO, FARMER MAC etc.	10.000	0.000	Compliant
Municipal Bonds Issuer Concentration	5.000	0.000	Compliant
Municipal Bonds Maximum % of Holdings	20.000	0.000	Compliant
Commercial Paper Issuer Concentration	3.000	0.000	Compliant
Commercial Paper Maximum % of Holdings	25.000	0.000	Compliant
Certificates of Deposit Issuer Concentration	5.000	1.834	Compliant
Certificates of Deposit Maximum % of Holdings	10.000	1.834	Compliant
Banker's Acceptance Issuer Concentration	5.000	0.000	Compliant
Banker's Acceptance Maximum % of Holdings	5.000	0.000	Compliant
LGIP Maximum % of Holdings	100.000	14.432	Compliant
PDPC Bank Deposits Issuer Concentration	100.000	8.053	Compliant
PDPC Bank Deposits Maximum % of Holdings	50.000	9.886	Compliant

1) Actual values are based on market value.

2) The compliance report allows for resolutions to be documented if an actual value exceeds a limit. The specific resolution can be found on the client portal site.

Compliance Report

City of Kirkland | Total Aggregate Portfolio



Category

Policy Maturity Structure Constraint	Policy Limit	Actual %	Status
Maturity Constraints Under 30 days Minimum % of Total Portfolio	10.000	22.415	Compliant
Maturity Constraints Under 5 years Minimum % of Total Portfolio	100.000	100.000	Compliant
Maturity Constraints Under 1 Year Minimum % of Total Portfolio	25.000	39.952	Compliant
Policy Maturity Constraint	Policy Limit	Actual Term	Status
US Treasury Maximum Maturity At Time of Purchase (years)	5.000	0.000	Compliant
US Agency Maximum Maturity At Time of Purchase (years)	5.000	0.000	Compliant
US Agency Obligations - Secondary Must be rated by Atleast one	0.000	0.000	Compliant
Municipals Maximum Maturity At Time of Purchase (years)	5.000	0.000	Compliant
Commercial Paper Days to Final Maturity (days)	270.000	0.000	Compliant
Weighted Average Maturity (years)	3.000	1.840	Compliant
Policy Credit Constraint			Status
US Agency Obligations - Secondary Minimum Ratings AA-/Aa3/AA- if rated			Compliant
Municipal Bonds Ratings Minimum AA-/Aa3/AA- by All if rated			Compliant
Commercial Paper Ratings Minimum Ratings A1/P1 by both and F1 (if rated)			Compliant

1) Actual values are based on market value.

2) The compliance report allows for resolutions to be documented if an actual value exceeds a limit. The specific resolution can be found on the client portal site.

Strategic Quarterly Update

City of Kirkland | Total Aggregate Portfolio



Strategic Outlook

- The second quarter is likely to mark peak growth and inflation for the current cycle as we do not anticipate any major stimulus efforts that are geared to spark near-term economic growth. All eyes are on the health of the consumer as we move through the summer and into the fall where job gains and wage growth will be needed to support further spending as stimulus and economic support begins to wane.
- Spread sectors ended the quarter at or near historically tight spread levels. We continue to see very little agency issuance while robust corporate and municipal issuance is easily absorbed by investors eager to add incremental yield into portfolios.
- Inflation, growth, and labor trends will be closely monitored over the coming months to see how, and to what degree, the economy changed from the pre-COVID path we were on. Thus far the United States is leading the way globally as \$5 trillion in stimulus boosted growth and drove demand for goods that was significantly higher than levels seen before the pandemic.

Portfolio Positioning

- Your portfolio's duration ended the quarter well-aligned with our target level. Investment opportunities going forward will be used to maintain duration positioning.
- Agency spreads are near historically low levels, our focus going forward will be on Treasury securities.
- The total portfolio book yield decreased from 1.335 to 1.078.
- The total portfolio unrealized gain ended the quarter at \$2,910,700.
- The core portfolio duration increased over the quarter from 2.293 last quarter to 2.358 this quarter. The benchmark duration ended the quarter at 2.201.
- Net total return for the core portfolio, which includes change in market value and interest income, was 0.03%. The benchmark total return for the period was 0.09%.

Strategy	03/31/2021	06/30/2021
Effective Duration		
Investment Core	2.29	2.36
Benchmark Duration	2.19	2.20
Total Effective Duration	1.74	1.81
Total Return (Net of Fees %)*		
Investment Core	(0.36)	0.03
Benchmark Return	(0.39)	0.09
Total Portfolio Performance	(0.26)	0.04

*Changes in Market Value include net unrealized and realized gains/losses.

Maturity Total Portfolio		
Average Maturity Total Holdings	1.77	1.84

Book Yield	03/31/2021	06/30/2021
Ending Book Yield		
Certificates of Deposit	0.60%	0.30%
Investment Core	1.72%	1.39%
Liquidity	0.11%	0.08%
Total Book Yield	1.34%	1.08%

Values	03/31/2021	06/30/2021
Market Value + Accrued		
Certificates of Deposit	5,341,789	5,349,143
Investment Core	179,896,459	221,669,207
Liquidity	53,454,475	65,587,644
Total MV + Accrued	238,692,723	292,605,994

Net Unrealized Gain/Loss		
Total Net Unrealized Gain/Loss	3,664,292	2,910,700

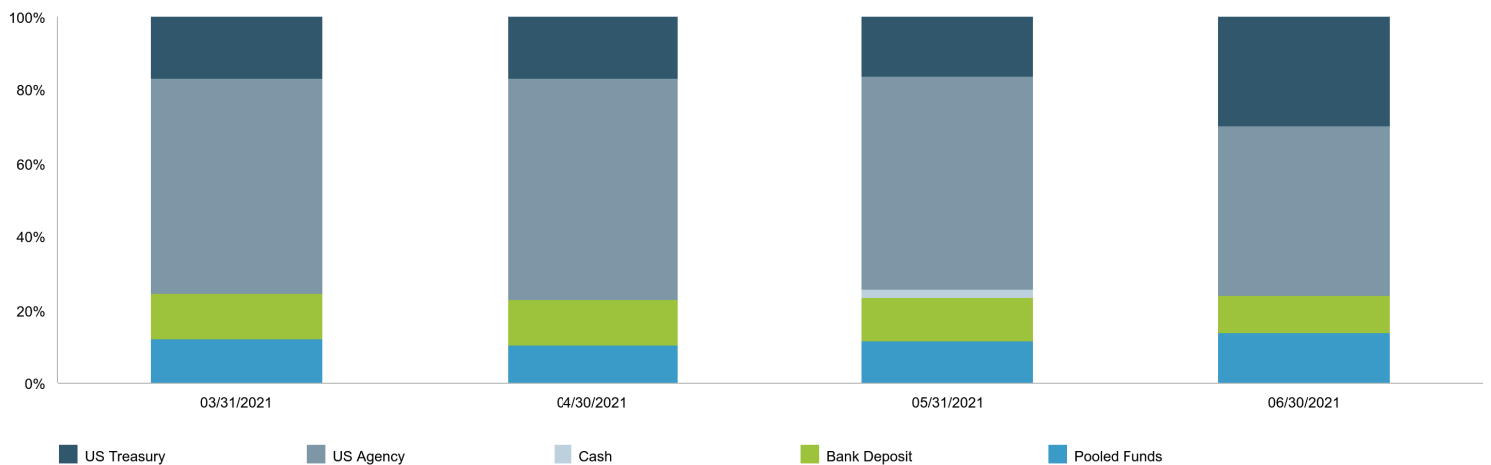
Asset Allocation Change over Quarter

City of Kirkland | Total Aggregate Portfolio



Asset Allocation Changes

Security Type	03/31/2021		06/30/2021		Change	
	Market Value + Accrued	% of Portfolio	Market Value + Accrued	% of Portfolio	Market Value + Accrued	% of Portfolio
US Treasury	38,594,202.21	16.17%	85,813,589.96	29.33%	47,219,387.75	13.16%
US Agency	141,302,256.81	59.20%	135,855,617.22	46.43%	(5,446,639.58)	(12.77%)
Bank Deposit	28,824,895.32	12.08%	28,838,736.13	9.86%	13,840.80	(2.22%)
Pooled Funds	29,971,368.81	12.56%	42,098,051.14	14.39%	12,126,682.33	1.83%
Total	238,692,723.15	100.00%	292,605,994.45	100.00%	53,913,271.30	



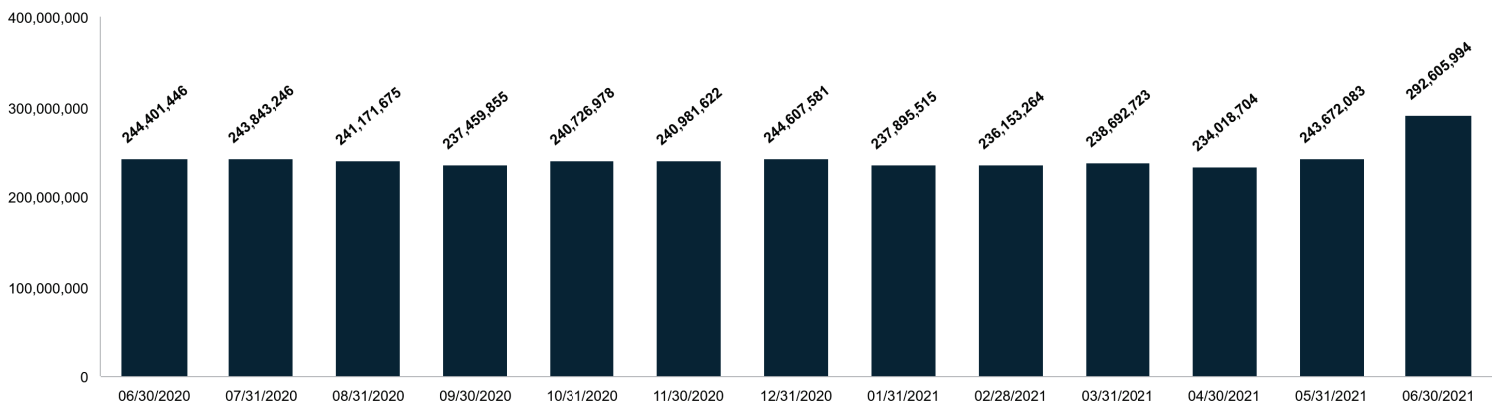
If negative cash balance is showing, it is due to a pending trade payable at the end of period.

Historical Balances

City of Kirkland | Total Aggregate Portfolio

GPA
June 30, 2021

Market Value



Market Value and Return

Period Begin	Period End	Market Value + Accrued	Interest Income	Book Yield	Effective Duration	Maturity in Years
06/01/2020	06/30/2020	244,401,446	342,926	1.59%	1.61	1.71
07/01/2020	07/31/2020	243,843,246	330,850	1.55%	1.65	1.75
08/01/2020	08/31/2020	241,171,675	321,712	1.56%	1.61	1.70
09/01/2020	09/30/2020	237,459,855	316,546	1.53%	1.68	1.76
10/01/2020	10/31/2020	240,726,978	309,318	1.48%	1.65	1.73
11/01/2020	11/30/2020	240,981,622	305,959	1.44%	1.67	1.75
12/01/2020	12/31/2020	244,607,581	303,743	1.41%	1.58	1.66
01/01/2021	01/31/2021	237,895,515	301,178	1.45%	1.56	1.63
02/01/2021	02/28/2021	236,153,264	290,657	1.39%	1.73	1.76
03/01/2021	03/31/2021	238,692,723	284,353	1.34%	1.74	1.77
04/01/2021	04/30/2021	234,018,704	278,557	1.36%	1.71	1.75
05/01/2021	05/31/2021	243,672,083	279,088	1.28%	1.68	1.71
06/01/2021	06/30/2021	292,605,994	283,110	1.08%	1.81	1.84

Summary Overview

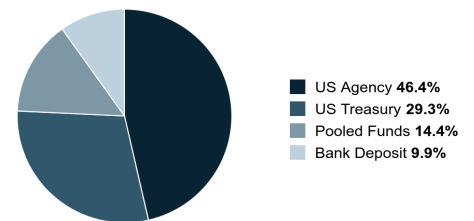
City of Kirkland | Total Aggregate Portfolio



Portfolio Characteristics

Metric	Value
Cash and Cash Equivalents	65,587,644.48
Investments	227,018,349.97
Book Yield	1.08%
Market Yield	0.38%
Effective Duration	1.81
Years to Maturity	1.84
Avg Credit Rating	AA+

Allocation by Asset Class



Strategic Structure

Account	Par Amount	Book Value	Original Cost	Market Value	Net Unrealized Gain (Loss)	Accrued	Yield at Cost	Effective Duration	Benchmark Duration	Benchmark
KIRK-Investment Core	217,000,000.00	217,851,789.92	218,332,003.45	220,762,489.50	2,910,699.58	906,717.69	1.39%	2.36	2.20	ICE BofA 0-5 Year US Treasury Index
KIRK-Liquidity	65,587,644.48	65,587,644.48	65,587,644.48	65,587,644.48	0.00	0.00	0.08%	0.01	0.09	ICE BofA US 1-Month Treasury Bill Index
KIRK-Certificates of Deposit	5,349,098.82	5,349,098.82	5,349,098.82	5,349,098.82	0.00	43.97	0.30%	0.97	0.16	ICE BofA 0-3 Month US Treasury Bill Index
Total	287,936,743.30	288,788,533.22	289,268,746.75	291,699,232.80	2,910,699.58	906,761.65	1.08%	1.81	1.69	

Portfolio Activity

City of Kirkland | Total Aggregate Portfolio



June 30, 2021

Accrual Activity Summary

	Quarter to Date	Fiscal Year to Date (01/01/2021)
Beginning Book Value	234,301,687.32	238,580,651.79
Maturities/Calls	(16,347,051.62)	(33,347,051.62)
Purchases	58,775,620.77	75,679,910.77
Sales	0.00	0.00
Change in Cash, Payables, Receivables	12,133,169.57	8,019,785.12
Amortization/Accretion	(74,892.82)	(144,762.84)
Realized Gain (Loss)	0.00	0.00
Ending Book Value	288,788,533.22	288,788,533.22

Maturities/Calls	Market Value
Quarter to Date	(16,347,051.62)
Fiscal Year to Date	(33,347,051.62)

Purchases	Market Value
Quarter to Date	58,775,620.77
Fiscal Year to Date	75,679,910.77

Fair Market Activity Summary

	Quarter to Date	Fiscal Year to Date (01/01/2021)
Beginning Market Value	237,965,978.97	243,657,216.67
Maturities/Calls	(16,347,051.62)	(33,347,051.62)
Purchases	58,775,620.77	75,679,910.77
Sales	0.00	0.00
Change in Cash, Payables, Receivables	12,133,169.57	8,019,785.12
Amortization/Accretion	(74,892.82)	(144,762.84)
Change in Net Unrealized Gain (Loss)	(753,592.07)	(2,165,865.30)
Net Realized Gain (Loss)	0.00	0.00
Ending Market Value	291,699,232.80	291,699,232.80

Sales	Market Value
Quarter to Date	0.00
Fiscal Year to Date	0.00

Return Management-Income Detail

City of Kirkland | Total Aggregate Portfolio

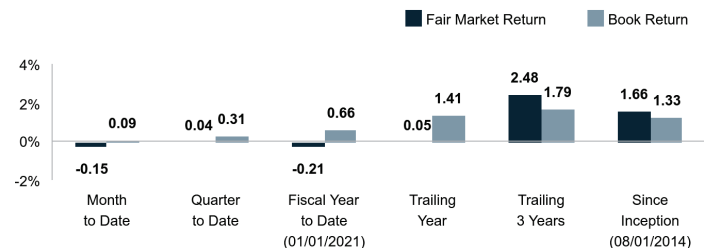


Accrued Book Return

	Quarter to Date	Fiscal Year to Date (01/01/2021)
Amortization/Accretion	(74,892.82)	(144,762.84)
Interest Earned	840,754.87	1,716,943.32
Realized Gain (Loss)	0.00	0.00
Book Income	765,862.05	1,572,180.48
Average Portfolio Balance	247,540,156.73	243,123,878.84
Book Return for Period	0.31%	0.66%

Return Comparisons

Periodic for performance less than one year. Annualized for performance greater than one year.



Fair Market Return

	Quarter to Date	Fiscal Year to Date (01/01/2021)
Market Value Change	(753,592.07)	(2,165,865.30)
Amortization/Accretion	(74,892.82)	(144,762.84)
Interest Earned	840,754.87	1,716,943.32
Fair Market Earned Income	12,269.98	(593,684.82)
Average Portfolio Balance	247,540,156.73	243,123,878.84
Fair Market Return for Period	0.04%	(0.21%)

Interest Income

	Quarter to Date	Fiscal Year to Date (01/01/2021)
Beginning Accrued Interest	726,744.18	950,364.49
Coupons Paid	745,085.29	1,858,620.84
Purchased Accrued Interest	84,347.89	98,074.68
Sold Accrued Interest	0.00	0.00
Ending Accrued Interest	906,761.65	906,761.65
Interest Earned	840,754.87	1,716,943.32

Security Type Distribution

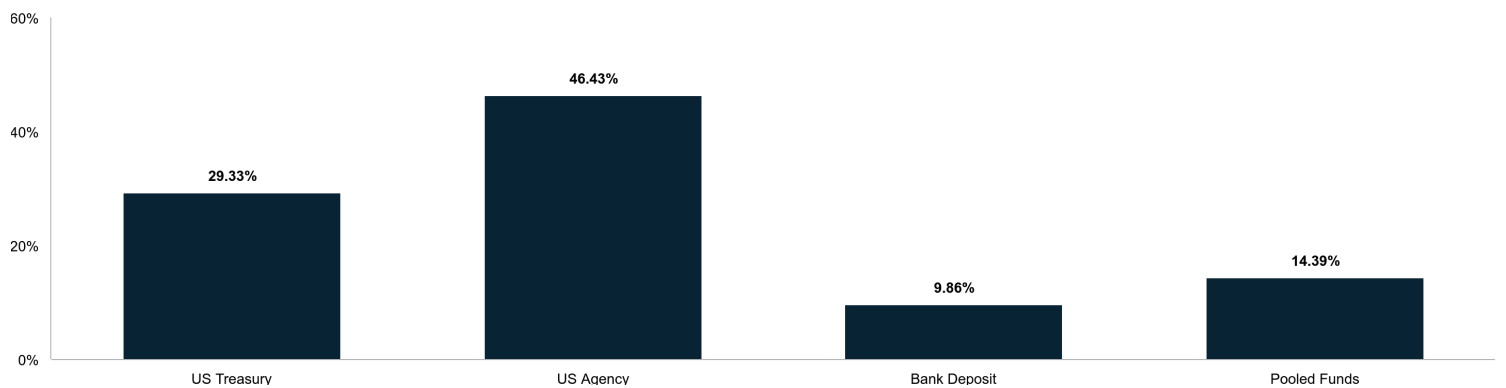
City of Kirkland | Total Aggregate Portfolio



Security Type Distribution

Security Type	Par Amount	Book Yield	Market Value + Accrued	% of Market Value + Accrued
US Treasury	85,000,000.00	0.63%	85,813,589.96	29.33%
US Agency	132,000,000.00	1.87%	135,855,617.22	46.43%
Bank Deposit	28,838,692.16	0.13%	28,838,736.13	9.86%
Pooled Funds	42,098,051.14	0.07%	42,098,051.14	14.39%
Total	287,936,743.30	1.08%	292,605,994.45	100.00%

Security Type Distribution



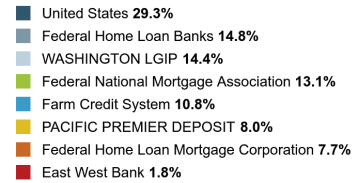
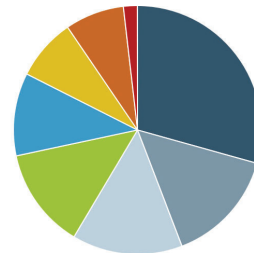
Risk Management-Credit/Issuer

City of Kirkland | Total Aggregate Portfolio

Credit Rating S&P/Moody's/Fitch

	Market Value + Accrued	%
S&P		
AA+	221,669,207.19	75.76
NA	70,936,787.27	24.24
Moody's		
Aaa	221,669,207.19	75.76
NA	70,936,787.27	24.24
Fitch		
AAA	221,669,207.19	75.76
NA	70,936,787.27	24.24
Total	292,605,994.45	100.00

Issuer Concentration



Risk Management-Maturity/Duration

City of Kirkland | Total Aggregate Portfolio

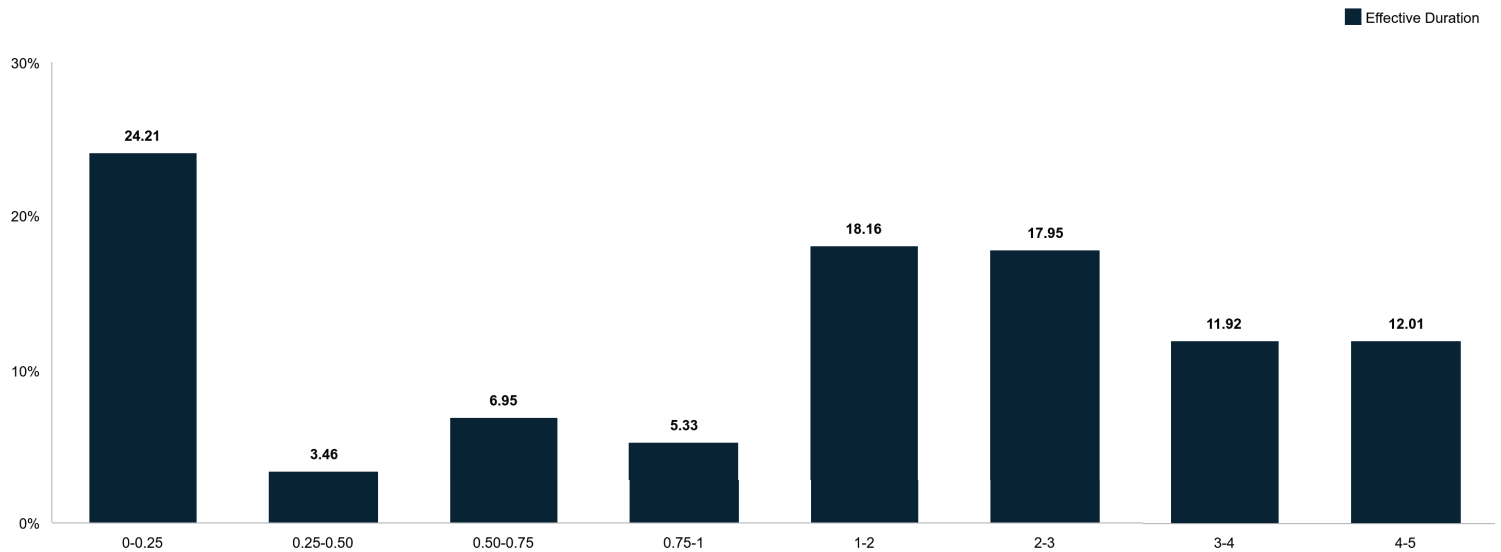
GPA
June 30, 2021

1.81 Yrs **Effective Duration**

1.84 Yrs **Years to Maturity**

672 **Days to Maturity**

Distribution by Effective Duration



Holdings by Maturity & Ratings

City of Kirkland | Total Aggregate Portfolio



Cusip	Par Amount	Security	Coupon Rate	Maturity Date	Call Date	Market Value	Accrued	Market Value + Accrued	Book Yield	Market Yield	% of Portfolio	Years to Maturity	Eff Duration	S&P, Moody, Fitch
KIRK_PCFC_DEP	23,489,593.34	PACIFIC PREMIER DEPOSIT	0.093%	06/30/2021		23,489,593.34	0.00	23,489,593.34	0.09%		8.03	0.01	0.01	NA NA NA
WA_LGIP	42,098,051.14	WASHINGTON LGIP	0.069%	06/30/2021		42,098,051.14	0.00	42,098,051.14	0.07%		14.39	0.01	0.01	NA NA NA
313378JP7	5,000,000.00	FEDERAL HOME LOAN BANKS	2.375%	09/10/2021		5,022,775.00	36,614.58	5,059,389.58	1.64%	0.03%	1.73	0.20	0.19	AA+ Aaa AAA
3130AF5B9	5,000,000.00	FEDERAL HOME LOAN BANKS	3.000%	10/12/2021		5,041,500.00	32,916.67	5,074,416.67	2.50%	0.07%	1.73	0.28	0.28	AA+ Aaa AAA
3130A0EN6	5,000,000.00	FEDERAL HOME LOAN BANKS	2.875%	12/10/2021		5,062,485.00	8,385.42	5,070,870.42	2.61%	0.06%	1.73	0.45	0.44	AA+ Aaa AAA
3135G0S38	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	2.000%	01/05/2022		5,049,345.00	48,888.89	5,098,233.89	2.05%	0.08%	1.74	0.52	0.51	AA+ Aaa AAA
3135G0U92	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	2.625%	01/11/2022		5,067,585.00	61,979.17	5,129,564.17	2.59%	0.08%	1.75	0.53	0.52	AA+ Aaa AAA
3133EKBV7	5,000,000.00	FEDERAL FARM CREDIT BANKS FUNDING CORP	2.550%	03/01/2022		5,082,000.00	42,500.00	5,124,500.00	2.52%	0.10%	1.75	0.67	0.66	AA+ Aaa AAA
313378WG2	5,000,000.00	FEDERAL HOME LOAN BANKS	2.500%	03/11/2022		5,084,635.00	38,194.44	5,122,829.44	2.36%	0.07%	1.75	0.70	0.69	AA+ Aaa AAA
3135G0T45	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	1.875%	04/05/2022		5,066,920.00	22,395.83	5,089,315.83	1.11%	0.12%	1.74	0.76	0.76	AA+ Aaa AAA
3130AEBM1	5,000,000.00	FEDERAL HOME LOAN BANKS	2.750%	06/10/2022		5,124,420.00	8,020.83	5,132,440.83	2.84%	0.11%	1.75	0.94	0.94	AA+ Aaa AAA
KIRK-17340 25-22	5,349,098.82	East West Bank	0.300%	06/21/2022		5,349,098.82	43.97	5,349,142.79	0.30%	0.30%	1.83	0.97	0.97	NA NA NA
91282CAG6	5,000,000.00	UNITED STATES TREASURY	0.125%	08/31/2022		4,999,805.00	2,088.99	5,001,893.99	0.07%	0.13%	1.71	1.17	1.17	AA+ Aaa AAA
91282CAN1	5,000,000.00	UNITED STATES TREASURY	0.125%	09/30/2022		4,998,635.00	1,571.04	5,000,206.04	0.10%	0.15%	1.71	1.25	1.25	AA+ Aaa AAA

Holdings by Maturity & Ratings

City of Kirkland | Total Aggregate Portfolio



Cusip	Par Amount	Security	Coupon Rate	Maturity Date	Call Date	Market Value	Accrued	Market Value + Accrued	Book Yield	Market Yield	% of Portfolio	Years to Maturity	Eff Duration	S&P, Moody, Fitch
9128283C2	5,000,000.00	UNITED STATES TREASURY	2.000%	10/31/2022		5,123,045.00	16,847.83	5,139,892.83	1.59%	0.15%	1.76	1.34	1.32	AA+ Aaa AAA
3130A3KM5	7,000,000.00	FEDERAL HOME LOAN BANKS	2.500%	12/09/2022		7,233,450.00	10,694.44	7,244,144.44	2.94%	0.18%	2.48	1.44	1.42	AA+ Aaa AAA
3135G0T94	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	2.375%	01/19/2023		5,166,605.00	53,437.50	5,220,042.50	3.04%	0.22%	1.78	1.56	1.52	AA+ Aaa AAA
91282CBN0	5,000,000.00	UNITED STATES TREASURY	0.125%	02/28/2023		4,993,750.00	2,088.99	4,995,838.99	0.13%	0.20%	1.71	1.67	1.66	AA+ Aaa AAA
3133EJFK0	5,000,000.00	FEDERAL FARM CREDIT BANKS FUNDING CORP	2.650%	03/08/2023		5,207,265.00	41,590.28	5,248,855.28	1.60%	0.19%	1.79	1.69	1.65	AA+ Aaa AAA
91282CBX8	5,000,000.00	UNITED STATES TREASURY	0.125%	04/30/2023		4,990,040.00	1,052.99	4,991,092.99	0.14%	0.23%	1.71	1.83	1.83	AA+ Aaa AAA
3135G04Q3	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	0.250%	05/22/2023		5,001,485.00	1,354.17	5,002,839.17	0.32%	0.23%	1.71	1.89	1.89	AA+ Aaa AAA
3133EJUS6	5,000,000.00	FEDERAL FARM CREDIT BANKS FUNDING CORP	2.875%	07/17/2023		5,265,390.00	65,486.11	5,330,876.11	3.07%	0.27%	1.82	2.05	1.98	AA+ Aaa AAA
313383YJ4	5,000,000.00	FEDERAL HOME LOAN BANKS	3.375%	09/08/2023		5,338,915.00	52,968.75	5,391,883.75	3.04%	0.27%	1.84	2.19	2.11	AA+ Aaa AAA
3135G0U43	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	2.875%	09/12/2023		5,284,480.00	43,524.31	5,328,004.31	2.54%	0.28%	1.82	2.20	2.13	AA+ Aaa AAA
3137EAEY1	5,000,000.00	FEDERAL HOME LOAN MORTGAGE CORP	0.125%	10/16/2023		4,980,090.00	1,302.08	4,981,392.08	0.24%	0.30%	1.70	2.30	2.29	AA+ Aaa AAA
3137EAEZ8	2,500,000.00	FEDERAL HOME LOAN MORTGAGE CORP	0.250%	11/06/2023		2,497,197.50	954.86	2,498,152.36	0.28%	0.30%	0.85	2.35	2.34	AA+ Aaa AAA
912828V80	5,000,000.00	UNITED STATES TREASURY	2.250%	01/31/2024		5,242,385.00	46,926.80	5,289,311.80	1.60%	0.36%	1.81	2.59	2.50	AA+ Aaa AAA

Holdings by Maturity & Ratings

City of Kirkland | Total Aggregate Portfolio



Cusip	Par Amount	Security	Coupon Rate	Maturity Date	Call Date	Market Value	Accrued	Market Value + Accrued	Book Yield	Market Yield	% of Portfolio	Years to Maturity	Eff Duration	S&P, Moody, Fitch
3133EKBW5	5,000,000.00	FEDERAL FARM CREDIT BANKS FUNDING CORP	2.610%	02/27/2024		5,292,285.00	44,950.00	5,337,235.00	2.57%	0.40%	1.82	2.66	2.56	AA+ Aaa AAA
91282CBV2	5,000,000.00	UNITED STATES TREASURY	0.375%	04/15/2024		4,992,970.00	3,944.67	4,996,914.67	0.29%	0.43%	1.71	2.79	2.77	AA+ Aaa AAA
91282CCC3	3,000,000.00	UNITED STATES TREASURY	0.250%	05/15/2024		2,983,827.00	957.88	2,984,784.88	0.31%	0.44%	1.02	2.88	2.86	AA+ Aaa AAA
3130A1XJ2	5,000,000.00	FEDERAL HOME LOAN BANKS	2.875%	06/14/2024		5,348,695.00	6,788.19	5,355,483.19	2.03%	0.50%	1.83	2.96	2.85	AA+ Aaa AAA
3133EKWV4	10,000,000.00	FEDERAL FARM CREDIT BANKS FUNDING CORP	1.850%	07/26/2024		10,413,240.00	79,652.78	10,492,892.78	1.92%	0.49%	3.59	3.07	2.97	AA+ Aaa AAA
9128282U3	5,000,000.00	UNITED STATES TREASURY	1.875%	08/31/2024		5,216,015.00	31,334.92	5,247,349.92	0.37%	0.50%	1.79	3.17	3.07	AA+ Aaa AAA
912828G38	5,000,000.00	UNITED STATES TREASURY	2.250%	11/15/2024		5,285,545.00	14,368.21	5,299,913.21	1.69%	0.54%	1.81	3.38	3.26	AA+ Aaa AAA
912828YY0	5,000,000.00	UNITED STATES TREASURY	1.750%	12/31/2024		5,202,735.00	237.77	5,202,972.77	0.44%	0.58%	1.78	3.50	3.40	AA+ Aaa AAA
3137EAEPO	5,000,000.00	FEDERAL HOME LOAN MORTGAGE CORP	1.500%	02/12/2025		5,156,060.00	28,958.33	5,185,018.33	0.55%	0.63%	1.77	3.62	3.51	AA+ Aaa AAA
912828ZF0	5,000,000.00	UNITED STATES TREASURY	0.500%	03/31/2025		4,974,610.00	6,284.15	4,980,894.15	0.43%	0.64%	1.70	3.75	3.70	AA+ Aaa AAA
3135G03U5	5,000,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	0.625%	04/22/2025		4,996,170.00	5,989.58	5,002,159.58	0.53%	0.65%	1.71	3.81	3.76	AA+ Aaa AAA
912828ZW3	4,000,000.00	UNITED STATES TREASURY	0.250%	06/30/2025		3,928,752.00	27.17	3,928,779.17	0.57%	0.70%	1.34	4.00	3.97	AA+ Aaa AAA
3137EAEU9	5,000,000.00	FEDERAL HOME LOAN MORTGAGE CORP	0.375%	07/21/2025		4,928,290.00	8,333.33	4,936,623.33	0.44%	0.73%	1.69	4.06	4.01	AA+ Aaa AAA
3137EAEX3	5,000,000.00	FEDERAL HOME LOAN MORTGAGE CORP	0.375%	09/23/2025		4,920,370.00	5,104.17	4,925,474.17	0.42%	0.76%	1.68	4.23	4.18	AA+ Aaa AAA

Holdings by Maturity & Ratings

City of Kirkland | Total Aggregate Portfolio



Cusip	Par Amount	Security	Coupon Rate	Maturity Date	Call Date	Market Value	Accrued	Market Value + Accrued	Book Yield	Market Yield	% of Portfolio	Years to Maturity	Eff Duration	S&P, Moody, Fitch
3135G06G3	2,500,000.00	FEDERAL NATIONAL MORTGAGE ASSOCIATION	0.500%	11/07/2025		2,471,105.00	1,875.00	2,472,980.00	0.52%	0.77%	0.85	4.36	4.29	AA+ Aaa AAA
91282CBC4	4,000,000.00	UNITED STATES TREASURY	0.375%	12/31/2025		3,923,280.00	40.76	3,923,320.76	0.63%	0.81%	1.34	4.50	4.45	AA+ Aaa AAA
91282CBH3	5,000,000.00	UNITED STATES TREASURY	0.375%	01/31/2026		4,901,760.00	7,821.13	4,909,581.13	0.47%	0.81%	1.68	4.59	4.52	AA+ Aaa AAA
91282CBQ3	3,000,000.00	UNITED STATES TREASURY	0.500%	02/28/2026		2,955,819.00	5,013.59	2,960,832.59	0.81%	0.82%	1.01	4.67	4.59	AA+ Aaa AAA
91282CBT7	3,000,000.00	UNITED STATES TREASURY	0.750%	03/31/2026		2,985,819.00	5,655.74	2,991,474.74	0.76%	0.85%	1.02	4.75	4.65	AA+ Aaa AAA
91282CBW0	4,000,000.00	UNITED STATES TREASURY	0.750%	04/30/2026		3,981,876.00	5,054.35	3,986,930.35	0.76%	0.85%	1.36	4.83	4.73	AA+ Aaa AAA
91282CCF6	4,000,000.00	UNITED STATES TREASURY	0.750%	05/31/2026		3,979,064.00	2,540.98	3,981,604.98	0.78%	0.86%	1.36	4.92	4.81	AA+ Aaa AAA
Total	287,936,743.30		1.219%			291,699,232.80	906,761.65	292,605,994.45	1.08%	0.38%	100.00	1.84	1.81	

This report is for general informational purposes only and is not intended to provide specific advice or recommendations. Government Portfolio Advisors (GPA) is an investment advisor registered with the Securities and Exchange Commission and is required to maintain a written disclosure statement of our background and business experience.

Questions About an Account: GPA's monthly & quarterly reports are intended to detail the investment advisory activity managed by GPA. The custodial bank maintains the control of assets and settles all investment transactions. The custodial statement is the official record of security and cash holdings and transactions. GPA recognizes that clients may use these reports to facilitate record keeping and that the custodial bank statement and the GPA report should be reconciled, and differences documented.

Trade Date versus Settlement Date: Many custodial banks use settlement date basis and post coupons or maturities on the following business days when they occur on weekend. These items may result in the need to reconcile due to a timing difference. GPA reports are on a trade date basis in accordance with GIPS performance standards. GPA can provide all account settings to support the reason for any variance.

Bank Deposits and Pooled Investment Funds Held in Liquidity Accounts Away from the Custodial Bank are Referred to as Line Item Securities: GPA relies on the information provided by clients when reporting pool balances, bank balances and other assets that are not held at the client's custodial bank. GPA does not guarantee the accuracy of information received from third parties. Balances cannot be adjusted once submitted however corrective transactions can be entered as adjustments in the following months activity. Assets held outside the custodial bank that are reported to GPA are included in GPA's oversight compliance reporting and strategic plan.

Account Control: GPA does not have the authority to withdraw or deposit funds from or to any client's custodial account. Clients retain responsibility for the deposit and withdrawal of funds to the custodial account. Our clients retain responsibility for their internal accounting policies, implementing and enforcing internal controls and generating ledger entries or otherwise recording transactions.

Custodial Bank Interface: Our contract provides for the ability for GPA to interface into our client's custodial bank to reconcile transactions, maturities and coupon payments. The GPA client portal will be available to all clients to access this information directly at any time.

Market Price: Generally, GPA has set all securities market pricing to match custodial bank pricing. There may be certain securities that will require pricing override due to inaccurate custodial bank pricing that will otherwise distort portfolio performance returns. GPA may utilize Refinitiv pricing source for commercial paper, discount notes and supranational bonds when custodial bank pricing does not reflect current market levels. The pricing variances are obvious when market yields are distorted from the current market levels.

Amortized Cost: The original cost on the principal of the security is adjusted for the amount of the periodic reduction of any discount or premium from the purchase date until the date of the report. Discounts or premiums are amortized on a straight-line basis on all securities. This can be changed at the client's request.

Callable Securities: Securities subject to redemption in whole or in part prior to the stated final maturity at the discretion of the security's issuer are referred to as "callable". Certain call dates may not show up on the report if the call date has passed or if the security is continuously callable until maturity date. Bonds purchased at a premium will be amortized to the next call date while all other callable securities will be amortized to maturity. If the bond is amortized to the call date, amortization will be reflected to that date and once the call date passes, the bond will be fully amortized.

Duration: The duration is the effective duration. Duration on callable securities is based on the probability of the security being called given market rates and security characteristics.

Benchmark Duration: The benchmark duration is based on the duration of the stated benchmark that is assigned to each account.

Rating: Information provided for ratings is based upon a good faith inquiry of selected sources, but its accuracy and completeness cannot be guaranteed.

Coupon Payments and Maturities on Weekends: On occasion, coupon payments and maturities occur on a weekend or holiday. GPA's report settings are on the accrual basis so the coupon postings and maturities will be accounted for in the period earned. The bank may be set at a cash basis, which may result in a reconciliation variance.

Cash and Cash Equivalents: GPA has defined cash and cash equivalents to be cash, bank deposits, LGIP pools and repurchase agreements. This may vary from your custodial bank which typically defines cash and equivalents as all securities that mature under 90 days. Check with your custodial bank to understand their methodology.

Account Settings: GPA has the portfolio settings at the lot level, if a security is sold our setting will remove the lowest cost security first. First-in-first-out (FIFO) settings are available at the client's request.

Historical Numbers: Data was transferred from GPA's legacy system, however, variances may exist from the data received due to a change of settings on Clearwater. GPA is utilizing this information for historical return data with the understanding the accrual settings and pricing sources may differ slightly.

Financial Situation: In order to better serve you, GPA should be promptly notified of any material change in your investment objective or financial situation.

No Guarantee: The securities in the portfolio are not guaranteed or otherwise protected by GPA, the FDIC (except for non-negotiable certificates of deposit) or any government agency. Investment in securities involves risks, including the possible loss of the amount invested.



**CITY OF KIRKLAND****Department of Public Works****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800****www.kirklandwa.gov**

MEMORANDUM

To: Kurt Triplett, City Manager

From: Archie Ferguson, Fleet Manager
Ray Steiger, PE, Superintendent
Julie Underwood, Director of Public Works

Date: August 26, 2021

Subject: DECLARATION OF SURPLUS VEHICLES AND EQUIPMENT

RECOMMENDATION:

It is recommended that the City Council approve the declaration of surplus vehicles and equipment identified in this staff report, which will lead to their removal from the City's Equipment Rental Fund replacement schedule and to their disposal.

Approval of this item on the Consent Calendar will authorize the disposal of surplus vehicles and equipment.

BACKGROUND DISCUSSION:

The surplus of vehicles and equipment that have been replaced with new vehicles or equipment, or which no longer meet the needs of the City, is consistent with the City's Equipment Rental Fund replacement schedule policy. Under that policy, if a declaration of surplus is approved by the City Council then vehicles and/or equipment are sold or disposed of in accordance with the *Kirkland Municipal Code*, Chapter 3.86, "Sale and Disposal of Surplus Personal Property." The only exception relates to surplus Interceptors used by the Police Department. The Police Department has been given permission to retain surplus patrol units as needed to be used as Neighborhood Resource Officer vehicles.

Once a vehicle or piece of equipment is scheduled for replacement through the budget process, Fleet Management staff utilizes specific criteria to evaluate the vehicle or equipment prior to making a final recommendation for disposing of it. Among the replacement criteria considered are:

- Wear and tear on the engine, drive train, and transmission;
- Condition of the structural body and major component parts;
- The vehicle's frequency and nature of past repairs;
- Changes in the vehicle's mission as identified by the Department that it serves;
- Changes in technology;
- Vehicle right-sizing;
- The impact of future alternative fuels usage; and/or
- Specific vehicle replacement funding accrued.

The decision to recommend replacement of a vehicle requires the consensus of the Fleet Management staff and the department that it serves. Vehicles should be replaced close to the point where major repairs and expenses are anticipated to occur in order to maximize their usefulness without sacrificing resale value. Consideration of the vehicle's established accounting life (replacement cycle) is a key factor in that evaluation.

The replacement cycle of a given vehicle or piece of equipment is its years of anticipated useful life for the City. The replacement cycle enables staff to calculate a schedule and a fee to charge the home department so that the Equipment Rental Fund has sufficient resources to purchase a similar replacement if and when a replacement is needed. The replacement cycle is a guideline; the actual longevity of specific vehicles and equipment often varies somewhat from the established cycle based on the criteria listed above.

An outcome of the 2020 Fleet Rate Study was that most of our replacement cycles have been increased slightly to better reflect the actual life experienced by Kirkland's fleet. The City's updated replacement cycles are as follows:

<u>Vehicle description</u>	<u>Prior replacement cycle</u>	<u>Current replacement cycle</u>
Mowers/Field rakes	4 years	6 years
Patrol police cars	4 years	5 years
Small equip/Motorcycles	6 years	8 years
Vehicle/Pick-Ups	8 years	10 years
Large equipment	10 years	12 years
Dump trucks/Vans	12 years	14 years
Trailers	15 years	17 years
Fire apparatus	18 years	18 years

Based on the considerations and criteria reviewed in this staff report, the following vehicle and equipment are recommended for surplus:

<u>Fleet #</u>	<u>Dept.</u>	<u>Year</u>	<u>Make & Model</u>	<u>License</u>	<u>Hours/ Miles</u>
F319	Fire	2012	Ford F450 Road Rescue 4WD	55018D	43,458
P126	PD	2011	Honda ST1300P Motorcycle	2615EX	55,365
TP-01	PW	2001	PB Crack Sealer 250-Tar Pot Trailer	35076D	2,753

- Unit **F319** has exceeded the replacement cycle of 8 years by one year.
- Unit **P126** has exceeded the replacement cycle of 8 years by two years.
- Unit **TP-01** has been inspected by the Fleet Division and deemed unsafe for continued use because of mechanical concerns.



CITY OF KIRKLAND

Department of Finance & Administration

123 Fifth Avenue, Kirkland, WA 98033 425.587.3100

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jay Gewin, Purchasing Agent

Date: August 24, 2021

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF September 7, 2021.

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of \$50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report dated July 22nd, 2021 are as follows:

	Project/Purchase	Process	Estimate/Price	Status
1.	Network security and performance enhancements	Cooperative Purchase	\$299,744.00	Purchase order awarded to CDW Government, Inc. of Vernon Hills, IL
2.	Transport trailer for milling machine	Cooperative Purchase	\$65,082.87	Purchase order awarded to Pape Machinery, Inc. of Seattle, WA
3.	Replacement super shot diesel crack sealer for Public Works Department	Cooperative Purchase	\$57,181.72	Purchase order awarded to Partner Construction Products of Spokane Valley, WA
4.	2020 Neighborhood Safety Program project	Invitation for Bids	\$278,035.00	Contract awarded to NPM Construction of Maple Valley, WA
5.	NE 131 st Way/90 th Ave. NE Nonmotorized Improvements Project design	Request for Qualifications	\$190,850.00	Contract awarded to Perteet, Inc. of Seattle, WA based on qualifications per RCW 39.80.
6.	Structural engineering services for Madison Rose Hill Mixed Use Project - Phase 1	Request for Qualifications	\$60,000.00	Contract awarded to WSP USA, Inc. of San Diego, CA based on qualifications per RCW 39.80.

7.	Architectural design/engineering for virtual services center at City Hall	Request for Qualifications	\$197,935.00	Contract awarded to ARC Architects, Inc. of Seattle, WA based on qualifications per RCW 39.80.
8.	Civil engineering construction management for David E. Brink Park Shoreline Renovation Project.	Request for Qualifications	\$132,326.00	Contract awarded to LDC, Inc. of Woodinville, WA based on qualifications per RCW 39.80.
9.	Additional capital project management consulting	Request for Qualifications	\$833,588.00	Contract awarded to Rock Project Management Services, LLC



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Deputy City Manager

Date: August 26, 2021

Subject: TRANSPORTATION IMPACT FEE POLICY DISCUSSION FOLLOW UP

RECOMMENDATION:

City Council finalizes the policy discussion of Transportation Impact Fees that began on April 6, 2021 and continued July 20, 2021 and provides staff with direction to allow an ordinance to be drafted for Council consideration at the September 21, 2021 meeting. The consultant team will present supplemental information requested at the July meeting and will be available to answer questions. No final action is requested on September 7.

BACKGROUND DISCUSSION:

Council received a briefing on the draft results of the Transportation Impact Fee study at the April 6, 2021 City Council meeting and had a discussion of policy issues on July 20, 2021. Councilmembers raised several questions during that discussion, which the consultant, FCS Group, has responded to in an 8-page memorandum included with this staff report as Attachment A.

The results of the Transportation Impact Fee rate study report (Attachment B) are summarized in the table that follows for single family and multifamily.

	Current	Calculated
Fee per Person-Trip	\$4,061	\$5,398
Single-Family	\$5,888	\$7,827
Multifamily	\$3,357	\$4,172

Nonresidential fees are by ITE land use category and are shown in tabular form in the attachments and discussed further below.

Council provided policy direction on the following issues on July 20:

- Should the Transportation Impact Fees be changed based on the study results?
Council Direction: Phase-in increase over 3 years, with the first increase effective on 1/1/22.
- Should Kirkland exempt up to 80% of the impact fee on Early Learning Centers as provided for in RCW 82.02.060 (3a)?
Council Direction: Exempt 80% of the impact fee on Early Learning Centers effective 1/1/2022.

That direction has been incorporated in Attachment A.

As part of that discussion, Council requested an analysis of the impact of the FCS Group recommendation to eliminate the trip length adjustment that had been applied in prior studies.

As a reminder, trip length adjustments multiply the calculated PM peak hour person trip ends that serve as the basis of the impact fee by a trip length factor to adjust for the average length of each trip. The methodological justification for this is that longer trips utilize more of the City's transportation infrastructure than shorter trips and should thus be charged more. The result of applying trip length adjustments is lower impact fees for some categories of development.

FCS Group surveyed other Western Washington communities to determine if their transportation impact fees used a trip length adjustment. The results are shown below.

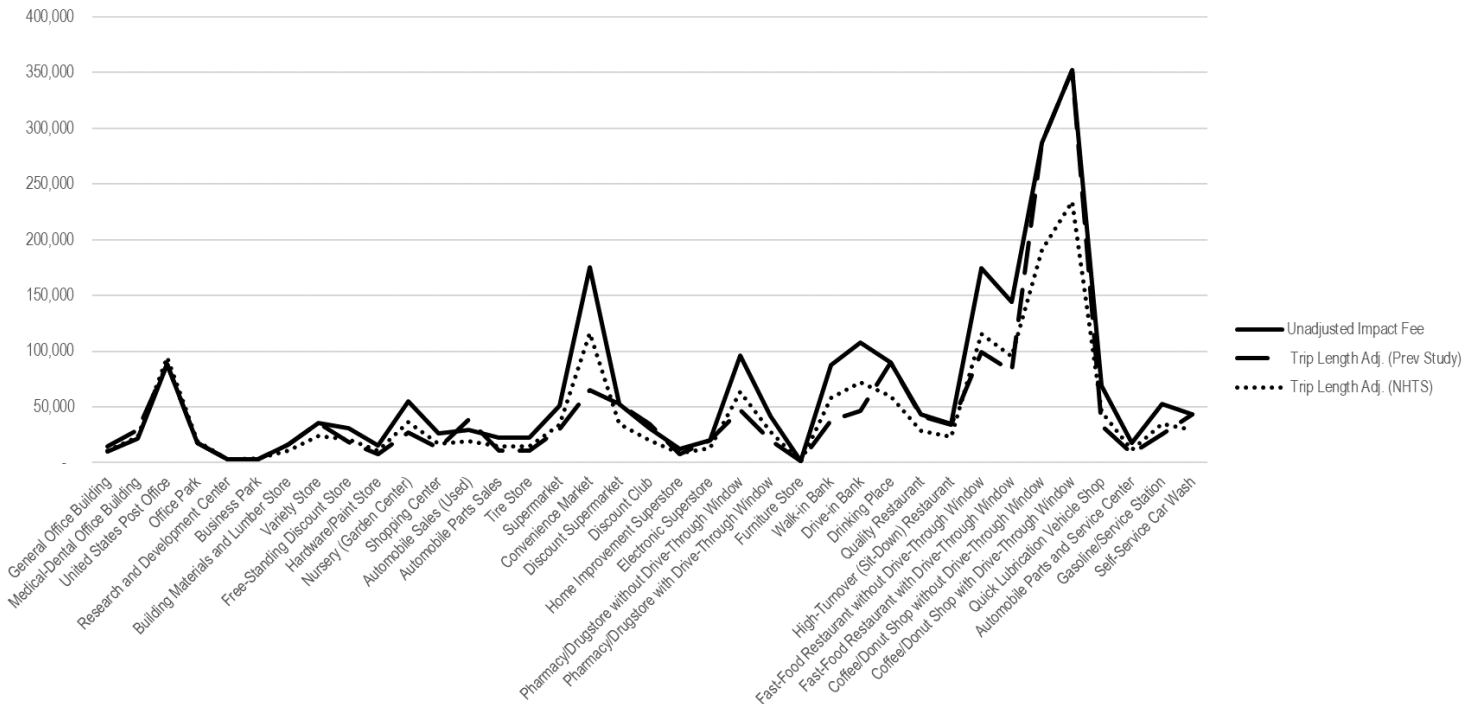
City	TL Adj.?	Source
Sammamish	Yes	FCSG study in process
Renton	Yes	Uncited
Issaquah	No	N/A
Kirkland (current)	Yes	Pinellas Co (FL)
Redmond	Yes	Redmond specific data
Shoreline	Yes	Uncited
Bellevue	Yes	Pinellas Co (FL)

FCS Group discusses the trip fee reduction in detail in Attachment A. One key issue raised by FCS Group is that FCS has been unable to verify the data currently used by Kirkland for trip adjustments. FCS Group was able to find a more recent published source for trip length adjustments, the 2017 National Household Travel Survey (NHTS) conducted by the US Department of Transportation.

Attachment A includes three alternate fee tables:

- Exhibit 4: Phase-In Fee Schedule (No Trip Length Adjustment) – consultant recommendation (as presented in July)
- Exhibit 5: Phase-In Fee Schedule (Previous Study Trip Length Adjustment)
- Exhibit 6: Phase-In Fee Schedule (New NHTS Trip Length Adjustment)

The graphic below illustrates the impacts of each option. The trip length adjustments moderate the increases in selected fee categories as shown in detail in the exhibits in Attachment A.



Attachment A also provides information in response to Council questions related to specific land use categories. Staff is seeking Council direction on which option to bring forward in an ordinance for consideration on September 21.

As noted in the July 20 memo, Lake Washington School District has requested that the Council consider increasing School Impact Fees, which will be brought forward as a separate Council action this Fall.

To: Tracey Dunlap, Deputy City Manager,
City of Kirkland, WA

Date: August 2021

From: John Ghilarducci, Principal
Luke Slaughterbeck, Senior Analyst
Doug Gabbard, Technical Task Manager

RE: Transportation Impact Fee – Follow-up to Council Discussion

INTRODUCTION

In 2020, the City of Kirkland (“City”) contracted with FCS GROUP to calculate a fire impact fee and update the City’s park and transportation impact fees. On July 20, 2021, FCS GROUP presented its proposed transportation impact fee schedule to the City Council, during which several questions were raised by Council members. This memorandum serves to document those questions, and FCS GROUP’s response.

TRIP LENGTH ADJUSTMENT

Much of the discussion revolved around FCS GROUP’s proposal to remove the trip length adjustment from the City’s calculated impact fee. Trip length adjustments multiply the calculated PM peak hour person trip ends that serve as the basis of the impact fee by a trip length factor to adjust for the average length of each trip. The methodological justification for this is that longer trips utilize more of the City’s transportation infrastructure than shorter trips and should thus be charged more. FCS GROUP has two issues with the use of the trip length adjustment in this case.

- **Data Verifiability.** The City currently uses trip length adjustments from a Pinellas County (FL) Impact Fee Study, as well as a Tampa (FL) impact fee study from 2014. FCS GROUP was not able to find the original Pinellas Co study document, and the Tampa study cited does not contain its own trip length data. Instead, it cites a “1989 Tampa Study” which FCS GROUP was also unable to locate. Absent more data, FCS GROUP does not believe the City’s current trip length adjustments are empirically verifiable and would not recommend using them in the future.
- **Adjustment for travel inside the City.** The City charges for trips that begin, end, or take place entirely within the City’s boundaries. Trip length adjustments include trips that begin or end outside the City, calling into question their applicability in a city the size of Kirkland.

ALTERNATIVE TRIP LENGTH ADJUSTMENT SOURCES

FCS GROUP was able to find a more recent published source for trip length adjustments, the 2017 National Household Travel Survey (NHTS) conducted by the US Department of Transportation. This data allowed FCS GROUP to calculate trip length adjustments for broad categories of land use types, shown in **Exhibit 1**.

Exhibit 1: Trip Length Adjustments (NHTS)

Trip Length Adjustments	Purpose Category	Vehicle Trip Adjustment	Person Trip Adjustment
Port and terminal (0xx)	To/From Work	1.25	1.07
Industrial (1xx)	To/From Work	1.25	1.07
Residential (2xx)	All Purposes	1.00	1.00
Lodging (3xx)	To/From Work	1.25	1.07
Recreational (4xx)	Social and Recreational	0.92	0.81
Institutional (5xx)	School/Church	1.03	0.60
Medical (6xx)	To/From Work	1.25	1.07
Office (7xx)	To/From Work	1.25	1.07
Retail (8xx)	Shopping	0.74	0.66
Services (9xx)	Shopping	0.74	0.66

Source : U.S. Department of Transportation, Bureau of Transportation Statistics, Federal Highway Administration, National Household Travel Survey data, May 18, 2018.

As the City calculates its impact fee on the basis of person trips, the person trip adjustment shown in the rightmost column represents the NHTS trip length adjustment for each ITE land use category. FCS GROUP applied these trip length adjustments, as well as the trip length adjustments from the previous study to each fee. The results, along with the unadjusted fees, are shown in **Exhibit 2** and **Exhibit 3**.

Exhibit 2: Adjusted Transportation Impact Fees

Land Use Category	ITE Code	Unit of Measurement	PM Peak Hour Person Trip	Unadjusted Impact Fee	Trip Length Factor (Prev Study)	Trip Length Adj. (Prev Study)	Trip Length Factor (NHTS)	Trip Length Adj. (NHTS)
General Light Industrial	110	1,000 SFGFA	0.92	\$ 4,981	1.59	\$ 7,920	1.07	\$ 5,334
Industrial Park	130	1,000 SFGFA	0.59	3,163	1.59	5,029	1.07	3,387
Manufacturing	140	1,000 SFGFA	0.98	5,297	1.59	8,423	1.07	5,673
Mini-Warehouse	151	1,000 SFGFA	0.25	1,344	1.59	2,137	1.07	1,439
Single-Family Detached Housing	210	Dwelling Units	1.45	7,827	1.00	7,827	1.00	7,827
Multifamily Housing (Low-Rise)	220	Dwelling Units	0.77	4,172	1.00	4,172	1.00	4,172
Residential Suite	231	Dwelling Units	0.50	2,682	1.00	2,682	1.00	2,682
Mobile Home Park	240	Dwelling Units	0.67	3,637	1.00	3,637	1.00	3,637
Senior Adult Housing - Detached	251	Dwelling Units	0.44	2,372	1.00	2,372	1.00	2,372
Senior Adult Housing - Attached	252	Dwelling Units	0.38	2,056	1.00	2,056	1.00	2,056
Congregate Care Facility	253	Dwelling Units	0.38	2,050	0.80	1,640	1.00	2,050
Assisted Living	254	1,000 SFGFA	0.70	3,795	0.80	3,036	1.00	3,795
Hotel	310	Rooms	2.26	12,210	1.14	13,920	1.07	13,076
Motel	320	Rooms	0.56	3,004	1.14	3,425	1.07	3,217
Multiplex Movie Theater	445	Movie Screens	20.11	108,557	0.66	71,648	0.81	88,114
Health/Fitness Club	492	1,000 SFGFA	5.31	28,679	0.89	25,525	0.81	23,279
Middle School/Junior High School	522	1,000 SFGFA	1.74	9,409	0.57	5,363	0.60	5,646
High School	530	1,000 SFGFA	3.00	16,179	0.57	9,222	0.60	9,710
Church	560	1,000 SFGFA	1.48	7,988	1.06	8,467	0.60	4,794
Day Care Center	565	1,000 SFGFA	7.49	40,444	0.57	23,053	0.60	24,271
Library	590	1,000 SFGFA	11.95	64,518	1.00	64,518	0.60	38,718
Hospital	610	1,000 SFGFA	1.50	8,116	1.43	11,606	1.07	8,691
Nursing Home	620	1,000 SFGFA	0.74	4,013	0.80	3,210	1.07	4,297

Exhibit 3: Adjusted Transportation Impact Fees (cont.)

Land Use Category	ITE Code	Unit of Measurement	PM Peak Hour Person Trip	Unadjusted Impact Fee	Trip Length Factor (Prev Study)	Trip Length Adj. (Prev Study)	Trip Length Factor (NHTS)	Trip Length Adj. (NHTS)
General Office Building	710	1,000 SFGFA	1.86	10,056	1.46	14,682	1.07	10,769
Medical-Dental Office Building	720	1,000 SFGFA	3.98	21,478	1.37	29,426	1.07	23,001
United States Post Office	732	1,000 SFGFA	16.42	88,633	1.00	88,633	1.07	94,914
Office Park	750	1,000 SFGFA	3.33	17,963	1.00	17,963	1.07	19,236
Research and Development Center	760	1,000 SFGFA	0.58	3,121	1.00	3,121	1.07	3,342
Business Park	770	1,000 SFGFA	0.62	3,321	1.00	3,321	1.07	3,556
Building Materials and Lumber Store	812	1,000 SFGFA	3.02	16,288	1.00	16,288	0.66	10,822
Variety Store	814	1,000 SFGFA	6.61	35,693	1.00	35,693	0.66	23,717
Free-Standing Discount Store	815	1,000 SFGFA	5.74	30,970	0.60	18,582	0.66	20,578
Hardware/Paint Store	816	1,000 SFGFA	2.92	15,786	0.49	7,735	0.66	10,489
Nursery (Garden Center)	817	1,000 SFGFA	10.17	54,872	0.49	26,887	0.66	36,460
Shopping Center	820	1,000 SFGFA	4.86	26,223	0.49	12,849	0.66	17,424
Automobile Sales (Used)	841	1,000 SFGFA	5.49	29,650	1.31	38,841	0.66	19,701
Automobile Parts Sales	843	1,000 SFGFA	4.10	22,128	0.49	10,843	0.66	14,703
Tire Store	848	1,000 SFGFA	4.18	22,552	0.49	11,051	0.66	14,985
Supermarket	850	1,000 SFGFA	9.45	51,019	0.60	30,612	0.66	33,900
Convenience Market	851	1,000 SFGFA	32.49	175,360	0.37	64,883	0.66	116,519
Discount Supermarket	854	1,000 SFGFA	9.72	52,485	1.00	52,485	0.66	34,874
Discount Club	857	1,000 SFGFA	5.69	30,702	1.14	35,000	0.66	20,400
Home Improvement Superstore	862	1,000 SFGFA	2.31	12,493	0.60	7,496	0.66	8,301
Electronic Superstore	863	1,000 SFGFA	3.74	20,209	1.00	20,209	0.66	13,428
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SFGFA	17.79	96,038	0.49	47,059	0.66	63,813
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SFGFA	7.74	41,764	0.49	20,464	0.66	27,750
Furniture Store	890	1,000 SFGFA	0.30	1,637	1.00	1,637	0.66	1,088
Walk-in Bank	911	1,000 SFGFA	16.25	87,740	0.43	37,728	0.66	58,299
Drive-in Bank	912	1,000 SFGFA	20.04	108,162	0.43	46,509	0.66	71,869
Drinking Place	925	1,000 SFGFA	16.64	89,819	1.00	89,819	0.66	59,680
Quality Restaurant	931	1,000 SFGFA	8.00	43,190	0.97	41,895	0.66	28,698
High-Turnover (Sit-Down) Restaurant	932	1,000 SFGFA	6.51	35,125	0.97	34,072	0.66	23,339
Fast-Food Restaurant without Drive-Through Window	933	1,000 SFGFA	32.31	174,395	0.57	99,405	0.66	115,878
Fast-Food Restaurant with Drive-Through Window	934	1,000 SFGFA	26.67	143,966	0.57	82,061	0.66	95,659
Coffee/Donut Shop without Drive-Through Window	936	1,000 SFGFA	53.18	287,087	1.00	287,087	0.66	190,757
Coffee/Donut Shop with Drive-Through Window	937	1,000 SFGFA	65.33	352,633	1.00	352,633	0.66	234,309
Quick Lubrication Vehicle Shop	941	1,000 SFGFA	12.74	68,787	0.49	33,706	0.66	45,706
Automobile Parts and Service Center	943	1,000 SFGFA	3.31	17,869	0.49	8,756	0.66	11,873
Gasoline/Service Station	944	Fueling Positions	9.77	52,756	0.49	25,850	0.66	35,054
Self-Service Car Wash	947	Wash Stalls	8.11	43,802	1.00	43,802	0.66	29,105

A graphical representation of these fees can be found in the appendix.

REVISED FEE SCHEDULE ALTERNATIVES

The City also directed FCS GROUP to calculate a three-year phase-in schedule for the City's transportation impact fee. **Exhibits 4, 5, and 6** show the proposed three-year phase-in schedule for each scenario: the unadjusted impact fee schedule, the impact fee schedule with the trip length adjustments from the previous study, and the impact fee schedule with the trip length adjustments from the NHTS. The trip generation rates used are from the *10th Edition ITE Manual*, with an adjustment for pass-by trips.

Finally, the City directed FCS GROUP to discount the fee for early childhood learning centers by 80 percent (ITE code #565). This discount was recently passed by the Washington state legislature (HB 1331) and allows cities to discount impact fees for early childhood education centers by up to 80 percent without backfilling the impact fee fund from other revenue sources. All three of the proposed phase-in schedules below contain this adjustment.

Exhibit 4: Phase-In Fee Schedule (No Trip Length Adjustment)

Land Use Category	ITE Code	Unit of Measurement	Current Fee (w/imputed fee)	Year 1	Year 2	Year 3 (Full Impact Fee)	Difference from Year 3 to Current Fee
General Light Industrial	110	1,000 SFGFA	\$ 6,820	\$ 6,207	\$ 5,594	\$ 4,981	\$ (1,839)
Industrial Park	130	1,000 SFGFA	5,980	5,041	4,102	3,163	(2,817)
Manufacturing	140	1,000 SFGFA	3,985	4,422	4,860	5,297	1,312
Mini-Warehouse	151	1,000 SFGFA	2,250	1,948	1,646	1,344	(906)
Single-Family Detached Housing	210	Dwelling Units	5,888	6,534	7,181	7,827	1,939
Multifamily Housing (Low-Rise)	220	Dwelling Units	3,357	3,629	3,900	4,172	815
Mobile Home Park	240	Dwelling Units	2,736	3,036	3,337	3,637	901
Senior Adult Housing - Detached	251	Dwelling Units	1,784	1,980	2,176	2,372	588
Senior Adult Housing - Attached	252	Dwelling Units	1,546	1,716	1,886	2,056	510
Congregate Care Facility	253	Dwelling Units	674	1,133	1,591	2,050	1,376
Assisted Living	254	1,000 SFGFA	2,855	3,168	3,482	3,795	940
Hotel	310	Rooms	4,037	6,761	9,486	12,210	8,173
Motel	320	Rooms	4,037	3,693	3,349	3,004	(1,033)
Multiplex Movie Theater	445	Movie Screens	37,745	61,349	84,953	108,557	70,812
Health/Fitness Club	492	1,000 SFGFA	11,620	17,306	22,993	28,679	17,059
Middle School/Junior High School	522	1,000 SFGFA	7,078	7,855	8,632	9,409	2,331
High School	530	1,000 SFGFA	12,171	13,507	14,843	16,179	4,008
Church	560	1,000 SFGFA	2,880	4,583	6,285	7,988	5,108
Day Care Center	565	1,000 SFGFA	30,424	6,753	7,421	8,089	(22,335)
Library	590	1,000 SFGFA	13,170	30,286	47,402	64,518	51,348
Hospital	610	1,000 SFGFA	5,270	6,219	7,167	8,116	2,846
Nursing Home	620	1,000 SFGFA	3,019	3,350	3,682	4,013	994
General Office Building	710	1,000 SFGFA	9,360	9,592	9,824	10,056	696
Medical-Dental Office Building	720	1,000 SFGFA	17,590	18,886	20,182	21,478	3,888
United States Post Office	732	1,000 SFGFA	20,250	43,044	65,838	88,633	68,383
Office Park	750	1,000 SFGFA	13,513	14,996	16,480	17,963	4,450
Research and Development Center	760	1,000 SFGFA	2,348	2,606	2,863	3,121	773
Business Park	770	1,000 SFGFA	2,498	2,772	3,047	3,321	823
Building Materials and Lumber Store	812	1,000 SFGFA	12,252	13,597	14,942	16,288	4,036
Variety Store	814	1,000 SFGFA	26,851	29,798	32,746	35,693	8,842
Free-Standing Discount Store	815	1,000 SFGFA	10,810	17,530	24,250	30,970	20,160
Hardware/Paint Store	816	1,000 SFGFA	8,620	11,009	13,397	15,786	7,166
Nursery (Garden Center)	817	1,000 SFGFA	11,690	26,084	40,478	54,872	43,182
Shopping Center	820	1,000 SFGFA	5,800	12,608	19,415	26,223	20,423
Automobile Sales (Used)	841	1,000 SFGFA	13,650	18,983	24,316	29,650	16,000
Automobile Parts Sales	843	1,000 SFGFA	8,200	12,843	17,485	22,128	13,928
Tire Store	848	1,000 SFGFA	16,965	18,827	20,690	22,552	5,587
Supermarket	850	1,000 SFGFA	18,030	29,026	40,023	51,019	32,989
Convenience Market	851	1,000 SFGFA	47,250	89,953	132,656	175,360	128,110
Discount Supermarket	854	1,000 SFGFA	39,482	43,816	48,151	52,485	13,003
Discount Club	857	1,000 SFGFA	14,910	20,174	25,438	30,702	15,792
Home Improvement Superstore	862	1,000 SFGFA	4,020	6,844	9,669	12,493	8,473
Electronic Superstore	863	1,000 SFGFA	8,030	12,090	16,149	20,209	12,179
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SFGFA	72,246	80,177	88,108	96,038	23,792
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SFGFA	12,160	22,028	31,896	41,764	29,604
Furniture Store	890	1,000 SFGFA	510	886	1,262	1,637	1,127
Walk-in Bank	911	1,000 SFGFA	20,600	42,980	65,360	87,740	67,140
Drive-in Bank	912	1,000 SFGFA	33,540	58,414	83,288	108,162	74,622
Drinking Place	925	1,000 SFGFA	67,567	74,984	82,401	89,819	22,252
Quality Restaurant	931	1,000 SFGFA	20,190	27,857	35,524	43,190	23,000
High-Turnover (Sit-Down) Restaurant	932	1,000 SFGFA	27,020	29,722	32,424	35,125	8,105
Fast-Food Restaurant without Drive-Through Window	933	1,000 SFGFA	37,010	82,805	128,600	174,395	137,385
Fast-Food Restaurant with Drive-Through Window	934	1,000 SFGFA	46,200	78,789	111,377	143,966	97,766
Coffee/Donut Shop without Drive-Through Window	936	1,000 SFGFA	215,964	239,672	263,379	287,087	71,123
Coffee/Donut Shop with Drive-Through Window	937	1,000 SFGFA	265,271	294,392	323,512	352,633	87,362
Quick Lubrication Vehicle Shop	941	1,000 SFGFA	51,746	57,426	63,107	68,787	17,041
Automobile Parts and Service Center	943	1,000 SFGFA	13,442	14,918	16,393	17,869	4,427
Gasoline/Service Station	944	Fueling Positions	12,357	25,823	39,290	52,756	40,399
Self-Service Car Wash	947	Wash Stalls	8,155	20,037	31,920	43,802	35,647

Exhibit 5: Phase-In Fee Schedule (Previous Study Trip Length Adjustment)

Land Use Category	ITE Code	Unit of Measurement	Current Fee (w/imputed fee)	Year 1	Year 2	Year 3 (Full Impact Fee)	Difference from Year 3 to Current Fee
General Light Industrial	110	1,000 SFGFA	\$ 6,820	\$ 7,187	\$ 7,553	\$ 7,920	\$ 1,100
Industrial Park	130	1,000 SFGFA	5,980	5,663	5,346	5,029	(951)
Manufacturing	140	1,000 SFGFA	3,985	5,464	6,944	8,423	4,438
Mini-Warehouse	151	1,000 SFGFA	2,250	2,212	2,175	2,137	(113)
Single-Family Detached Housing	210	Dwelling Units	5,888	6,534	7,181	7,827	1,939
Multifamily Housing (Low-Rise)	220	Dwelling Units	3,357	3,629	3,900	4,172	815
Mobile Home Park	240	Dwelling Units	2,736	3,036	3,337	3,637	901
Senior Adult Housing - Detached	251	Dwelling Units	1,784	1,980	2,176	2,372	588
Senior Adult Housing - Attached	252	Dwelling Units	1,546	1,716	1,886	2,056	510
Congregate Care Facility	253	Dwelling Units	674	996	1,318	1,640	966
Assisted Living	254	1,000 SFGFA	2,855	2,915	2,976	3,036	181
Hotel	310	Rooms	4,037	7,331	10,625	13,920	9,883
Motel	320	Rooms	4,037	3,833	3,629	3,425	(612)
Multiplex Movie Theater	445	Movie Screens	37,745	49,046	60,347	71,648	33,903
Health/Fitness Club	492	1,000 SFGFA	11,620	16,255	20,890	25,525	13,905
Middle School/Junior High School	522	1,000 SFGFA	7,078	6,506	5,935	5,363	(1,715)
High School	530	1,000 SFGFA	12,171	11,188	10,205	9,222	(2,949)
Church	560	1,000 SFGFA	2,880	4,742	6,605	8,467	5,587
Day Care Center	565	1,000 SFGFA	30,424	5,593	5,102	4,611	(25,813)
Library	590	1,000 SFGFA	13,170	30,286	47,402	64,518	51,348
Hospital	610	1,000 SFGFA	5,270	7,382	9,494	11,606	6,336
Nursing Home	620	1,000 SFGFA	3,019	3,083	3,147	3,210	191
General Office Building	710	1,000 SFGFA	9,360	11,134	12,908	14,682	5,322
Medical-Dental Office Building	720	1,000 SFGFA	17,590	21,535	25,480	29,426	11,836
United States Post Office	732	1,000 SFGFA	20,250	43,044	65,838	88,633	68,383
Office Park	750	1,000 SFGFA	13,513	14,996	16,480	17,963	4,450
Research and Development Center	760	1,000 SFGFA	2,348	2,606	2,863	3,121	773
Business Park	770	1,000 SFGFA	2,498	2,772	3,047	3,321	823
Building Materials and Lumber Store	812	1,000 SFGFA	12,252	13,597	14,942	16,288	4,036
Variety Store	814	1,000 SFGFA	26,851	29,798	32,746	35,693	8,842
Free-Standing Discount Store	815	1,000 SFGFA	10,810	13,401	15,991	18,582	7,772
Hardware/Paint Store	816	1,000 SFGFA	8,620	8,325	8,030	7,735	(885)
Nursery (Garden Center)	817	1,000 SFGFA	11,690	16,756	21,821	26,887	15,197
Shopping Center	820	1,000 SFGFA	5,800	8,150	10,500	12,849	7,049
Automobile Sales (Used)	841	1,000 SFGFA	13,650	22,047	30,444	38,841	25,191
Automobile Parts Sales	843	1,000 SFGFA	8,200	9,081	9,962	10,843	2,643
Tire Store	848	1,000 SFGFA	16,965	14,994	13,022	11,051	(5,914)
Supermarket	850	1,000 SFGFA	18,030	22,224	26,418	30,612	12,582
Convenience Market	851	1,000 SFGFA	47,250	53,128	59,005	64,883	17,633
Discount Supermarket	854	1,000 SFGFA	39,482	43,816	48,151	52,485	13,003
Discount Club	857	1,000 SFGFA	14,910	21,607	28,303	35,000	20,090
Home Improvement Superstore	862	1,000 SFGFA	4,020	5,179	6,337	7,496	3,476
Electronic Superstore	863	1,000 SFGFA	8,030	12,090	16,149	20,209	12,179
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SFGFA	72,246	63,850	55,455	47,059	(25,187)
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SFGFA	12,160	14,928	17,696	20,464	8,304
Furniture Store	890	1,000 SFGFA	510	886	1,262	1,637	1,127
Walk-in Bank	911	1,000 SFGFA	20,600	26,309	32,019	37,728	17,128
Drive-in Bank	912	1,000 SFGFA	33,540	37,863	42,186	46,509	12,969
Drinking Place	925	1,000 SFGFA	67,567	74,984	82,401	89,819	22,252
Quality Restaurant	931	1,000 SFGFA	20,190	27,425	34,660	41,895	21,705
High-Turnover (Sit-Down) Restaurant	932	1,000 SFGFA	27,020	29,371	31,721	34,072	7,052
Fast-Food Restaurant without Drive-Through Window	933	1,000 SFGFA	37,010	57,808	78,607	99,405	62,395
Fast-Food Restaurant with Drive-Through Window	934	1,000 SFGFA	46,200	58,154	70,107	82,061	35,861
Coffee/Donut Shop without Drive-Through Window	936	1,000 SFGFA	215,964	239,672	263,379	287,087	71,123
Coffee/Donut Shop with Drive-Through Window	937	1,000 SFGFA	265,271	294,392	323,512	352,633	87,362
Quick Lubrication Vehicle Shop	941	1,000 SFGFA	51,746	45,733	39,719	33,706	(18,040)
Automobile Parts and Service Center	943	1,000 SFGFA	13,442	11,880	10,318	8,756	(4,686)
Gasoline/Service Station	944	Fueling Positions	12,357	16,855	21,353	25,850	13,493
Self-Service Car Wash	947	Wash Stalls	8,155	20,037	31,920	43,802	35,647

Exhibit 6: Phase-In Fee Schedule (NHTS Trip Length Adjustment)

Land Use Category	ITE Code	Unit of Measurement	Current Fee (w/imputed fee)	Year 1	Year 2	Year 3 (Full Impact Fee)	Difference from Year 3 to Current Fee
General Light Industrial	110	1,000 SFGFA	\$ 6,820	\$ 6,325	\$ 5,829	\$ 5,334	\$ (1,486)
Industrial Park	130	1,000 SFGFA	5,980	5,116	4,251	3,387	(2,593)
Manufacturing	140	1,000 SFGFA	3,985	4,548	5,110	5,673	1,688
Mini-Warehouse	151	1,000 SFGFA	2,250	1,980	1,710	1,439	(811)
Single-Family Detached Housing	210	Dwelling Units	5,888	6,534	7,181	7,827	1,939
Multifamily Housing (Low-Rise)	220	Dwelling Units	3,357	3,629	3,900	4,172	815
Mobile Home Park	240	Dwelling Units	2,736	3,036	3,337	3,637	901
Senior Adult Housing - Detached	251	Dwelling Units	1,784	1,980	2,176	2,372	588
Senior Adult Housing - Attached	252	Dwelling Units	1,546	1,716	1,886	2,056	510
Congregate Care Facility	253	Dwelling Units	674	1,133	1,591	2,050	1,376
Assisted Living	254	1,000 SFGFA	2,855	3,168	3,482	3,795	940
Hotel	310	Rooms	4,037	7,050	10,063	13,076	9,039
Motel	320	Rooms	4,037	3,764	3,491	3,217	(820)
Multiplex Movie Theater	445	Movie Screens	37,745	54,535	71,324	88,114	50,369
Health/Fitness Club	492	1,000 SFGFA	11,620	15,506	19,392	23,279	11,659
Middle School/Junior High School	522	1,000 SFGFA	7,078	6,601	6,124	5,646	(1,432)
High School	530	1,000 SFGFA	12,171	11,351	10,530	9,710	(2,461)
Church	560	1,000 SFGFA	2,880	3,518	4,156	4,794	1,914
Day Care Center	565	1,000 SFGFA	30,424	5,675	5,264	24,271	(6,153)
Library	590	1,000 SFGFA	13,170	21,686	30,202	38,718	25,548
Hospital	610	1,000 SFGFA	5,270	6,410	7,551	8,691	3,421
Nursing Home	620	1,000 SFGFA	3,019	3,445	3,871	4,297	1,278
General Office Building	710	1,000 SFGFA	9,360	9,830	10,299	10,769	1,409
Medical-Dental Office Building	720	1,000 SFGFA	17,590	19,394	21,197	23,001	5,411
United States Post Office	732	1,000 SFGFA	20,250	45,138	70,026	94,914	74,664
Office Park	750	1,000 SFGFA	13,513	15,421	17,328	19,236	5,723
Research and Development Center	760	1,000 SFGFA	2,348	2,679	3,011	3,342	994
Business Park	770	1,000 SFGFA	2,498	2,851	3,203	3,556	1,058
Building Materials and Lumber Store	812	1,000 SFGFA	12,252	11,775	11,299	10,822	(1,430)
Variety Store	814	1,000 SFGFA	26,851	25,806	24,761	23,717	(3,134)
Free-Standing Discount Store	815	1,000 SFGFA	10,810	14,066	17,322	20,578	9,768
Hardware/Paint Store	816	1,000 SFGFA	8,620	9,243	9,866	10,489	1,869
Nursery (Garden Center)	817	1,000 SFGFA	11,690	19,947	28,203	36,460	24,770
Shopping Center	820	1,000 SFGFA	5,800	9,675	13,549	17,424	11,624
Automobile Sales (Used)	841	1,000 SFGFA	13,650	15,667	17,684	19,701	6,051
Automobile Parts Sales	843	1,000 SFGFA	8,200	10,368	12,535	14,703	6,503
Tire Store	848	1,000 SFGFA	16,965	16,305	15,645	14,985	(1,980)
Supermarket	850	1,000 SFGFA	18,030	23,320	28,610	33,900	15,870
Convenience Market	851	1,000 SFGFA	47,250	70,340	93,429	116,519	69,269
Discount Supermarket	854	1,000 SFGFA	39,482	37,946	36,410	34,874	(4,608)
Discount Club	857	1,000 SFGFA	14,910	16,740	18,570	20,400	5,490
Home Improvement Superstore	862	1,000 SFGFA	4,020	5,447	6,874	8,301	4,281
Electronic Superstore	863	1,000 SFGFA	8,030	9,829	11,629	13,428	5,398
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SFGFA	72,246	69,435	66,624	63,813	(8,433)
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SFGFA	12,160	17,357	22,554	27,750	15,590
Furniture Store	890	1,000 SFGFA	510	703	895	1,088	578
Walk-in Bank	911	1,000 SFGFA	20,600	33,166	45,733	58,299	37,699
Drive-in Bank	912	1,000 SFGFA	33,540	46,316	59,092	71,869	38,329
Drinking Place	925	1,000 SFGFA	67,567	64,938	62,309	59,680	(7,887)
Quality Restaurant	931	1,000 SFGFA	20,190	23,026	25,862	28,698	8,508
High-Turnover (Sit-Down) Restaurant	932	1,000 SFGFA	27,020	25,793	24,566	23,339	(3,681)
Fast-Food Restaurant without Drive-Through Window	933	1,000 SFGFA	37,010	63,299	89,589	115,878	78,868
Fast-Food Restaurant with Drive-Through Window	934	1,000 SFGFA	46,200	62,686	79,173	95,659	49,459
Coffee/Donut Shop without Drive-Through Window	936	1,000 SFGFA	215,964	207,562	199,159	190,757	(25,207)
Coffee/Donut Shop with Drive-Through Window	937	1,000 SFGFA	265,271	254,950	244,630	234,309	(30,962)
Quick Lubrication Vehicle Shop	941	1,000 SFGFA	51,746	49,733	47,719	45,706	(6,040)
Automobile Parts and Service Center	943	1,000 SFGFA	13,442	12,919	12,396	11,873	(1,569)
Gasoline/Service Station	944	Fueling Positions	12,357	19,923	27,488	35,054	22,697
Self-Service Car Wash	947	Wash Stalls	8,155	15,138	22,121	29,105	20,950

As stated previously FCS GROUP recommends the fee schedule contained in **Exhibit 4**, without a trip length adjustment. However, if the City decides to use a trip length adjustment, we believe the NHTS trip length adjustments shown in **Exhibit 6** are more defensible than the trip length adjustments from the previous study shown in **Exhibit 5**.

REGIONAL COMPARISON

FCS GROUP also surveyed other Western Washington communities to determine if their transportation impact fees used a trip length adjustment. The results are shown in **Exhibit 7**.

Exhibit 7: Regional Methodology Comparison

City	TL Adj.?	Source
Sammamish	Yes	FCSG study in process
Renton	Yes	Uncited
Issaquah	No	N/A
Kirkland (current)	Yes	Pinellas Co (FL)
Redmond	Yes	Redmond specific data
Shoreline	Yes	Uncited
Bellevue	Yes	Pinellas Co (FL)

OTHER QUESTIONS

There were two other questions noted by the City Council. One was the apparently high fee for espresso stands and other land use types that are typically less than 1,000 sq. ft. An example of the fee for a 250 s.f. espresso stand is shown in **Exhibit 8** for each of the trip length adjustment options outlined above.

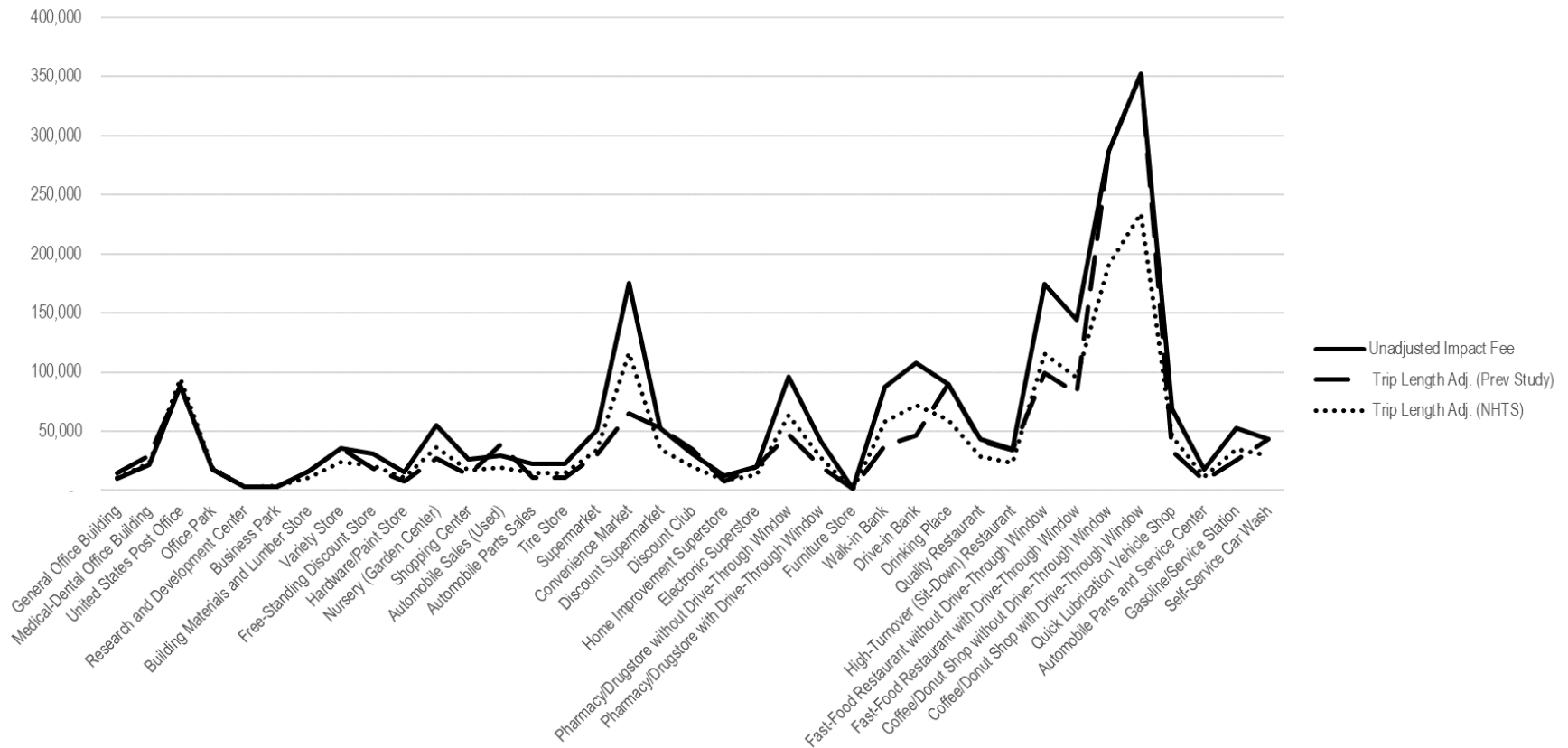
Exhibit 8: Actual Fee Example for a 250 SF Drive-Through Espresso Stand

Option	Fee per 1,000 SF	Fee for Espresso Stand
No TL Adj.	\$ 352,633	\$ 88,158
Prev Study Adj.	352,633	88,158
NHTS Adj.	234,309	58,577

As can be seen, the effective fee for an espresso stand would be significantly lower, although still a large amount. This reflects the high number of trips that a drive-through espresso stand generates.

Finally, another question raised by Council was that the fee for a fast-food restaurant without a drive-through window (ITE code #933) is greater than the fee for a fast-food restaurant with a drive-through window (ITE code #934). This is due to a pass-by trip adjustment factor 0.50 for land use code #934. The *ITE 10th Generation Trip Manual* documents that about half of trips to a fast-food restaurant with a drive-through window are pass-by trips, or trips where the land use is neither the origin nor final destination. Since these trips would occur regardless of that specific land use, it is inappropriate to charge the pass-by land use, since its existence has not generated that trip. If the City is aware of a data source documenting a pass-by trip adjustment for a fast-food restaurant without a drive-through window, it could be incorporated into the analysis.

APPENDIX – FEE COMPARISON BY TRIP LENGTH ADJUSTMENT



City of Kirkland, WA

TRANSPORTATION IMPACT FEE UPDATE

Final Report
July 2021

Washington

7525 166th Avenue NE, Ste. D215
Redmond, WA 98052
425.867.1802

Oregon

5335 Meadows Road, Suite 330
Lake Oswego, OR 97035
503.841.6543

Colorado

PO Box 19114
Boulder, CO 80301-9998
719.284.9168

www.fcsgroup.com

This entire report is made of readily recyclable materials, including the bronze wire binding and the front and back cover, which are made from post-consumer recycled plastic bottles.



FCS GROUP
Solutions-Oriented Consulting

TABLE OF CONTENTS

Table of Contents	ii
Section I. Introduction	1
Section II. Impact Fee Legal Overview	2
Section III. Technical Analysis	4
III.A. Project List	4
III.B. Adjustments	6
III.C. Trip-Ends	6
III.D. Fee per Trip-End	7
III.E. Fee Schedule	7
III.F. Regional Comparison	9
Section IV. Implementation.....	11
IV.A. Funding Plan	11
IV.B. Indexing.....	11
IV.C. Phase-In	11
Appendix: Fee Phase-In Schedule.....	13

Section I. INTRODUCTION

The City of Kirkland, Washington (City) is a growing city with increasing demands for transportation infrastructure. To help offset the costs that these demands place upon the City, the City imposes a transportation impact fee on new development in the City. This fee is intended to recover an equitable share of system costs from growth, recognizing both the investments in infrastructure that the City has made and the future investments that the City will have to make to provide capacity to serve growth. The transportation impact fee (TIF) was last studied in 2015, and the City Council adopted transportation impact fees based on that study, which became effective in 2016. The fees have been indexed to inflation over the intervening time period and have thus increased every year. In 2020, the City contracted with FCS GROUP to update the fee. The City has not completed a new transportation master plan since the previous study, so this update relies on the same project list and trip assumptions as the previous study. Once a new transportation master plan is available, the transportation impact fees should be updated. In addition, the City requested an initial impact fee for its fire and emergency medical services, and an update to its park impact fees. These are included in a separate report.

Consistent with these objectives, this study included the following key elements:

- **Overview of Washington Laws and Methodology Alternatives.** We worked with City staff to examine previous impact fee methodologies and evaluate alternative approaches in compliance with Washington law.
- **Develop Policy Framework.** We worked with City staff to identify, analyze, and agree on key policy issues and direction.
- **Technical Analysis.** In this step, we worked with City staff to resolve technical issues, isolate the recoverable portion of existing and planned facilities costs, and calculate fee alternatives. The most important technical consideration involves the identification and inclusion of planned capacity-increasing project costs.
- **Documentation and Presentation.** In this step, we presented preliminary findings to the City Council and summarized findings and recommendations in this report.

Section II. IMPACT FEE LEGAL OVERVIEW

Impact fees are enabled by state statutes, authorized by local ordinance, and constrained by the United States Constitution. Impact fees allow cities to recover some of the cost of expanding public facilities necessitated by growth. These fees allow “growth to pay for growth” in a fair and equitable manner. Impact fees have a specific definition and associated constraints in the state of Washington. Impact fees are allowed under RCW 82.02.050 through 82.02.110 and are permitted for:

- Public streets and roads
- Publicly owned parks, open space, and recreation facilities
- School facilities
- Fire protection facilities

The statute provides specific guidance on the permissible methodology for calculating impact fees. This guidance can be broken down into three major categories:

1. Eligibility Requirements. RCW 82.02.050(3) states that impact fees:

- a. Shall only be imposed for system improvements that are reasonably related to the new development;
- b. Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and;
- c. Shall only be used for system improvements that will reasonably benefit the new development.

These requirements, which exist to protect developers, ensure that impact fees are based on—and spent for—capacity that will directly or indirectly serve new development. That is why careful scrutiny is given to the included project list. Moreover, the impact fee that a developer pays must represent that particular development’s fair share of required capacity. That is why developments pay a unique fee based on land use, anticipated occupancy, and size.

Additionally, RCW 82.02.050(5) states that “Impact fees may be collected and spent only for the public facilities . . . which are addressed by the capital facilities plan element of a comprehensive land use plan.” This means that if a project is not listed in the adopted capital facilities plan element, then it is not eligible to be included in impact fee calculations.

2. Cost Basis. RCW 82.02.060(1) outlines the cost basis of impact fee calculations, stating that the basis must consider:

- a. The cost of public facilities necessitated by new development;
- b. An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or pro-ratable to the particular system improvement;

- c. The availability of other means of funding public facility improvements;
- d. The cost of existing public facilities improvements; and
- e. The methods by which public facilities improvements were financed.

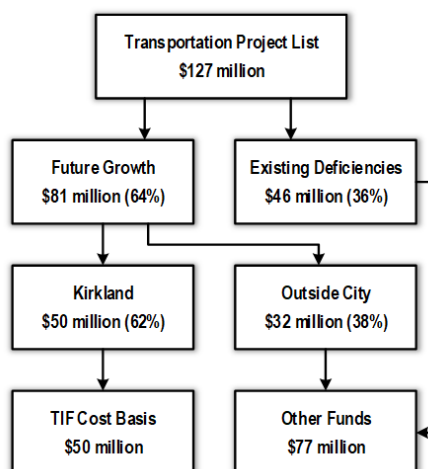
This means that adjustments to the impact fee cost basis must be made for the amount of outstanding debt used to pay for capital facility improvements, as well as other methods of funding public facilities improvements.

3. **Customer Base.** The costs determined to be eligible must be proportionately allocated across the projected customer base.

Section III. TECHNICAL ANALYSIS

FCS GROUP generally followed the same methodology as the City's previous transportation impact fee, analyzed in 2015. Thus, a good starting point is the 2015 study itself. **Exhibit 1** summarizes the derivation of the TIF cost basis. The transportation project list is allocated between projects serving future growth and addressing existing deficiencies, and then between growth inside and outside the City of Kirkland. Only costs associated with future growth within the City are eligible to be included in the impact fee cost basis.

Exhibit 1
2015 Study Methodology & Results



III.A. PROJECT LIST

The first step is to compile the transportation project list. FCS GROUP used the same project list as the previous study, with adjustments made for updated costs. For projects that have been completed, actual costs were used. Projects projected to be completed by 2026 utilized the cost shown in the City's current CIP, and projects to be completed after 2026 costs were escalated to 2021 dollars from the previous study's assumptions. This resulted in an increased transportation project list total of \$186 million, an increase of \$59 million.

The next step is to allocate each project between the portion that serves future growth within the City and the portion that addresses existing deficiencies. In order to remain consistent with estimated planning period growth, each project was allocated using the same percentages as the previous study. This resulted in \$51 million being allocated to curing existing deficiencies, and \$134 million being allocated to growth.

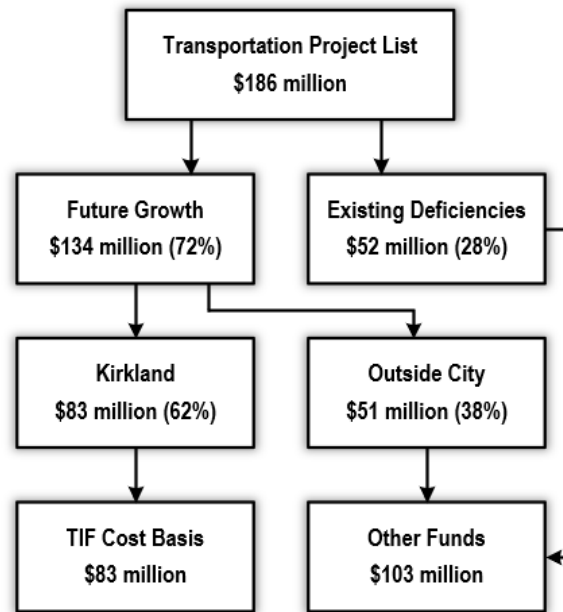
Of the costs allocated to future growth, \$52 million were allocated to growth outside of the City, with the remaining \$83 million allocated to growth inside the City. This is the transportation impact fee cost basis. The project list, with associated deficiency and inside city percentages, can be found in **Exhibit 2**.

**Exhibit 2
Project List**

TMP Project	TMP Description	2021 \$ Total	Deficiency Percentage (From Prev Study)	Costs Attributable to Growth	Percentage of Growth Within Kirkland (From Prev Study)	Growth Cost Allocated to Impact Fees
TR0096	NE 132nd St/124th Ave NE Intersect'n Imp	7,229,000	0%	7,229,000	51%	3,686,790
TR0093	NE 132nd St/Juanita H.S. Access Rd Intersect'n Imp	1,797,400	0%	1,797,400	51%	916,674
PT0002	Public Transit Speed and Reliability Improvements	633,000	75%	158,250	90%	142,425
PT0003	Public Transit Passenger Environment Improvements	633,000	75%	158,250	90%	142,425
ST0078	NE 132nd St Rdwy Imprv-Phase II (Mid Section)	400,000	0%	400,000	51%	204,000
TR0092	NE 116th St/124th Ave NE N-bound Dual Left Turn Lanes	1,284,720	0%	1,284,720	51%	655,207
TR0095	NE 132nd St/Fire Stn Access Dr Intersect'n Imp	464,000	0%	464,000	51%	236,640
TR0091	NE 124th St/124th Ave NE Intersection Imp	398,500	0%	398,500	51%	203,235
ST0077	NE 132nd St Rdwy Imprv-Phase I (West Section)	1,706,000	0%	1,706,000	51%	870,060
ST0081	Tolem Lake Area Development Opportunity Program	500,000	0%	500,000	0%	-
ST0079	NE 132nd St Rdwy Imprv-Phase III (East Section)	1,416,000	0%	1,416,000	51%	722,160
TR0097	NE 132nd St/132nd Ave NE Intersect'n Imp	1,125,000	0%	1,125,000	51%	573,750
NM0012999	Crosswalk Upgrade Program	5,188,000	0%	5,188,000	95%	4,928,600
TR0125	Kirkland ITS Implementation Phase 4	3,316,000	0%	3,316,000	57%	1,890,120
NM8888100	On-street Bicycle Network	5,568,000	75%	1,392,000	80%	1,113,600
NM0090100	Juanita Drive Bicycle and Pedestrian Improvements	13,476,000	75%	3,369,000	55%	1,852,950
ST0063	120th Avenue NE Roadway Improvements	5,694,000	0%	5,694,000	68%	3,871,920
TR0094	NE 132nd St/108th Avenue NE Intersect'n Imp	1,287,100	0%	1,287,100	51%	656,421
NM9999100	Sidewalk Completion Program	7,715,000	0%	7,715,000	95%	7,329,250
NM0086003	CKC Roadway Crossings	4,265,000	75%	1,066,250	80%	853,000
ST0072	NE 120th Street Roadway Improvements (West Section)	19,968,000	0%	19,968,000	59%	11,781,120
NM0012001	NE 116th St Crosswalk	430,000	0%	430,000	95%	408,500
NM0012002	NE 124th St Crosswalk	370,000	0%	370,000	95%	351,500
NM0012003	132nd Ave NE Crosswalk	250,000	0%	250,000	95%	237,500
NM0087001	N. Kirkland / JFK School	1,002,000	0%	1,002,000	95%	951,900
NM0090	Juanita Drive Quick-Wins	1,930,310	0%	1,930,310	55%	1,061,671
NM0090001	Juanita Drive Multi-Modal	536,000	0%	536,000	55%	294,800
NM0113001	Citywide Greenways Project 75th St	504,059	75%	126,015	90%	113,413
NM0113002	Citywide Greenways Project 128th St	1,284,241	75%	321,060	90%	288,954
NM0115	CKC Emergent Projects Opportunity Fund	405,000	75%	101,250	80%	81,000
ST0083101	100th Ave NE Design	3,249,700	0%	3,249,700	52%	1,689,844
ST0083102	100th Ave NE Construction	17,318,601	0%	17,318,601	52%	9,005,673
TR0122	Tolem Lake Intersection Improvements	6,000,000	0%	6,000,000	51%	3,060,000
NM0086001	NE 124th St / 124th Ave Ne Bridge Design	-	0%	-	51%	-
TR0098	NE 132nd St/116th Way NE (I-405) Intersect'n Imp	502,125	0%	502,125	51%	256,084
ST0059	124th Ave NE Roadway Improvements (North Section)	11,616,700	0%	11,616,700	51%	5,924,517
NM0089	Lake Front Ped/Bike Improvements	1,552,118	75%	388,029	80%	310,424
NM0095	124th Ave Sidewalk	2,489,895	0%	2,489,895	95%	2,365,400
ST0089	Juanita Drive Auto Improvements	8,732,200	0%	8,732,200	55%	4,802,710
NM0086002	NE 124th St / 124th Ave Ne Bridge Construction	22,361,517	75%	5,590,379	51%	2,851,093
NM0006100	Street Levy Safe School Walk Routes	3,000,000	75%	750,000	95%	712,500
NM0007 (NMC0070)	Cross Kirkland Corridor Connection - NE 52nd Street Sidewalk	1,119,878	75%	279,969	80%	223,976
NM0012	Crosswalk Upgrade Program	70,274	75%	17,568	95%	16,690
NM0087	Citywide School Walk Route Enhancements	3,975,989	75%	993,997	95%	944,297
NM0098	Kirkland Way Sidewalk	2,683,000	75%	670,750	95%	637,213
NM0113	Citywide Greenways Networks	2,400,000	75%	600,000	90%	540,000
TR0079001	NE 85th St/114th Ave Intersection Phase 2	-	-	-	-	-
TR0082	Central Way/Park Place Traffic Signal	-	-	-	-	-
TR0099	120th Ave/Tolem Lake Way Intersection	-	-	-	-	-
TR0100100	6th St/Central Way Intersection Phase 2	-	-	-	-	-
TR0103	Central Way/4th St Intersection	-	-	-	-	-
TR0104	6th St/4th St Intersection	-	-	-	-	-
TR0105	Central Way/5th St Intersection	-	-	-	-	-
TR0109	Tolem Lake Plaza/Tolem Lake Blvd Intersection Improvements	-	-	-	-	-
TR0110	Tolem Lake Plaza/120th Ave NE Intersection	-	-	-	-	-
TR0120	Kirkland Intelligent Transportation System Phase 3	3,200,000	0%	3,200,000	57%	1,824,000
NM0113999	Citywide Greenway Network	4,650,000	75%	1,162,500	90%	1,046,250
Total		\$ 185,697,327		\$ 134,261,520		\$ 82,630,255

Some projects are not included in the cost calculation, and thus show at zero cost in the table, because they are funded by developers or outside parties. The summarized cost basis calculation is shown in **Exhibit 3**.

Exhibit 3 Updated Study Methodology & Results



As can be seen, the total TIF cost basis increased by \$33 million, compared to an overall project cost list increase of \$59 million. Thus, slightly more than half of the projected cost increases ultimately flow-through to the TIF cost basis of \$83 million.

III.B. ADJUSTMENTS

The City's existing transportation impact fee fund balance (\$1.7 million) was deducted from the TIF cost basis to account for the City's existing resources to fund the project list. This resulted in a final adjusted cost basis of \$81 million.

III.C. TRIP-ENDS

The adjusted cost basis is then divided by growth in the number of person trip-ends. Specifically, it is based on growth in the number of PM peak-hour person trip ends, which represents the maximum period of constraint on the City's transportation infrastructure. As noted previously, this update uses the same number as the 2015 study, 15,000.

III.D. FEE PER TRIP-END

The fee calculation is summarized in **Exhibit 4**.

Exhibit 4		
Fee Calculation		
Eligible Cost Basis	\$	82,630,255
<i>less: Existing TIF fund balance</i>		<u>(1,660,800)</u>
Net Allocable Growth Cost	\$	80,969,455
New PM Peak-Hour Person Trip Er		15,000
Cost per New Person Trip End	\$	5,398

This results in a new cost per PM Peak-Hour Person Trip End of \$5,398, an increase of \$2,056 from the 2015 study result of \$3,342.

III.E. FEE SCHEDULE

The final step is to convert the cost per trip end into a fee for various land-use types. Each land use type generates a different number of trip ends. FCS GROUP uses data from the *Institute of Transportation Engineers Trip Generation Manual* (10th edition), adjusted to approximate person rather than vehicle trips. By multiplying the number of person trip ends for each land use by the cost calculated in **Exhibit 5**, a fee schedule can be calculated, as shown in **Exhibit 5**. It is important to note that the PM Peak Hour Person Trip factors shown in **Exhibit 5** also reflect a reduction for pass-by trips for certain land uses. Unlike the previous study, the factors do not include an adjustment for trip length by land use. Available empirical data on average trip lengths is not sufficient to incorporate into the analysis at this time.

**Exhibit 5a
Fee Schedule**

Land Use Category	ITE Code	Unit of Measurement	PM Peak Hour Person Trip Ends	Impact Fee
General Light Industrial	110	1,000 SFGFA	0.92	\$ 4,981
Industrial Park	130	1,000 SFGFA	0.59	3,163
Manufacturing	140	1,000 SFGFA	0.98	5,297
Mini-Warehouse	151	1,000 SFGFA	0.25	1,344
Single-Family Detached Housing	210	Dwelling Units	1.45	7,827
Multifamily Housing (Low-Rise)	220	Dwelling Units	0.77	4,172
Residential Suite	231	Dwelling Units	0.50	2,682
Mobile Home Park	240	Dwelling Units	0.67	3,637
Senior Adult Housing - Detached	251	Dwelling Units	0.44	2,372
Senior Adult Housing - Attached	252	Dwelling Units	0.38	2,056
Congregate Care Facility	253	Dwelling Units	0.38	2,050
Assisted Living	254	1,000 SFGFA	0.70	3,795
Hotel	310	Rooms	2.26	12,210
Motel	320	Rooms	0.56	3,004
Multiplex Movie Theater	445	Movie Screens	20.11	108,557
Health/Fitness Club	492	1,000 SFGFA	5.31	28,679
Middle School/Junior High School	522	1,000 SFGFA	1.74	9,409
High School	530	1,000 SFGFA	3.00	16,179
Church	560	1,000 SFGFA	1.48	7,988
Day Care Center	565	1,000 SFGFA	7.49	40,444
Library	590	1,000 SFGFA	11.95	64,518
Hospital	610	1,000 SFGFA	1.50	8,116
Nursing Home	620	1,000 SFGFA	0.74	4,013
General Office Building	710	1,000 SFGFA	1.86	10,056
Medical-Dental Office Building	720	1,000 SFGFA	3.98	21,478
United States Post Office	732	1,000 SFGFA	16.42	88,633
Office Park	750	1,000 SFGFA	3.33	17,963
Research and Development Center	760	1,000 SFGFA	0.58	3,121
Business Park	770	1,000 SFGFA	0.62	3,321

Exhibit 5b
Fee Schedule Continued

Land Use Category	ITE Code	Unit of Measurement	PM Peak Hour Person Trip Ends	Impact Fee
Building Materials and Lumber Store	812	1,000 SFGFA	3.02	16,288
Variety Store	814	1,000 SFGFA	6.61	35,693
Free-Standing Discount Store	815	1,000 SFGFA	5.74	30,970
Hardware/Paint Store	816	1,000 SFGFA	2.92	15,786
Nursery (Garden Center)	817	1,000 SFGFA	10.17	54,872
Shopping Center	820	1,000 SFGFA	4.86	26,223
Automobile Sales (Used)	841	1,000 SFGFA	5.49	29,650
Automobile Parts Sales	843	1,000 SFGFA	4.10	22,128
Tire Store	848	1,000 SFGFA	4.18	22,552
Supermarket	850	1,000 SFGFA	9.45	51,019
Convenience Market	851	1,000 SFGFA	32.49	175,360
Discount Supermarket	854	1,000 SFGFA	9.72	52,485
Discount Club	857	1,000 SFGFA	5.69	30,702
Home Improvement Superstore	862	1,000 SFGFA	2.31	12,493
Electronic Superstore	863	1,000 SFGFA	3.74	20,209
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SFGFA	17.79	96,038
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SFGFA	7.74	41,764
Furniture Store	890	1,000 SFGFA	0.30	1,637
Walk-in Bank	911	1,000 SFGFA	16.25	87,740
Drive-in Bank	912	1,000 SFGFA	20.04	108,162
Drinking Place	925	1,000 SFGFA	16.64	89,819
Quality Restaurant	931	1,000 SFGFA	8.00	43,190
High-Turnover (Sit-Down) Restaurant	932	1,000 SFGFA	6.51	35,125
Fast-Food Restaurant without Drive-Through Window	933	1,000 SFGFA	32.31	174,395
Fast-Food Restaurant with Drive-Through Window	934	1,000 SFGFA	26.67	143,966
Coffee/Donut Shop without Drive-Through Window	936	1,000 SFGFA	53.18	287,087
Coffee/Donut Shop with Drive-Through Window	937	1,000 SFGFA	65.33	352,633
Quick Lubrication Vehicle Shop	941	1,000 SFGFA	12.74	68,787
Automobile Parts and Service Center	943	1,000 SFGFA	3.31	17,869
Gasoline/Service Station	944	Fueling Positions	9.77	52,756
Self-Service Car Wash	947	Wash Stalls	8.11	43,802

III.F. REGIONAL COMPARISON

FCS GROUP conducted a regional comparison to determine how the proposed fees would compare to select jurisdictions in Western Washington. The results of this comparison are shown in **Exhibit 6**.

Exhibit 6
Regional Comparison

City	per SFR
Sammamish	\$ 14,204
Renton	10,862
Issaquah	9,173
Kirkland (calculated maximum)	7,827
Redmond	7,729
Shoreline	7,112
Bellevue	7,060
Kirkland (existing)	5,888

Section IV. IMPLEMENTATION

There are several issues related to the implementation of the updated TIFs, described below.

IV.A. FUNDING PLAN

The fees calculated in this report represent the maximum amounts that the City can legally charge. However, even if the City imposes the full calculated fee, impact fees alone will not be sufficient to complete the project list, as indicated by the funding plan below. The City will need to identify other funding sources to carry out the program, including Real Estate Excise Tax, other City tax and fee revenues, and grants.

Exhibit 7
Funding Plan

Total Costs to be Funded	\$	185,697,327
less: Impact Fee Revenue		(80,969,455)
less: Existing Fund Balance		(1,660,800)
Remainder to be Funded	\$	103,067,071

IV.B. INDEXING

The City already annually indexes its impact fees to the *Engineering News-Record* Construction Cost Index. We recommend that the City continue this practice for its transportation impact fee, as it provides an adjustment which at least partially responds to the cost basis over time. We also recommend that the City continue its practice of periodically updating its impact fees to ensure that they recover the full cost of growth's impacts on City facilities. Specifically, we recommend that the City update its TIFs in conjunction with its new transportation master plan.

IV.C. PHASE-IN

Due to the large increase in the calculated impact fees, City staff suggested the adoption of a 3-year phase-in approach, where TIFs would not reach the calculated maximum until the third year after the adoption of this study. A proposed phase-in schedule from the current fee per person trip end to the calculated fee per person trip end is provided in **Exhibit 8**, along with the phase-in schedule for single-family and multifamily dwellings.

Exhibit 8
Phase-In Schedule

	Current	Year 1	Year 2	Year 3
Fee per Person-Trip	\$4,061	\$4,507	\$4,952	\$5,398
Single-Family	\$5,888	\$6,534	\$7,181	\$7,827
Multifamily	\$3,357	\$3,629	\$3,900	\$4,172

In addition, phase-in schedules for two sample multi-use projects are shown in **Exhibit 9**. The first, “South Tower”, consists of 266,054 sq. ft. of office space, 12,335 sq. ft. of retail/shopping, and an 8-screen movie theater. The second, “MRM Building”, consists of 171 multi-family dwelling units, as well as a 19,795 sq. ft. supermarket. The cost of each is shown below.

Exhibit 9a
Phase-In Schedule (South Tower)

	Office	Retail/Shopping	Movie Theater	Total
Unit	266,054 Sq. Ft.	12,335 Sq. Ft.	8 Screens	n/a
Current Rate	\$9.36	\$5.80	\$37,745.00	n/a
Current Fee	\$2,490,265.44	\$71,543.00	\$301,960.00	\$2,863,768.44
Year 1 Rate	\$9.59	\$12.61	\$61,349.02	n/a
Year 2 Rate	\$9.82	\$19.42	\$84,953.05	n/a
Year 3 Rate	\$10.06	\$26.22	\$108,557.07	n/a
Year 1 Fee	\$2,555,026.00	\$155,515.86	\$490,792.18	\$3,198,334.04
Year 2 Fee	\$2,613,786.57	\$239,488.71	\$679,624.37	\$3,532,899.65
Year 3 Fee	\$2,675,547.13	\$323,461.57	\$868,457.55	\$3,867,465.25

Exhibit 9b
Phase-In Schedule (MRM Building)

	Residential	Supermarket	Subtotal	less: Credits	Total
Unit	171 Dwelling Units	19,795 Sq. Ft.	n/a	n/a	n/a
Current Rate	\$3,357.00	\$18.03	n/a	n/a	n/a
Current Fee	\$577,125.00	\$356,903.85	\$934,028.85	(\$198,974.88)	\$735,053.97
Year 1 Rate	\$3,628.67	\$29.03	n/a	n/a	n/a
Year 2 Rate	\$3,900.33	\$40.02	n/a	n/a	n/a
Year 3 Rate	\$4,172.00	\$51.02	n/a	n/a	n/a
Year 1 Fee	\$620,502.00	\$574,578.72	\$1,195,080.72	(\$198,974.88)	\$996,105.84
Year 2 Fee	\$666,957.00	\$792,253.60	\$1,459,210.60	(\$198,974.88)	\$1,260,235.72
Year 3 Fee	\$713,412.00	\$1,009,928.47	\$1,723,340.47	(\$198,974.88)	\$1,524,365.59

APPENDIX: FEE PHASE-IN SCHEDULE

This appendix contains the full transportation impact fee schedule, with the phase-in for years 1, 2, and 3. Some land use codes did not have current transportation impact fees listed in the City's 2021 impact fee schedule, or the unit of measurement was different than ITE's *10th Generation Trip Manual*. In those cases, the base fee to begin the phase-in was imputed based on the 2021 fee per trip-end of \$4,060.66.

Exhibit A-1 Transportation Impact Fee Phase-In Schedule

Land Use Category	ITE Code	Unit of Measurement	Current Fee (w/imputed fee)	Year 1	Year 2	Year 3 (Full Impact Fee)
General Light Industrial	110	1,000 SFGFA	\$ 6,820	\$ 6,207	\$ 5,594	\$ 4,981
Industrial Park	130	1,000 SFGFA	5,980	5,041	4,102	3,163
Manufacturing	140	1,000 SFGFA	3,985	4,422	4,860	5,297
Mini-Warehouse	151	1,000 SFGFA	2,250	1,948	1,646	1,344
Single-Family Detached Housing	210	Dwelling Units	5,888	6,534	7,181	7,827
Multifamily Housing (Low-Rise)	220	Dwelling Units	3,357	3,629	3,900	4,172
Mobile Home Park	240	Dwelling Units	2,736	3,036	3,337	3,637
Senior Adult Housing - Detached	251	Dwelling Units	1,784	1,980	2,176	2,372
Senior Adult Housing - Attached	252	Dwelling Units	1,546	1,716	1,886	2,056
Congregate Care Facility	253	Dwelling Units	674	1,133	1,591	2,050
Assisted Living	254	1,000 SFGFA	2,855	3,168	3,482	3,795
Hotel	310	Rooms	4,037	6,761	9,486	12,210
Motel	320	Rooms	4,037	3,693	3,349	3,004
Multiplex Movie Theater	445	Movie Screens	37,745	61,349	84,953	108,557
Health/Fitness Club	492	1,000 SFGFA	11,620	17,306	22,993	28,679
Middle School/Junior High School	522	1,000 SFGFA	7,078	7,855	8,632	9,409
High School	530	1,000 SFGFA	12,171	13,507	14,843	16,179
Church	560	1,000 SFGFA	2,880	4,583	6,285	7,988
Day Care Center	565	1,000 SFGFA	30,424	33,764	37,104	40,444
Library	590	1,000 SFGFA	13,170	30,286	47,402	64,518
Hospital	610	1,000 SFGFA	5,270	6,219	7,167	8,116
Nursing Home	620	1,000 SFGFA	3,019	3,350	3,681	4,013
General Office Building	710	1,000 SFGFA	9,360	9,592	9,824	10,056
Medical-Dental Office Building	720	1,000 SFGFA	17,590	18,886	20,182	21,478
United States Post Office	732	1,000 SFGFA	20,250	43,044	65,838	88,633
Office Park	750	1,000 SFGFA	13,513	14,996	16,479	17,963
Research and Development Center	760	1,000 SFGFA	2,348	2,606	2,863	3,121
Business Park	770	1,000 SFGFA	2,498	2,772	3,047	3,321

Exhibit A-2
Transportation Impact Fee Phase-In Schedule

Land Use Category	ITE Code	Unit of Measurement	Current Fee (w/imputed fee)	Year 1	Year 2	Year 3 (Full Impact Fee)
Building Materials and Lumber Store	812	1,000 SFGFA	12,252	13,597	14,942	16,288
Variety Store	814	1,000 SFGFA	26,851	29,798	32,746	35,693
Free-Standing Discount Store	815	1,000 SFGFA	10,810	17,530	24,250	30,970
Hardware/Paint Store	816	1,000 SFGFA	8,620	11,009	13,397	15,786
Nursery (Garden Center)	817	1,000 SFGFA	11,690	26,084	40,478	54,872
Shopping Center	820	1,000 SFGFA	5,800	12,608	19,415	26,223
Automobile Sales (Used)	841	1,000 SFGFA	13,650	18,983	24,316	29,650
Automobile Parts Sales	843	1,000 SFGFA	8,200	12,843	17,485	22,128
Tire Store	848	1,000 SFGFA	16,965	18,827	20,690	22,552
Supermarket	850	1,000 SFGFA	18,030	29,026	40,023	51,019
Convenience Market	851	1,000 SFGFA	47,250	89,953	132,656	175,360
Discount Supermarket	854	1,000 SFGFA	39,482	43,816	48,151	52,485
Discount Club	857	1,000 SFGFA	14,910	20,174	25,438	30,702
Home Improvement Superstore	862	1,000 SFGFA	4,020	6,844	9,669	12,493
Electronic Superstore	863	1,000 SFGFA	8,030	12,090	16,149	20,209
Pharmacy/Drugstore without Drive-Through Window	880	1,000 SFGFA	72,246	80,176	88,107	96,038
Pharmacy/Drugstore with Drive-Through Window	881	1,000 SFGFA	12,160	22,028	31,896	41,764
Furniture Store	890	1,000 SFGFA	510	886	1,262	1,637
Walk-in Bank	911	1,000 SFGFA	20,600	42,980	65,360	87,740
Drive-in Bank	912	1,000 SFGFA	33,540	58,414	83,288	108,162
Drinking Place	925	1,000 SFGFA	67,567	74,984	82,401	89,819
Quality Restaurant	931	1,000 SFGFA	20,190	27,857	35,524	43,190
High-Turnover (Sit-Down) Restaurant	932	1,000 SFGFA	27,020	29,722	32,424	35,125
Fast-Food Restaurant without Drive-Through Window	933	1,000 SFGFA	37,010	82,805	128,600	174,395
Fast-Food Restaurant with Drive-Through Window	934	1,000 SFGFA	46,200	78,789	111,377	143,966
Coffee/Donut Shop without Drive-Through Window	936	1,000 SFGFA	215,964	239,671	263,379	287,087
Coffee/Donut Shop with Drive-Through Window	937	1,000 SFGFA	265,271	294,391	323,512	352,633
Quick Lubrication Vehicle Shop	941	1,000 SFGFA	51,746	57,426	63,107	68,787
Automobile Parts and Service Center	943	1,000 SFGFA	13,442	14,918	16,393	17,869
Gasoline/Service Station	944	Fueling Positions	12,357	25,823	39,290	52,756
Self-Service Car Wash	947	Wash Stalls	8,155	20,037	31,920	43,802

**CITY OF KIRKLAND****City Manager's Office**123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Deputy City Manager of Operations
Carly Joerger, Management Analyst
George Dugdale, Financial Planning Manager
Veronica Hill, Senior Financial Analyst

Date: August 26, 2021

Subject: COMMUNITY RESPONDERS PROGRAM EXECUTION PLAN, CONVERSION OF 6.0 COMMUNITY RESPONDER POSITIONS TO FTES, AND ADDITION OF 4.0 FTE EMTS FOR 24/7 COVERAGE IN THE MOBILE INTEGRATED HEALTH UNIT

RECOMMENDATION:

City Council approves by motion the conversion of 4.0 Limited Term Employee (LTE) Community Responder positions to Full Time Employee (FTE) status, the conversion of two ongoing contract Mental Health Professional positions into 1.0 FTE Community Responder positions, and the addition of 4.0 on-going FTE EMT positions for 24/7 coverage in the Mobile Integrated Health Unit. This action creates a total of 10.0 on-going FTEs to aid in recruiting these critical new positions. If Council approves this action staff will start the hiring process for these positions as regular FTE positions, and the formal action adjusting the budget will be included with the Mid-biennial budget adjustments. City Council will also receive a program execution plan update.

BACKGROUND DISCUSSION:

The 2021-2022 budget includes funding for four new "Community Responder" limited-term positions as part of the Community Safety Initiative. In total, these four positions represent the most significant funding priority within the Community Safety Initiative and Resolution R-5434. The Community Responder program will provide person-centered support to individual high utilizers of 911 and to the most vulnerable community members, thereby reducing the frequency of contacts with emergency personnel. Community Responders will help to stabilize community members experiencing quality of life stressors and/or behavioral and emotional crises. Responders will provide service in the least restrictive setting possible and prevent hospitalization and criminal legal involvement, whenever possible. The 2021-2022 budget also included funding for one new EMT/Firefighter FTE and a part-time contracted Mental Health Professional for a Mobile Integrated Health (MIH) Unit funded through the King County Medic One Levy. The City's goal is to ensure availability of crisis response through both the Community Responders Program and MIH Unit 24 hours per day, 7 days a week, 365 days per year. The Council had previously authorized a contract mental health professional (MHP) paired with a Neighborhood Resource Officer funded as part of the 2018 Police Proposition 1 Ballot Measure. Council action would also convert the MHP to a 1.0 FTE Community Responder using that contract funding.

To help move the Community Responder concept forward, the City engaged consultant Anura Shah, LICSW, MHA, of Beyond Force to work with staff to evaluate options and develop recommendations

on what type of Community Responders program would best meet Kirkland's needs. City Council received this staff report at the May 18, 2021 Council meeting. The program recommendations resulting from that work included the following:

- Hire four Community Responders as full-time City employees;
- Designate one of the four Community Responder positions to be the Community Responder Supervisor;
- Convert the existing Neighborhood Resource Mental Health Professional from a 30 hour/week contracted service to a 40 hour/week, full-time City of Kirkland employee and reclassify the position as a Community Responder that works with the Neighborhood Resources unit;
- Convert the proposed part-time contracted MIH Community Responder to a 40 hour/week full-time City of Kirkland employee and reclassify the position as a Community Responder that works with the Mobile Integrated Health unit; and
- Hire and/or assign four EMTs or EMT-Firefighters to the MIH unit to ensure 24/7 response coverage (in addition to the 1.0 FTE EMT-Firefighter authorized in the 2021-2022 budget).

Council was in favor of these recommendations at the May 18 Study Session. Since then, staff have operationalized these recommendations into job descriptions, program execution plan, and recruitment strategies. With Council's encouragement from the dais at the August 4 Council meeting, one recruitment strategy is the central recommendation of this staff report: convert the 4.0 LTE positions to FTE status and convert two ongoing contract positions into 1.0 FTE positions, for a total of 6.0 on-going FTE positions in the Community Responder Program, and add 4.0 FTE EMTs (or EMT-Firefighters) to supplement the 1.0 FTE already approved to provide 24/7 coverage to team with the Community Responders.

Conversion of Community Responder Positions

Table 1, below, shows the 6.0 FTE positions that are part of the Community Responder Program and potential funding sources. Converting these positions from on-going (OG) contracted services and one-time (OT) positions to on-going FTEs is expected to increase the City's chances of recruiting a highly qualified and diverse applicant pool. These 6.0 positions are all currently funded through the end of 2022 and long-term funding sources for these positions will be added to the budget as part of the mid-biennial adjustments. Staff will bring specific funding options for Council discussion to the November 3rd Study Session.

Table 1 – Community Responder Program Staffing Summary

Position Title	Funding Source(s)	FTE Type		
		Current		Proposed
		OG	OT	OG
Community Responder Supervisor	GF		1.0	1.0
Community Responder	GF		3.0	3.0
Community Responder - MIH	KC MIH Revenue - EMS Levy	1.0		1.0
Community Responder Lead - Neighborhood Resource	PD Prop. 1 - Sales Tax Levy	1.0		1.0

Table 2 shows the current and proposed FTE count in the three relevant departments. With Council approval of this action staff will be able to post the positions as ongoing work. These positions will then be formally added to the budget as part of the mid-biennial adjustments, with specific on-going funding sources identified at that time. Those funding options are expected to include funds set aside from a portion of the additional penny added to Fire Proposition 1, potential additional funds generated from Police Proposition 1, other General Fund resources, and Ground Emergency Transport (GEMT) funds, which are Medicaid reimbursements of transport costs (for the 4 EMT or EMT-Firefighter positions), as described below.

Proposed Change in FTE			
Department	Current	Proposed	Total
CMO	16.0	6.0	22.0
Fire	122.5	4.0	126.5
Police	154.0	-	154.0

Table 2 – Proposed Change in FTE Count

Community Responders Program Execution Plan

The following section describes the steps staff have taken since the May 18 Council meeting and sets forth a schedule for the next program milestones. Ms. Shah's counsel has informed much of this progress to date. Management intends to extend her contract for continued strategic programmatic advice, support to the new Community Responder Supervisor, and guidance on effective recruitment strategies over the next six months while the program becomes operational.

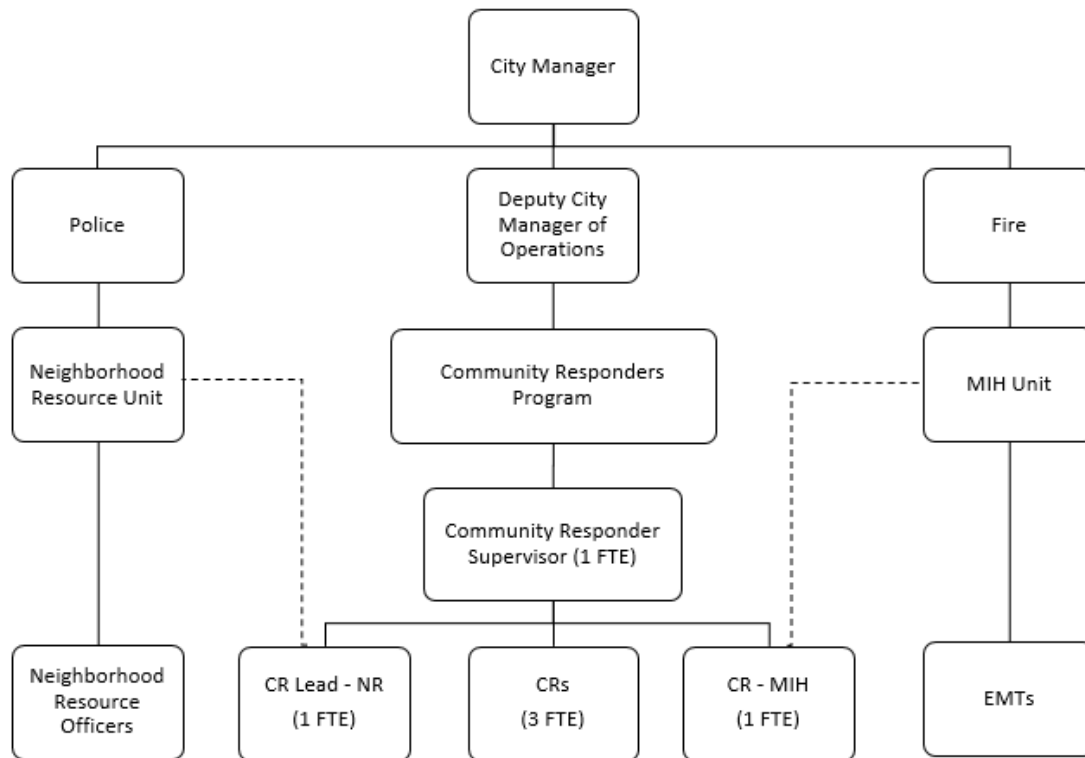
Job Descriptions and Program Structure

Staff have finalized job descriptions for the Community Responders program. These job descriptions thoughtfully reflect the core duties of a Community Responder. Core duties are supplemented with additional responsibilities in the Supervisory or Lead positions and additional programmatic information for the Community Responders who work in partnership with the Neighborhood Resource and Mobile Integrated Health Units. Staff engaged both the Police and Fire Departments in the review of the job descriptions and overall program structure. Acting on Council's interest from the May 18 meeting to ensure 24/7 coverage, staff have adapted the Community Responder – Neighborhood Resource position to include "Lead" duties. In addition to a full Community Responder workload, a "Lead" may backfill the Supervisor when appropriate, and assist with planning, scheduling, organizing, and coordinating assignments with the other Community Responders.

Once the individual job descriptions took shape, staff evaluated where the program should be placed in the organization. Staff determined the most strategic location to be the City Manager's Office, due to evolving nature of the program and the need for strong interdepartmental coordination. The Community Responders will report the Deputy City Manager of Operations. The unit will work closely with the Fire Department and the Mobile Integrated Health Unit, Police Department and the Neighborhood Resource Unit, Parks and Community Services and the Human Services Division and Park Rangers, and Public Works and Code Enforcement. See Table 3 for an updated personnel organizational chart.

As requested on May 18, staff has also briefed the City's Human Services Commission on the program progress and the Commission expressed its support and interest in further program details.

Table 3 – Community Responder Program Personnel Org Chart



Additional Insurance

The job descriptions seek a rigorous level of education and experience and include minimum qualifications of a master's degree and social work or mental health counseling license in good standing. Requiring this level of education and experience ensures the program can provide the full range of intended services including risk assessments, diagnostics, and case management. Since these are rather uncommon services provided directly at the local level of government, staff engaged the City's insurance provider, the Washington Cities Insurance Authority (WCIA) Pool, to discuss adding this new group of employees and services to the City's insurance policy. WCIA was unable to guarantee coverage in the event of a claim for medical malpractice and recommended the City pursue additional coverage through a provider that specializes in mental health professional liability insurance, CPH & Associates. Community Responder positions will be filled contingent upon the incumbent's ability to receive supplemental insurance, which will be paid for by the City. Once the program needs are assessed by the Supervisor with support from the Community Responder Lead – NR, the remaining Community Responder positions may be filled at a lower level of education and experience to increase the size and diversity of the applicant pool. If that is the recommendation to best meet the program needs, supplemental insurance may not be part of those qualifications.

Mobile Integrated Health and EMT Staffing

Management is working with IAFF to evaluate options for how to staff the first responder position within the MIH Unit. Due to the nature of the duties of the MIH unit, there is ongoing discussion about whether MIH should be staffed by EMT-only personnel, rather than EMT-Firefighters. Pursuing this option would require a Memorandum of Understanding between the City and IAFF as it is adding an additional class of personnel not currently employed by the City or represented by this bargaining unit. The 2021-2022 budget assumes one EMT-Firefighter position would be assigned to this unit. However, to ensure 24/7 coverage that is paired with the Community Responders, the MIH unit will require four additional personnel. Council is asked to authorize an additional 4.0 FTEs to the

2021-2022 budget to meet this need. It is anticipated the additional funding could be provided through the Ground Emergency Medical Transport (GEMT) funds, which are Medicaid reimbursements of transport costs. Staff will update City Council on the EMT or EMT-Firefighter decision that results from negotiation with the IAFF and provide a funding proposal during the Mid Biennial budget discussions.

Hiring and Onboarding Schedule

To set the program up for success, staff have developed a phased approach to hiring and onboarding. Staff will prioritize its first recruitment efforts on the Community Responder Supervisor, Community Responder Lead-Neighborhood Resource, and Community Responder-MIH in September 2021. Shortly after the Supervisor begins, the Community Responder-MIH and MIH-EMT or EMT-Firefighter will be onboarded to work together to develop the new MIH unit. Factoring in recruitment, hiring, and background checks, these positions would likely start in early December 2021. The Community Responder Lead-Neighborhood Resource function is currently filled by a contracted service but will also be prioritized as an early hire so they can provide the "Lead" support duties to the Supervisor to develop the program. After a few months of responding, the Supervisor, Community Responder Lead-Neighborhood Resource, and Community Responder-MIH and MIH-EMT or EMT-Firefighter will have the best understanding to date of the service gaps and needs. The hiring schedule builds in time for any necessary adjustments to the Community Responder job description or recruitment strategy to meet the community needs. Staff anticipate the three additional Community Responders would likely be hired in early 2022.

It is important to note that staff is currently providing mental health provider support via the Police Proposition 1 MHP position and the RADAR program. The initial hires will also begin engaging with the community immediately as part of assessing the needs of the program moving forward. This engagement will include contacting individuals in need that have already been identified through the data maintained by Fire and Police.

Council Action Requested

If the Council concurs with the staff recommendation, the Council should authorize the FTEs by approving the following motion:

"I move we authorize the City Manager to add six additional on-going FTEs to the City Manager's Office and four additional on-going FTEs to the Fire Department to implement the Community Responder program and to include these FTEs and on-going funding options for these positions in the mid-biennial budget update."



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Deputy City Manager
Chris Dodd, Facilities Services Manager

Date: August 26, 2021

Subject: PROPOSED PURCHASE OF REAL PROPERTY – 11825 100TH AVE. NE

RECOMMENDATION:

It is recommended that the City Council approve the attached resolution authorizing the City Manager to execute a purchase and sale agreement in the amount of \$2,250,000 for the acquisition of real property located at 11825 100th Ave, NE., also known as the Village Plaza and approves the proposed interfund loan. The intent is to then sell the complex to the King County Housing Authority (KCHA), with the City utilizing the Real Estate Excise Tax (REET) budgeted for housing to subsidize the price. Once both transactions are complete, the complex will remain dedicated affordable housing owned and operated by the KCHA.

BACKGROUND DISCUSSION:

A clear goal of the City Council is to increase the number of affordable housing units available in Kirkland. With the high cost of housing in the region, "attainable housing" goals are key to allowing access to housing that meets a diverse range of incomes and needs. Acquiring this property allows the City to add 6 units of affordable housing.

Funding

As previously presented to the Council, the initial purchase is proposed to occur through an interfund loan. The proposed funding for the purchase is a 3-year interfund loan from the Water Sewer Capital fund in an amount up to \$2.4 million to recognize potential closing costs. Use of the interfund loan provides the City with the ability to secure the property immediately to ensure more affordable housing units. Although several potential housing uses were initially discussed, the City Manager is recommending that ownership by the KCHA is the best long-term use of the site. The City and KCHA will jointly fund the repayment of the loan which will allow KCHA to own and operate the complex.

The State provides the minimum acceptable procedures for making and accounting for interfund loans and the terms below are consistent with that guidance. Staff has analyzed the cash flow needs of the Water Sewer Capital fund and finds that there are sufficient funds available to make this loan for the three-year period. The estimated interfund loan terms will be:

- Up to \$2.4 million from the Water Sewer Capital fund,
- The term will be three years, but the loan can be repaid any time during that period,
- The interest rate paid on these loans will be 0.15%, based on the interest that those funds would be expected to earn during the loan term.
- Interest will accrue during the period and will be paid to the loaning fund at the point the long-term funding is put in place.

The proposed resolution includes the authorization of the interfund loan. It is important to recognize that the interfund loan represents short-term funding only and needs to be repaid in full, with interest, at that end of the term, once a long-term funding source is secured.

When the City Manager brought the potential purchase to the Council, three options for the complex were discussed: dedicated affordable housing; workforce housing for City employees; and emergency housing for those experiencing homelessness. Following initial discussions, the King County Housing Authority (KCHA) indicated their strong desire to acquire the housing through another successful partnership with the City. The intention, at this time, would be the City sells the property to the King County Housing Authority after applying \$1 million from the REET set-aside for housing fund to the repayment of the interfund loan. KCHA would contribute the remaining cost of approximately \$1.4 million, which would be used to repay the loan in full. For this transaction to be completed, staff would return to the City Council in December and add this asset to the Capital Facilities Plan with a complete understanding of how the property would be used and a final funding package.

The KCHA has indicated that they would be able to manage the property from the time the City closes on the asset until the transfer of ownership. Any agreement necessary to close this transaction will be brought forward for Council approval at a future date.

Should the KCHA partnership not come to fruition, there are several other options that would be considered including, but not limited to: added to the affordable housing inventory and transferred to a housing provider such as the Friends of Youth or Attain Housing. The property could become workforce housing for employees joining the City

of Kirkland from out of state or the region. The property could serve as housing for those experiencing homelessness. Each of these options has operational and financial complexities that have not yet been defined or evaluated.

Should the City be unable to find a sustainable and appropriate use or secure an appropriate funding source, the ability to sell the property back to the marketplace before the three years lapse is always an option.

Property Inspection

An inspection of the property was conducted on August 3, 2021 as part of the City conducted “due diligence” with respect to the land and the structures on the property. KCHA staff joined Kirkland staff during the inspection.

No major problems were discovered during the inspection. City staff anticipates the City would proceed with closing on or before October 16, 2021 without the need for further Council action. Staff is anticipating acquisition would not take the full term and close well before then.

RESOLUTION R-5490

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO EXECUTE A REAL ESTATE PURCHASE AND SALE AGREEMENT FOR PROPERTY LOCATED AT 11825 100th AVENUE NE IN KIRKLAND AND KNOWN AS THE VILLAGE PLAZA FOR PUBLIC PURPOSES AND APPROVING AN INTERFUND LOAN FROM THE WATER SEWER CAPITAL FUND IN CONNECTION THEREWITH.

1 WHEREAS, an important goal of the City Council is to
2 increase the number of affordable housing units in Kirkland; and
3

4 WHEREAS, other important Council goals include City
5 workforce housing and temporary housing for individuals
6 experiencing homelessness; and
7

8 WHEREAS, the purchase of the property located at 11825
9 100th Avenue NE in Kirkland and known as The Village Plaza
10 ("Property") has been negotiated with the owner thereof for the
11 purchase price of \$2,250,000; and
12

13 WHEREAS, the Property would initially be used by the City
14 to create more affordable housing units in Kirkland while allowing
15 additional time for the City to more fully explore the best long-
16 term public purpose use of the site; and
17

18 WHEREAS, City staff are exploring a potential new
19 partnership with the King County Housing Authority ("KCHA") in
20 connection with such affordable housing units; and
21

22 WHEREAS, additional longer-term options could include
23 transfer of the Property to another public housing provider, such
24 as Friends of Youth or Attain Housing, or the use of the Property
25 either as City workforce housing or as temporary housing for
26 individuals experiencing homelessness; and
27

28 WHEREAS, City staff is considering options for an ongoing
29 funding strategy for the purchase of the Property and
30 recommending an interim funding strategy that includes a 3-year
31 interfund loan of up to \$2.4 million from the Water Sewer Capital
32 Fund; and
33

34 WHEREAS, the Council wishes to authorize the purchase of
35 the Property by the City and the recommended interfund loan
36 from the Water Sewer Capital Fund.

37
38 NOW, THEREFORE, be it resolved by the City Council of the
39 City of Kirkland as follows:
40

41 Section 1. The City Manager is hereby authorized and
42 directed to execute on behalf of the City of Kirkland a Real Estate
43 Purchase and Sale Agreement for the property located at 11825
44 100th Avenue NE in Kirkland and known as The Village Plaza for
45 public purposes and in a form substantially similar to that attached
46 to this Resolution as Exhibit "A."
47

48 Section 2. The recommended 3-year interfund loan from
49 the Water Sewer Capital Fund in an amount up to \$2.4 million is
50 approved as an interim financial strategy for the acquisition of the
51 Property pursuant to Section 1.
52

53 Passed by majority vote of the Kirkland City Council in open
54 meeting this ____ day of _____, 2021.
55

56 Signed in authentication thereof this ____ day of
57 _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 1 of 17

COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT

This has been prepared for submission to your attorney for review and approval prior to signing. No representation is made by licensee as to its sufficiency or tax consequences

SPECIFIC TERMS

Reference Date: July 15, 2021

Offer Expiration Date: _____ 5:00pm (the third day after Reference Date, if not completed)

1. **PROPERTY:** The Property is legally described on Exhibit A. Address: 11825 100th Ave NE _____
 City of Kirkland, King County, Washington. Tax Parcel No(s): 302605-9232
Included Personal Property: ☒ None; ☐ If on and used in connection with the Property, per Section 25
 (None, if not completed).
2. **BUYER(S):** CITY OF KIRKLAND
 a(n) _____
3. **SELLER(S):** KENDALL RUD
 a(n) individual
4. **PURCHASE PRICE:** \$ 2,250,000.00 Dollars
 Payable as: ☒ Cash; ☐ Financing (attach CBA Form PS_FIN); ☐ Other: _____
5. **EARNEST MONEY:** \$ 50,000.00 Dollars; Held by: ☐ Selling Firm; ☒ Closing Agent
Form of Earnest Money: ☐ Wire/Electronic Transfer; ☐ Check; ☒ Note (attach CBA Form PS_EMN); ☐
 Other: _____
Earnest Money Due Date: ☐ _____ days after Mutual Acceptance; ☐ _____ days after the Feasibility
 Contingency Date; or ☐ _____
6. **FEASIBILITY CONTINGENCY DATE:** ☐ _____; ☒ 60 days after Mutual Acceptance (30 days after
 Mutual Acceptance if not completed.)
7. **CLOSING DATE:** ☐ _____; ☒ on or before 10 days after removal of Feasibility Contingency
8. **CLOSING AGENT:** Chicago Title & Escrow
9. **TITLE INSURANCE COMPANY:** Chicago Title & Escrow
10. **DEED:** ☒ Statutory Warranty Deed; or ☐ Bargain and Sale Deed.
11. **POSSESSION:** ☒ on closing; ☐ Other: _____ (on closing if not completed).
12. **SELLER CITIZENSHIP (FIRPTA):** Seller ☐ is; ☒ is not a foreign person for purposes of U.S. income
 taxation.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 2 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- 13. BUYER'S DEFAULT:** (check only one) ☒ Forfeiture of Earnest Money; ☐ Seller's Election of Remedies.
- 14. SELLER'S DEFAULT:** (check only one) ☒ Recover Earnest Money or Specific Enforcement; ☐ Buyer's Election of Remedies.
- 15. UNPAID UTILITIES:** Buyer and Seller ☒ Do Not Waive (attach CBA Form UA); ☐ Waive
- 16. AGENCY DISCLOSURE:** Selling Broker represents: ☐ Buyer; ☐ Seller; ☐ both parties; ☐ neither party
 Listing Broker represents: ☒ Seller; ☐ both parties
- 17. EXHIBITS AND ADDENDA.** The following Exhibits and Addenda are made a part of this Agreement:
- | | |
|---|---|
| <input type="checkbox"/> Earnest Money Promissory Note, CBA Form EMN | <input type="checkbox"/> Back-Up Addendum, CBA Form BU-A |
| <input checked="" type="checkbox"/> Blank Promissory Note, LPB Form No. 28A | <input type="checkbox"/> Vacant Land Addendum, CBA Form VLA |
| <input type="checkbox"/> Blank Short Form Deed of Trust, LPB Form No. 20 | <input type="checkbox"/> Financing Addendum, CBA Form PS_FIN |
| <input type="checkbox"/> Blank Deed of Trust Rider, CBA Form DTR | <input type="checkbox"/> Tenant Estoppel Certificate, CBA Form PS_TEC |
| <input checked="" type="checkbox"/> Utility Charges Addendum, CBA Form UA | <input type="checkbox"/> Defeasance Addendum, CBA Form PS_D |
| <input type="checkbox"/> FIRPTA Certification, CBA Form 22E | <input checked="" type="checkbox"/> Lead-Based Paint Disclosure, CBA Form LP-LS |
| <input type="checkbox"/> Assignment and Assumption, CBA Form PS-AS | <input type="checkbox"/> Other: _____ |
| <input checked="" type="checkbox"/> Addendum/Amendment, CBA Form PSA | <input type="checkbox"/> Other: _____ |

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 3 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

18. IDENTIFICATION OF THE PARTIES. The following is the contact information for the parties involved in this Agreement:

Buyer(s):

Contact: CITY OF KIRKLAND

Address: _____

Business Phone: _____

Cell Phone: _____

Fax: _____

Email: _____

Selling Firm

Name: _____

Assumed Name: _____

Selling Broker: _____

Selling Broker DOL License No.: _____

Firm Address: _____

Firm Phone: _____

Broker Phone: _____

Firm Email: _____

Broker Email: _____

Fax: _____

CBA Office No.: _____

Selling Firm DOL License No.: _____

Copy of Notices to Buyer to :

Name: _____

Company: _____

Address: _____

Business Phone: _____

Fax: _____

Cell Phone: _____

Email: _____

Seller(s):

Contact: KENDALL RUD

Address: _____

Business Phone: _____

Cell Phone: _____

Fax: _____

Email: _____

Listing Firm

Name: Westlake Associates, Inc.

Assumed Name: _____

Listing Broker: Travis Kannier

Listing Broker DOL License No.: _____

Firm Address: 1200 Westlake Ave N, Ste 310
 Seattle, WA 98109

Firm Phone: _____

Broker Phone: 206-505-9428

Firm Email: _____

Broker Email:
travisk@westlakeassociates.com

Fax: 206-505-9439

CBA Office No.: 9262

Listing Firm DOL License No.: 3379

Copy of Notices to Seller to :

Name: _____

Company: _____

Address: _____

Business Phone: _____

Fax: _____

Cell Phone: _____

Email: _____

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 4 of 17

COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT (CONTINUED)

GENERAL TERMS

- 19. Purchase and Sale.** Buyer agrees to buy and Seller agrees to sell the commercial real estate identified in Section 1 as the Property and all improvements thereon. Unless expressly provided otherwise in this Agreement or its Addenda, the Property shall include (i) all of Seller's rights, title and interest in the Property, (ii) all easements and rights appurtenant to the Property, (iii) all buildings, fixtures, and improvements on the Property, (iv) all unexpired leases and subleases; and (v) all included personal property.
- 20. Acceptance; Counteroffers.** If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the _____ day (if not filled in, the second day) following receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to Buyer. No acceptance, offer or counteroffer from Buyer is effective until a signed copy is received by Seller, the Listing Broker or the licensed office of the Listing Broker. No acceptance, offer or counteroffer from Seller is effective until a signed copy is received by Buyer, the Selling Broker or the licensed office of the Selling Broker. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully-signed counteroffer has been received by the offeror, his or her broker, or the licensed office of the broker. If any party is not represented by a broker, then notices must be delivered to that party and shall be effective when received by that party.
- 21. Earnest Money.** Selling Broker and Selling Firm are authorized to transfer Earnest Money to Closing Agent as necessary. Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, whichever occurs later. If the Earnest Money is to be held by Selling Firm and is over \$10,000, it shall be deposited to: ☐ the Selling Firm's pooled trust account (with interest paid to the State Treasurer); or ☒ a separate interest bearing trust account in Selling Firm's name, provided that Buyer completes an IRS Form W-9 (if not completed, separate interest bearing trust account). The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is entitled to the Earnest Money is entitled to interest. Unless otherwise provided in this Agreement, the Earnest Money shall be applicable to the Purchase Price.
- 22. Title Insurance.**
- a. **Title Report.** Seller authorizes Buyer, its Lender, Listing Broker, Selling Broker or Closing Agent, at Seller's expense, to apply for and deliver to Buyer a standard coverage owner's policy of title insurance from the Title Insurance Company. Buyer shall have the discretion to apply for an extended coverage owner's policy of title insurance and any endorsements, provided that Buyer shall pay the increased costs associated with an extended policy including the excess premium over that charged for a standard coverage policy, the cost of any endorsements requested by Buyer, and the cost of any survey required by the title insurer. If Seller previously received a preliminary commitment from a title insurer that Buyer declines to use, Buyer shall pay any cancellation fee owing to the original title insurer. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed.
- b. **Permitted Exceptions.** Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (a) _____ days (20 days if not completed) after receipt of the preliminary commitment for title insurance; or (b) the Feasibility Contingency Date. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections Seller shall give notice, in writing,

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 5 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

of its intent to remove all objectionable provisions before Closing. If Seller fails to give timely notice that it will clear all disapproved objections, this Agreement shall automatically terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless Buyer notifies Seller within three (3) days that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within three (3) days of receipt of the supplemental report by Buyer and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The Closing Date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided, however, that the lien securing any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, those provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the "Permitted Exceptions." Seller shall reasonably cooperate with Buyer and the title company to clear objectionable title matters and shall provide an affidavit containing the information and reasonable covenants requested by the title company. The title policy shall contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the Permitted Exceptions.

- c. **Title Policy.** At Closing, Buyer shall receive an ALTA Form 2006 Owner's Policy of Title Insurance with standard or extended coverage (as specified by Buyer) dated as of the Closing Date in the amount of the Purchase Price, insuring that fee simple title to the Property is vested in Buyer, subject only to the Permitted Exceptions ("Title Policy"), provided that Buyer acknowledges that obtaining extended coverage may be conditioned on the Title Company's receipt of a satisfactory survey paid for by Buyer. If Buyer elects extended coverage, then Seller shall execute and deliver to the Title Company on or before Closing the such affidavits and other documents as the Title Company reasonably and customarily requires to issue extended coverage.

23. Feasibility Contingency. Buyer's obligations under this Agreement are conditioned upon Buyer's satisfaction, in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the Property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives notice that the Feasibility Contingency is satisfied to Seller before 5:00pm on the Feasibility Contingency Date. If such notice is timely given, the feasibility contingency shall be deemed to be satisfied and Buyer shall be deemed to have accepted and waived any objection regarding any aspects of the Property as they exist on the Feasibility Contingency Date.

- a. **Books, Records, Leases, Agreements.** Within 2 days (3 days if not filled in) Seller shall deliver to Buyer or post in an online database maintained by Seller or Listing Broker, to which Buyer has been given unlimited access, true, correct and complete copies of all documents in Seller's possession or control relating to the ownership, operation, renovation or development of the Property, excluding appraisals or other statements of value, and including the following: statements for real estate taxes, assessments, and utilities for the last three years and year to date; property management agreements and any other agreements with professionals or consultants; leases or other agreements relating to occupancy of all or a portion of the Property and a suite-by-suite schedule of tenants, rents, prepaid rents, deposits and fees; plans, specifications, permits, applications, drawings, surveys, and studies; maintenance records, accounting records and audit reports for the last three years and year to date; any existing environmental reports; any existing surveys; any existing inspection reports; and "Vendor Contracts" which shall include

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 6 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

maintenance or service contracts, and installments purchase contracts or leases of personal property or fixtures used in connection with the Property. Buyer shall determine by the Feasibility Contingency Date: (i) whether Seller will agree to terminate any objectionable Vendor Contracts; and (ii) whether Seller will agree to pay any damages or penalties resulting from the termination of objectionable Vendor Contracts. Buyer's waiver of the Feasibility Contingency shall be deemed Buyer's acceptance of all Vendor Contracts which Seller has not agreed in writing to terminate. Buyer shall be solely responsible for obtaining any required consents to such assumption and the payment of any assumption fees. Seller shall cooperate with Buyer's efforts to receive any such consents but shall not be required to incur any out-of-pocket expenses or liability in doing so. Any information provided or to be provided by Seller with respect to the Property is solely for Buyer's convenience and Seller has not made any independent investigation or verification of such information (other than that the documents are true, correct, and complete, as stated above) and makes no representations as to the accuracy or completeness of such information, except to the extent expressly provided otherwise in this Agreement. Seller shall transfer the Vendor Contracts as provided in Section 25.

- b. **Access.** Seller shall permit Buyer and its agents, at Buyer's sole expense and risk, to enter the Property at reasonable times subject to the rights of and after legal notice to tenants, to conduct inspections concerning the Property, including without limitation, the structural condition of improvements, hazardous materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, confidentiality, and disruption of Seller's tenants. Prior to entering the Property and while conducting any inspections, Buyer shall, at no cost or expense to Seller: (a) procure and maintain commercial general liability (occurrence) insurance in an amount no less than \$2,000,000 on commercially reasonable terms adequate to insure against all liability arising out of any entry onto or inspections of the Property that lists Seller and Tenant as additional insureds; and (b) deliver to Seller prior to entry upon the Property certificates of insurance for Buyer and any applicable agents or representatives evidencing such required insurance. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants or property management personnel without obtaining Seller's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. Buyer shall restore the Property and all improvements to substantially the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents, which obligation shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the Feasibility Contingency only for the purpose of leasing or to satisfy conditions of financing.
- c. Buyer waives, to the fullest extent permissible by law, the right to receive a seller disclosure statement (e.g. "Form 17") if required by RCW 64.06 and its right to rescind this Agreement pursuant thereto. However, if Seller would otherwise be required to provide Buyer with a Form 17, and if the answer to any of the questions in the section of the Form 17 entitled "Environmental" would be "yes," then Buyer does not waive the receipt of the "Environmental" section of the Form 17 which shall be provided by Seller.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 7 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- 24. Conveyance.** Title shall be conveyed subject only to the Permitted Exceptions. If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the deed shall include a contract vendee's assignment sufficient to convey after-acquired title. At Closing, Seller and Buyer shall execute and deliver to Closing Agent CBA Form PS-AS Assignment and Assumption Agreement transferring all leases and Vendor Contracts assumed by Buyer pursuant to Section 25(b) and all intangible property transferred pursuant to Section 25(b).
- 25. Personal Property.**
- a. If this sale includes the personal property located on and used in connection with the Property, Seller will itemize such personal property in an Exhibit to be attached to this Agreement within ten (10) days of Mutual Acceptance. The value assigned to any personal property shall be ☐ \$ _____ (if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Broker and Selling Broker). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.
 - b. In addition to the leases and Vendor Contracts assumed by Buyer pursuant to Section 24 above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.
- 26. Seller's Underlying Financing.** Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at closing. In addition, Seller shall provide Buyer notice prior to the Feasibility Contingency Date if Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in CBA Form PS_D or any different process identified in Seller's defeasance notice to Buyer.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 8 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- 27. Closing of Sale.** Buyer and Seller shall deposit with Closing Agent by 12:00 p.m. on the scheduled Closing Date all instruments and monies required to complete the purchase in accordance with this Agreement. Upon receipt of such instruments and monies, Closing Agent shall cause the deed to be recorded and shall pay to Seller, in immediately available funds, the Purchase Price less any costs or other amounts to be paid by Seller at Closing. "Closing" shall be deemed to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in the performance of this Agreement. Sale proceeds shall be considered available to Seller, even if they cannot be disbursed to Seller until the next business day after Closing. Notwithstanding the foregoing, if Seller informed Buyer before the Feasibility Contingency Date that Seller's underlying financing requires that it be defeased and may not be paid off, then Closing shall be conducted in accordance with the three(3)-day closing process described in CBA Form PS_D. This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent with this Agreement.
- 28. Closing Costs and Prorations.** Seller shall deliver an updated rent roll to Closing Agent not later than two (2) days before the scheduled Closing Date in the form required by Section 23(a) and any other information reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. Seller certifies that the information contained in the rent roll is correct as of the date submitted. Seller shall pay the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection with the same. Seller and Buyer shall each pay one-half of the escrow fees. Any real estate excise taxes shall be paid by the party who bears primary responsibility for payment under the applicable statute or code. Real and personal property taxes and assessments payable in the year of closing; collected rents on any existing tenancies; expenses already incurred by Seller that relate to services to be provided to the Property after the Closing Date; interest; utilities; and other operating expenses shall be pro-rated as of Closing. Seller will be charged and credited for the amounts of all of the pro-rated items relating to the period up to and including 11:59 pm Pacific Time on the day preceding the Closing Date, and Buyer will be charged and credited for all of the pro-rated items relating to the period on and after the Closing Date. If tenants pay any of the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. Buyer shall pay to Seller at Closing an additional sum equal to any utility deposits or mortgage reserves for assumed financing for which Buyer receives the benefit after Closing. Buyer shall pay all costs of financing including the premium for the lender's title policy. If the Property was taxed under a deferred classification prior to Closing, then Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the Property from the deferred classification. At Closing, all refundable deposits on tenancies shall be credited to Buyer or delivered to Buyer for deposit in a trust account if required by state or local law. Buyer shall pay any sales or use tax applicable to the transfer of personal property included in the sale.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 9 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- 29. Post-Closing Adjustments, Collections, and Payments.** After Closing, Buyer and Seller shall reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items were prorated or credited at Closing based upon estimates. Any bills or invoices received by Buyer after Closing which relate to services rendered or goods delivered to the Seller or the Property prior to Closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Notwithstanding the foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting from the reconciliation. Rents collected from each tenant after Closing shall be applied first to rentals due most recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of delinquent rents but shall have no right to evict tenants after Closing. Any adjustment shall be made, if any, within 180 days of the Closing Date, and if a party fails to request an adjustment by notice delivered to the other party within the applicable period set forth above (such notice to specify in reasonable detail the items within the Closing Statement that such party desires to adjust and the reasons for such adjustment), then the allocations and prorations at Closing shall be binding and conclusive against such party.
- 30. Operations Prior to Closing.** Prior to Closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of Mutual Acceptance but shall not be required to repair material damage from casualty except as otherwise provided in this Agreement. After the Feasibility Contingency Date, Seller shall not enter into or modify existing rental agreements or leases (except that Seller may enter into, modify, extend, renew or terminate residential rental agreements or residential leases for periods of 12 months or less in the ordinary course of its business), service contracts, or other agreements affecting the Property which have terms extending beyond Closing without obtaining Buyer's consent, which shall not be withheld unreasonably.
- 31. Possession.** Buyer shall accept possession subject to all tenancies disclosed to Buyer before the Feasibility Contingency Date.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 10 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

32. Seller's Representations. Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the Feasibility Contingency, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller represents to Buyer that, to the best of Seller's actual knowledge, each of the following is true as of the date hereof: (a) Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations under the Agreement, and no further consent, waiver, approval or authorization is required from any person or entity to execute and perform under this Agreement; (b) The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Seller's possession or control regarding the operation and condition of the Property, are true, accurate and complete to the best of Seller's knowledge, and no other contracts or agreements exist that will be binding on Buyer after Closing; (c) Seller has not received any written notices that the Property or any business conducted thereon violate any applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after Closing; (f) There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district; (g) Seller has paid (except to the extent prorated at Closing) all local, state and federal taxes (other than real and personal property taxes and assessments described in Section 28 above) attributable to the period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after Closing; (h) Seller is not aware of any concealed material defects in the Property except as disclosed to Buyer before the Feasibility Contingency Date; (i) There are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); there are no underground storage tanks located on the Property; and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property; (j) Seller has not granted any options nor obligated itself in any matter whatsoever to sell the Property or any portion thereof to any party other than Buyer; and (k) Neither Seller nor any of its respective partners, members, shareholders or other equity owners, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute or executive order; and (l) the individual signing this Agreement on behalf of Seller represents and warrants to Buyer that he or she has the authority to act on behalf of and bind Seller. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to Closing Seller or Buyer discovers any information which would cause any of the representations above to be false if the representations were deemed made as of the date of such discovery, then the party discovering the information shall promptly notify the other party in writing and Buyer, as its sole remedy, may elect to terminate this Agreement by giving Seller notice of such termination within five (5) days after Buyer first received actual notice (with the Closing Date extended to accommodate such five (5) day period), and in such event, the Earnest Money Deposit shall be returned to Buyer. Buyer shall give notice of termination within five (5) days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly discovered information such that a representation provided for above was false.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 11 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- 33. As-Is.** Except for the express representations and warranties in this Agreement, (a) Seller makes no representations or warranties regarding the Property; (b) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, suitability for Buyer's intended use, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness for a particular purpose, tenantability, habitability and use; (c) Buyer takes the Property "AS IS" and with all faults; and (d) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.
- 34. Buyer's Representations.** Buyer represents that Buyer is authorized to enter into the Agreement; to buy the Property; to perform its obligations under the Agreement; and that neither the execution and delivery of this Agreement nor the consummation of the transaction contemplated hereby will: (a) conflict with or result in a breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Buyer; or (b) constitute a breach of any agreement to which Buyer is a party or by which Buyer is bound. The individual signing this Agreement on behalf of Buyer represents that he or she has the authority to act on behalf of and bind Buyer.
- 35. Claims.** Any claim or cause of action with respect to a breach of the representations and warranties set forth herein shall survive for a period of nine (9) months from the Closing Date, at which time such representations and warranties (and any cause of action resulting from a breach thereof not then in litigation, including indemnification claims) shall terminate. Notwithstanding anything to the contrary in this Agreement: (a) Buyer shall not make a claim against Seller for damages for breach or default of any representation or warranty, unless the amount of such claim is reasonably anticipated to exceed \$25,000; and (b) under no circumstances shall Seller be liable to Buyer on account of any breach of any representation or warranty in the aggregate in excess of the amount equal to \$250,000, except in the event of Seller's fraud or intentional misrepresentation with respect to any representation or warranty regarding the environmental condition of the Property, in which case Buyer's damages shall be unlimited.
- 36. Condemnation and Casualty.** Seller bears all risk of loss until Closing, and thereafter Buyer bears all risk of loss. Buyer may terminate this Agreement and obtain a refund of the earnest money if improvements on the Property are materially damaged or if condemnation proceedings are commenced against all or a portion of the Property before Closing, to be exercised by notice to Seller within ten (10) days after Seller's notice to Buyer of the occurrence of the damage or condemnation proceedings. Damage will be considered material if the cost of repair exceeds the lesser of \$100,000 or five percent (5%) of the Purchase Price. Alternatively, Buyer may elect to proceed with closing, in which case, at Closing, Seller shall not be obligated to repair any damage, and shall assign to Buyer all claims and right to proceeds under any property insurance policy and shall credit to Buyer at Closing the amount of any deductible provided for in the policy.
- 37. FIRPTA Tax Withholding at Closing.** Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act, and Seller shall sign it on or before Closing. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 12 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- 38. Notices.** Unless otherwise specified, any notice required or permitted in, or related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and must be delivered to Seller and Listing Broker with a courtesy copy to any other party identified as a recipient of notices in Section 18. A notice to Seller shall be deemed delivered only when received by Seller and Listing Broker, or the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and must be delivered to Buyer, with a copy to Selling Broker and with a courtesy copy to any other party identified as a recipient of notices in Section 18. A notice to Buyer shall be deemed delivered only when received by Buyer and Selling Broker, or the licensed office of Selling Broker. Selling Broker and Listing Broker otherwise have no responsibility to advise parties of receipt of a notice beyond either phoning the represented party or causing a copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller shall keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective when received by that party at the address, fax number, or email indicated in Section 18. Facsimile transmission of any notice or document shall constitute delivery. E-mail transmission of any notice or document (or a direct link to such notice or document) shall constitute delivery when: (i) the e-mail is sent to both Selling Broker and Selling Firm or both Listing Broker and Listing Firm at the e-mail addresses specified on page two of this Agreement; or (ii) Selling Broker or Listing Broker provide written acknowledgment of receipt of the e-mail (an automatic e-mail reply does not constitute written acknowledgment). At the request of either party, or the Closing Agent, the parties will confirm facsimile or e-mail transmitted signatures by signing an original document.
- 39. Computation of Time.** Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean Pacific Time and shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, times or number of hours; provided, however, that if the Closing Date falls on a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, or a date when the county recording office is closed, then the Closing Date shall be the next regular business day. If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached.
- 40. Assignment.** Buyer's rights and obligations under this Agreement are not assignable without the prior written consent of Seller, which shall not be withheld unreasonably; provided, however, Buyer may assign this Agreement without the consent of Seller, but with notice to Seller, to any entity under common control and ownership of Buyer, provided no such assignment shall relieve Buyer of its obligations hereunder. If the words "and/or assigns" or similar words are used to identify Buyer in Section 2, then this Agreement may be assigned with notice to Seller but without need for Seller's consent. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase price, then the party identified as the initial Buyer shall guarantee payment of Seller financing.
- 41. Default and Attorneys' Fees.**

- a. **Buyer's default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the applicable provision as identified in Section 13 shall apply:

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 13 of 17

COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT (CONTINUED)

- i. **Forfeiture of Earnest Money.** Seller may terminate this Agreement and keep that portion of the earnest money that does not exceed five percent (5%) of the Purchase Price as liquidated damages as the sole and exclusive remedy available to Seller for such failure.
- ii. **Seller's Election of Remedies.** Seller may, at its option, (a) terminate this Agreement and keep that portion of the earnest money that does not exceed five percent (5%) of the Purchase Price as liquidated damages as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.
- b. **Seller's default.** In the event Seller fails, without legal excuse, to complete the sale of the Property, then the applicable provision as identified in Section 14 shall apply:
 - i. **Recover Earnest Money or Specific Enforcement.** As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all earnest money or fees paid by Buyer whether or not the same are identified as refundable or applicable to the purchase price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages, provided, however, Buyer must file suit within sixty (60) days from the Closing Date or from the date Seller has provided notice to Buyer that Seller will not proceed with closing, whichever is earlier.
 - ii. **Buyer's Election of Remedies.** Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.
- c. Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and costs. In the event of trial, the amount of the attorneys' fees shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the State of Washington without regard to its principles of conflicts of laws.

42. Miscellaneous Provisions.

- a. **Complete Agreement.** This Agreement and any addenda and exhibits thereto state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement, and no modification of this Agreement shall be effective unless agreed in writing and signed by the parties.
- b. **Counterpart Signatures.** This Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.
- c. **Electronic Delivery and Signatures.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents. The parties acknowledge that a signature in electronic form has the same legal effect as a handwritten signature.
- d. **Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 14 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding this provision, no party shall be obligated to extend closing as part of its agreement to facilitate completion of a like-kind exchange. In addition, notwithstanding Section 40 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

- 43. Information Transfer.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, applications or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.
- 44. Confidentiality.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party.
- 45. Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to the Brokers' Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as a dual agent. If Selling Broker and Listing Broker are the same person representing both parties, then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: PS_1A
 Purchase & Sale Agreement
 Rev. 7/2020
 Page 15 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

46. Seller's Acceptance and Brokerage Agreement. Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. If there is no written listing or commission agreement, Seller agrees to pay a commission of 2.00 % of the sales price or \$ _____. ~~The commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Firm shall pay to Selling Firm a commission of _____ % of the sales price or \$ _____.~~ Seller assigns to Listing Firm and Selling Firm a portion of the sales proceeds equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or committed by Listing Firm ~~or Selling Firm~~ for Buyer or Seller shall be reimbursed or paid therefrom, and the balance shall be paid one-half to Seller and one-half to Listing Firm ~~and Selling Firm~~ according to the listing agreement and any co-brokerage agreement. Seller and Buyer hereby consent to Listing Firm ~~and Selling Firm~~ receiving compensation from more than one party and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing Firm ~~or Selling Firm~~ to enforce this Section, the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Firm nor Selling Firm are receiving compensation from more than one party to this transaction unless disclosed on an attached addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached Exhibit A is commercial real estate. Notwithstanding Section 44 above, the pages containing this Section, the parties' signatures and an attachment describing the Property may be recorded.

Listing Broker and Selling Broker Disclosure. EXCEPT AS OTHERWISE DISCLOSED IN WRITING TO BUYER OR SELLER, THE SELLING BROKER, LISTING BROKER, AND FIRMS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS; THE CONDITION OF THE PROPERTY OR ITS IMPROVEMENTS; THE FITNESS OF THE PROPERTY FOR BUYER'S INTENDED USE; OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS AGREEMENT.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
1200 Westlake Ave N Ste 310
Seattle, WA 98109
Phone: 206-505-9400
Fax: 206-505-9439

© Commercial Brokers
Association
ALL RIGHTS RESERVED



Form: PS_1A
Purchase & Sale Agreement
Rev. 7/2020
Page 16 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer _____
Printed name and type of entity

Buyer _____
Printed name and type of entity

Buyer _____
Signature and title

Buyer _____
Signature and title

Date signed _____

Date signed _____

Seller _____
Printed name and type of entity

Seller _____
Printed name and type of entity

Seller _____
Signature and title

Seller _____
Signature and title

Date signed _____

Date signed _____

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
1200 Westlake Ave N Ste 310
Seattle, WA 98109
Phone: 206-505-9400
Fax: 206-505-9439

© Commercial Brokers
Association
ALL RIGHTS RESERVED



Form: PS_1A
Purchase & Sale Agreement
Rev. 7/2020
Page 17 of 17

**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

EXHIBIT A *
[Legal Description]

PROPERTY ADDRESS: 11825 100th Avenue Northeast, Kirkland, Washington 98034 KING COUNTY

TAX ACCOUNT NUMBER: 302605-9232

LEGAL DESCRIPTION: See attached Quit Claim Deed dated August 13, 2012 between Sandra Louise Rud, wife of Kendall D. Rud, as the Grantor, and Kendall D. Rudd, a married man as his separate estate, as the Grantee, as recorded on August 15, 2012 under King County Recording Number 20120815001948.

* To ensure accuracy in the legal description, consider substituting the legal description contained in the preliminary commitment for title insurance or a copy of the Property's last vesting deed for this page. Do not neglect to label the substitution "Exhibit A." You should avoid transcribing the legal description because any error in transcription may render the legal description inaccurate and this Agreement unenforceable.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____

When recorded return to:
Kendall D. Rud
14624 Horseshoe Avenue Southwest
Port Orchard, WA 98367



E2559042

08/15/2012 15:52
KING COUNTY, WA
TAX \$10.00
SALE \$0.00

PAGE-001 OF 001

Filed for record at the request of:
Fidelity National Title
Company
10655 NE 4th St., Suite 200
Bellevue, WA 98004

Escrow No.: 611030605

2/14/10

QUIT CLAIM DEED

THE GRANTOR(S)

Sandra Louise Rud, wife of Kendall D. Rud

FIDELITY NATIONAL TITLE

for and in consideration of in hand paid, conveys and quit claims to
Kendall D. Rud, a married man as his separate estate

the following described real estate, situated in the County of King, State of Washington together with all
after acquired title of the grantor(s) herein:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Abbreviated Legal: (Required if full legal not inserted above.)

PM 30-26-5

Tax Parcel Number(s): 302605-9232

Dated: August 13, 2012

SLE
Sandra Louise Rud
Sandra Louise Rud

State of WA
County of Pierce

I certify that I know or have satisfactory evidence that Sandra Louise Rud is/are the person(s) who
appeared before me, and said person(s) acknowledged that (he/she/they) signed this of instrument
and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in
this Instrument.

Dated: August 14, 2012



Jeannette L. Colchin
Name: Jeannette L. Colchin
Notary Public in and for the State of WA
Residing at: Bay Harbor, WA
My appointment expires May 9, 2015

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 302605-9232

The easterly 120 feet of the following described property:

That portion of the east half of the southeast quarter of Section 30, Township 26 North, Range 5 East, W.M., in King County, Washington, lying between lines parallel with and distant respectively 1702.86 feet and 1792.86 feet measured along the east line of said subdivision south of the north line of said subdivision;

Except the easterly 30 feet thereof for road.

Situate in the County of King, State of Washington.

ABBREVIATED LEGAL:
Ptn SE1/4, 30-26-5

Unofficial Copy



Westlake Associates, Inc.
1200 Westlake Ave N Ste 310
Seattle, WA 98109
Phone: 206-505-9400
Fax: 206-505-9439

© Commercial Brokers
Association
ALL RIGHTS RESERVED



Form: PSA
Addendum/Amendment to PSA
Rev 1/2011
Page 1 of 1

**ADDENDUM/AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

CBA Text Disclaimer: Text deleted by licensee indicated by strike.
New text inserted by licensee indicated by small capital letters.

The following is part of the Purchase and Sale Agreement dated July 15, 20 21 (the "Agreement") between CITY OF KIRKLAND ("Buyer") and KENDALL RUD ("Seller") regarding the sale of the property known as 11825 100th Ave NE _____ Kirkland WA 98034 (the "Property").

IT IS AGREED BETWEEN THE BUYER AND SELLER AS FOLLOWS:

- 1. CLOSING COSTS AND PRORATIONS.** IN CONNECTION WITH SECTION 28 OF THE PURCHASE & SALE AGREEMENT, SELLER SHALL DELIVER AND ASSIGN TO BUYER ON CLOSING ALL SECURITY, CLEANING AND ANY OTHER UNEARNED DEPOSITS ON TENANCIES MADE UNDER TENANTS' LEASES AND/OR RENTAL AGREEMENTS, INCLUDING BUT NOT LIMITED TO NON-REFUNDABLE CLEANING FEES, OTHER NON-REFUNDABLE FEES AND CHARGES (IF ANY), PREPAID RENT (IF ANY) AND THE AMOUNT OF FUTURE RENTAL CREDITS (IF ANY).
- 2. EXTENSION OF CLOSING DATE.** IF THIS SALE CANNOT BE CLOSED BY THE SPECIFIED DATE HEREIN DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTY WHOSE PERFORMANCE IS DELAYED, CLOSING SHALL BE EXTENDED FOR UP TO FOURTEEN (14) DAYS BEYOND THE THEN SPECIFIED DATE OF CLOSING.
- 3. CONFLICT OF TERMS.** IN THE EVENT ANY OF THE TERMS AND/OR CONDITIONS OF THIS ADDENDUM/AMENDMENT AGREEMENT CONFLICT WITH THE PURCHASE AND SALE AGREEMENT, THE TERMS OF THIS ADDENDUM/AMENDMENT AGREEMENT SHALL PREVAIL.

ALL OTHER TERMS AND CONDITIONS of the Agreement remain unchanged.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: EMN
 Earnest Promissory Note
 Rev. 7/2020
 Page 1 of 1

EARNEST MONEY PROMISSORY NOTE

\$ 50,000.00

Place: Seattle, Washington

Date: _____

FOR VALUE RECEIVED, CITY OF KIRKLAND ("Buyer") agrees to pay to the order of _____ ("Holder") the sum of Fifty-Thousand Dollars (\$ 50,000.00) as follows:

- ☐ _____ days (3 days if not filled in) following mutual acceptance of the Agreement (defined below).
- ☐ Upon satisfaction or waiver of the feasibility contingency stated in the Agreement.
- ☐ Other _____ *.

This Note is evidence of the obligation to pay earnest money under the purchase and sale agreement (the "Agreement") between Buyer and KENDALL RUD ("Seller") with Reference Date July 15, 20 21 for the property located at 11825 100th Ave NE, Kirkland, Washington 98034. Buyer's failure to pay the earnest money strictly as above shall constitute default on the Agreement as well as on this Note.

If Holder retains an attorney for collection of amounts due pursuant to this Note, or if Holder brings suit to collect any amounts due on this Note, Buyer shall pay a reasonable attorney's fee and costs. This Note shall bear interest at the rate of twelve percent (12%) per annum after default.

BUYER

By: _____

Printed Name and Title: _____

* Do not enter "on closing" as the date this Note becomes due and payable because closing under the Agreement is not certain to occur. Instead, insert a specific date or an event that is certain to occur.



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: LP_LS
 Lead-based Paint Disclosure
 Rev. 7/2020
 Page 1 of 2

DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS

CBA Text Disclaimer: Text deleted by licensee indicated by strike.
 New text inserted by licensee indicated by small capital letters.

The following is part of the ☒ Purchase & Sale Agreement ☐ the Lease/Rental Agreement with Reference Date July 15, 2021 between CITY OF KIRKLAND ("Buyer" or "Lessee") and KENDALL RUD ("Seller" or "Lessor") concerning 11825 100th Ave NE Kirkland WA 98034 ("the Property").

Lead Warning Statement—Purchase and Sale Agreements

Every purchase of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Lead Warning Statement—Lease/Rental Agreements

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Seller's/Lessor's Disclosure. Seller/Lessor makes the following disclosures:

- a. Presence of lead-based paint and/or lead-based paint hazards (check one below):
 - ☐ Seller/Lessor knows the following lead-based paint and/or lead-based paint hazards are present in the housing.
 - ☐ Seller/Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- b. Records and reports available to the Seller/Lessor: (check one below):
 - ☐ Seller/Lessor has provided the Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing, as follows:
 - ☐ Seller/Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Buyer's/Lessee's Acknowledgment. Buyer/Lessee acknowledges that:

- c. Buyer/Lessee has received copies of all information listed above.
- d. Buyer/Lessee has received the pamphlet *Protect Your Family from Lead in Your Home*.
- e. If this disclosure is being made by Seller as part of a Purchase and Sale Agreement, then Buyer has

INITIALS: Buyer/Lessee _____ Date _____ Seller/Lessor _____ Date _____
 Buyer/Lessee _____ Date _____ Seller/Lessor _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: LP_LS
 Lead-based Paint Disclosure
 Rev. 7/2020
 Page 2 of 2

DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS

CBA Text Disclaimer: Text deleted by licensee indicated by strike.
 New text inserted by licensee indicated by small capital letters.

(check one below):

☐ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

or

☐ Accepted an opportunity to conduct a ten (10) day risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards as part of the Feasibility Contingency set forth in the Purchase and Sale Agreement.

Licensees' Acknowledgment. Licensees have informed the Seller of the Seller's obligations under 42 U.S.C. 4582(d) and are aware of their responsibility to ensure compliance.

CANCELLATION RIGHTS. If a residential dwelling or housing was built on the Property prior to 1978, this disclosure must be provided to Buyer/Lessee before mutual acceptance of the purchase and sale, rental, or lease agreement. If this disclosure is not provided before mutual acceptance, then Buyer may rescind the purchase and sale, rental, or lease agreement up to three (3) days after Buyer receives this disclosure.

Certification of Accuracy. The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

_____ Buyer/Lessee	_____ Date	_____ Seller/Lessor	_____ Date
_____ Buyer/Lessee	_____ Date	_____ Seller/Lessor	_____ Date
_____ Selling Broker	_____ Date	_____ Listing Broker	_____ Date

INITIALS: Buyer/Lessee _____ Date _____ Seller/Lessor _____ Date _____
 Buyer/Lessee _____ Date _____ Seller/Lessor _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: UA
 Utility Addendum
 Rev. 7/2020
 Page 1 of 2

UTILITY CHARGES ADDENDUM

CBA Text Disclaimer: Text deleted by licensee indicated by strike.
 New text inserted by licensee indicated by small capital letters.

The following is part of the Purchase and Sale Agreement with Reference Date July 15 , 20 21 between CITY OF KIRKLAND ("Buyer") and KENDALL RUD ("Seller") regarding the sale of property located at 11825 100th Ave NE _____, Kirkland _____, WA 98034 (the "Property").

Pursuant to RCW 60.80, Buyer and Seller request the Closing Agent to administer the disbursement of closing funds necessary to satisfy unpaid utility charges affecting the Property. The names and addresses of all utilities providing service to the Property and having lien rights are as follows:

Water District:

 Name

 e-mail or website (optional)

 Address

 City, State, Zip

Sewer District:

 Name

 e-mail or website (optional)

 Address

 City, State, Zip

Irrigation District:

 Name

 e-mail or website (optional)

 Address

 City, State, Zip

Garbage:

 Name

 e-mail or website (optional)

 Address

 City, State, Zip

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



Westlake Associates, Inc.
 1200 Westlake Ave N Ste 310
 Seattle, WA 98109
 Phone: 206-505-9400
 Fax: 206-505-9439

© Commercial Brokers
 Association
 ALL RIGHTS RESERVED



Form: UA
 Utility Addendum
 Rev. 7/2020
 Page 2 of 2

UTILITY CHARGES ADDENDUM (CONTINUED)

Electricity:

Name _____
 e-mail or website (optional) _____
 Address _____
 City, State, Zip _____

Gas:

Name _____
 e-mail or website (optional) _____
 Address _____
 City, State, Zip _____

Special District(s):
 (local improvement districts
 or utility local improvement)

Name _____
 e-mail or website (optional) _____
 Address _____
 City, State, Zip _____

IF THE ABOVE INFORMATION HAS NOT BEEN FILLED IN AT THE TIME OF MUTUAL ACCEPTANCE OF THIS AGREEMENT, THEN (1) WITHIN _____ DAYS (5 DAYS IF NOT FILLED IN) OF MUTUAL ACCEPTANCE OF THIS AGREEMENT, SELLER SHALL PROVIDE THE LISTING BROKER, SELLING BROKER, OR CLOSING AGENT WITH THE NAMES AND ADDRESSES OF ALL UTILITY PROVIDERS HAVING LIEN RIGHTS AFFECTING THE PROPERTY AND (2) BUYER AND SELLER AUTHORIZE LISTING BROKER, SELLING BROKER OR CLOSING AGENT TO INSERT INTO THIS ADDENDUM THE NAMES AND ADDRESSES OF THE UTILITY PROVIDERS IDENTIFIED BY SELLER. SELLER ACKNOWLEDGES THAT THIS ADDENDUM DOES NOT RELIEVE SELLER OF ITS OBLIGATION TO PAY UTILITY CHARGES, BILLED OR UNBILLED OR EVIDENCED BY A RECORDED LIEN OR NOT. THE PARTIES UNDERSTAND THAT NEITHER LISTING BROKER NOR SELLING BROKER IS RESPONSIBLE FOR PAYING UTILITY CHARGES OR FOR INSURING THAT THEY ARE PAID BY ANY OTHER PERSON.

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
 Buyer _____ Date _____ Seller _____ Date _____



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033
425-587-3800

MEMORANDUM

To: Kurt Triplett, City Manager

From: Julie Underwood, Director of Public Works
John Starbard, Deputy Director of Public Works
Stephanie Croll, Senior Assistant City Attorney

Date: August 26, 2021

Subject: PROPOSED COMMUNICATIONS MASTER USE PERMIT—ZAYO—FIRST
READING

RECOMMENDATION:

It is recommended that the City Council satisfy a statutory procedure to have a first reading of a proposed Communications Master Use Permit that may be granted to Zayo Group, LLC, at a future City Council meeting.

BACKGROUND DISCUSSION:

Certain utility entities that are not operated directly by the municipality itself—e.g., electricity, natural gas—have franchise agreements with those municipalities in which they operate. The franchise agreements regulate the use of the local public rights-of-way by those utilities. In 2000, the Legislature amended the *Revised Code of Washington* concerning telecommunication and cable television services so that they were to be regulated by “Master Permits,” meaning an agreement “in whatever form” the local government chose to use provided that form was consistent with RCW 35.99. Practically, a franchise agreement and a Master Permit are synonymous. In 2009, in conjunction with other amendments the City was addressing related to telecommunications and cable television services, the Council repealed and adopted a new title 26 in the *Kirkland Municipal Code*, “Right-of-Way—Communications,” that uses the term “Communications Master Use Permit” (CMUP), identifies the process for obtaining one, and details how they are regulated.

On December 7, 1999, the City granted Metromedia Fiber Network Services (MFNS) a franchise agreement. The initial term was ten years with two five-year renewal options for a potential total of twenty years. Subsequent to the execution of the initial franchise, there were two changes in ownership:

- AboveNet became the successor in interest to MFNS, then
- Zayo became the successor in interest to AboveNet.

On July 29, 2010, the City and AboveNet extended the franchise for an additional five year term through December 15, 2014. The City cannot find a record of the franchise being extended beyond December 15, 2014.

Separate from its acquisition of AboveNet facilities in the City, Zayo acquired different telecommunication facilities in the City from Electric Lightwave LLC. The City and Electric Lightwave entered into a franchise agreement in April 2012 that had a term lasting until June 2028, unless terminated sooner. Zayo acquired the Electric Lightwave facilities on March 1, 2017, and the Electric Lightwave franchise was assigned to Zayo at that time. Unlike the expired franchise that was assigned to Zayo from AboveNet, the franchise it acquired from Electric Lightwave is still in full force and effect, but only for the facilities that had been owned by Electric Lightwave.

Were this proposed CMUP to be approved by the Council at a future meeting, it would apply to all Zayo-owned facilities in Kirkland and would make the "Electric Lightwave/Zayo franchise" redundant. Zayo wishes to terminate that franchise coincident with the effective date of this proposed CMUP, which may be approximately September 26, 2021. Such termination is administrative, and Zayo agrees to the form of the termination instrument as supplied by the City (see Attachment A, Termination of Franchise Agreement).

Zayo and staff have been working for quite some time to have Zayo obtain a CMUP. The parties have agreed to a proposed CMUP for the Council's consideration and future action. Action is anticipated to be September 21, 2021. The CMUP is in the form of an ordinance (see Attachment B), and its terms are summarized below.

- Section 2. The permitted area is only the public rights-of-way within the City limits, including any annexation areas subsequent to the effective date of the ordinance, but does not include any other City-owned property (e.g., park land, the Cross Kirkland Corridor, etc.).
- Section 3. Zayo's facilities in the rights-of-way shall not interfere with free and safe passage by others within the rights-of-way. All excavation work requires a City permit.
- Section 4. Underground facilities shall be placed where similar underground utilities are located. Above ground facilities shall be on utility poles. No new poles shall be permitted, but replacement poles may be permitted. The City has the right, per law, to require Zayo to move its facilities.
- Section 7. This is not an exclusive permit for Zayo. The City may issue other permits in the same area and for the same or other purposes.
- Section 8. The permit term is ten years with the option to extend for another ten years by mutual agreement. If the parties fail to renew the permit, it shall continue either until it is renewed or either party gives at least 180 days' notice to terminate the permit.
- Section 10. New Zayo facilities shall be underground, consistent with Section 4. If the City undertakes a street improvement where Zayo has above ground facilities, the City may direct Zayo to relocate them underground at Zayo's expense.
- Section 12. If either the City or Zayo are performing trenching, either party may ask the other to share the trench for its needs, if agreed. Also, if Zayo is doing trenching, the City may ask for additional conduit or access

structures that benefit the City, provided the City pays the incremental cost. The City may require Zayo to joint trench with a third party.

- Section 14. Zayo may not assign or transfer the CMUP to another party without the City's prior approval; but may, with notice to the City, assign it in whole or in part to an affiliate or the surviving entity in the event of a merger or acquisition.

The wireless communication industry is regulated by the Federal Communications Commission (FCC). In recent years, particularly in 2019, the FCC has accommodated the interests of the wireless industry and has greatly reduced state and local government's regulatory authority for wireless facilities. The main stated reason for limiting local regulatory authority is to benefit the United States by allowing the industry to provide this technology to the public quickly. No city in the United States can deny the deployment of this technology completely. Further, the FCC specifies the length of time a local government is allowed to review a wireless permit, restricts the dollar amounts that can be charged for permits, and limits a local government's discretion primarily to aesthetics. People concerned about the FCC's regulations should contact their federal representatives because state and local governments cannot modify them through local legislative.

NEXT STEPS:

The City Attorney's Office advises that CMUPs should be adopted according to the same procedures used for franchise agreements specified in RCW 35A.47.040. Under that statute, the City Council may not act on an ordinance or resolution adopting a franchise agreement (CMUP) until at least five days have passed from the item's introduction. The introduction does not need to be held as a public hearing.

In this case, the proposed CMUP will be introduced on September 7. Staff anticipates returning on September 21—fourteen days after introduction—to seek the Council's action on the proposed CMUP.

Attachment A: Termination of Franchise Agreement
Attachment B: Proposed Ordinance for First Review

TERMINATION OF FRANCHISE AGREEMENT
BETWEEN ZAYO GROUP, LLC, A DELAWARE LIMITED LIABILITY COMPANY ("ZAYO"),
AND THE CITY OF KIRKLAND, WASHINGTON ("CITY").

WHEREAS, the City and Electric Lightwave LLC entered into an Agreement through Ordinance 4352, which was passed by the City Council of the City of Kirkland ("City Council") on April 17, 2012; and

WHEREAS, the purpose of the Agreement was to grant Electric Lightwave LLC ("ELI") a franchise for the right, privilege, and authority to construct and maintain, repair, replace, operate upon, over, under, along, and across the franchise area a wireline communications system to support its telecommunications business (the "ELI Franchise"); and

WHEREAS, the ELI Franchise was to remain in full force and effect through June 18, 2028 unless terminated sooner; and

WHEREAS, Zayo became the successor-in-interest to ELI on March 1, 2017 and thereby the ELI Franchise was assigned or otherwise transferred to Zayo; and

WHEREBY, Zayo has other telecommunication facilities in the City that were acquired by Zayo when it became the successor-in-interest to facilities formerly owned by AboveNet; and

WHEREAS, Zayo applied to the City for a Communications Master Use Permit (CMUP), which replaces franchises for telecommunication purposes so that all its facilities in the City (those facilities formerly owned by AboveNet and those facilities formerly owned by ELI) are regulated under one instrument;

WHEREAS, the City Council conducted a first reading of the proposed CMUP for Zayo on September 7, 2021; and

WHEREAS, the City Council passed Ordinance #### on [REDACTED], 2021, granting Zayo a non-exclusive communications mater use permit for the right, privilege, and authority to make use of the permit area for wireline communications purposes (the "Zayo CMUP"); and

WHEREAS, the permit area for the Zayo CMUP includes the present municipal boundaries of the City, and shall include any additions thereto by annexation or other legal means during the term of the CMUP, which permit term is ten years after the effective date of Ordinance ####; and

WHEREAS, the ELI Franchise is now redundant to the Zayo CMUP;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS.

Section 1. The ELI Franchise between Zayo as successor-in-interest to ELI and the City, which currently is not set to expire until June 18, 2028, shall be terminated as of the effective date set forth in Section 2, below.

Section 2. The effective date of the termination shall be five days from and after the passage of Ordinance #### by the Kirkland City Council and publication pursuant to Section 1.08.017 of the *Kirkland Municipal Code* in the summary form attached to the original of Ordinance ####.

[Signature blocks TBD]

DRAFT

ORDINANCE O-4766

AN ORDINANCE OF THE CITY OF KIRKLAND ("CITY") GRANTING ZAYO GROUP, LLC, A DELAWARE LIMITED LIABILITY COMPANY ("ZAYO"), AS SUCCESSOR-IN-INTEREST TO ABOVENET COMMUNICATIONS, INC. ("ABOVENET"), A NON-EXCLUSIVE COMMUNICATIONS MASTER USE PERMIT FOR THE RIGHT, PRIVILEGE, AND AUTHORITY TO MAKE USE OF THE PERMIT AREA FOR WIRELINE COMMUNICATIONS PURPOSES.

1 WHEREAS, the City adopted Ordinance No. 3716 on December
2 7, 1999 granting Metromedia Fiber Network Services, Inc. ("MFNS"), a
3 Delaware corporation, the right, privilege, authority and franchise to
4 construct and maintain, repair, replace, operate upon, over, under,
5 along and across the franchise area for purposes of its telephone
6 business ("1999 Franchise"); and
7

8 WHEREAS, Section 9 of the 1999 Franchise provided that the
9 initial term of the Franchise would be ten (10) years from the effective
10 date of the Ordinance, provided that the term of the Franchise could be
11 extended for up to two (2) additional five (5) year terms upon
12 agreement of the parties; and
13

14 WHEREAS, Ordinance No. 3716 took effect on or about
15 December 12, 1999; and
16

17 WHEREAS, in 2003 AboveNet became the successor-in-interest
18 to MFNS; and
19

20 WHEREAS, On September 1, 2009, the City passed Ordinance
21 4205 to repeal Title 26 of the Kirkland Municipal Code and replace it
22 with a new Title 26 entitled "Right of Way—Communications," which,
23 among other things, created a process for a Communications Master
24 Use Permit for communications companies to use the right-of-way.
25 Going forward, as existing communications franchises expire, they will
26 be replaced by Communications Master Use Permits; and
27

28 WHEREAS, On July 29, 2010, City and AboveNet extended the
29 1999 Franchise for an additional five (5) year term through December
30 15, 2014 ("First Extension"); and
31

32 WHEREAS, in 2012 Zayo became the successor-in-interest to
33 AboveNet; and
34

35 WHEREAS, the parties cannot locate a second extension to the
36 1999 Franchise, though Zayo has been operating continuously in the
37 rights-of-way since the expiration of the First Extension; and

38 WHEREAS, in April 2012 the City granted a franchise ("2012
39 Franchise") to Electric Lightwave LLC to operate in the City's rights-of-
40 way for its telecommunications business, the term of which 2012
41 Franchise was until June 18, 2018 unless terminated sooner; and
42

43 WHEREAS, the facilities formerly owned by AboveNet are
44 different that the facilities formerly owned by Electric Lightwave, but
45 Zayo now operates all such facilities in the City; and
46

47 WHEREAS, by and through this Ordinance, the City and Zayo
48 accept, acknowledge and agree that all rights and privileges granted
49 under the 1999 Franchise and the First Extension thereto are now
50 continued, assumed, owned, and legally held in Zayo and that all
51 facilities installed under the 1999 Franchise and its Extensions are
52 accepted and in compliance with the City's permitting rules and
53 regulations; and
54

55 WHEREAS, Zayo Group, LLC ("Grantee") has requested to obtain
56 the right to install, operate and maintain a wireline fiber optic cable
57 communications system within the public rights-of-way of the City for
58 all its facilities by being granted a Communications Master Use Permit
59 (CMUP); and
60

61 WHEREAS, were the CMUP to be granted, the 2012 Franchise
62 would be redundant, and therefore Zayo desires to terminate the 2012
63 Franchise coincident with the effective date of the CMUP; and
64

65 WHEREAS, the City Council finds it desirable for the welfare of
66 the City and its residents that such a non-exclusive permit be granted
67 to Grantee; and
68

69 WHEREAS, the City Council has the authority under state and
70 local law to grant permits for the use of its street rights of way; and
71

72 WHEREAS, the City is willing to grant the rights requested by
73 Grantee subject to certain terms and conditions.
74

75 NOW, THEREFORE, the City Council of the City of Kirkland
76 do ordain as follows:

77 Section 1. Definitions. For purposes of this Communications
78 Master Use Permit (the "Permit"), the terms defined in Kirkland
79 Municipal Code ("KMC") 26.08.020 shall apply. In addition, the terms
80 below have the following meanings:
81

82 A. "Affiliate" means an entity which owns or controls, is owned
83 or controlled by, or is under common ownership with Grantee.

84 B. "City" means the City of Kirkland, a municipal corporation of
85 the State of Washington.

86
87 C. "Communications Master Use Permit" shall mean the initial
88 authorization or renewal thereof, granted by the City, through this
89 Ordinance, or a subsequently adopted Ordinance, which authorizes the
90 use of rights-of-way in the Permit Area for construction and operation
91 of the Grantee's facilities for the purpose of offering communications
92 service.

93
94 D. "Communications Service" means any communications
95 service, including, but not limited to telecommunications and
96 communications services as defined by federal and state law,
97 communications capacity, or dark fiber, provided by the Grantee using
98 its Facilities, either directly or as a carrier for its Affiliates, or any other
99 person engaged in Communications Services, including, but not limited
100 to, the transmission of voice, data or other electronic information,
101 facsimile reproduction, burglar alarm monitoring, meter reading and
102 home shopping, or other subsequently developed technology that
103 carries an electronic signal over fiber optic cable. Communications
104 Service shall also include non-switched, dedicated and private line, high
105 capacity fiber optic transmission services to firms, businesses or
106 institutions within the City. However, Communications Service shall not
107 include the provision of cable television, open video, or similar services,
108 as defined in the Communications Act of 1934, as amended, and the
109 Telecommunications Act of 1996, as amended, for which a separate
110 Master Permit would be required.

111
112 E. "Facilities" means all appurtenances or tangible things
113 owned, leased, operated, or licensed by the Grantee, including but not
114 limited to the plant, equipment, and property used in the provision of
115 communication and telecommunication services and not owned by the
116 City, including but not limited to poles wires, pipe, conduits, pedestals,
117 antenna, vaults, duct runs, and other appurtenances placed in, on, or
118 under the public rights-of-ways.

119
120 F. "Permit Area" means the present municipal boundaries of the
121 City, and shall include any additions thereto by annexation or other legal
122 means during the term of the Permit. The Facilities geographic area as
123 set forth in **Exhibit A** attached hereto and incorporated herein by
124 reference.

125
126 G. "Person" means an individual, partnership, association, joint
127 stock company, trust, corporation, limited liability company or
128 governmental entity.

129
130 H. "Rights-of-way" means land acquired or dedicated for public
131 roads and streets. It does not include (1) state highways; (2) structures,

including poles and conduits located within the right-of-way; (3) federally granted trust lands or forest board trust lands; (4) lands owned or managed by the state Parks and Recreation Commission; (5) federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use; or (6) parks or other public property not used as a public right-of-way, including the Cross Kirkland Corridor.

Section 2. Permit Area and Authority Granted.

A. Facilities within Permit Area. The City does hereby grant to Grantee the right, privilege, authority and Permit to use rights-of-way in the Permit Area to construct, support, attach, connect and stretch Facilities between, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along and across rights-of-way in the Permit Area for purposes of communications services.

B. Permission Required to Enter onto Other City Property. Nothing contained in this Ordinance is to be construed as granting permission to Grantee to go upon any other public place other than rights-of-way within the Permit Area in this Ordinance. Permission to go upon any other property owned or controlled by the City must be sought on a case by case basis from the City.

C. Compliance with WUTC Regulations. At all times during the term of this Permit, Grantee shall fully comply with all applicable regulations of the Washington Utilities and Transportation Commission.

Section 3. Construction and Maintenance.

A. Grantee's Facilities shall be located, relocated and maintained within the Permit Area so as not to unreasonably interfere with the free and safe passage of pedestrian and vehicular traffic and ingress or egress to or from the abutting property and in accordance with the laws of the State of Washington. Whenever it is necessary for Grantee, in the exercise of its rights under this Permit, to make any excavation in the right of way, Grantee shall obtain prior approval from the City of Kirkland Public Works Department, pay the applicable permit fees, and obtain any necessary permits for the excavation work. Grantee shall meet the City's specifications per the Kirkland Municipal Code ("KMC") and the Public Works Pre-Approved Plans and Policies.

Section 4. Location and Relocation of Facilities.

A. Grantee shall place any new Facilities underground where existing telecommunications and cable facilities are located underground. Any new Facilities to be located above-ground shall be placed on existing utility poles. No new utility poles shall be installed in

180 connection with placement of new above-ground facilities, unless such
181 new utility pole is a like-kind replacement for an existing utility pole and
182 is approved by the City.

183
184 B. Except as otherwise required by law, Grantee agrees to
185 relocate, remove or reroute its facilities as ordered by the City, at no
186 expense or liability to the City, except as may be required by KMC
187 26.36.050. The City's decision to require the relocation of Grantee's
188 facilities shall be made in a reasonable, uniform and non-discriminatory
189 manner. Pursuant to the provision of Section 5, Grantee agrees to
190 protect and save harmless the City from any customer or third-party
191 claims for service interruption or other losses in connection with any
192 such change or relocation.

193
194 C. The Grantee shall indemnify, hold harmless and pay the costs
195 of defending the City against any and all claims, suits, actions, damages,
196 or liabilities for delays on City construction projects caused by or arising
197 out of the failure of the Grantee to relocate its Facilities in a timely
198 manner; provided, that the Grantee shall not be responsible for
199 damages due to delays caused solely by the City, or circumstances
200 beyond the control of the Grantee.

201
202 D. In the event that the City orders the Grantee to relocate its
203 Facilities for a project which is primarily for private benefit, the private
204 party or parties causing the need for such project shall reimburse the
205 Grantee for the cost of relocation in the same proportion as their
206 contribution to the total cost of the project, pursuant to RCW
207 35.99.060(4).

208
209 E. In the event of an unforeseen emergency that creates a
210 threat to public safety, health or welfare, the City may require the
211 Grantee to relocate its Facilities at its own expense, any other portion
212 of this Section notwithstanding.

213
214 Section 5. Indemnification.

215
216 A. Grantee agrees to indemnify, defend, and hold the City
217 harmless as set forth in KMC 26.40.030. In addition, Grantee shall
218 indemnify, defend and hold the City, its agents, officers, employees,
219 volunteers and assigns harmless from and against any and all claims,
220 demands, liability, loss, cost, damage or expense of any nature
221 whatsoever, including all costs and attorney's fees, made against them
222 on account of injury, sickness, death or damage to persons or property
223 which is caused by or arises out of, in whole or in part, the willful,
224 tortious or negligent acts, failures and/or omissions of Grantee or its
225 agents, servants, employees, contractors, subcontractors or assigns in
226 the construction, operation or maintenance of its Facilities or in
227 exercising the rights granted Grantee in this Permit; *provided, however,*

such indemnification shall not extend to injury or damage caused solely by the negligence or willful misconduct of the City, its agents, officers, employees, volunteers or assigns.

B. In the event any such claim or demand be presented to or filed with the City, the City shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand, provided further, that in the event any suit or action be begun against the City based upon any such claim or demand, the it shall likewise promptly notify Grantee thereof, and Grantee shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

Section 6. Default.

A. If Grantee shall fail to comply with any of the provisions of this Permit, unless otherwise provided in this Permit, the City may, in addition to the remedies provided in KMC Chapter 26.44, serve upon Grantee a written order to comply within thirty (30) days from the date such order is received by Grantee. If Grantee is not in compliance with this Permit after expiration of the thirty (30) day period, the City may act to remedy the violation and may charge the reasonable costs and expenses of such action to Grantee. The City may act without the thirty (30) day notice in case of an emergency. If any failure to comply with this Permit by Grantee cannot be corrected with due diligence within said thirty (30) day period, then the time within which Grantee may so comply shall be extended for such time as may be reasonably necessary and so long as Grantee works promptly and diligently to effect such compliance. If Grantee is not in compliance with this Permit, and is not proceeding with due diligence in accordance with this section to correct such failure to comply, then the City may in addition, by ordinance and following written notice to Grantee, declare an immediate forfeiture of this Permit.

B. In addition to other remedies provided in KMC Chapter 26.44, this Permit, or otherwise available at law, if Grantee is not in compliance with requirements of the Permit, and if a good faith dispute does not exist concerning such compliance, the City may withhold issuance of pending Grantee right-of-way use permits until compliance is achieved.

Section 7. Nonexclusive Permit. This Permit is not and shall not be deemed to be an exclusive Permit. This Permit shall not in any manner prohibit the City from granting other and further Permits over, upon, and along the Permit Area. This Permit shall not prohibit or prevent the City from using the Permit Area or affect the jurisdiction of the City over the same or any part thereof.

276 Section 8. Permit Term.

277
278 A. This Permit is and shall remain in full force and effect for a
279 period of ten (10) years from and after the effective date of the
280 Ordinance ("Initial Term"). Following the Initial Term, provided that
281 Grantee is not in default of any of the terms and conditions of this
282 Ordinance, this Ordinance may be renewed for an additional ten (10)
283 year term ("Extension Term") upon the written mutual agreement of
284 Grantee and the City.

285
286 B. If the City and Grantee fail to formally renew this Permit prior
287 to the expiration of its term or any extension thereof, this Permit shall
288 automatically continue in full force and effect until renewed or until
289 either party gives written notice at least one hundred eighty (180) days
290 in advance of intent to terminate the Permit.

291
292 Section 9. Compliance with Codes and Regulations.

293
294 A. The rights, privileges and authority herein granted are
295 subject to and governed by this ordinance and all other applicable
296 ordinances and codes of the City of Kirkland, as they now exist or may
297 hereafter be amended, including but not limited to the provisions of
298 Kirkland Municipal Code Title 26, Title 19, Title 5, and Kirkland Zoning
299 Code Title 117. Nothing in this ordinance limits the City's lawful power
300 to exercise its police power to protect the safety and welfare of the
301 general public. Any location, relocation, erection or excavation by
302 Grantee shall be performed by Grantee in accordance with applicable
303 federal, state and city rules and regulations, including the City's Public
304 Works Pre-Approved Plans and Policies, and any required permits,
305 licenses or fees, and applicable safety standards then in effect.

306
307 B. In the event that any territory served by Grantee is annexed
308 to the City after the effective date of this Permit, such territory shall be
309 governed by the terms and conditions contained herein upon the
310 effective date of such annexation.

311
312 Section 10. Undergrounding. New Facilities shall be installed
313 underground pursuant to Section 4 of this Permit. Grantee
314 acknowledges the City's policy of undergrounding of Facilities within the
315 Permit Area. Grantee will cooperate with the City in the undergrounding
316 of Grantee's existing Facilities within the Permit Area. If, during the term
317 of this Permit, the City shall direct Grantee to underground Facilities
318 within any Permit Area, such undergrounding shall be at no cost to the
319 City, except as may be provided in RCW Chapter 35.99. Grantee shall
320 comply with all federal, state, and City regulations on undergrounding.
321 If the City undertakes any street improvement which would otherwise
322 require relocation of Grantee's above-ground facilities, the City may, by

323 written notice to Grantee, direct that Grantee convert any such Facilities
324 to underground Facilities.

325
326 Section 11. Record of Installations and Service.

327
328 A. With respect to excavations by Grantee and the City within
329 the Permit Area, Grantee and the City shall each comply with its
330 respective obligations pursuant to Chapter 19.122 RCW and any other
331 applicable state law.

332
333 B. Upon written request of the City, Grantee shall provide the
334 City with the most recent update available of any plan of potential
335 improvements to its Facilities within the Permit Area; provided,
336 however, any such plan so submitted shall be for informational purposes
337 within the Permit Area, nor shall such plan be construed as a proposal
338 to undertake any specific improvements within the Permit Area.

339
340 C. As-built drawings and maps of the precise location of any
341 Facilities placed by Grantee in any Right of Way shall be made available
342 by Grantee to the City within 10 (ten) working days of the City's request.
343 These plans and maps shall be provided at no cost to the City and shall
344 include hard copies and/or digital copies in a format specified by the
345 City.

346
347 Section 12. Shared Use of Excavations and Trenches.

348
349 A. If either the City or Grantee shall at any time after installation
350 of the Facilities plan to make excavations in the area covered by this
351 Permit and as described in this Section, the party planning such
352 excavation shall afford the other, upon receipt of written request to do
353 so, an opportunity to share such an excavation, *provided that*: (1) such
354 joint use shall not unreasonably delay the work of the party causing the
355 excavation to be made or unreasonably increase its costs; (2) such joint
356 use shall be arranged and accomplished on terms and conditions
357 satisfactory to both parties. In addition, pursuant to RCW 35.99.070,
358 the City may request that Grantee install additional conduit, ducts and
359 related access structures for the City pursuant to contract, under which
360 Grantee shall recover its incremental costs of providing such facilities to
361 the City.

362
363 B. The City reserves the right to require Grantee to joint trench
364 with other Permittees if both entities are anticipating trenching within
365 the same general area and provided that the terms of this Section are
366 met.

368 Section 13. Insurance.

369
370 A. Grantee shall procure and maintain for the duration of this
371 Permit, insurance against claims for injuries to persons or damage to
372 property which may arise from or in connection with the performance
373 of work under this Permit by Grantee, its agents, representatives or
374 employees in the amounts and types set forth in KMC 26.40.020.

375
376 B. Grantee's insurance coverage shall be primary insurance as
377 respects the City. Any insurance, self-insurance or insurance pool
378 coverage maintained by the City shall be in excess of Grantee's
379 insurance and shall not contribute with it.

380
381 C. Grantee shall furnish the City with certificates of the
382 foregoing insurance coverage or a copy of amendatory endorsements,
383 including but not necessarily limited to the additional insured
384 endorsement.

385
386 D. Grantee shall have the right to self-insure any or all of the
387 above-required insurance. Any such self-insurance is subject to
388 approval by the City.

389
390 E. Grantee's maintenance of insurance as required by this
391 Permit shall not be construed to limit the liability of Grantee to the
392 coverage provided by such insurance, or otherwise limit City's recourse
393 to any remedy to which the City is otherwise entitled at law or in equity.

394
395 Section 14. Assignment.

396
397 A. All of the provisions, conditions, and requirements herein
398 contained shall be binding upon Grantee, and no right, privilege, license
399 or authorization granted to Grantee hereunder may be assigned or
400 otherwise transferred without the prior written authorization and
401 approval of the City, which the City may not unreasonably withhold.
402 Notwithstanding the foregoing, Grantee, without the consent of, but
403 upon notice to the City, may assign this agreement in whole or in part
404 to: (a) an Affiliate (as defined in this Permit); or (b) the surviving entity
405 in the event of a merger or acquisition of substantially all of Grantee's
406 assets.

407
408 B. Grantee may lease the Facilities or any portion thereof to
409 another or provide capacity or bandwidth in its Facilities to another,
410 *provided that:* Grantee at all times retains exclusive control over such
411 Facilities and remains responsible for locating, servicing, repairing,
412 relocating or removing its Facilities pursuant to the terms and conditions
413 of this Permit.

414 Section 15. Abandonment and Removal of Facilities. Grantee's
415 Facilities may be considered abandoned pursuant to KMC 26.20.105. In
416 the event of abandonment, the parties shall refer to their options in KMC
417 26.20.105.

418
419 Section 16. Miscellaneous.

420
421 A. If any term, provision, condition or portion of this Permit shall
422 be held to be invalid, such invalidity shall not affect the validity of the
423 remaining portions of this Permit which shall continue in full force and
424 effect. The headings of sections and paragraphs of this Permit are for
425 convenience of reference only and are not intended to restrict, affect,
426 or be of any weight in the interpretation or construction of the provisions
427 of such sections of paragraphs.

428
429 B. Grantee shall pay for the City's reasonable administrative
430 costs in drafting and processing this Ordinance and all work related
431 thereto. Grantee shall further be subject to all permit fees associated
432 with activities and the provisions of any such permit, approval, license,
433 agreement of other document, the provisions of this Permit shall control.

434
435 C. Failure of either party to declare any breach or default under
436 this Permit or any delay in taking action shall not waive such breach or
437 default, but that party shall have the right to declare any such breach
438 or default at any time. Failure of either party to declare one breach or
439 default does not act as a waiver of that party's right to declare another
440 breach or default.

441
442 Section 17. Notice. Any notice or information required or
443 permitted to be given to the parties under this Permit may be sent to
444 the following addresses unless otherwise specified:

445
446 City:

447
448 City of Kirkland
449 Director of Public Works
450 123 Fifth Ave.
451 Kirkland, WA 98033

452
453 Grantee:

454
455 Zayo Group, LLC
456 Attn: Director, Underlying Rights – West Region
457 1805 29th Street, Suite 2050
458 Boulder, CO 80301

With a Copy to:

Zayo Group, LLC
Attn: General Counsel – Central Region
1805 29th Street, Suite 2050
Boulder, CO 80301

For Emergencies:

Network Operations Center & Repair
Phone: (888) 404 9296
E-mail: zayoncc@zayo.com

Notice shall be deemed given upon receipt in the case of personal delivery, three days after deposit in the United States Mail in the case of regular mail, or the next day in the case of overnight delivery.

Section 18. Effective date. This Ordinance, being in compliance with RCW 35A.47.040, shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017 Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2021.

Signed in authentication thereof this ____ day of _____, 2021.

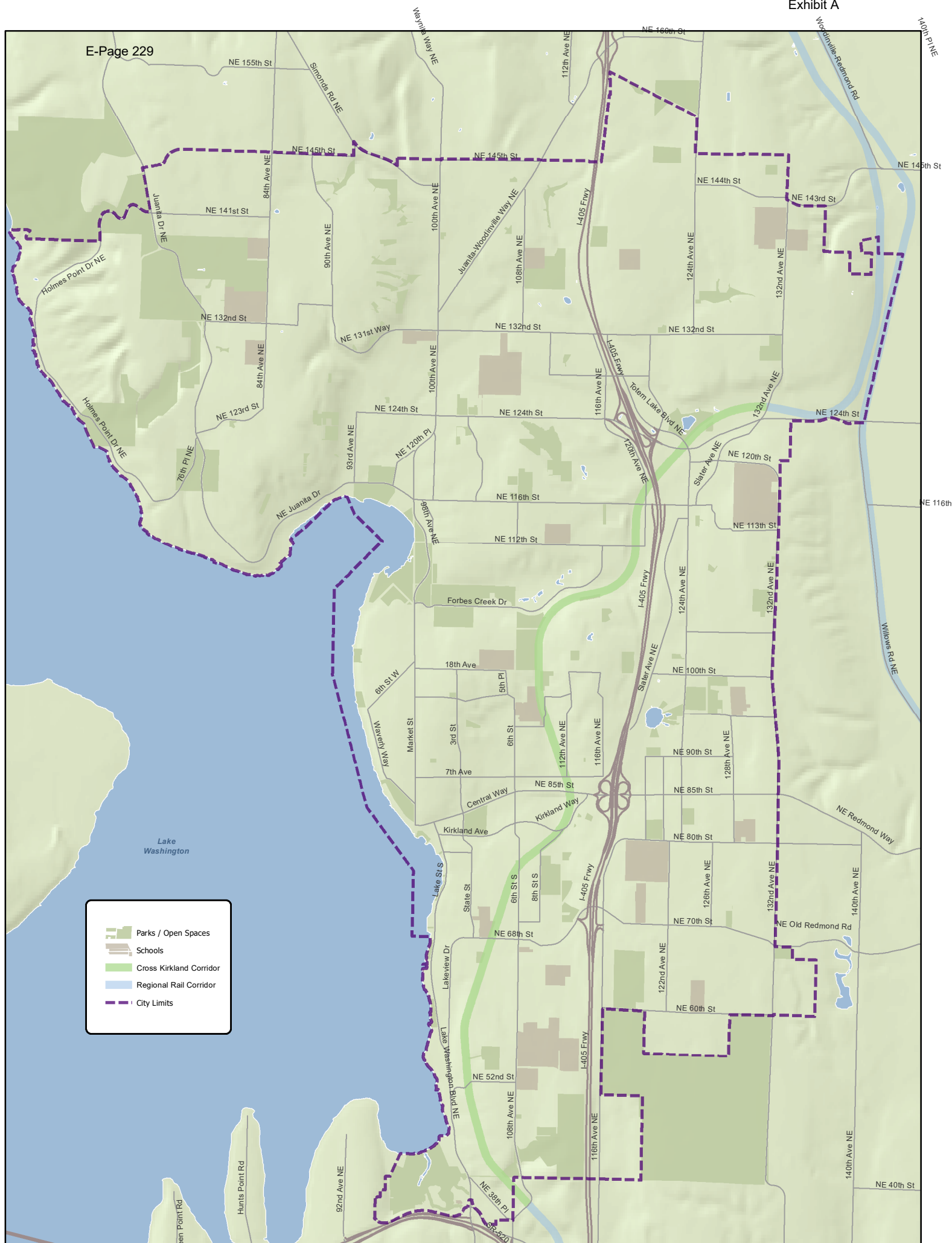
Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney





CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600- www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Adam Weinstein, Planning & Building Director
Dawn Nelson, Planning Manager
Mike Stanger, Senior Planner, A Regional Coalition for Housing (ARCH)

Date: August 26, 2021

Subject: Interim Affordable Housing Targets for Kirkland

RECOMMENDATION:

That the Council consider alternative approaches to establishing interim affordable housing targets for the City that are outlined below in this memo, and provide staff with direction on adopting a target, if desired. Staff would return to a future meeting with a Resolution for adoption if Council decides to adopt a specific interim approach. The targets are proposed as "interim" as King County may adopt countywide targets in the next few years.

BACKGROUND:

The City's Housing Strategy Plan, adopted in 2018, identifies a number of monitoring activities to follow-up on policies identified in the plan, including: tracking general housing supply and costs; monitoring City regulations and policies that support affordable housing; and identifying new affordable housing best practices and trends in other communities. An additional monitoring idea that was discussed by the Housing Strategy Advisory Group, and has been discussed recently by City Council members, involves establishing targets for affordable housing in Kirkland, and then tracking progress against these goals. An affordable housing target would assist the City in tracking the production of affordable residential units over time, and identifying resource needs to meet the target. Such a target would also assist the City in planning efforts surrounding the 2044 Comprehensive Plan Update. This memo provides some brief context surrounding target-setting, and then identifies three options for establishing affordable housing targets for the City.

The affordable housing crisis in Kirkland and throughout the greater Puget Sound region continues to increase in severity as the area experiences an influx of high-paying jobs and limited new housing production, while at the same time the vast majority of newly-built housing is not affordable to households making at or below the median income. Three economic and development trends help illustrate the problem:

- Between 2013 and 2017, King County's population grew by an average of approximately 13,000 households a year, but during that time the County added only approximately 10,100 new housing units per year.
- There is a diminishing supply of housing priced at affordable levels. According to a 2018 McKinsey Consulting study, between 2007 and 2017, the total number of rental units in the County increased by 88,000, but the number of rental units affordable to households making less than 80 percent of the Area Median Income (AMI) decreased by 36,000 units.
- The housing supply shortage has made housing more expensive, and the increase in housing costs has outpaced wage growth. Between 2012 and 2017, median household income increased by 30 percent, but average rent increased by 43 percent, and the median homes sales price increased by 53 percent.

At the household level, high housing costs generate increased financial instability; reduced homeownership opportunities; and challenges paying for transportation, childcare and other necessary expenses. In addition, these impacts disproportionately affect people of color. At the regional level, increased housing costs have resulted in traffic congestion; difficulties in hiring critical workers such as emergency responders, nurses, and teachers; increased homelessness; and overall impacts to the economic vitality and quality of life in the region.

As at County and regional geographies, Kirkland has seen escalating housing costs and lack of affordability and disproportionate impacts on people of color. In 2017, of 36,126 households in the City, 10,641 households (29 percent of the total) are "housing cost burdened," spending more than 30 percent of their income on housing (see Table 1).

Table 1: Cost-burdened Households in Kirkland

Household Income (% of Area Median Income)	Not Cost Burdened (households spending less than 30% of income on housing)		Cost Burdened (households spending 30%+ of income on housing)		Total Households
<=30%	290	9%	3,009	91%	3,299
31% - 50%	790	26%	2,220	74%	3,010
51% - 80%	1,225	36%	2,199	64%	3,424
81% - 100%	1,425	55%	1,154	45%	2,579
>100%	21,755	91%	2,059	9%	23,814
Total	25,485	71%	10,641	29%	36,126

Source: 2013-2017 Comprehensive Housing Affordability Strategy (CHAS) 5-year Estimates.

According to County data, in 2017, 29 percent of white households in Kirkland were cost-burdened, while 59 percent of Black households were cost-burdened. Please refer

to Attachment 1, the King County Regional Housing Dashboard, for information on affordable housing indicators in Kirkland, along with demographic information and a summary of housing policies enacted by the City. Note some data in the attachment may differ slightly from the data presented in this memo due to differing data sources.

There is a particularly severe shortage of dwelling units for households who make less than 30% of AMI. For example, 91% of those who make 30% or less of the AMI are cost burdened or severely cost burdened. Only 3%, or 1,125 units, of the City's existing housing stock are considered affordable to the 3,299 households who make 30% or less of AMI (see Table 2).

Table 2: Affordability of Occupied Units in Kirkland

Level of Affordability	Number of Units	% of Total
30% AMI or less	1,125	3%
31% to 50% AMI	2,325	6%
51% to 80% AMI	4,775	13%
greater than 80% AMI	28,405	78%
Total Number of Units	36,630	100%

Source: 2013-2017 CHAS 5-year Estimates, King County Proposed Countywide Planning Policies, Table H-3.

Affordable housing targets provide metrics to better understand if existing City policies, strategies, and programs are effective in increasing the supply of affordable housing, and to evaluate if resources are being used effectively. These goals are supported by Goal H-3 in the Comprehensive Plan and the adopted Housing Strategy Plan in general.

Goal H-3: Promote affordable and special needs housing throughout the City for all economic segments of the population.

- *Policy H-3.1: Strive to meet the City's proportionate share of the Countywide housing needs of very low-, low-, and moderate-income households.*

The Council also approved the goal to "adopt and track affordable housing targets for low income and moderate income residents as determined by the Area Median Income (AMI) for the City to implement the Housing Strategy Plan" on March 16, 2021 as part of [Resolution 5462](#), adopting the 2021-2022 City Work Program.

OPTIONS FOR ESTABLISHING AFFORDABLE HOUSING TARGETS:

City staff, working in conjunction with A Regional Coalition for Housing (ARCH), have identified three options for establishing housing targets. Options 1 and 3 use data about housing affordability taken from the 2013-2017 Comprehensive Housing Affordability Strategy (CHAS) 5-year Estimates. The CHAS 5-year estimates represent custom

tabulations of data from the U.S. Census Bureau and are the most recent, reliable data available on housing affordability. The CHAS data have been adjusted to account for household size. The estimated number of housing units in Kirkland is the 2019 Office of Financial Management (OFM) estimate. The methodologies are described below.

Also, we would note that in March 2020, City Council adopted Zoning Code amendments that make it easier to develop “missing middle” housing types like duplexes, triplexes, cottages, and Accessory Dwelling Units (ADUs). (Note that the reference to “middle” in the “missing middle” is primarily in reference to density and housing type rather than income or housing cost.) While these housing types are not regulated to be affordable, they are typically less expensive than standard single-family houses by nature of their size. For example, a size-limited, for-sale duplex unit, paired with an income-generating ADU, may approach affordability for a median-income household under current market conditions. In the future, missing-middle units could be tracked separately, or lumped into targets for housing affordable to households making 80% or more of the median income. The missing middle code environmental review documents establish 2030 goals of 784 net new ADUs and 1,164 net new duplex, triplex, or cottage units.

1. Countywide Need

One option to identify affordable housing goals is to create City-specific targets based on the Countywide need for affordable housing. This region-based approach seeks to provide sufficient housing in Kirkland to different income brackets based on the distribution of households in those income brackets County-wide.

Table 3: Countywide Need

Level of Affordability	Estimated Existing Units, Kirkland, 2019	% Housing Units Needed, Countywide, 2044	Housing Units Needed, Kirkland, 2044	Net Demand (Units)
30% AMI or below	1,207	15%	7,877	6,670
31% to 50% AMI	2,495	15%	7,877	5,382
51% to 80% AMI	5,125	19%	9,977	4,852
greater than 80% AMI	30,485	51%	26,781	(3,704)
Total Units	39,312		52,512	7,510
Sub-total, 80% AMI or below				16,904
Total Units Needed (less than 80% AMI) Per Year, 2019-44				676

Source: 2013-2017 CHAS 5-year Estimates. Unit number modified to reflect 2019 OFM Housing Unit Estimates, King County Proposed Countywide Planning Policies, Table H-3. King County Proposed Housing Growth Targets, Table DP-1.

Under the Countywide approach, Kirkland would need to add **16,904 additional housing units** affordable to those who make less than 80% of AMI (see Table 3).

Pros: This option is regional in nature, as are housing markets, which is why Countywide Planning Policies instruct cities to plan proportionately for the County-wide need. This also means the method is potentially useful to ascertaining affordable housing goals in other cities in the region. It also considers all housing stock, including both rental and owner-occupied housing, and is aspirational in that it theoretically accounts for households who do not currently live in Kirkland but might want to live in Kirkland.

Cons: Data do not accurately reflect demand for moderate-income housing (e.g., between 80%-120% AMI) as data are reported only for 80% AMI and above. Also, available affordability data is limited to 80% AMI for renter-occupied units and 100% AMI for owner-occupied units.

2. King County Affordable Housing Plan

In December 2018, the King County Regional Affordable Housing Task Force released a new 5-Year Action Plan that addresses the County-wide affordable housing need. The plan identifies the need for 244,000 net new affordable housing units by 2040. Kirkland has historically been assigned about 4% of County-wide growth, so would theoretically take 4% of this County-wide affordable housing target, or approximately **8,972 net new** affordable housing units for households making up to 50% AMI. Over an approximately 22-year period (2018-2040), this approach would require the development of an average of approximately 408 affordable units per year.

Pros: A very simple target that is consistent with the King County Plan and approach.

Cons: Utilizes targets on a 2020-2040 planning horizon (and thus would not align precisely with a 2044 Comprehensive Plan update). Does not account for the income distribution of Kirkland. Focuses only on housing stock that is affordable to households making less than 50% AMI (and not more moderate-income households).

3. City-wide Need

This methodology addresses the need in four income groups of Kirkland's cost burdened households who make less than 100% of AMI. There are currently 8,582 households in Kirkland that meet these criteria.

Table 4: City-wide Need

Household Income	Cost Burdened Households (30-49% AMI), 2017	Severely Cost Burdened Households (50%+ AMI), 2017	Estimated Cost Burdened Households, 2017	Percent of Income Group	Estimated Cost Burdened Households/ Units, 2044
<=30% AMI	274	2,735	3,009	91%	4,374
31% - 50% AMI	935	1,285	2,220	74%	3,227
51% - 80% AMI	1,584	615	2,199	64%	3,196
81% - 100% AMI	929	225	1,154	45%	1,677
Total	3,722	4,860	8,582		12,474
Total Units Needed (less than 100% AMI) Per Year, 2017-44					462

Source: 2013-2017 CHAS 5-year Estimates.

Assuming the same incidence of housing cost burden as in 2017, the total number of cost burdened households increases to 12,474 in 2044. Kirkland would need to reach or exceed a target of **12,474** net new affordable housing units to address the current and future demand. These units would need to be priced at varying degrees of affordability to reflect varying levels of existing and projected cost-burden (see Table 4).

Pros: Based on Kirkland-specific cost burden data.

Cons: Because this approach is based on existing cost-burdened households in Kirkland, it does not take into account demand for affordable housing of a more regional nature.

REGIONAL TARGET-SETTING AND NEXT STEPS:

City Council, in order to establish interim affordable housing production targets for Kirkland, should provide direction on one of the methodologies described above (or a different methodology). Staff would return to the Council with a resolution adopting the targets for Council deliberation and possible action.

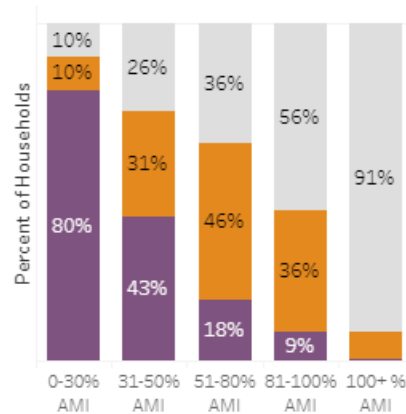
In addition, it should be noted that after the County Council adopts the Countywide Planning Policies (expected in December 2021), the King County Affordable Housing Committee will continue meeting in 2022 to explore the potential development of affordable housing targets for cities and/or subregions within the County and unincorporated lands, taking into account the Regional Affordable Housing Task Force methodology and other approaches. If the County ultimately adopts affordable housing targets for cities, those targets for Kirkland could replace the ones selected by Council for interim use.

King County Regional Housing Dashboard

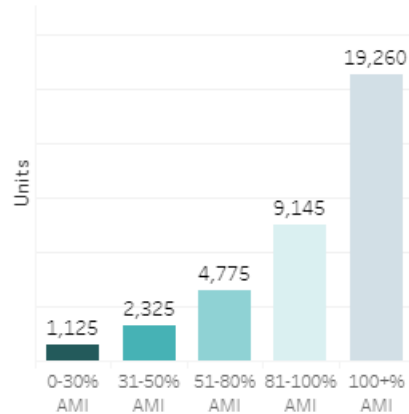
Website: <https://kingcounty.gov/depts/community-human-services/housing/affordable-housing-committee/data.aspx> (retrieved August 23, 2021)

Kirkland**Key Housing Affordability Indicators**

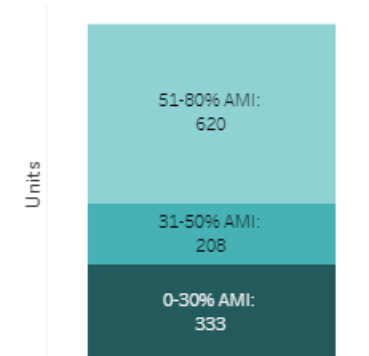
Cost Burden, by Household Income (2017)



Total Housing Units (2017)



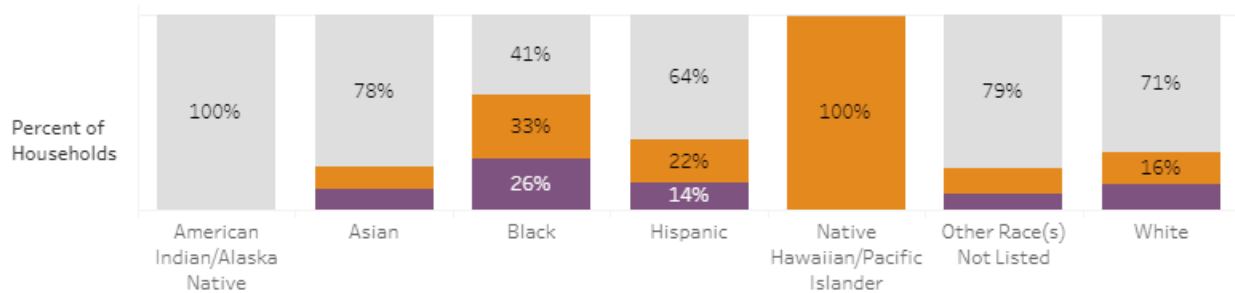
All Existing Income-restricted Units (2019)



Cost Burden Level

Unburdened Cost Burdened Severely Cost Burdened

Cost Burden, by Race/Ethnicity (2017)



King County Regional Housing Dashboard

Website: <https://kingcounty.gov/depts/community-human-services/housing/affordable-housing-committee/data.aspx> (retrieved August 23, 2021)

Demographics and Housing CostsSubregional Collaboration Membership: **ARCH****Housing Costs:**

Median Gross Rent, 2019	\$1,861
Median Home Value, 2019	\$662,300
Median Household Income, 2019	\$117,190
Total Households, 2019	36,480
Percent of Households That Own Homes, 2017	64%
Percent of Households Cost Burdened, 2017	28%
Housing Units, 2017	36,580

Number of Households, by AMI Level (2017):

0-30% AMI	3,290
31-50% AMI	3,010
51-80% AMI	3,430
81-100% AMI	2,580
100+% AMI	23,815

Number of Households, by Race/Ethnicity (2017):

American Indian/Alaska Native	90
Asian	4,340
Black	255
Hispanic	1,820
Native Hawaiian/Pacific Islander	10
Other Race(s) Not Listed	1,125
White	28,490

Housing Policies Enacted:

Policy Type	Policy	
Create Income-Restricted Affordable Units	Inclusionary Zoning	✓
	Multifamily Tax Exemption	✓
Increase Housing Growth and Diversity	Accessory Dwelling Units	✓
	Cluster Development/PUDs	✓
	Cottage Housing	✓
	Detached Accessory Dwelling Units	✓
	Duplexes/Triplexes	✓
	Low-rise Multifamily	✓
	Micro Units	✓
	Mid-rise Multifamily	✓
	Mixed-use	✓
	Zero Lot Line/Townhomes	✓
Protect Tenants	Notice of Rent Increase Required	✓
	Source of Income Discrimination Prohibited	✓

Data Notes: All 2017 data is from 2013-2017 CHAS. 2019 data sources are noted in tooltips visible when hovering. Households with Cost Burden Not Computed excluded from cost burden figures.