

Monday

Topic: City Council

You are invited to a Zoom webinar.

When: April 4, 2022, 05:00 PM Pacific Time (US and Canada)

Topic: Council Meeting 1st

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83273254975?pwd=aGJhcW1aVEpFc2lDVWpXOEU5clJvdz09>

Passcode: 172825

Or One tap mobile:

US: +12532158782,,83273254975#,,,,*172825# or +16699006833,,83273254975#,,,,*172825#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 253 215 8782 or +1 669 900 6833 or +1 346 248 7799 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 832 7325 4975

Passcode: 172825

International numbers available: <https://us02web.zoom.us/j/kYRNSJrRX>

CITY OF LANGLEY DRAFT COUNCIL AGENDA

Monday April 4 2022 @ 5:30pm

1. CALL TO ORDER

- a. Roll Call-5 *minutes*

2. CONSENT AGENDA-5 *minutes*

The CONSENT AGENDA consists of routine items that normally do not require further Council discussion. A council member may ask questions about an item before the vote is taken, or request that an item be removed from the consent Agenda and placed on the regular agenda for more detailed discussion. A single vote is taken to approve all items remaining on the consent Agenda. 5 *minutes*

- a. Approval of Council Meeting Minutes March 21, 2022.....4-11
- b. Approval of 2021 claims warrants Nos. 40617-40632 and EFTs in the amount of \$95,622.6512-17
- c. Approval of event permit application Fundraiser for World Central Kitchen-live music April 10, 2022.....18
- d. Approval of Langley/Aktivov Software agreement.....19-35
- e. Approval of Cleaning Contract.....36-42

3. APPROVAL OF AGENDA-5 *minutes*

4. PUBLIC COMMENT-5-15 *minutes*

5. ORDINANCES AND RESOLUTIONS

6. PUBLIC HEARING-None

7. UNFINISHED BUSINESS

- a. Request for approval for new financial software- Monica Felici, Clerk/Treasurer...43-44
- b. Anthes Right-of-Way-Randi Perry, Public Works Director and Meredith Penny, Planning Director-15 min.....45-51
- c. LIP Recommendation-Randi Perry, Public Works Director-15 min.....52-54

8. NEW BUSINESS

- a. Public Works Advisory Commission (PWAC)-Dominique Emerson-15 min
- b. Design Review Board (DRB)-Bob Dalton-5 min

9. MAYOR'S REPORT 5 *minutes*

10. COUNCIL REPORTS-15 *minutes*

11. **EXECUTIVE SESSION**--To discuss litigation or potential litigation with the governing body's attorney (RCW 42.30.110(1)(a)(i)-35min

12. ADJOURNMENT

***Citizen Comments:** We welcome comments on subjects of concern or interest that are not on the agenda. Please state your name and address so this can be recorded and limit your comments to 5 minutes. Questions will be answered immediately if the answer is brief, and the information is available. Otherwise, answers will be provided as soon as possible. Thank you for participating! **If reasonable accommodation of a disability is needed, please contact Monica Felici at (360) 221-4246 at least 48 hours prior to this meeting.**

Statement regarding Potential Conflicts of Interest - Officials, employees, consultants, volunteers and vendors are obliged to withdraw from any involvement in a matter where there is a conflict or perceived conflict, even if they feel certain they can act impartially. If a conflict, or potential conflict exists, the affected party shall declare so at the first public meeting when the matter is being considered. And shall withdraw from the meeting or future meetings for the duration of the discussion of the issue.

Langley is a Civility First City and conducts its governance abiding by the Civility First Pledge:

1. Value honesty and good will while striving to solve problems.
2. Attempt genuinely to understand the point of view of others
3. Model civil behavior and tone, online as well as in public by:
 - a. Being kind while maintaining the right to vigorously disagree
 - b. Acting respectfully toward others, including opponents.
 - c. Listening to those who disagree with us, as well as supporters
 - d. Making only accurate statements when defending a position
 - e. Refraining from characterizing adversaries as evil
 - f. Challenge disrespectful behavior, courteously
 - g. Encourage any person or organization working on our behalf to meet these same standards from civil discourse

Council Meeting Minutes
Monday March 21, 2022

Meeting was called to order by Mayor Scott Chaplin at 5:00pm

Land Acknowledgement

ROLL CALL

In attendance: Council Member Harolynne Bobis; Council Member Gail Fleming; Council Member Craig Cyr; Council Member Thomas Gill; Council Member Rhonda Salerno; Mayor Scott Chaplin; Monica Felici, Clerk/Treasurer, Randi Perry, Public Works Director and Meredith Penny, Planning Director

APPROVAL OF CONSENT AGENDA

Motion to Approve Consent Agenda

Motion: Council Member Craig Cyr

2nd: Council Member Thomas Gill

Discussion:

Motion Passed unanimously -Council Member Harolynne Bobis in present at this time

APPROVAL OF AGENDA

Motion to Approve Agenda

Motion: Council Member Rhonda Salerno

2nd: Council Member Craig Cyr

Discussion:

Move Public Comment to after Coles Valley presentation

Motion Passed unanimously with adjustments

EXECUTIVE SUSSION-NONE

PUBLIC HEARING-NONE

ORDINANCES AND RESOLUTIONS

1. Ordinance 1093- Uniform Policies for Citizen Commissions
Motion to approve 2nd reading of Ordinance 1093 Uniform Policy for Citizens Commissions

Motion: Council Member Rhonda Salerno

2nd: Council Member Thomas Gill

Motion passed unanimously

2. Ordinance 1094 Update LMC 2.04.010 Council Meeting Time
Motion to approve 1st and 2nd reading of Ordinance 1094 Update LMC 2.04.010 Council Meeting Time

Motion: Council Member Thomas Gill

2nd: Council Member Rhonda Salerno

Discussion: Council Member Craig Cyr amended motion to: Approve as 1st and 2nd reading of LMC 2.04.010 Council Meeting Time suspending 5 days posting

Motion passed unanimously

UNFINISHED BUSINESS

1. Moratorium Update-Council Member Rhonda Salerno
 - a. Withdrew recommendation
 - b. Read statement-attached
2. Coles Valley presentation-Meredith Penny, Planning Director
 - a. Reviewed process of Coles Valley project
 - b. Council Members asked for workshop
 - c. Council Workshop will be Monday March 28th at 6pm via Zoom

PUBLIC COMMENT

Leanne Finlay-Citizen Commissions
David Stenberg-Sewer Compacity
Rose Hughes-GAAP
Fergus Ferrier-Accounting for Coles Valley
Janice Kliner-Anthes Access

NEW BUSINESS

1. Island Transit-Todd Morrow, Executive Director
 - a. Service Improvement Options
 - i. Expansion of Service
 - ii. Decarbonization
 - b. Survey being sent out
2. Climate Crisis Action Commission (CCAC)-Peter Morton, Dean Enell, Derek Hoshiko, and Linda Ervine
 - a. 2022 Work Plan

Motion to approve CCAC 2022 Work Plan

Motion: Council Member Gail Fleming

2nd: Council Member Craig Cyr

Discussion

Motion passed unanimously

3. Parks and Open Space-Council Member Gail Fleming
Motion to pass 2022 Work Plan

Motion: Council Member Harolynne Bobis

2nd: Council Member Thomas Gill

Discussion

Motion passed unanimously

4. Volunteer Application Form-Mayor Scott Chaplin
 - a. Mayor shared screen of application from Caleb Thompson
Motion to approve Volunteer

Motion: Council Member Craig Cyr

2nd: Council Member Rhoda Salerno

Discussion

Motion passed unanimously

5. Job of Hearing Examiner-Council Member Thomas Gill
 - a. Asked if Meredith Penny, Planning Director could review the process
 - b. Will be part of the Workshop on Monday March 28th
6. Advertise Council Quorum-Council Member Rhoda Salerno
 - a. Asked that all Commission meetings be advertised as having a quorum

- b. Suggested following the format of Meredith Penny, Planning Director
- 7. Minimum Wage Increase to \$20.00-Council Member Harolynne Bobis
 - a. Discussion
 - b. Recommended that it be brought to the Finance and Personnel Commission
- 8. New Position-Mayor Scott Chaplin
 - a. Would like to create a position for a Grant Writer and Mayor Assistant
 - b. Discussion

MAYORS REPORT

1. Giving Certificate of appreciation to George Guzman and Officer Hathaway
2. Letter from Hat Island Ferry
3. Hiring of Police Chief moving Forward

STAFF REPORTS

1. Randi Perry, Director of Public Works
 - a. Public Works full time position
 - b. LIP
 - c. Puget Sound Nutrient Permit Grant application
 - d. Asset Management Program
 - e. Reservoir cleaning/level indicator repair bid
 - f. Visitor Center Cleaning
 - g. Storm issue on 4th street
 - h. Cross connection backflow master list
 - i. Island County coordination
 - j. Seawall Park
 - k. PSE meeting with Emily Hagen
 - l. Drinking water nonpayment shut offs/meter reads/billing completed
 - m. Emergence call outs
 - n. PWAC
2. Meredith Penny, Director of Planning
 - a. Presented earlier in meeting regarding Coles Valley
3. Monica Felici, Clerk/Treasurer
 - a. Reviewed monthly tax revenue reports
 - b. Audit
 - c. Business Licensing (BLS) update
 - d. Year-end balancing
 - e. Public Records request
 - f. Contracts
 - g. Attending webinars

- h. Tyler quote for new financial program

COUNCIL REPORTS

1. Council Member Harolynne Bobis
 - a. No report

2. Council Member Rhonda Salerno
 - a. Working with ALE students
 - b. Radar sign removed

3. Council Member Thomas Gill
 - a. Port of South Whidbey

4. Council Member Craig Cyr
 - a. Correct Sales and Hotel/Motel tax tables
 - b. DOT Seminar
 - c. PWAC
 - d. Langley Arts Foundation
 - e. Island Transit
 - f. Grateful for Volunteers

5. Council Member Gail Fleming
 - a. Historic Preservation
 - b. PWAC
 - c. Civility First Pledge

ADJOURNMENT-Mayor Scott Chaplin adjourned meeting at 8:09 p.m.

To: Langley City Council Members

From: Rhonda Salerno, Council Member Position 2

Date: March 21, 2022

Topic: Moratorium Update

Honorable Mayor Chaplin and Fellow Council Members,

I would like to clarify that I have withdrawn my motion to enact a 6-month moratorium, which I initiated at our last Council Meeting. I put this motion forward with substantial reasoning to pause applications for development under our two multi-family codes, which at this time requires no affordable housing, climate sustainability or financial provisions.

The moratorium would not have affected any current applications and was not intended to stop or discourage any development in Langley. It was not put forth maliciously or as an attempt to burden developers. I withdrew my motion at our previous meeting, as it was clear that two council members did not support the action, not because I thought it was not an important step for us as a City to take.

An emergency moratorium is just that, a simple pause to allow time for a city to complete the work that is currently in process before more activity goes forward without those provisions in place. It was a call to action to complete this very important work in a timely fashion.

I think it is very important for us to understand that all of the actions that were stated in the moratorium are ones that are actually already underway in our City. Inclusionary zoning is being crafted with the aid of a \$67,000 grant from the Rural Economic Development Council. This State Funding is intended to make certain that affordability is being addressed in cities all over the state.

Here is part of our City Council and Mayor's work plan for this year. I have highlighted in blue the items that would have been addressed under the moratorium. You all are aware that I have been a strong advocate for affordable housing, creating the Affordable Housing Advisory Committee and holding two extensive Community Meetings last year to understand the need in our City's demographics for affordable housing and strategies to address those needs.

From those two meetings, this Affordable Housing Challenges Report was created which supports an affordable component that meets the needs of young people working in service jobs and young families who are just starting off as new home owners. Besides affordability, we also need to address the burning of fossil fuels and our current climate crisis. This requires managed development and the kind of zoning laws that we are currently in the process of creating.

To claim that this moratorium was intended to decrease the opportunity for affordable housing is just not true. It is also a legal and integritis action that is a common tool used to assure that ordinances in process have time to be completed.

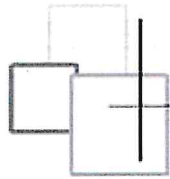
I see my job as a city council member one of a policy maker. This Road Map for elected officials in your Council Member Handbook lays it all out. I'd like to quote the last box which is entitled "Work Toward Tomorrow" ... It says, "Despite the many things elected leaders do daily, it's important to stay focused on the future. This requires you to use your leadership to move the city agenda forward, build trust, and create a civic culture of mutual respect"

As a community, we have created a Comprehensive Plan that specifically lays out our way forward in bringing our codes up to a standard that will shape the future of our city. I have been involved with creating the last two versions of our Comp Plan and am acutely aware of the lack of ordinances that have been put in place over the years to carry out our charge explained in this planning document. It is required of all cities that fall under the Growth Management Act [GMA], of which we are one.

We have an incredible opportunity to affect this movement forward right now with our advisory commissions full to capacity and working diligently toward these goals. Compared to the past when getting residents to participate in these committees was difficult, there is currently a renewed energy and commitment by our residents to serve the government that represents them. We are a city of 1170 residents and currently have more than 77 volunteers advising us, among which is a previous mayor, our own Island County Treasurer, a Restoration Ecologist, a former DOJ Attorney, a retired Boeing Executive, an Infrastructure Consultant and the list goes on. (For you numbers people, that is 20% of our population taking part.) Shortly, you will witness 2 of these amazing advisory commissions present their work plan in which these moratorium goals are being addressed in the areas of climate change and tree protection.

With all of that said, it was not my intention to create a controversy that takes up all of our time and energy and actually slows down our progress in the long run. So I hope we can agree to let this rest and go forward with our good work to create a sustainable, inclusive and equitable place to live. I know we all love living here and care deeply about how our city moves forward and how we leave it for the youth that will come after us. I thank you all for sharing your thoughts and words of what that means for you personally. And, as our inspiring United Student Leaders always say, 'This' is what democracy looks like.

Thank you all for doing the good work!



Voucher Directory

Fiscal: : 2022 - April
Council Date: : All

Vendor	Number	Reference	Account Number	Description	Amount
Ackermann Electric Co.	40617			2022 - April - 1st Council Meeting	
		Invoice - 291			
			401-000-000-534-10-40-01	Professional Services	\$717.42
		Total Invoice - 291			\$717.42
		Invoice -2000-984			
			402-000-000-535-10-47-01	Repairs & Maintenance	\$815.25
		Total Invoice -2000-984			\$815.25
	Total 40617				\$1,532.67
Total Ackermann Electric Co.					\$1,532.67
Blumenthal Uniforms dba Galls Seattle	40618			2022 - April - 1st Council Meeting	
		Invoice -20367262			
			001-000-070-521-20-33-01	Uniforms	\$144.01
			Liggitt		
		Total Invoice -20367262			\$144.01
	Total 40618				\$144.01
Total Blumenthal Uniforms dba Galls Seattle					\$144.01
CITY OF LANGLEY	40619			2022 - April - 1st Council Meeting	
		Invoice -030122			
			001-000-000-511-60-46-01	Utilities	\$64.58
			001-000-010-513-10-46-01	Utilities	\$21.70
			001-000-030-514-20-46-01	Utilities	\$134.13
			001-000-070-521-20-46-01	Utilities	\$73.02
			001-000-110-558-60-46-01	Utilities	\$23.00
			001-000-120-558-50-46-01	Utilities	\$22.89
			001-000-150-576-80-46-04	Parks-Utilities/waste Disposal	\$10.16
			001-000-150-576-80-46-04	Parks-Utilities/waste Disposal	\$428.75
			001-000-180-518-80-46-01	Utilities	\$5.36
			104-000-000-536-10-46-01	Utilities-Cemetery	\$179.45
			105-000-000-557-30-46-01	Utilities/VIC & R/R	\$527.69
			401-000-000-534-10-46-01	Utilities-Water Dept.	\$354.66

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Vendor	Number	Reference	Account Number	Description	Amount
			402-000-000-535-10-46-01	Utilities-Sewer Dept.	\$797.88
		Total Invoice -030122			\$2,643.27
	Total 40619				\$2,643.27
Total CITY OF LANGLEY					\$2,643.27
Davido Consulting Group, Inc	40620			2022 - April - 1st Council Meeting	
		Invoice - 0040711			
			306-000-000-594-34-60-01	Capital Grant Expenditures	\$23,475.89
			405-000-000-594-34-60-06	CIP W-5 Edgecliff (Furman-Wilkinson) Main	\$941.56
			408-000-000-594-34-60-03	RR-8 W71-W70 (Al Anderson Rd) LIP 14	\$455.43
		Total Invoice - 0040711			\$24,872.88
	Total 40620				\$24,872.88
Total Davido Consulting Group, Inc					\$24,872.88
Diamond Rentals & Sales	40621			2022 - April - 1st Council Meeting	
		Invoice - 1-617115-3			
			402-000-000-535-10-47-01	Repairs & Maintenance	\$196.02
		Total Invoice - 1-617115-3			\$196.02
	Total 40621				\$196.02
Total Diamond Rentals & Sales					\$196.02
Edge Analytical Labs	40622			2022 - April - 1st Council Meeting	
		Invoice -22-08427			
			402-000-000-535-10-40-04	Sewer Plant Testing	\$237.00
		Total Invoice -22-08427			\$237.00
	Total 40622				\$237.00
Total Edge Analytical Labs					\$237.00
Island County Public Works	40623			2022 - April - 1st Council Meeting	
		Invoice -20-000318			
			St repair-Pavement preservations		
			101-000-000-595-30-60-00	Street Repair-Pavement preservation changes to ADA & sidewalk	\$60,667.73
		Total Invoice -20-000318			\$60,667.73
	Total 40623				\$60,667.73
Total Island County Public Works					\$60,667.73

Vendor	Number	Reference	Account Number	Description	Amount
Les Schwab Tire Centers	40624			2022 - April - 1st Council Meeting	
		Invoice -41300366542			
			001-000-070-521-20-47-02	Vehicle annual maintenance	\$80.97
		Total Invoice -41300366542			\$80.97
	Total 40624				\$80.97
Total Les Schwab Tire Centers					\$80.97
Pitney Bowes Inc	40625			2022 - April - 1st Council Meeting	
		Invoice -Postage			
			001-000-010-513-10-40-01	Professional Services	\$12.00
			001-000-030-514-20-40-02	Professional Services	\$66.00
			001-000-070-521-20-40-01	Professional Services	\$66.00
			001-000-110-558-60-40-00	Professional Services	\$30.00
			001-000-120-558-50-40-00	Professional Services	\$6.00
			001-000-150-576-80-40-00	Professional Services	\$18.00
			001-000-180-518-80-40-01	Professional Services	\$6.00
			101-000-000-543-10-40-01	Professional Services	\$66.00
			104-000-000-536-10-40-00	Professional Services	\$6.00
			105-000-000-557-30-40-00	Professional Services	\$42.00
			401-000-000-534-10-40-01	Professional Services	\$138.00
			402-000-000-535-10-40-01	Professional Services	\$96.00
			403-000-000-531-10-40-01	Professional Services	\$48.00
		Total Invoice -Postage			\$600.00
	Total 40625				\$600.00
Total Pitney Bowes Inc					\$600.00
Puget Sound Energy	40626			2022 - April - 1st Council Meeting	
		Invoice -03252022			
			001-000-000-511-60-46-01	Utilities	\$87.60
			PSE		
			001-000-010-513-10-46-01	Utilities	\$29.43
			001-000-030-514-20-46-01	Utilities	\$181.91
			001-000-070-521-20-46-01	Utilities	\$99.04
			001-000-100-518-30-46-01	Utilities	\$13.78
			001-000-110-558-60-46-01	Utilities	\$31.20
			001-000-120-558-50-46-01	Utilities	\$31.04
			001-000-150-576-80-46-04	Parks-Utilities/waste Disposal	\$249.57
			PSE		
			001-000-180-518-80-46-01	Utilities	\$7.27
			101-000-000-542-63-46-01	Street Lighting Utilities	\$56.02
			PSE		
			104-000-000-536-10-46-01	Utilities-Cemetery	\$9.99

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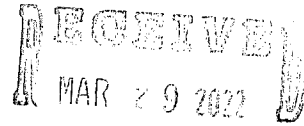
Vendor	Number	Reference	Account Number	Description	Amount
			401-000-000-534-10-46-01	Utilities-Water Dept.	\$50.50
			PSE		
			402-000-000-535-10-46-01	Utilities-Sewer Dept.	\$822.00
			PSE		
			Total Invoice -03252022		\$1,669.35
	Total 40626				\$1,669.35
Total Puget Sound Energy					\$1,669.35
Sebo's DO IT Center					
40627					
				2022 - April - 1st Council Meeting	
			Invoice A1355893		
			402-000-000-535-10-30-01	Supplies	\$245.16
			Total Invoice A1355893		\$245.16
	Total 40627				\$245.16
Total Sebo's DO IT Center					\$245.16
Shred-IT c/o Stericycle, Inc					
40628					
				2022 - April - 1st Council Meeting	
			Invoice - 8001233973		
			001-000-010-513-10-40-01	Professional Services	\$1.50
			001-000-030-514-20-40-02	Professional Services	\$8.24
			001-000-070-521-20-40-01	Professional Services	\$8.24
			001-000-110-558-60-40-00	Professional Services	\$3.74
			001-000-120-558-50-40-00	Professional Services	\$0.75
			001-000-150-576-80-40-00	Professional Services	\$2.25
			001-000-180-518-80-40-01	Professional Services	\$0.75
			101-000-000-544-90-40-01	Professional Services	\$8.24
			104-000-000-536-10-40-00	Professional Services	\$0.75
			105-000-000-557-30-40-00	Professional Services	\$5.24
			401-000-000-534-10-40-01	Professional Services	\$17.23
			402-000-000-535-10-40-01	Professional Services	\$11.98
			403-000-000-531-10-40-01	Professional Services	\$5.99
			Total Invoice - 8001233973		\$74.90
	Total 40628				\$74.90
Total Shred-IT c/o Stericycle, Inc					\$74.90
Sound Publishing Inc					
40629					
				2022 - April - 1st Council Meeting	
			Invoice - WNT951090		
			001-000-000-511-60-40-02	Professional Services	\$28.50
			Workshop Ad		
			Total Invoice - WNT951090		\$28.50
	Total 40629				\$28.50
Total Sound Publishing Inc					\$28.50

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Vendor	Number	Reference	Account Number	Description	Amount
St of WA Dept of Revenue					
		Excise tax 02/2022		2022 - April - 1st Council Meeting	
		Invoice -Excise tax 02/2022			
			401-000-000-534-10-49-02	Excise Tax	\$99.29
			402-000-000-535-10-49-02	Excise Tax	\$23.52
			403-000-000-531-10-49-02	S/S Excise Tax	\$7.83
		Total Invoice -Excise tax 02/2022			\$130.64
		Total Excise tax 02/2022			\$130.64
Total St of WA Dept of Revenue					\$130.64
State of WA Dept of Revenue					
		1st QTR 22 LH		2022 - April - 1st Council Meeting	
		Invoice - 1st QTR 2022 LH			
			633-000-000-589-30-00-01	Leasehold Excise Tax	\$1,233.80
		Total Invoice - 1st QTR 2022 LH			\$1,233.80
		Total 1st QTR 22 LH			\$1,233.80
Total State of WA Dept of Revenue					\$1,233.80
State Treasurer					
	40630			2022 - April - 1st Council Meeting	
		Invoice - jan-mar 2022			
			633-000-000-586-12-00-00	Court Remittances/State	\$24.02
				Crt Fees	
		Total Invoice - jan-mar 2022			\$24.02
		Total 40630			\$24.02
Total State Treasurer					\$24.02
Vision Municipal Solutions					
	40631			2022 - April - 1st Council Meeting	
		Invoice - 09-10479			
			401-000-000-534-10-40-01	Professional Services	\$282.90
				Utility billing	
			402-000-000-535-10-40-01	Professional Services	\$282.89
				utility billing	
		Total Invoice - 09-10479			\$565.79
		Total 40631			\$565.79
Total Vision Municipal Solutions					\$565.79

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Vendor	Number	Reference	Account Number	Description	Amount
Whitney Equip CO Inc	40632			2022 - April - 1st Council Meeting	
		Invoice - 94942			
			402-000-000-535-10-30-01	Supplies	\$675.94
		Total Invoice - 94942			\$675.94
	Total 40632				\$675.94
Total Whitney Equip CO Inc					\$675.94
Grand Total		Vendor Count	18		\$95,622.65



EVENTS PERMIT APPLICATION (\$110) Public Property BY BA

Name of Applicant/Organization: _Langley Chamber Of Commerce

paid 6329

Contact Person: Inge Morascini Email address: Langley@Whidbey.com

Business Phone 360-221-6765 Cell 415-497-0161

Mailing address PO Box 403

City _Langley State: WA Zip: 98260

On Site Person in Charge Contact: Inge Morascini, Lisa Carvey

Summary of proposed event:

- a) Type of activity planned (describe event) Fund Raiser for World Central Kitchen. Soup to be served inside the Braeburn and outside on the plaza and in the parking spaces in front of the Braeburn. (Roadway will not be obstructed) Barriers will be needed.
- b) Date of event: 10 April 2022 Hours of operation : 5:30 - 7 PM
- c) Set up Date/time: _10 April 2022, 4:30
- d) Dismantling date/time: 10 April 2022, 7 - 8PM
- e) Number of Staff/Volunteers on behalf of applicant: 15
- f) Estimated number of participants: 150
- g) Number of vehicles or other special equipment: _Tables and chairs to be set up in the parking spaces and live music to be set up on the plaza.
- h) Parking on site/off site available for guest/staff: Event is Sunday afternoon. Street parking is available.
- i) Traffic or crowd control requirements: ^{yes} ~~NO~~ Traffic control needed. Barriers needed in front of Braeburn restaurant.
- j) Street closures required: YES NO Location: NO
- k) Will participants pay a fee or make donations: YES
- l) Alcoholic Beverages being served: NO (if yes banquet Permit required)
- m) Amplified music YES (circle one)
- n) Safety and security measured required: Barriers required
- o) Safety and security provided by applicant: Positioning and removing barriers
- p) Special effects (e.g. explosives, pyrotechnics, aircraft, etc.) NO
- q) Animals being used: NO
- r) Other features or structure required: NO
- s) Electric power, water, garbage and sewer requirements: Applicant will place additional garbage cans and will collect.
- t) Portable restrooms provided by applicant: No

Insurance: Insurance shall be required in connection with the issuance of a permit for a special event: \$1,000,000 commercial general liability insurance per occurrence combined single limits, \$2,000,000 aggregate unless waived by the City of Langley. The Clerk-Treasurer is authorized and directed to require written proof of such insurance prior to permit issuance. The insurance policy shall be written for a period of not less than twenty-four (24) hours following the completion of the event, and shall contain a provision prohibiting cancellation of the policy, except upon thirty (30) days written notice to the City of Langley.

Public Liability Insurance Company: Ohio Security Insurance Co

Policy number: BS57998481 Agent: Porter Whidbey - Robin Rollings

Expiration Date: 9/22/2022 Amount: \$1,000,000.

PARTICIPANTS: Any event that attracts 1,000 or more persons shall:

HOLD HARMLESS: The applicant agrees to defend, indemnify and hold the City of Langley, its agents, employees and officials, while acting within the scope of their duties, harmless from any and all claims, suits, demands and judgements including the attorney's fees and other costs of their defense, for public or private nuisance, inverse condemnation, personal injuries, property damage or death arising out of, occurring during or a result of activities or appliances of the applicant, his employees or otherwise, except for the sole negligence of the City. The applicant further agrees with all provisions of pertinent laws, City Ordinances, rule and regulations. This permit may be revoked at any time.

Signed this 28 day of March 2022.

Signature of Applicant or Agent

Inge M. Morascini

Approved Authorization: _____

Date: _____

**CONTRACT FOR SERVICES
CITY OF LANGLEY AND AKTIVOV**

THIS CONTRACT FOR SERVICES (“Agreement”) is entered into this ____ day of _____, 2022, by and between the City of Langley, a municipal corporation of the State of Washington (“City”), and Aktivov LLC, a Washington business (“Contractor”), in consideration of the mutual benefits and conditions contained herein.

WHEREAS, the City has determined the need to have certain services performed for its citizens; and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions;

NOW, THEREFORE, the parties hereby agree as follows:

- 1. Scope of Services.** Contractor shall perform those services described on **Exhibit A** attached hereto, which is incorporated by this reference as if fully set forth. In performing such services, Contractor shall at all times comply with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. To the extent that any term or provision of this Agreement conflicts with any term or provision of Exhibit A or any other exhibit hereto, the terms of this Agreement shall control.
- 2. Compensation and Method of Payment.** Contractor will invoice the City based upon the rate set forth in Exhibit A. Contractor shall be paid a total amount not to exceed ~~twenty-seven thousand six hundred and thirty Dollars (\$27,630.00)~~ plus applicable WA State sales tax in 2022 and fourteen thousand seventy dollars (\$14,070) plus applicable WA State sales tax in 2023 without written modification of this Agreement signed by the City. The City shall pay Contractor for services rendered under this Agreement within ten (10) days after City Council voucher approval. Contractor agrees to complete and return the attached **Exhibit B** (Taxpayer Identification Number) to the City prior to or along with the first invoice.
- 3. Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing on the last signature hereon, and ending December 31, 2023, unless earlier terminated in accordance with Section 9 herein or extended by written amendment in accordance with Section 12 herein.
- 4. Independent Contractor.** The City and Contractor agree that Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create an employer-employee relationship between the parties hereto. Neither Contractor nor any of Contractor’s employees shall be entitled, by virtue of the services provided under this Agreement, to any benefits afforded to City employees. The City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA,

state industrial insurance, state workers' compensation, or for otherwise assuming the duties of an employer with respect to Contractor or Contractor's employees.

5. **Indemnification.** Contractor shall indemnify, defend, and hold harmless the City, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

6. **Insurance.** Contractor shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, or employees. Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit Contractor's liability to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. **Scope of Required Insurance.** Contractor shall maintain insurance of the types and coverage described below:

1. **Commercial general liability insurance**, written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, which shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, stop gap liability, personal injury and advertising injury. The City shall be named as an additional insured under Contractor's Commercial General Liability insurance policy with respect to the work performed for the City, using an additional insured endorsement at least as broad as ISO CG 20 26.
2. **Workers' compensation coverage** as required by the Industrial Insurance laws of the State of Washington.

B. **Additional Insurance Provisions.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Contractor's commercial general liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respects the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of Contractor's insurance and shall not contribute

with it. Contractor shall provide the City with written notice of any policy cancellation within seven (7) business days of Contractor's receipt of such notice.

- C. Certificates of Insurance. Within fifteen (15) days of the execution of this Agreement, Contractor shall deliver original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance coverage required by this Section 6.
- D. Failure to Maintain Insurance. Contractor's failure to maintain insurance as required shall constitute a material breach of this Agreement, upon which the City may, after giving five (5) business days' notice to the Contractor to correct the breach, immediately terminate this Agreement or, at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due Contractor from the City.
- E. Full Availability of Contractor Limits. If Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and excess or umbrella liability maintained by Contractor, irrespective of whether such limits maintained by Contractor are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Contractor.

7. Taxes, Licenses and Permits.

- A. Contractor acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, including taxes and fees assessed pursuant to applicable City code, and Contractor agrees to comply with all applicable laws regarding the reporting of income and maintenance of records, and with all other requirements and obligations imposed pursuant to applicable law. If the City does not receive, or is assessed, made liable, or responsible in any manner for such charges or taxes, Contractor shall reimburse and hold the City harmless from such costs, including attorneys' fees. Contractor shall also require all contractors, subcontractors and suppliers to pay all charges and taxes in accordance with this Section 7.
- B. In the event Contractor fails to pay any taxes, assessments, penalties, or fees imposed by the City or any other governmental body, then Contractor authorizes the City to deduct and withhold and/or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. This provision shall, at a minimum, apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the Contractor's total compensation.

8. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by law during the term of this Agreement. The City shall have the right to conduct an audit of Contractor's

To Contractor: Arnab Bhowmick
Aktivov LLC
24919 SE 41st Dr, Sammamish, WA 98029

14. Security. Contractor will protect confidential information provided by the City pursuant to this Agreement by adhering to policies governing physical, electronic, and managerial safeguards against unauthorized access to an unauthorized disclosure of confidential information. Security standards shall meet or exceed Washington State Office of the Chief Information Officer Standard No. 141.10. Only authorized employees of the Contractor shall have access to the City’s confidential information, and only for the purposes specified in this Agreement. Contractor shall, within 24 hours of discovery, report to the City any use, access to or disclosure of the City’s confidential information not previously authorized by the City.

15. Applicable Law; Venue; Attorneys’ Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly and exclusively in Island County, Washington. The prevailing party in any such action shall be entitled to its costs of suit, including attorneys’ fees and expert witness fees.

BY THEIR SIGNATURES BELOW, the authorized agents of the parties enter into this Agreement as of the day and year first written above.

CITY OF LANGLEY

CONTRACTOR

By: _____
Scott Chaplin, Mayor

By: _____
Arnab Bhowmick, Founder

Attest/Authenticated:

Monica Felici, Clerk-Treasurer

EXHIBIT A:
SCOPE OF SERVICES

Contractor shall furnish and perform services including, but not limited to, the description of work and indicated below:

**EXHIBIT B:
TAXPAYER IDENTIFICATION NUMBER**

CITY OF LANGLEY
P.O. Box 366
112 Second Street
Langley, WA 98260
Tel: (360) 221-4246

In order for you to receive reimbursement from the City of Langley, we must have either a Taxpayer Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Langley before or along the submittal of the first billing voucher.

Please check the appropriate category:

Corporation Partnership Government Agency
 Individual/Sole Proprietor Other (please explain)

TIN#: ___ - _____

SS#: _____ - ____ - _____

Print Name: _____

Print Title: _____

Business Name: _____

Business Address: _____

AKTIVOV ANNUAL SOFTWARE SUBSCRIPTION AGREEMENT

This ANNUAL SOFTWARE SUBSCRIPTION AGREEMENT (Agreement) is between AKTIVOV LLC (AKTIVOV), a Washington corporation, with its principal place of business at 24919 SE 41st Dr, Issaquah, WA, 98029, and the City of Langley, a Washington Corporation, with its principal place of business at 1112 Second St, Langley, WA 98260 (Licensee) (individually a "Party" and collectively the "Parties"). This Subscription Agreement supplements the Software License Agreement (Agreement) entered into and between the Parties contemporaneously with this Subscription Agreement to enable the Licensee to access the AKTIVOV Software modules.

AKTIVOV is the owner and authorized licensor of all the AKTIVOV Software modules (as hereinafter mentioned as "AKTIVOV" or "software" or "Licensed Software"). AKTIVOV grants the Licensee certain limited rights under this Agreement to use AKTIVOV' proprietary Licensed Software and any relevant materials. All rights not specifically granted to the Licensee or anyone else in this Agreement are reserved to AKTIVOV.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

This Agreement and the terms and conditions hereof shall govern all access and usage of the subscribed Licensed Software codes, support, and related user manuals or training materials, and any base updates, modifications or enhancements to such software product, which have been developed by, or on behalf of AKTIVOV, and provided to Licensee by AKTIVOV. All software Subscription and Support will be governed by the terms of this Agreement.

1. DEFINITIONS

- a. "Proprietary or Confidential Information" shall have the meaning given such term in the Agreement.
- b. "Licensed Software" shall mean the particular AKTIVOV software modules and functionalities within those modules hosted by AKTIVOV as identified in the Agreement, including all programs and source codes, machine-readable codes, and relevant documentation.
- c. "Documentation" shall mean all relevant end-user documentation, training materials or videos, specifications, notes and technical documents and materials sufficient to permit the Licensee to use the Licensed Software hosted by AKTIVOV.
- d. "Error(s) or Bug(s)" shall mean defect(s) in the Licensed Software which prevent it from performing in accordance with Aktivov specifications as mutually determined. Severity level should be reported as below:
 - i. Level 1: Urgent; software has totally stopped.
 - ii. Level 2: Non-Urgent, can wait; software has not totally stopped.
- e. "Response Remedies" shall mean the response times for errors or bugs severity levels.
- f. "Subscription Start Date" shall mean January 1 of every year; "Subscription End Date" shall mean December 31 of every year.
- g. "Object Code" shall mean the computer software code which results from the translation or processing of source code by a computer into machine executable or intermediate code, such code is not readily understandable to a human being but is appropriate for execution or interpretation by a computer.
- h. "Software Fixes" shall mean corrections and bug fixes to the Licensed Software to correct issues and deviations in the Licensed Software. All such fixes delivered to the Licensee shall become part of the base Licensed Software under the Agreement.

- i. "Software Customizations" shall mean all customized additions to the Licensed Software, which adds to or alters the function(s) of the Licensed Software or integrates with other software, as requested by the Licensee. This may include, but not be limited to, any scripts, interfaces, reports or program code requested by the Licensee that provide specific functionality uniquely designed for the Licensee. Separate cost structure will be worked out and agreed between AKTIVOV and the Licensee for any customizations and annual maintenance/ upkeep/ upgrade of such customizations.
- j. "Software Updates" are software fixes, patches, new features that become part of the base License Software, and changes to object codes (including original codes). AKTIVOV will have full ownership and licensing rights of such software updates, and retains the right to implement, utilize, modify, enhance or decommission such software updates as AKTIVOV deems appropriate.
- k. "Successor Products" shall mean any software product under any name released by AKTIVOV that provides at least the same functionality of the then current version of the Licensed Software, provided AKTIVOV ceases to offer Subscription for the Licensed Software as named in the Agreement.
- l. "Amendment or Modification to this Subscription Agreement" shall mean that both Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein, except the Agreement, are excluded. Further, any modifications of this Agreement shall be in writing and signed by both Parties.

2. **SUBSCRIPTION**

- a. Unlimited phone, email, ad hoc, and remote support per month will be provided to the Licensee during the Annual Subscription period. Anything beyond regular support related to the released version of the software (e.g. any negotiated custom work) will be handled as Time and Materials work (\$200 per hour, 10% increase year on year) or lump-sum basis (if appropriate) with prior authorization from the Licensee. Note that time spent internal to AKTIVOV to program and deploy updates, patches, bug fixes, security updates etc. are automatically included in annual subscription.
- b. A Client Services Manager (CSM) will be assigned to the Licensee as one point of contact. The Licensee will identify a resource to serve as one point of contact from the Licensee's side. These two points of contact will work with each other to solve issues.
- c. The services to be provided during the Annual Subscription period include Software Updates to the Licensed Software. This does not include any annual maintenance for any additional modules, features and functions that has not been bought yet under the current contract.
- d. The services to be provided during the Annual Subscription period include software fixes, patches, security updates etc. to the Licensed Software. Note that the Licensee must provide AKTIVOV with written specific narratives about the bugs and errors in the system and the manner in which the Licensed Software is not functioning properly with pictures and screenshots to the best of the Licensee staff's ability.
- e. The Licensee should try to resolve all problems internally before reporting a problem or issue or bug with AKTIVOV. If the Licensee solves an issue or problem on its own, the Licensee should document the problem and the resolution and send an email report to AKTIVOV. If the problem still persists, the Licensee should report it to AKTIVOV by raising a ticket in AKTIVOV online help desk (bug tracking system). Moreover, the Licensee should first isolate the problems and issues as Licensed Software related and not something related to any other software or system used by the Licensee.
- f. Subscription shall mean
 - i. Delivery to Licensee of all base revisions of modules bought by the Licensee in final form together with all accompanying documentation, if any. Note that any custom developments done and paid by any other customers do not automatically become available to the Licensee, but custom developments paid by the Licensee becomes available to the Licensee.

- ii. AKTIVOV's compliance with the Response Remedies to the severity levels of bugs and errors are specified below:
 - 1. Level 1: Response provided within 24 to 48 hours.
 - 2. Level 2: Response provided within 5 to 7 business days.
- g. AKTIVOV shall make all reasonable efforts to provide the Software Updates that are necessary to assure the Licensed Software is functioning properly.
- h. AKTIVOV will provide Email, Phone or Web support during normal business hours, 8 AM to 5 PM U.S. Pacific Time, Monday through Friday except holidays. Special support may be extended after regular work hours making this a 24 x 7 support on a case to case basis for emergencies only (additional costs may be incurred for this kind of special support). After hours (5 PM though 8AM U.S. Pacific Time, Monday through Friday except holidays) emergency/ very critical support phone or email will be provided to the Licensee for very urgent support that stops work for several Licensee's staff during emergency or critical situations. AKTIVOV will make all reasonable efforts to acknowledge and respond to the request for support for critical problems that occur outside of normal business hours within 24 to 48 hours of receipt of the call or email from a designated and authorized Licensee representative.
- i. The Licensee will allow AKTIVOV's access to the Licensee's systems in order to perform thorough remote diagnostics and effect remote repairs, upgrades, and fixes if needed.
- j. Depending upon the type of problem reported (urgent or non-urgent), AKTIVOV staff may need to travel. Travel (actual expenses with actual receipts, mileage reimbursed at the IRS mileage rate at the time of expense) related expenses shall be all the reasonable expenses incurred by AKTIVOV while conducting business authorized by Licensee, including, but not limited to, air and surface transportation, lodging, car rental, meals, and incidentals. All travel expenses must be approved in advance by the appropriate Licensee representative. In emergency situations, AKTIVOV may travel without the Licensee's approval but still the Licensee agrees to reimburse AKTIVOV for all travel related expenses. AKTIVOV will pay for all travel expenses, and then the Licensee will reimburse AKTIVOV per the expense statements submitted by AKTIVOV.
- k. If any problems reported are not related to AKTIVOV Licensed Software, AKTIVOV will negotiate with the Licensee and charge for reasonable resource time and costs incurred to resolve such unrelated problems. This will be invoiced to the Licensee (\$200 per hour, 10% increase year on year) beyond regular Subscription costs as consulting or professional services costs to identify or solve non-Aktivov issues.

3. INVOICE AND PAYMENT

- a. AKTIVOV will raise any invoices owed by Licensee, stating, without limitation, all amounts due from Licensee to AKTIVOV under this Agreement. The foregoing invoice shall contain sufficient detail (including the separate itemization of the Tasks, Subtasks, Support, Maintenance, Subscription, license, customizations, travel, and any other fees under the Agreement as appropriate) to allow Licensee to determine the accuracy of the amount(s) billed. All invoices shall be paid in U.S. dollars. All payments will be made in full within thirty (30) calendar days from the date of the invoice.
- b. Subscription invoice will be issued by January 1 of each year. The Licensee will pay this invoice in full within thirty (30) calendar days.
- c. Any other invoices including customization or any other additional work will be issued separately on a case to case basis. The Licensee will pay this invoice in full within thirty (30) calendar days from the invoice date.
- d. Non-payment of any invoices:
 - i. If payment is not received for Annual Subscription invoice within thirty (30) calendar days from invoice date, AKTIVOV will notify Licensee of payment oversight and allow additional fifteen (15) calendar days for payment remedy. Otherwise, AKTIVOV reserves rights to terminate this Agreement and the AKTIVOV Software License

Agreement immediately and discontinue Licensee's access to the Licensed Software and any Subscription for the Licensed Software.

- ii. If payment is not received for any other invoice within thirty (30) calendar days from the date of invoice, AKTIVOV will notify the CLIENT of payment oversight and allow additional fifteen (15) calendar days for payment. AKTIVOV will charge a six percent (6%) penalty if payment is not made by the end of the additional fifteen (15) days and thereafter will charge two percent (2%) per month interest in addition to any legal procedures costs that may be incurred to recover pending payments including penalties and interest. AKTIVOV also reserves rights to terminate this Agreement and the Aktivov Software License Agreement immediately and discontinue access to the Licensed Software and any Subscription for the Licensed Software.
- iii. If access to the Licensed Software and any Subscription for the Licensed Software is cut off for any issues/ reasons, AKTIVOV will charge a Time and Materials fee (\$200 per hour, 10% increase year on year) to turn on all access after the issues/ reasons have been cured.

4. **AGREEMENT RENEWAL.**

The term of this Annual Subscription Agreement shall be two (2) years, commencing on the year after the initial implementation year with a 5% increase or CPI percent increase in the renewal price year on year, whichever is higher. Both AKTIVOV and the Licensee have negotiated and agreed upon the yearly Subscription fees as provided in the attached quotation. The Annual Subscription Agreement may be renewed for multi-year terms at the end of the initial term under mutually acceptable payment terms. Changes to the subscription price as mutually agreed for further renewal cycles will be provided to the Licensee two (2) months before renewal.

5. **NOTICE.**

The following contact information will be used for mailing any notices using email or certified mail. Each Party will update the notice contact information below in writing (mail or email) if anything changes within 10 business days of such change.

Arnab Bhowmick	<Contact Name>
AKTIVOV LLC	<Address>
24919 SE 41st Dr,	<Address>
Sammamish, WA 98029	<City>, WA <Zip>
Email: arnab@akav.com	Email: email

6. **EXCLUSIONS**

AKTIVOV excludes the following items from Subscription under this Agreement:

- a. Analysis or interpretation of any inputs and outputs (data, results, information related to the Licensee) related to the Licensed Software.
- b. Questions related to computer systems, operating systems, hardware, and peripherals that are not related to the use of the Licensed Software
- c. Licensee's data analysis, correction, debugs, data migration, loading into the Licensed Software etc.

- d. Any services necessitated as a result of any cause other than authorized ordinary and proper use by the Licensee of the Licensed Software, including but not limited to neglect, abuse, unauthorized modification, unauthorized updates or electrical, fire, water or other damage.
- e. Any services regarding customization of the Licensed Software including, but not limited to, custom features and functions, custom modules, custom scripts or interfaces or codes, custom integration with other systems etc. Any additional or custom functions, design, layouts, user experience or interfaces, and features etc. will not be part of regular subscription activity. These additional items will be scoped separately, and professional services for customization will be provided at an additional cost depending on the scope.
- f. Mobile hand-held or any hardware device or associated costs and upgrade/ replacements costs of any hardware or device are not included in regular subscription. Also note that any other software acquisition, update, or upgrade cost e.g. Windows OS upgrade cost on Licensee's machines etc. are not included in regular subscription.
- g. Any additional module or additional functionalities that the Licensee will desire to buy and use will be priced separately at the time of purchase. This Agreement will be amended accordingly to provide subscription and support for such additional modules or functionalities.
- h. If the Licensee acquires more service connections or provide service to additional area, this Agreement will be amended to provide support for additional data for additional areas or service connections.

This Subscription Agreement shall be construed and enforced in accordance with, and be governed by, the laws of the State of Washington without reference to conflict of laws principles. Both AKTIVOV and Licensee agree to only pursue any legal procedures or actions in the Superior Court of King County, State of Washington, and waive their rights to change venue or pursue legal procedures or actions in any other forum.

IN WITNESS WHEREOF, the parties hereto have executed this Subscription Agreement to be effective, valid, and binding upon the parties as of the date below as executed by their duly authorized representatives.

Accepted and Agreed:

AKTIVOV LLC

CITY OF LANGLEY, WA

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

AKTIVOV ANNUAL SOFTWARE SUBSCRIPTION AGREEMENT

This ANNUAL SOFTWARE SUBSCRIPTION AGREEMENT (Agreement) is between AKTIVOV LLC (AKTIVOV), a Washington corporation, with its principal place of business at 24919 SE 41st Dr, Issaquah, WA, 98029, and the City of Langley, a Washington Corporation, with its principal place of business at 1112 Second St, Langley, WA 98260 (Licensee) (individually a "Party" and collectively the "Parties"). This Subscription Agreement supplements the Software License Agreement (Agreement) entered into and between the Parties contemporaneously with this Subscription Agreement to enable the Licensee to access the AKTIVOV Software modules.

AKTIVOV is the owner and authorized licensor of all the AKTIVOV Software modules (as hereinafter mentioned as "AKTIVOV" or "software" or "Licensed Software"). AKTIVOV grants the Licensee certain limited rights under this Agreement to use AKTIVOV' proprietary Licensed Software and any relevant materials. All rights not specifically granted to the Licensee or anyone else in this Agreement are reserved to AKTIVOV.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

This Agreement and the terms and conditions hereof shall govern all access and usage of the subscribed Licensed Software codes, support, and related user manuals or training materials, and any base updates, modifications or enhancements to such software product, which have been developed by, or on behalf of AKTIVOV, and provided to Licensee by AKTIVOV. All software Subscription and Support will be governed by the terms of this Agreement.

1. DEFINITIONS

- a. "Proprietary or Confidential Information" shall have the meaning given such term in the Agreement.
- b. "Licensed Software" shall mean the particular AKTIVOV software modules and functionalities within those modules hosted by AKTIVOV as identified in the Agreement, including all programs and source codes, machine-readable codes, and relevant documentation.
- c. "Documentation" shall mean all relevant end-user documentation, training materials or videos, specifications, notes and technical documents and materials sufficient to permit the Licensee to use the Licensed Software hosted by AKTIVOV.
- d. "Error(s) or Bug(s)" shall mean defect(s) in the Licensed Software which prevent it from performing in accordance with Aktivov specifications as mutually determined. Severity level should be reported as below:
 - i. Level 1: Urgent; software has totally stopped.
 - ii. Level 2: Non-Urgent, can wait; software has not totally stopped.
- e. "Response Remedies" shall mean the response times for errors or bugs severity levels.
- f. "Subscription Start Date" shall mean January 1 of every year; "Subscription End Date" shall mean December 31 of every year.
- g. "Object Code" shall mean the computer software code which results from the translation or processing of source code by a computer into machine executable or intermediate code, such code is not readily understandable to a human being but is appropriate for execution or interpretation by a computer.
- h. "Software Fixes" shall mean corrections and bug fixes to the Licensed Software to correct issues and deviations in the Licensed Software. All such fixes delivered to the Licensee shall become part of the base Licensed Software under the Agreement.

- i. "Software Customizations" shall mean all customized additions to the Licensed Software, which adds to or alters the function(s) of the Licensed Software or integrates with other software, as requested by the Licensee. This may include, but not be limited to, any scripts, interfaces, reports or program code requested by the Licensee that provide specific functionality uniquely designed for the Licensee. Separate cost structure will be worked out and agreed between AKTIVOV and the Licensee for any customizations and annual maintenance/ upkeep/ upgrade of such customizations.
- j. "Software Updates" are software fixes, patches, new features that become part of the base License Software, and changes to object codes (including original codes). AKTIVOV will have full ownership and licensing rights of such software updates, and retains the right to implement, utilize, modify, enhance or decommission such software updates as AKTIVOV deems appropriate.
- k. "Successor Products" shall mean any software product under any name released by AKTIVOV that provides at least the same functionality of the then current version of the Licensed Software, provided AKTIVOV ceases to offer Subscription for the Licensed Software as named in the Agreement.
- l. "Amendment or Modification to this Subscription Agreement" shall mean that both Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein, except the Agreement, are excluded. Further, any modifications of this Agreement shall be in writing and signed by both Parties.

2. **SUBSCRIPTION**

- a. Unlimited phone, email, ad hoc, and remote support per month will be provided to the Licensee during the Annual Subscription period. Anything beyond regular support related to the released version of the software (e.g. any negotiated custom work) will be handled as Time and Materials work (\$200 per hour, 10% increase year on year) or lump-sum basis (if appropriate) with prior authorization from the Licensee. Note that time spent internal to AKTIVOV to program and deploy updates, patches, bug fixes, security updates etc. are automatically included in annual subscription.
- b. A Client Services Manager (CSM) will be assigned to the Licensee as one point of contact. The Licensee will identify a resource to serve as one point of contact from the Licensee's side. These two points of contact will work with each other to solve issues.
- c. The services to be provided during the Annual Subscription period include Software Updates to the Licensed Software. This does not include any annual maintenance for any additional modules, features and functions that has not been bought yet under the current contract.
- d. The services to be provided during the Annual Subscription period include software fixes, patches, security updates etc. to the Licensed Software. Note that the Licensee must provide AKTIVOV with written specific narratives about the bugs and errors in the system and the manner in which the Licensed Software is not functioning properly with pictures and screenshots to the best of the Licensee staff's ability.
- e. The Licensee should try to resolve all problems internally before reporting a problem or issue or bug with AKTIVOV. If the Licensee solves an issue or problem on its own, the Licensee should document the problem and the resolution and send an email report to AKTIVOV. If the problem still persists, the Licensee should report it to AKTIVOV by raising a ticket in AKTIVOV online help desk (bug tracking system). Moreover, the Licensee should first isolate the problems and issues as Licensed Software related and not something related to any other software or system used by the Licensee.
- f. Subscription shall mean
 - i. Delivery to Licensee of all base revisions of modules bought by the Licensee in final form together with all accompanying documentation, if any. Note that any custom developments done and paid by any other customers do not automatically become available to the Licensee, but custom developments paid by the Licensee becomes available to the Licensee.

- ii. AKTIVOV's compliance with the Response Remedies to the severity levels of bugs and errors are specified below:
 - 1. Level 1: Response provided within 24 to 48 hours.
 - 2. Level 2: Response provided within 5 to 7 business days.
- g. AKTIVOV shall make all reasonable efforts to provide the Software Updates that are necessary to assure the Licensed Software is functioning properly.
- h. AKTIVOV will provide Email, Phone or Web support during normal business hours, 8 AM to 5 PM U.S. Pacific Time, Monday through Friday except holidays. Special support may be extended after regular work hours making this a 24 x 7 support on a case to case basis for emergencies only (additional costs may be incurred for this kind of special support). After hours (5 PM though 8AM U.S. Pacific Time, Monday through Friday except holidays) emergency/ very critical support phone or email will be provided to the Licensee for very urgent support that stops work for several Licensee's staff during emergency or critical situations. AKTIVOV will make all reasonable efforts to acknowledge and respond to the request for support for critical problems that occur outside of normal business hours within 24 to 48 hours of receipt of the call or email from a designated and authorized Licensee representative.
- i. The Licensee will allow AKTIVOV's access to the Licensee's systems in order to perform thorough remote diagnostics and effect remote repairs, upgrades, and fixes if needed.
- j. Depending upon the type of problem reported (urgent or non-urgent), AKTIVOV staff may need to travel. Travel (actual expenses with actual receipts, mileage reimbursed at the IRS mileage rate at the time of expense) related expenses shall be all the reasonable expenses incurred by AKTIVOV while conducting business authorized by Licensee, including, but not limited to, air and surface transportation, lodging, car rental, meals, and incidentals. All travel expenses must be approved in advance by the appropriate Licensee representative. In emergency situations, AKTIVOV may travel without the Licensee's approval but still the Licensee agrees to reimburse AKTIVOV for all travel related expenses. AKTIVOV will pay for all travel expenses, and then the Licensee will reimburse AKTIVOV per the expense statements submitted by AKTIVOV.
- k. If any problems reported are not related to AKTIVOV Licensed Software, AKTIVOV will negotiate with the Licensee and charge for reasonable resource time and costs incurred to resolve such unrelated problems. This will be invoiced to the Licensee (\$200 per hour, 10% increase year on year) beyond regular Subscription costs as consulting or professional services costs to identify or solve non-Aktivov issues.

3. INVOICE AND PAYMENT

- a. AKTIVOV will raise any invoices owed by Licensee, stating, without limitation, all amounts due from Licensee to AKTIVOV under this Agreement. The foregoing invoice shall contain sufficient detail (including the separate itemization of the Tasks, Subtasks, Support, Maintenance, Subscription, license, customizations, travel, and any other fees under the Agreement as appropriate) to allow Licensee to determine the accuracy of the amount(s) billed. All invoices shall be paid in U.S. dollars. All payments will be made in full within thirty (30) calendar days from the date of the invoice.
- b. Subscription invoice will be issued by January 1 of each year. The Licensee will pay this invoice in full within thirty (30) calendar days.
- c. Any other invoices including customization or any other additional work will be issued separately on a case to case basis. The Licensee will pay this invoice in full within thirty (30) calendar days from the invoice date.
- d. Non-payment of any invoices:
 - i. If payment is not received for Annual Subscription invoice within thirty (30) calendar days from invoice date, AKTIVOV will notify Licensee of payment oversight and allow additional fifteen (15) calendar days for payment remedy. Otherwise, AKTIVOV reserves rights to terminate this Agreement and the AKTIVOV Software License

Agreement immediately and discontinue Licensee's access to the Licensed Software and any Subscription for the Licensed Software.

- ii. If payment is not received for any other invoice within thirty (30) calendar days from the date of invoice, AKTIVOV will notify the CLIENT of payment oversight and allow additional fifteen (15) calendar days for payment. AKTIVOV will charge a six percent (6%) penalty if payment is not made by the end of the additional fifteen (15) days and thereafter will charge two percent (2%) per month interest in addition to any legal procedures costs that may be incurred to recover pending payments including penalties and interest. AKTIVOV also reserves rights to terminate this Agreement and the Aktivov Software License Agreement immediately and discontinue access to the Licensed Software and any Subscription for the Licensed Software.
- iii. If access to the Licensed Software and any Subscription for the Licensed Software is cut off for any issues/ reasons, AKTIVOV will charge a Time and Materials fee (\$200 per hour, 10% increase year on year) to turn on all access after the issues/ reasons have been cured.

4. **AGREEMENT RENEWAL.**

The term of this Annual Subscription Agreement shall be two (2) years, commencing on the year after the initial implementation year with a 5% increase or CPI percent increase in the renewal price year on year, whichever is higher. Both AKTIVOV and the Licensee have negotiated and agreed upon the yearly Subscription fees as provided in the attached quotation. The Annual Subscription Agreement may be renewed for multi-year terms at the end of the initial term under mutually acceptable payment terms. Changes to the subscription price as mutually agreed for further renewal cycles will be provided to the Licensee two (2) months before renewal.

5. **NOTICE.**

The following contact information will be used for mailing any notices using email or certified mail. Each Party will update the notice contact information below in writing (mail or email) if anything changes within 10 business days of such change.

Arnab Bhowmick

AKTIVOV LLC

24919 SE 41st Dr,
Sammamish, WA 98029

Email: arnab@akav.com

<Contact Name>

<Address>

<Address>

<City>, WA <Zip>

Email: email

6. **EXCLUSIONS**

AKTIVOV excludes the following items from Subscription under this Agreement:

- a. Analysis or interpretation of any inputs and outputs (data, results, information related to the Licensee) related to the Licensed Software.
- b. Questions related to computer systems, operating systems, hardware, and peripherals that are not related to the use of the Licensed Software
- c. Licensee's data analysis, correction, debugs, data migration, loading into the Licensed Software etc.

- d. Any services necessitated as a result of any cause other than authorized ordinary and proper use by the Licensee of the Licensed Software, including but not limited to neglect, abuse, unauthorized modification, unauthorized updates or electrical, fire, water or other damage.
- e. Any services regarding customization of the Licensed Software including, but not limited to, custom features and functions, custom modules, custom scripts or interfaces or codes, custom integration with other systems etc. Any additional or custom functions, design, layouts, user experience or interfaces, and features etc. will not be part of regular subscription activity. These additional items will be scoped separately, and professional services for customization will be provided at an additional cost depending on the scope.
- f. Mobile hand-held or any hardware device or associated costs and upgrade/ replacements costs of any hardware or device are not included in regular subscription. Also note that any other software acquisition, update, or upgrade cost e.g. Windows OS upgrade cost on Licensee's machines etc. are not included in regular subscription.
- g. Any additional module or additional functionalities that the Licensee will desire to buy and use will be priced separately at the time of purchase. This Agreement will be amended accordingly to provide subscription and support for such additional modules or functionalities.
- h. If the Licensee acquires more service connections or provide service to additional area, this Agreement will be amended to provide support for additional data for additional areas or service connections.

This Subscription Agreement shall be construed and enforced in accordance with, and be governed by, the laws of the State of Washington without reference to conflict of laws principles. Both AKTIVOV and Licensee agree to only pursue any legal procedures or actions in the Superior Court of King County, State of Washington, and waive their rights to change venue or pursue legal procedures or actions in any other forum.

IN WITNESS WHEREOF, the parties hereto have executed this Subscription Agreement to be effective, valid, and binding upon the parties as of the date below as executed by their duly authorized representatives.

Accepted and Agreed:

AKTIVOV LLC

CITY OF LANGLEY, WA

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

**CONTRACT FOR SERVICES
CITY OF LANGLEY AND SOUND MAINTENANCE SERVICES**

THIS CONTRACT FOR SERVICES (“Agreement”) is entered into this ____ day of _____, 2021, by and between the City of Langley, a municipal corporation of the State of Washington (“City”), and Sound Maintenance Services, a Washington Corporation (“Contractor”), in consideration of the mutual benefits and conditions contained herein.

WHEREAS, the City has determined the need to have certain services performed for its citizens; and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions;

NOW, THEREFORE, the parties hereby agree as follows:

1. **Scope of Services.** Contractor shall perform those services described on **Exhibit A** attached hereto, which is incorporated by this reference as if fully set forth. In performing such services, Contractor shall at all times comply with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. To the extent that any term or provision of this Agreement conflicts with any term or provision of Exhibit A or any other exhibit hereto, the terms of this Agreement shall control.
2. **Compensation and Method of Payment.** Contractor will invoice the City monthly based upon the rate set forth in Exhibit A. Contractor shall be paid a total amount not to exceed eighteen hundred and fifty Dollars (\$1850.00) without written modification of this Agreement signed by the City. The City shall pay Contractor for services rendered under this Agreement within ten (10) days after City Council voucher approval. Contractor agrees to complete and return the attached **Exhibit B** (Taxpayer Identification Number) to the City prior to or along with the first invoice.
3. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing APRIL 05, 2022, and ending APRIL 05, 2023, unless earlier terminated in accordance with Section 9 herein or extended by written amendment in accordance with Section 12 herein. Thereafter the contract shall renew automatically on the 6th day of April for each subsequent year unless terminated in writing by either party 30 days prior to renewal.
4. **Independent Contractor.** The City and Contractor agree that Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create an employer-employee relationship between the parties hereto. Neither Contractor nor any of Contractor’s employees shall be entitled, by virtue of the services provided under this Agreement, to any benefits afforded to City employees. The City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA,

state industrial insurance, state workers' compensation, or for otherwise assuming the duties of an employer with respect to Contractor or Contractor's employees.

5. **Indemnification.** Contractor shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

6. **Insurance.** Contractor shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, or employees. Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit Contractor's liability to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. **Scope of Required Insurance.** Contractor shall maintain insurance of the types and coverage described below:

1. **Automobile liability insurance**, with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident, covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
2. **Commercial general liability insurance**, written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, which shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, stop gap liability, personal injury and advertising injury. The City shall be named as an additional insured under Contractor's Commercial General Liability insurance policy with respect to the work performed for the City, using an additional insured endorsement at least as broad as ISO CG 20 26.
3. **Workers' compensation coverage** as required by the Industrial Insurance laws of the State of Washington.

- B. Additional Insurance Provisions. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Contractor's automobile liability and commercial general liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respects the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of Contractor's insurance and shall not contribute with it. Contractor shall provide the City with written notice of any policy cancellation within two (2) business days of Contractor's receipt of such notice.
- C. Certificates of Insurance. Within fifteen (15) days of the execution of this Agreement, Contractor shall deliver original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance coverage required by this Section 6.
- D. Failure to Maintain Insurance. Contractor's failure to maintain insurance as required shall constitute a material breach of this Agreement, upon which the City may, after giving five (5) business days' notice to the Contractor to correct the breach, immediately terminate this Agreement or, at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due Contractor from the City.
- E. Full Availability of Contractor Limits. If Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and excess or umbrella liability maintained by Contractor, irrespective of whether such limits maintained by Contractor are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Contractor.

7. Taxes, Licenses and Permits.

- A. Contractor shall procure and maintain a City business license in accordance with applicable City code prior to beginning work under this Agreement. Contractor assumes responsibility for and ensures that all contractors, subcontractors and suppliers shall also obtain a City business license.
- B. Contractor acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, including taxes and fees assessed pursuant to applicable City code, and Contractor agrees to comply with all applicable laws regarding the reporting of income and maintenance of records, and with all other requirements and obligations imposed pursuant to applicable law. If the City does not receive, or is assessed, made liable, or responsible in any manner for such charges or taxes, Contractor shall reimburse and hold the City harmless from such costs, including attorneys' fees. Contractor shall also require all contractors, subcontractors and suppliers to pay all charges and taxes in accordance with this Section 7.

arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly and exclusively in Island County, Washington. The prevailing party in any such action shall be entitled to its costs of suit, including attorneys' fees and expert witness fees.

15. Prevailing Wages; Notice. This Agreement is subject to the requirements of Chapter 39.12 RCW, and as it may be amended, related to prevailing wages. NO WORKER, LABORER OR MECHANIC EMPLOYED IN THE PERFORMANCE OF ANY PART OF THIS CONTRACT SHALL BE PAID LESS THAN THE PREVAILING RATE OF WAGE as determined by the Industrial Statistician of the Department of Labor and Industries for the State of Washington.

The schedule of prevailing wage rates for the Agreement is made a part of this Agreement as set forth at the following address <https://secure.lni.wa.gov/wagelookup/> and as subsequently amended.

Prior to making any payment under this Contract, the City must receive an approved copy of the "Statement of Intent to Pay Prevailing Wages on Public Works Contracts" from the Department of Labor & Industries. It is the Contractor's responsibility to obtain and file the "Statement of Intent to Pay Prevailing Wage." The Contractor shall be responsible for all filing fees. Each invoice must include a signed statement that prevailing wages have been paid by the contractor and all subcontractors. Following the final acceptance of services rendered, the Contractor shall submit an "Affidavit of Wages Paid."

BY THEIR SIGNATURES BELOW, the authorized agents of the parties enter into this Agreement as of the day and year first written above.

CITY OF LANGLEY

CONTRACTOR

By: _____
Scott Chaplin, Mayor

By: _____
Cameron Quantrille, District Manager

Attest/Authenticated:

Monica Felici, Clerk-Treasurer

**EXHIBIT A:
SCOPE OF SERVICES**

Contractor shall furnish and perform services including, but not limited to, the description of work and indicated below:

DRAFT

EXHIBIT B:
TAXPAYER IDENTIFICATION NUMBER

CITY OF LANGLEY
P.O. Box 366
112 Second Street
Langley, WA 98260
Tel: (360) 221-4246

In order for you to receive reimbursement from the City of Langley, we must have either a Taxpayer Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Langley before or along the submittal of the first billing voucher.

Please check the appropriate category:

Corporation Partnership Government Agency
 Individual/Sole Proprietor Other (please explain)

TIN#: _____ - _____

SS#: _____ - _____ - _____

Print Name: _____

Print Title: _____

Business Name: _____

Business Address: _____

City of Langley



To: City of Langley Council

From: Monica Felici, Clerk/Treasurer-Finance

Re: Tyler Technologies

1. I have been mentioning the need for the city to upgrade the financial program. I am once again asking Council to approve the signing of the Tyler Contract.
 - a. Our system right now does not have the reports needed and I have to utilize excel spreadsheets which leaves opening for errors. I have to hand key numbers and formulas.
 - b. In 2021 staff looked at demonstrations from 3 or 4 different vendors-many do not do business in Washington or do not offer an entire package that we need
 - c. Tyler was chosen as top choice for all staff-I have attached the latest quote-Tyler has agreed to keep the quote given in 2021 as long as it is signed within a month.
 - d. We are going with another company ACTIVAV for records management and planning permits.
 - e. We are able to connect both programs together so there is no need for double entry-at this time with our current program if you update one module it does not update the others
 - f. Having an updated financial system would be beneficial to all staff. No double entry, Directors would be able to print reports they need, Council reports would be printed without copying into excel, Budget is part of Tyler and would not have to use excel, financial reports are set up in Tyler.
 - g. Once the system is set up it is less than \$10,000 a year for maintenance
 - h. We would need to pay 25% down and then only pay as each module is set up and active
 - i. I have not been able to find any grants for replacing financial systems
 - j. The breakdown of the cost for each fund is as follows-using the budget breakdown for finance cost to funds-We just received a 10% discount on the figures below
 - k. I have attached the budget showing the effect of the purchase for each fund.

This would be a benefit to all staff

Fund	Cost
001-General	\$40,026.84
101-Streets	\$12,949.86
104-Cemetery	\$1,177.26
105-Tourism	\$8,240.82
401-Water	\$27,076.98
402-Sewer	\$18,836.16
406-Stormwater	\$9,418.08
Total	\$117,726



City of Langley

MEMORANDUM

To: City Council and Mayor Scott Chaplin
From: Public Works Advisory Commission, Parks and Open Space, Randi Perry, Director of Public Works & Meredith Penny, Director of Community Planning
Re: Use of Unimproved Anthes Right-of-Way at Seawall Park

Meeting Date: April 4, 2022

The purpose of this memo is to provide a review of the questions and research completed by staff and to provide the Council with staff's, PWAC's, and Parks and Open Space's recommendation for the use of the right-of-way to access Seawall Park.

Staff Recommendation

Staff recommends the unimproved portion of the Anthes right-of-way which connects First St to the seawall, remain authorized vehicle access only. Staff can continue to work towards solutions for Public Works maintenance vehicles to gain access to the eastern portions of the seawall, but do not see more frequent vehicle traffic near the park to be in the best interest of the public.

Parks and Open Space Commission Recommendation (to PWAC and Council March 9, 2022)

POS believes it is not in the best interest of the City of Langley to grant motor vehicle access via the extension of Anthes Avenue to the land behind the seawall, except for public maintenance purposes or for authorized access for repair and maintenance.

Public Works Advisory Commission Recommendation (March 16, 2022)

PWAC recommends the unimproved portion of the Anthes right -of-way which connects First St. to the seawall, remain authorized vehicle access only. In addition, PWAC recommends staff review alternative parking solutions for the Kleiner's.

Staff reviewed alternative code allowances for potential parking solutions.

Langley Municipal Code 10.26 Permit Parking. Allows for second street neighborhood specific parking and unfortunately does not satisfy the intent of code section 18.22.130 below.

18.22.130 Parking Requirements

J. Joint Facilities. In cases where there are uses in close proximity to each other that operate or are used at entirely different times of the day or week, joint parking facilities may satisfy the parking requirements of such uses if the parking facilities are within one-eighth of a mile from all uses being served and if the owners of the uses involved present a written agreement.

K. Off-Street Parking, Leased or Purchased. Leased parking spaces or land purchased for parking spaces may satisfy the parking requirements of this code if the leased or purchased spaces are within 800 feet of the uses being served and if the owner(s) of the uses involved present a written agreement.

Background

The owners of 230 1st Street began a phased approach in 2017, to upgrade what is known as The Doghouse. The concept review was taken to the Design Review Board (DRB). This submittal included a garage on the north side of the building. The determination approved only siding, windows, and signage. A phase 1 building permit was issued to address structural issues and the three approved DRB elements. No authorization or approval was given for any new construction. The owners are now wanting to move into phase 2 which includes building occupancy and final design. The owners are requesting use of the public unimproved Anthes right-of-way to access a proposed private garage.

Staff has been exploring both the technical issues and the public benefit of granting this type of use.

The paved area is authorized vehicle access only and is utilized by Public Works to access the sewer lift station and the park. The access is extremely steep and is primarily used by pedestrians to access the park. Limited visibility during ingress and egress creates conflict between pedestrians and vehicles. The gravel road near the seawall is not located on public property. The City maintenance crew has not been granted access to the gravel drive which makes garbage collection and park maintenance difficult.

Normal use of right-of-way for this type of development requires roadway improvement to meet a standard of 16' width. The City Engineer would potentially approve a reduction of road width to 12'-14' provided the Fire Marshall approves. The upgrade would also require a separated pedestrian walkway that meets ADA requirements to the maximum extent feasible. Storm water collection and discharge will need to be evaluated.

In addition to the request from the owners of the Doghouse, neighboring property owners have expressed interest in utilizing the unimproved right-of-way to access their properties as well. Opening to multiple vehicle unrestricted access requires the access to meet private road standards of 16'. Sight distance is impaired on ingress and egress, and the 12% grading standard cannot be met. This will require a variance. Storm water collection will require collection, treatment, and discharge. This is likely to require Army Corp permitting to discharge into the sound rather than behind the wall.

Considerations

- Are there ways the public can benefit from allowing private use of a public access?
 - o Use agreements could be used to expand public access to the lower gravel area.
- How will the pedestrian experience be impacted?
- How would authorized-only access be managed in the right-of-way? Would authorization still be required if improvements are made?
- What potential development could/would result from providing access to the north side of the park?
 - o Mixed use residential additions require 2 parking spaces per unit.
 - o How would development, accessory structures, garages, or parking spaces on adjacent private property impact the experience of park visitors?
 - Visual impacts?
 - More "eyes" on the street for crime prevention and safety?
 - Pedestrian/traffic conflicts?

- Impervious surfaces?
 - Lighting?
 - Are there other ways of addressing potential development impacts while still allowing private access?
- What other considerations should be investigated?

Discussion with PWAC and City Council

On January 12, 2022 staff presented this issue to the Public Works Advisory Committee (PWAC) and the members held a discussion on the above considerations staff had outlined. The discussion was then brought to City Council on February 7, 2022. The issue was also discussed at the February 9, 2022 Parks and Open Space Committee (POSC) meeting and the March 2, 2022 Planning Advisory Board (PAB) meeting. Questions raised by POSC and PAB were generally covered by those also raised at PWAC and Council.

After the discussions, staff compiled the following questions raised by the PWAC and Council members and researched answers to those questions below.

Questions from PWAC with Answers Researched by Staff

1. Would the grade need to be altered?
Per the City Engineer, the sight distance is impaired on ingress and egress and it is impossible to meet standard grading (code minimum is 12%). This will require a variance.
2. Is there liability to allowing people to drive on a steep slope?
The City would need input from a traffic engineer regarding compliance with the Manual on Uniform Traffic Control Devices for Streets. The traffic engineer would need to design a solution that is compliant.
3. What about sea level rise?
Under the current state of the law, the City would likely have no liability for allowing development in an area that might be subject to future impacts from sea level rise. Currently, the nature and extent of future sea level rise is certainly subject to credible scientific opinion, but it not known with certainty.

Under what's known as the "public duty doctrine," a property owner is usually responsible for its own decisions as to the use and development of its own property. This law could change over time, but it's pretty solid now. In fact, and I'm not suggesting that Langley is considering denying the use of private property due to future sea level rise but doing so would likely expose the City to some liability for impermissibly restricting private property rights.

The City's recently adopted Shoreline Master Program (SMP) includes the following provisions related to sea level rise.

- Encourage all use and development of shoreline properties to adapt to the potential adverse effects of sea level rise.
- Applicants for development in the shoreline plan area shall be provided with information on sea level rise.
- Applicants for development in Langley's West and Center reaches shall be encouraged to voluntarily consider increasing setbacks to allow for future sea level rise.
- Development of properties in the Langley West or Center reaches are encouraged to locate the bottom of a structure's foundation two feet higher than the required elevation established in Ch. 15.24 Flood Hazard Areas.
- A condition of approval for any application, including an exemption letter, shall be required to record a notice on title to identify the potential threat associated with sea level rise and shall hold the City harmless.

4. Cars coming down in the ice - could the City close it during inclement weather?
In the event of snow or other questionable conditions, the City can exercise its police power authority under the Model Traffic Ordinance and the Langley Municipal Code to temporarily close the right-of-way until those conditions subside.
5. Was that area designed for that level of traffic? What would be the impact of compacting the soils behind the seawall?
No, it was not designed for that level of traffic. Per the City Engineer, delivery vehicles should not be allowed as inadequate turning and parking conditions are present. Occasional traffic further from the wall than 10 feet is estimated not to impact the wall. Structural surcharge loading behind the wall should be evaluated for increased traffic.
6. How can you widen the access without impacting the lift station?
They would have to utilize the space to the east to widen the access.
7. What would the access be used for?
The City has full control under its police powers to regulate its streets and other rights-of-way, meaning the City can determine what the access should be used for. Input gathered from adjacent property owners, indicates an interest in only opening the access for parking associated with any new residential development along First St, City Public Works maintenance vehicles, emergency vehicle access, and pedestrians. Interest was not shown by the property owners in allowing access to all vehicle traffic. Some property owners indicated a preference for pedestrian traffic and City Public Works maintenance vehicles only.
8. Would it be a shared cost?
Private development which would require upgrades in public infrastructure in order to be adequately served, must pay for the cost of those upgrades.
9. What would be the liability of denying the access?
The City has full control under its police powers to regulate its streets and other rights-of-way. The City's obligation is to maintain streets and rights-of-way in a manner to best ensure reasonably safe travel. A property owner typically has no right in the continuation or maintenance of the flow of traffic past the property, and the City may exercise its police power to install or remove traffic control devices as reasonably necessary. See, e.g., *Walker v. State*, 48 Wn.2d 587, 295 P.2d 328 (1956), construction of a median that prevented left-hand turns into the plaintiff's property was held to be a proper exercise of the police power that did not result in a compensable damage; same result was reached in *Kahin v. City of Seattle*, 64 Wn.2d 872, 395 P.2d 79 (1964), with respect to traffic regulatory markers that converted a two-way street into a one-way street; *State v. Fox*, 53 Wn.2d 216, 220, 332 P.2d 943 (1958) (diversion of traffic because of a median strip falls within the police power of the state).

With respect to access to a particular property, the general rule from the Washington Pattern Jury Instructions is, "The right of access means that an owner is entitled to reasonable ingress and egress to the property. However, an owner is not necessarily entitled to access at all points along the boundary between the property and the existing public way." There are a number of appellate court decisions that further describe a City's authority to regulate access to public streets and rights-of-way. While a determination of liability would depend on the specific facts of the matter at hand, liability for access restrictions requires proof of a "substantial impairment" of access. As long as some reasonable access remains, a city is typically not liable for impairment of access. See, e.g., *Kieffer v. King County*, 89 Wn.2d 369, 572 P.2d 408 (1977) (whether there is a "substantial" impairment of access is a question of fact).

In this situation, the property owners currently have access to their properties via First St.

Questions from Council with Answers Researched by Staff

1. Would everyone be able to use the access if the improvements are made?

- a. Would it be used for parking?
- b. Would the access be limited to just Public Works?
- c. Would the access be limited to only property owners?

The City has full control under its police powers to regulate its streets and other rights-of-way, meaning the City can determine what the access should be used for. Input gathered from adjacent property owners, indicates an interest in only opening the access for parking associated with any new residential development along First St, City Public Works maintenance vehicles, emergency vehicle access, and pedestrians. Interest was not shown by the property owners in allowing access to all vehicle traffic. Some property owners indicated a preference for pedestrian traffic and City Public Works maintenance vehicles only.

2. Can the City legally restrict use?

The City has full control under its police powers to regulate its streets and other rights-of-way. The City's obligation is to maintain streets and rights-of-way in a manner to best ensure reasonably safe travel. A property owner typically has no right in the continuation or maintenance of the flow of traffic past the property, and the City may exercise its police power to install or remove traffic control devices as reasonably necessary. See full response to question #9 above.

3. Are current conditions sufficient for compliance?

Currently, the right-of-way is designed primarily for pedestrian access only, and occasional access by maintenance or emergency vehicles. Opening the right-of-way to more frequent vehicular traffic triggers the need to upgrade the right-of-way to the standards of a public road, meaning a standard width of 16'. The City Engineer would potentially approve a reduction of road width to 12'-14' provided the Fire Marshall approves. The upgrade would also require a separated pedestrian walkway that meets ADA requirements to the maximum extent feasible.

Ultimately, the City would need input from a traffic engineer regarding compliance with the Manual on Uniform Traffic Control Devices for Streets. The traffic engineer would need to design a solution that is compliant.

4. Can the City offer authorized access to the First St property owners and keep the right-of-way in it's current condition?

The City has and will continue to offer authorized access for the property owners on occasions where they need to do maintenance, cleanup, or construction on their properties. The proposal from the owners of the Doghouse is for access for parking associated with a residential unit. This would mean access would need to be authorized two or more times a day, every time the residents need to come and go, in comparison to the one or two times a year Public Works has needed to authorize access currently. If other properties along First St, in addition to the Doghouse, were given access to the lower portion of their lots, this would mean two-way multiple vehicle access. Multiple vehicle open access needs to meet private road standard of 16 feet. Staff and engineering have determined that in the best interest of the public and pedestrians, this level of use would require improvements.

5. Does the City have a prescriptive easement?

The City may have a case for prescriptive easement (or adverse possession) rights, but making that determination is highly fact-intensive and can be difficult to prove. The person claiming a prescriptive easement must prove that he or she (and/or a predecessor in interest) used another person's land for 10 years, and the use was (1) hostile; (2) open and notorious; (3) continuous or uninterrupted; (4) over a uniform route; and (5) exclusive. Given the semi-public nature of the private property in question, establishing all five elements would likely prove to be difficult.

Additionally, in 2015, the Washington Supreme Court issued a decision that makes a prescriptive easement tougher to establish. *Gamboa v. Clark*, 183 Wn.2d 38, 348 P.3d 1214 (2015). Among other things, the Court ruled that "an initial presumption of permissive use applies to enclosed or developed land cases in which there is a reasonable inference of neighborly sufferance or acquiescence." *Id.* at 44. "Showing a reasonable inference of neighborly sufferance or acquiescence is a fairly low bar." *Id.* at 45. The Court accordingly ruled that the fact

that each party knew that the other used the road in question and didn't object, and that the use did not interfere with the owner's use of its land, was enough to deny a prescriptive easement.

Similar fact-specific issues often arise in cases of adverse possession under RCW 7.28, although the necessary possession period under adverse possession is seven years, rather than 10 years for a prescriptive easement.

6. What other options are there for parking associated with residential development on First St?

LMC 18.22.130 allows for the following alternatives to providing parking onsite:

Joint Facilities. In cases where there are uses in close proximity to each other that operate or are used at entirely different times of the day or week, joint parking facilities may satisfy the parking requirements of such uses if the parking facilities are within one-eighth of a mile from all uses being served and if the owners of the uses involved present a written agreement.

Off-Street Parking, Leased or Purchased. Leased parking spaces or land purchased for parking spaces may satisfy the parking requirements of this code if the leased or purchased spaces are within 800 feet of the uses being served and if the owner(s) of the uses involved present a written agreement.

In the Central Business District, the planning official, or the hearings examiner for projects requiring review and approval from the hearings examiner, may issue a waiver from some or all of the parking requirements for any land use and development based on the criteria listed below. The city may require a peer review from a qualified parking expert at the applicant's expense prior to the issue of a parking waiver. Any parking waiver shall be based on the following:

- a. Site-specific land use and parking data.
- b. Available public parking.
- c. Off-site parking agreements.
- d. National and regional parking research and standards such as those provided by the Institute of Traffic Engineers (ITE), the American Planning Association (APA) or similar organizations.
- e. A shared use parking analysis that addresses the use and management of parking for multiple land uses that may result in a reduced parking requirement.

7. Should Council make a determination on access now or wait until a formal permit application is submitted requesting access?

The City Council exercises broad authority over its rights-of-way under RCW 35A.11.020. As such, the Council can permissibly choose to regulate the ROW legislatively and without the need to await a permit application. An advantage to that approach is that an applicant may save permit processing fees that it would unnecessarily expend if the Council were to deny an application; a disadvantage is that an application may reveal a narrowly tailored request to use the ROW that a council may approve, when that council may not approve a broader request.

Meeting with First St Property Owners

On Friday, February 11, 2022 staff held a meeting with the property owners on the north side of First St, adjacent to the seawall, and east of Whale Bell Park. The purpose of this meeting was to make the property owners aware of the conversations that are beginning regarding access to the seawall. As well as to gain a better understanding of what each of their personal goals are with their properties, what they view the City's role to be in this area, and their openness to working with Public Work's immediate maintenance needs while larger discussions continue. Below is a summary of the feedback staff heard.

Property Owners' Goals

- Some property owners expressed interest in developing residential condos behind or above their existing structures and proposed that the required parking be accommodated underneath the proposed residences and accessed via the Anthes right-of-way.

- Some property owners indicated they had plans for a retaining wall at the base of the bluff, but no other development proposals for residential or commercial development.

Property Owners' Concerns

- The Central Business Zone requires commercial development on the ground floor but allows for residential development on the upper floors. Property owners raised concerns that they do not have a location for the required parking onsite without utilizing the Anthes right-of-way to access the northern portions of their lots.
- A property owner indicated that the preferred location for their dumpsters would be behind their commercial building, but they would not have any access to empty them without using the Anthes right-of-way.
- Other property owners expressed concerns about the creation of a roadway adjacent to seawall park and that they would prefer it continued to be utilized as a park.
- Property owners expressed concern about the City and the public's use of private property without the owner's permission and that past agreements with the City were too casual.
- Some property owners expressed interest in a roadway but were concerned that the feasibility presented challenges and the cost would be expensive.
- A property owner raised a concern of the liability for the private property owners if a pedestrian/vehicle collision took place on their private property as the result of a road being installed.
- A property owner proposed the suggestion that allowing residential development down the slope may help to stabilize the bluff.
- Some property owners clarified that they would prefer any potential road be only for the property owners along First St, rather than unrestricted public vehicle access.

Property Owners' Openness to Public Works Access for Maintenance

- Some property owners indicated they would be opened to developing a formal easement with the City so that Public Works can continue maintenance.
- Some property owners indicated reluctance to create a formal easement without being able to have vehicle access for their own purposes as well.
- At the end of the discussion, most of the property owners in attendance indicated a willingness to provide 6-month access for Public Works to address immediate needs of: bringing in equipment to fill gravel, removing trash at Boy and Dog Park, and locating the sewer line. Public Works would follow-up on this via email.



MEMORANDUM

To: Langley City Council and Mayor Scott Chaplin
From: Public Works Advisory Commission and Randi Perry, Public Works Director
Re: Langley Infrastructure Project 60% Comments
Meeting Date: April 4, 2022

This memo provides the basis and a recommendation to City Council for the Langley Infrastructure Project (LIP) path forward from the Public Works Advisory Commission and Staff.

Background:

May 12, 2021, City Council approved moving all 14 LIPs along with their paired recommendations from the 30% engineering benchmark to the 60% engineering benchmark. The approval included a requirement to re-evaluate costs at the 60% design benchmark and investigate additional funding opportunities. December 23, 2021, Davido Consulting Group submitted the draft 60% Cost estimate and plan set. Review of these draft deliverables occurred during the following PWAC meetings; January 12, 2022 – Draft Plan set, January 26, 2022- updates/changes between 30% and 60% engineering benchmarks, February 6, 2022- cost projections and March 16, 2022- Staff review comments, financials, and the recommended path forward.

Audio recordings of these meeting is available:

[https://langleywa.org/government/citizen_boards/public_works_advisory_commission_\(pwac\).php](https://langleywa.org/government/citizen_boards/public_works_advisory_commission_(pwac).php)

Plan Set:

Between the 30% and 60% engineering benchmark- Air Spading was removed and may be included as a force account fee structure if areas of potential root damage are encountered, trenchless technologies were removed due to high costs. Side Sewers (from main to property line) were added. Water main alignment modifications were made to avoid utility conflicts and additional isolation valves were added. Furthermore, storm improvement alternates were considered, a crowned roadway was proposed for further discussion, traffic calming elements of 6th were removed, alternate paving options were added. Even though the proposed LIPs don't trigger state requirements for stormwater flow control or water quality treatment, the city has identified it is appropriate to install these at Noble Creek and Brookhaven. Plan set details, site preparation sheets, and pathway grading were further reviewed and refined to work towards meeting accessibility requirements for trails. A wetland mitigation site in the city was identified and delineated. A Joint Aquatic Resources Permit Application (JARPA) was submitted to Army Corps of Engineers (ACE), so a place in line was secured.

Community Coordination:

Council requested that PWAC provide a public meeting as the project further developed. The project is moving forward in a normal fashion in improving precision of cost and schedule and is developing element-specific engineering. PWAC hasn't recommended any changes from the original 2018 scope of the project that was approved by the voters. Some residents on Edgecliff expressed interest in PWAC conducting a public meeting. In order to provide the proper information for this public meeting, PWAC has tasked member and Edgecliff resident Kevin Horan to develop the purpose and intent of the meeting, so members can prepare. This is still under development.

PWAC heard a parking proposal on 6th street in front of Country Cottages. This proposal created additional direct wetland impacts, added additional impervious surface and costs associated with providing power to EV charging

stations. Traffic calming elements and bumps outs were removed due to lack of funding. Parking cannot be funded by the LIP bond/ grant as it was not specified originally. This suggestion will not be pursued as a part of the current infrastructure project.

Cost Estimate:

The probable remaining cost estimate for LIP’s 1-12 at 60% engineering benchmark is \$8.46 million, which includes 7% for the remaining engineering and bid documents. The City has \$2.26 million remaining in grant funds and \$4.0 million remaining in bond funds, a total of \$6.26 million secured for development and construction of these projects. The resulting funding gap is \$2.2 million, this includes a \$1.07 million contingency. These numbers exclude LIP-13 (Edgecliff-Furman to City Limits, water) and LIP-14 (Al Anderson- Louisa to Suzanne, sewer) as these two projects are funded separately by the utility capital funds. Not factored in are the wetland mitigation costs for LIP-1 (Edgecliff- Camano to Furman, water, sewer, storm), LIP-4 (Sixth- Al Anderson to Cascade, storm), LIP-9 (Sixth- Park to Al Anderson, water) and LIP-12 (Sixth- Park to Al Anderson, storm). This portion of the project is still under development but is anticipated to consist of plantings that may be done by Public Works in coordination with volunteer efforts.

PWAC discussed multiple ways to address the funding gap, including the removal of some elements within each project, where feasible, such as road restoration. Discussion of capital fund use, loans, and further grant exploration also took place. Preliminary evaluation of water, sewer and storm water capital reserve funds show these may be able to support the projects, however further analysis would need to be done to determine how that shifts the capital replacement program for the future. Fully engineered project deferral was the favored strategy as the design can be funded now by the grant and constructed later with other funding sources.

Technical Project Comments

STAFF COMMENTS REGARDING 60%		
Project/Page Number	Station number	Task
LIP - 1	General question	Confirm Sewer size is adequate for future sewer service to Woodside, Cedars, and Edgecliff.
3-13	All	Add addresses to the parcels
2-SS.4	92+40	Unknown watermain I believe is the gravity sewer stub from Woodside.
2-W.5	97+00	Reconnect Water Service to R32902-332-1030
		Reconnect Water Service to R32902-323-1030
2-R.3	88+00	(WHO?) Coordinates with Whidbey tel. Added cost?
4-SD.3		Note 9- SD structure to remains City to confirm. This approach concerns me as there are connections to the old lines that with unknown locations and are deficient and contributing to the surfacing water.
4-R		Driveway aprons on the Southside asphalt?
5-SD.6	47+30	Note-7 (WHO?) Coordinates with Island County regarding the size increase? Are they already planning to increase size during the outfall upgrade?
8-R.1	150+10	Tree to be removed. Include in JARPA or COL tree permit?
9-W.2	106+60	Relocate hydrant to the west or include bollards at this location
9-W.4	114+60	Reconnect parcel R33034-011-3650
9-W.5	118+50	Connection detail – valve should be on Arbor Crest WL south of ex 8” AC
10-W.1	141+20	R33034-057-2940 missing 4 services
	141+50	Service to the north is 1”. Survey shows service to south. I am unaware of this line location. Pothole?
10-W.2	144+20	This service (referenced in note 8) I believe is fed from both the north and the east- Contractor to pothole?
	143+85	Single 2” meter
	146+50	1½” meter

10-W.3	147+20	“Power vault” is not power. Contains 3 meters- 2 serving R33034-061-35310 and 1 serving R33034-051-3550
	147+70	1½” meter
	148+45	East box has 2 meters in it. This location should be 3 separate boxes
	148+90	Single meter box has 2 meters inside – separate
13	Cost Est.	W.5- 1” Air release/Air Vacuum Valve Assembly listed twice

PWAC RECOMMENDATION: PWAC recommends that the council accept the 60% design, with incorporation of the technical comments noted, and move forward with contract preparation for Phase 2C, which would advance all construction documents to the 90% benchmark. At the completion of 90%, it is recommended that project costs, funding and progression of project permitting be evaluated to determine if select projects should be broken out to bid and construct separately, or if final project development, for all projects, should pause until specific permitting conditions are received. These decisions would then set the course for the preparation of 100% bid/construction documents for all projects. PWAC will continue to frame bid bundle options. PWAC will continue to provide public outreach and information.

NOTE: Staff recommendation differs from PWAC.

- After receiving PWACs recommendation to move forward with one contract 90%/100% benchmark and bid packaging, I had a discussion with Davido Consulting Group (DCG). Following design there will be a decision to move forward with some projects and prepare multiple bid packages or wait on permits and move all projects forward in one bid package. Each bid package requires a level of effort and has costs associated, to provide an accurate costing, the level of work needs to be understood.

STAFF RECOMMENDATION: Accept the 60% design with the incorporation of the technical comments. Prepare Phase 2C contract and move all projects forward to 90% engineering benchmark. Staff will continue to seek grant and loan funding opportunities and assess capital fund availability to complete projects. Phase 3A will begin with bid packaging and construction support.

Supplemental information:

LIP project phasing information:

Phase 1- Site investigation and feasibility analysis

Phase 2- Design development and Construction Documents

- A. 30% Engineering Benchmark
- B. 60% Engineering Benchmark
- C. 90% Engineering Benchmark

NOTE: option to fast track “ready projects” in multiple bid packages or wait for permits?

Phase 3 – Construction Support

- A. Bid Document Preparation and Support
- B. Construction Support