



AGENDA

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SHORELINE CITY COUNCIL REGULAR MEETING

Monday, October 14, 2019
7:00 p.m.

Council Chamber · Shoreline City Hall
17500 Midvale Avenue North

	<u>Page</u>	<u>Estimated Time</u>
1. CALL TO ORDER		7:00
2. FLAG SALUTE/ROLL CALL		
3. REPORT OF THE CITY MANAGER		
4. COUNCIL REPORTS		
5. PUBLIC COMMENT		
<i>Members of the public may address the City Council on agenda items or any other topic for three minutes or less, depending on the number of people wishing to speak. The total public comment period will be no more than 30 minutes. If more than 10 people are signed up to speak, each speaker will be allocated 2 minutes. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign up prior to the start of the Public Comment period. Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed. If time remains, the Presiding Officer will call individuals wishing to speak to topics not listed on the agenda generally in the order in which they have signed. If time is available, the Presiding Officer may call for additional unsigned speakers.</i>		
6. APPROVAL OF THE AGENDA		7:20
7. CONSENT CALENDAR		7:20
(a) Approving Minutes of Regular Meeting of September 23, 2019	<u>7a-1</u>	
(b) Approving Expenses and Payroll as of September 27, 2019 in the Amount of \$4,073,706.31	<u>7b-1</u>	
(c) Adopting Ordinance No. 851 – Adopting a New Chapter 3.90 to the Shoreline Municipal Code Relating to Assessment Reimbursement Areas and Latecomer Agreements	<u>7c-1</u>	
(d) Authorizing the City Manager to Execute a Local Agency Agreement with the Washington State Department of Transportation for the Ridgecrest Safe Routes to School Project	<u>7d-1</u>	
8. STUDY ITEMS		
(a) Discussion and Update on the King County Metro North Link Connections Mobility Project	<u>8a-1</u>	7:20
(b) Discussing Resolution No. 448 and Ordinance No. 869 – Declaring the City's Intent and Authorizing the Sales Tax Credit for Affordable and Supportive Housing as Authorized by SHB 1406	<u>8b-1</u>	7:50

9. EXECUTIVE SESSION: Potential Litigation – RCW 42.30.110(1)(i)

8:20

The Council may hold Executive Sessions from which the public may be excluded for those purposes set forth in RCW 42.30.110 and RCW 42.30.140. Before convening an Executive Session the presiding officer shall announce the purpose of the Session and the anticipated time when the Session will be concluded. Should the Session require more time a public announcement shall be made that the Session is being extended.

10. ADJOURNMENT

8:35

The Council meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2231 in advance for more information. For TTY service, call 546-0457. For up-to-date information on future agendas, call 801-2236 or see the web page at www.shorelinewa.gov. Council meetings are shown on Comcast Cable Services Channel 21 and Verizon Cable Services Channel 37 on Tuesdays at 12 noon and 8 p.m., and Wednesday through Sunday at 6 a.m., 12 noon and 8 p.m. Online Council meetings can also be viewed on the City's Web site at <http://shorelinewa.gov>.

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF REGULAR MEETING

Monday, September 23, 2019
7:00 p.m.

Council Chambers - Shoreline City Hall
17500 Midvale Avenue North

PRESENT: Mayor Hall, Deputy Mayor McConnell, Councilmembers McGlashan, Scully, Chang, Robertson, and Roberts

ABSENT: None

1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Mayor Hall who presided.

2. FLAG SALUTE/ROLL CALL

Mayor Hall led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present.

3. REPORT OF CITY MANAGER

Debbie Tarry, City Manager, provided reports and updates on various City meetings, projects and events.

4. COUNCIL REPORTS

Councilmember Chang said that at the recent King County Regional Transit Committee Meeting, the Equity Cabinet provided recommendations for equitable design of mobility frameworks and allocation of services.

Mayor Hall said that last Thursday there was a symposium held to discuss the City's RADAR program and recognition was given to those who helped secure funding to expand the program beyond Shoreline and across King County.

Mayor Hall thanked the representatives from Compass Housing Alliance, Hopelink, and Ronald United Methodist Church who joined the Council at tonight's dinner meeting to share information on the Ronald Commons Project and the efforts involved to provide health and social services to the community members in need.

5. PUBLIC COMMENT

Gretchen Atkinson, President of the Board of Commissioners for Ronald Wastewater District (RWD), said she was speaking at the direction of the Board. She reviewed the timeline for, and collaboration with the City on, the assumption of RWD. She said the assumption is not saving money and that RWD is currently updating its Comprehensive Plan. She asked the Council to reconsider the March 1, 2020 assumption date and extend it for at least two more years.

Wes Brandon, Ronald Wastewater Commissioner and Shoreline resident, said delaying the assumption of RWD would make it possible for the Board to complete the ten year plan and wrap up several other projects and interlocal agreements before the assumption. He added that once the active lawsuit is decided, full assumption could take place without any other effort on the legal side, but the Board would hate to lose the leverage they have gained in the current legal proceedings.

Laura Mork, Ronald Wastewater Commissioner and Shoreline resident, commented that it is her hope that the City will make decisions that recognize that ratepayers paid, and continue to pay, for the Point Wells sewer system.

Geneva, a Lake Forest Park youth resident, thanked the City for introducing the Skip the Straw Pledge, and said she would like the City to do even more. She said she hopes people and businesses participate. She added that she opposes the idea of banning straws since they are needed by some people.

Tom Mailhot, Shoreline resident and board member of Sno-King Environmental Protection Coalition, spoke regarding the proposed agreement with the Town of Woodway. He thanked the Council for entering the mediation process with Woodway, which he said resulted in an agreement that unites the cities in a coordinated approach to future development of Point Wells. He encouraged the Council to review the comment letter received from Tom McCormick and cited suggested examples for improvements to the agreement.

Alex Tsimerman said fascism makes life miserable and expressed his discontent with the government.

Fran Lilliness, Shoreline resident, recommended restoring the former road that went from Point Wells through Woodway, or building a new one, to help alleviate the traffic on Richmond Beach Road when Point Wells is developed.

Laethan Wene, Shoreline resident, invited the Council and City staff to the Northwest Center's Golden Hearts Luncheon and shared details on the event.

6. APPROVAL OF THE AGENDA

The agenda was approved by unanimous consent.

7. CONSENT CALENDAR

Upon motion by Councilmember McGlashan and seconded by Councilmember Scully and unanimously carried, 7-0, the following Consent Calendar items were approved:

(a) Approving Minutes of Regular Meeting of September 9, 2019

(b) Approving Expenses and Payroll as of August 31, 2019 in the Amount of \$1,911,390.35

***Payroll and Benefits:**

Payroll Period	Payment Date	EFT Numbers (EF)	Payroll Checks (PR)	Benefit Checks (AP)	Amount Paid
8/11/19-8/24/19	8/30/2019	86798-87068	16628-16670	75901-75906	\$921,773.06
					<u>\$921,773.06</u>

***Wire Transfers:**

Expense Register Dated	Wire Transfer Number	Amount Paid
8/26/2019	1149	\$12,146.48
		<u>\$12,146.48</u>

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
8/28/2019	75692	75692	(\$450.00)
8/29/2019	75837	75864	\$816,788.52
8/29/2019	75865	75872	\$21,946.20
8/29/2019	75873	75894	\$129,969.03
8/29/2019	75895	75900	\$610.75
8/31/2019	75907	75912	\$8,606.31
			<u>\$977,470.81</u>

(c) Adopting the Community Development Block Grant Funding and Contingency Plan for 2020

8. STUDY ITEMS

(a) Discussing an Interlocal Agreement between the Town of Woodway and City of Shoreline Regarding Point Wells

Margaret King, City Attorney, delivered the staff presentation. Ms. King shared background on the overlapping interest in Point Wells, the redevelopment of the area and the associated

transportation impacts, and the provision of utility services. She described the mediation process that began in January 2019, which resulted in the negotiated settlement and proposed interlocal agreement. Ms. King made clear that it addresses issues related to annexation, development standards, traffic Levels of Service (LOS), and sewer Lift Station 13.

Ms. King explained that the Interlocal Agreement creates a joint working group who will make recommendations to the elected officials in both cities to help create a consistent development at Point Wells. She continued that the Agreement includes specific requirements that must be included in any recommendation and then she listed examples. She added that both Woodway and Shoreline are given the opportunity to provide input to each other on any proposed development.

Ms. King said that once Woodway and Shoreline adopt these recommendations each jurisdiction agrees to keep them in place for two years, and subsequent amendments would need to follow a notification and input process between the cities.

Ms. King listed the agreed-upon annexation conditions and provisions as stated in the Interlocal Agreement and said that the Agreement states if Woodway decides not to annex Point Wells, Shoreline can start the process of attempting annexation. She listed the potential next steps for the City Council in the process, which could include action as soon as October 7, 2019.

When asked for a description of the annexation barriers, Ms. King responded that Snohomish County has not recognized the Point Wells area in Snohomish County's Comprehensive Plan as a potential area of annexation, and the process of getting it identified as such has been difficult.

Councilmember Chang asked for more details regarding the language pertaining to the access road in Woodway and expressed concern that the Agreement language seems to negate itself bringing up the question if a second road is even required. Ms. King replied that the Agreement contains negotiated terms and language with the goal of confirming to Shoreline that Woodway recognizes that a second road is a requisite. Mayor Hall added that the intent is to protect Woodway's authority to make roadway design decisions. Councilmember McGlashan agreed that the statement was confusing.

Councilmember Chang referenced the traffic study requirement and asked to what point on Richmond Beach Road the requirement for mitigation would extend and if the V/C ratio is subject to change. Ms. King said she believes the mitigation would be determined based on the development's impacts and specified the goal is that the annexing city would recognize the impacts on the other city as part of the mitigation evaluation.

Councilmember McGlashan congratulated Woodway and Shoreline for coming together to create this Agreement. He referenced the public comment from Tom McCormick, which suggests clarification to the language pertaining to the Woodway access road. He said his stance is that if Woodway is comfortable with the language, he is too. Ms. King reminded the Council that they have the right to propose changes to the Agreement, which staff would then work on incorporating.

Councilmember McGlashan asked if staff would be addressing Mr. McCormick's suggestion to revise Section I.D and Section III.C to name Shoreline as the SEPA lead agency for impacts within the City, and Woodway as the SEPA lead agency for impacts within the Town. Ms. King said she will draft suggested language that she feels will be legally supportable.

In addressing Mr. McCormick's recommendation to include Woodway's LOS A to prevent the provision from being one-sided, Ms. King said it was important to Woodway to have control over its LOS.

Councilmember Robertson reflected on the process to get up to speed on the work that has been done with Point Wells. She said the Settlement and Interlocal Agreement gives her hope that should the area be developed; the result would be something that works for both communities. She asked if there will be additional mediation before it is finalized. Ms. King replied that she would recommend that time be provided to craft language based on Council's feedback.

Councilmember Scully said it is good to see Shoreline and Woodway on the same team, and the Agreement is important because it sets some of the details out in writing and clarifies the priority components for both parties. He asked for staff's response to Mr. McCormick's comments, and said his concerns about the Woodway access road are troubling to him as well. Deputy Mayor McConnell said that she shares the same concerns with this section of the Agreement and needs additional information on the choice of language. She said the Richmond Beach community needs to feel comfortable and she trusts Mr. McCormick's suggestions. She supports a Level of Service adjustment but wants to make sure there is a strong commitment to an access road. Mayor Hall said his understanding is that the road is required, and the subsequent language is to point out that even though a road is required, approval of the road is not guaranteed. He emphasized that Shoreline would not have agreed to a settlement that did not mandate an access road. He said he is confident Woodway understands this intent but that the language of the Agreement could be improved. Ms. King reiterated that Woodway has indicated that they are supportive of an access road, but they did not want to commit to anything specific prior to reviewing any application.

Ms. King confirmed that the Agreement states that Shoreline agrees to support Woodway's annexation of the area, and Woodway agrees to recognize Shoreline's LOS on Richmond Beach Drive. Shoreline is also agreeing to not reduce the LOS on that segment of Richmond Beach Drive.

Councilmember Chang reminded everyone that this Agreement between Shoreline and Woodway does not include the developer or Snohomish County, which controls the development. She addressed the public comment from Mr. McCormick and Mr. Mailhot and asked why the SEPA lead agency would not be defined at this point in the process. Ms. King said that was a negotiated provision and that the legal counsel for the City and the Town discussed the pros and cons of identifying a lead agency without an application before either entity, and that it was agreed to instead focus on the issues of concern. She said the jurisdictions agreed to continue the discussion when it was time to enter into a SEPA lead agency agreement. Ms. King suggested moving the SEPA lead agency agreement provision into Section I, pointing out that it is a provision for both parties. Councilmember Chang said she would feel more comfortable with

that clarification and Deputy Mayor McConnell said unless this was clear she would not support it. Ms. King said she would review and revise the SEPA language in the section before it returns to Council. Mayor Hall agreed that the spirit of the Agreement is to appropriately share or divide the responsibilities of the lead agency.

Mayor Hall said it comes down to the fact that Woodway, RWD, and Shoreline have very similar interests in protecting the community. He said that despite the City's best efforts to look for a way that Shoreline could annex Point Wells, Snohomish County has opposed the City's attempts at annexation. He said the goal of the Settlement and Interlocal Agreement is to come to an agreement with Woodway, so if they annex the area there is an agreed upon scale and limitations to the project that are acceptable to the Shoreline community.

Mayor Hall directed staff to work on refinements to the Agreement. The Councilmembers agreed it could return to Council on October 7, 2019 for action, should the process and timing of communication with Woodway work, but recognized that should they need more time, they would postpone decision making.

Deputy Mayor McConnell said she does not want the process to be rushed, and said she wants clarity on the specifics of the access road and wants to see the LOS in Woodway pushed out a little. She stated Woodway is getting a lot of concessions from Shoreline and the City needs to be firm in addressing the traffic issues. Councilmember McGlashan said if after staff talks to Woodway they feel they are not going to be able to complete the negotiations in time for the 7th, he is open to moving it later in the month.

Councilmember Roberts observed that a second access road might have the effect of pushing some of the traffic further east. He said the Council's focus on impact has always been towards Richmond Beach Drive. He said that while it is outside the scope of the Agreement, the City needs to look at other roads to see if they need further protection.

Mayor Hall said he appreciates the work of the City staff, community watchdog organizations, and the communication between the City and the Town of Woodway.

(b) Discussing Ordinance No. 867 – Amending Section 8.12.395 of the Shoreline Municipal Code to Include E-cigarettes (Vaping) as Prohibited Activities

John Norris, Assistant City Manager, delivered the staff presentation. Mr. Norris stated that this Ordinance would prohibit the use of vaping devices in City Parks. He reviewed the Healthy City Strategy adopted by the City in 2011 and said one of the goals of the strategy was to limit or outlaw the use of tobacco in City Parks. He said this was achieved in 2012 and included smokeless tobacco and smoking. He explained that e-cigarettes are not tobacco, but nicotine, so currently not prohibited by the Municipal Code. Mr. Norris said that like tobacco smoke, secondhand nicotine inhalation has an adverse effect on health. He said that as the popularity of e-cigarettes have grown, particularly among youth, and the dangers of e-cigarette use continue to be identified, the City has recognized a need for the amendment. He explained that proposed Ordinance No. 867 would add a prohibition of the use of electronic or vaporized smoking. Mr. Norris offered that current enforcement is focused on education and peer-to-peer enforcement

and said if adopted, the signage would be modified appropriately. He said the proposed Ordinance is scheduled to return to Council on October 7, 2019.

Councilmember McGlashan asked if all City facilities would have signage revisions and Mr. Norris said the specifics of the updates would be determined by the Parks Department. Deputy Mayor McConnell suggested if signage is updated, the signs themselves be made larger and more visible.

Mayor Hall said he supports the Ordinance.

Councilmember Roberts asked how many cities have taken this step and Mr. Norris said he did not know and offered to research the answer.

Councilmember Scully said that since vaping has secondhand impacts, he supports the Ordinance.

Councilmembers agreed that Ordinance No. 867 should return as a Consent item.

9. EXECUTIVE SESSION: Litigation– RCW 42.30.110(1)(i)

At 8:25 p.m., Mayor Hall recessed into Executive Session for a period of 20 minutes as authorized by RCW 42.30.110(1)(i) to discuss with legal counsel matters relating to agency enforcement actions or litigation. He stated that the Council is not expected to take final action following the Executive Session. Staff attending the Executive Session included Debbie Tarry, City Manager; John Norris, Assistant City Manager; Margaret King, City Attorney; and Randy Witt, Public Works Director. At 8:45 p.m. the Mayor emerged to extend the session for a period of 10 minutes. At 8:56 p.m. the Mayor emerged to extend the session again for a period of 15 minutes. The Executive Session ended at 9:08 p.m.

10. ADJOURNMENT

At 9:08 p.m., Mayor Hall declared the meeting adjourned.

Jessica Simulcik Smith, City Clerk

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of Expenses and Payroll as of September 27, 2019
DEPARTMENT:	Administrative Services
PRESENTED BY:	Sara S. Lane, Administrative Services Director

EXECUTIVE / COUNCIL SUMMARY

It is necessary for the Council to formally approve expenses at the City Council meetings. The following claims/expenses have been reviewed pursuant to Chapter 42.24 RCW (Revised Code of Washington) "Payment of claims for expenses, material, purchases-advancements."

RECOMMENDATION

Motion: I move to approve Payroll and Claims in the amount of \$4,073,706.31 specified in the following detail:

***Payroll and Benefits:**

Payroll Period	Payment Date	EFT Numbers (EF)	Payroll Checks (PR)	Benefit Checks (AP)	Amount Paid
8/25/19-9/7/19	9/13/2019	87069-87319	16671-16691	76067-76072	\$710,195.19
Q1 & Q2 (ESD)	9/26/2019			76197-76198	\$30,877.32
					<u>\$741,072.51</u>

***Wire Transfers:**

Expense Register Dated	Wire Transfer Number	Amount Paid
9/3/2019	1150	\$7,377.44
9/25/2019	1151	\$7,661.20
		<u>\$15,038.64</u>

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
9/12/2019	75913	75933	\$213,553.04
9/12/2019	75934	75954	\$345,799.31
9/12/2019	75955	76009	\$2,012.93
9/12/2019	76010	76034	\$20,365.63

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
9/12/2019	76035	76058	\$41,682.79
9/12/2019	76059	76066	\$1,344.31
9/23/2019	76073	76073	\$2,351.01
9/23/2019	76074	76075	\$72,032.61
9/25/2019	75520	75520	(\$21.00)
9/25/2019	76076	76076	\$263.34
9/26/2019	76077	76100	\$684,594.26
9/26/2019	76101	76130	\$596,806.76
9/26/2019	76131	76138	\$919.50
9/26/2019	76139	76150	\$78,557.94
9/26/2019	76151	76185	\$1,204,629.31
9/26/2019	76186	76195	\$47,298.78
9/26/2019	76196	76196	\$5,404.64
			<u>\$3,317,595.16</u>

Approved By: City Manager **DT**

City Attorney **MK**

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 851 – Adopting a New Chapter 3.90 to the Shoreline Municipal Code Relating to Assessment Reimbursement Areas and Latecomer Agreements
DEPARTMENT:	City Attorney Office
PRESENTED BY:	Margaret King
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Latecomer agreements are a way to share the cost of building infrastructure required by development and can be a helpful tool to spur development in certain areas where the upfront cost of infrastructure is a challenge to development. Latecomer agreements allow a property owner that extended street or utility improvements to request that the City contract with them for a latecomer agreement, thereby allowing the owner to recoup a portion of the costs to install the new facilities from others that will benefit from the infrastructure in the future. The City may also participate with a developer and share in subsequent reimbursements or create its own improvements and be solely reimbursed from subsequent owners that benefit.

To allow such reimbursement, the City must adopt an ordinance setting forth the regulations governing the creation of street or utility latecomers. Proposed Ordinance No. 851 (Attachment A), which Council discussed on September 30, 2019, provides for these regulations. Tonight, Council is scheduled to adopt proposed Ordinance No. 851.

RESOURCE/FINANCIAL IMPACT:

No additional financial impact is anticipated as an applicant must fully reimburse the City if they seek to create a reimbursement area.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 851.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

To encourage economic growth and development in the Community Renewal Area (CRA) for Aurora Square, now called Shoreline Place, in 2015, the City Council adopted Ordinance No. 705 adopting a planned action ordinance (Planned Action) for the CRA pursuant to the State Environmental Policy Act (SEPA). Ordinance No. 705 can be found at the following link: <http://www.shorelinewa.gov/home/showdocument?id=21860>.

The Planned Action identified mitigation associated with development of the CRA, including 11 transportation projects to support redevelopment of the area. Of these projects, three (3) projects focused on the need to transform Westminster Way N between N 155th Street to N 160th Street into a more pedestrian-friendly street that provides for additional retail and residential frontage.

On September 10, 2018, the Council authorized the City Manager to execute a Right-of-Way Improvement Phasing Agreement (Phasing Agreement) with Trammell Crow Residential (TCR), the developer of the Alexan Shoreline apartment building currently being constructed on the eastern edge of the CRA. The Phasing Agreement allows for the phasing of some of the necessary improvements in the CRA between the City and TCR. At that time, staff explained to the City Council that when other properties within the CRA redevelop, the applicants would be required to contribute a proportional share of the cost of the improvement covered in the Phasing Agreement or other improvements defined in the CRA plan through either a “latecomer’s agreement” or a “development agreement.” The staff report for the adoption of the Phasing Agreement can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport091018-7e.pdf>.

The City has concurrently been working with Shoreline Community College on its Master Plan (approved in 2014), which includes required transportation improvements. In November 2018, the City Council discussed the College’s transportation mitigation. The staff report for this discussion can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport110518-7b.pdf>.

Lastly, the City has also been working with Sound Transit in regard to the two light rail stations located within the City and the redevelopment that will be occurring in and around the two subareas surrounding the stations.

To facilitate the improvements necessary for the CRA, Shoreline Community College, and additional development around and within the light rail subareas, staff concluded there would be a benefit to the City, the College, and other developers to receive reimbursement from future developers that will utilize and benefit from the right-of-way improvements. The tool to accomplish this is assessment reimbursement areas, sometimes referred to as “latecomer agreements.” These tools enable a property owner who has installed street or utility improvements to recover a portion of the costs for any excess benefit created by those improvements from other property owners who later develop property in the vicinity and utilize the benefit from those improvements.

A prerequisite to the latecomer agreement process is the adoption of an ordinance that sets forth the regulations governing the creation of street or utility latecomers. Proposed Ordinance No. 851 (Attachment A), which would adopt a new chapter to the Shoreline Municipal Code relating to latecomer agreements, provides for these regulations. Proposed Ordinance No. 851 was discussed by the City Council on September 30, 2019. The staff report for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2019/staffreport093019-8a.pdf>.

DISCUSSION

Following Council discussion of proposed Ordinance No. 851 on September 30th, Council asked questions of staff regarding how the new Municipal Code Chapter, SMC Chapter 3.90 (Attachment A-Exhibit A), would function in certain situations. Council was generally supportive of the proposed code amendment and directed staff to bring back proposed Ordinance No. 851 on tonight's consent calendar.

RESOURCE/FINANCIAL IMPACT

No additional financial impact is anticipated as an applicant must fully reimburse the City if they seek to create a reimbursement area.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 851.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 851
Attachment A, Exhibit A: New Chapter 3.90 SMC

ORDINANCE NO. 851

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ADOPTING A NEW CHAPTER 3.90 TO THE SHORELINE MUNICIPAL CODE RELATING TO ASSESSMENT REIMBURSEMENT AREAS AND LATECOMER AGREEMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR SUMMARY PUBLICATION.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, latecomer agreements, also referred to as recovery contracts or reimbursement agreements, are written contracts that allow a property owner who has installed public street or public utility improvements to recover a portion of the costs of those improvements from other property owners who later develop property in the vicinity of the improvements and use the improvements; and

WHEREAS, the Legislature has enacted two statutes for implementation of latecomer agreements by cities – chapter 35.72 RCW Contracts for Street, Road, and Highway Projects and chapter 35.91 RCW Water and Sewer Facilities Act; and

WHEREAS, RCW 35.72.010 authorizes the owners of real estate and the City to enter into a contract with owners of real estate for the construction or improvement of street projects that the owner elects to install as a result of ordinances that require the projects as a prerequisite to further property development; and

WHEREAS, RCW 35.72.050(1) provides that as an alternative to financing projects solely by owners of real estate, the City may join in the financing of street improvement projects and be reimbursed in the same manner as the owners of real estate who participate in the projects if the City has specified the condition of its participation in an ordinance; and

WHEREAS, RCW 35.72.050(1) further authorizes the City to create an assessment reimbursement area on its own initiative, without participation of a private property owner, to finance the costs of road or street improvements and to become the sole beneficiary of the reimbursements that are contributed; and

WHEREAS, RCW 35.91.020, at the owner's request, requires the City to enter into a contract with owners of real estate for the construction or improvement of water or sewer facilities that the owner elects to install solely at the owner's expense; and

WHEREAS, RCW 35.91.060(1) authorizes the City to create an assessment reimbursement area on its own initiative, without participation of a private property owner, to finance the costs of water or sewer improvements and become the sole beneficiary of the reimbursements that are contributed; and

WHEREAS, *Woodcreek Land Ltd. Partnership, et al v. City of Puyallup*, 69 Wn. App. 1 (1993) states that a prerequisite to the latecomer agreement process is having in place a specific ordinance that requires the improvements as a condition of property development; and

WHEREAS, the City currently operates a Stormwater Utility and Ordinance No. 780, adopted on October 2, 2017, established SMC Chapter 13.05 Wastewater Utility and is effective upon the official assumption of the Ronald Wastewater District, and SMC 13.05.250 speaks to the creation of a latecomer agreement as provided in chapter 35.91 RCW; and

WHEREAS, on December 3, 2018, the City Council discussed the adoption of regulations for latecomer agreements initiated by property owners as well as by the City itself for both street and utility improvements; and

WHEREAS, the City Council has determined that the availability of latecomer agreements will be in the public interest;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The City Council hereby adopts the recitals set forth above as the findings of the City Council.

Section 2. Amendment to Shoreline Municipal Code. A new Chapter 3.90 Assessment Reimbursement Areas and Latecomer Agreements is added to Title 3 Revenue and Finance of the Shoreline Municipal Code, as set forth in Exhibit A.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON OCTOBER 14, 2019

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2019
Effective Date: _____, 2019

EXHIBIT A – Ordinance No. 851

New Chapter 3.90

Assessment Reimbursement Areas and Latecomer Agreements

3.90.010 Authority and purpose.

The City is authorized to enter into latecomer agreements with owners of real estate pursuant to chapter 35.72 RCW Contracts for Street, Road, and Highway Projects and chapter 35.91 RCW Municipal Water and Sewer Facilities Act, as they now exist or are hereafter amended. This chapter prescribes the regulations for exercise of this authority granted to the City.

The purpose of this chapter is to provide for the prorated recovery of the costs of installation for private, private/public, and public construction of municipal street and utility system improvements through a charge to later users of the improvements who benefit from the improvements but who did not previously contribute to the costs of such improvements.

3.90.020 Definitions.

The following definitions control for purposes of this chapter. The Director may adopt additional definitions in the Administrative Procedures for processing applications that are not inconsistent with the definitions herein. If a word is not specifically defined, then that word shall be given its normal and customary meaning.

"Adjacent" means abutting on public roads, streets, right-of-way or easements in which street system improvements are installed or directly connecting to street system improvements through an interest in real property such as an easement or license.

"Assessment" means an equitable pro rata charge to be paid by an owner of property within the assessment reimbursement area for the cost of private construction of public street and/or utility system improvements made pursuant to a Right of Way Use permit or required utility permit.

"Assessment reimbursement area" means that area which includes all parcels of real property adjacent to street system improvements or likely to require connection to or service by utility system improvements constructed by a developer and/or the City.

"Construction interest" means the sum of money to be added to the direct construction cost and reimbursed to the developer for the use of the developer's monies during the construction term. The interest rate shall be one percent above the Federal Reserve Bank prime loan rate published most recently before the date of the Right of Way Use permit or required utility permit. Interest accrual begins on the date of execution of the permit and will continue throughout the construction term. Construction interest shall be computed utilizing the two-thirds rule; i.e., $\text{direct cost of construction} \times \text{construction interest rate} \div 365 \times \text{the construction term expressed in days} \times 0.67 = \text{construction interest}$.

"Construction term" means that period of time between the date of execution of the Right of Way Use permit or required utility permit and the date of acceptance of the project by the City or the construction completion date as set forth in the Right of Way Use permit or required utility permit, whichever occurs first.

“Cost of construction” is the sum of the Direct Construction Costs incurred to construct the street and/or utility system improvements plus indirect costs which are limited to the City’s latecomer administrative fees when not constructed by the City, construction interest, and developer administrative costs.

“Department” means the City of Shoreline’s Public Works Department.

“Developer” means the individual or entity that contracts with the City for the construction of street and/or utility system improvements, where such improvements are a prerequisite for further development of real property owned by such entity or individual.

“Developer administrative costs” means all indirect costs incurred by the developer in the creation and execution of a latecomer agreement and managing the project; such as office supplies, mailings, clerical services, telephone expenses, accounting expenses, project oversight, and the like. Administrative costs shall not exceed three percent of all direct construction costs.

“Direct construction costs” include but are not limited to all related design services, engineering, surveying, legal services, bonding costs, environment mitigation, relocation and/or new construction of private utilities as required by the City (i.e., power, telephone, cable and gas), relocation and/or installation of street lights, relocation and/or installation of signage, acquisition of right-of-way and/or easements, government agency fees, testing services, inspection, plan review and approval, labor, materials, equipment rental, and contractor and/or subcontractor fees or charges.

“Director” means the Public Works Director for the City of Shoreline or designee.

“Latecomer agreement” or "reimbursement agreement" means a written agreement between the City and one or more developers providing partial reimbursement of the cost of construction of street and/or utility system improvements to the developer by owners of property who connect to or use the improvements (benefit from) but who did not contribute to the original cost of construction.

“Street system improvements” means City public street and alley improvements made in existing or subsequently dedicated or granted rights-of-way or easements and any improvements associated therewith, including but not limited to, acquisition of right-of-way and/or easements, design, engineering, surveying, inspection, grading, paving, installation of curbs, gutters, storm drainage, pedestrian facilities, street lighting, bike lanes, and traffic control devices, relocation and/or construction of private utilities as required by the City (i.e., power, telephone, cable and gas), relocation and/or construction of street lights, traffic control devices, signage, and other similar improvements.

“Utility system improvements” means City owned and operated water, sewer and storm/surface water drainage system improvements, including but not limited to, the acquisition of right-of-way and/or easements, design, engineering, surveying, inspection,

testing, connection fees, and installation of improvements as required by the City and includes but is not limited to the following:

- A. City water system improvements, including but not limited to, such things as treatment facilities, reservoirs, wells, mains, valves, fire hydrants, telemetry systems, pumping stations, and pressure reducing stations;
- B. City sewer system improvements including, but not limited to, such things as treatment plants, gravity mains, lift stations, force mains, and telemetry systems;
- C. City storm/surface water system improvements including but not limited to such things as water quality structures and systems, detention and retention facilities, and stormwater collection and conveyance facilities.

3.90.030 Administrative procedures.

The Director shall establish guidelines and rules, regulations, policies and procedures, collectively Administrative Procedures, to implement the requirements of this chapter and for all applications for a reimbursement area and/or a reimbursement contract and shall determine whether and when such application is complete.

3.90.040 Applicability.

This chapter applies to City Street System Improvements and City Utility System Improvements where the construction of such improvements is the result of City ordinances and/or regulations that require such improvements as a prerequisite to property development. Street system improvements constructed in order to comply with City's Comprehensive Plan and SMC Title 20 Unified Development Code, including but not limited to, SMC 20.30 Procedures and Administration, SMC 20.60 Adequacy of Public Facilities, and SMC 20.70 Engineering and Utilities Development Standards, are hereby declared to be prerequisites to further property development for the purposes of this chapter.

3.90.050 Application - contents – Requirements.

- A. Any developer or owner of real estate using private funds to construct street system improvements and/or utility system improvements in the City may apply to the City for a latecomer agreement in order to recover a pro rata share of the costs of construction from other property owners that will later connect to or use the street and/or utility system improvements made by developer or owner of real estate.
- B. All applications for a latecomer agreement shall be on forms approved and established by the Director and be accompanied by the application fee of \$800.00 or such amount as subsequently set forth in SMC 3.01 Fee Schedule, along with a deposit for mailing costs and recording fees. The application shall contain, at a minimum, the following information, which shall be approved by a State of Washington licensed engineer:
 - 1. A legal description of the developer's property.
 - 2. A legal description of the properties within the developer's proposed assessment reimbursement area together with the name and address of the owners of each property as shown in the records of the Assessor's Office of King County.

3. Vicinity maps, stamped by a State of Washington licensed civil engineer or surveyor, depicting the developer's property, the proposed improvements, and the proposed assessment reimbursement area.

4. Statement from a State of Washington licensed contractor or civil engineer containing an itemized estimate of the total projected cost of construction. Activities which may be included in the cost estimate are all costs solely associated with the design and construction of the water, drainage, or sewer facility. This includes elements that the City requires as part of installing the water, drainage, or sewer facility, such as concrete panel replacements in the roadway or ADA-compliant ramps and their companion ramps. These elements may only be included in the total cost, however, if they would not otherwise be required but for the installation of the water, drainage, or sewer facility.

5. The developer's proposed allocation of the cost of construction to the individual properties within the proposed assessment reimbursement area and the method used for such allocation.

C. In addition to the latecomer application, the applicant must apply for and obtain all necessary and required permits required for construction of the improvements and must meet all of the design standards and requirements applicable to street and utility improvements contained in the City's ordinances.

D. The application for a latecomer agreement shall be made before the street and/or utility system improvements proposed for construction are approved by the City through the issuance of a Right of Way Use or Wastewater Utility permit provided, that for street or utility improvements approved under a separate agreement between the city and a developer or property owner, prior to September 30, 2019, or street or utility improvements pursuant to development agreements entered into as part of the redevelopment in a City designated community renewal area prior to September 30, 2019, the application for a latecomer agreement may be made within 90 days after the date that such completed improvements have been accepted by the City. Acceptance by the City shall mean, for purposes of this section, the date the public facilities are conveyed to the City by a deed of conveyance or other equivalent written document

E. Within 30 days of the Department receiving the application for a latecomer agreement, the Department will provide the applicant written notice of whether the application is complete and, if incomplete, what must be done for the application to be considered complete. The applicant will have no more than 30 days from the date of the written notice to respond to provide the information required to complete the application or, if the applicant cannot submit the required information within the 30-day period, the applicant shall provide the City a written explanation of why it cannot provide the information within the designated time period and a date that the requested information will be submitted. In its sole discretion, the Department may grant the applicant an extension of not more than 60 days to submit the required information. If the applicant fails to meet the foregoing time frame, the Department may, in its discretion, reject the application as untimely.

3.90.060 Application for utility system improvement – Review.

A. Utility System Improvement.

1. The Director shall review all applications and shall approve the application for a City utility system improvement if all of the following criteria are met:

- a. The application is for a City owned and operated utility or is for a utility that through and interlocal agreement with that utility specifically grants to the City the authority to administer a latecomer agreement for the utility;
- b. The application is timely, complete and the application fee has been paid;
- c. The City's or relevant ordinances require the proposed improvements to be constructed as a prerequisite to further property development;
- d. The proposed improvements fall within the definition of City utility system improvements as those terms are defined in this chapter;
- e. The proposed improvements are consistent with the City's design standards, development regulations, comprehensive plan, and the applicable utility plan.

2. In the event any of the above criteria are not met, the Director shall either condition approval as necessary in order for the application to conform to such criteria or deny the application. The final determination of the Director shall be in writing.

B. Street System Improvement.

1. The Director shall review all applications and may approve the application for a City street system improvement if, at a minimum, all of the following criteria are met:

- a. The application is timely, complete and the application fee has been paid;
- b. The City's ordinances require the proposed improvements to be constructed as a prerequisite to further property development;
- c. The proposed improvements fall within the definition of street system improvements as those terms are defined in this chapter;
- d. The proposed improvements are consistent with the City's design standards, development regulations, comprehensive plan, and transportation plan; and

2. In the event any of the above criteria are not met, the Director may either condition approval as necessary in order for the application to conform to such criteria or may deny the application. The final determination of the Director shall be in writing.

3.90.070 Preliminary determinations.

Upon approval of a latecomer application, the Department shall formulate a preliminary assessment reimbursement area and preliminary assessment amount for each real property included in the preliminary assessment reimbursement area as follows:

A. For street system improvements, the assessment reimbursement area shall be formulated based upon a determination of which parcels benefited by the street improvements would require similar street improvements upon development or redevelopment.

B. For utility system improvements, the assessment reimbursement area shall be formulated based upon a determination of which parcels in the proposed area would require similar utility system improvements upon development or redevelopment or would be allowed to connect to or use the utility system improvements.

C. A pro rata share of the cost of the improvements shall be allocated to each property included in the assessment reimbursement area based upon the benefit to the property owner. The method or methods used to calculate the allocation of the assessment may be either front footage, number of units, square footage, zone and termini method, or other equitable method, as determined by the City.

3.90.080 Preliminary determination notice.

- A. The preliminary assessment reimbursement area and the preliminary assessment amounts formulated by the Department shall be sent by *certified mail* to the developer and the property owners of record within the preliminary assessment reimbursement area.
- B. The developer or any property owner within the preliminary assessment reimbursement area may, in writing within 20 days of mailing the notice, request a hearing to be held before the hearing examiner to contest the preliminary assessment reimbursement area and/or preliminary assessment amounts. Notice of such hearing shall be given to the developer and all property owners within the preliminary assessment reimbursement area. The hearing before the hearing examiner shall be conducted as soon as is reasonably practical subject to the Hearing Examiner Rules of Procedures as adopted pursuant to SMC 2.15 Hearing Examiner.
- C. After the hearing, if a hearing is held, the hearing examiner shall develop a report with findings of fact, conclusions of law and recommendations to the City Council regarding establishing the assessment reimbursement area and the assessment for each property within the assessment reimbursement area. The City Council shall consider the record developed before the hearing examiner and the hearing examiner's report. The City Council shall allow public comment on the hearing examiner's report and, if a majority of the City Council finds the record insufficient, may add to the record.
- D. After considering the record, the hearing examiner's report, and public comment thereon, if any, the City Council may adopt, modify, or reject the hearing examiner's recommendations in whole or in part or it may render its own findings and conclusions. The City Council is the final authority to establish the assessment reimbursement area and the assessment for each property within the assessment reimbursement area.
- E. The City Council's determination of the assessment reimbursement area and the assessment shall be determinative and final. In the event no written request for a hearing is received within the allotted time, the determination of the Department shall be final.

3.90.090 Latecomer agreement.

Based upon the preliminary assessment reimbursement area and the preliminary assessment, if no hearing is requested, or based upon the City Council's determination of the assessment reimbursement area and assessment if a hearing is requested, the Department shall prepare and give to the applicant a latecomer agreement. A separate latecomer agreement shall be executed for each of the following categories of improvement, as applicable: water system, sewer system, stormwater/surface water system, and street system.

3.90.100 Execution, notice, and recording.

- A. The utility or street latecomer agreement shall be mailed to the developer by the City Clerk and must be signed, notarized, and returned to the City Clerk. If the agreement is not executed and returned to the City Clerk within 60 days of the date it was mailed to the developer, the utility or street latecomer agreement will become null and void. The Director can consider extending this period by a showing of hardship or excusable neglect on the part of the holder of the utility or street latecomer agreement.
- B. The City shall file the fully executed utility or street latecomer agreement in the official property records of King County, Washington within 30 days of final execution of the latecomer

agreement; provided, that the developer shall have an independent duty to review the King County Recorder's records to confirm that the latecomer agreement has been properly and timely recorded.

C. No latecomer agreement shall be effective as to any owner of real estate not a party to the agreement unless the latecomer agreement has been recorded in the records of the County where the real estate is located. For a utility latecomer agreement, recording must be prior to the time that the owner of the real estate taps into or connects to water or sewer facilities.

3.90.110 Construction – Final costs – Conveyance.

A. After the latecomer agreement has been signed by all parties and all necessary permits and approvals, including a Right of Way Use permit or required utility permit, have been obtained, the applicant shall construct the improvements and, upon completion, request final inspection and acceptance of the improvements by the City, subject to any required obligation to repair defects. All construction, inspection and testing shall conform to the City's design and construction standards.

B. Within 120 days of completion of construction, the developer shall provide the City with documentation of the actual costs of the improvements and a certification by the applicant that all of such costs have been paid. The final cost of the improvements shall be reviewed against the preliminary assessments established by the City. Upon a showing of good cause, the agreement shall be modified to include cost overruns up to a maximum of 10 percent. In the event that actual costs are less than the Director's estimate by 10 percent or more, the Director shall recalculate the charges, reducing them accordingly. For any revisions under this section, the Director shall cause a revised list of charges to be recorded with the King County Auditor, with a notice to title on each property within the assessment reimbursement area.

C. After the requirements of subsections (A) and (B) of this section have been satisfied, the developer shall provide the City with an appropriate deed of conveyance or other equivalent written document transferring ownership of the improvements to the City, together with any easements needed to ensure the City's right of access for maintenance of the improvements. Title to the improvements shall be conveyed to the City clear of all encumbrances.

D. No connection to, or other use of, the improvements will be allowed or permitted until the City has officially accepted the construction and title to the improvements has been conveyed to the City.

3.90.120 Defective work.

The developer shall be responsible for all work found to be defective within one year after the date of acceptance of the improvements by the City. Nothing in this chapter shall preclude the Director from requiring a performance bond for the street or utility system improvements as authorized for such improvements in other provisions of the SMC.

3.90.130 Payment of latecomer assessments – Remittance to developer.

A. Upon recording, the latecomer agreement and assessment shall be binding upon all properties located within the assessment reimbursement area. Assessments shall be paid to the City in one lump sum, including interest through the date of payment, as follows:

1. Assessments for street improvements shall be paid prior to the development or redevelopment of property if at the time of development or redevelopment the property owner

does not need to construct the otherwise city required similar street improvements because said improvements were already constructed by the developer.

2. Assessments for utility system improvements shall be paid prior to issuance of the first applicable permit which authorizes connection to or use of the utility system improvements. In the event that a benefitting parcel subdivides, consolidates, or otherwise adjusts its lot boundary, the pro rata share encumbrance will still apply to the entire parent parcel. The first connection from the parent parcel that triggers the reimbursement payment will be required to pay the full pro rata share.

B. The City shall remit to the developer the amounts due within 60 days of receipt.

C. When the assessment for any property has been paid in full, the Director shall record a certification of payment that will release the property from the latecomer agreement.

D. The latecomer charge shall be in addition to the usual and ordinary charges, including connection charges, system development charges, and any other fees or charges which must be paid by persons applying for City services.

3.90.140 Segregation.

The Department shall, upon the request of any property owner within the assessment reimbursement area, segregate the assessment. The segregation shall be based upon the same factors applied when the assessments were originally established. The property owner seeking segregation of the assessment shall pay an administrative fee to the City based upon a segregation fee schedule to be established by the Department.

3.90.150 Term of developer reimbursement agreements.

A. For street system improvements, no latecomer agreement shall provide for reimbursement for a period no longer than 15 years from the date of its recording, unless earlier terminated as provided in subsection (C) of this section.

B. For utility system improvements, each latecomer agreement shall provide for reimbursement for a period of no longer than 20 years from the date of its recording, unless earlier terminated as provided in subsection (C) of this section.

C. The City may terminate a latecomer agreement if the developer fails to commence or complete construction within the time and manner required in the Right of Way Use permit or required utility permit(s) for the improvements. In the event of termination, the City shall record a release of latecomer agreement in the King County Recorder's Office.

3.90.160 Removal of unauthorized connections or taps.

Whenever any tap or connection is made into any utility improvement without payment of the assessment being made as required by this chapter, the Department is authorized to remove and disconnect, or cause to be removed and disconnected, such unauthorized tap or connection including all connecting tile or pipe located in the Right of Way and to dispose of such unauthorized material without liability. The owner of the property where the unauthorized connection is located shall be liable for all costs and expenses of any type incurred to remove, disconnect, and dispose of the unauthorized tap or connection.

3.90.170 Interest on assessment.

Each assessment established under this chapter shall bear interest from the date of recording of the latecomer agreement or notice of assessment at an interest rate fixed at the federal reserve rate for a two-year treasury note, as determined on the date of recording the latecomer agreement or notice of assessment.

3.90.180 City fees.

The developer shall pay the following fees:

A. Application Fee. The Developer shall be responsible for payment of the application fee as set forth in this chapter or as subsequently set forth in SMC 3.01 Fee Schedule for each latecomer agreement.

B. Administrative Fee. The City shall charge a fee for administering the latecomer process equal to one percent of the estimated cost of construction.

C. Recording Fee. For every separate parcel of property within the developer's proposed assessment reimbursement area, the City shall charge a recording fee of \$250.00 per parcel.

D. The recording fee shall be adjusted annually to reflect inflationary costs. The adjusted fees shall be calculated by adjusting upwards or downwards in accordance with the change in the Consumer Price Index for All Urban Consumers, Seattle-Tacoma-Bremerton, Washington, based on the report released prior to January 1st of each year. The fees established by this formula shall be rounded up or down to the next \$10.00.

E. The application fee shall be paid upon application for a latecomer agreement with all remaining fees paid prior to, and as a condition of, the City's mailing of the preliminary determination notices.

3.90.190 Appeal.

With the exception of the determination of the preliminary assessment reimbursement area and preliminary assessment as provided by SMC 3.90.080, a developer or owner of record of property located within the assessment reimbursement area may appeal the interpretation, implementation, and/or decisions of the Department concerning any aspect of this chapter to the hearing examiner. The appeal must be filed within 20 days of the date of the action or decision being appealed, include a statement of claimed errors concerning the proposed assessment, and be accompanied by an appeal fee as set forth in SMC 3.01 Fee Schedule. Errors which are not set forth in writing and which do not adhere to the criteria listed below will not be considered.

A. Appeal Criteria. Objections by a benefiting property owner to the recording of a potential assessment against their property does not constitute a valid appeal. Errors identified in an appeal must be related to cost, methodology for cost distribution, or benefit to the property as described below:

1. Cost: If the benefiting property owner contests these costs, they must provide a basis for the claimed discrepancy, such as an estimate from a contractor or other reliable source.
2. Costs Methodology: If the benefiting property owner contests the cost methodology used, they have to show why it is not equitable and provide their suggested alternate method of assessment and the justification for its use in place of the staff recommended method.

3. Benefit: If a benefiting property owner contests benefit, they must provide a statement or documentation on why a particular parcel has no future potential benefit.

3.90.200 Enforcement of latecomer obligations.

A. In processing and imposing obligations in this chapter for reimbursement of developers, the City in no way guarantees payment of assessments by latecomers, or enforceability of assessments, or enforceability of the latecomer agreement, or the amount(s) thereof against such persons or property. Nor will the offices or finances of the City be used for enforcement or collection of latecomer obligations beyond those duties specifically undertaken by the City herein. The City shall not be responsible for locating any beneficiary or survivor entitled to any benefits by or through a developer reimbursement agreement.

B. Every two years from the date the latecomer agreement is executed, a developer entitled to reimbursement under this chapter shall provide the Department with information regarding the current contact name, address, and telephone number of the person, company, or partnership that originally entered into the latecomer agreement. If the developer fails to comply with the notification requirements of this subsection within 60 days of the specified time, then the City may collect any reimbursement funds owed to the developer under the latecomer agreement. Such funds must be deposited in the capital fund of the City.

3.90.210 City participation authorized.

A. The City may participate in financing street and/or utility system improvement projects authorized, improved, or constructed in accordance with this chapter as authorized under RCW 35.72.050. In that event, the City shall have the same rights to reimbursement as owners of real estate who make such improvements as authorized in this chapter, and the City will be entitled to a pro rata share of the reimbursement assessment based on the respective contribution of the owner(s) and the City.

B. The City on its own initiative may solely perform street and/or utility system improvement projects authorized, improved, or constructed in accordance with this chapter as authorized under RCW 35.72.050, and shall have the right to reimbursement as described therein. In such situations, the City shall take action by ordinance to establish the reimbursement area and reimbursement allocations.

3.90.220 Interpretation and consistency with state law.

This chapter shall be interpreted according to its terms, provided that if an inconsistency between this chapter and state law arises, this chapter shall be interpreted in a manner that renders it not inconsistent with chapters 35.72 RCW and 35.91 RCW.

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorizing the City Manager to Execute a Local Agency Agreement with the Washington State Department of Transportation for the Ridgecrest Safe Routes to School Project
DEPARTMENT:	Public Works
PRESENTED BY:	Tricia Juhnke, City Engineer
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Staff is requesting that Council authorize the City Manager to execute a Local Agency Agreement with the Washington State Department of Transportation (WSDOT) to obligate \$467,400 of Safe Routes to School (SRTS) grant funding for the Ridgecrest Safe Routes to School project. The project objective is to improve pedestrian safety near Ridgecrest Elementary School by reducing vehicle speeds and improving pedestrian facilities (curb extensions, ramps, crosswalk, school zone flashers and sidewalks) at a main crossing to the School on NE 165th Street.

The City was awarded a SRTS grant for design, right of way acquisition and construction of the project. In accordance with the City’s purchasing policies, Council authorization is required for staff to obligate grant funds exceeding \$50,000. Additionally, WSDOT requires formal authorization of their contracts prior to execution.

RESOURCE/FINANCIAL IMPACT:

The City was awarded SRTS grant funding of \$467,400 for design, right of way acquisition and construction of this project. The estimated total cost of the project is \$481,400. This funding is State-sourced and provides for 97 percent of eligible costs. The remainder of the project cost will be provided by the Roads Capital Fund. The City received notice of award in 2019, after completion of the 2019-2024 CIP. This project will be discussed with Council at the November 4, 2019 Council Meeting for inclusion in the CIP update.

This project is funded as follows:

<i>Safe Routes to School Program</i>	<i>\$467,400</i>
<i>Roads Capital Fund</i>	<i>\$13,700</i>
Total Project	\$481,400

RECOMMENDATION

Staff recommends that Council move to authorize the City Manager to execute a Local Agency Agreement with WSDOT to obligate \$467,400 of SRTS grant funding for the Ridgecrest Safe Routes to School project, including authorization of the Project Prospectus and any supplements or addenda that WSDOT may require.

Approved By: City Manager ***DT*** City Attorney ***MK***

BACKGROUND

The segment of NE 165th Street adjacent to Ridgecrest Elementary School was identified as a speed emphasis area based on collected speed data that indicates that driven speeds vary from 8 mph over the 25 mph posted speed limit throughout the day to 11 mph over the 20 mph school-zone speed limit during the hour before school starts and the hour after school ends. These speeds are concerning since many children walk to and from school along and across this street.

The City was awarded a \$467,700 Washington State Department of Transportation (WSDOT) Safe Routes To School (SRTS) grant for design, right of way acquisition and construction of pedestrian safety improvements on NE 165th Street adjacent to Ridgecrest Elementary School. A vicinity map of the project area is included as Attachment A. The project will install school zone flashers, construct curb extensions, sidewalk, warning signs and other improvements to increase the safety of a main crossing to the school at 12th Avenue NE and NE 165th Street NE.

In accordance with the City's purchasing policies, Council authorization is required for staff to obligate grant funds exceeding \$50,000. Additionally, WSDOT requires formal authorization of their contracts prior to execution. Council therefore must authorize the City Manager to execute a Local Agency Agreement (Attachment B) with WSDOT to obligate this grant funding.

ALTERNATIVES ANALYSIS

Council can elect not to approve the requested action. If Council takes this action, the Safe Routes to School grant would not be obligated and the project would be cancelled.

COUNCIL GOAL(S) ADDRESSED

This project helps to implement City Council Goal 2: improve Shoreline's infrastructure to continue to delivery of highly-valued public service.

RESOURCE/FINANCIAL IMPACT

The City was awarded SRTS grant funding of \$467,400 for design, right of way acquisition and construction of this project. The estimated total cost of the project is \$481,400. This funding is State-sourced and provides for 97 percent of eligible costs. The remainder of the project cost will be provided by the Roads Capital Fund. The City received notice of award in 2019, after completion of the 2019-2024 CIP. This project will be discussed with Council at the November 4, 2019 Council Meeting for inclusion in the CIP update.

This project is funded as follows:

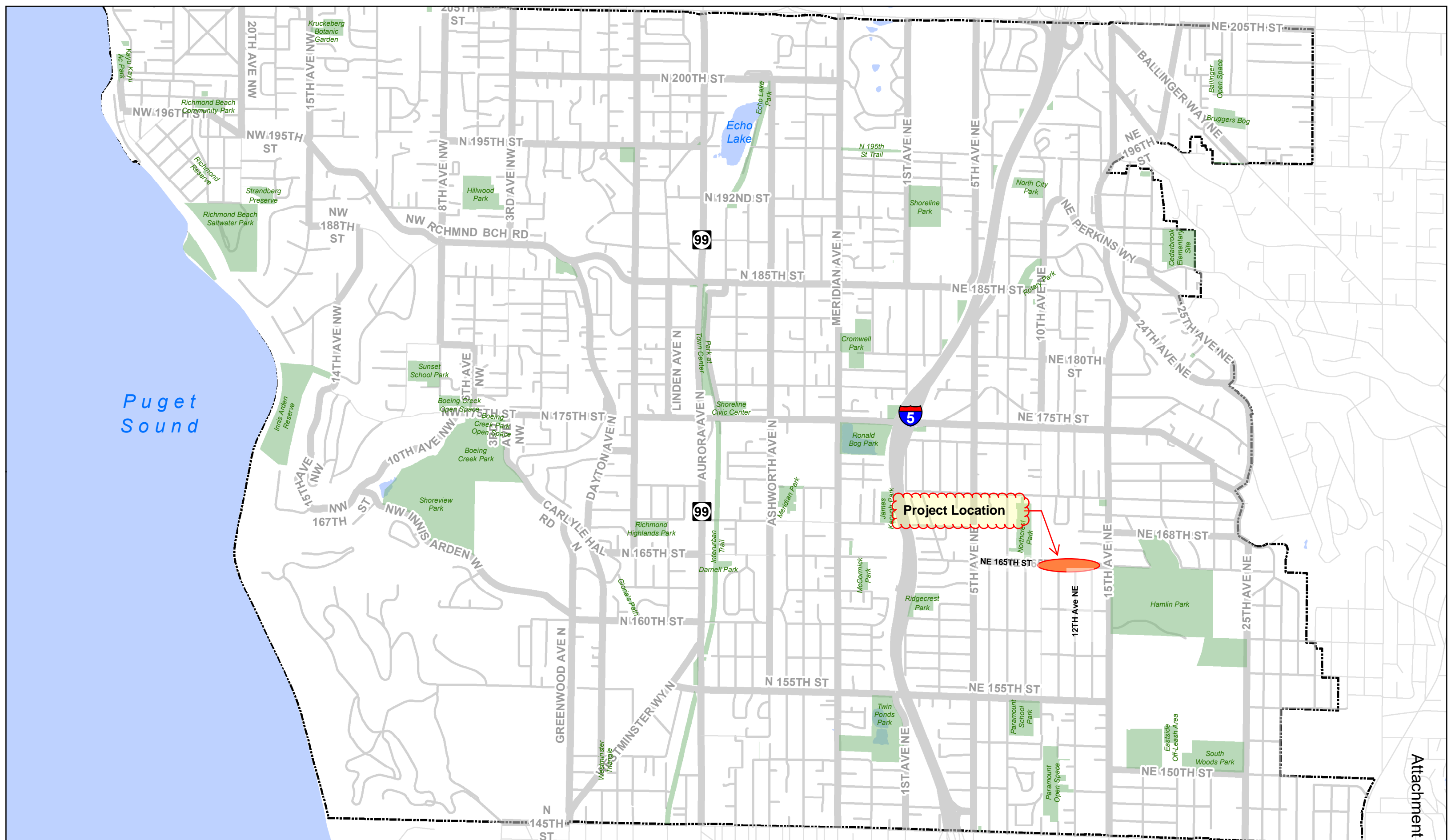
<i>Safe Routes to School Program</i>	<i>\$467,400</i>
<i>Roads Capital Fund</i>	<i>\$13,700</i>
Total Project	\$481,400

RECOMMENDATION

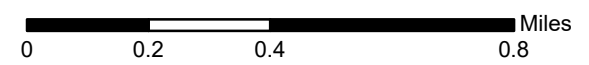
Staff recommends that Council move to authorize the City Manager to execute a Local Agency Agreement with WSDOT to obligate \$467,400 of SRTS grant funding for the Ridgecrest Safe Routes to School project, including authorization of the Project Prospectus and any supplements or addenda that WSDOT may require.

ATTACHMENTS

Attachment A: Project Vicinity Map
Attachment B: WSDOT Local Agency Agreement



Ridgecrest Safe Routes to School



This map is not an official map. No warranty is made concerning the accuracy, currency, or completeness of data depicted on this map.

7d-5
 Path: G:\PWORKS\ENGINEERING\CIP Projects\2019 Bituminous Surface Treatment Project\300 Design\90% Design\2019 BST Project Asset ID.mxd

Date: 7/15/2019
 Author: malmaroof

Attachment A



Local Agency Agreement

Agency City of Shoreline
 Address 17500 Midvale Ave N
 Shoreline, WA 98133

<p>CFDA No. 20.205 (Catalog or Federal Domestic Assistance)</p> <p>Project No.</p> <p>Agreement No.</p> <p style="text-align: right;">For OSC WSDOT Use Only</p>
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The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Ridgcrest Safe Routes to School Length 0.2 Miles
 Termini NE 165th St and 12th Ave NE, instersection.

Description of Work

See appendix AA.

Project Agreement End Date 12/2022

Proposed Advertisement Date N/A

<p>Claiming Indirect Cost Rate</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE			
15.8 % a. Agency	76,119.00	6,919.00	69,200.00
b. Other Consultant			
Federal Aid Participation Ratio for PE			
c. Other Consultant			
d. State			
e. Total PE Cost Estimate (a+b+c+d)	76,119.00	6,919.00	69,200.00
Right of Way			
2.6 % f. Agency	12,500.00		12,500.00
g. Other			
Federal Aid Participation Ratio for RW			
h. Other			
i. State			
j. Total R/W Cost Estimate (f+g+h+i)	12,500.00	0.00	12,500.00
Construction			
80.96 % k. Contract	389,780.00	3,780.00	386,000.00
l. Other	3,000.00	3,000.00	
m. Other			
Federal Aid Participation Ratio for CN			
n. Other			
o. Agency			
p. State			
q. Total CN Cost Estimate (k+l+m+n+o+p)	392,780.00	6,780.00	386,000.00
r. Total Project Cost Estimate (e+j+q)	481,399.00	13,699.00	467,700.00

Agency Official

By
 Title Debbie Tarry, City Manager

Washington State Department of Transportation

By
 Director, Local Programs
 Date Executed

Construction Method of Financing (Check Method Selected)**State Ad and Award**

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction coast (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

_____, Resolution/Ordinance No.

Provisions**I. Scope of Work**

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussing the King County Metro North Link Connections Mobility Project
DEPARTMENT:	Public Works
PRESENTED BY:	Randy Witt, Public Works Director Nytasha Sowers, Transportation Services Manager
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The King County long-range plan for transit service, Metro Connects, plans for a significant increase of bus service in the City of Shoreline. Since adoption of this plan, King County Metro has been working with other regional transit agencies and local jurisdictions to implement the Metro Connects vision, including more service and capital projects.

In 2021, Sound Transit will open three new light rail stations in north Seattle, extending service from the current terminal at the University of Washington (Husky Stadium) to the Northgate Transit Center. King County Metro is evaluating its routes in this area in order to complement light rail service by adding connections and eliminating duplicate routes. The service changes will support Metro Connects service recommendations and will prioritize improving mobility and access for historically underserved populations. King County Metro has named this evaluation process the North Link Connections Mobility Project.

King County Metro is currently having conversations with jurisdictional partners, agency partners, and community-based organizations about the North Link Connections Mobility Project, its goals, and special considerations. Tonight, Dave VanderZee, Project Manager, and Maha Jahshan, Senior Community Relations Planner, from King County Metro will provide an overview of the North Link Connections Mobility Project.

RESOURCE/FINANCIAL IMPACT:

There is no financial impact associated with tonight's discussion.

RECOMMENDATION

No action is required with this agenda item. Staff recommends that Council discuss the North Link Connections Mobility Project with King County Metro staff.

Approved By: City Manager: **DT** City Attorney: **MK**

BACKGROUND

The King County Council adopted its long-range plan for transit service, entitled Metro Connects, on January 23, 2017. Metro Connects plans for a significant increase of bus service in the City of Shoreline, identifying bus routes and levels of service in Shoreline based on the years 2025 and 2040. Metro Connects was endorsed by the Shoreline City Council on May 9, 2016. This staff for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2016/staffreport050916-9b.pdf>.

Since adoption of this plan, King County Metro has been working with other regional transit agencies and local jurisdictions to implement the Metro Connects vision, including more service and capital projects.

DISCUSSION

In 2021, Sound Transit will open three new light rail stations in north Seattle, extending service from the current terminal at the University of Washington (Husky Stadium) to the Northgate Transit Center. King County Metro is evaluating its routes in this area in order to complement light rail service by adding connections and eliminating duplicate routes.

As part of their scope, King County Metro will evaluate and consider major changes to over 30 routes serving communities within Seattle, Shoreline, Kenmore, Lake Forest Park, Bothell, and Woodinville (see Attachment A for a map of the area under study for service changes). The service changes will consider Metro Connects service recommendations and will prioritize improving mobility and access for historically underserved populations. King County Metro has named this evaluation process the North Link Connections Mobility Project (Project).

The goals of the Project are as follows:

1. Improve mobility for historically un(der)served populations,
2. Equitably inform and engage with current and potential customers traveling in the Project area, and
3. Deliver integrated service that responds to light rail expansion and meets custom needs.

The Project is a collaborative effort between King County Metro, Community Transit, the University of Washington, and the Seattle Department of Transportation, working with affected jurisdictions such as the City of Shoreline. Service network scenarios will be developed to be adaptable to multiple revenue scenarios, including different levels of funding from the Seattle Transportation Benefit District.

The Project is being implemented in four phases, with the first phase having already been completed. An overview of these phases is presented below with more detailed information provided in Attachment B.

- Phase 1 (June to September 2019). The objective of Phase 1 was to inform and receive initial input from the community on the Project's goals and recruit members for two advisory boards, the Mobility Board and the Partner Review Board. Community members were recruited from the Project's study area (Attachment A) for the Mobility Board and jurisdictions and several regional entities served by King County Metro provide representatives for the Partner Review Board. The City of Shoreline is represented on the Partner Review Board. These advisory boards will inform the refinement of the Project's goals, decision making approach, and service improvement recommendations. Information collected from the public, stakeholders, and the two advisory boards during this phase was used to develop draft concepts for proposed changes to bus routes that will be further refined during Phase 2.
- Phase 2 (mid-October to December 2019). During this phase, King County Metro will develop and ask for more community feedback on draft transit service network concepts.
- Phase 3 (March and April 2020). During this phase, King County Metro will engage its advisory boards to prepare a final proposal and communicate its proposal to the affected study area community.
- Phase 4 (June 2020 to March 2021). During this phase, King County Metro will continue work on presenting its new service plan to the affected community.

King County Metro will be engaging the public during the duration of the Project, including focused outreach to historically underserved populations. King County Metro has identified the following three community engagement goals for the Project:

- Build authentic and lasting relationships with historically un(der)served populations in the Project study area.
- Design final changes in partnership with historically un(der)served communities in order to build a strong transit network that increases access and mobility, especially for those who are disproportionately affected by transit inequities.
- Communicate the service proposal goals and King County Metro goals related to equitable outcomes to the broader-affected communities, demonstrating how the service proposal helps King County Metro advance equitable outcomes in the study area.

After all Project phases are completed and service modifications are determined, these changes will be implemented at Metro's service change in either March or September 2021, whichever date most closely follows the opening of the Northgate light rail extension.

Tonight, Council will be joined by Dave VanderZee, Project Manager, and Maha Jahshan, Senior Community Relations Planner, from King County Metro who will provide Council with an overview of the North Link Connections Mobility Project. A copy of their PowerPoint presentation is included with staff report as Attachment C.

RESOURCE/FINANCIAL IMPACT

There is no financial impact associated with tonight's discussion.

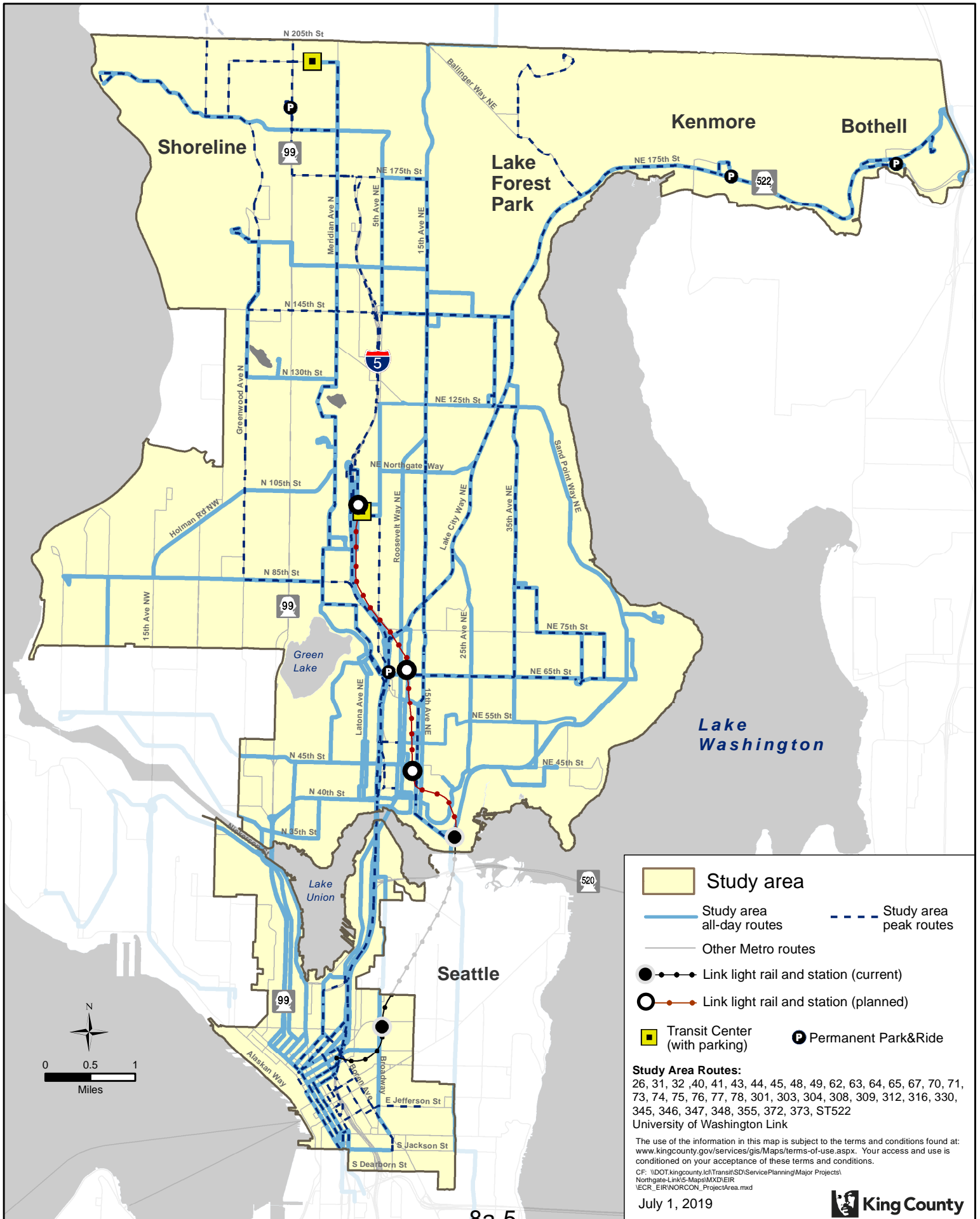
RECOMMENDATION

No action is required with this agenda item. Staff recommends that Council discuss the North Link Connections Mobility Project with King County Metro staff.

ATTACHMENTS

- Attachment A: North Link Connections Mobility Project Study Area
- Attachment B: North Link Connections Community Engagement Plan Overview
- Attachment C: King County Metro North Link Connections Mobility Project Presentation

North Link Connections Mobility Project: Study Area



Community Engagement Plan Overview



Project Summary

- Sound Transit will open three new Link light rail stations in north Seattle in 2021, extending from the current terminal at University of Washington – Husky Stadium to Northgate Transit Center. Metro is assuming a March 2021 opening.
- In order to prepare for the Northgate Link opening, respond to changing transportation needs, and improve mobility and access for historically underserved populations, Metro is initiating a mobility project in north Seattle and north King County. The project will be done in coordination with Sound Transit, the Seattle Department of Transportation (SDOT), the University of Washington, Community Transit, and many other partners.
- The updated mobility network will be implemented at Metro's service change in either March or September 2021, whichever most closely follows the opening of the Link light rail extension.

Project Scope

Metro will evaluate and consider major changes to over 30 routes serving communities within Seattle, Shoreline, Kenmore, Lake Forest Park, Bothell, and Woodinville. Service network scenarios will be developed to be adaptable to multiple revenue scenarios, including different levels of funding from the Seattle Transportation Benefit District.

Goals & Objectives

1. Improve mobility for historically underserved populations, centering on people of color
 - a. Increase accessibility to community assets for priority populations
 - b. Increase accessibility to jobs, especially family wage jobs, for priority populations
 - c. Increase access to frequent service for priority populations
2. Equitably inform, engage, and empower current and potential customers traveling in the project area
 - a. Employ an equity-focused approach to planning & decision making
 - b. Evaluate project using an Equity Impact Review (EIR)
3. Deliver integrated service that responds to Link expansion and meets customer needs
 - a. Minimize duplication of Metro service with Link light rail
 - b. Improve connections to Link, including development of facilities that support easy, comfortable, and convenient transfers between modes
 - c. Redesign existing fixed-route service to respond to current and future mobility needs, consistent with the METRO CONNECTS service network vision
 - d. Plan for changes that encompass the full range of Metro mobility services including fixed-route, flexible service, ridesharing, and accessible services

March to May 2019

Project Planning

June 2019

Finalize Project Management Plan & Public Involvement Plan

June to July 2019

Phase 1 Outreach

September to November/December 2019

Phase 2 Outreach

March to April 2020

Phase 3 Outreach

June to July 2020

Finalize plan and draft service change legislation

Sept 2020

Service change ordinance adopted by Council

Oct 2020

March 2021 Service Change Package published

March 2021

New changes implemented

Community Engagement Plan Overview



Goals

- Build authentic and lasting relationships with historically un(der)served populations in project study area
- Design final changes in partnership with historically un(der)served communities in order to build a strong transit network that increases access and mobility, especially for those who are disproportionately affected by transit inequities
- Communicate the service proposal goals and Metro’s goals related to equitable outcomes to the broader-affected communities, demonstrating how the service proposal helps Metro advance equitable outcomes in the study area

Main Activities

	PHASE 1 June–July 2019	PHASE 2 September–December 2019	PHASE 3 March–April 2020	June 2020–March 2021 and beyond
	<ul style="list-style-type: none"> • Project goal conversations with jurisdictions, King County Council, Executive’s Office, Institutions, and Community Based Organizations • Inform & engage with community within project area of goals and opportunities to shape decision-making • Recruit Mobility Board, and identify and collect community priorities 	<ul style="list-style-type: none"> • Develop draft network concepts based on Mobility Board recommendation • Engage with community more broadly to further modify/improve draft network 	<ul style="list-style-type: none"> • Engage with Mobility Board to make final trade-off decisions • Site qualitative and quantitative data gathered from community engagement for significant network choices • Communicate final network concept and next steps to community (with Mobility Board) 	<ul style="list-style-type: none"> • Continue to be present in the community at events and meetings to continue to build relationships • Update communications as needed
	<ul style="list-style-type: none"> • Stakeholders and general public aware of project scope, goals, and what their role may be in the outreach and engagement process • Mobility Board convened and developed list of priorities and needs related to a transit network based on community input 	<ul style="list-style-type: none"> • A transparent and iterative concept drafting process where the community and major stakeholders understand where and how changes are being made, as well as how and why their feedback was or was not incorporated • Trade-offs are understandable and the ability to choose between priorities is achievable by both Service Planning and the community at large 	<ul style="list-style-type: none"> • Communities affected understand how their feedback has shaped final outcome and what next steps are • Planners prepared to make recommendation with knowledge of risks/benefits 	<ul style="list-style-type: none"> • Community and Community Based Organization stakeholders trust and see Metro as a partner • Metro is prepared for Northgate Link light rail extension implementation • Council adopts service changes

Outcomes

North Link Connections Mobility Project

Metro Transit Department
October 14, 2019

Introduction

What is the North Link Connections Mobility Project?

- Respond to changing mobility needs and integration with 3 new Link light rail stations opening in 2021
- Metro's largest service restructure since March 2016 U-Link extension
- Partnership with ST, SDOT, UW, and other partners

Project Goals

What are we trying to do through this effort?

- Improve mobility for historically un(der)served populations, centering on people of color
- Equitably inform, engage, and empower current and potential customers traveling in the project area
- Deliver integrated service that responds to Link expansion and meets customer needs

Sound Transit Integration

Sound Transit Northgate Link Extension

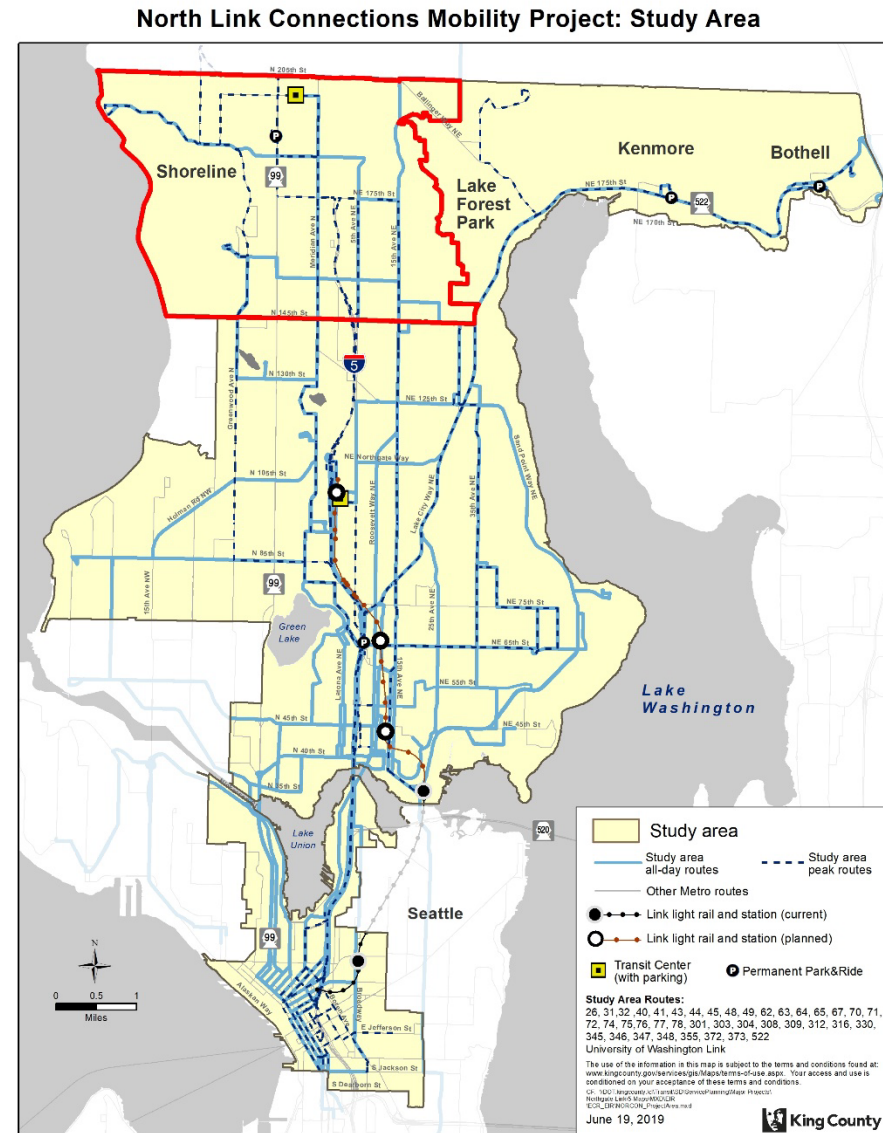
- **Open:** 2021
- **Length:** 4.3 miles; 3 stations
- **Service:** Every 6 minutes during peak hours.
- **Projected travel times:**
 - Northgate to University of Washington - 7 minutes
 - U District to Westlake - 8 minutes



Project Scope

Where would service change or be impacted?

- Focused on:
 - Seattle, Shoreline, Kenmore, Lake Forest Park, Bothell
- Over 30 Routes
- **Includes Metro Routes 77, 301, 303, 304, 316, 330, 345, 346, 347, 348, 355, and 373 in Shoreline**
- Sound Transit will also evaluate possible changes to ST Route 522



Equity Impact Review (EIR)

EQUITY IMPACT REVIEW PROCESS



Community Engagement Overview

**Phase 1 (June-Aug 2019):
Community Needs & Priorities,
Mobility Board workshopping**

**Phase 2 (early 2020):
Iterative, Community-Driven
Concept Design**

**Phase 3 (fall 2020):
Final trade-off decisions,
Prepare proposal**

**2021 & beyond:
Continue being present in
community**

Next Steps & More Information

What's happening now?

- Wrapping up Phase 1 of the project
 - Collecting and organizing input from the public, stakeholders, and the Mobility Board
 - Using that information to develop concepts for proposed changes to bus routes that will be shared in Phase 2—to be further refined in that phase
 - Phase 2 Launch anticipated for January 2020

Mobility Project Contacts

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CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussing Resolution No. 448 and Ordinance No. 869 – Declaring the City’s Intent and Authorizing the Sales Tax Credit for Affordable and Supportive Housing as Authorized by SHB 1406
DEPARTMENT:	Community Services
PRESENTED BY:	Colleen Kelly, Community Services Manager
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Washington State Substitute House Bill (SHB) 1406, which was adopted during this past legislative session, authorizes the governing body of a county or city to impose a local sales tax, credited against the state sales tax, for affordable and supportive housing. Jurisdictions that wish to receive the housing sales tax credit must pass a Resolution of Intent no later than January 27, 2020 and an Authorizing Ordinance no later than July 27, 2020. The sooner enabling legislation is passed, the sooner collections of the tax dollars can begin at the local level.

Tonight, Council will discuss proposed Resolution No. 448, which would declare the City’s intent to receive the affordable housing sales tax credit, and proposed Ordinance No. 869, which would authorize the collection of the sales tax credit. Proposed Resolution No. 448 and proposed Ordinance No. 869 are currently scheduled for adoption on the October 28, 2019 Council meeting.

RESOURCE/FINANCIAL IMPACT:

The projected estimate of sales tax resources available to the City of Shoreline depends on requirements and considerations outlined in this memo. At the lower qualifying rate, the projection is about \$81,700 per year; at the higher qualifying rate, the projection is about \$163,400 per year. The tax credit will be available for up to 20 years. This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer.

RECOMMENDATION

No action is required. Staff will present information related to SHB 1406 and outline the City’s options. Staff recommends that Council discuss these options to ensure a thorough understanding of the options and related requirements and seeks direction from Council regarding next steps, including scheduling proposed Resolution No. 448 and proposed Ordinance No. 869 for adoption on October 28, 2019.

Approved By: City Manager **DT** City Attorney **MK**

INTRODUCTION

Washington State Substitute House Bill 1406 ([SHB 1406](#)) authorizes the governing body of a county or city to impose a local sales tax, credited against the state sales tax, for affordable and supportive housing. Jurisdictions that wish to receive the housing sales tax credit must pass a Resolution of Intent no later than January 31, 2020 and an Authorizing Ordinance no later than July 27, 2020.

BACKGROUND

Overview

In the 2019 legislative session, the state approved a revenue sharing program for local governments by providing up to 0.0146% of local sales and use tax credited against the state sales tax for housing investments. The tax credit is in place for up to 20 years and can be used for acquiring, rehabilitating, or constructing affordable housing; operations and maintenance of new affordable or supportive housing facilities; and, for smaller cities with populations under 100,000, rental assistance. The funding must be spent on projects that serve persons whose income is at or below sixty percent of the area median income. Jurisdictions may also issue bonds to finance authorized projects.

Available Revenue

Participating jurisdictions (a city or county that takes required actions) will receive either 0.0073% or 0.0146% of taxable retail sales in the jurisdiction, up to an annual maximum distribution cap that is based on FY 2019 taxable retail sales. The rate of tax for cities depends on whether they have, or will have by July 27, 2020, a “qualifying local tax” (QLT). Counties do not need a QLT to receive the maximum distribution.

A QLT is a local property or sales tax that a city has imposed, separately from SHB 1406, to address affordable housing or related issues and allows cities to collect at the maximum rate of 0.0146%. The QLT options are:

- An affordable housing levy ([RCW 84.52.105](#));
- A sales and use tax for affordable housing ([RCW 82.14.530](#));
- A levy lid lift ([RCW 84.55.050](#)) that is restricted solely to affordable housing; or
- A mental health and chemical dependency sales tax ([RCW 82.14.460](#)), which is only authorized by statute for those cities of at least 30,000 population located within Pierce County.

All QLTs require voter approval with a simple majority vote (with the exception of the mental health and chemical dependency sales tax) and may be presented at any special, primary, or general election. Using Washington State Department of Revenue data, the Municipal Research and Services Center (MRSC) has developed a [worksheet](#) showing what the revenue cap would be for each jurisdiction based on April, 2018 to March, 2019 sales tax collections. Final caps will be determined based on July 1, 2018 to June 30, 2019, but the worksheet numbers provide a useful estimate. Projected revenues for Shoreline based on this data from the State Department of Revenue are:

<u>Rate</u>	<u>Estimate of Max Value/Year</u>	<u>20-Year Total Estimate (assumes max/yr)</u>
0.0073%	\$81,714	\$1,634,280
0.0146%	\$163,429	\$3,268,580

Here are the possible scenarios for sales tax credit collections:

- If a city chooses not to participate but the county does participate, the county will receive the full 0.0146% within the city boundaries.
- If a city elects to participate but does not have a QLT, the city will receive the 0.0073% “half share” and the county will also receive a 0.0073% half share within the city boundaries.
- If a city elects to participate and imposes a QLT by the deadline, the city will receive the full 0.0146% share and the county will not receive any revenues within the city boundaries.
- If the county elects not to participate, cities located within said county that have not enacted a QLT will not receive SHB 1406 revenues after the first year.

King County has already passed enabling legislation, so that is a known variable at this time. Additionally, given that the City Council has not discussed enacting any of the eligible QLTs in Shoreline in the near term nor prepared for a public vote on these additional taxes, which must be done before July of next year, it is most likely that Shoreline would receive a “half share” of the sales tax credit if authorized by the Council.

It is also important to remember that retail sales can fluctuate from year to year depending upon various economic factors, so revenues generated from this sales tax credit may fluctuate as well. Also, as noted above, SHB 1406 sets a cap on the revenues to be credited within any state fiscal year. The cap will be calculated based upon the jurisdiction's taxable retail sales during the state's 2019 fiscal year (July 1, 2018 - June 30, 2019). If at any time during the fiscal period the city's distributions meet the cap, the state will cease distribution until the beginning of the next fiscal cycle.

Restricted Uses

The intent of the legislation is to encourage local government investments in affordable and supportive housing, and as such, the funds will be considered a restricted revenue subject to reporting requirements and audit review for compliance. The use of this sales tax partially depends upon the size of the jurisdiction:

- **For counties over 400,000 population and cities over 100,000 population:**
The funds may only be used for (a) acquiring, rehabilitating, or constructing affordable housing, or facilities providing supportive housing services under [RCW 71.24.385](#) (behavioral health organizations), or (b) operations and maintenance costs of new units of affordable or supportive housing.
- **For counties under 400,000 population and cities under 100,000 population:**
The funds may be used for the same purposes listed above, but they may also be used to provide rental assistance to tenants that are at or below 60% of the area median income (AMI) of the county or city that is imposing the tax.

The funds may be used to finance loans or grants to nonprofit organizations or public housing authorities to carry out the purposes of the bill, and a participating city or county may pledge the tax proceeds from SHB 1406 for repayment of bonds in accordance with debt limitations imposed by the state constitution or statute.

Additionally, any participating city or county may enter into an interlocal agreement with other cities, counties, and/or housing authorities to pool and allocate the tax revenues received under SHB 1406 to fulfill the intent of the legislation.

ALTERNATIVES ANALYSIS

There are two primary alternatives for Council consideration:

- The Council may choose to collect the sales tax credit (with or without a QLT), or
- The Council may decline to collect the sales tax credit.

Considerations

Opting in as a participating jurisdiction entitles the City to begin collecting the credited sales tax dollars on the first of the month following a 30-day notice of adoption period. If the City is interested in becoming a participating jurisdiction, the first question to address is whether to implement a QLT as described above. Doing so would make Shoreline eligible to collect the full 0.0146% (about \$163,400/year). As noted earlier, to be eligible for the higher collection rate, a QLT would have to be approved by voters no later than July 27, 2020. Staff believes that this is an ambitious, if not unrealistic timeline, and does not recommend pursuing a voter-approved QLT. Proceeding without a QLT would mean the City would collect the sales tax credit at the 0.0073% rate (approximately \$81,700 per year) and King County would collect the other 0.0073%.

With or without a QLT, opting in requires the Council to adopt both a Resolution of Intent (see Attachment A) and an Authorizing Ordinance (See Attachment B). Opting in also means that the City Council would have sole authority to direct the allocation of its collected funds in support of any of the following allowed uses:

- Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services. In addition to investing in traditional subsidized housing projects, this authority could potentially be used to provide for land acquisition, down payment assistance, and home repair so long as recipients meet the income guidelines.
- Funding the operations and maintenance costs of new units of affordable or supportive housing.
- Providing rental assistance to tenants at or below 60% of the King County AMI.

Should the Council decline to collect the tax credit funds, Shoreline's full share of 0.0146% would be collected by King County and the Council would forgo the opportunity to direct the allocation of at least the lower rate of \$81,700/year. At a high level, the greatest risk in declining to collect the sales tax credit dollars is that Shoreline residents may be less likely to be served through any of the allowed methods.

Use of Funds

The legislation does not require an Authorizing Ordinance to stipulate how collected funds should be used. If the Council decides to proceed with steps to collect these funds, staff suggest that the discussion of how to spend the funds be deferred to a later date when a more complete analysis of options can be developed.

External Discussions – King County Affordable Housing Committee and Sound Cities Association

On September 20, 2019, the King County Affordable Housing Committee (KCAHC) adopted a recommendation to local jurisdictions and sub-regional collaborations on a regional approach to implementing SHB 1406. Adoption of this recommendation is the first major action taken by the KCAHC to enhance regional coordination and collaboration around affordable housing issues in King County. With the assumption that most cities will likely opt to collect the sales tax credit, the KCAHC recommends that local jurisdictions consider the following policies:

1. Pool funds with existing sub-regional collaborations or new partners and deploy funds as quickly as possible to maximize the impact of this revenue tool.
2. Prioritize construction and preservation of affordable homes for households earning at or below 30% AMI to the greatest extent possible.
3. Advance preservation efforts and equitable development in partnership with communities of color, immigrant and refugees, and low-income communities at risk of displacement in gentrifying areas.

Should Council choose to collect the sales tax credit dollars, these suggestions can be incorporated into a future discussion regarding use of the funds.

In addition, this item has been on the Sound Cities Association Public Issue Committee agenda a number of times. In each instance, there has been concurrence that cities should exercise their option to collect these funds, and a number of cities have indicated their intent to do so. At this time, the Cities of Tukwila and Tumwater are known to have adopted Authorizing Ordinances, and the City of East Wenatchee has passed a Resolution of Intent.

Next Steps

Staff has drafted proposed Resolution No. 448 (Attachment A), which would declare the City's intent to receive the affordable housing sales tax credit, and proposed Ordinance No. 869 (Attachment B), which would authorize the collection of the sales tax credit at the 0.0073% "half share" tax rate. If Council is interested in collecting the sales tax credit, staff can bring back the proposed resolution and ordinance for Council adoption. Staff recommends placing proposed Resolution No. 448 on the October 28, 2019 Consent calendar and proposed Ordinance No. 869 as Action item on the same Council agenda. This approach satisfies the requirement to take both actions in the proper sequence and would allow collection of funds to begin on December 1, 2019.

COUNCIL GOAL(S) ADDRESSED

The topic of this staff report directly address Council Goal 1 (Strengthen Shoreline's economic climate and opportunities); Action Step 4 (Encourage affordable housing development in Shoreline and engage the community to determine which additional housing types and policies may be appropriate for Shoreline...).

RESOURCE/FINANCIAL IMPACT

The projected estimate of sales tax resources available to the City of Shoreline depends on requirements and considerations outlined in this memo. At the lower qualifying rate,

the projection is about \$81,700 per year; at the higher qualifying rate, the projection is about \$163,400 per year. The tax credit will be available for up to 20 years. This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer.

SUMMARY

In summary, Council has a one-time opportunity to become a participating jurisdiction in a state program that allows the City to collect credited state sales tax dollars in the amount of roughly \$81,700 per year for 20 years in support of affordable housing. To do so would require the adoption of proposed Resolution No. 448 no later than January 27, 2020 and adoption of proposed Ordinance No. 869 no later than July 27, 2020. Staff however recommends that both proposed Resolution No. 448 and proposed Ordinance No. 869 be adopted on October 28th.

RECOMMENDATION

No action is required. Staff will present information related to SHB 1406 and outline the City's options. Staff recommends that Council discuss these options to ensure a thorough understanding of the options and related requirements and seeks direction from Council regarding next steps, including scheduling proposed Resolution No. 448 and proposed Ordinance No. 869 for adoption on October 28, 2019.

ATTACHMENTS

Attachment A: Proposed Resolution No. 448

Attachment B: Proposed Ordinance No. 869

RESOLUTION NO. 448

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DECLARING THE CITY COUNCIL'S INTENT TO ADOPT LEGISLATION TO AUTHORIZE THE MAXIMUM CAPACITY OF A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406.

WHEREAS, in 2015, the City Council passed Resolution No. 379 expressing the City's commitment to continue to help incentivize and aid in the development of affordable housing in the City; and

WHEREAS, in the 2019 regular session, the Washington State Legislature adopted Substitute House Bill (SHB) 1406 (chapter 338, Laws of 2019), adding a new section to chapter 82.14 RCW so as to encourage investments in affordable and supportive housing through a revenue sharing program between the State of Washington and local governments; and

WHEREAS, SHB 1406 permits the City Council to authorize a local sales and use tax for the acquisition, construction, or rehabilitation of affordable housing or facilities providing supportive housing services, and for the operations and maintenance costs of affordable or supporting housing; SHB 1406 further authorizes cities with a population of less than 100,000 to utilize the tax collected for the provision of rental assistance to tenants; and

WHEREAS, the local sales and use tax authorized by SHB 1406 shall be deducted from the amount of tax otherwise required to be collected or paid to the Washington State Department of Revenue pursuant to chapters 82.08 or 82.12 RCW; and

WHEREAS, given this reduction, the local sales and use tax authorized by SHB 1406 will not result in higher sales and use taxes and represents an additional source of funding to address affordable and supportive housing needs within the City for those persons whose income is at or below sixty percent of the City median income; and

WHEREAS, the City Council has determined that there are qualified residents of the City with a need for affordable and supportive housing and that the imposition of the local sales and use tax will provide a benefit to all of the City's residents; and

WHEREAS, the effective date of SHB 1406 is July 28, 2019, and SHB 1406 requires the City to adopt a resolution of intent within six months and legislation within one year of the effective date; and

WHEREAS the City Council desires, with this Resolution, to declare its intent to impose a local sales and use tax as authorized by SHB 1406 as set forth herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Resolution of Intent. The City Council of the City of Shoreline declares its intent to adopt legislation to authorize the maximum capacity of the local sales and use tax authorized by SHB 1406 within one year of the effective date of SHB 1406.

Section 2. Direction to City Staff. City Staff is directed to undertake all action necessary to facilitate the adoption of the legislation contemplated by this Resolution and to present to the City Council for consideration and adoption.

Section 3. Severability. If any one or more sections, subsections, or sentences of this Resolution are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Resolution and the same shall remain in full force and effect.

Section 4. Effective Date of Resolution. This Resolution shall take effect and be in full force immediately upon passage by the City Council.

**ADOPTED BY A SIMPLE MAJORITY VOTE OF THE CITY COUNCIL
ON OCTOBER 28, 2019.**

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith
City Clerk

ORDINANCE NO. 869

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING THE MAXIMUM CAPACITY OF LOCAL SALES AND USE TAX TO FUND INVESTMENTS IN AFFORDABLE AND SUPPORTIVE HOUSING PURSUANT TO SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019) AND ESTABLISHING A NEW CHAPTER, CHAPTER 3.17 OF THE SHORELINE MUNICIPAL CODE.

WHEREAS, on October 28, 2019, the City Council adopted Resolution 448 declaring its intent to adopt legislation authorizing the maximum capacity of the local sales and use tax pursuant to SHB 1406 (chapter 338, Laws of 2019) which added a new section to chapter 82.14 RCW so as to encourage investments in affordable and supportive housing through a revenue sharing program; and

WHEREAS, the revenue sharing program established by SHB 1406 allows the City to authorize and collect a local sales and use tax for the acquisition, construction, or rehabilitation of affordable housing or facilities providing supportive housing services, for the operations and maintenance costs of affordable or supporting housing, and for the provision of rental assistance to tenants; and

WHEREAS, this tax will be credited against the State of Washington sales tax collected within the City and, therefore, will not result in higher sales and use taxes within the City and will provide an additional source of funding to address affordable and supportive housing needs in the City whose income is at or below sixty percent of the City's median income; and

WHEREAS, SHB 1406 authorizes the City to issue general obligation or revenue bonds to carry out the purposes of the legislation and to pledge the revenue collected by the local sales and use tax to replay the bonds; and

WHEREAS, the City Council adopted Resolution 379 expressing its commitment to address homelessness, including implementing policies that encourage and incentivize the development of affordable housing for all members of the Shoreline community; and

WHEREAS, the Housing Element of the Shoreline Comprehensive Plan sets forth goals and policies related to housing affordability and regional coordination including Goals H-III and H-VII and Policies H-7 through H-20; and

WHEREAS, the City Council has determined that authorizing and collecting the sales and use tax pursuant to SHB 1406 is in the best interests of the City and all of its residents;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Chapter Established: SMC Chapter 3.17 – Sales and Use Tax for

Affordable and Supportive Housing. A new chapter, Chapter 3.17 of the Shoreline Municipal Code (SMC), entitled “Sales and Use Tax for Affordable and Supportive Housing” is added to SMC Title 3 as set forth on Exhibit A, attached hereto.

Section 2. Administrative Services Director. The Administrative Services Director, or designee, is authorized to provide any required notice to the Washington State Department of Revenue to effectuate the tax enacted by this Ordinance and to execute, for and on behalf of the City of Shoreline, any necessary agreement with the Department of Revenue for the administration and collection of the tax enacted by this Ordinance.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON OCTOBER 28, 2019

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2019

Effective Date: _____, 2019

EXHIBIT A – Ordinance 869

Shoreline Municipal Code

Chapter 3.17 Sales and Use Tax for Affordable and Supportive Housing

Section 3.17.010 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of Substitute House Bill 1406 (chapter 338, Laws of 2019), as subsequently codified in chapter 82.14 RCW and, as amended from time to time.

Section 3.17.020 Credit against State’s share of tax - Imposition of sales and use tax for affordable and supportive housing.

- A. Imposition. There is imposed a sales and use tax as authorized by Substitute House Bill 1406 (chapter 338, Laws of 2019), which shall be subsequently codified in chapter 82.14 RCW, upon every taxable event, as defined in chapter 82.14 RCW, occurring within the City of Shoreline. The tax shall be imposed upon and collected from those persons from who the State of Washington sales tax or use tax is collected pursuant to chapters 82.08 and 82.12 RCW.
- B. Tax Rate. The rate of the tax imposed by this section shall be 0.0073 percent of the selling price or value of the article used.
- C. Tax Deduction. The tax imposed by this section shall be deducted from the amount of tax otherwise required to be collected or paid to the Washington State Department of Revenue under chapters 82.02 or 82.12 RCW. The Department of Revenue shall perform the collection of such taxes on behalf of the City at no cost to the City.
- D. Tax Distribution. The Washington State Department of Revenue shall calculate the maximum amount of tax distributions for the City based on the taxable retail sales in the City in State Fiscal Year 2019, and the tax imposed by this section shall cease to be distributed to the City for the remained of any State Fiscal Year in which the amount of tax exceeds the maximum amount of tax distribution for the City as properly calculated by the Department of Revenue. Distributions to the City that have ceased during a State Fiscal Year shall resume at the beginning on the next State Fiscal Year.

Section 3.17.030 Purpose of tax.

- A. The City may use moneys collect by the tax imposed by SMC 3.17.020 or bonds issued may be used solely for the following purposes:
 - 1. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385; or
 - 2. Proving the operations and maintenance costs of new units of affordable or supportive housing; or
 - 3. Proving rental assistant to tenants.
- B. The housing and services provided under subsection A above may only be provided to persons whose income is at of below sixty percent (60%) of the median income of the City.

- C. In determining the use of funds under this section, the City must consider the income of the persons to be served, the leveraging of the resources made available under SMC 3.17.020, and the housing needs of the City.
- D. The Administrative Services Director, or designee, shall report annual to the Washington State Department of Commerce, in accordance with rules adopted by that department, on the collection and use of the revenue from the tax imposed under SMC 3.17.020.

Section 3.17.040 Expiration of tax.

- A. The tax imposed by the City under SMC 3.17.020 shall expire twenty (20) years after the date on which the tax is first imposed. The Administrative Services Director, or designee, shall provide notice to the City Council and the City Manager of the expiration date of the tax each year beginning three (3) years before the expiration date.
- B. If there are any changes to the expiration, the Administrative Services Director, or designee, shall promptly notify the City Council and the City Manager.