



PACIFIC CITY COUNCIL AGENDA
Council Chambers - City Hall. 100 3rd Ave. SE

July 18, 2016
Monday

Workshop
6:30 p.m.

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL OF COUNCIL MEMBERS**
- 3. ADDITIONS TO/APPROVAL OF AGENDA**
- 4. DISCUSSION ITEMS**
 - (2) **A. AB 16-069: Ordinance No. 2016-1933:** Approving the creation of a Transportation Benefit District for the City of Pacific. (10 min.)
(Jim Morgan)
 - (7) **B. AB 16-070: Resolution No. 2016-357:** Setting August 8, 2016, at approximately 6:30 p.m. as the date and time for a public hearing on the City Council's assumption of the Transportation Benefit District (10 min.)
(Jim Morgan)
 - (10) **C. AB 16-071: Resolution No. 2016-358:** Authorizing the execution of an agreement with Transpo Group USA, Inc. in the amount of \$85,847.00 to prepare an update of the Comprehensive Plan Transportation element, Transportation Concurrency Modeling, and Traffic Impact Fee Schedule. (10 min.)
(Jim Morgan)
 - (30) **D. AB 16-072: Resolution No. 2016-359:** Setting August 8, 2016, at approximately 6:30 p.m. as the date and time for a public hearing regarding the interim ordinance to prohibit medical marijuana cooperatives in the city. (10 min.)
(Jack Dodge)
 - (40) **E. AB 16-073: Resolution No. 2016-360:** Setting August 8, 2016, at approximately 6:30 p.m. as the date and time for a public hearing regarding the Planning Commission's recommendation concerning the prohibition of medical marijuana cooperatives in the city. (10 min.)
(Jack Dodge)
- 5. ADJOURN**



Agenda Bill No. 16-0**69**

TO: Mayor Guier and City Council Members
FROM: Public Works
MEETING DATE: July 25, 2016
SUBJECT: Formation of a Transportation Benefit District

ATTACHMENTS: Ordinance 2016-1933

Previous Council Review Date: Public Hearing on July 11, 2016

Summary: The City has been trying to develop alternatives to fund the construction of needed transportation improvements throughout the City. The formation of Transportation Benefit District (TBD) provides for local revenue to fund local transportation needs.

Recommendation/Action: Staff recommends Council approve Ordinance No. 2016-1933

Motion for Consideration: Move to approve Ordinance No. 2016-1933, AN ORDINANCE OF PACIFIC, WASHINGTON, RELATING TO THE ESTABLISHMENT OF THE PACIFIC TRANSPORTATION BENEFIT DISTRICT, IDENTIFYING THE GOVERNING BOARD, DESCRIBING THE FUNCTIONS OF THE DISTRICT, DESCRIBING THE MANNER IN WHICH TRANSPORTATION IMPROVEMENTS SHALL BE FUNDED AND HOW THE DISTRICT MAY BE DISSOLVED, ALL AS ALLOWED BY CHAPTER 36.73 RCW, ADDING A NEW CHAPTER 3.92 TO THE PACIFIC MUNICIPAL CODE"

Budget Impact: The cost to form the TBD is the cost of public notification, approximately \$300 and the transfer of seed money to operate the TBD.

Alternatives: Not form a TBD.

CITY OF PACIFIC, WASHINGTON
ORDINANCE NO. 2016-1933

AN ORDINANCE OF PACIFIC, WASHINGTON, RELATING TO THE ESTABLISHMENT OF THE PACIFIC TRANSPORTATION BENEFIT DISTRICT, IDENTIFYING THE GOVERNING BOARD, DESCRIBING THE FUNCTIONS OF THE DISTRICT, DESCRIBING THE MANNER IN WHICH TRANSPORTATION IMPROVEMENTS SHALL BE FUNDED AND HOW THE DISTRICT MAY BE DISSOLVED, ALL AS ALLOWED BY CHAPTER 36.73 RCW, ADDING A NEW CHAPTER 3.92 TO THE PACIFIC MUNICIPAL CODE.

WHEREAS, the City Council desires to respond to the need for transportation improvements on city streets by establishing a transportation benefit district, as authorized by chapter 36.73 RCW; and

WHEREAS, the SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as a program relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

WHEREAS, notice of a public hearing on this Ordinance establishing a transportation benefit district was provided according to RCW 36.73.050(1), including, but not limited to, publication of such notice in a newspaper in general circulation in the City, not less than ten days before the hearing; and

WHEREAS, the public hearing was held on the establishment of a transportation benefit district by the Pacific City Council on July 11, 2016; and

WHEREAS, the City Council considered the adoption of this ordinance during its regular meeting of July 25, 2016 and determined that the establishment of a transportation benefit district is in the public interest; Now, Therefore,

IT IS HEREBY ORDAINED BY THE PACIFIC CITY COUNCIL AS FOLLOWS:

Section 1. A new chapter 3.92 shall be added to the Pacific Municipal Code, which shall read as follows:

**CHAPTER 3.92
TRANSPORTATION BENEFIT DISTRICT**

Sections:

- 3.92.010 Purpose.**
 - 3.92.020 Establishing the Transportation Benefit District**
 - 3.92.030 Governing Board**
 - 3.92.040 Functions of the District**
 - 3.92.050 Transportation Improvements Funded**
 - 3.92.060 Dissolution of District**
 - 3.92.060 Liberal Construction.**
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3.92.010 Purpose. The purpose of this chapter is to establish a transportation benefit district (TBD) pursuant to RCW 35.21.225 and chapter 36.73 RCW, consistent with the public interest, to provide adequate levels of funding for transportation improvements that preserve, maintain and, as appropriate, construct or reconstruct the transportation infrastructure of the City of Pacific.

3.92.020 Establishing the Transportation Benefit District. There is created a transportation benefit district to be known as the Pacific Transportation Benefit District or “District” with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

3.92.030 Governing Board.

A. The governing board of the Pacific Transportation Benefit District shall be the Pacific City Council, acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in chapter 36.73 RCW.

B. The treasurer of the Transportation Benefit District shall be the City Finance Director.

C. The Board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1). The policy must at least address material changes to cost, scope and schedule, the level of change that will require governing body involvement and how the governing body will address those changes. At a minimum, if the District funding participation in a transportation improvement exceeds its original cost by more than twenty percent (20%) as identified in the District’s original plan, a public hearing shall

be held to solicit public comment regarding how the cost change should be resolved.

D. The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

3.92.040 Functions of the District.

A. The District, by a majority vote of its governing board, may authorize a motor vehicle license fee of up to twenty dollars as provided in RCW 82.80.140 for the purposes set forth in this chapter and as may be subsequently authorized according to law.

B. The District may impose additional taxes, fees or charges authorized by RCW 36.73.040 or ad valorem property taxes authorized by RCW 36.73.060, only if approved by District voters pursuant to RCW 36.73.065.

C. The District shall have all powers and functions provided by chapter 36.73 RCW to fulfill the functions of the District, including the power to issue general obligation bonds and revenue bonds as provided in RCW 36.73.070, or form a local improvement district as provided in RCW 36.73.080.

3.92.050 Transportation improvements funded. The funds generated by the Transportation Benefit District may be used for transportation improvements that preserve, maintain, operate, construct and reconstruct the existing transportation infrastructure of the City, consistent with chapter 36.73 RCW, as it now exists or is hereafter amended. In addition to the foregoing, the funds generated may be used for any purpose allowed by law, including to operate the District and to make transportation improvements that are consistent with state, regional and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, pursuant to chapter 36.73 RCW. The District shall select to the extent practicable projects for funding that reduce the risk of transportation facility failure and improve safety, decrease travel time, increase daily and peak period trip capacity, improve modal connectivity, provide for economic development, improve accessibility for persons with special transportation needs, and preserve and maintain optimal performance of the infrastructure over time to avoid expensive infrastructure construction and replacement in the future.

All funds raised through the District shall be expended only for such construction, reconstruction, preservation, maintenance and operation in accordance with the provisions of chapter 36.73 RCW as it now exists or is hereafter amended. The funds expended by the District shall preserve, maintain, operate and improve the City's investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost effectiveness of the City's infrastructure investments, provide for economic development and continue the optimal performance of the transportation system.

Additional transportation improvement projects may be funded only after compliance with the provisions of RCW 36.73.050(2)(b) following notice, public hearing and enactment of an authorizing ordinance.

3.92.060 Dissolution of District. The District shall be automatically dissolved when all indebtedness of the District has been retired and when all of the District’s anticipated responsibilities have been satisfied.

3.92.070 Liberal Construction. This chapter is to be liberally construed to accomplish the purpose of establishing a transportation benefit district with the broadest possible authority under chapter 36.73 RCW, as it now exists or is hereafter amended.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of Pacific this 25th day of July, 2016.

Leanne Guier, Mayor

AUTHENTICATED:

Amy Stevenson-Ness, City Clerk.

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

PUBLISHED:
EFFECTIVE DATE:



Agenda Bill No. 16-070

TO: Mayor Guier and City Council Members
FROM: Public Works
MEETING DATE: July 25, 2016
SUBJECT: Public Hearing for the assumption of the Transportation Benefit District

ATTACHMENTS:
Resolution 2016-357

Previous Council Review Date: N/A

Summary: The City has established a Transportation Benefit District (TBD) to provide for local revenue to fund local transportation needs. Chapter 36.74 RCW provides for the City to assume a TBD formed by the City. The assumption of the TBD by the City requires a Public Hearing.

Recommendation/Action: Staff recommends Council approve Resolution No. 2016-357.

Motion for Consideration: Move to approve Resolution No. 2016-357, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, SETTING A DATE FOR A PUBLIC HEARING ON THE CITY COUNCIL'S ASSUMPTION OF THE RIGHTS, POWERS, FUNCTIONS AND OBLIGATIONS OF THE PACIFIC TRANSPORTATION BENEFIT DISTRICT, FOR August 8, 2016 AT PACIFIC CITY HALL..

Budget Impact: The cost to have the public hearing is the cost of public notification, approximately \$300.

Alternatives: The Public Hearing is required to assume the Pacific Transportation Benefit District. Until a Hearing is held, a TBD cannot be operated by the City.

CITY OF PACIFIC, WASHINGTON
RESOLUTION NO. 2016-357

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, SETTING A DATE FOR A PUBLIC HEARING ON THE CITY COUNCIL'S ASSUMPTION OF THE RIGHTS, POWERS, FUNCTIONS AND OBLIGATIONS OF THE PACIFIC TRANSPORTATION BENEFIT DISTRICT, FOR AUGUST 8, 2016 AT PACIFIC CITY HALL.

WHEREAS, the City Council of the City of Pacific has adopted Ordinance No. _____ creating the Pacific Transportation Benefit District, with the same boundaries as the City limits;

WHEREAS, the Washington State Legislature adopted chapter 36.74 RCW (in Second Engrossed Substitute Senate Bill 5987, which took effect on July 15, 2015, Section 302), which provides that “the assumption of the rights, powers, functions and obligations of a transportation benefit district may be initiated by the adoption of an ordinance or resolution by the city or county legislative authority indicating its intention to conduct a hearing concerning the assumption of such rights, powers, functions and obligations”; and

WHEREAS, the City desires to provide public notice of the City Council's intention to assume the rights, powers, functions and obligations of the Pacific Transportation Benefit District, as required by RCW 36.74.020; Now, therefore,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council of the City of Pacific shall hold a hearing concerning the assumption of such rights, powers, functions and obligations of the Pacific Transportation Benefit District on August 8, 2016 at the Council Chambers at approximately 6:30 p.m., located at Pacific City Hall, 100 3rd Avenue SE, Pacific, Washington. All persons interested may appear and be heard. This ordinance shall be published at least two times during the two weeks preceding the scheduled hearing in newspapers of daily general circulation printed or published in the City or county in which the Transportation Benefit District is located.

Section 2. Severability. If any section, sentence, clause or phrase of this Resolution should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Resolution.

Section 3. Publication and Effective Date. This Ordinance shall be published

by an approved summary consisting of the title. This ordinance shall be effective five days after publication, as provided by law.

PASSED by the Council and approved by the Mayor of the City of Pacific, this 25TH day of July, 2016.

CITY OF PACIFIC

Mayor Leanne Guier

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



Agenda Bill No. 16-071

TO: Mayor Guier and City Council Members

FROM: Public Works

MEETING DATE: July 18, 2016

SUBJECT: Professional Services Agreement for Update of Comprehensive Plan Transportation Element, Transportation Concurrency Modeling, and Traffic Impact Fee Schedule

ATTACHMENTS:

- Resolution No. 2016-358
- Professional Services Agreement
- Scope of Work and Budget – Being Prepared

Previous Council Review Date: N/A

Summary: The City of Pacific is required to periodically update its Comprehensive Plan per the requirements of the Growth Management Act and RCW 36.70A.130(1). A critical element of the Comprehensive Plan is the Transportation Element. City staff need assistance from a firm or individual with expertise in transportation planning. Additional services required include concurrency modeling and the development of traffic impact fees.

City staff solicited statements of qualifications from firms listed on the Municipal Research Services Center (MRSC roster). Based on criteria established by city staff and conducting interviews of two firms, Transpo Group USA, Inc. has been determined to be the most highly qualified firm among the firms considered. City staff have negotiated a scope of work and budget with Transpo Group USA, Inc. to complete the required tasks;

Recommended Action: Staff recommends Council approve Resolution No. 2016-358.

Motion for Consideration: “I move to approve Resolution No. 2016-358, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING THE

MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH TRANSPGROUP FOR UPDATE OF COMPREHENSIVE PLAN TRANSPORTATION ELEMENT, TRANSPORTATION CONCURRENCY MODELING, AND TRAFFIC IMPACT FEE SCHEDULE IN THE AMOUNT OF \$85,847.00.”

Budget Impact: If accepted by City Council, the cost of the services will not to exceed \$85,847.00.00. These funds have been allocated in the 2016 Budget.

Alternatives: None recommended

Placeholder Document - Still Negotiating Scope and Budget

**CITY OF PACIFIC
WASHINGTON
RESOLUTION NO. 2016-358**

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH TRANSPRO GROUP USA FOR UPDATE OF COMPREHENSIVE PLAN TRANSPORTATION ELEMENT, TRANSPORTATION CONCURRENCY MODELING, AND TRAFFIC IMPACT FEE SCHEDULE IN THE AMOUNT OF \$85,847.00.

WHEREAS The City of Pacific is required to periodically update its Comprehensive Plan per the requirements of the Growth Management Act and RCW 36.70A.130(1). A critical element of the Comprehensive Plan is the Transportation Element. City staff need assistance from a firm or individual with expertise in transportation planning. Additional services required include concurrency modeling and development of traffic impact fees; and

WHEREAS The City was budgeted \$85,847 for the Update of Comprehensive Plan Transportation Element, Transportation Concurrency Modeling, and Traffic Impact Fee Schedule; and

WHEREAS City staff solicited statements of qualifications from firms listed on the Municipal Research Services Center (MRSC roster); and

WHEREAS based on criteria established by city staff and conducting interviews of two firms, Transpo Group USA, Inc. has been determined to be the most highly qualified firm among the firms considered;

WHEREAS City staff have negotiated a scope of work and budget with Transpo Group, Inc. to complete the required tasks;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1, The Pacific City Council hereby authorizes the Mayor to execute the professional services agreement attached to this Resolution between the City of Pacific and Transpo Group USA, Inc. for Update of Comprehensive Plan Transportation Element, Transportation Concurrency Modeling, and Traffic Impact Fee Schedule in the amount of \$85,847.00.

Section 2. This Resolution shall take effect and be in full force upon passage and signatures hereon.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

CAROL MORRIS, CITY ATTORNEY

CITY OF PACIFIC PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 25th day of July, 2016, by and between the City of Pacific, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PACIFIC, WASHINGTON (hereinafter the "CITY")
100 – 3rd Avenue S.E.
Pacific, Washington 98047
Contact: Mayor Leanne Guier Phone: 253-929-1100 Fax: 253-939-6026

and Transpo Group USA, Inc., a Washington State for Profit Corporation (describe the type of organization, whether corporation, sole proprietorship, etc.), organized under the laws of the State of Washington, doing business at:

Transpo Group USA, Inc. (hereinafter the "CONSULTANT")
Address: 12131 113th Avenue NE, Suite 203
City, State, Zip: Kirkland, WA 98034

Contact: Mr. Jon Pascal Phone: 425.821.3665 Fax: 425-825-8434

for professional services in connection with the following Project:

Update of Comprehensive Plan Transportation Element, Transportation Concurrency Modeling, and Traffic Impact Fee Schedule

TERMS AND CONDITIONS

1. Services by Consultant.

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. Consultant shall perform the services described in the scope of work in accordance with the Schedule attached to this contract as Exhibit "A." If delays beyond Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on July 25, 2016, (“Commencement Date”) and shall terminate on March 31, 2017 unless extended or terminated in writing as provided herein.

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$ _____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$85,847.00 including all applicable taxes, without written authorization and will be based on billing rates and reimbursable expenses attached hereto as Exhibit A.

TIME AND MATERIALS. Compensation for these services shall be on a time and material basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____”.

OTHER. _____

5. **Payment.**

A. Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant’s business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination and Compliance with Laws**

A. Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. Consultant shall obtain a City of Pacific business license prior to receipt of written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility for further work for City.

7. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. The Agreement may be terminated upon the default of the Consultant.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City, and Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. Consultant shall not be entitled to any reallocation of cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. Standard of Care. Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant under this agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

10. Ownership of Work Product.

A. All data materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of City, shall be forwarded to City at its request and may be used by City as it sees fit. Upon termination of this agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

11. Work Performed at the Consultant's Risk. The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification. The duty to defend as required above shall mean Consultant will reimburse Client for its reasonable defense costs based on principles of comparative fault.

Should a court of competent jurisdiction determine that this Agreement is Subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

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

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

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

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

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

C. Other Insurance Provisions

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

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

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

E. Verification of Coverage

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

14. Assigning or Subcontracting. Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

Revised 2/26/15

15. Notice. Any notices required to be given by the City to Consultant or by Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Leanne Guier
Mayor
100 – 3rd Avenue S.E.
Pacific, WA 98047

Phone: 253-929-1100
Fax: 253-939-6026

Transpo Group USA, Inc.
Attn: Mr. Jon Pascal, P.E.
12131 113th Avenue NE, Suite 203
Kirkland, WA 98034

Phone: 425.821.3665
Fax: 425.825.8434

16. Resolution of Disputes and Governing Law.

A. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by mutual good-faith negotiation between the parties in a reasonable time, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington.

B. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document

as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PACIFIC, WASHINGTON

Transpo Group USA, Inc.

By: _____
Leanne Guier
Mayor

By: Bruce Haldors
Name: Bruce Haldors

Date: _____

Title: President

Date: 7/12/16

Attest:

By: _____
Amy Stevenson-Ness
City Clerk

APPROVED AS TO FORM:

By: _____
Carol A. Morris
City Attorney

Exhibit A - Scope of Services

Client Name:	City of Pacific	
Project Name:	Transportation Element Update	
Exhibit Dated:	July 7, 2016	TG: 16250.PR

Background

Based on our proposal and discussions with City staff, Transpo Group has prepared the following scope of services for updating the Transportation Element for the City of Pacific. With recent updates to the Growth Management Act (GMA), and updated policies as part of Vision 2040, it is an opportune time to update the Transportation Element and make needed revisions to address comments recently provided by PSRC.

The updated Transportation Element will fulfill the state and regional planning requirements, provide the overall policy framework to achieving the City's transportation vision, contain an evaluation of the City's transportation system, and prepare a prioritized list of long-term, multimodal improvements. A Traffic Impact Fee and concurrency program will be developed and will build from the policies, LOS standards, and projects identified in the Transportation Element to support plan implementation.

Scope of Work

The following describes the scope of work for each of the main study tasks. It identifies the consultant work program, deliverables, and anticipated support from the City. The scope is organized into six main tasks, as follows:

- TASK 1: Agency Coordination and Public Outreach
- TASK 2: Transportation Element Audit & Policy Analysis
- TASK 3: Evaluation of Existing Transportation System
- TASK 4: Travel Forecasts and LOS Standards
- TASK 5: Transportation Element Development
- TASK 6: Implementation

TASK 1 Agency Coordination and Public Outreach

The consultant will manage the project and will assist City staff in leading meetings during the course of the project to seek feedback and direction at key project milestones. The agency review process and public feedback will help guide the update of the Transportation Element. The consultant will attend meetings with the City Council, Planning Commission, and the general public. It is assumed the public outreach efforts will build from the established Comprehensive Plan Update adoption process.

Project Management

Progress reports and invoices will be prepared on a monthly basis and provided to the City to summarize project progress and provide updates on the status of the budget.

Project Team Meetings

Four (4) project team meetings will be held to review key deliverables, milestones, schedule, and to coordinate on upcoming public meetings. The meetings will be in-person or via conference call. It is anticipated that two members from the consultant team will attend the meetings. Additional coordination phone calls between City staff and the consultant may occur more frequently, as necessary.

Public Meetings

The consultant will prepare and participate in up to four (4) public meetings, which could include presentations to the Planning Commission or City Council. The consultant will prepare presentations and

handouts for each meeting, as appropriate. City staff will coordinate and host the public meetings. City staff will also be responsible for any public notice if one or more of the meetings serves as a public hearing on the Transportation Element.

Consultant Deliverables

- *Monthly progress reports*
- *Public meeting attendance and presentation materials (4 meetings)*

City Responsibilities

- *Arranging for meeting locations, date, and times*
- *Distribution of pre-meeting materials*
- *Public notice of meetings*

TASK 2 Transportation Element Audit & Policy Analysis

The consultant will review the City's existing transportation element, and goals and policies section to ensure they are consistent and supportive of state and regional requirements. A focus will be on consistency with Vision 2040 policies and addressing recent PSRC certification comments.

Transportation Element Audit

The existing Transportation Element will be reviewed to identify specific areas of the plan that need to be updated and revised. The audit will build from the comments provided by PSRC, and identify specific items that need to be addressed in more detail compared to other parts of the document that require few updates or revisions.

Transportation Policies Review and Update

The existing goals and policies will be reviewed to identify how and where they address the Vision 2040 requirements. It will be noted whether the City's existing policies fully comply, partially comply, or do not currently comply with Vision 2040. Strategies or revisions will be identified to incorporate into the Transportation Element update to meet the Vision 2040 requirements.

Consultant Deliverables

- *Identification of areas of the Transportation Element to update or strengthen*
- *Updates to the goals and policies*

City Responsibilities

- *Direction/comment on potential updates*

TASK 3 Evaluation of Existing Transportation System

The focus of this task will be to document the existing transportation system in the City. The inventory will be used to identify existing deficiencies and associated improvement needs.

Assemble and Analyze Transportation Data

Data will be collected from the City, WSDOT, and other sources, as applicable. It is assumed much of the data will be available from existing plans, studies, Geographic Information Systems (GIS), or aerial photos. The inventory will cover:

- Roadway and intersection inventory
- Daily and PM peak hour traffic volumes
- Transit service facilities and ridership
- Pedestrian and bicycle facilities

The following highlights key work elements of this subtask.

Roadway and Intersection Inventory

The consultant will summarize the existing system of roadways and intersections within the City and its UGA.

Traffic Volume Data

Recent traffic counts will be assembled from the City and WSDOT. Additional daily and PM peak hour traffic counts will be collected to supplement the available traffic volume data. The consultant will collect up to sixteen (16) PM peak hour turning movement counts at study area intersections and up to six (6) 24-hour tube counts for use in the evaluation of traffic trends and vehicle classifications. The count locations will be coordinated with the City and conducted by a traffic count vendor.

Transit Service, Ridership, and Transportation Demand Management Programs

Existing transit routes and facilities serving Pacific will be inventoried. As available, existing transit ridership will be documented. Locations and utilization of park-and-ride lots serving the City will be evaluated. Current paratransit services, commute trip reduction, and other rideshare programs will also be summarized.

Pedestrian and Bicycle Facilities

Based on the City's existing data, the pedestrian and bicycle facilities will be summarized to show locations of existing sidewalks, bicycle facilities, and bike routes. Peak period pedestrian and bicycle volumes will be summarized for the same intersection locations as above.

Operations and Safety Analysis

A traffic operations analysis will be conducted at key intersections within the City. This will incorporate the new/recent traffic counts and existing signal timing or traffic control. A Synchro operations model of the City will be developed and existing levels of service (LOS) will be calculated. The measures of effectiveness reported would include intersection levels of service, vehicle delay, and intersection volume-to-capacity ratios. Significant vehicle queueing impacts also will be identified for key locations.

Collision data will be assembled and analyzed from the City and WSDOT for the study area. The data will cover the most recent three-year period. High collision locations and corridors and the primary types and possible causes of the collisions will be identified. Collisions involving pedestrians or bicyclists will be specifically documented.

Consultant Deliverables

- *Up to 16 peak period turning movement counts, including pedestrian and bicycle volumes*
- *Up to 6 corridor tube counts (3-day 24-hour summaries of traffic volumes and vehicle classifications)*
- *GIS files and base maps of the existing transportation facilities*
- *Traffic operations model (Synchro software)*
- *Table summaries of intersection levels of service and collision rates*

City Responsibilities

- *Geographic Information Systems (GIS) base layers (aerials, streets, speed limits, intersections, sidewalks, functional class, etc.)*
- *Copies of relevant studies and plans, and recent development traffic impact studies*

TASK 4 Travel Forecasts and LOS Standards

This task will focus on evaluating the City's transportation systems improvement needs. It will build off of the existing conditions and operations analyses, and prepare estimates of future travel demand. Travel forecasts will be developed based on future land use and PSRC model outputs. Refinements to the existing level of service methodology will be evaluated, and changes will be recommended that are consistent and supportive of the land use and transportation goals of the City.

Develop Travel Forecasts

Travel forecasts will be estimated that cover the City and its UGA. The travel forecasts will provide a solid technical basis for confirming future transportation system needs, assist in establishing project priorities, and supporting the development of a Traffic Impact Fee program. The travel forecasts will be for the weekday PM peak hour conditions. The forecast year is assumed to be 2035, consistent with the Comprehensive Plan.

Local and regional growth rates will be estimated and used to inform the development of the travel forecasts. Local growth rates will be estimated based on several sources of data, including the City's Land Use Element, PSRC model, and City of Sumner model. Land use data for the City's future horizon year (2035) will be provided by the City and be summarized by the total number of households and employees. The growth rates will be applied to existing traffic volumes to develop 2035 travel forecasts for the City.

Evaluate Future Needs

The 2035 travel forecasts will be used to evaluate improvement project needs and to define alternative improvement strategies. Key system capacity or operational deficiencies will be identified under 2035 conditions. Development of the alternative improvement strategies will take into account potential modifications to the City's LOS standards and any policy direction on the types of infrastructure the City wants to invest in. Alternative strategies could include focusing on collector streets, completing the City's primary pedestrian and bicycle routes, or addressing problem intersections.

Update/Confirm LOS Standards

Building off of the latest practices, including research conducted by Transpo, potential level of service options for the City will be summarized. The level of service standards will set the framework for defining and prioritizing transportation improvements and programs. The review will lead to potential LOS standard updates to better align with the City's overall Comprehensive Plan goals and vision, and address PSRC comments.

Consultant Deliverables

- *Estimates of forecast (Year 2035) traffic volumes*

City Responsibilities

- *Existing and future land use estimates*
- *Identification of future baseline projects*
- *Direction/comment on Level of Service options*

TASK 5 Transportation Element Development

The results of the evaluation of existing and forecast conditions will be the basis for updating the list of long-term, multimodal transportation projects. The projects, along with supporting financing strategies, will result in an updated Transportation Element chapter of the Comprehensive Plan. The Transportation Element document will meet GMA requirements and PSRC's certification review.

Project Identification and Prioritization

A list of transportation improvement projects and programs will be prepared to provide a safe and efficient transportation system, and meet the City's LOS standards. Project descriptions will be prepared and the rationale for each project will be documented (e.g. resolving capacity, operational, safety, connectivity, non-motorized, or other deficiencies). The project list and associated information will be summarized in tabular form. The projects will be mapped in GIS to illustrate the locations and relationships of the improvements.

Project cost estimates will be developed using a planning-level cost model that incorporates specific elements of individual projects. The parameters for the cost model will be "bid tabs" from recent improvement projects in the City and adjacent communities. The resulting planning level cost estimates will provide a reasonable foundation for the financial plan and Traffic Impact Fee program.

Priorities will be established for each of the improvement projects. The priorities will reflect the City's goals and objectives and the technical analyses. The project priorities will be reviewed with City staff. Based on input and direction, adjustments will be made, as appropriate.

Financing Strategies

The City will provide the consultant summaries of revenues and expenditures related to transportation covering the past 3 to 4 years. Revenues will include fuel taxes, real estate excise taxes, general funds, grants, and other transportation funding. Expenditures will include capital projects, maintenance, operations, administration, and other costs related to its transportation system.

The revenues and expenditures will be summarized for use in extrapolating potential future funding levels from existing sources. Estimates of future revenues from these sources will be prepared and reviewed with appropriate City staff. Estimates of future expenditures for maintenance, operations, and administration also will be provided by the City.

Based on the levels of existing revenues versus expenditures and anticipated funding with implementation of a Traffic Impact Fee program, a 20-year financing strategy will be prepared. The financing strategy will be summarized in tabular form.

As required by GMA, the Transportation Element must identify a reassessment strategy if anticipated funding is not sufficient to cover the total costs of the improvement projects and programs. Implementation strategies and associated policies to meet that requirement will be prepared. Strategies may include revisiting level of service standards, land use assumptions, project priorities, phasing of improvements, or other options.

Draft and Final Transportation Element

A draft of the Transportation Element will be provided to City staff for review in electronic format (e.g., a Microsoft Word and/or Adobe Acrobat PDF file). Based on comments, a draft final Transportation Element document will be prepared for review by the Planning Commission and City Council. Following review and comment by the Planning Commission and City Council, the Transportation Element will be finalized. The document format is assumed to be consistent with other chapters of the Comprehensive Plan.

Consultant Deliverables

- *Multimodal improvement project list including priorities and timing*
- *Planning level cost estimates*
- *Maps/graphics summarizing the capital projects*
- *Draft and Final Transportation Element document (Word and PDF electronic version)*

City Responsibilities

- *Recent project cost estimates and bid tabs*
- *Feedback on project phasing and priorities*
- *Summary of transportation revenues and expenditures for past 3 to 4 years*
- *Direction and file formatting of the Transportation Element to be consistent with Comprehensive Plan*
- *Consolidation of comments on the Transportation Element*

TASK 6 Implementation

To support implementation of the Transportation Element, a new Traffic Impact Fee (TIF) program will be developed, along with a concurrency ordinance to monitor performance of the system.

Impact Fee Program

The update of the Transportation Element provides an opportune time to develop a TIF program for the City to assist in supporting the Land Use Element. Preparation of the TIF program after completion of the

Transportation Element will assist in making the fees consistent and supportive of the updated long-term project list and cost estimates. Work under this task includes:

- **Project List** – The eligibility of improvements included in the City's Transportation Element will be reviewed to identify which projects can be included in the impact fee program.
- **Impact Fee Share** – TIF project costs will be determined by estimating the proportion of growth trips versus existing traffic. Cost allocations also will consider assessment of potential grants and the cost for resolving existing deficiencies.
- **TIF Rate Schedule** – An impact fee rate schedule will be prepared to reflect the project costs and cost allocations.

The TIF program will be documented in a summary report.

Concurrency Program

A transportation concurrency program will be prepared to monitor the performance of the system over time. The program will be based on the identified level of service standards and the travel forecasts prepared as part of the Transportation Element update. The consultant will work closely with City staff to ensure any program can be easily administered by staff, or if desired, administered by consultants as part of the development review process. Once a program has been defined, administration guidelines will be prepared for staff to follow as part of the development review process.

Consultant Deliverables

- *TIF program summary report*
- *TIF rate schedule*
- *Concurrency program administration guidelines*

City Responsibilities

- *Prepare TIF ordinance*
- *Prepare concurrency ordinance*



Number / Project Name
16250.00 City of Pacific Transportation Element

- Planning Commission / City Council / Public Meeting
- Project Team Meetings
- Draft/Final Deliverable

Work Task	Aug	Sept	Oct	Nov	Dec	Jan	Feb
TASK 1 - Agency Coordination and Public Outreach							
Project Team Meetings							
Public Meetings							
TASK 2 - Transportation Element Audit & Policy Analysis							
Transportation Element Audit							
Transportation Policies Review and Update							
TASK 3 - Evaluation of Existing Transportation System							
Assemble and Analyze Data							
Operations and Safety Analysis							
TASK 4 - Traffic Modeling and LOS Standards							
Develop Traffic Model							
Evaluate Future Needs							
Update/Confirm LOS Standards							
TASK 5 - Transportation Element Development							
Project Identification and Prioritization							
Financing Strategies							
Draft and Final Transportation Element							
TASK 6 - Implementation							
Impact Fee Program and Ordinance							
Concurrency Program and Ordinance							

TRANSPO GROUP USA, INCORPORATED

UBI Number	603258009
Category	REG
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
WA Filing Date	12/05/2012
Expiration Date	12/31/2016
Inactive Date	
Duration	Perpetual
Registered Agent Information	
Agent Name	BRUCE R HALDORS
Address	11730 118TH AVE NE #600
City	KIRKLAND
State	WA
ZIP	98034
Special Address Information	
Address	
City	
State	
Zip	

Governing Persons

Title	Name	Address
President,Chairman ,Director	HALDORS , BRUCE R	11730 118TH AVE NE STE 600 KIRKLAND , WA 980347120
Secretary,Treasurer,Director	HANI , RAWAD	11730 118TH AVE NE STE 600 KIRKLAND , WA 980347120
Vice President,Director	CHATILA , HICHAM	11730 118TH AVE NE STE 600 KIRKLAND , WA 980347120



Agenda Bill No. 16-072

TO: Mayor Guier and City Council Members

FROM: Jack Dodge, Community Development Manager

MEETING DATE: July 18, 2016

SUBJECT: Setting a Public Hearing Regarding the Interim Ordinance to Prohibit Medical Marijuana Cooperatives in the City

ATTACHMENTS:

- Resolution 2016-359 Setting Public Hearing Date Regarding Interim Ordinance 2016-1930
- Interim Ordinance 2016-1930 Medical Marijuana Cooperatives

Governance Committee: 5/4/16

Previous Council Review Date: 6/6/16, 6/13/16

Summary:

The City Council adopted Interim Ordinance 2016-1930 at their June 13, 2016 Council Meeting. The interim ordinance revised Chapter 20.09 of the Municipal Code to prohibit medical marijuana cooperatives within the City. Under RCW 36.70A.390 and RCW 35.63.200, the City Council, within 60 days must hold a public hearing to adopt findings of facts on the interim ordinance to either justify the continued imposition or repeal of the ordinance. The public hearing must be held prior to August 12, 2016. The proposed resolution sets a public hearing date regarding the interim ordinance for the August 8, 2016 Council Meeting.

Recommended Action:

Move Resolution 2016-359 to the July 25, 2016 Council meeting for adoption.

Recommended Motion:

**CITY OF PACIFIC, WASHINGTON
RESOLUTION NO. 2016-359**

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, SETTING
THE PUBLIC HEARING DATE TO CONSIDER THE FINDINGS OF FACT
TO EITHER JUSTIFY THE CONTINUED IMPOSITION OF INTERIM
ORDINANCE 2016-1930 OR REPEAL THE ORDINANCE

WHEREAS, The City Council adopted Interim Ordinance 2016-1930 amending Chapter 20.09 of the Pacific Municipal to prohibit medical marijuana cooperatives; and

WHEREAS, under RCW 36.70A.390 and RCW 35.63.200, the City Council, within 60 days must hold a public hearing to adopt findings of facts on the interim ordinance to either justify the continued imposition or repeal of the ordinance.

WHEREAS, The City Council must conduct a public hearing prior to August 12, 2016;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council hereby sets a public hearing date for the August 8, 2016 Council meeting to conduct a public hearing to adopt findings of facts on the interim ordinance to either justify the continued imposition of the ordinance or repeal of the ordinance.

PASSED BY THE CITY COUNCIL this 25th day of July, 2016.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:
Office of the City Attorney

Carol Morris, City Attorney

CITY OF PACIFIC

ORDINANCE NO. 2016-1930

AN INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO MEDICAL MARIJUANA, PROHIBITING MARIJUANA COOPERATIVES AS WELL AS COLLECTIVE GARDENS AND UPDATING THE DEFINITIONS RELATING TO MEDICAL MARIJUANA, IN ORDER TO CONFORM WITH RECENT LEGISLATIVE AMENDMENTS, THIS INTERIM ORDINANCE TO BE EFFECTIVE IMMEDIATELY, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THIS INTERIM ORDINANCE WHICH AMENDS PACIFIC MUNICIPAL CODE SECTIONS 20.09.020 AND 20.09.030, ESTABLISHING THE DATE OF A PUBLIC HEARING ON THE INTERIM ORDINANCE, DECLARING AN EMERGENCY AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Pacific prohibits both medical and recreational marijuana uses in PMC chapter 20.08 and chapter 20.09; and

WHEREAS, the federal government has not legalized marijuana and the Pacific City Council still desires that all marijuana uses be prohibited in the City of Pacific; and

WHEREAS, the City's codes relating to medical marijuana included definitions that were consistent with Washington state law at the time the codes were adopted; and

WHEREAS, since that time, the Washington State Legislature has amended the statutory definitions relating to medical marijuana in RCW 69.51A.010; and

WHEREAS, the Legislature has also eliminated the regulations applicable to "collective gardens" in RCW 69.51A.085, effective July 1, 2016; and

WHEREAS, the Legislature adopted provisions allowing medical marijuana "cooperatives" in RCW 69.51A.250, effective July 1, 2016; and

WHEREAS, in order to accomplish the City's objectives in prohibiting medical marijuana uses in Pacific, this Ordinance needs to be effective prior to July 1, 2016; and

WHEREAS, after adoption of this Ordinance as an interim ordinance pursuant to RCW 36.70A.390, the City still plans to follow the procedures required by law for the amendment of a development regulation, as provided in the Growth Management Act and the City's codes; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Section 20.09.020 of the Pacific Municipal Code is hereby repealed.

Section 2. A new Section 20.09.020 is hereby added to the Pacific Municipal Code, to read as follows:

20.09.020 Definitions. For purposes of this chapter, the following definitions apply:

“Collective Garden” has the meaning set forth in RCW 69.51A.085.

“Cooperative” has the meaning set forth in RCW 69.51A.250.

“Cultivation” means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

“Deliver or delivery” means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

“Designated provider” has the meaning provided in RCW 69.51A.010.

“Dispense” means the interpretation of a prescription or order for medical cannabis or medical marijuana and pursuant to that order, the selection, measuring, compounding, labeling or packaging necessary to prepare the prescription or order for delivery.

“Dispensary” means any location that does not meet the definition of “collective” or “collective garden” and in which medical marijuana or medical cannabis is processed, dispensed, selected, measured, compounded, packaged, labeled, sold, bartered or given away to any member of the public. It also includes any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, sell or give away medical cannabis or medical marijuana to any member of the public, including members of cooperatives as defined in RCW 69.51A.250.

“Marijuana” has the meaning provided in RCW 69.50.101.

“Marijuana concentrates” has the meaning provided in RCW 69.50.101.

“Marijuana infused products” has the meaning provided in RCW 69.50.101.

“Marijuana retailer” has the meaning provided in RCW 69.50.101.

“Marijuana processor” has the meaning provided in RCW 69.50.101.

“Marijuana producer” has the meaning provided in RCW 69.50.101.

“Marijuana retailer with a medical marijuana endorsement” has the meaning provided in RCW 69.51A.010.

“Marijuana infused products” has the meaning provided in RCW 69.50.101.

“Medical use of marijuana” has the meaning provided in RCW 69.51A.010.

“Qualifying patient” has the meaning provided in RCW 69.51A.010.

“Usable marijuana” has the meaning provided in RCW 69.50.101.

Section 3. Section 20.09.030 of the Pacific Municipal Code is hereby amended to read as follows:

20.09.030 Prohibited activities.

A. It is unlawful to own, establish, operate, use or permit the establishment or operation of a medical marijuana dispensary, or to participate as an employee, contractor, agent or volunteer or in any other manner or capacity in any marijuana business, even if the same is licensed by the State of Washington.

B. It is unlawful to own, establish, operate, use, participate in or permit the establishment or operation of a medical marijuana collective garden or a cooperative, or to participate as an employee, contractor, agent or volunteer or any other manner or capacity in any collective garden or cooperative, even if the same is licensed/registered with the State of Washington

C. It is unlawful to lease, rent, or otherwise allow any medical marijuana dispensary, or any medical marijuana collective garden or any cooperative, outdoors, indoors, in any building, structure, premises, location or land in the City, even if the same is licensed/registered with the State of Washington.

Section 4. Section 20.09.040 is hereby amended to read as follows:

20.09.040 Use not permitted in any zone. The use of any building, structure, location, premises or land for a medical marijuana dispensary or a collective garden or a cooperative is not ~~currently~~ allowed in the City and medical marijuana dispensaries and collective gardens and cooperatives are not permitted uses in any zone. So long as this chapter remains in effect, the City shall not determine, either through interpretation or otherwise, that the use of any building, structure, location, premises or land as a medical marijuana dispensary, or collective garden or cooperative may be permitted in any zone.

Section 5. Section 20.09.050 is hereby amended to read as follows:

20.09.050 No vested or nonconforming rights. This chapter prohibits medical marijuana dispensaries, ~~and~~ collective gardens and cooperatives. Neither this chapter nor any other City ordinance, City action, failure to act, statement, representation, certificate, approval or permit issued by the City or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any medical marijuana business, marijuana business, cooperatives or collective garden.

Section 6. Findings. The Council adopts all of the “whereas” sections of this

Ordinance as findings to support this interim zoning ordinance, as well as the following:

A. The purpose of this interim zoning ordinance is to maintain the status quo while the City drafts and considers amendments to chapter 20.09 of the Pacific Municipal Code, relating to medical marijuana, addressing definitions and the prohibition on a new use created by the Washington State Legislature, or “cooperatives” (under RCW 69.51A.250. The Legislature is eliminating “collective gardens” under RCW 69.51A.085 (to be effective up to July 1, 2016), and replacing them with “cooperatives” under RCW 69.51A.250 (effective beginning on July 1, 2016).

B. The City will consider adoption and enforcement of an ordinance addressing cooperatives under RCW 69.51A.250 during the next six months, while this interim zoning ordinance is in effect.

C. During the period of time that this interim zoning ordinance is in effect, the City will also consider the manner in which the negative impacts and secondary effects associated with cooperatives (on-going or predicted) in the City can be ameliorated, including but not limited to, the demands that will be placed upon scarce City policing, legal, policy and administrative resources; neighborhood disruption, increased transient visitors and intimidation; the exposure of school-age children and other sensitive residents to marijuana, illegal sales to both minors and adults; fraud in issuing, obtaining or using medical marijuana prescriptions, murders, robberies, burglaries, assaults, drug trafficking and other violent crimes.

D. The State of Washington has adopted a new regulatory and enforcement system to address cooperatives, but no licenses have yet issued, and so there is no way to determine whether (or the manner in which) the State will enforce these rules. The Council also acknowledges that the State has not performed any environmental analyses that will assist cities, towns and counties in the adoption of local regulations addressing marijuana uses, and that municipalities must therefore either develop their own analyses or observe these impacts after-the-fact (or, *after* these marijuana uses locate and begin operation in cities, towns and counties throughout Washington.) Then, the municipalities will be required to “fix” the problems stemming from these uses with their already scarce resources.

E. In sum, the City Council believes that it cannot adopt legislation to address the negative environmental impacts and secondary land use effects of medical marijuana cooperatives until the extent of these impacts are known, and there is strict enforcement of these laws.

F. No part of this interim ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. This interim ordinance is not intended to address or invite litigation over the question whether the State of Washington’s medical or recreational marijuana laws (or this City’s laws) satisfy the federal government’s enforcement priorities. Nothing in this interim ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this interim ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this interim ordinance be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

Section 7. Interim Ordinance Adopted. This interim ordinance is immediately adopted for a period of six months in order to provide the City adequate time to:

A. Study the secondary land use impacts associated with the location and siting of structures and uses in which medical marijuana cooperatives may take place. This includes, but is not limited to, all activities associated with medical marijuana, including individual cultivation, collective gardens, cooperatives, production, processing, transfer, bartering, exchange and delivery of marijuana between qualified patients, designated providers or anyone else. This work will begin upon adoption of this ordinance and is expected to take three months.

B. Allow the City adequate time to study the effects of state licensed marijuana uses as they operate in other areas (throughout Washington, Colorado and other states adopting similar laws). This work will begin upon adoption of this ordinance and is expected to take three months.

C. Draft an ordinance addressing medical marijuana cooperatives in the City. This work will begin immediately after the activities described in A and B of this Section are complete.

D. Hold a public hearing(s) on the draft ordinance, obtain public input on such ordinance, allow the Planning Commission to make recommendations to the City Council, for the City Council to review the draft ordinance and, if desired, to adopt new regulations or prohibitions on marijuana uses. This work will begin immediately after the activities described in A, B and C are complete.

Section 8. Effect of Interim Zoning Ordinance. The City Council imposes an immediate six-month prohibition on the acceptance of all development permit and business license applications for any structure, use or operation involving medical marijuana cooperatives, as the same are defined in this Ordinance and RCW 69.51A.250. All such development permit and business license applications shall be rejected and returned to the applicant.

Section 9. Duration of Interim Zoning Ordinance. This interim zoning ordinance shall commence on the effective date set forth in Section 15 herein. As long as the City holds a public hearing on the interim zoning ordinance and adopts findings and conclusions in support of the interim zoning ordinance (as contemplated by Section 6 herein), the interim zoning ordinance shall not terminate until six (6) months after the date of adoption, or at the time all of the events described in Section 3 have been accomplished, whichever is sooner. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

Section 10. Public Hearing on Interim Zoning Ordinance. Pursuant to RCW 36.70A.390 and RCW 35.63.200, the City Council shall hold a public hearing on this interim zoning ordinance within sixty (60) days of its adoption, or before August 12, 2016. The Council hereby schedules this hearing for August 8, 2016. During the next Council meeting immediately following, the City Council shall adopt findings of fact on the subject of this interim zoning ordinance and either justify its continued imposition or repeal this ordinance.

Section 11. Declaration of Emergency.¹ The City Council hereby declares that an emergency exists necessitating that this interim zoning ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum.² The new regulations for cooperatives in RCW 69.51A.250 will be effective on July 1, 2016. Therefore, applications for this use could be submitted to the state cannabis and liquor board on or before this date. Under RCW 69.51A.250(3)(c), no cooperative can be located where prohibited by a city zoning provision, and the state liquor and cannabis board “must deny the registration of any cooperative if the location does not comply with the requirements set forth in [RCW 69.51A.250(3)].”

The process for adoption of a development regulation, as outlined in this Ordinance will usually take about 2-3 months, depending on the schedule of the Planning Commission and City Council. The City needs to adopt this interim zoning ordinance to be effective immediately, in order to prevent the state liquor and cannabis board from approving applications for medical marijuana collectives in the City of Pacific. Also, immediate adoption is required to ensure that applications for development and business licenses cannot be submitted to Pacific and possibly become vested, leading to development that could be incompatible with the regulations eventually adopted by the City (after the process described herein). Therefore, the interim zoning ordinance must be adopted immediately as an emergency measure to protect the public health, safety and welfare.

Section 12. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 13. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 14. Copies of Relevant Statutes Adopted by Reference. Pursuant to RCW 35A.12.140, one copy of RCW 69.51A.010 and 69.50.101 are filed in the office of the City Clerk for examination by the public.

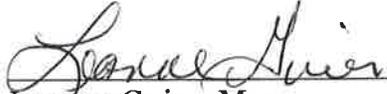
Section 15. Effective Date. (if the Council desires immediate adoption and there is a vote of a majority plus one of the entire council): This Ordinance shall take effect and be in full force immediately upon passage, having received the vote of a majority plus one of the entire Council.

PASSED by the City Council and approved of the Mayor of the City of Pacific this 13th day of June, 2016.

¹ If the City does not have sufficient votes to pass this ordinance on an emergency basis, this section should be deleted. Without a majority plus one of the full membership of the Council, the ordinance would go into effect at the usual time. See, RCW 35A.12.130 for code cities.

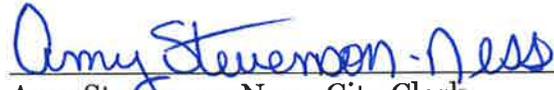
² RCW 35A.12.130 for code cities.

CITY OF PACIFIC



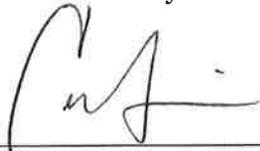
Leanne Guier, Mayor

ATTEST/AUTHENTICATED:



Amy Stevenson-Ness, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Carol Morris, City Attorney

FILED WITH THE CITY CLERK: May 20, 2016
PASSED BY THE CITY COUNCIL: June 13, 2016
PUBLISHED: June 17, 2016
EFFECTIVE DATE: June 13, 2016
ORDINANCE NO: 2016-1930



Agenda Bill No. 16-073

TO: Mayor Guier and City Council Members
FROM: Jack Dodge, Community Development Manager
MEETING DATE: July 18, 2016
SUBJECT: Setting a Public Hearing to Consider the Planning Commission's Recommendation regarding the Prohibition of Medical Marijuana Cooperatives.

ATTACHMENT/S: 1. Resolution 2016-360 Setting a Public Hearing Date to Consider the Planning Commissions Recommendation Regarding Revisions to Chapter 20.09 Prohibiting Medical Marijuana Cooperatives.

Governance Committee: 5/4/16
Previous Council Review Date: None

Summary:

Background

The Planning Commission at their July 26, 2016 meeting will be conducting their public hearing regarding the proposed revisions to PMC Chapter 20.09 prohibiting medical marijuana cooperatives. After conducting the public hearing, it is anticipated that the Planning Commission will make a recommendation to the City Council regarding the proposed revisions. It is recommended that the Council conduct their own public hearing regarding the Planning Commission's recommendation. This will ensure that the City provides ample opportunity for the public to comment on the proposed changes to Chapter 20.09 prohibiting medical marijuana cooperatives in Pacific.

Recommended Action:

Move Resolution 2016-360 to the July 25, 2016 Council meeting for adoption.

Recommended Motion:

**CITY OF PACIFIC, WASHINGTON
RESOLUTION NO. 2016-360**

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, SETTING A PUBLIC HEARING DATE TO CONSIDER THE PLANNING COMMISSION'S RECOMMENDATION REGARDING REVISIONS TO CHAPTER 20.09 PROHIBITING MEDICAL MARIJUANA COOPERATIVES IN PACIFIC.

WHEREAS, The Planning Commission will be conducting a public hearing on July 26, 2016 to consider the proposed revisions to Pacific Municipal Code (PMC) Chapter 20.09 prohibiting medical marijuana cooperatives in Pacific; and

WHEREAS, The Planning Commission, after conducting the public hearing will be making a recommendation to the City Council whether to adopt or not adopt the proposed revisions to Chapter 20.09; and

WHEREAS, To ensure ample public input regarding the proposed changes, the City Council chooses to conduct their own public hearing regarding the Planning Commission's recommendation;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council hereby sets a public hearing date for the August 8, 2016 Council meeting to consider the Planning Commission's recommendation regarding proposed revisions to PMC Chapter 20.09 prohibiting medical marijuana cooperatives.

PASSED BY THE CITY COUNCIL this day of July 25, 2016.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:
Office of the City Attorney

Carol Morris, City Attorney