CALL CITY COUNCIL REGULAR MEETING TO ORDER

ROLL CALL/PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PUBLIC COMMUNICATION

- Presentation of UW GIS Student Project: Covington Bike Routes and Potential Locations for Off-Leash Dog Park (Brad Srebnik)
- Proclamation Honoring Special Olympics Athlete Justin Olds
- 2018 Citizen of the Year Proclamation
- 2018 Honorary City of the Year Proclamation

RECEPTION FOR CITIZEN AND HONORARY CITIZEN OF THE YEAR

PUBLIC COMMENT

Speakers will state their name, address, and organization. Comments are directed to the City Council, not the audience or staff. Comments are not intended for conversation or debate and are limited to no more than four minutes per speaker. Speakers may request additional time on a future agenda as time allows. *

NOTICE to all participants: Pursuant to state law, RCW 42.17A.555, campaigning for any ballot measure or candidate in City Hall and/or during any portion of the council meeting, including the audience comment portion of the meeting, is PROHIBITED.

APPROVE CONSENT AGENDA

C-1. Minutes: May 23, 2018 Tri Cities Meeting (Scott)
C-2. Vouchers (Hendrickson)
C-3. Authorize the City Manager to Execute an Amendment to Agreement with ORB Architects for Aquatic Center Condition Assessment (Newton)
C-4. Authorize the City Manager to Execute an Agreement with DCI Engineers for Real Estate Services (CIP 1201) (Vondran)

NEW BUSINESS

1. Discussion on Washington Voting Rights Act (WVRA) (Bolli/Hardy)
2. Consider Ordinance Amending Downtown Zoning Districts Density and Dimension Standards to Reduce Setbacks in the Mixed Housing and Office Zone (Hart)

FUTURE AGENDA ITEMS

COUNCIL/STAFF COMMENTS
PUBLIC COMMENT *See Guidelines on Public Comments above in First Public Comment Section

EXECUTIVE SESSION – if needed

ADJOURN

Americans with Disabilities Act – reasonable accommodations provided upon request a minimum of 24 hours in advance (253-480-2400).
SUBJECT: APPROVAL OF MINUTES: MAY 23, 2018 CITY COUNCIL SPECIAL MEETING – BLACK DIAMOND/COVINGTON/MAPLE VALLEY JOINT MEETING MINUTES

RECOMMENDED BY: Sharon G. Scott, City Clerk

ATTACHMENT(S): Proposed Minutes

PREPARED BY: Joan Michaud, Senior Deputy City Clerk

EXPLANATION:

ALTERNATIVES:

FISCAL IMPACT:

CITY COUNCIL ACTION: _____ Ordinance _____ Resolution  X  Motion _____ Other

Councilmember __________ moves, Councilmember __________ seconds, to approve the May 23, 2018 City Council Special Meeting – Black Diamond/Covington/Maple Valley Joint Meeting Minutes.
CALL TO ORDER/PLEDGE OF ALLEGIANCE:
Covington Mayor Jeff Wagner called the Special Meeting – Joint City Council Meeting to order on Wednesday, May 23, 2018, at 7:00 p.m. in the City of Covington Council Chambers, 16720 SE 271st Street, Suite 100, Covington, Washington.

BLACK DIAMOND COUNCILMEMBERS PRESENT:
Mayor Carol Benson, Mayor Pro Tem Janie Edelman, Tamie Deady, and Melissa Oglesbee.

Absent: Erin Stout and Chris Wisnoski.

COVINGTON COUNCILMEMBERS PRESENT:
Mayor Jeff Wagner, Mayor Pro Tem Sean Smith, Marlla Mhoon, Margaret Harto, Joseph Cimaomo, Jr., and Fran Hollums.

Absent: Paul Selland.

MAPLE VALLEY COUNCILMEMBERS PRESENT:
Mayor Sean P. Kelly, Deputy Mayor Dana Parnello, Linda Olson, Les Burberry, Erin Weaver, and Linda Johnson.

Absent: Syd Dawson.

Mayors, councilmembers, and city managers took turns around the table introducing themselves.

Mayor Wagner provided opening remarks.

ITEMS FOR JOINT COUNCIL DISCUSSION:
1. King County Councilmember Reagan Dunn provided an update on King County.

City Councilmembers asked questions and King County Councilmember Dunn provided responses.

2. City Updates (Black Diamond, Maple Valley, and Covington). Black Diamond Mayor Carol Benson, Maple Valley City Manager Laura Philpot, and Covington City Manager Regan Bolli provided these presentations.

3. Discussion Topics

3a. Regional Community Aquatic Center Report.

Covington Parks & Recreation Director Ethan Newton provided a presentation on this item.
Councilmembers provided comments and asked questions, and Mr. Newton, Mr. Bolli and Covington Aquatic Manager Rachel Bahl provided responses.

3b. Transportation SEAL-TC Report.

Erica Dial, CEO Maple Valley Black Diamond Chamber of Commerce, gave the report on this item.

Councilmembers asked questions, and Ms. Dial provided responses.

3c. Emergency Management Coordination Updates. Covington Public Works Director Don Vondran gave the staff report on this item.

Mayor Kelly asked everyone to mark their calendars for the Community Emergency Preparedness Fair on September 29 at Rock Creek Elementary School in Maple Valley.

3d. Human Services.

- Safe Car Parking. Covington Police Chief Andy McCurdy and Covington Principal Planner Salina Lyons gave the report on this item.

City Councilmembers provided comments and asked questions, and Chief McCurdy provided responses.

- Mental Illness Drug Dependency. Maple Valley Deputy Mayor Parnello gave the report on this item and provided a handout information card with a printed link (http://bit.ly/READYStudio) to a YouTube video on the R.E.A.D.Y (Real Emergency Aid Depends on You) training program.

City Councilmembers took turns around the table providing closing remarks.

Mayor Wagner then provided closing remarks.

ADJOURNMENT:
There being no further business, the meeting was adjourned at 9:20 p.m.

Prepared by:       Submitted by:
___________________________________       ______________________________________
Joan Michaud       Sharon Scott
Senior Deputy City Clerk     City Clerk
SUBJECT: APPROVAL OF VOUCHERS

RECOMMENDED BY: Rob Hendrickson, Finance Director

ATTACHMENT(S): Vouchers: Vouchers #37572 - #37618, including ACH payments in the amount of $2,424,099.94, dated June 8, 2018; and Vouchers #37619 - #37684, including ACH payments in the amount of $451,334.31, dated June 22, 2018; Paylocity Payroll Vouchers #1008728263 - #1008728275 inclusive, plus employee direct deposits and wire transfers, in the amount of $221,612.60, dated June 15, 2018; and Paylocity Payroll Vouchers #1008805056 - #1008805069 inclusive, plus employee direct deposits and wire transfers, in the amount of $213,445.65, dated June 29, 2018.

PREPARED BY: Casey Parker, Senior Accountant

CITY COUNCIL ACTION: ______ Ordinance _____ Resolution ____X____ Motion _____ Other

Councilmember ______ moves, Councilmember _______ seconds, to approve for payment Vouchers: Vouchers #37572 - #37618, including ACH payments in the amount of $2,424,099.94, dated June 8, 2018; and Vouchers #37619 - #37684, including ACH payments in the amount of $451,334.31, dated June 22, 2018; Paylocity Payroll Vouchers #1008728263 - #1008728275 inclusive, plus employee direct deposits and wire transfers, in the amount of $221,612.60, dated June 15, 2018; and Paylocity Payroll Vouchers #1008805056 - #1008805069 inclusive, plus employee direct deposits and wire transfers, in the amount of $213,445.65, dated June 29, 2018.
SUBJECT: AUTHORIZE THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH ORB ARCHITECTS TO COMPLETE A CONDITION ASSESSMENT OF THE AQUATIC CENTER.

RECOMMENDED BY: Ethan Newton, Parks and Recreation Director

ATTACHMENTS:
1. Proposed Amendment to Agreement for Architecture/Engineering Services
2. Original Agreement for Architecture/Engineering Services
3. Letter Requesting Fee Correction

PREPARED BY: Ethan Newton, Parks and Recreation Director

EXPLANATION:
The proposed amendment is to correct the fee amount payable to the consultants ORB Architects for their work in completing the Covington Aquatic Center Facility Condition Assessment. In the original agreement the fee amount was set to $48,000. The consultant’s fee worksheet incorrectly totaled the individual tasks to be $48,000. After the contract was executed, it was discovered that the correct total for all the tasks was $66,300. It is worth emphasizing that individual tasks have not increased in cost from the original agreement; the only change is that these individual tasks have now been correctly totaled. The consultant has recognized that the related Request for Qualifications (RFQ) for the facility condition assessment set the budget to be $60,000 and has consequently only requested that the contract be amended to this amount (see attachment Letter Requesting Fee Correction).

ALTERNATIVES:
1. Do not authorize executing this amendment. Choosing not to execute this amendment risks the consultant not finishing the remaining work, which would then delay and add costs to the project to complete the work with another consultant.

FISCAL IMPACT:
City Council has approved $65,000 as part of the 2018 city budget for contract services to complete a facility condition assessment of the Covington Aquatic Center. Amending the consultant’s agreement to $60,000 would remain within the project’s budget.

CITY COUNCIL ACTION: _____ Ordinance _____ Resolution  X Motion  ____ Other

Council member ________ moves, Council member _________ seconds, to authorize the City Manager to execute an amendment to the agreement with ORB Architects to complete a condition assessment of the Covington Aquatic Center.

REVIEWED BY: City Manager, Finance Director, City Attorney
CITY OF COVINGTON
AMENDMENT #1
to
ARCHITECTURE/ENGINEERING SERVICES AGREEMENT
Between
The City of Covington and ORB Architects

THIS FIRST AMENDMENT TO AGREEMENT ("Amendment") is made this 10th day of July 2018, by and between the City of Covington ("City"), a Washington municipal corporation, and ORB Architects, an architectural/engineering services consultant ("Consultant"). The City and Consultant are collectively referred to in this Amendment as the “Parties.”

RECITALS

A. The Parties previously entered into that certain Agreement dated March 3, 2018, Contract No. 025-2018 (the “Agreement”).

B. The Parties recognize that there were calculation errors in the Consultant’s fee worksheet as originally submitted as part of the Agreement that resulted in an error in the total Consultant’s fee amount.

B. The parties recognize that the City’s budget for the Consultant is $60,000 as published in the project’s RFQ and that the total contract sum shall not exceed this amount, even though the Consultant’s corrected fee worksheet shows a total fee amount exceeding $60,000.

C. The Parties now desire to amend the Agreement to adjust the total contract sum to better align to the Consultant’s corrected fee worksheet, but not exceed $60,000.

D. All conditions set forth in the Agreement shall remain in full force except as modified by this Amendment. All capitalized terms used herein shall have the meanings ascribed to them in the Agreement, unless otherwise defined herein.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the City and the Consultant do hereby agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and incorporated herein by this reference as though set forth in full.

2. Article 4.1. Compensation. Article 4.1.2 of the Agreement is hereby amended such that the contract sum shall be increased by $12,000, for a total amount not to exceed $60,000.

3. Conflict. This Amendment is and shall be construed as part of the Agreement. In case of any inconsistency between this Amendment and the Agreement, the terms of this Amendment shall be controlling.

4. Force and Effect. The Parties hereby ratify and affirm the terms and conditions of the Agreement and agree that except as modified by this Amendment, the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

5. Execution in Counterparts. This Amendment may be executed in one or more counterparts and as executed shall constitute one agreement, binding on all Parties, notwithstanding that all Parties are not signatory to the same counterpart.
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

CITY OF COVINGTON

By: Regan Bolli
Its: City Manager
16720 SE 271st Street, Suite100
Covington, WA  98042

Attest:

Sharon Scott, City Clerk

CONSULTANT

By: ________________________________
Its: ________________________________
Address: ____________________________

Approved as to form:

Kathy Hardy, City Attorney
CITY OF COVINGTON
AGREEMENT
ARCHITECTURE/ENGINEERING SERVICES

THIS AGREEMENT FOR SERVICES is entered into this ___ day of March, 2018, by and between the City of Covington ("City"), a Washington municipal corporation, and ORB Architects, an architectural/engineering services consultant ("Consultant").

RECITALS

A. The City seeks the services of an architectural/engineering consultant to perform design services on behalf of the citizens of Covington; and

B. The Consultant has the qualifications and experience necessary to provide said services; and

C. The City has selected the Consultant to perform said services; and

D. The purpose of this Agreement is to establish the terms and conditions under which the Consultant will perform said services.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the City and the Consultant do hereby agree as follows:

1. Engagement. The City, acting pursuant to its vested authority, does hereby engage the Consultant and the Consultant does hereby agree to perform on behalf of the City the services more particularly described herein.

2. Scope of Services. Upon written authorization from the City to proceed, the Consultant shall perform the services described in Exhibit “A,” attached hereto and incorporated herein by this reference ("Services"), in a manner consistent with the accepted practices for similar services, performed to the City’s satisfaction, within the time period prescribed by the City and pursuant to the direction of the City Manager or his or her designee. In performing the Services, the Consultant shall comply with all federal, state, and local laws and regulations, including, without limitation, all City codes, ordinances, resolutions, standards, and policies, as now existing or hereafter adopted or amended, that may be applicable to its performance.

3. Term of Agreement. This Agreement shall be in full force and effect for a period commencing upon execution and ending upon the completion of the Services, but in any event no later than July 31, 2018 ("Term"), unless earlier terminated under the provisions of this Agreement. Time is of the essence in each and every term of this Agreement.


4.1. Compensation. In consideration of the Consultant performing the Services, the City agrees to pay the Consultant as follows:

4.1.1. __ An amount not to exceed $________ calculated on the basis of the hourly rates set forth in Exhibit “B,” attached and incorporated herein by this reference.

4.1.2. X An amount not to exceed $48,000.

4.1.3. X Other [describe]: Additional allowed contingency of up to 20% of said compensation to be paid upon the sole approval of the City.

4.2. Method of Payment. Payment by the City for the Services will only be made after the Services
have been satisfactorily performed, a voucher or invoice is submitted in a form acceptable to the City, and the same is approved by the appropriate City representative. Payment shall be made no later than ten (10) days after city council approval of the invoiced amount.

4.3. First Invoice. Prior to or along with the first invoice submitted, the Consultant shall return to the City a completed “Request for Taxpayer Identification Number and Certification,” also known as IRS form W-9.

4.4. Consultant Responsible for Taxes. The Consultant shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

5. Books and Records. The Consultant agrees to maintain books, records, and documents that sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

6. Warranty. The Consultant warrants that it has the requisite training, skill, and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Covington by obtaining a City of Covington business license. The Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and coordination of all plans, designs, drawings, specifications, reports, and other services prepared or performed pursuant to this Agreement. The Consultant shall perform its work in accordance with the requirements of this Agreement and pursuant to the standards of professional care, skill, diligence, and competence as are normally exercised by other members and/or firms of the profession in good standing working under the same or similar conditions and circumstances and in similar communities as the services provided by the Consultant under this Agreement. The Consultant shall be responsible for the professional standards, performance, and actions of all persons and firms performing work pursuant to this Agreement on behalf of the Consultant. The City shall also have the right to deduct from payments to the Consultant any costs or damages incurred by the City, or which may be incurred by the City, as a result of the Consultant’s failure to comply with the requirements of this Agreement or failure to meet the professional standard of care and skill, or both. The City’s approval of plans, drawings, designs, specifications, reports, and other products of the professional services rendered hereunder shall not in any way relieve the Consultant of responsibility for the technical adequacy or accuracy thereof. Neither the City’s review, approval, acceptance of, and/or payment for any services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7. Ownership and Use of Documents. Any and all original records, reports, designs, files, documents, drawings, specifications, data or information, regardless of form or format, and all other materials prepared or produced by the Consultant in connection with the Services shall be the property of the City whether the project for which they were created is executed or not. At the termination or cancellation of this Agreement, any and all such records or information remaining in the possession of the Consultant shall be delivered to the City. No confidential information obtained or created by the Consultant shall be disclosed to any person or party other than the City without the City’s prior written consent.

8. Independent Contractor. It is the intention and understanding of the City and the Consultant that the Consultant shall be an independent contractor and that the City shall be neither liable nor obligated to pay the Consultant sick leave, vacation pay, or any other benefit of employment. The Consultant shall pay all income and other taxes due. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Consultant, shall not be deemed to convert this Agreement to an employment contract. The Consultant shall be solely responsible for its acts and for the acts of its agents, employees, sub-consultants, or representatives during the performance of this Agreement. Nothing in this Agreement shall be considered to create the relation of employer and employee or principal and agent between the parties hereto. The Consultant shall have the sole judgment of the means, mode, or manner of the
actual performance of this Agreement. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing this Agreement.

9. **Indemnification.** The consultant shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or resulting from the acts, errors, or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant’s liability hereunder, including the duty and cost to defend, 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. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

10. **Insurance.** The Consultant shall at a minimum procure and maintain for the duration of this Agreement the following insurance against claims which may arise from or in connection with the performance of work hereunder by the Consultant, its agents, representatives, or employees and in such forms and with such carriers who have a rating satisfactory to the City [required insurance coverage under this Agreement is indicated with a checkmark]:

10.1. **X** Professional Liability. Professional liability insurance covering any negligent professional acts, errors or omissions for which the Consultant is legally responsible and with combined single limits of liability not less than $1,000,000 per claim and $1,000,000 policy aggregate limit for damages sustained by reason of or in the course of operation under this Agreement.

10.2. **X** Employer Liability. Workers’ compensation and employer’s liability insurance in amounts sufficient pursuant to the laws of the State of Washington.

10.3. **X** Commercial General Liability. Commercial general liability insurance covering liability arising from premises, operations, independent contractors, personal injury, and advertising injury and written on ISO occurrence form CG 00 01 with combined single limits of liability not less than $1,000,000 each occurrence, $2,000,000 general aggregate for bodily injury, including personal injury or death, products liability, and property damage.

10.4. **X** Automobile Liability. Automobile liability insurance covering all owned, non-owned, hired, and leased vehicles and written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage with combined single limits of liability not less than $1,000,000 per accident for bodily injury, including personal injury or death and property damage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

10.5. **Additional Requirements.**

10.5.1. The City shall be named as additional insured on all above required insurance policies, with the exception of professional liability and workers’ compensation coverage(s) if the Consultant participates in a state-run workers’ comp program.

10.5.2. Required insurance is to be placed with insurers with a current A.M. Best rating of not less than A-VII.

10.5.3. All required insurance policies shall contain a clause of endorsement providing that they may not be terminated or materially amended during the Term of this Agreement, except after thirty (30) days
prior written notice to the City. If the Consultant’s insurance policies are "claims made," the Consultant shall be required to maintain tail coverage for a minimum period of three (3) years from the date of this Agreement is actually terminated or upon project completion and acceptance by the City.

10.5.4. The Consultant shall provide original certificates of insurance and a copy of the amendatory endorsement, concurrent with the execution of this Agreement, evidencing such above required coverage and, at the City’s request, furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies.

10.6. The Consultant’s maintenance of insurance as required above shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City’s recourse to any remedy available at law or in equity.

10.7. The Consultant’s failure to maintain such insurance policies as required above shall be grounds for the City’s immediate termination of this Agreement. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

11. Termination.

11.1. This Agreement may be terminated at any time, with or without cause, by the City.

11.2. Upon termination, all finished or unfinished documents, data, studies, worksheets, models, reports, or other materials prepared by the Consultant pursuant to this Agreement shall be submitted to the City within five (5) business days of the date of termination. Consultant shall be entitled to payment for all Services satisfactorily performed and reimbursable expenses incurred to the date of termination.

11.3. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation, default, or nonperformance of any provision of this Agreement. The remedies provided in this paragraph shall be in addition to any other remedy the City may have at law or in equity.

12. Discrimination. In all Consultant services, programs, or activities, and all Consultant hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by the Consultant or by the Consultant’s employees, agents, subcontractors, or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status, or the presence of any disability, including sensory, mental, or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, or any other applicable federal, state, or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the Consultant’s breach, may result in ineligibility for further City agreements.

13. Assignment and Subcontract. The Consultant shall not assign or transfer any interest in this Agreement or subcontract any portion of the Services contemplated hereunder without the prior written consent of the City.

14. Conflict of Interest. The Consultant represents to the City that it has no conflict of interest in performing any of the Services described herein. It is recognized that the Consultant may or will be performing services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with the Consultant’s ability to perform the Services. In the event that the Consultant is asked to perform services for a project with which it may have a conflict, the Consultant shall immediately disclose such potential
conflict to the City. The Consultant agrees to resolve any actual conflicts of interest in favor of the City.

15. Confidentiality. All information regarding the City obtained by the Consultant and designated by the City as confidential in the performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination of this Agreement.

16. Entire Agreement. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, negotiations, representations, or agreements, either verbal or written, between the parties hereto concerning the subject matter of this Agreement.

17. Amendment. This Agreement may not be modified or amended except by writing signed by all parties hereto.

18. No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

19. Successors. Subject to any limiting provisions of this Agreement, this Agreement shall inure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, personal representatives, successors, and assigns.

20. Severability. Each and every provision of this Agreement shall be deemed to be severable. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were not a part of this Agreement.

21. Notices. All notices, payments, and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed, by first class or certified mail, with postage prepaid to the address included in the signature block below, or to such other person or place as one party shall furnish to the other in writing. Notices and payments shall be deemed given upon personal delivery or, if mailed, upon the earlier of actual receipt or three (3) business days after the date of mailing.

22. Governing Law / Venue. This Agreement shall be interpreted in accordance with the laws of the State of Washington. The venue for any cause of action arising out of this Agreement shall be King County, Washington.

23. Attorney’s Fees. In the event of any default under this Agreement, the substantially defaulting party agrees to pay the substantially non-defaulting party’s reasonable expenses which the latter incurs by reason thereof, including but not limited to reasonable attorney’s fees, whether with respect to the investigation of such default or the determination of the application or the pursuit of remedies with respect thereto, or in legal proceedings, or otherwise. The term “legal proceedings” as used in this paragraph shall include all litigation, arbitration, administrative, bankruptcy, and judicial proceedings, including appeals therefrom.

24. Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the interpretation of this Agreement.

25. Survival of Representations. The representations and warranties of the City and the Consultant contained hereto shall survive indefinitely.

26. Independent Counsel. The Consultant acknowledges that the drafter of this Agreement is the City’s legal representative to whom the Consultant does not look to for any legal counseling or legal advice with regard to this
transaction. The Consultant further acknowledges that it has been advised to consult with independent legal counsel and has had an opportunity to do so. By signing this Agreement, the Consultant acknowledges that it has consulted with independent legal counsel of its choice or has knowingly waived the right to do so. There shall be no presumption of draftsmanship in favor of or implied against any party hereto.

27. Authority. Each individual executing this Agreement on behalf of the City and the Consultant represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Consultant or the City.

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

CITY OF COVINGTON

By: Regan Bolli
Its: City Manager
16720 SE 271st Street, Suite 100
Covington, WA 98042

Attest:
Sharon Scott, City Clerk

CONSULTANT

By: G. E. Anderson, AIA
Its: 
Address: 990 Pacific Ave, Suite 200
Tacoma, WA 98405

3/5/18

Approved as to form:

Kathy Hardy, City Attorney
5 February 2018

City of Covington
16720 SE 271st Street, Suite #100
Covington, WA 98042

Attn: Ethan Newton, Parks and Recreation Director

Re: Covington Aquatic Center Condition Assessment A/E Fee Proposal

Dear Ethan –

ORB Architects is pleased to provide you with the following Fee Proposal for performing the Conditions Assessment of your City of Covington Aquatic Center. The attached fee breakdown includes a detailed scope of work description and fee breakdown.

We look forward to starting this project and meeting with you and the Aquatic Center staff.

To get underway expeditiously, it would be beneficial to start collecting any of the existing documentation such as building drawings, past improvement documents, pool logs, and maintenance logs.

Schedule:

The following schedule is proposed based on the Request for Qualifications.

- Notice to Proceed by March 1st
- Project Kick-off / Site Visit week of March 5th or 12th
- Additional Investigations (if required) April
- Draft CFAR by end of May
- Present Final CFAR by end of June

The actual schedule will be dependent on the ability to collect all required information and scheduling of meetings and review periods by the City of Covington Parks and Recreation.

Design Fee:

See the attached detailed summary from the team, with project assumptions and exclusions. Based on this breakdown, we propose to perform this scope of work for a Flat Fee of $48,000.

Respectfully Submitted,

Geoff E. Anderson, AIA, LEED®-AP
ORB Architects – A division of INNOVA Architects
Principal

Communities Inspired Architecture
### TASK 1 - PHYSICAL INVENTORY / SURVEY

**Site Investigation / Kick-off**
- Review project scope and schedule management with consultant, and review project recommendations.

**Document Review**
- Review documents received from City of Covington, including existing drawings, operations manuals, maintenance manuals, and the like, and make recommendations on deficiencies.

**City Staff Meeting**
- The ORB team will meet with the staff to review the initial findings, both positive and negative, and discuss any need for further investigation.

**TOTAL TASK 1 PER TEAM MEMBER**

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Chargeable Hours</th>
<th>Units</th>
<th>Total Task 1 Per Team Member</th>
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<tbody>
<tr>
<td>Site Investigation / Kick-off</td>
<td>1.20</td>
<td>$50.00</td>
<td>$60.00</td>
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<tr>
<td>Document Review</td>
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<td>City Staff Meeting</td>
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**TOTAL TASK 1 PER TEAM MEMBER**

### TASK 2 - FURTHER INVESTIGATION

**Follow-up R/I Inquiries**
- Conduct R/I database investigation for site report and drawings, typically outside the scope of the task.

**In-Depth Investigation**
- Based on R/I information, we will agree to perform an in-depth physical inspection of the facility.

**TOTAL TASK 2 PER TEAM MEMBER**

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Chargeable Hours</th>
<th>Units</th>
<th>Total Task 2 Per Team Member</th>
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<tbody>
<tr>
<td>Follow-up R/I Inquiries</td>
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<td>In-Depth Investigation</td>
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</tr>
</tbody>
</table>

**TOTAL TASK 2 PER TEAM MEMBER**

### TASK 3 - FINAL REPORT

**Prepared Staff Assessments**
- Review staff level assessment of the existing building conditions and deficiencies.

**Report Outline**
- The report will include a detailed description of the existing physical conditions and deficiencies.

**Final Report Submission**
- The final report will be submitted to the City for review.

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<table>
<thead>
<tr>
<th>Task Description</th>
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**TOTAL TASK 3 PER TEAM MEMBER**

### SUBTOTALS

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<thead>
<tr>
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<th>Chargeable Hours</th>
<th>Units</th>
<th>Total Task 1 to 3 Per Team Member</th>
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</thead>
<tbody>
<tr>
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<tr>
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### UNREimbURSABLE EXPENSE BUDGET

<table>
<thead>
<tr>
<th>Description</th>
<th>Chargeable Hours</th>
<th>Units</th>
<th>Total Unreimbursable Expense Budget</th>
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</thead>
<tbody>
<tr>
<td></td>
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<thead>
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<th>Chargeable Hours</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>$4,100.00</strong></td>
</tr>
</tbody>
</table>

### EXHIBIT A

**Consequence of Services**
- The contract for this work is to be performed by the consultant. The consultant will provide the City of Covington with an Executive Summary, describing the facility, and specific recommendations for the facility.

**Site Investigation / Kick-off**
- Review project scope and schedule management with consultant, and review project recommendations.

**Document Review**
- Review documents received from City of Covington, including existing drawings, operations manuals, maintenance manuals, and the like, and make recommendations on deficiencies.

**City Staff Meeting**
- The ORB team will meet with the staff to review the initial findings, both positive and negative, and discuss any need for further investigation.

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<table>
<thead>
<tr>
<th>Task Description</th>
<th>Chargeable Hours</th>
<th>Units</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Site Investigation / Kick-off</td>
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<td>$60.00</td>
</tr>
<tr>
<td>Document Review</td>
<td>1.20</td>
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</tr>
</thead>
<tbody>
<tr>
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**TOTAL EXPENSE BUDGET**

<table>
<thead>
<tr>
<th>Description</th>
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<th>Units</th>
<th>Total Expense Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>$4,100.00</strong></td>
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</tbody>
</table>
## INNOVA ARCHITECTS BILLING RATES
Updated 3-15-17

### ARCHITECT STAFF
<table>
<thead>
<tr>
<th>Position</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Department Director</td>
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</tr>
<tr>
<td>Sr. Project Manager Architect</td>
<td>$175/Hour</td>
</tr>
<tr>
<td>Project Manager Architect</td>
<td>$150/Hour</td>
</tr>
<tr>
<td>Architect 3</td>
<td>$155/Hour</td>
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<tr>
<td>Designer 3</td>
<td>$140/Hour</td>
</tr>
<tr>
<td>Architect 2</td>
<td>$130/Hour</td>
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<td>Designer 2</td>
<td>$115/Hour</td>
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<tr>
<td>Architect 1</td>
<td>$115/Hour</td>
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<td>Designer 1</td>
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<tr>
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<td>Intern 2</td>
<td>$90/Hour</td>
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<tr>
<td>Intern 1</td>
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### ENGINEERING STAFF
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<td>Project Manager Engineering</td>
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<td>Project Engineer 5</td>
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<td>Project Engineer 4</td>
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<td>$115/Hour</td>
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<td>Design Technician 1</td>
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### PLANNING & INTERIOR DESIGN
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<tbody>
<tr>
<td>Director of Planning</td>
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<tr>
<td>Sr. Interior Designer</td>
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<tr>
<td>Interior Designer</td>
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### ADMINISTRATION
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<tr>
<td>H.R Manager</td>
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<tr>
<td>Accounting Manager</td>
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<tr>
<td>Bookkeeper</td>
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<td>Administrator Assistant</td>
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<td>Sr. Project Administrator</td>
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<td>Project Administrator</td>
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<td>Marketing Coordinator</td>
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### PRINCIPAL
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<th>Position</th>
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</thead>
<tbody>
<tr>
<td>CEO / President</td>
<td>$250/Hour</td>
</tr>
<tr>
<td>Principal</td>
<td>$210/Hour</td>
</tr>
<tr>
<td>Any staff who assists in Subpoena or Claims</td>
<td>$350/Hour</td>
</tr>
</tbody>
</table>

The Schedule of Charges of Compensation is subject to change with written notice provided to the client.
5 June 2018

City of Covington
16720 SE 271st Street, Suite #100
Covington, WA 98042

Attn: Ethan Newton, Parks and Recreation Director

Re: Covington Aquatic Center Condition Assessment A/E Fee Proposal – Correction

Dear Ethan –

As we’ve discussed before, we have recognized that there has been an error in the formulas on the worksheet used to generate our original fee proposal. See attached.

Recognizing that the total project budget was $60,000, and we had thought that we’d saved some contingency room for additional investigation scope, we humbly request that our contract be modified to account for as much of the error as is allowable within the budget.

While this was a calculation error in our spreadsheet, it does not change the itemized amount that were shown. This therefore accounts for real work that has been done to the benefit of the City of Covington for the Facilities Condition Assessment of the Aquatic Center.

Fee

Based on the attached worksheet and the summary below, we would like to request that the additional $12,000 be added to our contract.

<table>
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<tr>
<th>Description</th>
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<tr>
<td>Corrected Fee Calculated Amount</td>
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<tr>
<td>Original Fee Amount</td>
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<td>Total Fee Difference</td>
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<td>Total Project Budget</td>
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<tr>
<td>Original Fee Amount</td>
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<tr>
<td>Available Fee</td>
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</tr>
<tr>
<td>Unbillable Amount</td>
<td>($6,300)</td>
</tr>
</tbody>
</table>

Respectfully Submitted,

Geoff E. Anderson, AIA, LEED®-AP
ORB Architects – A division of INNOVA Architects
Principal
### TASK 0 - PROJECT MANAGEMENT / PROJECT RESEARCH

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Consultant</th>
<th>HASH</th>
<th>HASH</th>
<th>HASH</th>
<th>HASH</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Project Management/Administration</td>
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### TASK 1 - PHYSICAL INVENTORY / SURVEY

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<tr>
<th>Task Description</th>
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<th>HASH</th>
<th>HASH</th>
<th>HASH</th>
<th>TOTALS</th>
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</thead>
<tbody>
<tr>
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<td>ORB Architects</td>
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<td>$1,320</td>
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<td>Document Research</td>
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<tr>
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<td>$840</td>
<td>$620</td>
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### TASK 2 - FURTHER INVESTIGATION

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<tbody>
<tr>
<td>Prepare Draft Assessments</td>
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<td>$600</td>
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<td>$620</td>
<td>$660</td>
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<td>Lifecycle Data</td>
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### TASK 3 - FINAL REPORT

<table>
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<tr>
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<th>HASH</th>
<th>HASH</th>
<th>TOTALS</th>
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</thead>
<tbody>
<tr>
<td>CITY OF COVINGTON AQUATIC CENTER CONDITION ASSESSMENT</td>
<td>ORB Architects</td>
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<td>$7,716</td>
<td>$8,560</td>
<td>$10,920</td>
<td>$7,280</td>
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<tr>
<td>TOTAL PER TEAM MEMBER (Hourly Not-To-Exceed)</td>
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<td>$32,800</td>
<td>$7,716</td>
<td>$8,560</td>
<td>$10,920</td>
<td>$7,280</td>
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<tr>
<td>REIMBURSABLE EXPENSES BUDGET</td>
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<tr>
<td>TOTAL ESTIMATED AE PROJECT FEES AND REIMBURSABLE EXPENSES ESTIMATE</td>
<td></td>
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</tr>
</tbody>
</table>
SUBJECT: AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR SERVICES WITH DCI ENGINEERS FOR REAL ESTATE SERVICES FOR 204TH AVENUE SE AND SR516 IMPROVEMENT PROJECT: SE 272ND STREET TO SE 260TH STREET (CIP 1201).

RECOMMENDED BY: Don Vondran, Public Works Director

ATTACHMENT(S):
1. Agreement for Services with DCI Engineers

PREPARED BY: Bob Lindskov, City Engineer

EXPLANATION:
On September 29 and October 6, 2017, staff solicited for Professional Services to replace Abaco Pacific for the 1127 project. Six submittals were received and staff selected four for an interview. On October 31, 2017, staff selected DCI Engineers as the most qualified to perform the work. We continue to believe the DCI Engineers would remain the most qualified real estate agent to perform similar work within the city. The 204th Avenue SE Improvement project has substantial property impact, but the funding requires right-of-way acquisition to follow specific guidelines to be certified.

Staff is recommending that this agreement be approved and that the city continue to utilize DCI for real estate services in acquiring right-of–way for CIP 1201.

ALTERNATIVES:
1. Not authorize the city manager to execute the agreement for services and direct staff to negotiate a new agreement with DCI Engineers.
2. Revise the proposed agreement.

FISCAL IMPACT:
Real estate services are included as part of the right of way costs budgeted in each Capital Improvement Project. On June 19, 2018 the city submitted for state approval to allocate $840,000.00 in “Connecting Washington Funds” for project right-of-way. $400,000 is allocated for consultant services. This proposed agreement with DCI Engineers for acquisition services is for no more than $307,650.

CITY COUNCIL ACTION: ___Ordinance ___Resolution ___X_Motion ___Other

Council member _____________ moves, Council member _________________ seconds, to authorize the City Manager to execute an Agreement for Services with DCI Engineers, in substantial form as attached, in the amount of $307,650 for real estate services for CIP 1201.

REVIEWED BY: City Manager, City Attorney, Finance Director
THIS AGREEMENT FOR SERVICES is entered into this ___ day of July 2018, by and between the City of Covington (“City”), a Washington municipal corporation, and D’Amato Conversano, Inc., a Washington Corporation, doing business as DCI Engineers (“Consultant”).

RECORDS:

A. The City seeks the Temporary services of a skilled independent contractor capable of working without direct supervision to perform comprehensive Right-of-Way Acquisition Services including acquisition and relocation (as necessary) services of all necessary property rights for the 204th Avenue SE and SR516 Improvement Project according to the project’s approved Right-of-Way Plan on behalf of the citizens of Covington; and

B. The Consultant has the qualifications and experience necessary to provide said services; and

C. The City has selected the Consultant to perform said services; and

D. The purpose of this Agreement is to establish the terms and conditions under which the Consultant will perform said services.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the City and the Consultant do hereby agree as follows:

1. Engagement. The City, acting pursuant to its vested authority, does hereby engage the Consultant and the Consultant does hereby agree to perform on behalf of the City the services more particularly described herein.

2. Scope of Services. Upon written authorization from the City to proceed, the Consultant shall perform the services described on Exhibit “A,” attached hereto and incorporated herein by this reference (“Services”), in a manner consistent with the accepted practices for similar services, performed to the City’s satisfaction, within the time period prescribed by the City and pursuant to the direction of the City Manager or his or her designee. In performing the Services, the Consultant shall comply with all federal, state and local laws and regulations, including, without limitation, all City codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended, that may be applicable to its performance. To the extent required by law, the Contractor and all subcontractors shall pay no less than the prevailing wage rate to employees performing work under this contract and shall submit a “Statement of Intent to Pay Prevailing Wages” and an “Affidavit of Wages Paid” in compliance with RCW 39.12.

3. Term of Agreement. This Agreement shall be in full force and effect for a period commencing upon execution and ending upon the completion of the Services, but in any event no later than December 31, 2019 (“Term”), unless earlier terminated under the provisions of this Agreement. This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Consultant. Time is of the essence in each and every term of this Agreement.
4. **Compensation and Method of Payment.**

4.1 **Compensation.** In consideration of the Consultant performing the Services, the City agrees to pay the Consultant an amount not to exceed $307,650.00.

4.2. **Method of Payment.** Payment by the City for the Services will only be made after the Services have been satisfactorily performed, a voucher or invoice is submitted in a form acceptable to the City, and the same is approved by the appropriate City representative. Payment shall be made no later than ten days after City Council approval of the invoiced amount.

4.3 **First Invoice.** Prior to or along with the first invoice submitted, the Consultant shall return to the City a completed “Request for Taxpayer Identification Number and Certification”, also known as IRS form W-9.

4.4 **Consultant Responsible for Taxes.** The Consultant shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

5. **Warranty.** The Consultant warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Covington by obtaining a City of Covington business license. The Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all plans, designs, drawings, specifications, reports and other services prepared or performed pursuant to this Agreement. The Consultant shall perform its work in accordance with the requirements of this Agreement and pursuant to the standards of professional care, skill, diligence and competence as are normally exercised by other members and/or firms of the profession in good standing working under the same or similar conditions and circumstances and in similar communities as the services provided by the Consultant under this Agreement. The Consultant shall be responsible for the professional standards, performance and actions of all persons and firms performing work pursuant to this Agreement on behalf of Consultant. The City shall also have the right to deduct from payments to the Consultant any costs or damages incurred by the City, or which may be incurred by the City, as a result of the Consultant’s failure to comply with the requirements of the Agreement or failure to meet the professional standard of care and skill, or both. The City’s approval of plans, drawings, designs, specifications, reports and other products of the professional services rendered hereunder shall not in any way relieve the Consultant of responsibility for the technical adequacy or accuracy thereof. Neither the City’s review, approval, acceptance of, and/or payment for any services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. **Ownership and Use of Documents.** Any and all original and copies of records, reports, designs, files, documents, drawings, specifications, data or information, regardless of form or format, and all other materials prepared or produced by the Consultant in connection with the Services shall be the property of the City whether the project for which they were created is executed or not. At the termination or cancellation of this Agreement, any and all such records or information remaining in the possession of the Consultant shall be delivered to the
City. No confidential information obtained or created by Consultant shall be disclosed to any person or party other than the City without the City’s prior written consent.

7. **Independent Contractor.** It is the intention and understanding of the City and the Consultant that the Consultant shall be an independent contractor and that the City shall be neither liable nor obligated to pay the Consultant sick leave, vacation pay or any other benefit of employment. The Consultant shall pay all income and other taxes due. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Consultant, shall not be deemed to convert this Agreement to an employment contract. The Consultant will be solely responsible for its acts and for the acts of its agents, employees, sub Consultants or representatives during the performance of this Agreement. Nothing in this Agreement shall be considered to create the relation of employer and employee or principal and agent between the parties hereto. The Consultant shall have the sole judgment of the means, mode or manner of the actual performance of this Agreement. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing this Agreement.

8. **Indemnification.** To the maximum extent permitted by law, Consultant shall defend, indemnify and hold harmless the City and all of its officials, employees, principals and agents from all claims, demands, suits, actions, and liability of any kind, including injuries to persons or damages to property, which arise out of, are connected with, or are due to any errors, omissions or negligent acts of Consultant, its contractor, and/or employees, agents, volunteers or representatives in performance of this Agreement; provided, however, that if (and only if) the provisions of RCW 4.24.115 apply to the work and services under this Agreement and any such damages and injuries to persons or property are caused by or result from the concurrent negligence of Consultant, its contractor or employees, agents, volunteers or representatives and the City or its employees, agents, volunteers, or representatives, the indemnification applies only to the extent of the negligence of Consultant, its contractor or employees, volunteers, agents, or representatives. In the event of any such claims, demands, suits, actions, and lawsuits, Consultant shall assume all costs of defense thereof, including administrative and legal fees incurred by the City, and of all resulting judgments that may be obtained against the City or any of its officers, principals, agents, volunteers or employees. If resulting there from, any lien is placed upon property of the City or any of its officers, principals, agents, volunteers or employees, Consultant shall at once cause the same to be dissolved and discharged by giving bond or otherwise. Consultant specifically assumes potential liability for actions brought by Consultant’s own employees against the City and for that purpose Consultant specifically waives, as respects the City only, any immunity under the Worker's Compensation Act, RCW Title 51; and Consultant recognizes that this waiver was the subject of mutual negotiation and specifically entered into pursuant to the provision of RCW 4.24.115, if applicable. In the event either party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section against the other party, all such fees, costs and expenses shall be recoverable by the prevailing party.

The provisions of this Section shall survive any expiration or termination of this Agreement.

9. **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 work hereunder by the Consultant, its
agents, representatives or employees. Consultant’s maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City’s recourse to any remedy available at law or in equity. The Consultant shall at a minimum obtain and carry the following insurance in such forms and with such carriers who have a rating satisfactory to the City:

9.1 Workers' compensation and employer's liability insurance in amounts sufficient pursuant to the laws of the State of Washington;

9.2 Commercial general liability insurance covering liability arising from premises, operations, independent contractors, personal injury and advertising injury and written on ISO occurrence form CG 00 01 with combined single limits of liability not less than $1,000,000 each occurrence, $2,000,000 general aggregate for bodily injury, including personal injury or death, products liability and property damage.

9.3 Automobile liability insurance covering all owned, non-owned, hired and leased vehicles and written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage with combined single limits of liability not less than $1,000,000 per accident for bodily injury, including personal injury or death and property damage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

9.4 Professional liability insurance covering any negligent professional acts, errors or omissions for which the Consultant is legally responsible and with combined single limits of liability not less than $1,000,000 per claim and $1,000,000 policy aggregate limit for damages sustained by reason of or in the course of operation under this Agreement.

The City shall be named as additional insured on all such insurance policies, with the exception of professional liability and workers' compensation coverage(s) if the Consultant participates in a state-run workers’ comp program. The Consultant shall provide original certificates of insurance and a copy of the amendatory endorsement, concurrent with the execution of this Agreement, evidencing such coverage and, at City's request, furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. All insurance policies shall contain a clause of endorsement providing that they may not be terminated or materially amended during the Term of this Agreement, except after thirty (30) days prior written notice to the City. If the Consultant's insurance policies are "claims made," the Consultant shall be required to maintain tail coverage for a minimum period of three (3) years from the date this Agreement is actually terminated or upon project completion and acceptance by the City. The Consultant's failure to maintain such insurance policies shall be grounds for the City's immediate termination of this Agreement.

The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.
10. **Books and Records.** The Consultant agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

11. **Termination.**

11.1 Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause, by the City. In the event of termination or suspension, all finished or unfinished documents, data, studies, worksheets, models, reports or other materials prepared by the Consultant pursuant to this Agreement shall be submitted to the City within five days of the date of termination.

11.2 In the event this Agreement is terminated or suspended, the Consultant shall be entitled to payment for all services satisfactorily performed and reimbursable expenses incurred to the date of termination.

11.3 This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation, default, or nonperformance of any provision of this Agreement. The remedies provided in this paragraph shall be in addition to any other remedy the City may have at law or in equity.

12. **Discrimination.** In all Consultant services, programs or activities, and all Consultant hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by the Consultant or by the Consultant's employees, agents, subcontractors or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the Consultant's breach, may result in ineligibility for further City agreements.

13. **Assignment and Subcontract.** The Consultant shall not assign or transfer any interest in this Agreement or subcontract any portion of the services contemplated hereunder without the prior written consent of the City.

14. **Conflict of Interest.** The Consultant represents to the City that it has no conflict of interest in performing any of the services described herein. It is recognized that the Consultant may or will be performing services during the Term for other parties; provided, however that such performance of other services shall not conflict with or interfere with the
15. Confidentiality. All information regarding the City obtained by the Consultant and designated by the City as confidential in the performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination of this Agreement.

16. Non-appropriation of Funds. If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will so notify the Consultant and shall not be obligated to make payments for services or amounts incurred after the end of the City’s current fiscal period. This Agreement shall terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the City in the event that the terms of this provision are effectuated.

17. Entire Agreement. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, negotiations, representations or agreements, either verbal or written, between the parties hereto concerning the subject matter of this Agreement.

18. Amendment. This Agreement may not be modified or amended except by writing signed by all parties hereto.

19. No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

20. Successors. Subject to the provisions of paragraph 13 above, this Agreement shall inure to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, personal representatives, successors and assigns.

21. Severability. Each and every provision of this Agreement shall be deemed to be severable. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were not a part of this Agreement.

22. Notices. All notices, payments and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed, by first class or certified mail, with postage prepaid,
22.1 if to the Consultant, to:

DCI Engineers  
Roxanne Grimm  
707 W 2nd Avenue  
Spokane, WA 99201

or to such other person or place as the Consultant shall furnish to the City in writing; and

22.2 if to the City, to:

City of Covington  
16720 SE 271st Street, Suite 100  
Covington, WA 98042

or to such other person or place as the City shall furnish to the Consultant in writing.

Notices and payments shall be deemed given upon personal delivery or, if mailed, upon the earlier of actual receipt or three (3) business days after the date of mailing.

23. **Governing Law.** This Agreement shall be interpreted in accordance with the laws of the State of Washington.

24. **Venue.** The venue for any cause of action arising out of this Agreement shall be King County, Washington.

25. **Attorney’s Fees.** In the event of any default under this Agreement, the substantially defaulting party agrees to pay the substantially non-defaulting party’s reasonable expenses which the latter incurs by reason thereof, including but not limited to reasonable attorney’s fees, whether with respect to the investigation of such default or the determination of the application or the pursuit of remedies with respect thereto, or in legal proceedings, or otherwise. The term “legal proceedings” as used in this paragraph shall include all litigation, arbitration, administrative, bankruptcy and judicial proceedings, including appeals therefrom.

26. **Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the interpretation of this Agreement.

27. **Survival of Representations.** The representations and warranties of the City and the Consultant contained hereto shall survive indefinitely.

28. **Independent Counsel.** The Consultant acknowledges that the drafter of this Agreement is the City’s legal representative to whom the Consultant does not look to for any legal counseling or legal advice with regard to this transaction. The Consultant further acknowledges that it has been advised to consult with independent legal counsel and has had an opportunity to do so. By signing this Agreement, the Consultant acknowledges that it has consulted with independent legal counsel of its choice or has knowingly waived the right to do so. There shall be no presumption of draftsmanship in favor of or implied against any party hereto.
29. **Authority.** Each individual executing this Agreement on behalf of the City and the Consultant represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Consultant or the City.

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

CITY OF COVINGTON

____________________________________
By: Regan Bolli
Its: City Manager

Attest:       Approved as to form:

____________________________________
Sharon Scott, City Clerk    Kathy Hardy, City Attorney

DCI ENGINEERS

____________________________________
By: ______________________________
Its: ______________________________

EXHIBIT A

Scope of Work

204th Avenue SE and SR516 Reconstruction,
between
SR516 (SE 272nd Street) and SE 260th Street

DCI Engineers
818 Stewart Street, Suite 1000
Seattle, WA 98101

UBI – 601-079-216
Federal TIN – 91-1403544

DCI Engineers will provide comprehensive Right-of-Way Acquisition Services including acquisition and relocation (as necessary) services of all necessary property rights for the project according to the project’s approved Right-of-Way Plan. All activities shall be conducted in compliance with the City’s Right-of-Way Procedures and in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Ch. 8.26 RCW) and state regulations (Ch. 468-100 WAC) and applicable federal regulations.

- Acquire 38 parcels in fee and/or easement for conveyance to the City of Covington
- Draft all necessary conveyance documents: offer letters, Warranty Deeds, Easements, Real property Voucher, Escrow agreements.
- Appraisal and appraisal review coordination.
- Coordinate escrow and closings with the title company.
- Review all appraisals and review appraisals.
- Present offers in person to impacted parcels owners. Offers not in person will be sent USPS Certified mail.
- Detailed diary of all contact with property owners and activities related to the impacted parcels
- Assist the City of Covington with file preparation for any possible condemnations.
- Communicate and follow direction of the WSDOT LAC NW Region.
- Attend any public meetings as needed.
- Weekly status report to the City of Covington.
- Assist as needed certification documents for WSDOT/City of Covington.
PROPOSED FEE SCHEDULE

APPRAISAL

Valuation of 38 parcels; 38 @ $3,500 $133,000.00

ACQUISITION

Acquisition of 38 parcels; 38 @ $3,750 $142,500.00

INCIDENTAL EXPENSES

Title Reports; $30,400.00
Postage; $750.00
Mileage; $1,000.00

Total Fee, Not to Exceed; $307,650.00
SUBJECT: DISCUSSION OF WASHINGTON VOTING RIGHTS ACT

RECOMMENDED BY: Regan Bolli, City Manager
                  Kathy Hardy, City Attorney

ATTACHMENT(S):
  1. ESSB 6002

PREPARED BY: Kathy Hardy, City Attorney

EXPLANATION:
The Washington Voting Rights Act (“WVRA”) was signed into law on March 19, 2018 (ESSB 6002, Laws of 2018). This law is intended to be consistent with the federal Voting Rights Act, but it does have some fundamental differences. The WVRA gives cities such as Covington the option to change our voting system from an “at-large” election to district-based elections to remedy potential voting rights violations. Beginning July 19, 2018, voters also have the right under the WVRA to request changes to voting systems that adversely affect the voting rights of a class of voters who are members of a race, color, or language minority group by providing notice of a WVRA violation and proposed remedy to their jurisdiction. This notice is required before a voter may bring a lawsuit and will trigger a duty for the jurisdiction to work in good faith with that voter to implement a remedy that provides the protected class identified in the notice an opportunity to elect candidates of their choice. The jurisdiction has 180 days to work in good faith with the voter to examine demographic and election data to provide a remedy or no remedy, depending on what the data suggests. If the voter disagrees with the jurisdiction’s conclusion, the voter could then file a voting rights lawsuit. A challenge to Covington’s electoral system would have to show both 1) elections in Covington exhibit polarized voting and 2) members of a protected class do not have an equal opportunity to elect candidates of their choice as a result of dilution or abridgment of the rights of members of that protected class.

Regardless of whether Covington elects to initiate a change to district-based elections or is compelled to by a voter, the WVRA has provisions to ensure the public is notified. Public notice including radio or television must be provided in other languages if 5% or more of the population or 500 residents, whichever is fewer, have limited English proficiency and speak another language, and a public hearing is required. There are additional requirements we would need to follow to be compliant with the WVRA; at this juncture, we are advising on the overview of the WVRA.

FISCAL IMPACT: N/A

CITY COUNCIL ACTION: ___Ordinance ___Resolution ___Motion X Other

Discussion and possible direction.

REVIEWED BY: City Manager; City Attorney.
CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6002

65th Legislature
2018 Regular Session

Passed by the Senate March 5, 2018
Yea 29  Nay 20

President of the Senate

Passed by the House February 27, 2018
Yea 52  Nay 46

Speaker of the House of Representatives
Approved

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE SENATE BILL 6002 as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Secretary of State
State of Washington
AN ACT Relating to establishing a voting rights act to promote equal voting opportunity in certain political subdivisions and establishing a cause of action to redress lack of voter opportunity; amending RCW 36.32.020, 36.32.040, and 54.12.010; adding a new section to chapter 28A.343 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 52.14 RCW; adding a new section to chapter 53.12 RCW; adding a new section to chapter 29A.76 RCW; and adding a new chapter to Title 29A RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

PART I - GENERAL PROVISIONS

NEW SECTION. Sec. 101. This act may be known and cited as the Washington voting rights act of 2018.

NEW SECTION. Sec. 102. The legislature finds that electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and equal elections as provided by Article I, section 19 and Article VI, section 1 of the Washington state Constitution as well as protections found in the fourteenth and
fifteenth amendments to the United States Constitution. The well-
established principle of "one person, one vote" and the prohibition
on vote dilution have been consistently upheld in federal and state
courts for more than fifty years.

The legislature also finds that local government subdivisions are
often prohibited from addressing these challenges because of
Washington laws that narrowly prescribe the methods by which they may
elect members of their legislative bodies. The legislature finds that
in some cases, this has resulted in an improper dilution of voting
power for these minority groups. The legislature intends to modify
existing prohibitions in state laws so that these jurisdictions may
voluntarily adopt changes on their own, in collaboration with
affected community members, to remedy potential electoral issues so
that minority groups have an equal opportunity to elect candidates of
their choice or influence the outcome of an election.

The legislature intends for this act to be consistent with
federal protections that may provide a similar remedy for minority
groups. Remedies shall also be available where the drawing of
crossover and coalition districts is able to address both vote
dilution and racial polarization.

The legislature also intends for this act to be consistent with
legal precedent from Mt. Spokane Skiing Corp. v. Spokane Co. (86 Wn.
App. 165, 1997) that found that noncharter counties need not adhere
to a single uniform county system of government, but that each county
have the same "authority available" in order to be deemed uniform.

NEW SECTION. Sec. 103. The definitions in this section apply
throughout this chapter unless the context clearly requires
otherwise. In applying these definitions and other terms in this
chapter, courts may rely on relevant federal case law for guidance.

(1) "At-large election" means any of the following methods of
electing members of the governing body of a political subdivision:
(a) One in which the voters of the entire jurisdiction elect the
members to the governing body;
(b) One in which the candidates are required to reside within
given areas of the jurisdiction and the voters of the entire
jurisdiction elect the members to the governing body; or
(c) One that combines the criteria in (a) and (b) of this
subsection or one that combines at-large with district-based
elections.
(2) "District-based elections" means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.

(3) "Polarized voting" means voting in which there is a difference, as defined in case law regarding enforcement of the federal voting rights act, 52 U.S.C. 10301 et seq., in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.

(4) "Political subdivision" means any county, city, town, school district, fire protection district, port district, or public utility district, but does not include the state.

(5) "Protected class" means a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal voting rights act, 52 U.S.C. 10301 et seq.

NEW SECTION. Sec. 104. As provided in section 302 of this act, no method of electing the governing body of a political subdivision may be imposed or applied in a manner that impairs the ability of members of a protected class or classes to have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of voters who are members of a protected class or classes.

PART II - VOLUNTARY CHANGES TO ELECTORAL PROCESSES

NEW SECTION. Sec. 201. (1) A political subdivision that conducts an election pursuant to state, county, or local law, is authorized to change its electoral system, including, but not limited to, implementing a district-based election system, to remedy a potential violation of section 104 of this act.

(2) If a political subdivision invokes its authority under this section to implement a district-based election system, the districts shall be drawn in a manner consistent with section 202 of this act.

NEW SECTION. Sec. 202. (1)(a) Prior to the adoption of its proposed plan, the political subdivision must provide public notice
to residents of the subdivision about the proposed remedy to a
potential violation of section 104 of this act. If a significant
segment of the residents of the subdivision have limited English
proficiency and speaks a language other than English, the political
subdivision must:

(i) Provide accurate written and verbal notice of the proposed
remedy in languages that diverse residents of the political
subdivision can understand, as indicated by demographic data; and

(ii) Air radio or television public service announcements
describing the proposed remedy broadcast in the languages that
diverse residents of the political subdivision can understand, as
indicated by demographic data.

(b) The political subdivision shall hold at least one public
hearing on the proposed plan at least one week before adoption.

(c) For purposes of this section, "significant segment of the
community" means five percent or more of residents, or five hundred
or more residents, whichever is fewer, residing in the political
subdivision.

(2)(a) If the political subdivision invokes its authority under
section 201 of this act and the plan is adopted during the period of
time between the first Tuesday after the first Monday of November and
on or before January 15th of the following year, the political
subdivision shall order new elections to occur at the next succeeding
general election.

(b) If the political subdivision invokes its authority under
section 201 of this act and the plan is adopted during the period of
time between January 16th and on or before the first Monday of
November, the next election will occur as scheduled and organized
under the current electoral system, but the political subdivision
shall order new elections to occur pursuant to the remedy at the
general election the following calendar year.

(3) If a political subdivision implements a district-based
election system under section 201(2) of this act, the plan shall be
consistent with the following criteria:

(a) Each district shall be as reasonably equal in population as
possible to each and every other such district comprising the
political subdivision.

(b) Each district shall be reasonably compact.

(c) Each district shall consist of geographically contiguous
area.
(d) To the extent feasible, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(e) District boundaries may not be drawn or maintained in a manner that creates or perpetuates the dilution of the votes of the members of a protected class or classes.

(4) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each political subdivision.

(5) No later than eight months after its receipt of federal decennial census data, the governing body of the political subdivision that had previously invoked its authority under section 201 of this act to implement a district-based election system, or that was previously charged with redistricting under section 403 of this act, shall prepare a plan for redistricting its districts, pursuant to RCW 29A.76.010, and in a manner consistent with this act.

NEW SECTION. Sec. 203. A new section is added to chapter 28A.343 RCW to read as follows:

The school board of directors may authorize a change to its electoral system pursuant to section 201 of this act. Any staggering of directors' terms shall be accomplished as provided in RCW 28A.343.030 and 28A.343.600 through 28A.343.650.

Sec. 204. RCW 36.32.020 and 1982 c 226 s 4 are each amended to read as follows:

The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county: PROVIDED, That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts.

However, the commissioners of any county composed entirely of islands and with a population of less than thirty-five thousand may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations.
The commissioners of any county may authorize a change to their electoral system pursuant to section 201 of this act. Except where necessary to comply with a court order issued pursuant to section 403 of this act, and except in the case of an intervening census, the lines of the districts shall not be changed more often than once in four years and only when a full board of commissioners is present. The districts shall be designated as districts numbered one, two and three.

Sec. 205. RCW 36.32.040 and 1982 c 226 s 5 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the qualified electors of each county commissioner district, and they only, shall nominate from among their own number, candidates for the office of county commissioner of such commissioner district to be voted for at the following general election. Such candidates shall be nominated in the same manner as candidates for other county and district offices are nominated in all other respects.

(2) Where the commissioners of a county composed entirely of islands with a population of less than thirty-five thousand have chosen to divide the county into unequal-sized commissioner districts pursuant to the exception provided in RCW 36.32.020, the qualified electors of the entire county shall nominate from among their own number who reside within a commissioner district, candidates for the office of county commissioner of such commissioner district to be voted for at the following general election. Such candidates shall be nominated in the same manner as candidates for other county offices are nominated in all other respects.

(3) The commissioners of any county may authorize a change to their electoral system pursuant to section 201 of this act.

NEW SECTION. Sec. 206. A new section is added to chapter 35.21 RCW to read as follows:

The legislative authority of a city or town may authorize a change to its electoral system pursuant to section 201 of this act.

NEW SECTION. Sec. 207. A new section is added to chapter 35A.21 RCW to read as follows:

The legislative authority of a code city or town may authorize a change to its electoral system pursuant to section 201 of this act.
NEW SECTION.  Sec. 208. A new section is added to chapter 52.14 RCW to read as follows:

The board of fire commissioners of a fire protection district may authorize a change to its electoral system pursuant to section 201 of this act by majority vote.

NEW SECTION.  Sec. 209. A new section is added to chapter 53.12 RCW to read as follows:

The port commission may authorize a change to its electoral system pursuant to section 201 of this act.

Sec. 210. RCW 54.12.010 and 2004 c 113 s 1 are each amended to read as follows:

A public utility district that is created as provided in RCW 54.08.010 shall be a municipal corporation of the state of Washington, and the name of such public utility district shall be Public Utility District No. . . . of . . . . . . County.

The powers of the public utility district shall be exercised through a commission consisting of three members in three commissioner districts, and five members in five commissioner districts.

(1) If the public utility district is countywide and the county has three county legislative authority districts, then, at the first election of commissioners and until any change is made in the boundaries of public utility district commissioner districts, one public utility district commissioner shall be chosen from each of the three county legislative authority districts.

(2) If the public utility district comprises only a portion of the county, with boundaries established in accordance with chapter 54.08 RCW, or if the public utility district is countywide and the county does not have three county legislative authority districts, three public utility district commissioner districts, numbered consecutively, each with approximately equal population and following precinct lines, as far as practicable, shall be described in the petition for the formation of the public utility district, subject to appropriate change by the county legislative authority if and when it changes the boundaries of the proposed public utility district. One commissioner shall be elected as a commissioner of each of the public utility district commissioner districts.
(3) Only a registered voter who resides in a commissioner
district may be a candidate for, or hold office as, a commissioner of
the commissioner district. Only voters of a commissioner district may
vote at a primary to nominate candidates for a commissioner of the
commissioner district. Voters of the entire public utility district
may vote at a general election to elect a person as a commissioner of
the commissioner district.

(4) The term of office of each public utility district
commissioner other than the commissioners at large shall be six
years, and the term of each commissioner at large shall be four
years. Each term shall be computed in accordance with RCW
((29A.20.040)) 29A.60.280 following the commissioner's election. All
public utility district commissioners shall hold office until their
successors shall have been elected and have qualified and assume
office in accordance with RCW ((29A.20.040)) 29A.60.280.

(5) A vacancy in the office of public utility district
commissioner shall occur as provided in chapter 42.12 RCW or by
nonattendance at meetings of the public utility district commission
for a period of sixty days unless excused by the public utility
district commission. Vacancies on a board of public utility district
commissioners shall be filled as provided in chapter 42.12 RCW.

(6) The boundaries of the public utility district commissioner
districts may be changed only by the public utility district
commission or by a court order issued pursuant to section 403 of this
act, and shall be examined every ten years to determine substantial
equality of population in accordance with chapter 29A.76 RCW. Except
as provided in this section ((e+)), section 403 of this act, RCW
54.04.039, or in the case of an intervening census, the boundaries
shall not be changed ((e+)) more often than once in four years.
Boundaries may only be changed when all members of the commission are
present. Whenever territory is added to a public utility district
under RCW 54.04.035, or added or withdrawn under RCW 54.04.039, the
boundaries of the public utility commissioner districts shall be
changed to include the additional or exclude the withdrawn territory.
Unless the boundaries are changed pursuant to RCW 54.04.039, the
proposed change of the boundaries of the public utility district
commissioner district must be made by resolution and after public
hearing. Notice of the time of the public hearing shall be published
for two weeks before the hearing. Upon a referendum petition signed
by ten percent of the qualified voters of the public utility district
being filed with the county auditor, the county legislative authority
shall submit the proposed change of boundaries to the voters of the
public utility district for their approval or rejection. The petition
must be filed within ninety days after the adoption of resolution of
the proposed action. The validity of the petition is governed by the
provisions of chapter 54.08 RCW.

PART III - CITIZEN-INITIATED CHANGES TO ELECTORAL PROCESSES

NEW SECTION. Sec. 301. (1) A voter who resides in the political
subdivision who intends to challenge a political subdivision's
electoral system under this act shall first notify the political
subdivision. The political subdivision shall promptly make such
notice public.

(2) The notice provided shall identify and provide contact
information for the person or persons who intend to file an action,
and shall identify the protected class or classes whose members do
not have an equal opportunity to elect candidates of their choice or
an equal opportunity to influence the outcome of an election because
of alleged vote dilution and polarized voting. The notice shall also
include a type of remedy the person believes may address the alleged
violation of section 302 of this act.

NEW SECTION. Sec. 302. (1) A political subdivision is in
violation of this act when it is shown that:

(a) Elections in the political subdivision exhibit polarized
voting; and

(b) Members of a protected class or classes do not have an equal
opportunity to elect candidates of their choice as a result of the
dilution or abridgment of the rights of members of that protected
class or classes.

(2) The fact that members of a protected class are not
geographically compact or concentrated to constitute a majority in a
proposed or existing district-based election district shall not
preclude a finding of a violation under this act, but may be a factor
in determining a remedy. The equal opportunity to elect shall be
assessed pragmatically, based on local election conditions, and may
include crossover districts.

(3) In determining whether there is polarized voting under this
act, the court shall analyze elections of the governing body of the
political subdivision, ballot measure elections, elections in which
at least one candidate is a member of a protected class, and other
electoral choices that affect the rights and privileges of members of
a protected class. Elections conducted prior to the filing of an
action pursuant to this act are more probative to establish the
existence of racially polarized voting than elections conducted after
the filing of an action.

(4) The election of candidates who are members of a protected
class and who were elected prior to the filing of an action pursuant
to this act shall not preclude a finding of polarized voting that
results in an unequal opportunity for a protected class to elect
candidates of their choice.

(5) Proof of intent on the part of the voters or elected
officials to discriminate against a protected class is not required
for a cause of action to be sustained.

(6) Other factors such as the history of discrimination, the use
of electoral devices or other voting practices or procedures that may
enhance the dilutive effects of at-large elections, denial of access
to those processes determining which groups of candidates will
receive financial or other support in a given election, the extent to
which members of a protected class bear the effects of past
discrimination in areas such as education, employment, and health,
which hinder their ability to participate effectively in the
political process, and the use of overt or subtle racial appeals in
political campaigns are probative, but not necessary factors, to
establish a violation of this act.

NEW SECTION. Sec. 303. (1) The political subdivision shall work
in good faith with the person providing the notice to implement a
remedy that provides the protected class or classes identified in the
notice an equal opportunity to elect candidates of their choice. Such
work in good faith to implement a remedy may include, but is not
limited to consideration of: (a) Relevant electoral data; (b)
relevant demographic data, including the most recent census data
available; and (c) any other information that would be relevant to
implementing a remedy.

(2) If the political subdivision adopts a remedy that takes the
notice into account, or adopts the notice's proposed remedy, the
political subdivision shall seek a court order acknowledging that the
political subdivision's remedy complies with section 104 of this act
and was prompted by a plausible violation. The person who submitted
the notice may support or oppose such an order, and may obtain public
records to do so. The political subdivision must provide all
political, census, and demographic data and any analysis of that data
used to develop the remedy in its filings seeking the court order and
with any documents made public. All facts and reasonable inferences
shall be viewed in the light most favorable to those opposing the
political subdivision's proposed remedy at this stage. There shall be
a rebuttable presumption that the court will decline to approve the
political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's
remedy complies with section 104 of this act, an action under this
act may not be brought against that political subdivision for four
years by any party so long as the political subdivision does not
enact a change to or deviation from the remedy during this four-year
period that would otherwise give rise to an action under this act.

(4) In agreeing to adopt the person's proposed remedy, the
political subdivision may do so by stipulation, which shall become a
public document.

NEW SECTION. Sec. 304. (1) Any voter who resides in the
political subdivision may file an action under this act if, one
hundred eighty days after a political subdivision receives notice of
a challenge to its electoral system under section 301 of this act,
the political subdivision has not obtained a court order stating that
it has adopted a remedy in compliance with section 104 of this act.
However, if notice is received after July 1, 2021, then the political
subdivision shall have ninety days to obtain a court order before an
action may be filed.

(2) If a political subdivision has received two or more notices
containing materially different proposed remedies, the political
subdivision shall work in good faith with the persons to implement a
remedy that provides the protected class or classes identified in the
notices an equal opportunity to elect candidates of their choice. If
the political subdivision adopts one of the remedies offered, or a
different remedy that takes multiple notices into account, the
political subdivision shall seek a court order acknowledging that the
political subdivision's remedy is reasonably necessary to avoid a
violation of section 104 of this act. The persons who submitted the
notice may support or oppose such an order, and may obtain public
records to do so. The political subdivision must provide all
political, census, and demographic data and any analysis of that data
used to develop the remedy in its filings seeking the court order and
with any documents made public. All facts and reasonable inferences
shall be viewed in the light most favorable to those opposing the
political subdivision's proposed remedy at this stage. There shall be
a rebuttable presumption that the court will decline to approve the
political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's
remedy complies with section 104 of this act, an action under this
act may not be brought against that political subdivision for four
years by any party so long as the political subdivision does not
enact a change to or deviation from the remedy during this four-year
period that would otherwise give rise to an action under this act.

PART IV - SAFE HARBOR AND LEGAL ACTION UNDER THIS ACT

NEW SECTION. Sec. 401. (1) After exhaustion of the time period
in section 304 of this act, any voter who resides in a political
subdivision where a violation of section 104 of this act is alleged
may file an action in the superior court of the county in which the
political subdivision is located. If the action is against a county,
the action may be filed in the superior court of such county, or in
the superior court of either of the two nearest judicial districts as
determined pursuant to RCW 36.01.050(2). An action filed pursuant to
this chapter does not need to be filed as a class action.

(2) Members of different protected classes may file an action
jointly pursuant to this act if they demonstrate that the combined
voting preferences of the multiple protected classes are polarized
against the rest of the electorate.

NEW SECTION. Sec. 402. (1) In an action filed pursuant to this
act, the trial court shall set a trial to be held no later than one
year after the filing of a complaint, and shall set a discovery and
motions calendar accordingly.

(2) For purposes of any applicable statute of limitations, a
cause of action under this act arises every time there is an election
for any members of the governing body of the political subdivision.

(3) The plaintiff's constitutional right to the secrecy of the
plaintiff's vote is preserved and is not waived by the filing of an
action pursuant to this act, and the filing is not subject to
discovery or disclosure.

(4) In seeking a temporary restraining order or a preliminary
injunction, a plaintiff shall not be required to post a bond or any
other security in order to secure such equitable relief.

(5) No notice may be submitted to any political subdivision
pursuant to this act before July 19, 2018.

NEW SECTION. Sec. 403. (1) The court may order appropriate
remedies including, but not limited to, the imposition of a district-
based election system. The court may order the affected jurisdiction
to draw or redraw district boundaries or appoint an individual or
panel to draw or redraw district lines. The proposed districts must
be approved by the court prior to their implementation.

(2) Implementation of a district-based remedy is not precluded by
the fact that members of a protected class do not constitute a
numerical majority within a proposed district-based election
district. If, in tailoring a remedy, the court orders the
implementation of a district-based election district where the
members of the protected class are not a numerical majority, the
court shall do so in a manner that provides the protected class an
equal opportunity to elect candidates of their choice. The court may
also approve a district-based election system that provides the
protected class the opportunity to join in a coalition of two or more
protected classes to elect candidates of their choice if there is
demonstrated political cohesion among the protected classes.

(3) In tailoring a remedy after a finding of a violation of
section 104 of this act:

(a) If the court's order providing a remedy or approving proposed
districts, whichever is later, is issued during the period of time
between the first Tuesday after the first Monday of November and on
or before January 15th of the following year, the court shall order
new elections, conducted pursuant to the remedy, to occur at the next
succeeding general election. If a special filing period is required,
filings for that office shall be reopened for a period of three
business days, such three-day period to be fixed by the filing
officer.

(b) If the court's order providing a remedy or approving proposed
districts, whichever is later, is issued during the period of time
between January 16th and on or before the first Monday of November,
the next election will occur as scheduled and organized under the
current electoral system, but the court shall order new elections to
occur pursuant to the remedy at the general election the following
calendar year.

(c) The remedy may provide for the political subdivision to hold
elections for the members of its governing body at the same time as
regularly scheduled elections for statewide or federal offices.

(4) Within thirty days of the conclusion of any action filed
under section 402 of this act, the political subdivision must publish
on the subdivision's web site, the outcome and summary of the action,
and all legal costs incurred by the subdivision. If the
political subdivision does not have its own web site, then it may
publish on the county web site.

NEW SECTION. Sec. 404. (1) No action under this act may be
brought by any person against a political subdivision that has
adopted a remedy to its electoral system after an action is filed
that is approved by a court pursuant to section 303 of this act or
implemented a court-ordered remedy pursuant to section 403 of this
act for four years after adoption of the remedy if the political
subdivision does not enact a change to or deviation from the remedy
during this four-year period that would otherwise give rise to an
action under this act.

(2) No action under this act may be brought by any person against
a political subdivision that has adopted a remedy to its electoral
system in the previous decade before the effective date of this
section as a result of a claim under the federal voting rights act
until after the political subdivision completes redistricting
pursuant to RCW 29A.76.010 for the 2020 decennial census.

NEW SECTION. Sec. 405. (1) In any action to enforce this
chapter, the court may allow the prevailing plaintiff or plaintiffs,
other than the state or political subdivision thereof, reasonable
attorneys' fees, all nonattorney fee costs as defined by RCW
4.84.010, and all reasonable expert witness fees. No fees or costs
may be awarded if no action is filed.

(2) Prevailing defendants may recover an award of fees or costs
pursuant to RCW 4.84.185.
NEW SECTION. Sec. 501. The provisions of parts I, III, and IV of this act are not applicable to cities and towns with populations under one thousand or to school districts with K-12 full-time equivalent enrollments of less than two hundred fifty.

NEW SECTION. Sec. 502. A new section is added to chapter 29A.76 RCW to read as follows:
   In any change to its electoral system under section 201 of this act or preparation of a redistricting plan under section 201 of this act, political subdivisions may use population data regarding political parties only to the extent necessary to ensure compliance with this act or federal law.

NEW SECTION. Sec. 503. This act supersedes other state laws and local ordinances to the extent that those state laws or ordinances would otherwise restrict a jurisdiction's ability to comply with this act.

NEW SECTION. Sec. 504. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 505. Sections 101 through 202, 301 through 501, and 503 of this act constitute a new chapter in Title 29A RCW.

--- END ---
SUBJECT: CONSIDER AND TAKE ACTION ON ORDINANCE AMENDING COVINGTON MUNICIPAL CODE, SECTION 18.31.090(1) DOWNTOWN ZONING DISTRICTS DENSITY AND DIMENSION STANDARDS TO REDUCE SETBACKS IN THE MIXED HOUSING AND OFFICE (MHO) ZONE.

RECOMMENDED BY: Planning Commission

ATTACHMENT(S):
1. Proposed Ordinance to amend Covington Municipal Code ("CMC") Section 18.31.090(1)
2. Estimated buildable areas along SE Wax Road.

PREPARED BY: Salina Lyons, Principal Planner
Brian Bykonen, Senior Planner/Code Enforcement Officer

EXPLANATION:

On May 3, 2018, the Planning Commission held a public hearing on the proposed setback amendments contained in Attachment 1. There were three public comments received on the proposed amendments. After review and discussion of the proposed amendments, the Planning Commission voted 5-0 to recommend that the City Council approve the proposed Zoning Code amendments to CMC Section 18.31.090(1), in substantial form as found in Attachment 1, finding that the amendments are consistent with the Covington Comprehensive Plan and CMC 14.27.040 Decision criteria for code amendments.

Background
As redevelopment of the existing single-family homes occurs on the east side of Wax Road, developers are faced with significant challenges due to the existing 10-foot street setback, required ROW dedication to accommodate the future SE Wax Road configuration, and critical area protection of Jenkins Creek and associated wetlands. (Jenkins Creek runs along the rear of the properties between Covington Way SE and SE 272nd St.) All these factors result in a small buildable area for the land uses permitted within the MHO zone. (Attachment 2)

Of these three challenges, the setbacks are the one issue the city can control and grant relief for future development. The street classification, Major Collector, is necessary to accommodate traffic from development within the city, and the state defines the level of protection and setbacks from major stream corridors and wetlands. The city adopted new critical area regulations last year that resulted in an increase of stream and wetland setbacks through the Jenkins Creek corridor; thus, further limiting the possible buildable area.

The City’s 20-year Capital Improvement Plan (CIP) requires that 40 feet of right-of-way (ROW) be dedicated by the developer to accommodate the future alignment and construction of SE Wax Road. The requirement for 40 feet is only applicable to properties north of SE 275th St.
Properties to the south are only required to dedicate up to 20 ft. of frontage. While the requirement to dedicate isn’t as onerous for the southern MHO properties; the road alignment for all properties on the east side of SE Wax Road will be a challenge. This large ROW acquisition requirement, coupled with the large wetland and stream critical area and buffers at the back of these properties, along with the 10-foot front yard setback, causes large challenges to redevelopment, including maintaining enough buildable land area for a building footprint and required parking.

Planning Commission Review & Recommendation

**CMC 14.27.040 Decision criteria.**

The City Council’s approval, modification, deferral, or denial of an amendment proposal shall be based on the following criteria:

1. The proposed amendment is consistent with the goals, objectives, and policies of the comprehensive plan;

Planning Commission Finding: Comprehensive Plan Land Use Policy LU-29, encourages infill development for a variety of housing types and professional offices, and Comprehensive Plan Land Use Policy LU-33 encourages a development pattern that places buildings near the street and makes surface parking a non-dominant use. The proposed amendment is supported by the Comprehensive Plan.

2. The proposed amendment is consistent with the scope and purpose of the City’s zoning ordinances and the description and purpose of the zone classification applied for;

Planning Commission Finding: A modification to the street setback in the MHO Zone is consistent with the purpose of the city’s zoning ordinance and regulations applicable to the MHO Zone as defined in CMC 18.15.080) as follows:

   The mixed housing/office district (MHO) is applied to areas where infill development and redevelopment of low intensity areas with multifamily housing and office is encouraged. Residential uses that are encouraged in this district include townhouses, cottages, and low-rise multifamily. Office development and limited intensity neighborhood retail is also permitted. Development and design standards applied to this district require buffers, lower height limits and building scale that is appropriate to the size of the lot. Trail connections are also emphasized in this district.

3. Circumstances have changed substantially since the establishment of the current zoning map or district to warrant the proposed amendment;

Planning Commission Finding: The intention of the MHO zone is to allow less dense, but vertical development that takes into consideration the natural setting. Often this intention is achieved through applied setbacks and density. What the current code provision regarding setbacks fails to consider is the future design of SE Wax Road in relation to buildable areas of the MHO zone along SE Wax Road and the increased buffer regulations along Jenkins Creek.
Reducing the street setback for the properties zoned MHO east of SE Wax Road will provide the incentives necessary to spur redevelopment of the older single-family homes along the east side of SE Wax Road, which supports the goals and objectives in the Comprehensive Plan.

(4) The proposed zoning is consistent and compatible with the uses and zoning of surrounding property;

**Planning Commission Finding:** Not Applicable. There is no proposed zoning map amendment.

(5) The property that is the subject of the amendment is suited for the uses allowed in the proposed zoning classification;

**Planning Commission Finding:** The proposed amendment will only apply to the MHO zone located east of SE Wax Road.

(6) The amendment complies with the three-year limitation rule as specified in CMC 14.27.030(3); and

**Planning Commission Findings:** The proposed amendment has not been proposed or reviewed by the City in the last three years.

(7) Adequate public services could be made available to serve the full range of proposed uses in that zone.

**Planning Commission Findings:** Not Applicable.

**Procedural Requirements.**

*Required Notice to the State Department of Commerce.*

On April 11, 2018, pursuant to state law and CMC 14.27.050(4), the city has provided the Washington State Department of Commerce the proposed code amendment more than 60-days prior to the expected date of final City Council action. On April 11, 2018, the Washington State Department of Commerce granted a 14-day expedited review. No comments were received from agencies with jurisdiction.

**SEPA**

A SEPA determination of non-significance was issued on February 2, 2018, with a legal notice placed in the Covington Reporter, posted at city hall, and on the city’s website. Copies were also provided to the SEPA register, Muckleshoot Indian Tribe, and State Department of Ecology. No comments were received.

**Planning Commission Hearing**

This amendment is a legislative action, and the required public hearing before the Planning Commission was held on May 3, 2017. Consistent with CMC 14.30.060, notice of the Planning Commission public hearing was published in the *Covington Reporter* on April 13, 2018, more than 14-days prior to the scheduled public hearing. Notice was also posted on the city’s website and at city hall.
ALTERNATIVES:
1. Recommend amendments to the proposed ordinance.
2. Return the issue to city staff for further study and analysis.

FISCAL IMPACT:
There is no fiscal impact from these proposed amendments

CITY COUNCIL ACTION:  X  Ordinance   ___  Resolution   ___  Motion   ___  Other

Council member ______________ moves, Council member ______________ seconds, to adopt an Ordinance in substantial form as found in Attachment 1, which amends CMC Section 18.31.090 Downtown Zoning Districts Density and Dimension Standards.

REVIEWED BY:  City Manager; Public Works Director, Community Development Director, Finance Director, City Attorney.
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, AMENDING COVINGTON MUNICIPAL CODE SECTION 18.31.090(1) RELATING TO DOWNTOWN ZONING DISTRICTS DENSITY AND DIMENSION STANDARDS AND REDUCING SETBACKS IN THE MIXED HOUSING AND OFFICE (MHO) ZONING DISTRICT.

WHEREAS, Chapter 35A.63 of the Revised Code of Washington (RCW) empowers the City of Covington (the “City”) to enact planning and environmental regulations; and

WHEREAS, Title 18 of the Covington Municipal Code (CMC) provides regulations for administering setbacks within the City; and

WHEREAS, the proposed amendments to CMC 18.31.090 are consistent with the goals, objectives, and policies of the City’s comprehensive plan; and

WHEREAS, the proposed amendments to CMC 18.31.090(1) to reduce the street setback in the MHO zone from ten feet to zero feet (no street setback) are consistent with the purpose of the city’s zoning ordinance and regulations applicable to the MHO zone as defined in CMC 18.15.080; and

WHEREAS, the Planning Commission held a properly noticed public hearing on the proposed amendments at their regularly scheduled meeting on May 3, 2017. Three public comments were received and considered, and the Planning Commission voted to recommend that the City Council approve the proposed amendments; and

WHEREAS, draft amendments to the Covington Municipal Code as adopted by this ordinance were transmitted to the Washington State Department of Commerce on April 11, 2018. No comments were received from the Department of Commerce; and

WHEREAS, pursuant to the State Environmental Policy Act, a Determination of Non-significance (DNS) was issued by the responsible official pursuant to WAC 197-11-340 on February 2, 2018. No comments were received during the DNS comment period; and

WHEREAS, the City Council of the City of Covington, upon review of the facts, findings, and recommendations of the Covington Planning Commission, and after reviewing information provided by City staff, find that all applicable procedural and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:
**Section 1. Findings of Fact.** The “Whereas” provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

**Section 2. Amendments.** CMC Section 18.31.090(1) Downtown zoning districts density and dimensions standard table, is amended to read as follows:

### 18.31.090 Downtown zoning districts density and dimension standards.

(1) Table of Density and Dimension Standards, Downtown Zoning Districts.

<table>
<thead>
<tr>
<th>Standards</th>
<th>Town Center (TC)</th>
<th>Mixed Commercial (MC)</th>
<th>General Commercial (GC)</th>
<th>Mixed Housing Office (MHO)</th>
<th>Exceptions and Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Building Height</td>
<td>75 feet</td>
<td>60 feet</td>
<td>55 feet</td>
<td>45 feet</td>
<td>Maximum height shall be 45 feet within 50 feet of any zone outside of the downtown zone. In the MHO district, the 35 feet maximum height shall also apply within 50 feet of another MHO property.</td>
</tr>
<tr>
<td>Maximum Residential Density (if ground floor is commercial)</td>
<td>Unlimited</td>
<td>Unlimited</td>
<td>Unlimited</td>
<td>24 D.U./acre</td>
<td></td>
</tr>
<tr>
<td>Maximum Floor Area Ratio (FAR) with Bonus Features</td>
<td>4:1</td>
<td>3:1</td>
<td>3:1</td>
<td>2:1, 1.25:1 east of Wax Road</td>
<td>Refer to CMC 18.31.100 for bonus features.</td>
</tr>
<tr>
<td>Standards</td>
<td>Town Center (TC)</td>
<td>Mixed Commercial (MC)</td>
<td>General Commercial (GC)</td>
<td>Mixed Housing Office (MHO)</td>
<td>Exceptions and Notes</td>
</tr>
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<td>-------------------------</td>
<td>---------------------------</td>
<td>--------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Maximum Floor Area Ratio (FAR) without Bonus Features</td>
<td>1.5:1</td>
<td>1:1</td>
<td>1:1</td>
<td>1:1; .75:1 east of Wax Road</td>
<td>No minimum FAR. Development within the Jenkins Creek Corridor shall utilize low impact development (LID) techniques as adopted in CMC 13.25.020.</td>
</tr>
<tr>
<td>Maximum Impervious Surface</td>
<td>80%</td>
<td>90%</td>
<td>80%</td>
<td>70%; 50% east of Wax Road and south of SE 272nd St.</td>
<td>Developments in the MHO located east of Wax Road and south of SE 272nd St., and cottage housing developments shall not exceed the 50% maximum impervious surface.</td>
</tr>
<tr>
<td>Minimum Lot Frontage Occupied by a Building</td>
<td>Type I Street – 80%</td>
<td>Type II Street – 50%</td>
<td>Type II Street – 50%</td>
<td>Type IV Street – 40%</td>
<td>A building shall be located within 5 feet of the back of sidewalk or on a public plaza. Where utility easements greater than 5 feet exist, the building shall be set back to the extent of the easement and this area shall be designed as an extension of the sidewalk and/or may be included as part of the public space requirement.</td>
</tr>
<tr>
<td>Minimum Setbacks within District</td>
<td>None</td>
<td>None</td>
<td>20 feet</td>
<td>10 feet</td>
<td>Except in the TC and MC districts, a minimum of 5 feet setback shall be provided from any public property other than a street. For development located east of SE Wax Road in the MHO zoning district, the setback for non-single-family residential buildings from SE Wax Road may be 0 feet.</td>
</tr>
<tr>
<td>Standards</td>
<td>Town Center (TC)</td>
<td>Mixed Commercial (MC)</td>
<td>General Commercial (GC)</td>
<td>Mixed Housing Office (MHO)</td>
<td>Exceptions and Notes</td>
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<tr>
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</tr>
<tr>
<td>Minimum Setbacks from any public property other than a street</td>
<td>None</td>
<td>None</td>
<td>5 feet</td>
<td>5 feet</td>
<td></td>
</tr>
<tr>
<td>Minimum Setbacks to Adjoining Downtown District</td>
<td>10 feet where adjoining the MHO District only</td>
<td>10 feet</td>
<td>N/A</td>
<td>10 feet</td>
<td>In districts other than the MHO, no setback shall be required for mixed-use development or commercial building less than 50,000 square feet, with no significant outside storage or sales.</td>
</tr>
<tr>
<td>Minimum Setbacks to Zones Outside the Downtown Zone</td>
<td>0</td>
<td>20 feet</td>
<td>20 feet</td>
<td>20 feet</td>
<td>Refer to Design Standards Section B(1)(g) – Buffers and Transitions. No setback is required where a zone is separated from another zone by a street.</td>
</tr>
</tbody>
</table>

**Section 3. Savings.** The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, that may be in existence on the effective date of this ordinance.

**Section 4. Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 5. Corrections.** Upon approval of the city attorney, the city clerk and/or code codifier is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.
Section 6. Effective Date. This ordinance shall be in full force and effect five (5) days after publication in the City’s newspaper of record. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, at a regular meeting thereof on the 10th day of July 2018, and signed in authentication of its passage.

_______________________
Mayor Jeff Wagner

PUBLISHED:  July 13, 2018
EFFECTIVE:   July 18, 2018

ATTESTED:

________________________________
Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:

________________________________
Kathy Hardy, City Attorney
Approximate Street Dedication and Stream/Wetland Buffer Map

For informational purposes only. All lines are approximations. Not to scale.

03/15/18

Attachment 2
DISCUSSION OF
FUTURE AGENDA ITEMS:

5:40 p.m., Tuesday, July 24, 2018 – Special Meeting
Interviews for Youth Council and Economic Development Council

7:00 p.m., Tuesday, July 24, 2018 – Regular Meeting

(Draft Agenda Attached)
Council will interview Youth Council and Economic Development Council applicants beginning at 5:40 p.m.

CALL CITY COUNCIL REGULAR MEETING TO ORDER – approximately 7:00 p.m.

ROLL CALL/PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PUBLIC COMMUNICATION

• Republic Services Recycling Update (approximately 20 minutes)

PUBLIC COMMENT Speakers will state their name, address, and organization. Comments are directed to the City Council, not the audience or staff. Comments are not intended for conversation or debate and are limited to no more than four minutes per speaker. Speakers may request additional time on a future agenda as time allows. *

NOTICE to all participants: Pursuant to state law, RCW 42.17A.555, campaigning for any ballot measure or candidate in City Hall and/or during any portion of the council meeting, including the audience comment portion of the meeting, is PROHIBITED.

APPROVE CONSENT AGENDA
C-1. Minutes: June 12, 2018 Special & Regular Meetings and July 10, 2018 Special & Regular Meetings (Scott)
C-2. Vouchers (Hendrickson)
C-3. Authorize the City Manager to Execute the Washington State Department of Transportation Title VI Nondiscrimination Agreement (Lindskov)

REPORTS OF COMMISSIONS

• Economic Development Council Co-Chair Josh Lyons
• Youth Council Member
• Human Services Chair Leslie Hamada
• Arts Chair Ed White
• Parks & Recreation Chair Laura Morrissey
• Planning Chair Chele Dimmett

NEW BUSINESS
1. Consider Appointments to Youth Council (Council)
2. Consider Appointment to Economic Development Council (Council)
3. Presentation of the Condition Assessment of the Covington Aquatic Center (Newton)
4. Update on Summit Action Items (Bolli)
5. Adopt Resolution Providing for Ballot Proposition (Bolli)
6. Appoint Pro and Con Committee Members for Ballot Proposition (Scott)
7. 2018 Second Quarter Financial Report (Hendrickson)

FUTURE AGENDA ITEMS

COUNCIL/STAFF COMMENTS

PUBLIC COMMENT *See Guidelines on Public Comments above in First Public Comment Section

EXECUTIVE SESSION – if needed

ADJOURN

Americans with Disabilities Act – reasonable accommodations provided upon request a minimum of 24 hours in advance (253-480-2400).