



AGENDA – Monday, November 4, 2019

5:30 p.m. Workshop

7:00 p.m. City Council Meeting

Long Beach City Hall
115 Bolstad Avenue West

5:30 WORKSHOP

WS 19-27 Budget Workshop – TAB A

7:00 p.m. CALL TO ORDER; PLEDGE OF ALLEGIANCE; AND ROLL CALL

Call to order Mayor Phillips, Council Member McGuire,
And roll call Council Member Murry, Council Member Cline & Council Member Kemmer.

OUTSTANDING PERFORMANCE AWARD 2018

PUBLIC COMMENT

At this time, the Mayor will call for any comments from the public on any subject whether or not it is on the agenda for any item(s) the public may wish to bring forward and discuss. Preference will be given to those who must travel. **Please limit your comments to three minutes. The City Council does not take any action or make any decisions during public comment.** To request Council action during the Business portion of a Council meeting, contact the City Administrator at least one week in advance of a meeting.

CONSENT AGENDA – TAB B

All matters, which are listed within the consent section of the agenda, have been distributed to each member of the Long Beach City Council for reading and study. Items listed are considered routine by the Council and will be enacted with one motion unless a Council Member specifically requests it to be removed from the Consent Agenda to be considered separately. Staff recommends approval of the following items:

- Minutes, October 21, 2019 City Council Meeting
- Payment Approval List for Warrant Resisters 58987-59015 & 85920-85994 for \$331,999.06

BUSINESS

- **AB 19-84 – Ordinance 975 Amending the B&O Tax Regulations– TAB C**
- **AB 19-85 – Agreement with Washington State Parks – TAB D**

DEPARTMENT HEAD ORAL REPORTS CORRESPONDENCE AND WRITTEN REPORTS – TAB E

- **Water Report for September 2019**
- **Wastewater Report for September 2019**
- **Sales Tax Collections**
- **Lodging Tax Collections**
- **Transportation Benefit District Collections**
- **Letter of Thanks**
- **Letter of Thanks**

FUTURE CITY COUNCIL MEETING SCHEDULE

The Regular City Council meetings are held the 1st and 3rd Monday of each month at 7:00 PM and may be preceded by a workshop.
November 18, 2019, December 2, 2019 & December 16, 2019

ADJOURNMENT

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, contact the City Clerk at (360) 642-4421 or advise City Administrator at the meeting.

TAB - A



**CITY COUNCIL
WORKSHOP BILL
WS 19-27**

Meeting Date: November 4, 2019

AGENDA ITEM INFORMATION		
SUBJECT: Budget Workshop General, Fire Equipment and Law Enforcement Funds	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	DG
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	
	Events Coordinator	
	Finance Director	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	Water/Wastewater Supervisor	
COST: N/A		
SUMMARY STATEMENT: Review the General, Fire Equipment and Law Enforcement Funds		

Workshops are public meetings with the purpose of allowing the City Council to discuss topics. No formal decisions are made at workshops. While almost every meeting when a majority of the city council is present is considered a public meeting, that doesn't necessitate the Council allowing public comment. If the Mayor and Council request more information or clarification they may seek input from the audience.

TAB - B

LONG BEACH CITY COUNCIL MEETING

October 21, 2019

5:30 COUNCIL WORKSHOP

C. McGuire, C. Kemmer, C. Murry and C. Cline were all present.

WS 19-26- Budget Workshop

-David Glasson, City Administrator, presented the workshop bill.

Review the Lodging Tax and B&O fund.

- **No decisions or motions were made at this time.**

7:00 CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL

Mayor Phillips called the meeting to order; asked for the Pledge of Allegiance and roll call.

ROLL CALL

David Glasson, City Administrator, called roll with C. Kemmer, C. McGuire, C. Murry and C. Cline all present.

PUBLIC COMMENT

No public comments

CONSENT AGENDA

Minutes, October 7, 2019 City Council Meeting

Payment Approval List for Warrant Registers 58947-58986 & 85867-85919 for \$747,345.55

C. McGuire made the motion to approve the Consent Agenda. C. Cline seconded the motion; 4 Ayes, motion passed.

BUSINESS

AB 19-79– PACCOM Interlocal Agreement

David Glasson, City Administrator, presented the Agenda Bill. This Interlocal Agreement was passed back in May of 2019. Since it had to be passed by each jurisdiction, one of them requested a change after Long Beach has already passed it. The agreement presented reflects the change.

C. Murry made the motion to approve and authorize the Mayor to sign. C. McGuire seconded the motion; 4 Ayes, motion passed.

AB 19-80– Ordinance 973 Main Stage Fees

David Glasson, City Administrator, presented the Agenda Bill. There have been many requests to rent out or use the Main Stage at Veterans Field. There is no formal fee or agreement; city staff felt that it was necessary to establish both. This was presented to Council on October 7th, changes were requested.

C. Murry made the motion to authorize the Mayor to sign the proposed ordinance. C. Kemmer seconded the motion; 4 Ayes, motion passed.

AB 19-81- Land Use Agreement with Pacific County

David Glasson, City Administrator, presented the Agenda Bill. This is an agreement that is currently in place that allows the Humane Society to use a portion of Pacific County's property. The land is a strip of 25'x40' that is used for a "meet and greet" area for pets and potential new owners.

C. McGuire made the motion to authorize the Mayor to execute the agreement between the City and Pacific County for lease of lands. C. Murry seconded the motion; 4 Ayes, motion passed.

AB 19-82- Ordinance 974 for VAC 2019-02- Continued Public Hearing

The Mayor opened the meeting at 7:08 p.m.

David Glasson, City Administrator, presented the Agenda Bill. The City has been approached by the property owner of Sandcastle RV to vacate the northern portion of the 11th ST NE ROW and the southern portion of the 12th ST NE ROW that abuts his property. The Council went to the property and assessed the situation. The ordinance is now presented with the 8 feet on the north side of 11th ST NE and 15 feet on the south side of 12th ST NE.

The Mayor closed the public meeting at 7:10 p.m.

C. Murry made the motion to pass the ordinance at a rate of \$2.25 sq. ft. C. McGuire seconded the motion; 4 Ayes, motion passed.

AB 19-83- Teamsters Agreement for 2020-2022

David Glasson, City Administrator, presented the Agenda Bill. The proposed Agreement gives the Union a 3% pay increase for years 2020-2022. This contract amendment initiated shift differential; those that work the graveyard shift will receive \$.50 more an hour. The city will pay the PFML on behalf of the employee. All other adjustments can be reviewed in the contract amendment.

C. McGuire made the motion to approve the contract and authorize the Mayor to sign Agreement. C. Cline seconded the motion; 4 Ayes, motion passed.

DEPARTMENT HEAD ORAL REPORTS

CORRESPONDENCE AND WRITTEN REPORTS

- Parks, Streets and Stormwater Report for September.

ADJOURNMENT

The Mayor adjourned the meeting at 7:19 p.m.

Mayor

ATTEST:

City Clerk



Warrant Register

Check Periods: 2019 - October - Second

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF LONG BEACH, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY THIS SAID CLAIM.

Council Member	Council Member	Council Member	Clerk/Treasurer
58987	Bell, Helen S	10/18/2019	\$308.05
58988	Blinion, Jacob	10/18/2019	\$1,836.11
58989	Booi, Kristopher A	10/18/2019	\$1,614.38
58990	Cox, Mallory E	10/18/2019	\$112.74
58991	Eastham, Miranda L	10/18/2019	\$1,656.66
58992	Gilbertson, Bradley K	10/18/2019	\$1,536.00
58993	Goulter, John R.	10/18/2019	\$1,928.51
58994	Huff, Timothy M.	10/18/2019	\$1,780.41
58995	Jewell, Kyle E	10/18/2019	\$1,078.29
58996	Kemmer, Larry L	10/18/2019	\$1,495.83
58997	Luethe, Paul J	10/18/2019	\$1,661.20
58998	Miller, Matt W	10/18/2019	\$1,519.06
58999	Mortenson, Tim	10/18/2019	\$1,825.00
59000	Padgett, Timothy J	10/18/2019	\$1,653.51
59001	Persell, Whitney J	10/18/2019	\$1,206.41
59002	Wood, Matthew T	10/18/2019	\$1,602.28
59003	Wright, Flint R	10/18/2019	\$2,813.33
59004	Zuern, Donald D.	10/18/2019	\$2,270.47
59005	AFLAC	10/18/2019	\$491.97
59006	City of Long Beach - Fica	10/18/2019	\$12,657.26
59007	City of Long Beach - FWH	10/18/2019	\$8,193.25
59008	Dept of Labor & Industries	10/18/2019	\$1,896.16
59009	Dept of Retirement Systems	10/18/2019	\$15,758.02
59010	Dept of Retirement Systems Det Comp	10/18/2019	\$3,206.50
59011	Discovery Benefits Inc.	10/18/2019	\$150.00
59012	Employment Security Dept	10/18/2019	\$867.39
59013	Massmutual Retirement Services	10/18/2019	\$675.00
59014	Teamsters Local #58	10/18/2019	\$208.50
59015	Association of WA Cities	10/28/2019	\$29,859.44

Execution Time: 5 second(s)

Printed by CLB\HelenB on 10/31/2019 5:17:03 PM
Register

85920	Loyalty Days	10/22/2019	\$7,500.00
85921	City of Ilwaco	10/22/2019	\$9,029.05
85922	BILA	10/22/2019	\$200.00
85923	Melting, Casey	10/23/2019	\$257.75
85924	Gray, Karen	10/23/2019	\$36.00
85925	Ostgaard, Loretta	10/23/2019	\$163.60
85926	Whitney Equipment Co. Inc	10/25/2019	\$15,412.75
85927	Tangly Cottage Garden	10/25/2019	\$508.07
85928	Public Utility District 2	10/25/2019	\$10,294.09
85929	Eastham, Miranda	10/31/2019	\$42.00
85930	Ostgaard, Loretta	10/31/2019	\$42.00
85931	Postmaster	10/31/2019	\$308.00
85932	Employment Security Dept	10/31/2019	\$1,087.77
85933	A-1 Redi Mix	10/31/2019	\$599.14
85934	Active Enterprises, Inc.	10/31/2019	\$186.23
85935	All Safe Mini Storage	10/31/2019	\$95.00
85936	ALS Group USA, Corp.	10/31/2019	\$1,298.00
85937	Alco-American Linen Div.	10/31/2019	\$158.05
85938	Astoria Ford	10/31/2019	\$120.00
85939	Astoria Janitor & Paper Supply	10/31/2019	\$1,396.80
85940	Backflow Management Inc	10/31/2019	\$1,501.25
85941	Bailey's Saw Shop	10/31/2019	\$107.66
85942	Cascade Columbia Distribution CO	10/31/2019	\$4,344.53
85943	Cascade Fire & Safety	10/31/2019	\$470.88
85944	CenturyLink	10/31/2019	\$1,604.86
85945	Charter Communications	10/31/2019	\$334.93
85946	Chinook Observer	10/31/2019	\$225.25
85947	Coastal Community Action Program	10/31/2019	\$522.00
85948	Columbia Ford, Inc.	10/31/2019	\$1,226.55
85949	Day Wireless Systems	10/31/2019	\$24.10
85950	Dept of Ecology	10/31/2019	\$2,548.27
85951	Discovery Benefits Inc.	10/31/2019	\$100.00
85952	Ellyson, Sue	10/31/2019	\$147.72
85953	Engineered Compost System	10/31/2019	\$13,952.03
85954	Evergreen Septic Pumping LLC	10/31/2019	\$729.68
85955	Fastenal Company	10/31/2019	\$315.31
85956	Fastsigns	10/31/2019	\$18.92
85957	FedEx	10/31/2019	\$7.73
85958	Ford Electric	10/31/2019	\$5,193.90
85959	Goulter, Allen J III	10/31/2019	\$1,300.00
85960	Gray & Osborne	10/31/2019	\$51,149.26
85961	H. D. FOWLER	10/31/2019	\$11,744.27
85962	Hach Company	10/31/2019	\$1,023.56
85963	Jewell, Kyle	10/31/2019	\$118.41
85964	L.N. Curtis & Sons	10/31/2019	\$179.74
85965	Lakeside Industries, Inc.	10/31/2019	\$418.07

Execution Time: 5 second(s)

Account Number	Description	Posting Date	Amount
85966	Lawson Products, Inc.	10/31/2019	\$352.80
85967	MANSFIELD ALARM CO, INC	10/31/2019	\$103.97
85968	Neofunds	10/31/2019	\$500.00
85969	Office of Minority & Women's Business Financial Office	10/31/2019	\$100.00
85970	Pacific County Auditor	10/31/2019	\$78.00
85971	Pacific County Sheriffs	10/31/2019	\$10,556.75
85972	Pacific Office Automation	10/31/2019	\$341.95
85973	Penoyar, Joel	10/31/2019	\$2,360.00
85974	Powell, Seiler & Co., P.S	10/31/2019	\$530.00
85975	Public Utility District 2	10/31/2019	\$9,625.50
85976	Quill Corporation	10/31/2019	\$450.73
85977	Solutions Yes	10/31/2019	\$116.96
85978	South Pacific County Technical	10/31/2019	\$7,000.00
85979	Spartan Environmental Services LLC	10/31/2019	\$4,237.50
85980	Standard Insurance Co.	10/31/2019	\$3,582.60
85981	State Auditor's Office	10/31/2019	\$31,518.97
85982	Tangly Cottage Garden	10/31/2019	\$930.75
85983	TIAA Bank	10/31/2019	\$227.97
85984	Unum Life Insurance	10/31/2019	\$39.90
85985	Usa Blue Book	10/31/2019	\$669.90
85986	Verizon Wireless	10/31/2019	\$787.48
85987	Vision Municipal Solutions	10/31/2019	\$613.42
85988	Washington State Fire Fighters' Association	10/31/2019	\$90.00
85989	Western Display Fireworks	10/31/2019	\$1,500.00
85990	Wex Bank	10/31/2019	\$2,000.00
85991	Whitney Equipment Co. Inc	10/31/2019	\$1,711.14
85992	Wilcox & Flegel Oil Co.	10/31/2019	\$1,353.44
85993	Wirrkala Construction	10/31/2019	\$181.94
85994	Zee Medical Service Co.	10/31/2019	\$332.48
	Total	Check	\$331,999.06
	Grand Total		\$331,999.06

TAB - C



**CITY COUNCIL
AGENDA BILL
AB 19-84**

Meeting Date: November 4, 2019

AGENDA ITEM INFORMATION

SUBJECT: Ordinance 975 Amending the Business and Occupation Tax Code	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk/Treasurer	
	City Engineer	
	Community Development Director	AS
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	Water/Wastewater Supervisor	
COST: N/A	Other:	

SUMMARY STATEMENT: State mandated changes to the Business and Occupation Tax law that requires local entities to define “digital sales/goods”. All amendments are highlighted in red.

RECOMMENDED ACTION: *Authorize the Mayor to execute Ordinance 975 amending the Business and Occupation Tax Code.*

ORDINANCE No. 975

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH,
WASHINGTON, RELATING TO BUSINESS & OCCUPATION TAXES AMENDING
FOR THE PURPOSES OF COMPLYING WITH HB 1403 AND 1059.**

WHEREAS, in 2019, the Legislature passed 1403 and 1059 amending the Business and Occupation Tax requirements and definitions; and

WHEREAS, the additional definitions lend clarity to certain business types;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH,
WASHINGTON, DOES ORDAIN AS FOLLOWS.**

**CHAPTER 3.04
BUSINESS & OCCUPATION TAX**

3.04.010 Purpose.

The purpose of this chapter is to provide for the City's authority to license for revenue as authorized by Article XI, Section 12 of the Washington State Constitution and RCW 35A.11.020.

3.04.020 Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City code.

3.04.028 Administrative Provisions.

The administrative provisions contained in Chapter 3.10 of the Long Beach Municipal Code shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

3.04.030 Definitions.

In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

A. "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

B. "Business and occupation tax" or "gross receipts tax" means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

C. "Commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

1. Any use as a consumer; and
2. The manufacturing of articles, substances or commodities.

D. "Delivery" means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property. Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.

E. "Digital Code." and "digital goods" have the same meaning as in RCW 82.04.192.

F. Digital Products means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6)(b).

G. "Director" means the Finance & Administrative Services Director of the City or any officer, agent or employee of the City designated to act on the Director's behalf.

H. "Eligible gross receipts tax" means a tax which:

1. Is imposed on the act or privilege of engaging in business activities within section .050; and
2. Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and
3. Is not, pursuant to law or custom, separately stated from the sales price; and
4. Is not a ~~salessale~~ or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
5. Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the County level.

G. "Engaging in business" means:

1. Commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
2. This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to register and obtain a business license or pay City business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.
3. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license;
 - a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City;
 - b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City;
 - c. Soliciting sales;
 - d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance;
 - e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;
 - f. Installing, constructing, or supervising installation or construction of, real or tangible personal property;
 - g. Soliciting, negotiating, or approving franchise, license, or other similar agreements;
 - h. Collecting current or delinquent accounts;
 - i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials;
 - j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;
 - k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations,

- chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians;
- l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings;
 - m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers;
 - n. Investigating, resolving, or otherwise assisting in resolving customer complaints;
 - o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place;
 - p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf;
 - q. Accepting or executing a contract with the City, irrespective of whether goods or services are delivered within or without the City, or whether the person's office or place of business is within or without the City.
4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax;
- a. Meeting with suppliers of goods and services as a customer;
 - b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions;
 - c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf;
 - d. Renting tangible or intangible property as a customer when the property is not used in the City;
 - e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances;
 - f. Conducting advertising through the mail;
 - g. Soliciting sales by phone from a location outside the City.
5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4). The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

H. "Extracting" is the activity engaged in by an extractor and is reportable under the extracting classification.

I. "Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.

J. "Extractor for Hire" means a person who performs under contract necessary labor or mechanical services for an extractor.

K. "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

L. "Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

M. "Manufacturing" means the activity conducted by a manufacturer and is reported under the manufacturing classification.

N. "Manufacturer," or "to manufacture" means:

1. Every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person's own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than twenty percent (20%) of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be deemed to be a processor for hire, and not a manufacturer. A business not located in this City that is the owner of materials or ingredients processed for it in this City by a processor for hire shall be deemed to be engaged in business as a manufacturer in this City.
2. "To manufacture" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:
 - a. The production of special made or custom made articles;

- b. The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
 - c. Crushing and/or blending of rock, sand, stone, gravel, or ore; and
 - d. The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.
3. "To manufacture" shall not include the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

O. "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or any instrumentality thereof.

P. "Retailing" means the activity of engaging in making sales at retail and is reported under the retailing classification.

Q. "Retail Service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

- 1. Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons;
- 2. Abstract, title insurance, and escrow services;
- 3. Credit bureau services;
- 4. Automobile parking and storage garage services;
- 5. Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or

distribution lines or equipment, if performed by or at the direction of an electric utility;

6. Service charges associated with tickets to professional sporting events; and
7. The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, Turkish bath services, escort services, and dating services.
8. The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

R. "Sale," "casual or isolated sale" means:

1. Any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a "sale at retail," "retail sale," or "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.
2. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

S. "Sale at retail," "retail sale" means:

1. Every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:
 - a. Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or
 - b. Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or
 - c. Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or
 - d. Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

- e. Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use.
 - f. Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (G) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.
2. "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under .050(1)(g).
3. "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:
- a. The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;
 - b. The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;
 - c. The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;
 - d. The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services;

and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

- e. The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under Chapter 82.16 RCW;
 - f. The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;
 - g. The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section shall be construed to modify this subsection.
- 4. "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.
 - 5. "Sale at retail" or "retail sale" shall also include the sale of canned software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user, but shall not include custom software or the customization of canned software.
 - 6. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, the State of Washington, or by the United States and which is used or to be used

primarily for foot or vehicular traffic including mass transportation vehicles of any kind (Public road construction).

7. "Sale at retail" or "retail sale" shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement.
8. "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to Chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).
9. "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.
10. "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action.

(11) "Sale at retail" or "retail sale" shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:

(a) Sales in which the seller has granted the purchaser the right of permanent use;

(b) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(c) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(d) Sales in which the purchaser is obligated to make continued payment as a condition of the sale. A retail sale of digital goods, digital codes, or digital automated services under this subsection includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the

circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.
(12) "Sale at retail" or "retail sale" shall also include the installing, repairing, altering, or improving of digital goods for consumers.

T. "Sale at wholesale," "wholesale sale" means any sale of tangible personal property which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

U. "Services" means those activities that do not fall within one of the other tax classifications used by the city.

V. "Taxpayer" means any "person", as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

W. "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

X. "Value of products" means:

1. The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.
2. Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values.

3. Notwithstanding subsection (2) above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (b) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

Y. "Wholesaling" means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

3.04.050 Imposition of the tax - tax or fee levied.

A. Except as provided in subsection (B) of this section, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

1. Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the city for sale or for commercial or industrial use, multiplied by the rate of two-tenth of one percent ($2/10^{\text{th}}$ of 1%). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.
2. Upon every person engaging within the City in business as a manufacturer, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the city, multiplied by the rate of two-tenth of one percent ($2/10^{\text{th}}$ of 1%). The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.
3. Upon every person engaging within the City in the business of making sales at wholesale; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two-tenth of one percent ($2/10^{\text{th}}$ of 1%).
4. Upon every person engaging within the City in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two-tenth of one percent ($2/10^{\text{th}}$ of 1%).
5. Upon every person engaging within the City in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such

persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two-tenth of one percent (2/10th of 1%).

6. Upon every person engaging within the City in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of two-tenths of one percent (2/10th of 1%).
7. Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of two-tenth of one percent (2/10th of 1%). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing, or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

B. The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than \$20,000, or is equal to or less than \$5,000 during any quarter if on a quarterly reporting basis.

3.04.060 Doing business with the City.

Except where such a tax is otherwise levied and collected by the City from such person, there is hereby levied a tax on the privilege of accepting or executing a contract with the City. Such tax shall be levied and collected whether goods or services are delivered within or without the City and whether or not such person has an office or place of business within or without the City.

Except as provided in 3.04.077, as to such persons the amount of tax shall be equal to the gross contract price multiplied by the rate under section 3.04.050 that would otherwise apply if the sale or service were taxable pursuant to that section.

3.04.070 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.

A. Persons who engage in business activities that are within the purview of two (2) or more subsections of 3.04.050 shall be taxable under each applicable subsection.

B. Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

C. To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.

D. Credit for persons that sell in the City products that they extract or manufacture. Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (a) with respect to the manufacturing of the products sold in the City, and (b) with respect to the extracting of the products, or the ingredients used in the products, sold in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

E. Credit for persons that manufacture products in the City using ingredients they extract. Persons taxable under the manufacturing classification with respect to manufacturing products in this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

F. Credit for persons that sell within the City products that they print or publish and print. Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and publishing, of the products sold within the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

3.04.075 Deductions to prevent multiple taxation of manufacturing activities and prior to January 1, 2008, transactions involving more than one city with an eligible gross receipts tax.

A. Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity. For taxes due prior to January 1, 2008, a taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

1. A taxpayer that has paid an eligible gross receipts tax, with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.
2. Notwithstanding the above, a person that is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the jurisdiction where the person is domiciled (its headquarters is located).
3. A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

B. Person manufacturing products within and without. A ~~person manufacturing products~~ person manufacturing product within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

3.04.076 Assignment of gross income derived from intangibles.

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

3.04.077 Allocation and apportionment of income when activities take place in more than one jurisdiction.

Gross income, other than persons subject to the provisions of chapter 82.14A RCW, shall be allocated and apportioned as follows:

A. Gross income derived from all activities other than those taxed as service or royalties under 3.04.050(A)(7) shall be allocated to the location where the activity takes place.

B. In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

C(3) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

(a) The seller's place of business if the purchaser receives the digital product at the seller's place of business;

(b) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(c) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(d) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(e) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(4) If none of the methods in subsection 3.04.077(3) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in subsections 3.04.077 (3)(a) through (e), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible

for petitioning the city to use an alternative method under this subsection 3.04.077(d)The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in subsections 3.04.077(3)(a) through (e)are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

(5) For purposes of subsections 3.04.077(3)(a) through (e), the following definitions apply:

(a) “Digital automated services,” “digital codes,” and “digital goods” have the same meaning as in RCW 82.04.192;

(b) “Digital products” means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050 (2)(g) and (6)(c); and

(c) “Receive” has the same meaning as in RCW 82.32.730.

(6) Gross income derived from activities taxed as services and other activities taxed under 3.04.050(a) shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:

(i) The individual is primarily assigned within the city;

(ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of his or her service for the tax period in the city; or

(iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of his or her service in any city and the employee resides in the city.

(b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if: the customer location is in the city.

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable under (b) of this subsection (6) to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of this subsection (6)(c), “not taxable” means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.

(d) If the allocation and apportionment provisions of this subsection (6) do not fairly represent the extent of the taxpayer's business activity in the city, the taxpayer may

petition for or the tax administrators may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or

(iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(e) The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection (d) of this subsection (6) must prove by a preponderance of the evidence: (i) That the allocation and apportionment provisions of this subsection (6) do not fairly represent the extent of the taxpayer's business activity in the city; and

(ii) That the alternative to such provisions is reasonable. The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(f) If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection (6).

(g) A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.

~~Gross income derived from activities taxed as services and other activities taxed under 3.04.050(A)(7) shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service income factor and the denominator of which is two.~~

~~1. The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if: (i) The individual is primarily assigned within the city; (ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of his or her service for the tax period in the city; or (iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of his or her service in any city and the employee resides in the city.~~

~~2. The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if: (i) The customer location is in the city; or (ii) The income-producing activity is performed in more than~~

~~one location and a greater proportion of the service income producing activity is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or (iii) The service income producing activity is performed within the city, and the taxpayer is not taxable in the customer location.~~

~~3. If the allocation and apportionment provisions of this subsection do not fairly represent the extent of the taxpayer's business activity in the city or cities in which the taxpayer does business, the taxpayer may petition for or the tax administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income, if reasonable: (i) Separate accounting; (ii) The use of a single factor; (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.~~

~~(a) "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available. (b) "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.~~

~~(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.~~

~~(d) "Customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business. (e) "Customer location" means the following:~~

~~(i) For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.~~

~~(ii) For a customer not engaged in business, if the service does not require the customer to be physically present:~~

~~(A) The customer's residence; or~~

~~(B) If the customer's residence is not known, the customer's billing/mailing address. (~~

~~iii) For a customer engaged in business:~~

~~(A) Where the services are ordered from;~~

~~(B) At the customer's billing/mailing address if the location from which the services are ordered is not known; or~~

~~(C) At the customer's commercial domicile if none of the above are known.~~

~~(f) "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.~~

~~(g) "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.~~

(h) "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.

(i) "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors — D. The definitions in this subsection apply throughout this section.

1. "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.

2. "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.

3. "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

4. "Customer location" means the city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place.

5. "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.

6. "Service-taxable income" or "service income." means gross income of the business subject to tax under either the service or royalty classification.

7. "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

8. "Taxable in the customer location" means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.

JE. Assignment or apportionment of revenue under this Section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

3.04.078 Allocation and apportionment of printing and publishing income when activities take place in more than one jurisdiction.

Notwithstanding RCW 35.102.130, gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, shall be allocated to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines, have the same meanings as attributed to those terms in RCW 82.04.280(1) by the department of revenue.

3.04.090 Exemptions.

A. Public utilities. This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of Chapter 3.08, Utility tax, of the Long Beach Municipal Code.

B. Investments - dividends from subsidiary corporations. This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.

C. Insurance business. This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

DC. Employees.

1. This chapter shall not apply to any person in respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended.

2. A booth renter, is an independent contractor for purposes of this chapter.

ED. Amounts derived from sale of real estate. This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of thirty (30) days or longer.

FE. Mortgage brokers' third-party provider services trust accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

GF. Amounts derived from manufacturing, selling or distributing motor vehicle fuel. This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempt under RCW 82.36.440, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

HG. Amounts derived from liquor, and the sale or distribution of liquor. This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.

IH. Casual and isolated sales. This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

IJ. Accommodation sales. This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the

article and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.

KJ. Taxes collected as trust funds. This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

3.04.100 Deductions.

In computing the license fee or tax, there may be deducted from the measure of tax the following items:

A. Receipts from tangible personal property delivered outside the State. In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered by the seller to the buyer or the buyer's representative at a location outside the State of Washington.

B. Cash discount taken by purchaser. In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the "value of product" provisions.

C. Credit losses of accrual basis taxpayers. In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

D. Constitutional prohibitions. In computing tax, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing under the Constitution of the State of Washington or the Constitution of the United States.

E. Receipts From the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington. Effective January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing, retail services, or wholesaling classification.

F. Professional employer services. In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

G. Interest on investments or loans secured by mortgages or deeds of trust. In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

3.04.120 Tax part of overhead.

It is not the intention of this chapter that the taxes or fees herein levied upon persons engaging in business be construed as taxes or fees upon the purchasers or customer, but that such taxes or fees shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the cost of doing business of such persons.

3.04.130 Severability Clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. This ordinance shall become effective January 1, 2008, after passage, approval and publication as provided by law.

DATED this 4th day of November, 2019

AYES

NAYS

ABSENT

ABSTENTIONS

Jerry Phillips, Mayor

ATTEST:

Helen Bell, City Clerk

Ariel Smith

From: David Glasson
Sent: Thursday, October 10, 2019 4:57 PM
To: Ariel Smith
Subject: FW: Action required: Your city must adopt mandatory updates to B&O tax ordinance by January 1, 2020

Did we set this up for the agenda?

From: Sheila Gall <sheilag@awcnet.org>
Sent: Thursday, October 10, 2019 2:28 PM
To: Sheila Gall <sheilag@awcnet.org>
Subject: FW: Action required: Your city must adopt mandatory updates to B&O tax ordinance by January 1, 2020

Tax managers,

FYI – we sent this email to mayors, city managers, and finance directors in the B&O tax cities today.

Sheila Gall
AWC General Counsel
Association of Washington Cities

Disclaimer: Documents and correspondence are available under RCW 42.56. This e-mail may be disclosable to a third-party requestor.

From: AWC News <news@awcnet.org>
Sent: Thursday, October 10, 2019 2:21 PM
To: Sheila Gall <sheilag@awcnet.org>
Subject: Action required: Your city must adopt mandatory updates to B&O tax ordinance by January 1, 2020

EXTERNAL EMAIL

[View on a mobile device or online.](#)



end of this year, every city with a B&O tax must implement changes required by legislation passed in 2019 (HB 1403 and HB 1059). Mandatory updates must be approved with a January 1, 2020 effective date.

you should do now

see [city B&O tax webpage](#) for information on the B&O tax updates and links to the final model B&O tax language or see the links to the documents below:

[2019 B&O Model Ordinance](#) (mandatory changes to service apportionment, definitions, and technical changes including updated references to statutes)

[2019 Administrative Provisions](#) (mandatory change to annual tax filing deadline)

[Summary of changes](#)

to attend AWC's webinar in late October to learn what the city task force on the B&O tax model ordinance update developed for cities. Look for forthcoming webinar details in an email invite and our newsletters, *CityVoice* and *Legislative Bulletin* later this month.

background

RCW 5.102 requires cities with B&O taxes to work through AWC to establish a workgroup to update the mandatory provisions of the B&O ordinance. B&O tax cities have been required to follow the model ordinance procedures since 2004. Any updates to mandatory provisions, other than those required by statute, must be adopted by cities with the same effective date.

In June 2019, a workgroup of cities met to review the current model ordinance and to review the provisions of HB 1403 and HB 1404 to implement changes to the model ordinance.

In September, after a series of meetings and an opportunity to get business community input, the workgroup finalized the model.



Association of Washington Cities · 1076 Franklin St SE · Olympia, WA 98501

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Association of Washington Cities
1076 Franklin Street SE, Olympia, WA 98501-1346
360-753-4137, 1-800-562-8981, fax: 360-753-0149

TAB - D



**CITY COUNCIL
AGENDA BILL
AB 19-85**

Meeting Date: November 4, 2019

AGENDA ITEM INFORMATION

SUBJECT: WS Parks beach gap road maintenance agreement.	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	DG
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
COST: N/A	Water/Wastewater Supervisor	
	Other:	
SUMMARY STATEMENT: Attached is an interagency agreement with Washington State Parks and Recreation to have the city maintain the Bolstad and Sid Snyder approaches for calendar years 2020 and 2021. This agreement has been in place for 20 plus years and has worked well for both parties. The duration and terms of the agreement have stayed the same.		
RECOMMENDED ACTION: Authorize staff to sign the agreement		



INTERAGENCY AGREEMENT
Between
WASHINGTON STATE PARKS AND RECREATION COMMISSION
And
CITY OF LONG BEACH

AGREEMENT NO. IA 921-051

THIS AGREEMENT is made and entered into by and between the Washington State Parks and Recreation Commission, hereinafter referred to as "State Parks," and the City of Long Beach hereinafter referred to as the "City".

IT IS THE PURPOSE OF THIS AGREEMENT to provide the professional expertise that does not exist within the limited staff availability of State Parks and that the City can perform on a mutually beneficial basis.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK

The City shall furnish the necessary personnel, equipment, material, and/or services and otherwise do all things necessary for or incidental to the performance of the work set forth in the below scope of work:

1. The Ocean Beach Approach (OBA), previously referred to as "gap roads", maintenance, defined as the section of the OBA that provides beach access between the November 11, 1889 line, or ordinary high tide or westerly from the last point of development or private access, whichever is furthest west and the existing high tide line as is now or may be.
2. The City shall continue to maintain all OBA roads at the expense of the City. The State, subject to the availability of State funds, shall reimburse the City for City maintenance during the fiscal years of 2019-2020 and 2020-2021, ending June 30, 2021, for the OBA roads as follows:

City of Long Beach

- (1) Bolstad – fifty (25) foot centerline of OBA
- (2) 10th Street – seventy-five total width, (37.5) feet centerline of OBA

3. The City will maintain the OBA roads designated by this Agreement for public access as needed for each individual OBA road. The amount of expected public usage will determine the degree of maintenance for an OBA. The City maintenance policy is to keep the OBA roads accessible when the OBA roads have high demand for usage and to not maintain when usage falls to low demand.
4. State Parks shall post the OBA roads with the necessary signs, covering such regulations of the State, now in effect, provided that the City will put up warning signs if the City determines that an OBA road is dangerous for current use, at any given time.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence August 1, 2019, and be completed on June 30, 2021, unless terminated sooner as provided herein. Agreement shall automatically expire on June 30, 2021, unless otherwise extended by amendment.

PAYMENT

Compensation for the work provided in accordance with this agreement has been established under the terms of RCW 39.34.130. The parties have estimated that the cost of accomplishing the work herein will not exceed **Eleven Thousand, And No/100ths Dollars (\$11,000.00)**. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount prior to the commencement of any work which will cause the maximum payment to be exceeded. Compensation for services shall be based on the following rates and in accordance with the following terms:

BILLING PROCEDURE

The City shall submit invoices no more often than monthly. Payment to the City for approved and completed work will be made by warrant or account transfer by State Parks within 30 days of receipt of the invoice. Upon expiration of the contract, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

RECORDS MAINTENANCE

The parties to this contract shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the state of Washington. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions.

Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

AGREEMENT ALTERATIONS AND AMENDMENTS

This agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

TERMINATION

Either party may terminate this Agreement upon 30 days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

INDEMNIFICATION

Each party shall be responsible for the actions and inactions of itself and its own officers, employees, and agents acting within the scope of their authority.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within fifteen (15) working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

GOVERNANCE

This contract is entered into pursuant to, and under the authority granted by, the laws of the state

of Washington and any applicable federal laws. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. applicable state and federal statutes and rules;
- b. statement of work; and
- c. any other provisions of the agreement, including materials incorporated by reference.

ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

PROJECT MANAGEMENT

The project representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Project Representative for the City is: David Glasson, Director, (360) 642-4421

The Project Representative for State Parks is: Jay Carmony, Assistant Region Manager, (360) 725-9773

IN WITNESS WHEREOF, the parties have executed this Agreement.

City of Long Beach

**Washington State Parks and
Recreation Commission**

By: _____

By: _____

Title: _____

Title: Chief Financial Officer

Date: _____

Date: _____

Approved as To Form:
William Van Hook
Asst. Attorney General
02/20/07

TAB - E

City of Long Beach Activities Report

September 2019

Water Dept.

Call Outs - 1 (Water Plant.)

Meetings - 11 (1) Staff / (1) Contractors / (1) Operators WTP / (1) Admin. / (5) Budget Meetings / (1) County Idaho project / (1) PUD Sid Snyder project / (1) Contractor DPW 67th project.

Safety Meetings - 1 (Hazard Communications.)

Plant Management - Paperwork / Time Cards / Monthly DOH Report / Monthly DMR's. / Monthly Report / Bills / Log Book / Called Locates / Reviewing ROW Permits / Plant Walk Through / Res Inspections.

Customer Service - 7 (4 Spot Flushing)

Locates - 15

Emergency Locates – 2 (PUD Sid Snyder project / 28th st nw.)

Re-reads - 7

Install New Meters - 4 (30th st nw.)

Meter Reinstall – 0

New Service Investigations – 4

Valve Investigation - 3

New Service Prep – 4

Valve Can Raising - 0

Meter Removal – 0

Meter Repairs - 5

Hydrant Maint. – 4 (16th st n / Pioneer rd / 9th st n / 6th st n.)

Shut Off's - 11

Emergency Shut Offs – 1

Turn On's - 4

Res. Checking - 2

Res. Maint. – 2 (Mowing & Weed Eating.)

Leak Repairs - 2 (30th st s / Quail ln (4").)

Leak Investigations - 1

Equipment Cleanup - 6

System Samples - Weekly entire system.

Samples to Lab - 2

Training - None.

Treatment Plant Numbers - 15,251,000 Gallons. (Approx, 508,400 Gal. / Day)

Other Activities –

Reading Meters. (Long Beach.)

Installing New Clear well Pump WTP.

Installed New Blow-off 37th st.

Timber Harvest Started.

Marking Dolman Water Line for Timber Harvest.

Checking Timber Harvest Progress.

Moving Pipe in Yard for Contractors,

Festival Setup / Tear Down (Labor Day / Rod Run / Geo Cache.)

Checking Drain Line Sid Snyder.

Sidewalk Repairs Sid Snyder.

USFW Meter Estimate.

Spot Flushing Water System.

Replacing Remote Read Meters.

Town Cleanup. (Trash)

Set Up Road Repairs Naselle Rock.

Pot Holing Water Line WWTP.

CL2 Samples for WTP.

Hydrant Repairs (16th st n / 6th st n / Pioneer Rd / 9th st n.)

City of Long Beach Activities Report

September 2019

Wastewater Dept.

Call Outs - 0

Meetings - 5 (1) Penn. Sanitation / (2) Tapani Construction Meetings / Evergreen Septic. / PUD Sid Snyder Project.

Safety Meetings - 1 (Hazard Communications.)

Plant Management - Monthly DMR's / Paperwork Review / Emails / Ordering Supplies / Engineers / 2020 Budget / DMRQA 39 for DOE.

Samples – Daily Tests / Twice Weekly Testing (BODs , TSSs , and Fecals.) / Bio-solids Report.

Customer Service - 2 (Jetting Customer Pipe Clean Outs 8th st n / 16th S & Idaho.)

Locates - 7 Emergency Locates – 1 (PUD Sid Snyder Project.)

Hauling Sludge - 23 Loads 6.47 Dry Tons.

Lift Station Checking - Daily Action. (inspection / cleaning transducers)

Lift Station Wash down - 2 Plant Wash Down - 2 Headworks , Clarifiers , UV Bulbs.

Samples to Lab - 2 (Monthly Ammonia / 3rd Quarter Digester / Soils Samples.)

Pump / Blower Maint. – 2 (Greased / Belts / Filters / Tubing / Oil Change.)

Sink Hole Investigation – 1

Main Repairs - 0

Equipment Cleanup - 2

Headworks Debris Removal – 8 Barrels Decanting Digester – 104,240 Gallons Supernatant ran back through plant. (Rain)

Training - John - Westport Visit for Compost Operations.

Tye - Westport Visit for Compost Operations.

Tye - Clarifier Operations / Grit Removal.

Treatment Plant Numbers – 5.43 Million Gallons. (Approx. 181,000 Gal / Day)

Other Activities –

Checking WWTP Construction Progress W/ Engineers.

Capping Old Sewer Lab Sewer Stub.

Talked to Evergreen Septic About Dump Station Location. (10k Donation Possible.)

Hauling Sludge.

Timber Harvest Started.

Checking Timber Harvest Progress.

Opened Old Sludge Site Gates.

Finding C/O 7th st ne / Jetting Line.

Removing Old Doors Big Shop.

12th st n Lift Station Rag Issues.

28th st n Lift Station Communications Fail.

Festival Setup / Tear Down. (Labor Day / Rod Run / Geo Cache.)

Main Computer Backup Weekly.

Monthly Fire Extinguisher Checkups.

Office Organization & Cleanup.

Mowing New Sludge Site.

2 New 3085 Flygt Pumps Delivered.

Received New Loader.

Circuit Board Failure UV Bank A , Ordered Replacement.

Cleaned Grit Clarifier / Pump.

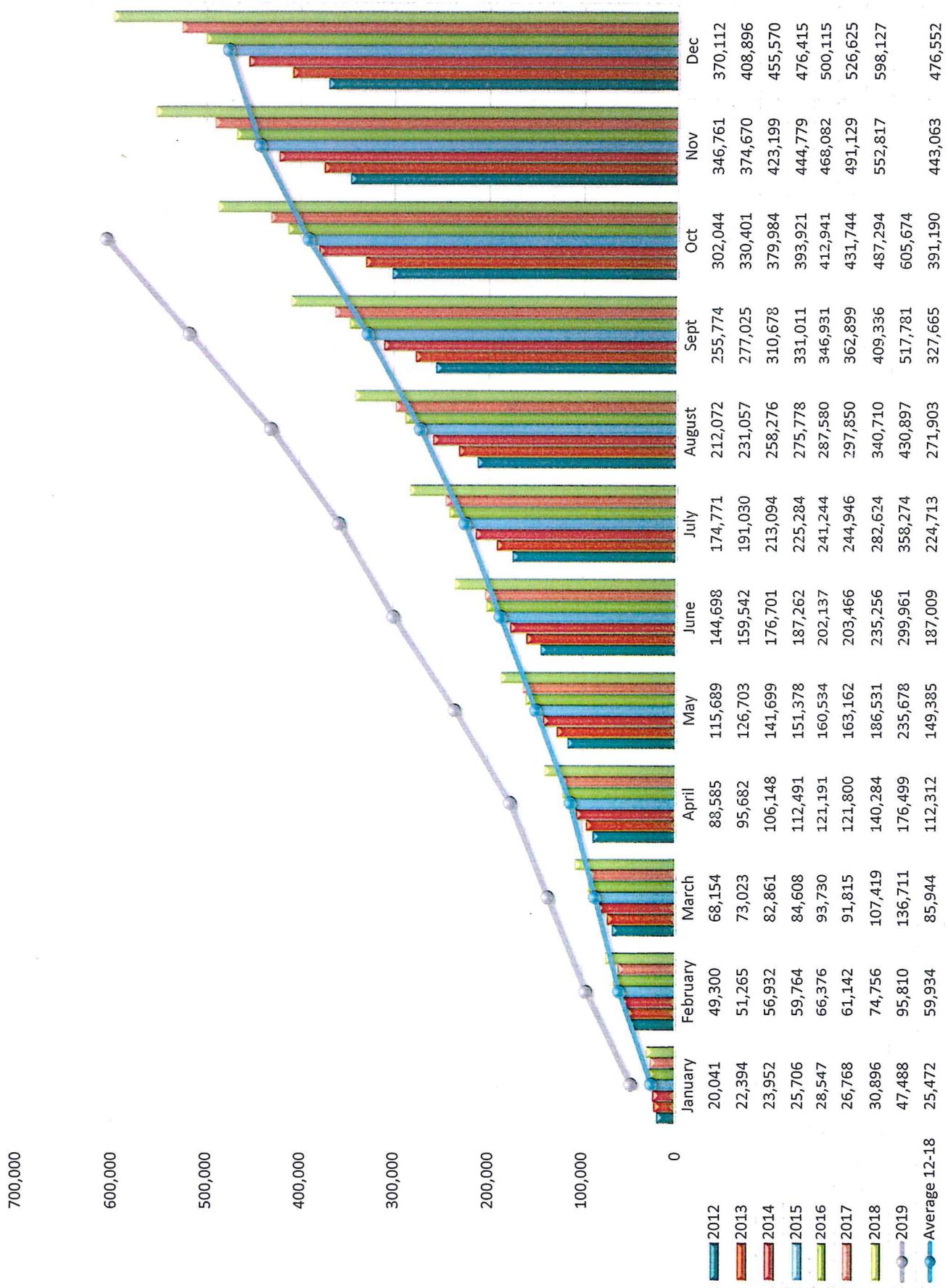
2nd Make Up for WP PH / Passed.

Installed New Winches On Pump Hoists.

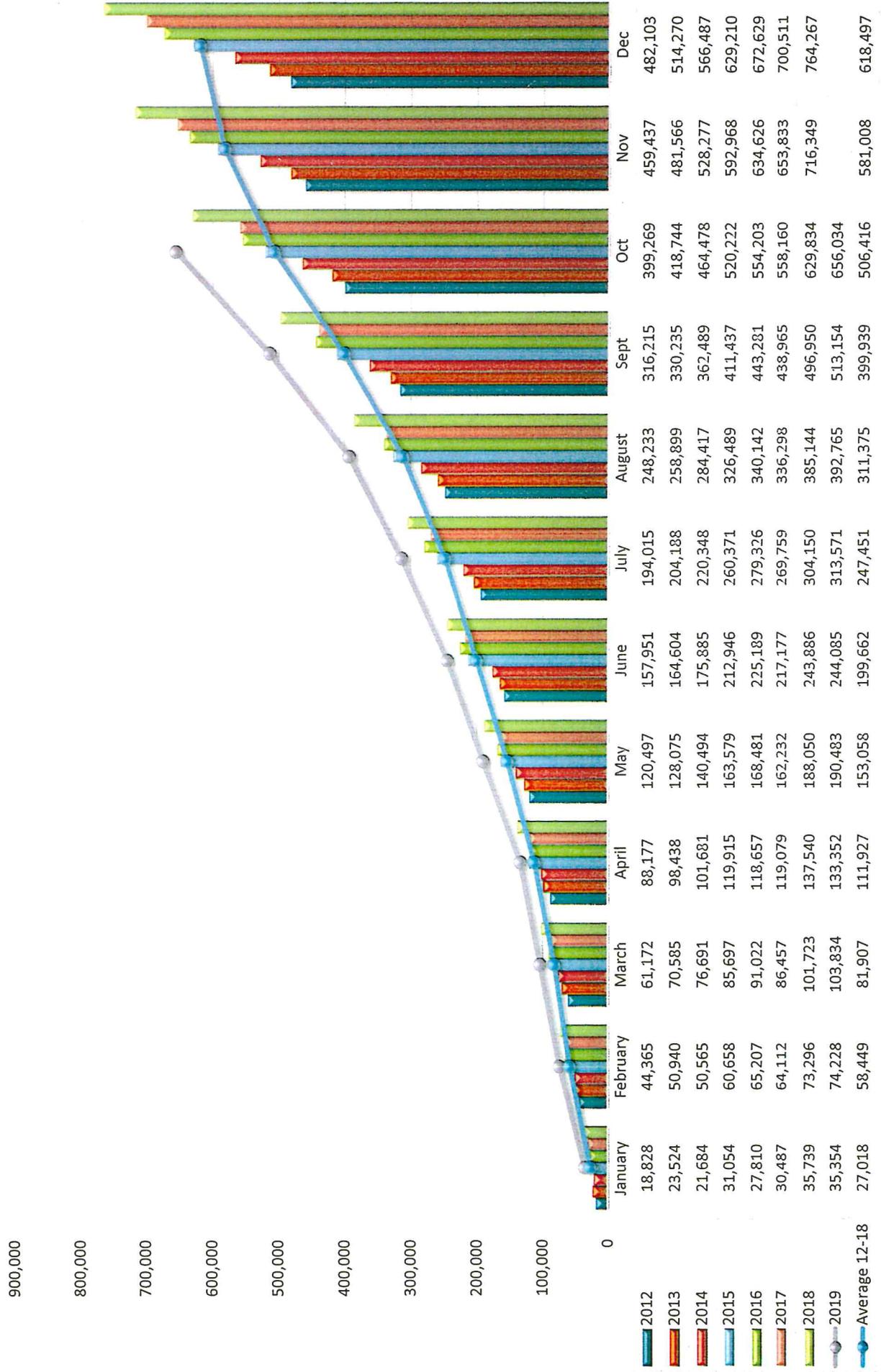
Repaired 2" Water Line By East Clarifier.

Removed Old Lab Backflow Device.

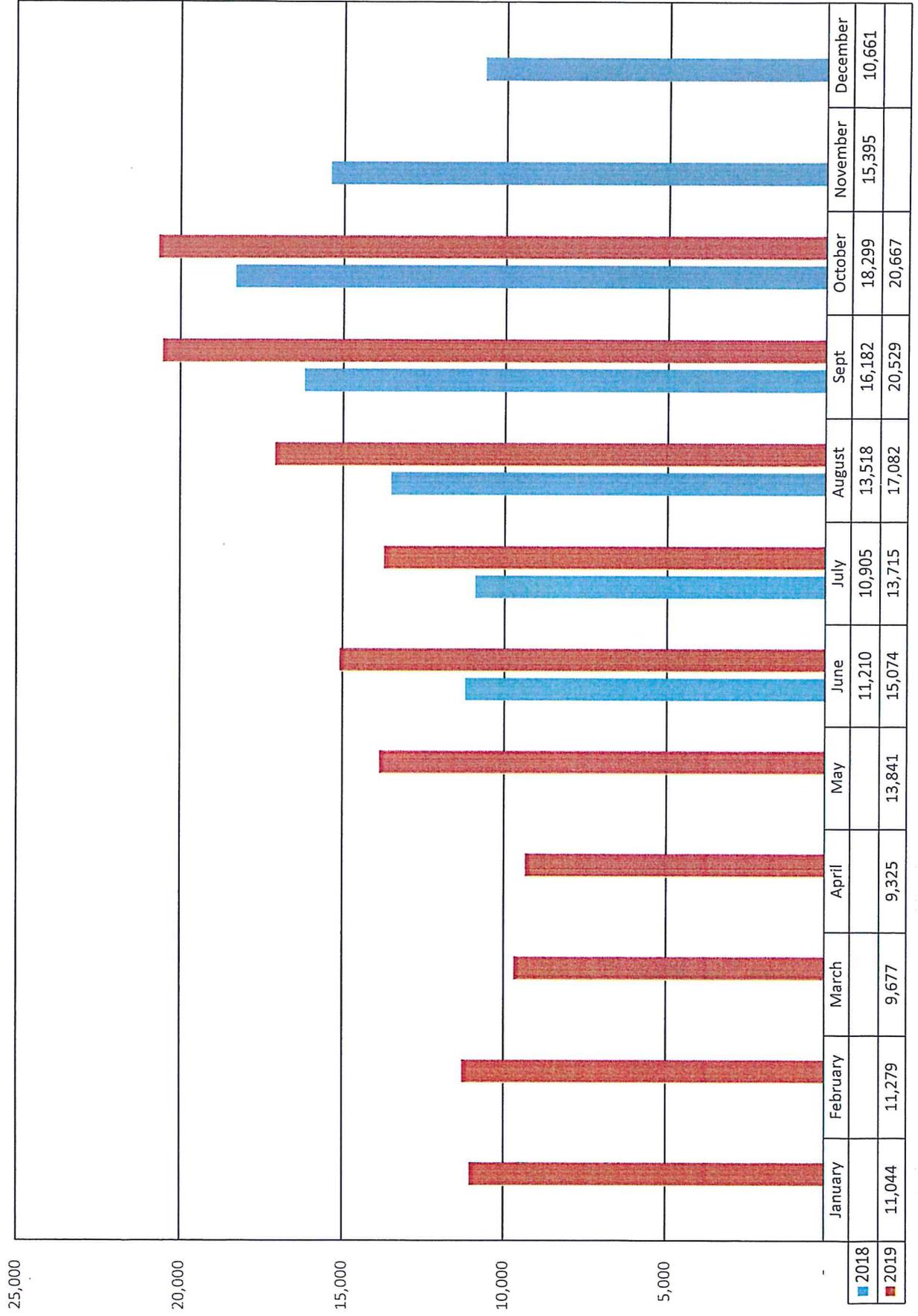
Sales Tax Collections



Lodging Tax Collections



Transportation Benefit District



A very special Thank-you to the Longbeach Water Department. Our water meter had begun to sink so we went to City Hall to see what we should do about it. The friendly people there reassured us that they would take care of it. We were very pleasantly surprised at how promptly, courteously and efficiently it was. The young man who came to fix the problem went right to work with no standing around or hesitation. They were helpful and polite and took care of everything in short order. What A Great Crew!! Bill & Bonnie

- Mayor Phillips -

Thank you for declaring Sept 2019 as
Childhood Cancer Awareness Month! Out
of 282 mayors I contacted, 62 joined our
efforts to bring awareness to the #1 killer
of children by disease in the U.S. I apologize
my 'thank you' is late. Sept is a busy month
for me. I hosted a blood drive with the
Saunders, we had 70 donors & I got my 2
gallon pin! I also held my 1st 'Lets Taco
For A Cure' fundraiser for Seattle Childrens
and raised \$4k! Your support means a
lot - my daughter, Layla (5) is a
survivor.

Again - thank you! You'll hear from me
again next year!

Jalee can -
Jessica Beckstrand

801-200-2288 - jbeckstrand4@gmail.com