

*Approved by Mercer Island City Council  
March 4, 2013*

## **THE CITY OF MERCER ISLAND'S WORK PLAN TO ADDRESS THE PROPOSED TOLLING OF INTERSTATE 90**

### **INTRODUCTION**

The Mercer Island City Council opposes the imposition of the proposed tolls on Interstate 90 in the Central Puget Sound Region. Tolls will have a significant financial impact on all those who live, work, visit, attend schools, or own businesses not only on Mercer Island, but throughout the region. The State's proposal to toll a federally-funded and completed interstate freeway to pay for improvements to a state-owned and operated highway is unprecedented. Moreover, it is based on a faulty assumption that I-90 and SR520 form a single transportation corridor (and as such are interchangeable), which is entirely incorrect as to Mercer Island travelers and many others who daily cross Lake Washington.

We recognize that the State has substantial need for additional revenue to fund multiple projects that have not been allocated sufficient funds by the Legislature for completion, including the Alaska Way Viaduct, the Columbia River Crossing and the replacement of the SR 520 Bridge. It is estimated that the gap in funding for the mega-projects could total over \$12 billion. In addition, the Legislature has not identified funds needed for ongoing highway maintenance and operation that have been estimated at over \$2 billion dollars. The focus on tolls will not solve this problem and only detracts from the urgent need to pursue long-term, systemic transportation funding solutions.

Tolling I-90 is a short-sighted option that could have unintended consequences on the communities in the region. For instance, tolls on I-90 will place a disproportionate burden on every visitor and person living, working, or attending school on Mercer Island, including those who attend religious services or patronize or run businesses on Mercer Island – a consequence that would not apply to any other community whose residents will be impacted by tolling. The State's tolling plan could result in Mercer Island residents, employees, and visitors paying more than 20% of the State's \$1.4 Billion (and climbing) budget gap for construction of the SR520 project. Tolling will result in significant adverse impacts to the local economy, the School District, City government, non-profit groups, and religious institutions. It will place a disproportionate cost on the many people who have no choice but to use I-90 to get on and off Mercer Island, as well as all employers that either employ people or are patronized by people who live off of Mercer Island. A preliminary list of these adverse impacts is attached as Exhibit A.

The City is committed to working with our residents, surrounding communities, federal, state and local governments, and other interested parties to achieve a result that recognizes the regional transportation challenges without disproportionately burdening one particular segment of society – those who are required to use I-90 to access their jobs, schools, homes, health care, places of worship, or service providers.

## **INITIAL WORK PLAN**

This multi-faceted Work Plan sets out Mercer Island's initial efforts to respond to the State's tolling proposal. It will need to be adjusted over time as issues evolve. At a high level, the primary components of the City's Work Plan include:

### **1. I-90 Steering Committee**

Ongoing City Council oversight of this effort is essential to ensuring that the City is effectively advocating its interests and coordinating with elected officials, businesses, citizens, and other organizations throughout the region. Given the dynamic and time-sensitive nature of the issues, this work will be coordinated through an I-90 Steering Committee appointed by the Mayor. The Deputy City Manager will serve as project manager and will provide staff support to the Steering Committee along with outside legal counsel, and selected consultants. The Steering Committee will not serve as a substitute for the full Council. Decisions regarding issues such as litigation and authorizing new appropriations will be made by the full Council. The Council will be routinely updated and their direction sought on the work under this Plan. These regular updates will include, but not be limited to, the status of work items and reporting on the project budget,

### **2. Form a well-qualified legal and expert team to develop and implement potential advocacy, legal and litigation strategies**

#### **A. NEPA**

- i. Engage qualified outside legal counsel to advise and represent the City in the National Environmental Policy Act process.** The City will continue to advocate its position in and monitor the WSDOT Environmental Assessment (EA) process and any subsequent environmental studies, which will include development of strategies regarding potential legal challenges to the process or decisions as necessary.
- ii. The City will aggressively advocate for the completion of an Environmental Impact Statement (EIS) instead of an EA.** Given the magnitude of the impacts and known public controversy, an EIS is the legally-appropriate method for analyzing the impacts and alternatives of tolling I-90 in the region. The City will advocate that WSDOT expand the study area for the EIS to include the region, and not just Mercer Island. Unlike an EIS, an EA will look only at a narrow range of options and alternatives and will not analyze impacts sufficiently. An EIS is also an appropriate approach to look at alternative means of financing the region's infrastructure. The City will advocate with its legislative delegation, WSDOT, and others to seek completion of an EIS with a thorough impact and alternatives analysis before any decisions regarding tolling are made.

- iii. **The City will continue to solicit public input to ensure all impacts are documented and considered.** The City's webpage will be updated to allow citizen input on this issue.
- iv. **Engage qualified experts to advise the City on how to quantify the impacts of tolling on our community and ensure that WSDOT properly conducts its analysis.** If the City concludes that the WSDOT analysis is not properly quantifying the impacts, the City's consultant may be asked to develop an independent impact analysis.
- v. **Fully participate in the EA process as a "cooperating agency."** This will allow Mercer Island early access to information and additional opportunities to advocate our position to WSDOT. Mercer Island has been granted cooperating agency status by WSDOT.
- vi. **Identify all tolling alternatives that are under discussion and ensure that WSDOT fully evaluates the impacts of such alternatives.**

## **B. Challenge Federal Approval of Tolling**

I-90 tolling may be implemented only if authorized by the United States Department of Transportation. Tolling an Interstate to pay for an unrelated project like SR520 is unprecedented. Approving tolling under these circumstances presents legal and policy questions of national significance and could open a floodgate of state governments tolling interstates to pay for a multitude of non-interstate projects. To address these issues the City will:

- i. **Work with outside expert legal counsel to analyze whether there is legal authority under federal law for tolling I-90.** This analysis will be used to develop federal lobbying and legal efforts.
- ii. **Engage a federal lobbyist with transportation expertise.** The lobbyist will conduct outreach to the United States Department of Transportation and Congress to raise concerns about the proposal to toll I-90 and ensure that the legal issues, impacts, and public policy implications are fully understood and considered.
- iii. **Meet with federal elected officials.** We will meet with members of Congress to reiterate concerns about the impacts to the region from the potential tolling of I-90.

## **C. Legal Remedies**

In addressing the significant impacts tolling will have on the region, it is important to ensure that legal requirements are followed and legal rights fully protected. Many aspects of the State's tolling proposal (including, but not limited to, environmental review, consultation under the 1976 Memorandum of Agreement, federal approval of tolling, etc.) involve legal issues and the possibility that only

through litigation will legal compliance and protection of the City's legal rights be assured. To this end, the City will:

- i. **Retain litigation counsel, when appropriate, to review these issues and, if necessary, pursue legal remedies including litigation.**
- ii. **Follow the pending Portsmouth, Virginia lawsuit and explore joining an amicus brief with other cities or civic organizations.**

### **3. Build Coalitions**

We will communicate our concerns to key regional leaders, governments, businesses and residents. The City's history in successfully addressing I-90 issues demonstrates the necessity of finding common ground to achieve fair outcomes. The City will enhance our relationships with other governments and their elected officials to respond to the State's plan, including:

- a. **Meet with senior elected officials from King County, Port of Seattle, City of Seattle, Bellevue, Issaquah, Newcastle, Renton and other impacted municipalities.** This will enable us to open lines of communication, provide information and determine areas of mutual interest. Some of this work is already underway. Timelines and strategy will be established as this plan moves forward.
- b. **Participate in I-90 Corridor Executive Advisory Group.** The Mayor will serve as the City representative with staff support as necessary. This group is an advisory only group established by WSDOT. The City will oppose any attempts to allow this group to serve as a substitute for, or act in the place of, the necessary consultation and concurrence process among the signatories to the 1976 Memorandum of Agreement.
- c. **Coordinated Outreach.** Develop a plan to identify and coordinate with governments, businesses, citizens, trade associations, community organizations, labor, ports, and other interested parties in conducting appropriate advocacy and outreach.

### **4. Legislative Outreach**

The ultimate decision to authorize tolling on I-90 rests with the federal government and then the Washington State Legislature. We have been advised by our State House and Senate delegation that the Legislature is very likely to recommend tolling of I-90. The authorization from the federal government has yet to be obtained, and would set a national precedent. Outreach to federal and state delegations is essential to address the potential federal decision regarding tolling. State and federal elected officials are critical components of the City's response to the tolling proposal. These efforts will include:

- a. **Hiring a lobbyist to determine the position of the Legislature and communicate the key issues and concerns to legislators.**
- b. **Communicate regularly with State legislators from the 41<sup>st</sup> District to ensure that our efforts are coordinated and oriented towards addressing the impacts of tolling on the Region.**
- c. **Solicit assistance from community leaders who are in a position to assist with these outreach efforts.**

## **5. 1976 MOA Consultation Process**

The 1976 Memorandum of Agreement provides the cities of Mercer Island, Bellevue, and Seattle, along with King County and Sound Transit, with certain rights regarding major changes to the operation of I-90. In particular, the State must consult with the signatories to that Agreement and seek concurrence to such changes to the extent allowed by law. To engage best in this process, the City will, in consultation with the Steering Committee:

- a. **Initiate the consultation process pursuant to the MOA at the appropriate time.**
- b. **Lead development of a strategic approach to this process with support from expert legal counsel.**

## **6. Citizen Engagement**

Of the utmost importance is the need to have continued dialogue with our citizens, engage our citizens in advancing the city's and region's interests, and provide regular informational updates to the public. Toward these ends, the City will:

- a. **Develop a public engagement plan that creates continued opportunities for council members to have direct dialogue and input with constituents at appropriate points in time.**
- b. **Establish an email distribution list of all interested citizens and businesses for sending regular updates about tolling and the City's work to address the issues.**
- c. **Develop an improved City webpage dedicated to tolling issues, which will include an easy mechanism for public input.**
- d. **Develop a communication plan that includes utilizing all feasible means to disseminate information (written, digital, using community and neighborhood organizations and through public meetings) and encourage citizen engagement with WSDOT and state or federal elected officials, when appropriate.**

## **7. Communication and Government Affairs Strategy**

To support the City's efforts to advocate for its citizens, it is important to develop appropriate communications to initiate adequate public discourse about transportation funding and the disproportionate impacts tolling will levy on the City and the region. A strategic communication plan is a necessary component to support successful implementation of all other elements of this Work Plan (i.e. advocacy, coalition building, lobbying, etc.). To this end, the City will:

- a. **Work with a government affairs and communication expert to develop a communication strategy involving key messages, stakeholder identification, and coalition building.**

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## **EXHIBIT A**

### **GENERAL IMPACTS IDENTIFIED TO DATE**

1. Financial impact on citizens
2. Financial impact on businesses including recruiting employees, retaining off-Island patrons, and receiving supplies
3. Financial impact on employees of Island businesses
4. Financial impact on School District and City employees
5. Difficulty recruiting and retaining high quality persons to work in the region and on Mercer Island
6. Impacts on interstate commerce into/out of Seattle
7. Impacts on senior citizens and others on fixed incomes
8. Decline in real estate values
9. Loss of access to healthcare and other essential services
10. Loss of business by on Island healthcare providers and other professionals
11. Loss of access to recreational opportunities
12. Loss of access to performing arts venues
13. Loss of access to sporting venues
14. Loss of access to civic events
15. Loss of access to shopping
16. Impacts on family relationships due to financial cost of visits
17. Impacts to youth sports and other opportunities
18. Impacts to religious institutions
19. Impacts those across the region who come to Mercer Island to dine and purchase kosher food at Island establishments.
20. People will move away from the Mercer Island and the region

21. Decline in revenue for School Districts and Cities in the region
22. Decline in revenue for MIYFS Thrift Shop and other regional social services and the corresponding loss of funding for social services
23. Decline in community and non-profit centers rental revenues
24. Impacts to private schools, such as St. Monica's, Northwest Yeshiva High School, the French American School and other private schools
25. Impacts to non-profit organizations like the Jewish Community Center, Youth Theatre Northwest and other non-profit organizations
26. Impacts to accessing educational opportunities in the region
27. Impacts to social services
28. Impacts to Covenant Shores, Aljoia, and other senior residences
29. Impacts on volunteer work in the region
30. Impacts to public safety response times in the region.
31. Impacts to public health from increased miles traveled to avoid tolls.
32. Impacts to green house gas emissions and the inability to meet state, county and local climate change goals
33. Impacts to water quality from increased stormwater pollutants from increase traffic volumes
34. Impacts to ESA-listed species from the degradation of water quality and riparian habitats
35. Impacts to public health from increased accidents and stress-related incidents due to increased traffic miles and congestion times.