

June 5, 2023

Mr. Ralph Rizzo
Division Administrator
Federal Highway Division, Washington State Division
711 Capitol Way S, Suite 501
Olympia, WA 98501

**Buy America Waiver Request: Public Interest
City of Mount Vernon, Washington
UEI: VTK4JLDAR7M7**

Mount Vernon Library Commons Project
TIFIA loan applicant,
USDOT Charging and Fueling Infrastructure (CFI) Discretionary Grant Program Applicant

Dear Mr. Rizzo:

The City of Mount Vernon is submitting a Buy America waiver “Public Interest” request and consideration of exigent circumstances.

Estimated value for all the parts subject to this waiver request is approximately \$374,930, which is **.97%** of total construction cost (\$38,527,409) and **.7%** of total project cost (\$53,452,505).

The City of Mount Vernon utilized the guidance provided by Ms. Shalanda D. Young in the [“Memorandum For Heads of Executive Departments and Agencies” M-22-11](#), dated April 18, 2022 as a basis for developing the Buy America waiver. As such, the City provides the following “detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States and a certification that there was a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with potential suppliers.”

The City is requesting a waiver is for the **Mount Vernon Library Commons Project (Project)** for manufactured products that are part of the elevator equipment, mechanical, electrical, and plumbing systems, and some architectural elements; all of which are rarely found in this capacity in a typical FHWA construction project. This is a building not a highway.

This visionary project fulfills Federal policy goals:

- Located in a Justice 40 community, historically disadvantaged



- Climate resilient architecture: Exceeds current energy code standards by 75%, Carbon reducing concrete mixes (by 35%)
- Largest EV charging station in USA
- Transportation oriented development

A. Project Identification: location and description

The project address is 208 Kincaid Street, Mount Vernon, Washington, 98273. GPS 48°25'02.6"N 122°20'13.5"W. The project serves the entirety of Mount Vernon, Washington, and greater Skagit County along Interstate 5. The project is in a Justice 40 tract.

B. Background

The Library Commons is a multi-story structure that includes multiple civic elements including a public parking garage, public library, community center, meeting rooms, commercial kitchen, public restrooms, STEM center, and public computing area. The regional EV charging infrastructure incorporated into the Commons is: Parking Garage over three floors of structured public parking, total of 269 parking stalls, 4 DCFC electric vehicle (EV) chargers, 74 Level 2 variable EV chargers at opening and constructed to transition to 8 DCFC and 192 Level 2 variable EV charging stations in the future, and nine electric bicycle charging lockers.

The Commons project was adopted in the city Transportation Improvement Plan & Capital Improvement Plan on June 23, 2021; Skagit Council of Governments Metropolitan Planning Organization Regional Transportation Plan (RTIP) on July 20, 2022; and the Washington State Transportation Improvement Plan (STIP) on August 11, 2022.

The Commons project EV charging volume is the largest in the United States and will serve workforce, residential, tourist, business, city fleet, commuter, and Interstate 5 traveler charging needs in one project. The Commons project is also referenced in the Washington State Plan for Electric Vehicle Infrastructure Deployment– and is aligned with Interstate 5 and Alternative Corridor Washington State Route 536. As public infrastructure, the Commons will provide 24/7 access to EV charging that is in compliance with the National Electric Vehicle Infrastructure (NEVI) standards and requirements.

The Commons project is highly visionary and unique. The design and construction technique are groundbreaking in carbon reduction & climate resiliency. The project began with conceptual design in 2018 and advanced to design/engineering in mid-2021 after the property was acquired. The project was in the early design phase in late 2021 when the Bipartisan Infrastructure Law was passed and inspired our community to incorporate the largest EV charging facility in the United States. *The city began pursuing federal financial assistance in 2021, to include applying for a USDOT, Build America Bureau, Transportation Infrastructure Finance, and Innovation Act (TIFIA) loan.*

On May 11, 2022, the city received a provisional determination that we were eligible for the TIFIA loan program.

The city was awarded \$3 million in federal funding through FY 2022 Community Project Funding grant agreement B-22-CP-WA-0938 administered by the Department of Housing and Urban Development (HUD). The city successfully completed NEPA (through HUD) in July 2022. The project was bid under a competitive procurement process in July 2022. The City is currently under contract with Lydig Construction for the construction that began in September 2022 and is scheduled to be substantially complete in March 2024.

On January 18, 2023, the city received notice from USDOT Build America Bureau that our project was advancing to the creditworthiness review phase for potential credit assistance from the TIFIA program.

- The Project is striving to be the first 'civic' project (multi public use that includes surface transportation infrastructure) funded by TIFIA.
- It is our understanding that the Department of Transportation's Build America Bureau is attempting to make the TIFIA financing more accessible to small communities through the Rural Project Initiative. This new initiative places an emphasis on rural America's transportation needs and offers some significant benefits and savings to rural sponsors.

As of this request, the project is 25% completed construction.

On May 31, 2023, the City of Mount Vernon submitted an application to the USDOT FHWA for a Community Fueling Infrastructure grant for \$12,500,000.



Project Cost: \$53,452,505. Current construction contract amount of \$38,527,409

C. Federal funding

The City of Mount Vernon finds itself in a highly unusual situation. Our project is competing for federal funds from multiple agencies, and subject to highly complex and conflicting determinations of federal compliance including NEPA and BUY AMERICA, BABA.

We have NOT secured USDOT funding yet. We are seeking financial relief from the TIFIA program and have applied for the USDOT Charging and Fueling Infrastructure (CFI) Discretionary Grant Program Application, Community Program AND/OR Corridor Program, Funding Opportunity 693JJ323NF00004.

Federal awarding agency organizational information: unknown
 Financial assistance listing name and number: unknown
 Federal Award Identification Number (FAIN): unknown
 Federal financial assistance funding amount: unknown

Total cost of infrastructure expenditures, including all Federal and non-Federal funds:

Final Budget Project Cost		\$ 53,452,505	
Sources		Non-Federal	other Federal
Federal	I Community Directed Spending - HUD I		\$ 2,000,000
Federal	CDBG - Section 108 Loan		\$ 1,700,000
City	City REET	\$ 12,500,000	
City	City GF (TIFIA Loan less LIFT funding)	\$ 2,565,820	
City	Cash (LIFT and REET match)	\$ 1,843,818	
City	General Fund - Permit Reimbursement	\$ 300,000	
City	Transportation Benefit District	\$ 500,000	
City	Lodging Tax	\$ 250,000	
City	Government Access Fund	\$ 200,000	
City	Surface Water Utility	\$ 166,875	
City	Fiber Optic Fund	\$ 90,000	
City	Wastewater Utility	\$ 50,000	
City	General Fund - Reserves, Property Tax	\$ 6,000,000	
County	Skagit County Economic Grant - 2021	\$ 500,000	
County	Skagit County Economic Grant - 2022	\$ 500,000	
County	Skagit County Economic Grant - 2023	\$ 250,000	
SCOG	Carbon Reduction grant	\$ 550,000	
SCOG	Transportation Alternatives	\$ 160,000	
Non-profit	MV Library Foundation	\$ 3,000,000	
State	WA State LIFT Award	\$ 12,500,000	
State	WA State Capital Grant 2022	\$ 4,000,000	
State	WA State Commerce Grant 2020	\$ 2,000,000	
State	WA State Commerce Grant 2019	\$ 1,000,000	
State	WSDOT Design Grant	\$ 250,000	
Total Sources		\$ 49,176,513	\$ 3,700,000

D. Justification for Waiver Request:

Utilizing criteria provided in “[Memorandum For Heads of Executive Departments and Agencies](#)”, the City affirms its eligibility for a waiver from the Buy America requirements for this specific project on the basis of **public interest** due to:

1. Federal Grant funding timing: The city began pursuing federal financial assistance in 2021, to include applying for a USDOT, Build America Bureau, Transportation Infrastructure Finance,

and Innovation Act (TIFIA) loan and is now ready to enter credit worthiness portion. In addition, the city has applied for the USDOT Charging and Fueling Infrastructure (CFI) Discretionary Grant Program Application, Community Program AND/OR Corridor Program, Funding Opportunity 693JJ323NF00004.

2. When a project is so amazing that it is awarded multiple Federal agency funding – the jurisdiction should not be burdened by different and conflicting interpretations for Buy America requirements that are unachievable. Buy America interpretations should be consistent across all Federal agencies. The city will forfeit any USDOT funding if a waiver cannot be granted, losing millions of dollars in aid and local taxpayer relief.
3. Product delivery: Several of the items in the waiver request have significantly long lead times. Ceasing or delaying construction would cause extraordinary costs to the city.
4. Construction schedule: The project is under construction and approximately 25% complete. Construction began after the city obtained NEPA permitting and US Department of Housing and Urban Development approval in July 2022.
5. Federal policy goals that are fulfilled with the project:
 - a. Climate resiliency: The Project is designed to Passive House standards, greatly exceeding energy code, outpacing performance standards by 75%. The concrete mix was specifically designed to reduce carbon impact, lessening embodied carbon by 35%. The Project is a shelter for severe heat, severe cold, and wildfire smoke events.
 - b. Justice 40 investment: The Project is located and serves a Justice 40 community. The Project is a unique mixed civic use, not a typical sole transportation project.
 - c. EV charging: The Project is the largest EV charging station in the USA
 - d. Transportation Oriented Development: The Project is mixed use, serving as parking/EV charging for multi-family housing in the historic downtown core.
6. Non-availability of comparable products that comply with the Buy America provisions: The Project’s visionary design required products that are not readily manufactured in the USA due to how the project exceeds standards.

Additional considerations for a Public Interest waiver:

1. De Minimis: *Ease of administration is important to reduce burden for recipients and agencies. Federal agencies may consider whether a general applicability public interest waiver should apply to infrastructure project purchases below a de minimis threshold. An agency may consider whether a public interest waiver should apply when necessary to ensure that recipients and Federal agencies make efficient use of limited resources, especially if the cost of processing the individualized waiver(s) would risk exceeding the value of the items waived.*
 - a. **Mount Vernon is a Justice 40, overburdened and disadvantaged community. The city has spent nearly \$75,000 for the time of the project manager, mayor, public works**

director, city staff and construction specialists to gather information required to prepare a waiver request and analyze alternatives. The anticipated cost of items requesting waiver is \$374,930, which is .97% of total construction cost (\$38,527,409). Publicly bid projects do not have specific costs outline until construction – bids are lump sum. Finding details of pricing and Buy America documentation & FHWA requirements has become nearly impossible for the listed items.

2. Adjustment Period: *Agencies should consider whether brief, time limited waivers to allow recipients and agencies to transition to new rules and processes may be in the public interest.*
 - a. **The publicly bid construction contract began in September 2022, before rules have been finalized, guidance published, standards adopted, and grant programs announced. Underground utilities have been installed, slab on grade has been poured, and the contractor is working on the vertical structural elements of the project. The building systems have been modeled using BIM, and numerous products have already been purchased.**
3. Other Considerations: *Policy considerations, including sustainability, equity, accessibility, performance standards, and the domestic content (if any) of and conditions under which the non-qualifying good was produced.*
 - a. **The Project is a unique mixed civic use, not a typical sole transportation project like a highway. Mixed use of civic space requires plumbing, HVAC, significant electrical loads, and elevators. FHWA Policy does not effectively consider this type of manufactured goods in a construction project. This project is designed to Passive House Certification, a higher energy standard than American building code. The very equipment required is fulfilling climate resiliency goals in construction techniques, and standards not yet adopted in building code, but used widely in Europe. We should not be penalized for going above and beyond standards to achieve lower energy use and achieve climate resiliency.**

Please note that the overwhelming majority (> 98%) of manufactured products included in this project meet the 100% of iron and steel materials are Buy America compliant, and that a small fraction (< 2%) of manufactured products require a specific targeted waiver.

The construction Contract specifies that the Project is partially funded with federal funds.

The Contract Bid Documents and drawings include the complete design of the exterior, and interior of the Mount Vernon Library Commons. The entire structural steel frame for the entire facility will be fabricated from domestic steel and iron products. The Contract requires the Contractor to engage companies with expertise in the construction of a multi-use civic structure with an incorporated garage facility that includes the latest EV charging technology which is necessary to develop the design and integration of a variety of systems and components, to assure their viability and guarantee their performance. The Contract also specifies performance criteria for all associated component parts, ensuring system integration and operability, and the ability to incorporate future scalable and iterative smart building AI technology.

Products for which a waiver from the Buy America requirements is being sought are as follows:

General Category: ELEVATORS

1. Elevator Conveying Equipment

There are two hydraulic elevators included in this project to serve the parking garage. The specified elevators manufactured by TKE in the United States and would qualify as compliant manufactured products under the Build America, Buy America Act as they are sourced from approximately 80% domestic components. However, under FHWA interpretations, the city is seeking a waiver as the supply chains for some of the components of these elevators are foreign and untraceable for origin. Each elevator is made up of thousands of individual components, and the city is unable to source 100% of the elevators domestically. Final assembly USA. BABA Compliant.



2. Elevator sump pump

The sump pumps are required by code for each elevator pit. There are no alternative means or products that could be utilized and achieve the same results. Final assembly USA.



General Category: HVAC

3. Direct-Digital Control (DDC) System for HVAC

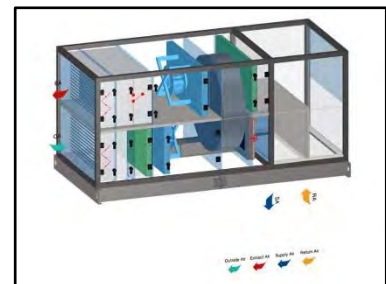
Due to FHWA interpretations, a waiver is required for parts of this system including the enclosures and some minor electrical components of the system. It would be impractical, expensive, and not in the public’s interest to deviate from the Siemens system that the city already operates. Additionally, there are no known FHWA Buy America compliant manufacturers of DDC systems that meet the project requirements.

4. Hydronic Pumps

These are integral to the hydronic HVAC system, and there are no alternative means or methods to employ that would eliminate their use. These were ordered very early in the project and are in the possession of the mechanical subcontractor. These are also a long-lead item at 16+ weeks from time of approved submittals.

5. Energy Recovery Air-Handling Units

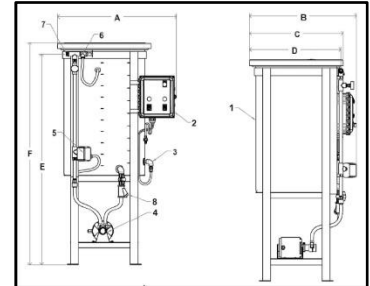
A waiver is required for the DOAS units according to FHWA interpretation. The DOAS units are the centerpiece of the HVAC system and are required to meet the energy model and Passive House Certification standards of the project. Eliminating these from the project would cost the project hundreds of thousands of dollars as we would need to stop construction in progress and completely redesign the entire HVAC system, along with the plumbing, electrical, structural, and architectural disciplines. The DOAS units provide for a



highly efficient HVAC system while also contributing to improved indoor air quality by supplying constant fresh air to the Library Commons portion of the project. There are no known domestic manufacturers that produce DOAS units in sufficient numbers and comparable quality to the ones for which we seek a waiver. They are BABA compliant, Final assembly in USA.

6. Glycol Feeder

Manufacture states compliance with American Recovery and Reinvestment Act, Section 1605, but not FHWA interpretation. These are integral to the HVAC system as part of the Library Commons portion of the project and would not operate without them. Final assembly USA.



7. Split-System Air Conditioners

A waiver is required for these highly efficient (22.5 SEER) split-system air conditioning units. They provide code-required HVAC in the elevator machine rooms, electrical rooms, and MDF room. There are no known domestic manufacturers of split-system air conditioning units that comply with FHWA's Buy America requirements. In 2016, Federal Transit Administration issued a waiver for similar units to the Indianapolis Public Transportation Corporation finding that the materials for which the waivers are requested are not produced in the United States in sufficient and reasonable quantities and of satisfactory quality.



8. Coalescing Style Air & Sediment Separator

The air & sediment separator is integral to the hydronic HVAC system which is integral to the Library Commons portion of the project, and there is no alternative means to achieve what this manufactured product does. Final assembly USA.



9. Air Source Water Heat Pumps

These heat pumps are critical to meeting the energy modeling for this project. As mentioned above, the project is being built to achieve Passive House Certification which requires highly efficient HVAC systems to reduce overall energy consumption of the building. These heat pumps have been sized and specified for this project, and no known domestic manufacturer exists which can provide these products.

10. Fan Coil Units (FCUs) Nailor

Compliant with BABA, none complied with FHWA's Buy America requirements.

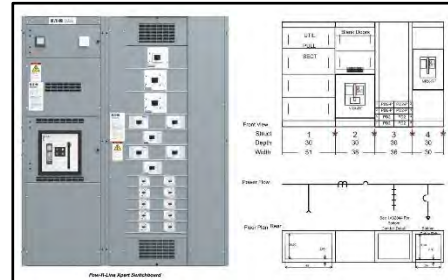
11. Fan Coil Units (FCUs) Daikin

Daikin is the only manufacturer that was able to provide FCUs that meet the project requirements for efficiency, size, and capacity for the large public meeting rooms in the Library Commons area. These units have already been ordered and have exceptionally long lead times of at least 24-26 weeks.

General Category: ELECTRICAL

12. Electrical Switchboards

Puget Sound Energy (utility) requires. Significant lead time (16-20 months). The National Electrical Manufacturers Association have notified the Director for the Made in America Office other this type of issue and non-availability. No manufacturer could meet the timeline of construction. We cannot wait for more than a year for these items.



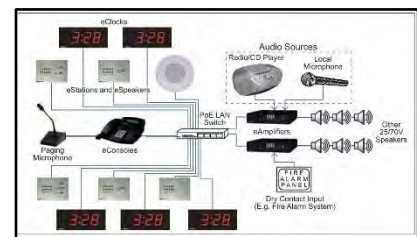
13. Electrical panelboards

Puget Sound Energy (utility) requires. Significant lead time (16-20 months). The National Electrical Manufacturers Association have notified the Director for the Made in America Office other this type of issue and non-availability. No manufacturer could meet the timeline of construction. We cannot wait for more than a year for these items.



14. Intercom System

Due to FHWA interpretation, a waiver is required for parts of this system – the speakers, back boxes for the clocks and speakers, and enclosures. It would be impractical, expensive, and not in the public's interest to deviate from the Telcor system that the city already operates. Avoiding the need for a waiver would require that either the city not include this system or utilize a stand-alone system that would be incompatible with its current system. It is not clear whether there are FHWA compliant products available that would be able to supply the intercom and clock system.



15. AV System wall rack

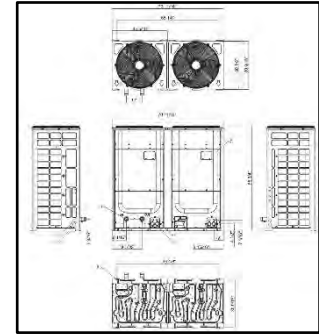
Complies with United States Trade Agreements Act (TAA) of 1979. A domestic manufacturer that complies with FHWA's Buy America requirements has not been found.



General Category: PLUMBING

16. Hybrid electric heat pump water heaters

The water heaters serve the Library Commons portion of this project, and the heat pump design is critical to the energy efficiency requirements of this project. AO Smith has begun moving production to American manufacturers, however those products will not be available until likely the first quarter of 2024, though AO Smith cannot guarantee that timeline.

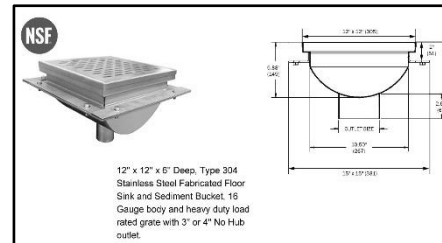


17. Reduced Pressure Backflow Preventer (RPBP)

Specified by Skagit Public Utility District (water utility). The specified part is lead free, meets the performance requirements of the project, and is also listed on the USC Foundation List of Approved Backflow Prevention Assemblies as required by the 'Authority Having Jurisdiction', Skagit Public Utility District.

18. Floor sinks

This product is required for the commercial kitchen portion of the project. No FHWA Buy-America compliant bids were received in response to the project solicitation. The manufacturer confirms compliance with BABA.



General Category: ARCHITECTURAL & STRUCTURAL

19. Fasteners for metal wall panels and metal roof panels

FHWA Buy America compliant alternatives to the specified fasteners would include a carbon steel version. However, a carbon steel version is not of the same quality as a stainless-steel version and has a much greater probability of corrosion over time. These will be installed outdoors and exposed to the elements in the Pacific Northwest, a carbon steel alternative is not in the public interest. Another alternative might be hot dip galvanized coatings per ASTM A153, however there are not domestically manufactured, commercially available hot dip galvanized self-tapping screws with a zinc coating greater than .8 mils, which does not equal the ASTM A153 specification of 1.4 mils. No FHWA compliant Buy-America compliant bids were received in response to the project solicitation. Suppliers state the steel is untraceable for compliance.



20. Fasteners for terra cotta sun control devices

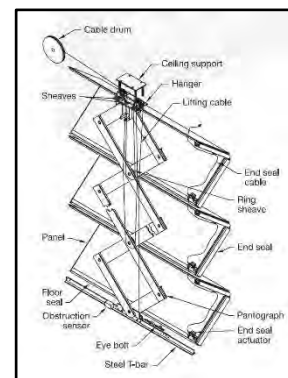
There is no way to avoid a waiver for these fasteners. The terra cotta screening is for the parking garage and has gone through extensive design review with the Authority Having Jurisdiction (AHJ). Switching to a different system would jeopardize the project, require extensive redesign, stop construction in progress on site, and cost the project hundreds of thousands of dollars. FHWA Buy America compliant alternatives to the specified fasteners would include a carbon steel version, or a stainless-steel version.



However, a carbon steel version is not of the same quality as a stainless-steel version and has a much greater probability of corrosion over time. As these will be installed outdoors and exposed to the elements in the Pacific Northwest, a carbon steel alternative is not in the public interest. Another alternative might be stainless steel fasteners, but these would corrode the aluminum attachments on the terra cotta materials. The manufacturer is unable to provide non-aluminum attachments that would also meet FHWA Buy America requirements, thereby increasing the overall amount of foreign iron/steel in this project. No FHWA compliant Buy-America compliant bids were received in response to the project solicitation. Suppliers state the steel is untraceable for compliance.

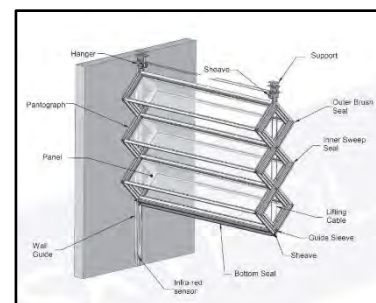
21. Skyfold Classic Automatic Vertically Retractable Acoustic Wall

The design team specified a vertical folding partition in this location to maximize the useable space in the community meeting rooms 140 & 138. There are no alternatives which are of satisfactory quality. Alternatives would include an extensive redesign of the entire space (including architectural, structural, and electrical engineering), and every alternative would reduce the programmed space and availability of the community meeting rooms. Maximizing the occupancy of these spaces was a critical design decision as in addition to the normal use of community meeting rooms, these spaces are also intended to provide emergency shelter space during extreme heat/cold events. No FHWA Buy-America compliant bids were received in response to the project solicitation.



22. Skyfold Mirage Folding Glass Panel Partition

The design team specified a vertical folding glass partition in this location to maximize the useable space in the community meeting rooms 140 & 138, providing the ability to add overflow capacity via the Commons area 141. There are no alternatives which are of satisfactory quality. Alternatives would include an extensive redesign of the entire space (including architectural, structural, and electrical engineering), and every alternative would reduce the programmed space and availability of the community meeting rooms.



Maximizing the occupancy of these spaces was a critical design decision as in addition to the normal use of community meeting rooms, these spaces are also intended to provide emergency

shelter space during extreme heat/cold events. No FHWA compliant Buy-America compliant bids were received in response to the project solicitation.

23. Uni-Strut anchors

We have reached out to several other manufacturers, and none that were contacted are able to provide FHWA Buy America compliant wedge anchors with the same certifications and performance requirements needed for the Uni-strut system. Requirements include UL listing, ICC compliance, MFMA-4 compliance, and ASTM B633 compliance. **The Uni-strut system itself is compliant, but these fasteners are not.** These types of fasteners are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.



General Category: LIFE SAFETY

24. Fire Alarm system

Silent Knight Fire Alarm System, this is one part of the project in which a propriety product was required to be specified for this project. The City’s current fire alarm systems are through Silent Knight, and this project is required to integrate with the City’s existing fire alarm system. It would be impractical, expensive, and not in the public’s interest to deviate from the Silent Knight system that the city already operates.

D1. Cost of Waiver Items:

Estimated value for all the parts subject to this waiver request is approximately **\$374,930, which is .97% of total construction cost (\$38,527,409) and .7% of total project cost (\$53,452,505).** See Attachment 3 to this letter for additional information on each of the products for which a waiver is being requested.

D2. Country of Origin:

Item number	Proposed Supplier	Part Number	Country of Origin (Final Assembly)
1	TKE	TKE Endura 21B type elevators (2)	USA - approximately 20% of components are foreign steel product
2	Bell & Gossett	Bell & Gossett Elevator sump pump model ELKT2EC0512 (2)	USA, New York - Foreign cast iron product
3	Siemens	Direct-Digital Control (DDC) System for HVAC	Foreign Iron/Steel in manufactured product
4	Taco	Taco base mounted pumps model FI2511D	Final assembly in USA. The foreign sourced iron/steel are in the stainless steel shaft and cast iron casings.
5	Geniox (Systemair USA)	Geniox GNX10 ILDH 02EC1 NCHW2 and GNX10 IRDH 02EC1 NCHW2	Ontario, Canada
6	J.L. Wingert	J.L. Wingert Glycol Feed System and chemical pot feeder - GL50-E	Final assembly USA. The units are manufactured in Buffalo, NY, but the coatings are applied overseas.
7	LG	LG split system air conditioners (22.5 SEER)	Foreign steel in manufactured product
8	Bell & Gossett	Bell & Gossett Coalescing Style Air & Sediment Separator Model CRSN-4F	USA, New York - foreign steel in manufactured product
9	Samsung	Samsung model AG015KSVAFH/AA air source water heat pumps (4)	Foreign steel in manufactured product
10	Nailor	Nailor Fan Coil Units (18)	Compliant with BABA - Final manufacturing takes place in USA, some foreign iron/steel components.
11	Daikin	Daikin Fan Coil Units (2)	Mexico
12	Eaton	Eaton switchboards for which we are requesting a waiver. Models: SWBD H1-PRLX, SWBD HXE-PRLX, L2-PRLX, L3-PRLX (4)	Taiwan
13	Eaton	Eaton panelboards (24)	Taiwan
14	Telecor	Telecor E Series system	Foreign steel in manufactured product
15	Middle Atlantic	Middle Atlantic DWR-24-22 wall rack	Foreign steel in manufactured product
16	AO Smith	AO Smith CAHP-120 heat pump water heaters	Foreign steel in manufactured product
17	Watts	Watts Series LF909 Reduced Pressure Zone Assemblies	USA - foreign steel/iron product
18	J.R. Smith, Sioux Chief Manufacturing	Lacquered cast iron body with dome strainer and seepage flange	BABA compliant. Foreign steel in manufactured product
19	Concealor	Concealor 410 stainless steel fasteners and pancake head fasteners, both self-tapping.	Foreign steel in manufactured product
20	Blazer	Self-tapping galvanized fasteners	Foreign steel in manufactured product
21	Skyfold	Skyfold Classic Automatic Vertically Retractable Acoustic Wall: Within this wall system, the following components are sourced from foreign iron/steel: steel framing, steel faced acoustic panels, steel hangers, and galvanized steel cable all as part of the overall assembly	Canada
22	Skyfold	Skyfold Mirage Folding Glass Panel Partition: Within this wall system, the following components are sourced from foreign iron/steel: Steel hangers, and galvanized steel cable all as part of the overall assembly.	Canada
23	Hilti	Hilti Bolt Tz2 Wedge Anchors, made of carbon steel	Austria
24	Honeywell	Silent Knight 6820	USA manufactured with foreign steel product

E. Certification that the City has made a good faith effort to solicit domestic products:

I certify that both the Contractor and the City contacted numerous manufacturers of the products included in this waiver request. The city and its consultants conducted an independent search for these products with distributors, manufacturers, and contacting smaller but reputable manufacturers with whom they have previously worked, to locate Buy America compliant products. Neither the Contractor nor the City nor the City's consultants were able to locate any domestic manufacturers or fabricators of the above listed products that were able to provide Buy America compliant products that satisfy the Mount Vernon Library Commons design needs.

F. Anticipated Impact if no Waiver is Issued.

Forfeit the TIFIA loan: if the waiver is not awarded the city would be unable to utilize the TIFIA loan and incur significant cost increase of approximately 10% or \$5 million in financing fees and interest without the benefits of the TIFIA Build America Bureau loan product

Forfeit any USDOT grant funding: if the waiver is not awarded the city would forfeit up to \$12,500,000 in grant funding if awarded under the USDOT CFI program.

G. Redesign Using Alternate or Domestic Product:

The MVLC project design and construction technique is groundbreaking in carbon reduction & climate resiliency. The design is well beyond current USA and Washington building and energy code. The components designed are required to achieve such groundbreaking carbon reduction and climate resiliency in energy savings. The components are required for the system to function and cannot be revised or eliminated. There are no alternative domestic products that can meet the achieved energy use design. Any potential domestic substitutions will negate all climate resiliency achievements. The Contractor and city were unable to locate domestic manufacturers for the products that are listed in the waiver request.

Alternative equipment was considered during the design phase. Use of traditional equipment would not yield climate resiliency.

Custom manufacturing of the proposed products is not feasible. The existing manufacturers that can provide these products have developed these specialty components to be of the highest quality and performance. In addition, replacement components would not be readily available in the event of a component failure, and the amount of maintenance would certainly increase because of the unknown reliability and life span of such components.

The products listed in this waiver request have a proven history and are readily available when their replacement or maintenance is required in the future. In addition, these products have been evaluated in similar applications to prove their reliability in their utilization in the traveler access system. Finally, the identified products are of utmost strength, quality, and durability that are required by the design performance criteria of the traveler access system and, they are covered by the manufacturer's warranty as required by the Contract.

The highly specialized products described in this letter and included in the attachment are needed to complete the Project. Based on an extensive but unsuccessful search for manufacturers of such products that could certify these products' compliance with the Buy America requirements, the city has determined that there are no manufacturers of these products that can comply with the Buy America requirements.

G. Waiver Request:

Time is of the essence regarding this request. The city respectfully requests that Transportation Secretary Pete Buttigieg grant a waiver to the Buy America Act requirements pursuant to 23 CFR 635.410 AND [Guidance provided by the Executive Office of the President, Office of Management and Budget, Memorandum 22-11](#). **The City is requesting this waiver be “an urgent need in an unforeseen and exigent circumstance, in which” according to guidance from the Executive Office of the President, Office of Management and Budget, “agencies have the authority to waive the application of Buy America preferences without submitting the waiver for public comment and MIAO determination. IIJA, § 70937(b)(2).”**

The City requests the Federal Highway Administration, Washington Division support this request and acknowledges that “an agency that issues a waiver without first seeking public comment and MIAO approval must, within 30 days of the waiver’s issuance, submit a report to MIAO explaining its reliance upon the ‘unforeseen and exigent circumstance’ exception.”

We would be grateful for any action taken to expedite your determination.



Jill Boudreau
Mayor
City of Mount Vernon
910 Cleveland Avenue
Mount Vernon, Washington, 98273
Email: cjillb@mountvernonwa.gov
Phone: 360-336-6211

CC: Senator Maria Cantwell, Senator Patty Murray, Representative Rick Larsen
Attachment 1: Letter Dated May 11, 2022: Preliminary Determination Letter
Letter Dated January 18, 2023: TIFIA Letter of Interest
Attachment 2: Excel workbook with each item details



U.S. Department
of Transportation
Office of the Secretary
Build America Bureau

Executive Director

1200 New Jersey Ave. SE
Washington, DC 20590

January 18, 2023

via E-mail

Doug Volesky
Finance Director
City of Mount Vernon, Washington
910 Cleveland Avenue
Mount Vernon, WA 98273
Via E-mail: doug@mountvernonwa.gov

Re: Mount Vernon Library Commons

Dear Mr. Volesky,

Thank you for submitting a Letter of Interest (LOI) for Transportation Infrastructure Finance and Innovation Act (TIFIA) credit assistance on November 16, 2022, for the Mount Vernon Library Commons project (Project). The Build America Bureau (Bureau) has reviewed the information provided in the LOI, and we are ready to advance the Project to the next phase in the Bureau's process – the creditworthiness review phase – for potential credit assistance from the TIFIA program.

Please be advised that advancement of the Project to the creditworthiness review phase of the Bureau's process does not imply that the Bureau has approved any elements of the Project or proposed plan of finance, which remain subject to due diligence and determinations of creditworthiness by the Bureau and its advisors in all respects. As the Bureau continues to evaluate the LOI during the creditworthiness review phase, additional information may be necessary, including, but not limited to, information regarding the legal structure or amortization profile of the proposed TIFIA credit assistance.

As described in its Credit Programs Guide, the Bureau will select an independent financial advisor and outside legal counsel from its pre-approved pool of advisors (and any other advisors deemed necessary) to assist in the creditworthiness review of the Project. Once we complete the procurement of our advisors, we will contact you to schedule a time for you to present the Project to the Bureau and its advisors.

Please continue working with Robert Hanifin, the Project Development Lead assigned to your Project, to ensure it meets all applicable eligibility criteria and TIFIA program requirements. Please also continue working with the Federal Highway Administration (FHWA) Washington Division Office to ensure the Project and all its costs meet all applicable federal requirements.

Mr. Doug Volesky
January 18, 2023
Page 2 of 2

If you have any questions, please do not hesitate to contact us. Mr. Jase Cabrera is the primary point of contact for this transaction and is available by phone at (202) 366-8761 or by e-mail at Jase.Cabrera@dot.gov. We look forward to working with you on the Project.

Sincerely,

Morteza Farajian, Ph.D.
Executive Director
Build America Bureau



U.S. Department of Transportation

1200 New Jersey Ave. SE
Washington, DC 20590

Office of the Secretary

Build America Bureau

May 11, 2022

via E-mail

Doug Volesky
Finance Director
City of Mount Vernon
910 Cleveland Avenue
Mount Vernon, WA 98273
Via E-mail: DougV@mountvernon.gov

Re: Mount Vernon Library Commons

Dear Mr Volesky:

Thank you for expressing interest in the U.S. Department of Transportation's (USDOT) Transportation Infrastructure Finance and Innovation Act (TIFIA) program's Rural Project Initiative (RPI), administered by the Build America Bureau (Bureau). The City of Mount Vernon, WA, (City) has provided information to assist the Bureau in making a preliminary determination as to whether the Mount Vernon Library Commons (the Project) is eligible for TIFIA credit assistance and all the additional benefits of RPI.

As described in the information provided to date, we understand that the City is the Applicant and Borrower.

Based on the information provided to date, the Bureau made a provisional determination that:

- The City of Mount Vernon, as a code city incorporated under Washington state law, is a governmental entity, agency, or instrumentality, thus it is an eligible "obligor" under 23 U.S.C. §601(a)(11)(B).
- The Project includes surface transportation capital projects eligible for federal assistance under Title 23 and Chapter 53 of Title 49 programs and thereby eligible for TIFIA credit assistance under 23 U.S.C. 601(a)(12)(A).
- The Project also includes "public infrastructure" components, such as a library, community kitchen, and other community spaces. These components serve a public function and will be owned and maintained by the Borrower, a governmental entity. The project is approximately 400 feet from, and accessible to the Skagit Station, a multimodal transit facility with intercity passenger rail, intercity bus, and local/regional bus service. Therefore, these "public

infrastructure” components as described by the Borrower are eligible for TIFIA credit assistance under 23 U.S.C. 601(a)(12)(E)(i)(I).

- The Project is not located in an urbanized area with population greater than 150,000 and has total project costs not greater than \$100 million, thus it satisfies the eligibility criteria of a “rural infrastructure project” under 23 U.S.C. 601-603 and “assistance to small projects” under 23 U.S.C. 605(f), and qualifies for all the additional benefits of RPI.

Please note that this is not a final eligibility determination nor is it a judgement of the creditworthiness of the Applicant/Borrower or Project. This provisional determination is based exclusively on the information provided to date by the Applicant/Borrower and assumes that this information is true, accurate, and complete. As part of the next steps, the Bureau will proceed to further analyze and verify this information. Upon such verification and analysis of this information by the Bureau or in the event the Applicant/Borrower, project scope, or project costs are modified, this provisional eligibility determination may need to be revised.

We are happy to continue working with you to further develop the Project, assess its eligibility under the statutory criteria, assist with regulatory compliance, and at the appropriate point in the future, work to determine the creditworthiness of the Project for a possible TIFIA loan.

Please do not hesitate to reach out to myself or my staff, copied below, if you have any questions or would like to discuss this provisional eligibility determination or next steps.



Roger Bohnert

Director, Office of Outreach and Project Development

Build America Bureau

CC:

Dan Schned, Head of Project Development, Build America Bureau

Robert Hanifin, Project Development Lead, Build America Bureau