SIGN-UP TO SPEAK FOR SPECIFIC ACTION ITEMS ON THE AGENDA: If you have signed up prior to the Council meeting to speak with respect to a particular ordinance or resolution appearing on the agenda, you will be recognized to address the Council for up to one minute before the Council takes action on that item. Those wishing to address such items on the “Consent Agenda” should do so during the “Citizen Comments” portion of the Agenda. If the Council chooses to discuss the item further after taking comments, they may restrict additional public comment before taking action. Please look for the sign-up sheets near the Council Chamber doorway. (See Item II.B. for Citizen Comments on other items of City business.)

Location: Bonney Lake Justice Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Mayor Neil Johnson, Jr.
   A. Flag Salute
   B. Roll Call: Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember James Rackley, and Councilmember Tom Watson.
   C. Announcements, Appointments and Presentations:
      1. Announcements: None.
      2. Appointments:
         a. AB12–122 – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Supporting The Mayor’s Appointment Of David Baus to Position #1 on The Bonney Lake Planning Commission With A Term Expiring April 2014.
      3. Presentations/Recognition:
         a. Association of Washington Cities Certificates of Municipal Leadership – Councilmember Donn Lewis and Councilmember Randy McKibbin.
   D. Agenda Modifications

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:
   A. Public Hearings: None.
   B. Citizen Comments:
      You may address the City Council on matters of City business for up to 5 minutes. Those commenting about ordinances or resolutions on the “Consent Agenda” should limit their comments to one minute per item. When recognized by the Mayor, please state your name and address for the official record. Designated representatives speaking on behalf of a group may take up to 10 minutes on matters of general City business.
   C. Correspondence:

III. COUNCIL COMMITTEE REPORTS:
   A. Finance Committee
   B. Community Development Committee
C. Public Safety Committee

D. Other Reports

IV. CONSENT AGENDA:
The items listed below may be acted upon by a single motion and second of the City Council. By
simple request to the Chair, any Councilmember may remove items from the Consent Agenda for
separate consideration after the adoption of the remainder of the Consent Agenda items.

A. Approval of Accounts Payable and Utility Refund Checks/Vouchers: Accounts
Payable checks/vouchers # Accounts Payable checks/vouchers #64112-64114 in the
amount of $46,296.72. Accounts Payable checks/vouchers #64115-64193 including
wires #9655447, 20120703, 20120716, 2012071701 in the amount of $550,388.47.
Accounts Payable checks/vouchers #64194-64217 in the amount of $15,647.41 Accounts
Payable checks/vouchers #64218-64221 in the amount of $2,572.00. Accounts Payable
checks/vouchers #64222 in the amount of $890.00. Accounts Payable checks/vouchers
#64223-64286 including wire #2021081001 in the amount of 284,311.89. Accounts
Payable checks/vouchers #64287-64289 in the amount of $1,000.00. Accounts Payable
checks/vouchers #64290-64291 in the amount of $1,033.96. Accounts Payable
checks/vouchers #64292 in the amount of $450.00. Accounts Payable checks/voucher
#64293 – 64337 in the amount of $185,520.36. Void Checks: #63297 replaced with
#64208, #63524 replaced with #64222, and #63889 replaced with #64290.

B. Approval of Payroll: Payroll for July 1-15th, 2012 for checks 30578-30607 including
direct deposits and electronic transfers in the amount of $453,186.44; and Payroll for July
16-31st, 2012 for checks 30608-30635 including direct deposits and electronic transfers in
the amount of $638,676.98.

C. AB12-115 – Resolution 2232 – A Resolution Of The City Council Of The City Of
Bonney Lake, Pierce County, Washington, Authorizing A Professional Service
Agreement With Parametrix Engineering For The 184th Avenue East And Locust
Extension Watermain Project.

D. AB12-116 – Resolution 2233 – A Resolution Of The City Council Of The City Of
Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign The
Possession And Use Agreement With Sound Credit Union For The Ultimate Right Of
Way Acquisition Within The Main Street Intersection Improvements Project Limits.

E. AB12-117 – Resolution 2234 – A Resolution Of The City Council Of The City Of
Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign The
Possession And Use Agreement With F 1 For The Ultimate Right Of Way Acquisition
Within The Main Street Intersection Improvements Project Limits.

F. AB12-118 – Resolution 2235 – A Resolution Of The City Council Of The City Of
Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign The
Developer Agreement With The Washington State Department Of Transportation For The
Main Street Intersection Improvements Project Limits.

G. AB12-119 – Resolution 2236 – A Resolution Of The City Council Of The City Of
Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign The Contract
With Lakeridge Paving Company For The Overlay Of West Tapps Highway From Church
Lake Drive To Church Lake Road.

H. AB12-120 – Resolution 2237 – A Resolution Of The City Council Of The City Of
Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign The Schedule
74 Cost Share Agreement Between Puget Sound Energy And The City Of Bonney Lake
To Construct The Underground Puget Sound Energy Utilities Within The Main Street Intersection Improvements Project Limits.

I. **AB12-123 – Motion** – A Motion Of The Bonney Lake City Council Setting A Public Hearing For August 28, 2012 As Part Of The Regular Council Meeting Which Starts At 7:00 P.M., Regarding Proposed Ordinance D12-124 - For A 6 Month Extension Of The Temporary Zoning Moratorium On The Establishment, Maintenance Or Continuation Of Medical Marijuana Collective Gardens.

V. **FINANCE COMMITTEE ISSUES:** None.

VI. **COMMUNITY DEVELOPMENT COMMITTEE ISSUES:** None.

VII. **PUBLIC SAFETY COMMITTEE ISSUES:** None.

VIII. **FULL COUNCIL ISSUES:** None.

IX. **EXECUTIVE SESSION:**
Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

X. **ADJOURNMENT**

For citizens with disabilities requesting translators or adaptive equipment for communication purposes, the City requests notification as soon as possible of the type of service or equipment needed.

**THE COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA**
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

<table>
<thead>
<tr>
<th>Department/Staff Contact:</th>
<th>Meeting/Workshop Date:</th>
<th>Agenda Bill Number:</th>
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<tbody>
<tr>
<td>Community Development / John P. Vodopich, AICP</td>
<td>14 August 2012</td>
<td>AB12-122</td>
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<tbody>
<tr>
<td>Motion</td>
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**Agenda Subject:** Supporting Appointment of David Baus as a Planning Commissioner.

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Supporting The Mayor's Appointment Of David Baus As A Member Of The Planning Commission With A Term Expiring April 2014.

**Administrative Recommendation:** Approve.

**Background Summary:** Dennis Paulson has recently moved out of the City limits and is no longer eligible to serve on the Planning Commission thus creating a vacant position. Mayor Johnson recently appointed David Baus to the Design Commission although his preference is to be appointed to the Planning Commission.

While appointments to the Planning Commission are at the discretion of the Mayor, Mayor Johnson has traditionally invited the City Council to ratify his appointments.

**Attachments:** Baus Application for Membership

**BUDGET INFORMATION**

<table>
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<tr>
<th>Budget Amount</th>
<th>Current Balance</th>
<th>Required Expenditure</th>
<th>Budget Balance</th>
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</table>

Budget Explanation: N/A

**COMMITTEE, BOARD & COMMISSION REVIEW**

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<th>Council Committee Review:</th>
<th>Approvals:</th>
<th>Yes</th>
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<tr>
<td>Date:</td>
<td>Chair/Councilmember</td>
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<td>Councilmember</td>
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Forward to: Consent Agenda: □ Yes □ No

**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

Workshop Date(s): Public Hearing Date(s):
Meeting Date(s): August 14, 2012 Tabled to Date:

**APPROVALS**

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<tr>
<td>John P. Vodopich, AICP</td>
<td>NHJ</td>
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</table>

(If applicable):
City of
Bonney Lake

APPLICATION FOR
MEMBERSHIP

Planning Commission

Full Name  David Baus

Address  18929 111th Street East

City  Bonney Lake  State  WA  Zip  98391

Home Phone  253-709-1411

Cell / Other  253-709-1411

E-mail  dave@villageconcepts.com

City Resident?  ☑ YES  - How Long?  6 years

Name of Employer  Village Concepts, Inc.

Employer Address  909 South 336th Street, Suite 200, Federal Way, Washington 98003

Education Background  Auburn High School Graduate & 2 year degree at Green River Community College

Professional Experience  20 years experience in developing multi-family/Senior housing communities & assisted living communities across 8 western states. I’ve always played a active role in the community I resided in by sitting on community boards, attending town hall meetings, and being of service to the community at large.

Organization Affiliations

Why Are You Seeking Appointment? Over my 20 years of developing real estate in other communities, I’ve learned how important the planning process is in working with land owners and developers. Seeing what works and doesn’t work in other communities gives me the experience to share with the commission and staff in building a stronger community.

General Remarks  My Family; Wife Nannette (she works in the property management industry), 17 yr. old son James (Sr. @ Bonney Lake High School) also has his private pilot license, 14 yr. old son Jakson (8th grader @ Mt. View Middle School), and 5 yr. old Amelia (kindergardener @ Victor Falls Elementary).

Applicant’s Signature

Date

Submit completed form to: Bonney Lake City Clerk, P.O. Box 7380, Bonney Lake, WA 98391-0944
19306 Bonney Lake Blvd  •  Phone (253) 862-8602  •  Fax (253) 862-8538

Updated May 2010

Agenda Packet p. 6 of 102
**City of Bonney Lake, Washington**

**City Council Agenda Bill (AB)**

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<th>Department/Staff Contact:</th>
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<td>PW / John Woodcock</td>
<td>14 August 2012</td>
<td>AB12-115</td>
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<tbody>
<tr>
<td>Resolution</td>
<td>2232</td>
<td>Randy McKibbin</td>
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**Agenda Subject:** Authorize Professional Services Agreement with Parametrix for design of the 184th & Locust Ave Ext Water Main Replacement

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize Professional Services Agreement With Parametrix For Design Of The 184th & Locust Ave Ext Water Main Replacement.

**Administrative Recommendation:**

**Background Summary:** The Public Works Department will be replacing the existing 6 inch and 2 inch diameter water mains located in 184th Avenue East and Locust Avenue Extension based on frequent leaking issues with 8 inch diameter and 4 inch diameter ductile iron water mains. Existing service connections will also be replaced. The effort on 184th Avenue East is approximately 350 feet in length and the Locust Avenue Extension work will be around 500 feet in length. Both efforts will overlay the roads with a 2 inch hot mix asphalt when complete. Funding for this project will come from Water Admin/Engineering Services & Unscheduled projects providing $127,800.

**Attachments:** Resolution 2232; PSA, Scope of Work; Map

**BUDGET INFORMATION**

<table>
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<th>Budget Balance</th>
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<td>$127,800</td>
<td>$127,800</td>
<td>$29,785.06</td>
<td>$98,014.94</td>
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**Budget Explanation:** 401.091.034.594.34.63.04- Water Systems- 184th/Locust Water Main Replacement

**Revenue:** SDC

**COMMITTEE, BOARD & COMMISSION REVIEW**

**Council Committee Review:** Community Development

- Date: 7 August 2012
- Chair/Councilmember: Randy McKibbin
- Councilmember: James Rackley
- Councilmember: Katrina Minton-Davis

**Forward to:**

<table>
<thead>
<tr>
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<th>Yes</th>
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**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

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<tbody>
<tr>
<td>Dan Grigsby, P. E.</td>
<td>Neil Johnson Jr.</td>
<td>(if applicable):</td>
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*Agenda Packet p. 7 of 102*
RESOLUTION NO. 2232

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A PROFESSIONAL SERVICE AGREEMENT WITH PARAMETRIX ENGINEERING FOR THE 184TH AVENUE EAST AND LOCUST EXTENSION WATERMAIN PROJECT.

WHEREAS, the City Council approved Ordinance 1373 approving the 2011–2012 Budget that provided funding for Engineering Services and Unscheduled Projects; and

WHEREAS, the City has approved Ordinance 1414 adopting the Mid-biennial budget for 2012 that approved funding for the line item of Engineering Services and Unscheduled Projects; and

WHEREAS, the Public Works Department has identified the section of 184th Avenue East and Locust Extension to be projects not identified in the Capitol Improvement Plan but requiring upgrades due to a history of water leaks; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DOES HEREBY RESOLVE AS FOLLOWS: to hereby authorize the Mayor to sign the attached agreement with Parametrix Engineering in the amount of $29,785.06 to design and prepare the construction drawings for these improvements.

PASSED by the City Council this 14th day of August, 2012.

Neil Johnson, Jr., Mayor

AUTHENTICATED:

Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

James J. Dionne, City Attorney
PROFESSIONAL SERVICES AGREEMENT
184th Avenue and Locust Avenue Extension Water Main Replacement

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this ______ day of ______________________, 2012, by and between the City of Bonney Lake ("City") and Parametrix, Inc. ("Consultant").

The parties hereby agree as follows:

1. **Scope of Work.** The Consultant shall perform all work and provide all materials described in the Scope of Work set out in Exhibit A attached hereto and incorporated herein by this reference. Such work shall be performed using facilities, equipment and staff provided by Consultant, and shall be performed in accordance with all applicable federal, state and local laws, ordinances and regulations. The Consultant shall exercise reasonable care and judgment in the performance of work pursuant to this Agreement. The Consultant shall make minor changes, amendments or revisions in the detail of the work as may be required by the City, such work not to constitute Extra Work under this Agreement.

2. **Ownership of Work Product.** Documents, presentations and any other work product produced by the Consultant in performance of work under this Agreement shall be tendered to the City upon completion of the work, and all such product shall become and remain the property of the City and may be used by the City without restriction; *provided*, that any such use by the City not directly related to the particular purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.

3. **Payment.** The Consultant shall be paid by the City for completed work and services rendered under this Agreement pursuant to the rates and charges set out in Exhibit B, attached hereto and incorporated herein by this reference. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. All billings for compensation for work performed under this Agreement shall list actual time and dates during which the work was performed and the compensation shall be figured using the rates set out in Exhibit B; *provided*, that payment for work within the Scope of Work (Exhibit A) shall not exceed the fee/hour estimate set out in Exhibit B without written amendment to this Agreement, agreed to and signed by both parties.

Acceptance of final payment by the Consultant shall constitute a release of all claims, related to payment under this Agreement, which the Consultant may have against the City unless such claims are specifically reserved in writing and transmitted to the City by the Consultant prior to acceptance of final payment. Final payment shall not, however, be a bar to any claims that the City may have against the Consultant or to any remedies the City may pursue with respect to such claims.
The Consultant and its sub consultants shall keep available for inspection, by the City, for a period of three years after final payment, the cost records and accounts pertaining to this Agreement and all items related to, or bearing upon, such records. If any litigation, claim or audit is started before the expiration of the three-year retention period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The three-year retention period shall commence when the Consultant receives final payment.

4. **Changes in Work.** The Consultant shall make all revisions and changes in the work completed under this Agreement as are necessary to correct errors, when required to do so by the City, without additional compensation.

5. **Extra Work.** The City may desire to have the Consultant perform work or render services in addition to or other than work provided for by the expressed intent of the Scope of Work. Such work will be considered Extra Work and will be specified in a written supplement which will set forth the nature and scope thereof. Work under a supplement shall not proceed until authorized in writing by the City. Any dispute as to whether work is Extra Work or work already covered by this Agreement shall be resolved before the work is undertaken. Performance of the work by the Consultant prior to resolution of any such dispute shall waive any claim by the Consultant for compensation as Extra Work.

6. **Employment.** Any and all employees of Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of said employees, while so engaged; any and all taxes arising out of Consultant’s or Consultant’s employees’ work under this Agreement; and any and all claims made by a third party as a consequence of any acts, errors, or omissions on the part of the Consultant’s employees, while so engaged, shall be the sole obligation and responsibility of the Consultant, except as provided in Section 12 of this agreement. The Consultant’s relation to the City shall at all times be as an independent contractor.

7. **Nondiscrimination and Legal Compliance.** Consultant agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, gender, age or handicap except for a bona fide occupational qualification with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and rendition of services. The consultant represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Reform and Control Act of 1986, including but not limited to the provisions of the Act prohibiting the hiring and continued employment of unauthorized aliens and requiring verification and record keeping with respect to the status of each of its employees' eligibility.
for employment. The consultant shall include a provision substantially the same as this section in any and all contracts with sub consultants performing work required of the contractor under this contract. The consultant agrees to indemnify and hold the City harmless from any and all liability, including liability for interest and penalties, the City may incur as a result of the consultant failing to comply with any provisions of the Immigration Reform and Control Act of 1986. Consultant understands and agrees that if it violates this section, this Agreement may be terminated by the City, and that Consultant shall be barred from performing any services for the City in the future unless and until a showing is made satisfactory to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

8. **Term.** This Agreement shall become effective upon the day of its execution by both parties, and shall terminate upon completion of the work and delivery of all materials described in Exhibit A.

9. **Termination by City.** The City may terminate this Agreement at any time upon not less than ten (10) days written notice to Consultant, subject to the City's obligation to pay Consultant in accordance with subsections A and B below.

A. In the event this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for actual cost of work complete at the time of termination of the Agreement. In addition, the Consultant shall be paid on the same basis as above for any authorized Extra Work completed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the termination notice. If the accumulated payment(s) made to the Consultant prior to the termination notice exceeds the total amount that would be due as set forth in this subsection, then no final payment shall be due and the Consultant shall immediately reimburse the City for any excess paid.

B. In the event the services of the Consultant are terminated by the City for fault on the part of the Consultant, subsection A of this section shall not apply. In such event the amount to be paid shall be determined by the City with consideration given to the actual costs incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or of a type which is usable by the City at the time of termination, the cost to the City of employing another person or firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the City of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made if subsection A of this section applied.

C. In the event this Agreement is terminated prior to completion of the work, the original copies of all work products prepared by the Consultant prior to termination shall become the property of the City for its use without restriction; provided, that any such use by the
City not directly related to the particular purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.

10. **Termination by Consultant.** Consultant may terminate this Agreement only in response to material breach of this Agreement by the City, or upon completion of the work set out in the Scope of Work and any Extra Work agreed upon by the parties.

11. **Applicable Law; Venue.** The law of the State of Washington shall apply in interpreting this Agreement. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Pierce County.

12. **Indemnification / Hold Harmless**

Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or resulting from the negligent acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

**Insurance**

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

**A. Minimum Scope of Insurance**

Consultant shall obtain insurance of the types described below:

1. **Automobile Liability** insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. **Commercial General Liability** insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant’s Commercial General Liability insurance policy with respect to the work performed for the City.
3. **Workers’ Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.

4. **Professional Liability** insurance appropriate to the Consultant’s profession.

**B. Minimum Amounts of Insurance**

Consultant shall maintain the following insurance limits:

1. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. **Commercial General Liability** insurance shall be written with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate.

3. **Professional Liability** insurance shall be written with limits no less than $1,000,000 per claim and $1,000,000 policy aggregate limit.

**C. Other Insurance Provisions**

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

1. The Consultant’s insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant’s insurance and shall not contribute with it.

2. The Consultant’s insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

**D. Acceptability of Insurers**

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

**E. Verification of Coverage**

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
13. **Subletting or Assigning.** The Consultant shall not sublet or assign any of the work covered by this Agreement without the express written consent of the City.

14. **Entire Agreement.** This Agreement represents the entire Agreement between the parties. No change, termination or attempted waiver of any of the provisions of the Agreement shall be binding on any party unless executed in writing by authorized representatives of each party. The agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

15. **Waiver.** Failure by any party to this Agreement to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party’s right to demand strict performance of that or any other provision of this Agreement any time thereafter.

16. **Severability.** If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder of the Agreement shall not be affected.

17. **Execution and Acceptance.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The Consultant hereby ratifies and adopts all statements, representations, warranties, covenants, and agreements contained in the supporting materials submitted by the Consultant, and does hereby accept the Agreement and agrees to all of the terms and conditions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF BONNEY LAKE

By: ____________________________
    Neil Johnson Jr., Mayor

CONSULTANT

By: ____________________________
    Daniel L. McReynolds, Principal

Attachments:

Exhibit A: Scope of Work/Deliverables/Fee
Exhibit B: Rates
EXHIBIT A: SCOPE OF WORK/DELIVERABLES/FEE

The Consultant shall perform the services shown on the following pages as directed by the City:
SCOPE OF WORK

City of Bonney Lake
184th Avenue and Locust Avenue Ext. Water Main Replacement

PROJECT OVERVIEW

The City of Bonney Lake (City) will be replacing existing 6-inch diameter and 2-inch diameter water mains located in 184th Avenue and Locust Avenue Extension with 8-inch diameter and 4-inch diameter ductile iron water mains. Existing service connections will be replaced and new radio read meters will be installed. Specific improvements include:

184th Avenue East

- New 8-inch diameter ductile iron water main from 84th Street East to approximately 350 feet south of the intersection where a new fire hydrant assembly will be installed. Approximately 350 feet of new 4-inch-diameter water main will be installed south of the fire hydrant assembly.
- The roadway will be resurfaced with a 2-inch Hot Mix Asphalt overlay.

Locust Avenue Extension

- Approximately 60 feet of new 8-inch ductile iron water main will be installed up to a new fire hydrant assembly at the intersection of Locust Avenue and Locust Avenue Extension. Approximately 440 feet of new 4-inch ductile iron water main will be installed beyond the new fire hydrant assembly to the north on Locust Avenue Extension.
- The roadway will be resurfaced with a 2-inch Hot Mix Asphalt overlay.

SCHEDULE

The design is anticipated to be complete and the project ready for advertisement by November 30, 2012.

PHASE 1 – DESIGN

Task 1 – Project Management and QA/QC

Goal: To provide the tools for continuous tracking of the project schedule and budget, project quality assurance and control, and status of deliverables to ensure that the project is executed as expected by the City.

Assumptions: Following are the assumptions for Task 1:

- A 3-month project schedule is assumed.

Deliverables: Following are the deliverables for Task 1:

- Miscellaneous correspondence to document project management issues.
- Monthly progress reports and invoices.
Task 2 – Survey

Goal: To prepare a survey base map of the existing utility locations within the above described corridors for use in preparing design plans.

Approach: Using record information and existing monuments, Parametrix surveyors will establish horizontal and vertical control throughout the proposed corridors. Mapping will consist of locating existing underground utilities and the edge of pavement that can be overlaid upon aerial orthophotos. An underground utility locate firm will be hired to mark buried utilities such as gas, water, power, telephone, and TV, if such utilities have a conductible source or tracer lines attached. Sanitary and storm structures will be opened and measurements will be made identifying size, type, and invert elevation of incoming and outgoing pipes. Once the field work has been completed, a survey technician will process the data and prepare a base map using AutoCAD Civil 3D, Release 2012.

Assumptions: Following are the assumptions for Task 2:

- Title reports will not be ordered for this work; no boundary or ROW information will be provided.
- Property corners will not be set, nor will a Record of Survey be prepared.
- Horizontal Datum: NAD 83/91 Washington State Plane Coordinate System, South Zone adjusted to WSRN network.
- Vertical Datum: NAVD 1988 per WSRN network.

Deliverable: A topographic base map prepared in AutoCAD Civil 3D format.

Task 3 – Plans, Specifications, and Estimate

Goal: To prepare final contract bidding documents for advertisement by the City including small works roster contract form and proposal, contract supplemental and general provisions, technical provisions, and contract plans. Parametrix will also prepare an opinion of cost that may be used by the City for bid tabulation.

Approach: Parametrix will prepare 90% plans and specifications for review by the City. The City will review the plans and specifications and return comments to Parametrix for incorporation into the final contract documents.

The 90% plans are assumed to include:

- Cover Sheet and Legend 2 Sheets
- Horizontal Control Plan 1 Sheet
- Details 1 Sheet
- Water Plan and Profile 3 Sheets
- Standard Details 3 Sheets

Total: 10 Sheets

The contract and technical specifications will be prepared using the City’s small works roster boilerplate and will follow the 2012 WSDOT Standard Specifications format.
Review Meetings and Coordination: Parametrix will meet with the City to review the 90% comments prior to preparing the Final Contract Documents (Final Plans, Contract, and Technical Specifications).

Assumptions: Following are the assumptions for Task 4:
- The City will be responsible for the administration of the bidding process.
- The City will complete all environmental documentation and utility coordination, as appropriate.

Deliverables: Following are the deliverables for Task 4:
- Three copies of half-size (11-inch by 17-inch) 90% plans, contract documents, and engineer’s estimate of probable cost.
- Ten copies of half-size (11-inch by 17-inch) final plans, contract documents, and engineer’s estimate of probable cost.
- Final engineers estimate of probable cost in MS Excel format.
- 5-copies of full size (22-inch by 34-inch) final plans.
- Electronic copy of all final deliverables in their respective native format(s).
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**Labor Totals:**

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### SUBCONSULTANTS

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**Subconsultant Total:**

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**Expense Total:**

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**Project Total:**

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EXHIBIT B: RATES

See attached Parametrix Category Billing Rates.
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Direct project expenses and reproduction costs are billed at cost plus 15%
Public hearing testimony services are billed at hourly rates plus 30%
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

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**Agenda Subject:** Authorize the Sound Credit Union Possession and Use Agreement for SR410 & Main Street Intersection

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize The Sound Credit Union Possession And Use Agreement For Sr 410 & Main Street Intersection.

**Administrative Recommendation:**

**Background Summary:** The Public Works Department is in negotiations with three property owners in relation to the improvements necessary for the SR 410 and Main Street Intersection Improvement Project. Sound Credit Union owns the property where the city is seeking 273 square feet for street frontage improvements and another 216 square feet for a underground utility easement. Cascade Right of Way Services has deemed the 273 square feet to have a Fair Market value of $18.31 per square foot for a total of $5,000, the 216 sq.ft. utility easement appraised at $3,300 plus there are damages to landscaping for $1,800 and irrigation for $500 all totalling $10,600.

**Attachments:** Resolution 2233; Offer Letter; Maps (within Offer Letter)

**BUDGET INFORMATION**

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**Budget Explanation:** Main Street/SR410 Intersection - Sidewalks - ROW 301.050.032.595.20.63.01
Revenue: Franciscan Medical Health Center Mitigation & Available TIF

**COMMITTEE, BOARD & COMMISSION REVIEW**

**Council Committee Review:**
- Community Development
- Date: 7 August 2012
- Approvals:
  - Chair/Councilmember: Randy McKibbin
  - Councilmember: James Rackley
  - Councilmember: Katrina Minton-Davis

Forward to:
- Consent Agenda: Yes

**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

Workshop Date(s): Public Hearing Date(s):
Meeting Date(s): Tabled to Date:

**APPROVALS**

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<th>Mayor:</th>
<th>Date Reviewed by City Attorney:</th>
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<td>Neil Johnson Jr.</td>
<td>(if applicable):</td>
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RESOLUTION NO. 2233

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE POSSESSION AND USE AGREEMENT WITH SOUND CREDIT UNION FOR THE ULTIMATE RIGHT OF WAY ACQUISITION WITHIN THE MAIN STREET INTERSECTION IMPROVEMENTS PROJECT LIMITS.

WHEREAS, the City Council approved the design contract for the Main Street and SR 410 Intersection Improvements Project by Resolution 2162 on October, 25, 2011; and

WHEREAS, the design has identified several partial property acquisitions required to construct the improvements proposed in the design; and

WHEREAS, Sound Credit Union has agreed on the offer for the 273 square feet of land and past landscaping improvements per fair market assessment; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to sign the Possession and Use Agreement with Sound Credit Union for the sum of $10,600.

PASSED and adopted by the City Council this 14th day of August, 2012.

_______________________________
Neil Johnson, Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_________________________________
James Dionne, City Attorney
After recording return document to:

City of Bonney Lake Public Works  
City Hall Annex  
PO Box 7380  
Bonney Lake, WA  98391-0944  
Attention: John Woodcock, P.E.

Document Title: Possession and Use Agreement  
Reference Number of Related Documents:  
Grantor(s): Sound Credit Union, a Washington Credit Union  
Grantee(s): City of Bonney Lake, a Municipal Corporation  
Legal Description: Ptn of Tracts 26 and 28, McDonald Fruit Tracts  
Additional Legal Description is on Pages 4 through 7 of Document.  
Assessor's Tax Parcel Number(s): 5640001742

POSSESSION AND USE AGREEMENT

Main Street Improvements

This AGREEMENT is made and entered into by and between the City of Bonney Lake, acting by and through its Public Works Department, hereinafter referred to as the "City", and the undersigned fee simple title holder of the property described below, hereinafter referred to as the "Owners":

WITNESSETH

WHEREAS, the City affirms that the Owners' real estate described herein is required by the City for immediate construction of a transportation project.

AND WHEREAS, the City affirms that any delay in its construction program is contrary to the public interest;

AND WHEREAS, the City has made a firm and continuing offer to pay the amount of Ten Thousand Six Hundred and 00/100 Dollars ($10,600.00) for the purchase of the following described real property interests situated in Pierce County, in the State of Washington:

For legal description and additional conditions see pages 4 through 7 attached hereto and made a part hereof.

AND WHEREAS, the Owners require additional time to evaluate said offer and/or to resolve any questions concerning just compensation;

NOW THEREFORE, for and in consideration of the payment of said offer, the Owner(s)
POSESSION AND USE AGREEMENT

hereby grant to the City a right to possess and use the above described real estate and the parties further agree that:

1. The real estate is necessary for a public use of the City within the meaning of and purposes enumerated in RCW 8.12.030.

2. Immediately after the execution of this Agreement, the City shall deposit into an escrow account with Lakewood Escrow the sum of Ten Thousand Six Hundred and 00/100 Dollars ($10,600.00) for the benefit of the Owners, subject only to deduction of the value of interests of others therein.

3. Execution of this agreement by the undersigned parties shall not prejudice such parties' rights to subsequent adjudication of just compensation pursuant to state law, and neither shall this agreement, nor the basis therefore, be construed as an admission of fair market value or just compensation by any of the parties named herein.

4. If it becomes necessary for the City to institute condemnation proceedings, the Owners have no objection to the City entering an Order Adjudicating Public Use, as provided by RCW 8.12.030, and agree that this instrument shall be treated as having the same legal effect as an Order for Immediate Possession provided by RCW 8.25.070, which, by this reference, are incorporated herein as if fully set forth.

5. The date of valuation for the determination of just compensation shall be the date that the parties enter into a written agreement for final resolution or court determination of the amount of just compensation.

6. The Owners hereby waive the requirement of a written notice to move, as provided by RCW 8.26.180, and will surrender possession of the above described real estate to the City not later than July 30, 2012.
POSSESSION AND USE AGREEMENT

It is understood and agreed that delivery of this agreement is hereby tendered and that the terms and obligations hereof shall not become binding upon the City unless and until accepted and approved hereon in writing for the City, by and through its Department of Public Works, by its authorized agent.

DATED this: 20th day of July 2012

Accepted and Approved
City of Bonney Lake
Public Works Department

By: __________________________
Authorized Agent

Date: __________________________

STATE OF Washington
COUNTY OF Pierce

On this 20 day of July 2012, before me personally appeared ____________ Richard C. Brandsma, to me known to be the President & CEO of Sound Credit Union, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Print Name: Tamara M. Cantush
NOTARY PUBLIC in and for the State of Washington, residing at ____________ Puyallup, Washington
Commission expires: 9-19-2012

Page 3 of (7) Pages
Parcel No. 5640001760

Agenda Packet p. 30 of 102
POSSESSION AND USE AGREEMENT

NEW RIGHT OF WAY DESCRIPTION FOR 5640001742

COMMENCING AT THE SOUTHERLY MOST CORNER OF PIERCE COUNTY PARCEL NO. 5640001742, SAID POINT BEING 60 FEET LEFT OF SR 410 STATION 291+92.74; THENCE N 1°14’24” E ALONG THE EASTERLY LINE OF SAID PARCEL NO. 5640001742 FOR 176.32 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE BEGINNING OF A CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS N 81°55’13” E 378.81 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°25’08” FOR AN ARC DISTANCE OF 75.50 FEET; THENCE N 89°33’31”E FOR 4.75 FEET TO THE EASTERLY LINE OF SAID PARCEL NO. 5640001742; THENCE S 1°14’24”W ALONG SAID EASTERLY LINE FOR 75.36 FEET TO THE POINT OF BEGINNING.

PIERCE COUNTY, WASHINGTON

[Signature]

12/9/2011
POSSSESSION AND USE AGREEMENT

New Right-of-Way Exhibit

PARCEL 5640001742

NW 1/4, SW 1/4 OF SEC. 33, TWN. 20 N., RNG. 5 E., W.M.
CITY OF BONNEY LAKE, PIERCE COUNTY, WA

Please make no mark in the margin space. Reserved for County Auditor's use only.
POSESSION AND USE AGREEMENT

EASEMENT DESCRIPTION
OVER A PORTION OF TAX PARCEL 5640001742

COMMENCING AT THE MOST SOUTHERLY CORNER OF PIERCE COUNTY PARCEL NO. 5640001742, SAID POINT BEING 60 FEET LEFT OF SR 410 STATION 291 +92.74; THENCE N1°14'24"E, ALONG THE EASTERLY LINE OF SAID PARCEL NO. 5640001742. A DISTANCE OF 248.19 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N01°14'24"E, ALONG SAID EASTERLY LINE, A DISTANCE OF 17.51 FEET; THENCE N88°45'36"W, A DISTANCE OF 9.06 FEET TO THE NORTHWESTERLY LINE OF SAID PARCEL NO. 5640001742; THENCE S69°36'01"W, ALONG SAID NORTHWESTERLY LINE, A DISTANCE OF 4.87 FEET; THENCE S01°14'24"W, PARALLEL WITH SAID EASTERLY LINE, A DISTANCE OF 6.43 FEET; THENCE S20°44'10"E, A DISTANCE OF 10.02 FEET; THENCE S88°45'36"E, A DISTANCE OF 9.83 FEET TO THE POINT OF BEGINNING.

PIERCE COUNTY, WASHINGTON

4/5/2012
POSESSION AND USE AGREEMENT

Easement Exhibit

NW 1/4, SW 1/4 OF SEC. 33, TWN. 20 N, RNG. 5 E., W.M.
CITY OF BONNEY LAKE, PIERCE COUNTY, WA

Page 7 of (7) Pages
Parcel No. 5640001760
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: PW / John Woodcock
Meeting/Workshop Date: 14 August 2012
Agenda Bill Number: AB12-117

Agenda Item Type: Resolution
Ordinance/Resolution Number: 2234
Councilmember Sponsor: Randy McKibbin

Agenda Subject: Authorize the Heatherwood Possession and Use Agreement for SR410 & Main Street Intersection

Full Title/Motion: A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize The Heatherwood Possession And Use Agreement For SR 410 & Main Street Intersection.

Administrative Recommendation:

Background Summary: The Public Works Department is in negotiations with three property owners in relation to the improvements necessary for the SR 410 and Main Street Intersection Improvement Project. FR 1, a Joint Venture owns the property where the Heatherwood Apartments are located. Cascade Right of Way Services has deemed the 671 square feet to have a Fair Market value of $14.00 per square foot for land taken in fee and $1,100 in improvement losses for a total of $10,500. The Heatherwood ownership believed their property was worth over twice the assessed value determined by the City. The City gave approval to go up to $20.00 per square foot for a total of $14,520 and the Heatherwood ownership accepted this offer.

Attachments: Resolution 2234; Offer Letter; Maps (within Offer Letter)

Budget Information

<table>
<thead>
<tr>
<th>Budget Amount</th>
<th>Current Balance</th>
<th>Required Expenditure</th>
<th>Budget Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>$70,000</td>
<td>$15,720</td>
<td>$14,520</td>
<td>$1,200</td>
</tr>
</tbody>
</table>

Budget Explanation: Main Street/SR 410 Intersection - Sidewalks - ROW 301.050.032.595.20.63.01 Revenue: Franciscan Medical Health Center Share & Available TIF

Committee, Board & Commission Review

Council Committee Review: Community Development
Date: 7 August 2012

Chair/Councilmember: Randy McKibbin
Councilmember: James Rackley
Councilmember: Katrina Minton-Davis

Forward to: Consent Agenda: Yes No

Commission/Board Review:
Hearing Examiner Review:

Council Action

Workshop Date(s):
Meeting Date(s):
Public Hearing Date(s):
Tabled to Date:

Approvals

Director: Dan Grigsby, P. E.
Mayor: Neil Johnson Jr.
Date Reviewed by City Attorney:
RESOLUTION NO. 2234

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE POSSESSION AND USE AGREEMENT WITH FR 1 FOR THE ULTIMATE RIGHT OF WAY ACQUISITION WITHIN THE MAIN STREET INTERSECTION IMPROVEMENTS PROJECT LIMITS.

WHEREAS, the City Council approved the design contract for the Main Street and SR 410 Intersection Improvements Project by Resolution 2162 on October, 25, 2011; and

WHEREAS, the design has identified several partial property acquisitions required to construct the improvements proposed in the design; and

WHEREAS, FR 1, a Joint Venture has agreed on the offer for the 671 square feet of land and past landscaping improvements per fair market assessment; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to sign the Possession and Use Agreement with FR 1 for the sum of $14,520.

PASSED and adopted by the City Council this 14th day of August 2012.

_______________________________
Neil Johnson, Mayor

ATTEST:

_______________________________
Harwood T. Edvalson, CMC
City Clerk

APPROVED AS TO FORM:

_______________________________
James Dionne, City Attorney
After recording return document to:

City of Bonney Lake Public Works
City Hall Annex
PO Box 7380
Bonney Lake, WA 98391-0944
Attention: John Woodcock, P.E.

Document Title: Possession and Use Agreement
Reference Number of Related Documents: ____
Grantor(s): FR 1, a Joint Venture
Grantee(s): City of Bonney Lake, a Municipal Corporation
Legal Description: Ptn N 115' Tr 27 McDonald Fruit Tracts
Additional Legal Description is on Page 4 of Document.
Assessor’s Tax Parcel Number(s): 5640001760

POSSESSION AND USE AGREEMENT

Main Street Improvements

This AGREEMENT is made and entered into by and between the City of Bonney Lake, acting by and through its Public Works Department, hereinafter referred to as the "City", and the undersigned fee simple title holder of the property described below, hereinafter referred to as the "Owners":

WITNESSETH

WHEREAS, the City affirms that the Owners' real estate described herein is required by the City for immediate construction of a transportation project.

AND WHEREAS, the City affirms that any delay in its construction program is contrary to the public interest;

AND WHEREAS, the City has made a firm and continuing offer to pay the amount of Fourteen Thousand Five Hundred Twenty and 00/100 Dollars ($14,520.00) for the purchase of the following described real property situated in Pierce County, in the State of Washington:

For legal description and additional conditions see Exhibit A attached hereto and made a part hereof.

AND WHEREAS, the Owners require additional time to evaluate said offer and/or to resolve any questions concerning just compensation;
POSSESSION AND USE AGREEMENT

NOW THEREFORE, for and in consideration of the payment of said offer, the Owner(s) hereby grant to the City a right to possess and use the above described real estate and the parties further agree that:

1. The real estate is necessary for a public use of the City within the meaning of and purposes enumerated in RCW 8.12.030.

2. Immediately after the execution of this Agreement, the City shall deposit into an escrow account with Lakewood Escrow the sum of Fourteen Thousand Five Hundred Twenty and 00/100 Dollars ($14,520.00) for the benefit of the Owners, subject only to deduction of the value of interests of others therein.

3. Execution of this agreement by the undersigned parties shall not prejudice such parties' rights to subsequent adjudication of just compensation pursuant to state law, and neither shall this agreement, nor the basis therefore, be construed as an admission of fair market value or just compensation by any of the parties named herein.

4. If it becomes necessary for the City to institute condemnation proceedings, the Owners have no objection to the City entering an Order Adjudicating Public Use, as provided by RCW 8.12.030, and agree that this instrument shall be treated as having the same legal effect as an Order for Immediate Possession provided by RCW 8.25.070, which, by this reference, are incorporated herein as if fully set forth.

5. The date of valuation for the determination of just compensation shall be the date that this agreement is accepted and approved by the City's Authorized Agent.

6. The Owners hereby waive the requirement of a written notice to move, as provided by RCW 8.26.180, and will surrender possession of the above described real estate to the City not later than July 15, 2012.
POSSESSION AND USE AGREEMENT

It is understood and agreed that delivery of this agreement is hereby tendered and that the terms and obligations hereof shall not become binding upon the City unless and until accepted and approved hereon in writing for the City, by and through its Department of Public Works, by its authorized agent.

DATED this: ____ day of ______ 2012

Accepted and Approved

City of Bonney Lake
Public Works Department

By: __________________________

Authorized Agent

Date: _________________________

Owner Name

Owner Name

Owner Name

STATE OF (WASHINGTON)

COUNTY OF (PIERCE)

On this day personally appeared before me, ________, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this ______ day of ______, 2012

Print Name: BRIAN R. FAGERNES

NOTARY PUBLIC in and for the State of Washington, residing at Rochester

Commission expires: 5/12/2016

Page 3 of (4) Pages

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POSSESSION AND USE AGREEMENT

NEW RIGHT OF WAY DESCRIPTION FOR 5640001760

BEGINNING AT THE SOUTHWEST CORNER OF PIERCE COUNTY PARCEL NO. 5640001760, SAID POINT BEING 30.00 FEET LEFT OF STATION 11+13.28 OF CITY OF BONNEY LAKE RIGHT OF WAY PLANS FOR C-LINE (MAIN STREET) DATED DECEMBER 2011; THENCE NORTHERLY ALONG A CURVE TO THE LEFT THE RADIUS POINT OF WHICH BEARS N 85°10'01" W FOR 230 FEET THROUGH A CENTRAL ANGLE OF 29°32'74" FOR AN ARC DISTANCE OF 118.61 FEET TO THE NORTHERLY LINE OF SAID PARCEL NO. 5640001760; THENCE S 88°48'00" E ALONG SAID NORTHERLY LINE FOR 4.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT THE RADIUS POINT OF WHICH BEARS S 65°54'22" W FOR 235.74 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A VENTRAL ANGLE OF 22°22'10" FOR AN ARC DISTANCE 92.04 FEET; THENCE S 89°36'44" E FOR 5.70 FEET; THENCE S 01°12'45" W FOR 26.48 FEET TO THE SOUTHERLY LINE OF SAID PARCEL NO. 5640001760; THENCE N 88°45'03" W ALONG SAID SOUTHERLY LINE 10.28 FEET TO THE POINT OF BEGINNING.

PIERCE COUNTY, WASHINGTON.
May 21, 2012

FR1, A Joint Venture
1002 39th Ave. SW Suite 302
Puyallup, WA  98373

Attn:  Bill Riley

RE:  Offer Letter  
Tax ID#:  5640001760  
Project Name:  SR 410 – Main Street Improvements

Dear Property Owner:

The City of Bonney Lake has plans for the SR 410 – Main Street Improvement Project as noted above. As part of the project, the City needs to acquire a portion of your property and/or property rights for the construction and implementation of street improvements.

Cascade Right-of-Way Services has been contracted by the City of Bonney Lake to assist in acquiring the property needed. Therefore, the sender of this letter is the City’s agent in completing this transaction.

Your property has been examined by a qualified real estate appraiser. They have considered all the elements which contribute to the present value of your property. Their considerations are predicated upon applicable Federal and State laws relating to Fair Market Value and Just Compensation. By law, they must disregard any general increase or decrease in value caused by the project itself.

Based upon the market value estimated for your property, the City of Bonney Lake offers Ten Thousand Five Hundred and 00/100 Dollars ($10,500.00) for the needed property and/or property rights: This offer is described as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>671 SF in Fee Simple Title</td>
<td>$9,400.00</td>
</tr>
<tr>
<td>Improvements (lawn &amp; pavement contribute)</td>
<td>$1,100.00</td>
</tr>
<tr>
<td><strong>TOTAL JUST COMPENSATION:</strong></td>
<td><strong>$10,500.00</strong></td>
</tr>
</tbody>
</table>

You may wish to employ professional services to evaluate the City’s offer. If you do so, we suggest that you employ well-qualified evaluators so that the resulting evaluation report will be useful to you in deciding whether to accept the City’s offer. The City will reimburse up to $750 of your evaluation costs upon submission of the bills or paid receipts.

Should you decide to accept the offer, you can sign the attached documents necessary for the completion of this transaction, and we will forward them on to the City of Bonney Lake for processing. Payment for your property and/or property rights will be made available to you or your lender by certified mail approximately 45 days after you accept the City of Bonney Lake’s offer (depending on your lender, it may take 3 to 6 months to obtain a partial release of your loan). The “payment date” is the date on which payment is made available to you or your lender. On that date, the City of Bonney Lake becomes owner of the property purchased and responsible for its control and management. If property taxes are due at the time you accept the offer, you may be

PO Box 881, Rochester, WA 98579  •  Telephone (360) 791-1188
www.CascadeRW.com  •  Brian@CascadeRW.com
required to sign a Transfer of Lien form, which will transfer any taxes owed to the remaining property.

The Internal Revenue Service (IRS) requires that the City obtain your correct taxpayer identification number (TIN) or social security number (SSN) to report income paid to you as a result of this real estate transaction. You will be required to complete a W-9 form and provide it to the department’s agent upon acceptance of the City’s offer. If you want additional information, please contact an IRS office.

Donations are gratefully accepted. The City of Bonney Lake can use your support by donating the portion of your property needed to complete this project. Your generosity will make a difference in your community and will help reduce project costs. If you wish to take this opportunity, please complete and return the attached form. Your donation may be tax deductible. However, if you wish to use the donation for a tax deduction, you will need to seek the advice of an accountant or from the Internal Revenue Service regarding their current rules for donations and valuation. The undersigned agent is not authorized to explain or discuss your tax benefit.

If mutual agreement regarding this offer cannot eventually be reached through voluntary negotiations, the City, acting in the public interest, will use its right of eminent domain to acquire the above-referenced property or property rights for public use. In conformity with the Washington State Constitution and laws, the City Attorney will file a condemnation suit and arrange a trial to determine the just compensation to be paid for the property. This action would be taken to ensure that your rights as an individual property owner and the right of all city taxpayers are equally protected.

We have attempted by this letter to provide a concise statement of our offer and summary of your rights. To assist you in this acquisition process, we have enclosed for your information brochures entitled “Transportation Property Needs and You” and “The Law of Real Estate Agency”. We hope the information will assist you in reaching a decision. Please feel free to direct any questions you may have to Brian Fagernes (360) 791-1188. To achieve the accelerated schedule, the City of Bonney Lake requires a response to this offer by June 15, 2012.

Sincerely,

Cascade Right-of-Way Services, Inc.

Brian R. Fagernes
Managing Broker


Receipt of this letter is hereby acknowledged: (Signature does not mean acceptance of this offer)

By: ___________________________ 
Date: 7/25/12
Real Property Payment Voucher

City of Bonney Lake
Public Works Department
PO Box 7380
Bonney Lake, WA 98391-0944

Claimant(s)
FR1, A Joint Venture
1002 39th Ave. SW Suite 302
Puyallup, WA 98373

Title, Project, Parcel
SR 410 – Main Street Improvements
County Assessor No. 5640001760

A full, complete, and final payment for settlement for the title or interest conveyed or released as fully set forth in the Statutory Warranty Deed dated

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>671 SF in Fee Simple Title</td>
<td>$9,400.00</td>
</tr>
<tr>
<td>Improvements (lawn &amp; pavement contribute)</td>
<td>$1,100.00</td>
</tr>
<tr>
<td>Administrative Settlement</td>
<td>$4,020.00</td>
</tr>
</tbody>
</table>

**TOTAL JUST COMPENSATION:** $14,520.00

I/we hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the City of Bonney Lake, that the same or any part thereof has not been paid, and that I/we am/are authorized to sign for the claimant.

William J. Riley
Date: 7/25/12

Jerry D. Flansburg
Date: 7/25/12

Althea Riley
Date: 7/25/12

Mary Flansburg
Date: 7/25/12

City of Bonney Lake
Date
After recording return to:
City of Bonney Lake Public Works
City Hall Annex
PO Box 7380
Bonney Lake, WA 98391-0944
Attention: John Woodcock, P.E.

STATUTORY WARRANTY DEED

Grantor(s): FR 1, a Joint Venture
Grantee: City of Bonney Lake, a Municipal Corporation
Abbreviated Legal: Ptn N 115’ Tr 27 McDonald Fruit Tracts
Tax Parcel No.: 5640001760

THE GRANTOR(S), FR 1, a Joint Venture consisting of William J. Riley and Althea Riley, husband and wife and Jerry D. Flansburg and Mary Flansburg, husband and wife, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue to us therefrom, do(es) by these presents warrant, grant, and convey to the City of Bonney Lake, a Municipal Corporation, for the use of the public, the following described real estate situated in the City of Bonney Lake, Washington, to the same extent and purposes as if the rights granted had been acquired under the Eminent Domain Statute of the State of Washington, together with any after-acquired title therein, to wit:

See Attached Exhibit “A”

The undersigned hereby agree(s) to surrender occupancy of the lands and/or rights herein conveyed, on the date of acceptance of this instrument by the City of Bonney Lake.
Althea Riley

State

County

Ley signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 25th day of July, 2012

NOTARY PUBLIC
State of Washington
BRIAN R. FAGERNES
Commission Expires MAY 27, 2018

Accepted by:

City of Bonney Lake
Exhibit "A"

NEW RIGHT OF WAY DESCRIPTION FOR 5640001760

BEGINNING AT THE SOUTHWEST CORNER OF PIERCE COUNTY PARCEL NO. 5640001760, SAID POINT BEING 30.00 FEET LEFT OF STATION 11+13.28 OF CITY OF BONNEY LAKE RIGHT OF WAY PLANS FOR C-LINE (MAIN STREET) DATED DECEMBER 2011; THENCE NORTHERLY ALONG A CURVE TO THE LEFT THE RADIUS POINT OF WHICH BEARS N 85°10'01" W FOR 230 FEET THROUGH A CENTRAL ANGLE OF 29°32'74" FOR AN ARC DISTANCE OF 118.61 FEET TO THE NORTHERLY LINE OF SAID PARCEL NO. 5640001760; THENCE S 88°48'00" E ALONG SAID NORTHERLY LINE FOR 4.96 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT THE RADIIUS POINT OF WHICH BEARS S 65°54'22" W FOR 235.74 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A VENTRAL ANGLE OF 22°22'10" FOR AN ARC DISTANCE 92.04 FEET; THENCE S 89°36'44" E FOR 5.70 FEET; THENCE S 91°12'45" W FOR 26.48 FEET TO THE SOUTHERLY LINE OF SAID PARCEL NO. 5640001760; THENCE N 88°45'03" W ALONG SAID SOUTHERLY LINE 10.28 FEET TO THE POINT OF BEGINNING.

PIERCE COUNTY, WASHINGTON.
ROAD CONSTRUCTION AGREEMENT

BETWEEN

CITY OF BONNEY LAKE PUBLIC WORKS

AND

Property Owner: FR1, A Joint Venture
1002 39th Ave. SW Suite 302
Puyallup, WA 98373

Project: SR 410 – Main Street Improvements
Assessors Parcel ID #: 5640001760

(This agreement may be supplemental to the written terms of a deed but shall not be in any conflict therewith. It shall also serve to protect the interests of the City and property owners where no deed is necessary. It is intended to cover details of construction in matters open to doubt or susceptible to misunderstanding and no liability nor obligation shall exist except as stated herein or in the deed)

The undersigned hereby agree to the following conditions for the construction of the project named and described above:

1. The City agrees to maintain access to the subject property at all times during construction of the driveway approach.

2. The City agrees to relocate/reconfigure the rock wall along the subject’s frontage and to blend the wall with the existing terrain.

3. It is understood and agreed between the parties that the sale of the 671 square feet of right-of-way shall not impact redevelopment or change in use of the subject property.

Right of Entry. The property owners agree to allow the City and/or its assigns the right to work outside the limits of the right of way to accomplish the above and is temporary and will terminate on completion thereof. This imparts no right to park vehicles for any length of time on the owners’ property. The City of Bonney Lake agrees to indemnify and hold the landowner harmless from all claims and causes of action of any nature whatsoever arising out of the right of entry by the City or its contractors.

Owner Date
Owner

City of Bonney Lake Date
R/W Agent Date
ESCROW AGREEMENT

Attn: Robin LaCroix
Lakewood Escrow
10524 Bridgeport Way SW
Lakewood, WA 98499

Title Company: Rainier Title Insurance Company
Reference No. 632524
Project Parcel No. 5640001760
Project Title: SR 410 – Main Street Improvements

DATE: __________________________

The City of Bonney Lake Public Works and the undersigned mutually agree and direct you to close this escrow in accordance with the following instructions:

1. The undersigned grantors hereby authorize the issuance of a City warrant payable solely to the above-named Escrow Agent, for our benefit.

2. Receive the Statutory Warranty Deed handed herewith from me/us as grantor(s) to the City of Bonney Lake as grantee, conveying the lands described in your above-referenced Preliminary Commitment.

3. Receive the sum of $14,520.00 in the form of a City warrant that you are instructed to distribute as follows:

4. Note: All escrow and recording fees shall be paid by the City.

5. The City of Bonney Lake, at its discretion, reserves the right to withdraw the funds for this transaction from escrow and close this transaction independently or deposit said funds with the Clerk of the Court if deemed necessary.

6. When ready to vest title in the City of Bonney Lake, record instrument shown in instruction 2 above and prepare CLOSING DETAIL STATEMENT as explained on the reverse hereof.

7. Remit the balance by your check to:

8. Issue standard form Owner's policy of title insurance in the sum of $14,520.00 insuring the City of Bonney Lake as owner of the estate conveyed.

9. Upon closing, mail recorded instruments, title policy, and copy of CLOSING DETAIL STATEMENT to the City of Bonney Lake Public Works Department, PO Box 7380, Bonney Lake, WA 98391-0944

William J. Riley Date Jerry D. Flansburg Date
Althea Riley Date

CITY OF BONNEY LAKE
Public Works Department

By: ____________________________________________

Name

Title

Agenda Packet p. 49 of 102
CLOSING DETAIL STATEMENT

As indicated on the Escrow Instructions, the Escrow Agent shall furnish, upon the completion of the escrow transaction, a CLOSING DETAIL STATEMENT that will show thereon:

(a) The date of receipt and total amount of escrowed funds.

(b) The fee for escrow services and a statement that the entire escrow fee has been paid solely by the City.

(c) The date on which the City's grantor is notified that the Escrow Agent is ready to disburse funds to the City's grantor.

(d) Date of closing of the escrow.

(e) Detail of a mortgage payoff that includes:
   - Principal unpaid balance and date.
   - Accrued interest and dates for which interest is paid.
   - Prepayment penalty assessed, if any.
   - Offset of reserves held by mortgagee.
   - Net amount paid to mortgagee and date.

(f) Sums, if any, withheld from distribution to City's grantors at time of closing, and for what reason.

(g) Endorsements to the effect that:
   1. The statement has been read by the City's grantor, approved, and acknowledgment of receipt of the funds indicated as the net balance due from the Escrow Agent.
   2. The closing officer certifies that the statement is true and correct.

In case the Escrow Agent has withheld funds from distribution to the City's grantors for any reason, the Escrow Agent shall furnish to the City copies of correspondence transmitting such withheld funds at the time of their final disposition.
REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW – CHAPTER 458-61 WAC

This form is your receipt when stamped by cashier.

[ ] Check box if (partial) sale of property

If multiple owners, list percentage of ownership next to name.

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Mailing Address</th>
<th>City/State/Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>GRANTEE</td>
<td></td>
<td>PO Box 7380</td>
<td>Bonney Lake, WA 98391-0944</td>
</tr>
<tr>
<td>GRANTEE</td>
<td></td>
<td>5640001760</td>
<td></td>
</tr>
</tbody>
</table>

3. Send all property tax correspondence to: [ ] Same as Buyer/Grantee

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Mailing Address</th>
<th>City/State/Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR 1</td>
<td></td>
<td>1002 39th Ave. SW Suite 302</td>
<td>Puyallup, WA 98373</td>
</tr>
</tbody>
</table>

4. Street address of property:

This property is located in [ ] unincorporated [ ] city of Bonney Lake

[ ] Check box if any of the listed parcels are being segregated from a larger parcel.

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

See Attached Legal Description

5. Enter Abstract Use Categories: 

(Please see list on the back page of this form)

If exempt from property tax per chapter 84.36 RCW (nonprofit organization), include:
Seller’s Exempt Reg. No.:

6. Is this property designated as forest land per chapter 84.33 RCW? [ ] YES [ ] NO

Is this property classified as current use (open space, farm and agriculture, or timber) land per chapter 84.34? [ ] YES [ ] NO

Is this property receiving special valuation as historical property per chapter 84.26 RCW? [ ] YES [ ] NO

If any answers are yes, complete as instructed below.

7. NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)

NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below.

If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferee at the time of sale.

RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.

This land [ ] does [ ] does not qualify for continuance.

DEPUTY ASSESSOR

DATE

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)

NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) do not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferee at the time of sale.

(3) OWNER(S) SIGNATURE

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of

Signature of

Granter or Granter’s Agent

Grantee or Grantee’s Agent

Name (print)

Name (print)

Date & city of signing:

Date & city of signing:

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars ($5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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<tr>
<th>Department/Staff Contact:</th>
<th>Meeting/Workshop Date:</th>
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<td>PW / John Woodcock</td>
<td>14 August 2012</td>
<td>AB12-118</td>
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<tr>
<td>Resolution</td>
<td>2235</td>
<td>Randy McKibbin</td>
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**Agenda Subject:** Authorize the Developer Agreement with the Washington State Department of Transportation for construction of the SR410 & Main Street Intersection.

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize The Developer Agreement With The Washington State Department Of Transportation For Construction Of The SR410 & Main Street Intersection.

**Administrative Recommendation:**

**Background Summary:** The Washington State Department of Transportation requires all entities that construct infrastructure that is owned and maintained by the state to enter into a Developer Agreement that states the conditions of work that will be accomplished. The Public Works Department in conjunction with Shea, Carr, Jewell Engineering has completed the design portion of the intersection improvement project at SR 410 and Main Street and is moving forward with construction. This agreement with WSDOT is required before the city can advertise this contract.

**Attachments:** Resolution 2235, Developer Agreement

<table>
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<td>Budget Amount</td>
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**Budget Explanation:**

**COMMITTEE, BOARD & COMMISSION REVIEW**

- **Council Committee Review:** Community Development Date: 7 August 2012
  - Chair/Councilmember: Randy McKibbin
  - Councilmember: James Rackley
  - Councilmember: Katrina Minton-Davis

  Forward to: Consent Agenda: Yes ☒ No ☐

- **Commission/Board Review:**

- **Hearing Examiner Review:**

**COUNCIL ACTION**

- **Workshop Date(s):**
- **Meeting Date(s):**
- **Public Hearing Date(s):**
- **Tabled to Date:**

**APPROVALS**

- **Director:** Dan Grigsby
- **Mayor:** Neil Johnson Jr.
- **Date Reviewed by City Attorney:** (if applicable):
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RESOLUTION NO. 2235

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE DEVELOPER AGREEMENT WITH THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION FOR THE MAIN STREET INTERSECTION IMPROVEMENTS PROJECT LIMITS.

WHEREAS, the City Council approved the design contract for the Main Street and SR 410 Intersection Improvements Project by Resolution 2162 on October, 25, 2011; and

WHEREAS, the Public Works Department has presented the completed design to WSDOT for review and has obtained their approval; and

WHEREAS, WSDOT requires all entities that construct infrastructure that WSDOT will own and maintain to enter into a Developer Agreement stating the conditions and standards the work will be accomplished; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to sign the Developer Agreement with the Washington State Department of Transportation for the construction of the SR 410 and Main Street Intersection Improvement Project.

PASSED and adopted by the City Council this 14th day of August 2012.

_______________________________
Neil Johnson, Mayor

ATTEST:

_______________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_______________________________
James Dionne, City Attorney
This AGREEMENT is made and entered into between the STATE OF WASHINGTON DEPARTMENT OF TRANSPORTATION (STATE) and the above named organization (DEVELOPER).

WHEREAS, the DEVELOPER wishes to construct an intersection and/or related improvements within the STATE's rights-of-way, and

WHEREAS, the STATE and DEVELOPER now wish to define responsibility for construction and maintenance of the proposed improvements.

NOW THEREFORE, by virtue of Title 47.50 RCW, it is mutually agreed between the parties hereto as follows:

1. The STATE agrees to grant the DEVELOPER permission to construct the above described work within STATE right-of-way at the location described in Exhibit "A", attached hereto and by this reference made a part of this AGREEMENT.

2. The DEVELOPER agrees to construct the project as shown on Exhibit "B", at 100 percent DEVELOPER expense and responsibility. Exhibit "B" is attached hereto and by this reference made a part of this AGREEMENT.

The responsibility of the DEVELOPER for performance, safe conduct, and adequate policing and supervision of the project shall not be lessened or otherwise affected by the STATE's approval of plans, specifications, or work, or by the presence at the worksite of the STATE's representative(s), or by compliance by the DEVELOPER with any requests or recommendations made by such representative(s).

3. Any change of work from that shown on Exhibit "B" must be approved by the STATE prior to beginning such work. Plan revisions may be required by the STATE if design standards change between the time of the AGREEMENT approval and the beginning of construction.

4. Upon receipt of this AGREEMENT by the DEVELOPER the STATE may request a construction schedule showing critical dates and activities that will lead to the timely completion of the work required under this AGREEMENT.

Failure by the DEVELOPER to provide the construction schedule within 30 days may cause cancellation of the AGREEMENT. Cancellation of this agreement will not lessen the DEVELOPER'S responsibility to reimburse the STATE for those costs agreed to by item 13.

5. Prior to beginning of construction, a preconstruction conference shall be held with the STATE, DEVELOPER, and the DEVELOPER's contractor.
6. Should the DEVELOPER choose to perform the work outlined herein with other than its own forces, a representative of the DEVELOPER shall be present at all times unless otherwise agreed to by the Region Administrator. All contact between the STATE and DEVELOPER’s contractor shall be through the representative of the DEVELOPER. Where the DEVELOPER chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the DEVELOPER within STATE right-of-way, until said requirement is met.

The DEVELOPER, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor(s), subcontractor(s), agent(s), and others, so as to not endanger or injure any person or property.

7. Work within STATE right-of-way shall be restricted to the above specified hours and no work shall be allowed on the right-of-way Saturdays, Sundays, or Holidays, unless otherwise authorized by the STATE.

8. In the construction and/or maintenance of this facility, the DEVELOPER shall comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways", current edition. Any closures or restrictions of the highway shall require a STATE approved traffic control plan.

9. All material and workmanship shall conform to the Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction, current edition, and shall be subject to inspection by the STATE.

10. All disturbed right-of-way shall be seeded, fertilized, mulched, and protected from erosion.

11. The DEVELOPER shall provide an executed surety bond acceptable to the STATE in the amount stated above. the bond shall:

Be signed by a surety that is registered with the Washington State Insurance Commissioner and appears on the current authorized list published by the Office of the Insurance Commissioner.

Be conditioned upon faithful performance of the AGREEMENT.

Guarantee that the surety shall indemnify and defend the STATE against any loss resulting from the DEVELOPER’s failure to faithfully perform all the terms under this AGREEMENT.

Guarantee that the DEVELOPER or the contractor of the DEVELOPER shall pay all laborers, mechanics, subcontractors, and materialmen, or any person who provides supplies or provisions for carrying out the work.

The surety bond shall remain in full force and effect until released in writing by the STATE.

The STATE will recover from the DEVELOPER and its sureties such damages as the STATE may sustain by reason of the DEVELOPER’s failure to comply with the provisions of this AGREEMENT.

12. The DEVELOPER shall obtain and keep in force for the duration of the work under this AGREEMENT, public liability and property damage insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW. The STATE shall be specifically named as an insured in a policy with the same company which insures the DEVELOPER or by an endorsement to an existing policy. The amount of coverage shall be not less than a single limit of $1,000,000 for bodily injury, including death and property damage per occurrence. The DEVELOPER shall furnish the STATE proof of insurance prior to undertaking any work covered by this AGREEMENT.

13. The DEVELOPER shall reimburse the STATE for all actual direct and related indirect costs necessitated by this AGREEMENT. Such costs include, but are not limited to, agreement preparation, plan review, and construction inspection.

The DEVELOPER agrees to make payment for the work to be done by the STATE within thirty (30) days from receipt of billing from the STATE. Payment not made within thirty (30) days after receipt of billings shall bear interest at the rate of one percent per month or fraction thereof until paid pursuant to RCW 43.17.240.
14. The STATE shall have ownership and control of the completed facility within the STATE right-of-way and related traffic signal induction loops outside the STATE’s right-of-way, all subject to final acceptance by the STATE with the exception that the DEVELOPER, his assigns, and successors, shall be responsible for the construction and maintenance of the private connections and appurtenances between the shoulder line of the highway and the right-of-way line inclusive of surfacing and drainage, when applicable. Future construction or maintenance within the areas of responsibility by the DEVELOPER, his assigns, and successors which will affect the traffic signal induction loops and related appurtenances shall require STATE review and approval.

15. Any breach of the terms and conditions of this AGREEMENT, or failure on the part of the DEVELOPER to proceed with due diligence and in good faith in the construction and maintenance work provided for herein, shall subject this AGREEMENT to be cancelled and, at the option of the STATE, may require the DEVELOPER to remove all or part of the facilities constructed hereunder at the DEVELOPER’s sole expense.

16. The DEVELOPER shall indemnify and hold the STATE, and its agents, employees and/or officers harmless from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the STATE, its agents, employees and officers arising out of, in connection with, or incident to the execution of this AGREEMENT and/or the DEVELOPER’s performance or failure to perform any aspect of this AGREEMENT. Provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the DEVELOPER and (b) the STATE, its agents, employees and/or officers, this indemnify provision shall be valid and enforceable only to the extent of the negligence of the DEVELOPER, and provided further, that nothing herein shall require the DEVELOPER to hold harmless or defend the STATE, its agents, employees and/or officers from any claims arising from the sole negligence of the STATE, its agents, employees, and/or officers.

17. In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in Thurston County, Washington.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the party’s date signed last below.

DEVELOPER

By: ______________________
Name: _____________________
Title: ______________________
Date: ______________________

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By: ______________________
Name: _____________________
Title: ______________________
Date: ______________________

DOT Form 224-054 EF
Revised 2/10
Agenda Packet p. 58 of 102
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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<td>2236</td>
<td>Randy McKibbin</td>
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Agenda Subject: Award contract to Lakeridge Paving Company for the construction of West Tapps Overlay project.

Full Title/Motion: A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Award Contract To Lakeridge Paving Company For The Construction Of West Tapps Overlay Project.

Administrative Recommendation:

Background Summary: The City Council approved the survey data collection contract for this effort on July 10, 2012. The Public Works Department completed the in house design for the grind and overlay effort combined with the survey data provided by KPG Engineering. The project was advertised using the Small Works Roster. The City opened quotes for the project on August 1, 2012. Five quotes were received and Lakeridge Paving Company was the apparent low proposer with a quote of $92,995.96. The Engineer's Estimate was $119,000. Staff has determined that their proposal is consistent with the requirements of the contract and RFQ specifications.

Attachments: Resolution 2236; Contract; quote tabulations; Map

<table>
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<th>Required Expenditure</th>
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Budget Explanation: Street Maintenance Overlay Program 301.002.042.595.30.63.01
Construction contract amount: $92,995.96 + 10% Contingency $9,299 + 5% Project Mgt. $4,650 = Total $106,944.96
Revenue: REET

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review: Community Development
Date: 7 August 2012

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<td>Chair/Councilmember</td>
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<td>James Rackley</td>
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<td>Councilmember</td>
<td>Katrina Minton-Davis</td>
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Forward to: Consent Agenda: ☐ Yes ☒ No

Commission/Board Review:
Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s):
Meeting Date(s):
Public Hearing Date(s):
Tabled to Date:

APPROVALS

Director: Dan Grigsby
Mayor: Neil Johnson Jr.
Date Reviewed by City Attorney: (if applicable):
RESOLUTION NO. 2236

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE CONTRACT WITH LAKERIDGE PAVING COMPANY FOR THE OVERLAY OF WEST TAPPS HIGHWAY FROM CHURCH LAKE DRIVE TO CHURCH LAKE ROAD.

WHEREAS, the City Council approved Ordinance 1373 approving the 2011–2012 Budget that provided funding for both street overlay and road reconstruction work and;

WHEREAS, the City has approved Ordinance 1414 adopting the Mid-biennial budget for 2012 that approved funding for the street overlay and road reconstruction work; and

WHEREAS, the Public Works Department has identified the section of West Tapps Highway from Church Lake Drive to Church Lake Road to be pulverized and overlaid; and

WHEREAS, the Public Works Department has advertised this Request for Quotes and obtained quotes for this section of West Tapps Highway; and

WHEREAS, the Public Works Department has determined that the lowest responsible quote is from Lakeridge Paving Company; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to sign the attached contract with Lakeridge Paving Company in the amount of $92,995.96.

BE IT FURTHER RESOLVED that the City of Bonney Lake Council does hereby authorize a 10% Construction Contingency ($9,299) amount based on the contract bid amount as well as a 5% Construction Engineering ($4,650) amount based on the contract bid.

PASSED and adopted by the City Council this 14th day of August 2012.

_______________________________
Neil Johnson, Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_________________________________
James Dionne, City Attorney
CITY OF BONNEY LAKE CONTRACTOR AGREEMENT

THIS AGREEMENT, is made and entered into this ___ day of __________ 2012 by and between the CITY OF BONNEY LAKE, a Washington municipal corporation, hereinafter referred to as the "CITY" and Lakeridge Paving Company LLC, hereinafter referred to as the "CONTRACTOR."

WITNESSETH:

WHEREAS, the CITY desires to have certain work, services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such work; and

WHEREAS, the CONTRACTOR represents that the CONTRACTOR is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the work, services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF WORK.

The CONTRACTOR shall perform such work and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as CONTRACTOR responsibilities throughout this Agreement and as detailed in Exhibit "A" attached hereto and incorporated herein (the "Project").

2. TERM.

The Project shall begin no earlier than Refer to Notice to Proceed and shall be completed no later than Refer to Notice to Proceed, unless sooner terminated according to the provisions herein.

3. COMPENSATION AND METHOD OF PAYMENT.

   A. Payments for work provided hereunder shall be made following the performance of such work, unless otherwise permitted by law and approved in writing by the CITY.

   B. No payment shall be made for any work rendered by the CONTRACTOR except for work identified and set forth in this Agreement.

   C. The CITY shall pay the CONTRACTOR for work performed under this Agreement pursuant to accepted quote proposal attached hereto as Exhibit "B" and by this reference incorporated herein.
D. The CONTRACTOR shall submit to the CITY Clerk-Treasurer on forms approved by the Clerk-Treasurer, a voucher or invoice for services rendered during the pay period. The CITY shall initiate authorization for payment after receipt of said approved voucher or invoice and shall make payment to the CONTRACTOR within approximately thirty (30) days thereafter.

4. REPORTS AND INSPECTIONS.

   A. The CONTRACTOR at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement. All of the reports, information data, and other related materials, prepared or assembled by the CONTRACTOR under this Agreement and any information relating to personal, medical and financial data will be treated as confidential insofar as is allowed by Washington State laws regarding disclosure of public information, Chapter 42.17, R.C.W. Generally, Chapter 42.17, R.C.W. requires disclosure of all but the most personal and sensitive information in CITY hands.

   B. The CONTRACTOR shall at any time during normal business hours and as often as the CITY or State Examiner may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the CONTRACTOR’S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the CONTRACTOR’S activities which relate, directly or indirectly, to this Agreement.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

   A. The parties intend that an independent CONTRACTOR/CITY relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of work and/or services will lie solely with the discretion of the CONTRACTOR. No agent, employee, servant or representative of the CONTRACTOR shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the CONTRACTOR are not entitled to any of the benefits the CITY provides for its employees. The CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

   B. In the performance of the work herein contemplated the CONTRACTOR is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.
6. CONTRACTOR EMPLOYEES/AGENTS
The CITY may in its sole discretion require the CONTRACTOR to remove an employee(s), agent(s) or servant(s) from employment on this Project. The CONTRACTOR may however employ that (those) individual(s) on other non-CITY related projects.

7. HOLD HARMLESS INDEMNIFICATION.

A. Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or resulting from the negligent acts, errors or omissions of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor’s liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor’s negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor’s waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

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

A. Minimum Scope of Insurance

The CONTRACTOR shall obtain insurance of the types described below:

1. **Automobile Liability** insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. **Commercial General Liability** insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant’s Commercial General Liability insurance policy with respect to the work performed for the City.
3. **Worker’s Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.

4. **Professional Liability** insurance appropriate to the Consultant’s profession.

B. **Minimum Amounts of Insurance**

CONTRACTOR shall maintain the following insurance limits:

1. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. **Commercial General Liability** insurance shall be written with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate.

3. **Professional Liability** insurance shall be written with limits no less than $1,000,000 per claim and $1,000,000 policy aggregate limit.

B. **Other Insurance Provisions**

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

1. The Contractor’s insurance coverage shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor’s insurance and not contribute with it.

2. The Contractor’s insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

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

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

The CONTRACTOR’S insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer’s liability.

Any payment of deductible or self-insured retention shall be the sole responsibility of the CONTRACTOR.
The CONTRACTOR'S insurance shall be primary insurance as respects the CITY and the CITY shall be given thirty (30) days prior written notice of any cancellation, suspension or material change in coverage.

9. TREATMENT OF ASSETS.

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the CONTRACTOR pursuant to this Agreement.

10. COMPLIANCE WITH LAWS.

A. The CONTRACTOR, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

B. The CONTRACTOR specifically agrees to pay any applicable business and occupation (B & O) taxes which may be due on account of this Agreement.

C. The CONTRACTOR shall fully satisfy, and shall require any subcontractors to fully satisfy, any obligation to make industrial insurance premium payments related to the Project and required under RCW 51.12.050 and/or RCW 51.12.070. Specified retainage relating to the Project will be withheld until receipt by the City of evidence that CONTRACTOR and all of its subcontractors have fully satisfied any obligation to make industrial insurance premium payments related to the Project and required under RCW 51.12.050 and/or RCW 51.12.070.

11. NONDISCRIMINATION AND LEGAL COMPLIANCE.

A. The CITY is an equal opportunity employer.

B. Nondiscrimination in Employment. In the performance of this Agreement, the CONTRACTOR agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, gender, age or handicap except for a bona fide occupational qualification with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and rendition of services. Contractor understands and agrees that if it violates this section, this Agreement may be terminated by the City, and that Contractor shall be barred from performing any services for the City in the future unless and until a showing is made satisfactory to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.
C. Nondiscrimination in Services. The CONTRACTOR will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment and/or subcontracting has been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The CONTRACTOR shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

E. The contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Reform and Control Act of 1986, including but not limited to the provisions of the Act prohibiting the hiring and continued employment of unauthorized aliens and requiring verification and record keeping with respect to the status of each of its employees' eligibility for employment. The contractor shall include a provision substantially the same as this section in any and all contracts with subcontractors performing work required of the contractor under this contract. The contractor agrees to indemnify and hold the City harmless from any and all liability, including liability for interest and penalties, the City may incur as a result of the contractor failing to comply with any provisions of the Immigration Reform and Control Act of 1986.

12. ASSIGNMENT/SUBCONTRACTING.

A. The CONTRACTOR shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the CONTRACTOR not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper RFQ procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon the CITY unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.
The CITY will have the right to make changes to the work provided for hereunder, within its general scope, and the contract time and for contract amount will be equitably adjusted to reflect the change. The CONTRACTOR will promptly commence and continue to perform the work as changed not notwithstanding disagreement over the equitable adjustment owing therefore.

14. MAINTENANCE AND INSPECTION OF RECORDS.

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

B. The CONTRACTOR shall retain all books, records, documents and other material relevant to this agreement, for six (6) years after its expiration. The CONTRACTOR agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. PROHIBITED INTEREST.

No member, officer, or employee of the CITY shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. RETAINAGE.

Notwithstanding any other provision of this Agreement, in accordance with Ch. 60.28 RCW, the CITY shall retain from the monies earned by CONTRACTOR hereunder, five percent as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor or furnish any supplies related to the Project, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from CONTRACTOR. Said retainage shall be reserved in a CITY fund until thirty days following final acceptance of the Project as completed, and shall not be released to CONTRACTOR until the CITY has received certification from the Washington State Department of Revenue that all taxes, increases and penalties due from CONTRACTOR, and all taxes due and to become due with respect to the Project, have been paid in full or are readily collectible without recourse to the state’s lien on the retainage, and until the requirements of section 10(C) have been satisfied.
18. PERFORMANCE BOND.

In accordance with Ch. 39.08 RCW, CONTRACTOR shall furnish to the CITY a bond, with a surety company licensed as a surety in Washington as surety, conditioned that CONTRACTOR shall faithfully perform all provisions of this Agreement and pay all laborers, mechanics, subcontractors and materialmen, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for carrying out the Project. Said bond shall be in the amount of the total amount of this Agreement.

19. PREVAILING WAGE.

CONTRACTOR shall pay all laborers, workers, or mechanics performing work under this Agreement prevailing wages as required by Ch. 39.12 RCW, and shall satisfy all other requirements of that chapter, including without limitation requiring that all subcontractors performing work related to the project comply with the requirements of that chapter. The hourly minimum rate of wage which may be paid to laborers, workers, or mechanics for work related to the Project is shown on Exhibit C, attached hereto and incorporated herein by this reference.

Prior to the CITY making any payment to CONTRACTOR under this Agreement, CONTRACTOR and each subcontractor shall submit to the CITY a Statement of Intent to Pay Prevailing Wages approved by the industrial statistician of the Washington State Department of Labor and Industries and complying with the requirements of RCW 39.12.040. Prior to release of the sums retained pursuant to section 17 of this Agreement ["Retainage"], CONTRACTOR and each subcontractor shall submit to the City an Affidavit of Wages Paid approved by the industrial statistician of the Washington State Department of Labor and Industries and complying with the requirements of RCW 39.12.040.

20. TERMINATION.

A. Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by written notice to the CONTRACTOR. In the event of termination for the convenience of the CITY, the CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit a termination claim to the CITY. If the CONTRACTOR has any property in its possession belonging to the CITY, the CONTRACTOR will account for the same, and dispose of it in the manner directed by the CITY.

B. Termination for Cause. If the CONTRACTOR fails to perform in the manner called for in this Agreement, or if the CONTRACTOR fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.
21. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

22. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

23. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered with the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Pierce County, Washington.

24. SEVERABILITY.

A. If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

25. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of
this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY OF BONNEY LAKE

__________________________
Neil Johnson Jr., Mayor

Date: ______________________

CONTRACTOR: ______________________

__________________________

UBI Number

Date: ______________________

Exhibit A - Scope of Work
Exhibit B - Contractor's Proposal & Schedule of Prices
Exhibit C - Prevailing Wage Rates for Pierce County (Effective July 27, 2012)
SCOPE OF WORK
West Tapps Hwy Overlay Project

1. REQUEST FOR QUOTES (RFQ). The City of Bonney Lake is requesting quotes from qualified contractors for sewer main installation and roadway restoration services.

1.1. Description of Work. The major item of work for the West Tapps Hwy Overlay project includes grind and overlay of approximately 1,650 feet of roadway.

1.2. Instructions to Proposers. All RFQ Proposal packages should be sent to:

   City of Bonney Lake
   Attn: Andrew Fonda, Assistant Engineer
   P.O. Box 7380
   19306 Bonney Lake Blvd. E.
   Bonney Lake, WA 98391

1.3. Proposers are responsible for assuring delivery. For questions, contact Andrew Fonda at fondaa@ci.bonney-lake.wa.us or 253-447-3270. All answers to questions may be shared with other vendors participating in the RFQ process.

1.4. One reproducible copy of the proposal may be mailed or delivered to the address above. Proposers are responsible for assuring delivery.

1.5. Proposals must be received by the City no later than August 1, 2012 at 11:00 a.m. Proposals will be evaluated, with a recommendation to go forward to the City’s Community Development Committee (CDC). The CDC will then forward a final recommendation for project award to the full City Council. The award process is triggered and contingent upon the mayor’s signature of the Contract Agreement.

1.6. Builders Exchange. All contract documents, drawings, and specifications for this project are available for viewing and downloading on-line through Builders Exchange of Washington, Inc. (BXWA) at http://www.bxwa.com. To view the documents on BXWA’s website, select the following links: “Posted Projects;” “Small Public Works Roster;” “City of Bonney Lake;” “Small Works Projects.” Proposers are encouraged to “Register on this project” to receive automatic email notification of future addend and be placed on the “Bidders List.” For other questions, contact the Builders Exchange of Washington at (425) 258-1303.

1.7. Small Works Roster. The City of Bonney Lake uses Municipal Research and Services Center of Washington (MRSC) as the City’s list of qualified businesses for small works projects. Proposers are required to be registered with Municipal Research and Service Center of Washington (MRSC) as a participating Small Works Business. For further information, view www.mrscrosters.org.

2. SCOPE OF WORK
A. These specifications include requirements to grind and overlay approximately 1,650 feet of roadway along West Tapps Hwy between Church Lake Drive and Church Lake Road.

B. This work shall include the furnishing of all materials, equipment, tools, and labor as required for grind and overlay work.

C. The Contractor shall perform all required permanent landscape and roadway shoulder restoration of disturbed areas on private property and within the City right-of-way upon completion, to the satisfaction of the Owner.


3. GENERAL REQUIREMENTS

3.1. General

3.1.1. The completion date of this contracted work shall not exceed thirty working days from the date of the notice to proceed.

3.1.2. The contract shall be awarded to the lowest responsible contractor based on the total amount of items using estimated quantities of work provided in the Schedule of Prices by the City and the unit prices provided by the contractor. Unit price quotes shall remain in force for the duration of the contract. Unit price increases may be increased at the time of an extension, for significant changes in labor or material costs, if sufficient documentation supporting these cost increases is provided by the contractor. Questions concerning this type of contract should be directed to the Public Works Director (253) 447-4347 or Assistant Public Works Director (253) 447-4323.

3.1.3. Work will be administered through the PW-ADMIN office. Work will be inspected by PW-ENGR staff in PWD.

3.1.4. The Contractor shall be prepared to furnish all tools, materials, and/or equipment necessary to perform the necessary work.

3.2. Traffic Control

Traffic control shall be the responsibility of the Contractor.

3.3. Safety

Contractor shall perform work in a manner to protect the health and safety of all workers and the public. All work shall be in accordance with standard industry safety practices. All work, including entry into confined spaces shall be performed in strict compliance with current OSHA regulations.
4. PROPOSAL TERMS AND CONDITIONS.

4.1. The City reserves the right to reject any and all proposals, and to waive minor irregularities in any proposal.

4.2. The City reserves the right to request clarification of information submitted, and to request additional information from any proposer.

4.3. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in the RFQ.

4.4. The City shall not be responsible for any costs incurred by the firm in preparing, submitting or presenting its response to the RFQ.

4.5. Contractor Agreement. All work performed will be carried out consistent with Item 1, Scope of Work, Item 3, Plans, and Item 4, Technical Specifications, and under the terms set forth in the signed Contract Agreement within this RFQ.

5. PROPOSAL CONTENTS.

All proposals must include the information outlined in this section. Items in Section 5.1 through 5.2 must be submitted collectively as the RFQ Proposal Package by the deadline set forth in Section 1.5. Items in Section 5.3 through 5.11 are to be executed and submitted within 10 calendar days after receiving the Notice of Award.

5.1. Contractor Proposal with contractor contact information.

5.2. Completed Schedule of Prices.

5.3. Signed Contract.

5.4. Performance and Guarantee Bond.

5.5. Labor and Materials Bond.

5.6. Certificates of Insurance.

5.7. Certificate as to Corporate Principal.

5.8. Certificate as to Corporate Seal.

5.9. Statement of Intent to Pay Prevailing Wages.

5.10. W-9 Request for Taxpayer's Identification Number & Certification.

5.11. Contractor's Declaration of Option for Management of Statutory Retained Percentage.
CONTRACTOR'S PROPOSAL & SCHEDULE OF PRICES

Contractor: Lakeridge Paving Company LLC

City: Covington, State: Washington

Date: July 31, in the year of 2012

The Honorable City Council
City of Bonney Lake
P.O. Box 7380
19306 Bonney Lake Boulevard
Bonney Lake, WA 98391

Pursuant to and in compliance with the Request for Quotes and all other documents relating thereto, the undersigned proposer, having familiarized themselves with the terms of the contract, the local conditions affecting the performance of the contract, the cost of the work at the place where the work is to be done, proposes and agrees to perform, within the time stipulated, the contract, if this project is accepted, including all its component parts and everything required to be performed, and to provide and furnish any and all labor, materials, tools, expendable equipment, all utility and transportation services necessary to perform the contract, complete, in a skillful manner, of all the work covered by the contract in connection with the City of Bonney Lake’s project designated as West Tapps Hwy Overlay and as required by and in strict conformance with the specifications, contract plans and the standard plans for the following unit prices.

Note: Unit prices of all items; all extensions and total amount of quote must be shown. Show unit prices in both words and figures and, where conflict occurs, the written or typed words prevail.
EXHIBIT B

PROPOSAL (Continued)

All proposers shall sign the proposal in the space provided.

The Contractor agrees to perform the complete contract work as specified; including corrections, finish and cleanup within 30 consecutive working days, beginning the date given in the notice to proceed by City of Bonney Lake.

The proposal, together with the Agreement, Contract Documents, Standard Specifications, and Plans, when endorsed by City of Bonney Lake shall become a contract binding on both parties thereto, whereby the Contractor agrees to perform the complete contract work, as specified, and the City of Bonney Lake agrees to make payment to the Contractor, as specified, for said completed and accepted work.

Dated this July Day of 31 , in the year of 2012.

Contractor: Lakeridge Paving Company LLC

Address: PO BOX 8500

Covington WA. 98042

Telephone: 253 631 8290 Washington State License No. LAKERPC050JM

By: [Signature]

Title: Jon Cheetham - Managing Member

Attest: (If Corporation)

[Signature]

Witness: (If Individual or Partnership)

Heidy Brothers - Contract Administrator

Acknowledgement of Receipt of Addenda:

No.: 1 Date: July 30 2012 Initials: [Signature]
No.: [ ] Date: [ ] Initials: [ ]
No.: [ ] Date: [ ] Initials: [ ]
No.: [ ] Date: [ ] Initials: [ ]
No.: [ ] Date: [ ] Initials: [ ]
No.: [ ] Date: [ ] Initials: [ ]
# SCHEDULE OF PRICES
## WEST TAPPS HWY OVERLAY PROJECT

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<tr>
<th>ITEM No.</th>
<th>ESTIMATED QUANTITY</th>
<th>DESCRIPTION OF ITEM</th>
<th>PRICE PER UNIT</th>
<th>TOTAL</th>
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<td>LS</td>
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<td>4</td>
<td>FA</td>
<td>Roadside Cleanup (2-01): Two thousand dollars</td>
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<td>5</td>
<td>159 TON</td>
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<td>4,666 SY</td>
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<td>3 EACH</td>
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<td>$700.00</td>
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<td>11</td>
<td>1 EACH</td>
<td>Adjust Monument to Grade (8-13): Two Hundred Fourty Five Dollars</td>
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<td>18 LF</td>
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<td>(Unit Price in Words) Per Each</td>
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**Total Items (Items 1-13):** $92,995.96

### Washington State Sales Tax:

**TOTAL QUOTE:** $92,995.96
State of Washington  
Department of Labor & Industries  
Prevailing Wage Section – Telephone 360-902-5335  
PO Box 44540, Olympia, WA 98504-4540

Washington State Prevailing Wage

The PREVAILING WAGES listed here include both the hourly wage rate and the hourly rate of fringe benefits. On public works projects, worker’s wage and benefit rates must add to not less than this total. A brief description of overtime calculation requirements are provided on the Benefit Code Key at the Washington State Department of Labor & Industries website (http://lmi.wa.gov/prevailingwage/BenCodes/20111/BenefitCodes.asp).

Journey Level Prevailing Wage Rates for the Effective Date: 7/27/2012

<table>
<thead>
<tr>
<th>County</th>
<th>Trade</th>
<th>Job Classification</th>
<th>Wage</th>
<th>Holiday</th>
<th>Overtime</th>
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<td>Asbestos Abatement Workers</td>
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<td>Brick And Block Finisher</td>
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Prevailing Wage Rates Effective 7-27-2012
## West Tapps Highway Overlay Project

### Construction Cost

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<th>No.</th>
<th>Description</th>
<th>Units</th>
<th>Quantity</th>
<th>Unit Price</th>
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**TOTAL COST**

$119,032.28

**10% Contingency**

$10,821.12

**TOTAL COST**

$129,853.40
West Tapps Hwy Overlay

Disclaimer: The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. The County assumes no liability for variations ascertained by actual survey. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. The County makes no warranty of fitness for a particular purpose.  2012/06/19

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City of Bonney Lake, Washington

City Council Agenda Bill (AB)

<table>
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<tr>
<th>Department/Staff Contact:</th>
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<th>Agenda Bill Number:</th>
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<td>14 August 2012</td>
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<th>Ordinance/Resolution Number:</th>
<th>Councilmember Sponsor:</th>
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<td>Resolution</td>
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<td>Randy McKibbin</td>
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**Agenda Subject:** Authorize Schedule 74 Construction Agreement for SR 410 – Main Street Intersection Improvements with Puget Sound Energy.

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize The Schedule 74 Construction Agreement For SR 410 – Main Street Intersection Improvements With Puget Sound Energy.

**Administrative Recommendation:**

**Background Summary:** The City Council approved Ordinance 1283 on September 23, 2008 that required all distribution utilities be placed underground when new construction occurred. Council approved the Schedule 74 Design Agreement with Puget Sound Energy on January 24, 2012 for the SR 410 - Main Street Intersection Improvement Project. The following agreement is the Schedule 74 Underground Conversion Project Construction and cost estimate for the cost sharing (60% PSE cost $206,400 and 40% COBL cost $122,900 for a total project cost of $329,300) of the undergrounding portion of the utility for the project.

**Attachments:** Resolution 2237; Schedule 74 Underground Conversion Agreement; Cost Distribution Estimate; Map

**BUDGET INFORMATION**

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**Budget Explanation:** Main Street/SR 410 I/S - Const 301.050.032.595.30.63.01

Revenue: Franciscan Medical Health Center Share: $1,000,000 & Available TIF

**COMMITTEE, BOARD & COMMISSION REVIEW**

**Council Committee Review:**

Community Development Date: 7 August 2012

**Approvals:**

- Chair/Councilmember: Randy McKibbin
- Councilmember: James Rackley
- Councilmember: Katrina Minton-Davis

Forward to: Consent Agenda: Yes No

**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

Workshop Date(s): Public Hearing Date(s):

Meeting Date(s): Tabled to Date:

**APPROVALS**

<table>
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<tr>
<th>Director:</th>
<th>Mayor:</th>
<th>Date Reviewed by City Attorney:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dan Grigsby</td>
<td>Neil Johnson Jr.</td>
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| (if applicable): |
RESOLUTION NO. 2237

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE SCHEDULE 74 COST SHARE AGREEMENT BETWEEN PUGET SOUND ENERGY AND THE CITY OF BONNEY LAKE TO CONSTRUCT THE UNDERGROUND PUGET SOUND ENERGY UTILITIES WITHIN THE MAIN STREET INTERSECTION IMPROVEMENTS PROJECT LIMITS.

WHEREAS, the City Council approved Ordinance 1283 on September 23, 2008 that required that all distribution utilities be placed underground; and

WHEREAS, the City Council approved the design contract for the Main Street and SR 410 Intersection Improvements Project by Resolution 2162 on October, 25, 2011; and

WHEREAS, the City Council approved the Resolution 2177 on January 24th 2012 for the Schedule 74 Cost Share agreement for the design of the undergrounding portion of the utility; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to approve the cost estimate payment of $122,900 to Puget Sound Energy for the construction portion of the conversion process from aerial to underground per the Schedule 74 agreement.

PASSED and adopted by the City Council this 14th day of August 2012.

_______________________________
Neil Johnson, Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

_________________________________
James Dionne, City Attorney
SCHEDULE 74 UNDERGROUND CONVERSION
Project Construction Agreement

Project Name: City of Bonney Lake – Main Street / SR-410 Conversion
Project Number: 101075219

THIS Agreement, dated as of this ___ day of ____________, 2012, is made by and between the City of Bonney Lake, a municipality in Washington (the “Government Entity”), and Puget Sound Energy, Inc., a Washington Corporation (the “Company”).

RECITALS

A. The Company is a public service company engaged in the sale and distribution of electric energy, and pursuant to its franchise or other rights from the Government Entity, currently locates its electric distribution facilities within the jurisdictional boundaries of the Government Entity.

B. The Government Entity has determined that it is necessary to replace the existing overhead electric distribution system within the area specified in the Project Plan (as defined below) (the “Conversion Area”) with a comparable underground electric distribution system, all as more specifically described in the Project Plan (the “Conversion Project”).

C. The Government Entity and the Company have previously entered into a Project Design Agreement dated as of December 22, 2011, (the “Design Agreement”), pursuant to which the parties completed certain engineering design, cost assessment, operating rights planning and other preliminary work relating to the Conversion Project and, in connection with that effort, developed the Project Plan.

D. The Government Entity and the Company wish to execute this written contract in accordance with Schedule 74 of the Company’s Electric Tariff G (“Schedule 74”) to govern the completion of the Conversion Project, which both parties intend shall qualify as an underground conversion under the terms of Schedule 74.

AGREEMENT

The Government Entity and the Company therefore agree as follows:

1. Definitions.

   (a) Unless specifically defined otherwise herein, all terms defined in Schedule 74 shall have the same meanings when used in this Agreement, including, without limitation, the following:

      i) Cost of Conversion;
      ii) Public Thoroughfare;
      iii) Temporary Service;
      iv) Trenching and Restoration;
      v) Underground Distribution System; and
      vi) Underground Service Lines.

   (b) “Company-Initiated Upgrade” shall mean any feature of the Underground Distribution System which is required by the Company and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced. For purposes of the foregoing, a “comparable” system shall include, unless the Parties otherwise agreed, any feature of the Underground Distribution System that is required by the Company and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced.

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agree, the number of empty ducts (not to exceed two (2), typically having a diameter of 6" or less) of such diameter and number as may be specified and agreed upon in the Project Plan necessary to replicate the load-carrying capacity (system amperage class) of the overhead system being replaced.

(c) “Estimated Reimbursable Private Conversion Costs” shall mean the Company’s good faith estimate of the Reimbursable Private Conversion Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.

(d) “Estimated Reimbursable Temporary Service Costs” shall mean the Company’s good faith estimate of the Reimbursable Temporary Service Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.

(e) “Estimated Reimbursable Upgrade Costs” shall mean the Company’s good faith estimate of the Reimbursable Upgrade Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.

(f) “Estimated Shared Company Costs” shall mean the Company’s good faith estimate of the Shared Company Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.

(g) “Estimated Shared Government Costs” shall mean the Government Entity’s good faith estimate of the Shared Government Costs, as specified in the Project Plan and as changed and adjusted from time to time in accordance with Section 6, below.

(h) “Government-Requested Upgrade” shall mean any feature of the Underground Distribution System which is requested by the Government Entity and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced. For purposes of the foregoing, any empty ducts installed at the request of the Government Entity shall be a Government-Requested Upgrade.

(i) “Party” shall mean either the Company, the Government Entity, or both.

(j) “Private Property Conversion” shall mean that portion, if any, of the Conversion Project for which the existing overhead electric distribution system is located, as of the date determined in accordance with Schedule 74, (i) outside of the Public Thoroughfare, or (ii) pursuant to rights not derived from a franchise previously granted by the Government Entity or pursuant to rights not otherwise previously granted by the Government Entity.

(k) “Project Plan” shall mean the project plan developed by the Parties under the Design Agreement and attached hereto as Exhibit A, as the same may be changed and amended from time to time in accordance with Section 6, below. The Project Plan includes, among other things, (i) a detailed description of the Work that is required to be performed by each Party and any third party, (ii) the applicable requirements and specifications for the Work, (iii) a description of the Operating Rights that are required to be obtained by each Party for the Conversion Project (and the requirements and specifications with respect thereto), (iv) an itemization and summary of the Estimated Shared Company Costs, Estimated Shared Government Costs, Estimated Reimbursable Private Conversion Costs (if any), Estimated Reimbursable Temporary Service Costs (if any) and Estimated Reimbursable Upgrade Costs (if any), and (v) the Work Schedule.

(l) “Operating Rights” shall mean sufficient space and legal rights for the construction, operation, repair, and maintenance of the Underground Distribution System.

(m) “Reimbursable Private Conversion Costs” shall mean (i) all Costs of Conversion, if any, incurred by the Company which are attributable to a Private Property Conversion, less (ii) the distribution Construction Agreement, Attachment “B” to Schedule 74, Page 2 City of Bonney Lake – Main St / SR-410 Conversion
pole replacement costs (if any) that would be avoided by the Company on account of such Private Property Conversion, as determined consistent with the applicable Company distribution facilities replacement program, plus (iii) just compensation as provided by law for the Company’s interests in real property on which such existing overhead distribution system was located prior to conversion; provided that the portion of the Reimbursable Private Conversion Costs attributable to the Costs of Conversion under subparagraph (i) of this paragraph shall not exceed the Estimated Reimbursable Private Conversion Costs without the prior written authorization of the Government Entity.

(n) “Reimbursable Temporary Service Costs” shall mean all costs incurred by the Company which are attributable to (i) any facilities installed as part of the Conversion Project to provide Temporary Service, as provided for in Schedule 74, and (ii) the removal of any facilities installed to provide Temporary Service (less salvage value of removed equipment); provided that the Reimbursable Temporary Service Costs shall not exceed the Estimated Reimbursable Temporary Service Costs without the prior written authorization of the Government Entity.

(o) “Reimbursable Upgrade Costs” shall mean all Costs of Conversion incurred by the Company which are attributable to any Government-Requested Upgrade; provided that the Reimbursable Upgrade Costs shall not exceed the Estimated Reimbursable Upgrade Costs without the prior written authorization of the Government Entity.

(p) “Shared Company Costs” shall mean all Costs of Conversion (other than Reimbursable Upgrade Costs, Reimbursable Private Conversion Costs and Reimbursable Temporary Service Costs) incurred by the Company in connection with the Conversion Project; provided, however, that the Shared Company Costs shall not exceed the Estimated Shared Company Costs without the prior written authorization of the Government Entity. For the avoidance of doubt, the “Shared Company Costs” shall, as and to the extent specified in the Design Agreement, include the actual, reasonable costs to the Company for the “Design Work” performed by the Company under the Design Agreement.

(q) “Shared Government Costs” shall mean all Costs of Conversion incurred by the Government Entity in connection with (i) any duct and vault installation Work which the Parties have specified in the Project Plan is to be performed by the Government Entity as part of the Government Work, and (ii) the acquisition of any Operating Rights which the Parties have, by mutual agreement, specified in the Project Plan are to be obtained by the Government Entity for the Conversion Project, but only to the extent attributable to that portion of such Operating Rights which is necessary to accommodate the facilities of the Company; provided, however, that the Shared Government Costs shall not exceed the Estimated Shared Government Costs without the prior written authorization of the Company.

(r) “Total Shared Costs” shall mean the sum of the Shared Company Costs and the Shared Government Costs. For the avoidance of doubt, the Total Shared Costs shall not include, without limitation, (i) costs to the Government Entity for Trenching and Restoration, or (ii) costs associated with any joint use of trenches by other utilities as permitted under Section 3(b).

(s) “Work” shall mean all work to be performed in connection with the Conversion Project, as more specifically described in the Project Plan, including, without limitation, the Company Work (as defined in Section 2(a), below) and the Government Work (as defined in Section 3(a), below).

(t) “Work Schedule” shall mean the schedule specified in the Project Plan which sets forth the milestones for completing the Work, as the same may be changed and amended from time to time in accordance with Section 6, below.

2. **Obligations of the Company.**

Construction Agreement, Attachment “B” to Schedule 74, Page 3
City of Bonney Lake – Main St / SR-410 Conversion

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(a) Subject to the terms and conditions of this Agreement, the Company shall do the following as specified in, and in accordance with the design and construction specifications and other requirements set forth in, the Project Plan (the "Company Work"):

i) furnish and install an Underground Distribution System within the Conversion Area (excluding any duct and vault installation or other Work which the Parties have specified in the Project Plan is to be performed by the Government Entity);

ii) provide a Company inspector on-site at the times specified in the Work Schedule to inspect the performance of any duct and vault installation Work which the Parties have specified in the Project Plan is to be performed by the Government Entity; and

iii) upon connection of those persons or entities to be served by the Underground Distribution System and removal of facilities of any other utilities that are connected to the poles of the overhead system, remove the existing overhead system (including associated wires and Company-owned poles) of 15,000 volts or less within the Conversion Area except for Temporary Services.

(b) Upon request of the Government Entity, the Company shall provide periodic reports of the progress of the Company Work identifying (i) the Company Work completed to date, (ii) the Company Work yet to be completed, and (iii) an estimate regarding whether the Conversion Project is on target with respect to the Estimated Shared Company Costs, the Estimated Reimbursable Private Conversion Costs (if any), the Estimated Reimbursable Temporary Service Costs (if any), the Estimated Reimbursable Upgrade Costs (if any) and the Work Schedule.

(c) Except as otherwise provided in the Company's Electric Tariff G, the Company shall own, operate and maintain all electrical facilities installed pursuant to this Agreement including, but not limited to, the Underground Distribution System and Underground Service Lines.

(d) Subject to the terms and conditions of this Agreement, the Company shall perform all Company Work in accordance with the Project Plan, the Work Schedule and this Agreement.


(a) Subject to the terms and conditions of this Agreement, the Government Entity shall do the following as specified in, and in accordance with the design and construction specifications and other requirements set forth in, the Project Plan (the "Government Work"):

i) provide the Trenching and Restoration;

ii) perform the surveying for alignment and grades for ducts and vaults; and

iii) perform any duct and vault installation and other Work which the Parties have specified in the Project Plan is to be performed by the Government Entity.

(b) Other utilities may be permitted by the Government Entity to use the trenches provided by the Government Entity for the installation of their facilities so long as such facilities or the installation thereof do not interfere (as determined pursuant to the Company's electrical standards) with the Underground Distribution System or the installation or maintenance thereof. Any such use of the trenches by other utilities shall be done subject to and in accordance with the joint trench design specifications and installation drawings set forth or otherwise identified in the Project Plan, and the Government Entity shall be responsible for the coordination of the design and installation of the facilities of the other utilities to ensure compliance with such specifications and drawings.

(c) Upon request of the Company, the Government Entity shall provide periodic reports of the progress of the Government Work identifying (i) the Government Work completed to date, (ii) the Government Work yet to be completed, and (iii) an estimate regarding whether the Conversion Project is on target with respect to the Estimated Shared Government Costs and the Work Schedule.
(d) The Government Entity shall be responsible for coordinating all work to be performed in connection with the street improvement program within the Conversion Area.

(e) Subject to the terms and conditions of this Agreement, the Government Entity shall perform all Government Work in accordance with the Project Plan, the Work Schedule and this Agreement.


(a) The Government Entity and the Company have agreed upon the Work Schedule as set forth in the Project Plan. Changes to the Work Schedule shall be made only in accordance with Section 6, below.

(b) Promptly following the execution of this Agreement, and upon completion by the Government Entity of any necessary preliminary work, the Government Entity shall hold a pre-construction meeting involving all participants in the Conversion Project to review project design, coordination requirements, work sequencing and related pre-mobilization requirements. Following the pre-construction meeting, the Government Entity shall give the Company written notice to proceed with the Work at least ten (10) business days prior to the commencement date specified in the Work Schedule.

(c) Subject to the terms and conditions of this Agreement, each Party shall perform the Work assigned to it under this Agreement in accordance with the Work Schedule. So long as the Company performs the Company Work in accordance with the Work Schedule, the Company shall not be liable to the Government Entity (or its agents, servants, employees, subcontractors, or representatives) for any claims, actions, damages, or liability asserted or arising out of delays in the Work Schedule.

5. Location of Facilities.

All facilities of the Company installed within the Conversion Area pursuant to this Agreement shall be located, and all related Operating Rights shall be obtained, in the manner set forth in the applicable provisions of Schedule 74, as specified by the Parties in the Project Plan.

6. Changes.

(a) Either Party may, at any time, by written notice thereof to the other Party, request changes in the Work within the general scope of this Agreement (a "Request for Change"), including, but not limited to: (i) changes in, substitutions for, additions to or deletions of any Work; (ii) changes in the specifications, drawings and other requirements in the Project Plan, (iii) changes in the Work Schedule, and (iv) changes in the location, alignment, dimensions or design of items included in the Work. No Request for Change shall be effective and binding upon the Parties unless signed by an authorized representative of each Party.

(b) If any change included in an approved Request for Change would cause a change in the cost of, or the time required for, the performance of any part of the Work, an equitable adjustment shall be made in the Estimated Shared Company Costs, the Estimated Shared Government Costs, the Estimated Reimbursable Private Conversion Costs (if any), the Estimated Reimbursable Temporary Service Costs (if any), the Estimated Reimbursable Upgrade Costs (if any) and/or the Work Schedule to reflect such change. The Parties shall negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If the Parties are unable to agree upon the terms of the equitable adjustment, either Party may submit the matter for resolution pursuant to the dispute resolution provisions in Section 10, below.

(c) The Work Schedule, the Estimated Shared Company Costs, the Estimated Shared Government Costs, the Estimated Reimbursable Private Conversion Costs, the Estimated Reimbursable Temporary Service Costs, the Estimated Reimbursable Upgrade Costs, the Estimated Reimbursable Costs, the Estimated Reimbursable Temporary Service Costs, the Estimated Reimbursable Upgrade Costs, the Estimated Reimbursable Costs, the Estimated Reimbursable Temporary Service Costs, the Estimated Reimbursable Upgrade Costs, the Estimated Reimbursable

Construction Agreement, Attachment "B" to Schedule 74, Page 5
City of Bonney Lake – Main St / SR-410 Conversion
Temporary Service Costs and/or the Estimated Reimbursable Upgrade Costs shall be further equitably adjusted from time to time to reflect any change in the costs or time required to perform the Work to the extent such change is caused by: (i) any Force Majeure Event under Section 11, below, (ii) the discovery of any condition within the Conversion Area which affects the scope, cost, schedule or other aspect of the Work and was not known by or disclosed to the affected Party prior to the date of this Agreement, or (iii) any change or inaccuracy in any assumptions regarding the scope, cost, schedule or other aspect of the Work which are expressly identified by the Parties in the Project Plan. Upon the request of either Party, the Parties will negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If, at any time thereafter, the Parties are unable to agree upon the terms of the equitable adjustment, either Party may submit the matter for resolution pursuant to the dispute resolution provisions in Section 10, below.

(d) Notwithstanding any dispute or delay in reaching agreement or arriving at a mutually acceptable equitable adjustment, each Party shall, if requested by the other Party, proceed with the Work in accordance with any approved Request for Change. Any request to proceed hereunder must be accompanied by a written statement setting forth the requesting Party’s reasons for rejecting the proposed equitable adjustment of the other Party.

7. Compensation and Payment.

(a) Subject to and in accordance with the terms and conditions of this Agreement (including, without limitation, the payment procedures set forth in this Section 7), payment in connection with the Conversion Project and this Agreement shall be as follows:

i) The Total Shared Costs shall be allocated to the Parties in the following percentages:
   (A) sixty percent (60%) to the Company, and (B) forty percent (40%) to the Government Entity.

ii) The Government Entity shall pay one hundred percent (100%) of all Reimbursable Private Conversion Costs, if any.

iii) The Government Entity shall pay one hundred percent (100%) of all Reimbursable Upgrade Costs, if any.

iv) The Government Entity shall pay one hundred percent (100%) of all Reimbursable Temporary Service Costs, if any.

v) The Government Entity shall pay one hundred percent (100%) of the costs it incurs to perform that portion of the Government Work specified in Section 3(a)(i) and (ii) (i.e., Trenching and Restoration and surveying).

vi) The Company shall pay one hundred percent (100%) of the costs it incurs to design, provide and construct any Company-Initiated Upgrade.

vii) The Company shall pay one hundred percent (100%) of the costs it incurs to obtain Operating Rights outside the Public Thoroughfare.

(b) Based on the allocation of responsibilities set forth in Section 7(a), above, the Parties shall determine the net amount payable by the Government Entity or the Company, as applicable, to the other Party under this Agreement (the "Net Amount"). The Net Amount shall be determined by using the amount of the Total Shared Costs allocated to the Government Entity under Section 7(a)(i), and adjusting such amount as follows:

i) Subtracting (as a credit to the Government Entity) the amount of the Shared Government Costs.

ii) Adding (as a credit to the Company) the amount of all Reimbursable Private Conversion Costs, Reimbursable Upgrade Costs and Reimbursable Temporary Service Costs.

iii) Subtracting (as a credit to the Government Entity) any payments previously made to the Company by the Government Entity under the Design Agreement which, under
the terms of the Design Agreement, are to be credited to the Government Entity under this Agreement.

The Net Amount, as so calculated, (A) will be an amount payable to the Company if it is a positive number, and (B) shall be an amount payable to the Government Entity if it is a negative number.

(c) Within sixty (60) business days of completion of the Conversion Project, the Government Entity shall provide the Company with an itemization of the Shared Government Costs (the "Government Itemization"), together with such documentation and information as the Company may reasonably request to verify the Government Itemization. The Government Itemization shall, at a minimum, break down the Shared Government Costs by the following categories, as applicable: (i) property and related costs incurred and/or paid by the Government Entity, including any costs of obtaining Operating Rights, and (ii) construction costs incurred and/or paid by the Government Entity, including and listing separately inspection, labor, materials and equipment, overhead and all costs charged by any agent, contractor or subcontractor of the Government Entity.

(d) Within thirty (30) business days after the Company's receipt of the Government Itemization and requested documentation and information, the Company shall provide the Government Entity a written statement (the "Company Statement") showing (i) an itemization of the Shared Company Costs, (ii) the Parties' relative share of the Total Shared Costs based on the Company's itemization of the Shared Company Costs and the Government Entity's itemization of the Shared Government Costs set forth in the Government Itemization, (iii) any Reimbursable Private Conversion Costs, (iv) any Reimbursable Upgrade Costs, (v) any Reimbursable Temporary Service Costs, (vi) any credits to the Government Entity for payments previously made to the Company by the Government Entity under the Design Agreement which, under the terms of the Design Agreement, are to be credited to the Government Entity under this Agreement, and (vii) the Net Amount, as determined in accordance with Section 7(b), above, together with such documentation and information as the Government Entity may reasonably request to verify the Company Statement. The itemization of the Shared Company Costs included in the Company Statement shall, at a minimum, break down the Shared Company Costs by the following categories, as applicable: (i) design and engineering costs, and (ii) construction costs, including and listing separately inspection, labor, materials and equipment, overhead and all costs charged by any agent, contractor or subcontractor of the Company.

(e) Within thirty (30) business days after the Government Entity's receipt of the Company Statement and requested documentation and information, the Net Amount shall be paid by the owing Party to the other Party, as specified in the Company Statement.

8. Indemnification.

(a) The Government Entity releases and shall defend, indemnify and hold the Company harmless from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by or arising out of any negligent act or omission or willful misconduct of the Government Entity in its performance under this Agreement. During the performance of such activities the Government Entity's employees or contractors shall at all times remain employees or contractors, respectively, of the Government Entity.

(b) The Company releases and shall defend, indemnify and hold the Government Entity harmless from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by or arising out of any negligent act or omission or willful misconduct of the Company in its performance under this Agreement. During the performance of such activities the Company's employees or contractors shall at all times remain employees or contractors, respectively, of the Company.
(c) Solely for purposes of enforcing the indemnification obligations of a Party under this Section 8, each Party expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and agrees that the obligation to indemnify, defend and hold harmless provided for in this Section 8 extends to any such claim brought against the indemnified Party by or on behalf of any employee of the indemnifying Party. The foregoing waiver shall not in any way preclude the indemnifying Party from raising such immunity as a defense against any claim brought against the indemnifying Party by any of its employees.

9. **Conversion of Service to Customers within Conversion Area.**

(a) Upon commencement of the Work, the Government Entity shall notify all persons and entities within the Conversion Area that service lines to such customers must be converted from overhead to underground service within the applicable statutory period following written notice from the Government Entity that service from underground facilities are available in accordance with RCW 35.96.050. Upon the request of any customer, other than a single family residential customer, within the Conversion Area, the Company shall remove the overhead system and connect such persons' and entities' Underground Service Lines to the Underground Distribution System.

(b) The Parties acknowledge that single family residences within the Conversion Area must (i) provide a service trench and conduit, in accordance with the Company's specifications, from the underground meter base to the point of service provided during the conversion, and (ii) pay for the secondary service conductors as defined in Schedule 85 of the Company's Electric Tariff G. The Government Entity shall exercise its authority to order disconnection and removal of overhead facilities with respect to owners failing to convert service lines from overhead to underground within the timelines provided in RCW 35.96.050.

10. **Dispute Resolution.**

(a) Any dispute, disagreement or claim arising out of or concerning this Agreement must first be presented to and considered by the Parties. A Party who wishes dispute resolution shall notify the other Party in writing as to the nature of the dispute. Each Party shall appoint a representative who shall be responsible for representing the Party's interests. The representatives shall exercise good faith efforts to resolve the dispute. Any dispute that is not resolved within ten (10) business days of the date the disagreement was first raised by written notice shall be referred by the Parties' representatives in writing to the senior management of the Parties for resolution. In the event the senior management are unable to resolve the dispute within twenty (20) business days (or such other period as the Parties may agree upon), each Party may pursue resolution of the dispute through other legal means consistent with the terms of this Agreement. All negotiations pursuant to these procedures for the resolution of disputes shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.

(b) Any claim or dispute arising hereunder which relates to any Request for Change or any equitable adjustment under Section 6, above, or the compensation payable by or to either Party under Section 7, above, and which is not resolved by senior management within the time permitted under Section 10(a), above, shall be resolved by arbitration in Seattle, Washington, under the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The decision(s) of the arbitrator(s) shall be final, conclusive and binding upon the Parties. All other disputes shall be resolved by litigation in any court or governmental agency, as applicable, having jurisdiction over the Parties and the dispute.

(c) In connection with any arbitration under this Section 10, costs of the arbitrator(s), hearing rooms and other common costs shall be divided equally among the Parties. Each Party shall bear the cost and expense of preparing and presenting its own case (including, but not limited to, its own attorneys' fees); provided, that, in any arbitration, the arbitrator(s) may require, as part of his or her preparation of the case.

*Construction Agreement, Attachment "B" to Schedule 74, Page 8*
*City of Bonney Lake – Main St / SR-410 Conversion*
her decision, reimbursement of all or a portion of the prevailing Party's costs and expenses (including, but not limited to, reasonable attorneys' fees) by the other Party.

(d) Unless otherwise agreed by the Parties in writing, the Parties shall continue to perform their respective obligations under this Agreement during the pendency of any dispute.

11. Uncontrollable Forces.

In the event that either Party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that Party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm, earthquake or other condition which necessitates the mobilization of the personnel of a Party or its contractors to restore utility service to customers; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a Party, its contractors or a third party; or any failure or delay in the performance by the other Party, or a third party who is not an employee, agent or contractor of the Party claiming a Force Majeure Event, in connection with the work or this Agreement. Upon removal or termination of the Force Majeure Event, the Party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement or procure a substitute for such obligation. The Parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.

12. Insurance.

(a) PSE shall, and shall require each of its contractors to, secure and maintain in force throughout the duration of the Conversion Project (or, if sooner, until termination of this Agreement) comprehensive general liability insurances, with a minimum coverage of $_________ per occurrence and $_________ aggregate for personal injury; and $_________ per occurrence/aggregate for property damages, and professional liability insurance in the amount of $_________.

(b) The Government Entity shall ensure that each of its contractors performing any Government Work secures and maintains in force throughout the duration of the Conversion Project (or, if sooner, until termination of this Agreement) insurance policies having the same coverage, amounts and limits as specified Section 12(a), above.

(c) In lieu of the insurance requirements set forth in Section 12(a), above, the Company may self-insure against such risks in such amounts as are consistent with good utility practice. Upon the Government Entity's request, the Company shall provide the Government Entity with reasonable written evidence that the Company is maintaining such self-insurance.

13. Other.

(a) Agreement Subject To Tariff. This Agreement is subject to the General Rules and Provisions set forth in Tariff Schedule 80 of the Company's electrical Tariff G and to Schedule 74 of such Tariff as approved by the Washington Utilities and Transportation Commission and in effect as of the date of this Agreement.

(b) Termination. The Government Entity reserves the right to terminate the Conversion Project and this Agreement upon written notice to the Company. In the event that the Government Entity terminates the Conversion Project and this Agreement, the Government Entity shall reimburse the Company for all costs reasonably incurred by the Company in connection with the Work performed prior to the effective date of termination. In such event, the costs reimbursable to the Company (i) shall not be reduced by any Shared Government Costs or other costs incurred by the Government Entity, and (ii) shall be paid within thirty (30) days after the receipt of the Company's
invoice therefor. Sections 1, 5, 7, 8, 9, 10, 11 and 13 shall survive any termination of the Conversion Project and/or this Agreement.

(c) **Facilities Greater Than 15,000 Volts.** Nothing in this Agreement shall in any way affect the rights or obligations of the Company under any previous agreements pertaining to the existing or future facilities of greater than 15,000 Volts within the Conversion Area.

(d) **Compliance With Law.** The Parties shall, in performing the Work under this Agreement, comply with all applicable federal, state, and local laws, ordinances, and regulations.

(e) **No Discrimination.** The Company, with regard to the Work performed by the Company under this Agreement, shall comply with all applicable laws relating to discrimination on the basis race, color, national origin, religion, creed, age, sex, or the presence of any physical or sensory handicap in the selection and retention of employees or procurement of materials or supplies.

(f) **Independent Contractor.** The Company and the Government Entity agree that the Company is an independent contractor with respect to the Work and this Agreement. The Company is acting to preserve and protect its facilities and is not acting for the Government Entity in performing the Work. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Parties. Neither the Company nor any employee of the Company shall be entitled to any benefits accorded employees of the Government Entity by virtue of the Work or this Agreement. The Government Entity shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Company, or any employee of the Company.

(g) **Nonwaiver of Rights or Remedies.** No failure or delay of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any other right under this Agreement, and no course of dealing or performance with respect thereto, shall, except to the extent provided in this Agreement, be construed as a waiver or, or choice of, or relinquishment of any right under any provision of this Agreement or any right at law or equity not otherwise provided for herein. The express waiver by either Party of any right or remedy under this Agreement or at law or equity in a particular instance or circumstance shall not constitute a waiver thereof in any other instance or circumstance.

(h) **No Third Party Beneficiaries.** There are no third-party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any right or interest on anyone other than the Parties, their respective successors, assigns and legal representatives.

(i) **Governmental Authority.** This Agreement is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental regulatory authorities and courts having jurisdiction over this Agreement, the Parties or either of them. All laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental regulatory authorities and courts that are required to be incorporated into agreements of this character are by this reference incorporated in this Agreement.

(j) **No Partnership.** This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or to impose any partnership obligations or liability upon either Party. Further, neither Party shall have any right, power or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other Party.

(k) **Severability.** In the event that any provision of this Agreement or the application of any such provision shall be held invalid as to either Party or any circumstance by any court having jurisdiction, such provision shall remain in force and effect to the maximum extent provided by
law, and all other provisions of this Agreement and their application shall not be affected thereby but shall remain in force and effect unless a court or arbitrator holds they are not severable from the invalid provisions.
(l) Notice. Any notice under this Agreement shall be in writing and shall be faxed (with a copy followed by mail or hand delivery), delivered in person, or mailed, properly addressed and stamped with the required postage, to the intended recipient as follows:

If to the Government Entity:

________________________

________________________
Attn: ____________________
Fax: ____________________

If to the Company:

Puget Sound Energy, Inc.
3130 So. 38th St
Tacoma, WA 98409
Attn: Jeffrey Payne
Fax: (253) 476-6323

Any Party may change its address specified in this Section 13(l) by giving the other Party notice of such change in accordance with this Section 13(l).

(m) Applicable Law. This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington (without reference to rules governing conflict of laws), except to the extent such laws may be preempted by the laws of the United States of America.

(n) Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and all other agreements and understandings of the Parties, whether written or oral, with respect to the subject matter of this Agreement are hereby superseded in their entireties; provided, however, that except as expressly set forth in this Agreement, nothing herein is intended to or shall alter, amend or supersede the Design Agreement and the same shall remain in full force and effect in accordance with its terms.

(o) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, purchasers, and transferees of the Parties, including but not limited to, any entity to which the rights or obligations of a Party are assigned, delegated, or transferred in any corporate reorganization, change of organization, or purchase or transfer of assets by or to another corporation, partnership, association, or other business organization or division thereof.

Government Entity:

CITY OF BONNEY LAKE

BY ____________________________
ITS: ____________________________

Date Signed ____________________

Approved as to form:

____________________________________

Company:

PUGET SOUND ENERGY, INC.

BY: Jeffrey Payne
ITS: Municipal Liaison Manager

Date Signed ____________________

Construction Agreement, Attachment "B" to Schedule 74, Page 12
City of Bonney Lake – Main St / SR-410 Conversion
## Project Title:
SR-410 and Main St Conversion

### Project Description:
Convert the existing overhead distribution system along SR-410 at the intersection of Main St approximately

### Rate Schedule: 74

- **Project Manager / Phone #:** Bill Thwing 253-606-7432
- **Project Engineer / Phone #:** Vince Rabon 253-395-7131
- **Municipal Liaison Mgr / Phone #:** Jeff Payne 253-476-6267

### Construction Costs Estimate Summary

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<tr>
<th>Company</th>
<th>Labor Estimate</th>
<th>Materials Estimate</th>
<th>Equipment Estimate</th>
<th>Inspection Estimate</th>
<th>Service Provider Outside Services Estimate</th>
<th>Operating Rights Estimate</th>
<th>Overhead Estimate</th>
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<th>100% PSE Costs Estimate</th>
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### Notes:
1. Estimate prepared in accordance with Sections 6 & 11 of Schedule 74 Design Agreement and Section 7 of Schedule 74 Construction Agreement
2. All amounts shown in this estimate are rounded up to the next $100
3. Shared Costs are allocated 40% to the Government Entity and 60% to the Company if the Conversion Project is completed
4. Total Costs excludes Government Entity costs of trenching, restoration, and surveying
5. This estimate presentation may not include eligible estimated Government Entity costs and may be incomplete
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City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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**Agenda Subject:** Setting a Public Hearing Regarding Proposed Ordinance 12-124 - For A 6 Month Extension Of The Temporary Zoning Moratorium On The Establishment, Maintenance Or Continuation Of Medical Marijuana Collective Gardens.

**Full Title/Motion:** A Motion Of The Bonney Lake City Council Setting A Public Hearing For August 28, 2012 As Part Of The Regular Council Meeting Which Starts At 7:00 P.M., Regarding Proposed Ordinance D12-124 - For A 6 Month Extension Of The Temporary Zoning Moratorium On The Establishment, Maintenance Or Continuation Of Medical Marijuana Collective Gardens.

**Administrative Recommendation:** Hold Public Hearing.

**Background Summary:** On August 23, 2011, the City Council adopted Ordinance No. 1396 enacting a temporary moratorium on the establishment, maintenance or continuation of medical marijuana collective gardens in accordance with RCW 35A.63.220 and RCW 36.70A.390. The City Council made nine findings in support of the moratorium. On February 28, 2012, with no change in WA State or Federal Law to clarify the issue, the Council extended the moratorium. As no further law has been enacted, the City Council may wish to, again, extend the moratorium, but must hold a public hearing to so do.

**Attachments:** Ordinance D12-124

**BUDGET INFORMATION**

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**Budget Explanation:** There is no fiscal impact to this action.

**COMMITTEE, BOARD & COMMISSION REVIEW**

**Council Committee Review:**

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**Commission/Board Review:**

**Hearing Examiner Review:**

**COUNCIL ACTION**

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**APPROVALS**

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ORDINANCE NO. D12-124

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, EXTENDING A TEMPORARY ZONING MORATORIUM ON THE ESTABLISHMENT, MAINTENANCE OR CONTINUATION OF MEDICAL MARIJUANA COLLECTIVE GARDENS.

WHEREAS, on August 23, 2011, the Council adopted Ordinance No. 1396, enacting a temporary moratorium on the establishment, maintenance or continuation of medical marijuana collective gardens, in accordance with RCW 35A.63.220 and RCW 36.70A.390; and

WHEREAS, Ordinance No. 1396 included findings of fact in support of such moratorium, in the form of various recitals; and

WHEREAS, on February 28, 2012, the Council adopted Ordinance No. 1418, extending the temporary moratorium, and including findings of fact in support of the same; and

WHEREAS, the Council finds that the findings adopted in Ordinance Nos. 1396 and 1418 remain valid and pertinent to the issue of extension of such moratorium; and

WHEREAS, a public hearing was held on August 28, 2012, regarding extension of such moratorium; and

WHEREAS, significant uncertainly continues to exist regarding the validity of Washington’s current medical marijuana statutes, including those pertaining to collective gardens; and

WHEREAS, the Council wishes to refer to the Planning Commission consideration of an ordinance clarifying that medical marijuana collective gardens and dispensaries remain illegal under federal law, and are therefore barred under BLMC 18.02.030(C); and

WHEREAS, based upon the findings set forth herein and in Ordinance Nos. 1396 and 1418, the Council deems it to be in the public interest to extend the existing zoning moratorium pending Planning Commission consideration of and action upon such clarifying ordinance;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above and in Ordinance Nos. 1396 and 1418 are hereby adopted as the Bonney Lake City Council’s findings in support of extension of the moratorium imposed by Ordinance Nos. 1396 and 1418.

Section 2. Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, the zoning moratorium enacted by Ordinance Nos. 1396 and 1418, prohibiting the licensing, establishment, maintenance or continuation of any medical marijuana collective garden within the
City, is hereby extended by six months, unless terminated sooner by the Bonney Lake City Council. All other provisions of Ordinance Nos. 1396 and 1418 shall remain in effect.

Section 3. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

Section 4. This Ordinance concerning powers vested solely in the Council, it is not subject to referendum, and shall take effect five (5) days after its passage, approval and publication as required by law.

PASSED by the City Council and approved by the Mayor this ________ day of September, 2012.

__________________________
Neil Johnson, Mayor

ATTEST:

__________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

__________________________
James J. Dionne, City Attorney

Passed:
Valid:
Published:
Effective Date: