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. **AB13-20** – A Motion Of The Bonney Lake City Council Appointing Scott Anderson, Laurie Carter And Fred Jacobsen To The Pro Committee And James “Kelly” McClimans, John Millan And Shawnta Mulligan To The Con Committee Associated With The April 23, 2013 Special Election Regarding Establishment Of A Metropolitan Park District.

   3. Presentations: None.

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
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 Minutes:** January 15, 2013 Workshop and January 22, 2013 Meeting.

B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:**

Accounts Payable checks/vouchers #65364 thru 65399 (and wire transfer #’s 10597317, 20130115, 2013011701) in the amount of $964,830.19 out of the 2012 budget; Accounts Payable check/voucher #65400 thru 65400 in the amount of $1,189.28 for a water leak adjustment refund out of the 2012 budget; Accounts Payable checks/vouchers #65401 thru 65427 in the amount of $1,133,971.04 out of the 2013 budget; Accounts Payable checks/vouchers #65428 thru 65445 in the amount of $1,957.20 for utility refunds out of the 2013 budget; Accounts Payable checks/vouchers #65446 thru 65454 in the amount of $87,566.01 out of a combination of budget years 2012 and 2013; Accounts Payable checks/vouchers #65455 thru 65471 in the amount of $4,129.22 out of a combination of budget years 2012 and 2013; Accounts Payable checks/vouchers #65472 thru 65497 in the amount of $66,412.81 out of the 2012 budget; Accounts Payable checks/vouchers #65498 thru 65522 in the amount of $52,285.83 out of the 2013 budget; Accounts Payable checks/vouchers #65523 in the amount of $230.08 for Accounts Receivable deposit refund out of the 2013 budget; Accounts Payable checks/vouchers #65524 in the amount of $73.16 for a utility refund check replacement out of the 2012 budget; Accounts Payable checks/vouchers #65525 thru 65539 in the amount of $1,069.11 for utility refunds out of the 2013 budget for a grand total of $2,315,601.23.

VOIDED CHECKS: Check #63774 – replaced with #65400; Check #65138 – replaced with #65524; Check #65175 – credited as we used our own training facility; Check #64768 – replaced with #65497.

C. **Approval of Payroll:** Payroll for December 16th - 31st 2012 for checks #30847-#30869 including Direct Deposits and Electronic Transfers in the amount of $ 679,677.36. Payroll – Uniform Allowance per CBA paid January 15th 2013 for checks #30870 - #30907 including Direct Deposits and Electronic Transfers in the amount of $ 30,528.44. Payroll for January 1st - 15th 2013 for checks #30908 – #30930 including Direct Deposits and Electronic Transfers in the amount of $ 431,934.33. Payroll for January 16-31st 2013 for checks #30932 - #30958 including Direct Deposits and Electronic Transfers in the amount of $ 629,653.15.


E. **AB13-15 – Resolution 2270** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving The Orchard Grove II Final Plat.

F. **AB13-21 – Resolution 2274** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Awarding The Allan Yorke And West Tapps Highway Improvements Project To Hoffman Construction Inc.

G. **AB13-22 – Resolution 2275** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Awarding The Services During Construction
Contract For The Allan Yorke And West Tapps Highway Improvements Project To KPG Engineering.


p. 101  I.  **AB13-27** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Setting A Special Council Meeting (Retreat) For March 30, 2013 At The Harstine Island Community Hall.

V.  **FINANCE COMMITTEE ISSUES:**


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

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

VIII.  **FULL COUNCIL ISSUES:**

p. 111  A.  **AB13-03 – Resolution 2265** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Establishment Of The Eastown Utility Latecomer Agreement.

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
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City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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<th>Department/Staff Contact:</th>
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<tr>
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Agenda Subject: Appointment of Pro and Con Committees for April 23, 2013 Special Election regarding formation of a metropolitan

Full Title/Motion: A Motion Of The Bonney Lake City Council Appointing Scott Anderson, Laurie Carter And Fred Jacobsen To The Pro Committee And James "Kelly" Mcclimans, John Millan And Shawnta Mulligan To The Con Committee Associated With The April 23, 2013 Special Election Regarding Establishment Of A Metropolitan Park District.

Administrative Recommendation: Approve.

Background Summary: The City Council acted to place a ballot question regarding formation of a metropolitan park district on the ballot of a special election to be held on April 23, 2013. After reviewing the submitted committee applications, the City Council discussed the method to select and appoint the committee members at their workshop on Feb. 5th. By unanimous consent, the Council indicated their desire to act on a motion naming Scott Anderson, Laurie Carter and Fred Jacobsen to the Pro Committee and James "Kelly" Mcclimans, John Millan, and Shawnta Mulligan to the Con Committee. The committees will write positions supporting or opposing the formation of the parks district for the voter's pamphlet which will be distributed by the County prior to the election.

Attachments: none

BUDGET INFORMATION

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Budget Explanation: There is no budget impact associated with this action.

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:
- Approvals: Yes No
- Date: 
- Chair/Councilmember: 
- Councilmember: 
- Councilmember: 
- Forward to: 
- Consent Agenda: Yes No

Commission/Board Review: 

Hearing Examiner Review: 

COUNCIL ACTION

Workshop Date(s): 2/5/13
Meeting Date(s): 2/12/13
Public Hearing Date(s): 
Tabled to Date: 

APPROVALS

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<tr>
<td>HTE</td>
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Explanatory Statements
RCW 29A.32.040

Explanatory statements are prepared by the jurisdiction or the jurisdiction’s attorney stating the effect of a ballot measure if passed into law. If prepared by the jurisdiction, proof of approval by the jurisdictions attorney must be received by the Elections Division either by cover letter or an email from the attorney stating approval.

In the event that a jurisdiction does not have a letter of review from their attorney concerning the explanatory statement, or if a jurisdiction does not retain legal counsel, the statement shall be submitted to the Prosecuting Attorney’s Office for review or preparation.

Length and other specifications

Explanatory statements must be 200 words or less, in block paragraph form. Use italics only to emphasize specific words or statements. Any other formatting submitted will be changed to appear in italics.

How to submit the explanatory statement

Email to: pcvoterpamphlet@co.pierce.wa.us

Statements must be submitted by email and are due on the prescribed deadline. See page 11.

Establishing For and Against Committees
RCW 29A.32.280

The jurisdiction is responsible for appointing committees to prepare statements for and against a ballot measure. Each committee shall consist of not more than three members; however, a committee may seek the advice of any person or persons. The For and Against Committee Member Form must be submitted by the deadline to appoint committees. (see page 8)

If such persons are not immediately known, the jurisdiction should employ some formal means of notifying the public that members for the for and against committee are being sought.

Jurisdictions are responsible for providing committee members with copies of instructions, specifications, and deadlines for all statements.

The committees are solely responsible for submitting their argument statements in accordance with the specified time line for that election. (see page 11)

No titles for committee member names will be published in the pamphlet.

If an interested party comes forward, and the jurisdiction’s appointment deadline has passed, the Auditor shall, whenever possible, make the appointment. The interested party must contact the Auditor in writing or email no later than 4:30 p.m. the business day following the resolution deadline. The appointed committee must abide by the specified time lines for submitting statements for that election.
Voters’ Pamphlet Statements

For and Against Statements

Length and Other Specifications

Statements must be 150 words or less, in block paragraph form. Use italics only to emphasize specific words or statements. Any other formatting submitted will be changed to appear in italics.

Up to four headings may be used to summarize and identify major arguments or portions of the statement for the convenience of the reader. Headings may not exceed 15 words each and will be printed in bold type. Headings shall not be included in the computation of the number of words in the statement.

The Auditor reserves the right to eliminate excessive paragraph returns if the statement doesn’t fit in space provided.

Committee member names, contact phone number, email, and/or website address will be printed in the pamphlet but aren’t included in the 150 word count. At least one method of contact (phone, email, website address) must be provided for print in the voters’ pamphlet.

Rebuttal statements

If both for and against statements are submitted, the Voters’ Pamphlet Coordinator will email the text of the opposing committee’s statement to the spokesperson listed on the committee appointment form. An email address is required for the spokesperson.

Rebuttal statements are not required, however, it gives each committee an opportunity to write a few more words supporting their point of view.

Length and other specifications

Statements must be 75 words or less, in block paragraph form. Use italics only to emphasize specific words or statements. Any other formatting submitted will be changed to appear in italics. No headings may be used in rebuttal statements. Rebuttals may not interject new points. You are limited to addressing issues raised in the opposing argument only. The Elections Division reserves the right to eliminate excessive paragraph returns if statement doesn’t fit in space provided.

How to submit statements

Email to: pcvoterpamphlet@co.pierce.wa.us

Statements must be submitted by email and are due on the prescribed deadline. See page 11.

General provisions for all statements

Arguments and statements prepared by committees for or against measures are the responsibility of the authors and are not considered to represent the position of the County regarding the measure, or of any material contained therein; nor is the County responsible for the validity or accuracy of the statements, arguments or rebuttals.

Edit and prepare your statement as carefully as you would your resume. Spelling, grammar and punctuation errors will not be corrected. Statement content will be printed exactly as received, as long as it complies with specifications.

Be sure your campaign contact email, web address and phone number are final and functional when you submit your statement. You will not be permitted to change or add new information after your statement has been submitted.

If your statement exceeds the applicable word limit you will be notified by email and asked to delete paragraphs or sentences. Only deletions are allowed. No changes or additions will be allowed. The shortened statement must be received by the deadline.

If the deadline has passed and the statement still exceeds the applicable word limit, it will be shortened by deleting full sentences from the end until the limit is reached.
Deadlines are 4:30 p.m. on each designated day.

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<td><strong>Committee’s Responsibility and Deadlines</strong></td>
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* This date is based on when the voters’ pamphlet is available to the public.

** This date is based on deadlines to mail ballots and voters’ pamphlets to uniformed and overseas voters (UOCAVA).
I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the workshop to order at 5:32 p.m.

II. ROLL CALL:
Administrative Services Director/City Clerk Harwood Edvalson called the roll. Elected officials attending were Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Randy McKibbin, Councilmember Mark Hamilton, Councilmember Jim Rackley, Councilmember Donn Lewis, and Councilmember Tom Watson. Councilmember Katrina Minton-Davis was not in attendance.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Chief Financial Officer Al Juarez, Police Chief Dana Powers, City Attorney Kathleen Haggard, Administrative Services Director/City Clerk Harwood Edvalson, and Administrative Specialist II Renee Cameron.

Councilmember Rackley moved to excuse Councilmember Minton-Davis from the January 15, 2013 Council Workshop. Councilmember Lewis seconded the motion.

Motion to excuse Councilmember Minton-Davis approved 6-0.

III. AGENDA ITEMS:

A. Presentation: Concession Stand / Community Garden Updates - Stew Bowen

Stew Bowen with the Bonney Lake Food Bank / Bread for Life provided a presentation regarding the community garden and the purpose that a community garden gives to bring the community together, including generations of families. He said there were numerous donations made for the community garden and there are currently 61 garden beds, some of which specifically provide for the Bonney Lake Food Bank. There are ADA beds as well which allows all of the community to participate. He provided a breakdown of how many vegetables and herbs already came to the Food Bank directly from the garden. He asked for the City to continue to assist and partner with the Food Bank so they can continue with the efforts to provide for the community in need.

Mr. Bowen also provided an update regarding the Snack Shack at Allan Yorke Park. He said the Snack Shack has not been as productive as in the past. There was a drop off in business, partially due to weather, some staffing issues, and an electrical outage which caused a large amount of frozen food to spoil. He said their positive presence at the park benefits the kids. He spoke specifically of one young man who came to the skate park and the positive reinforcement he received from the City and staff. Mr. Bowen said he hopes that the City will continue to support the Snack Shack. Mayor Johnson said every time he has been there the Snack Shack has been well attended to and has been very pleased with the progress.
Councilmember Rackley asked if the Food Bank planned to continue the summer lunch program. Mr. Bowen said there were, despite the fact that there may be some challenges. He said the summer lunch program feeds over 100 kids a day during the summer months. Councilmember Lewis said he knows that students throughout the Bonney Lake School District appreciate knowing that the Snack Shack is there to assist them and help to provide a meal to them during the summer months and the students appreciate it very much. He said that if the students are aware and learning of the benefits provided by the Snack Shack then they may be more likely to later contribute back to the community because of the benefits they personally received.

B. Council Open Discussions:

Public Works Expenditures. Councilmember Watson asked about the Public Works Department use of purchasing cards (p-card) and asked if the department is diligent in buying locally or economically. Public Works Director Grigsby said most of the small purchases are purchased using the p-card and Assistant Public Works Director Charlie Simpson and his staff have put together a standard operating procedure for the program. He said a lead or supervisor must authorize every purchase before the employee is provided the p-card. Part of the policy is to spread the wealth of spending amongst the local businesses in the City that sell materials, as long as it is not more than a 10% increase in price. Director Grigsby said the staff use pre-expended bins to stock up on commonly used supplies, and then they order when these supplies are diminishing.

Councilmember Watson also had questions regarding phone bills that he reviewed during the budget process. Director Grigsby said he believes Councilmember Watson was looking at line items charged for the different funds, however, the lower priced ones would have been just one or two phones to that fund, versus other funds which may have multiple phones on one specific fund, such as the sewer fund. Councilmember Watson thanked Director Grigsby for his explanation.

Street Access. Councilmember Hamilton asked about the request from a citizen he heard from last week regarding parking along her street and the access required for the fire department. He said Fire Chief John McDonald said at the Public Safety Committee meeting that it is a fire code to have at least 20’ for clearance and wanted to find out about the required signage to enforce the parking regulations for parking or traffic infringement and a possible fine. He asked the Council if the Public Safety Committee should review the issue. Public Works Director Grigsby said none of the design standards provide for a parking lane as part of the design. Director Grigsby said when a City requires a parking lane, it takes property away from developers. Councilmember Hamilton said big vehicles, especially garbage and fire trucks, have a difficult time navigating their way through streets. Councilmember Lewis said it also makes it extremely difficult for the snow plow trucks to clear the streets. He said that if the City can remind residents about the safety issues for public safety vehicles to have proper access then maybe the residents and citizens will start thinking about it. Councilmember Watson said he was concerned about the cost of the signs. Council consensus was that it is an issue of educating the residents rather than amending the code, ticketing, or taking it to Public Safety Committee.

Mandatory Garbage Collection. Councilmember Watson asked what code enforcement staff may be doing for residents who are not having their trash picked up. Deputy Mayor Swatman said there is a current issue that will be going to the Public Safety Committee regarding mandatory garbage collection. Mayor Johnson said that at one time approximately 180 homes were not signed up for the mandatory garbage service, and now there are approximately 500 homes. He said it is a health and sanitation issue that needs to be addressed.
Clean Up Around Lake Bonney. Councilmember Watson said there are the two houses around Lake Bonney that have been getting cleaned up and he appreciates all of the efforts by everyone involved in the clean up to help beautify Bonney Lake.


The December 4, 2012 Workshop, December 11, 2012 Special Meeting, December 11, 2012 Meeting, January 8, 2013 Meeting Council Meeting minutes were forwarded to the January 22, 2013 Council Meeting for action, with one minor correction noted by Councilmember Lewis.

D. Discussion: AB13-05 – Ordinance D13-05 – Non-Represented Employee Salaries

City Administrator Morrison said that that the 2013-14 budget provided for a 1.5% cost of living adjustment (COLA) for non-represented employees. This resolution formalizes what was proposed in the budget for these employees. He said there are a number of options available as to how to calculate the increase. Councilmember Watson asked what other raises the non-represented employees receive in a year. City Administrator Morrison said for those who have not reached their top level they received a 3% step increase. City Administrator Morrison also noted that payroll taxes will be going up 2%, so employees will see a net decrease on their next paycheck. He explained how the salary ranges are calculated. Councilmember Hamilton asked how the City of Bonney Lake compares to other cities. City Administrator Morrison said the City compares fairly well and in the past few years, when other cities have put a cap on COLA, Bonney Lake is beginning to become more comparable.

Deputy Mayor Swatman asked how the 1.5% amount was determined. City Administrator Morrison said that with the Police Guild receiving 2.88% COLA, administration felt it was appropriate that the non-represented employees, and AFSCME, should be entitled to receive at least half of what the Police Guild received. Councilmember Rackley asked what COLA amount increase was budgeted and City Administrator Morrison said it was 1.5% for both the non-represented employees, and as well AFSCME employees.

Finance Director Juarez gave a breakdown on the percentage of the budget for both non-represented employees and AFSCME receiving a 1.5% COLA.

Deputy Mayor Swatman asked about the health care insurance negotiations with AFSCME. City Administrator Morrison said non-represented employees will follow whatever is negotiated with AFSCME. Mayor Johnson said if Council wants to wait until the health care insurance has been negotiated with AFSCME to act on the COLA, that was understandable.

The item was tabled to a future Council Workshop and Council Meeting.

E. Discussion: AB13-08 – Resolution 2266 – Setting the ballot language for the Metropolitan Park District April 23, 2013 Special Election.

Deputy Mayor Swatman said this resolution proposes the ballot language prepared by the City Attorney Haggard for the ballot language to be used for the April 23, 2013 Special Election. City Attorney Haggard said the concise description of the ballot language is limited to 75 words and that since she wrote the language she will have to certify it to the Elections Division. She said
that per State law the City is allowed 200 words to summarize the explanatory statement for the voter’s pamphlet to explain to the voters what this ballot measure is about, and that too will need to be certified by her since she wrote the language. She said she is still researching and working on the ballot language and the summary for the explanatory statement to have it submitted to the Pierce County Elections Division.

This item was forwarded to the January 22, 2013 Council Meeting for action, with any revised language by the City Attorney.

**F. Discussion:** Process to select MPD Ballot Proposition Pro – Con Committees.

City Administrator Morrison discussed the process to select applicants for the Metropolitan Park Districts Pro and Con Committees. To date, ten applications have been received by the City Clerk. The City Administrator said he will provide copies of the applications to the Council next week for review and per State law three applicants will be selected for each Committee. The Council said they will review and discuss the applications at the February 5th Council Workshop, and appoint the Committee members at the February 12th Council Meeting.

Councilmember Watson said some of the Councilmembers have received emails asking Council to change their stance regarding the Metropolitan Park District. City Attorney Haggard advised the Council how to respond, or not respond to questions, and their individual rights as to how they stand on an issue.

**G. Discussion:** Proposed Council Planning Retreat.

City Administrator Morrison reviewed the calendar with the Council who were present and suggested Saturday, February 23, 2013 as the date for a Council Retreat. Mayor Johnson said he would like to find a facilitator for the retreat so that City Administrator Morrison can also participate.

**H. Discussion:** AB13-10 – Resolution 2261 – Maintenance Agreement with Sound Transit for the Bonney Lake Park & Ride

This item was tabled for continued discussion at a future Council Workshop/Meeting.

**I. Discussion:** AB13-12 – Resolution 2267 – Approval of CDBG Grant Application.

City Administrator Morrison said that the proposed resolution would authorize the Mayor to apply for a State Community Development Block Grant (CDBG) to build a new Food Bank in Bonney Lake. The State requires a resolution. City Administrator Morrison said for some time, the City has been trying to find a better location and facility in which to house the food bank. The current facility is crowded, and the building is in very poor condition. He said this is an opportunity to apply for a 100% grant from the state administered Housing and Urban Development (HUD) CDBG program to construct a new food bank on a new site and to demolish the existing building. The State grant requires passage of a resolution authorizing the application and stating that if the grant is awarded, the City will abide by all state and federal grant requirements. Councilmember Lewis said that Section 3 of the grant application gives the City the authorization that is needed. City Administrator Morrison said there may need to be some revisions to the resolution and they will bring that back to the Council next week. Councilmember McKibbin asked about any City costs associated with applying for the grant.
City Administrator Morrison said any incurred costs will mainly be his staff time. City Administrator Morrison said there are some planning grants that will be coming available soon, and he hopes the City will be able to apply for those as well to help with the project. Councilmember Lewis asked when the City would be notified if they received the grant; and City Administrator Morrison said the grant is to be awarded in May. Councilmember Hamilton asked what the City’s plan is for the Food Bank, whether the City is awarded a grant or not. Mayor Johnson said this is the first plan and the City will wait to see how it progresses before considering other options. Councilmember Hamilton said the services the Food Bank provides are offered to County residents too, not just City of Bonney Lake residents, and he is hopeful that the County will assist in sharing the funding for the services that are provided to citizens throughout the County.

J. Discussion: AB13-13 – Resolution 2268 – Contract renewal with South Sound 911 (formerly LESA)

Councilmember Lewis said he sponsored this contract at the Public Safety Committee and it is a very simple contract which just changes the name from Law Enforcement Support Agency (LESA) to South Sound 911 (SS911). Due to the change, SS911 has sent out updated service agreements. Police Chief Powers said she wanted to be clear that this is not a dispatch contract and that the language in this contract is consistent with the LESA contract that has previously been in place.

IV. ADJOURNMENT:

At 6:57 p.m., Councilmember Lewis moved to adjourn the Council Workshop. Councilmember Watson seconded the motion.

Motion to adjourn approved 6-0.

Harwood Edvalson, MMC  Neil Johnson, Jr.
City Clerk  Mayor

Items presented to Council for the January 15th Workshop: None
I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:01 p.m.

A. Flag Salute: Mayor Johnson led the audience in the Pledge of Allegiance.

B. Roll Call: Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember Jim Rackley, and Councilmember Tom Watson.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Chief Financial Officer Al Juarez, Police Chief Dana Powers, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Kathleen Haggard, and Records & Information Specialist Susan Duis.

C. Announcements, Appointments and Presentations:

1. Announcements: None.

2. Appointments: None.

3. Presentations:

   Public Works Administrative Specialist Christy McQuillen told the Council that Mr. Cline has adopted approximately four miles of roadway including Sky Island Blvd. He was unable to attend the presentation and recognition of volunteers in December. She said new groups recently ‘adopted’ new sections of 190th St E, and filled nineteen bags of trash in their first weekend. Councilmembers and Mayor Johnson thanked Mr. Cline for his service. Mr. Cline thanked Ms. McQuillen for her hard work to expand the program. He said he enjoys community service and encouraged others to volunteer.

D. Agenda Modifications:

Mayor Johnson said staff members have requested that proposed Resolution 2271 be pulled from the current agenda, as additional work needs to be done.

Deputy Mayor Swatman moved to remove Finance Committee Item A., Resolution 2271, from the current agenda. Councilmember Watson seconded the motion.
II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings:

1. **AB13-03** – A Public Hearing Regarding Proposed Resolution 2265, To Establish The Eastown Sewer Utility Latecomer Agreement.

   Mayor Johnson opened the public hearing at 7:06 p.m.

   Joe Moyer, 96th St E, Bonney Lake, said he lives along the proposed route for the sewer line. He said Ordinance 1446 adjusted the requirements to hook up to sewer. He said he lives outside the Urban Growth Area (UGA) and outside the City limits, but he is concerned that this action will affect him and others who wish to sell their property in the future. He asked whether the proposed latecomer agreement conforms to Pierce County Ordinance 2011-89, establishing the rights of cities to establish sewer service. He said it appears that his property is included in the assessment area on the proposed ULA map. He asked the Council to vote against the proposed ULA.

   Roger Watt, 22719 SR410, Bonney Lake, represented the eighteen members of the Eastown Sewer Development LLC. He said the group still has unanimous support for the proposed ULA and they hope the Council will move forward and vote in favor of the proposed resolution.

   Seeing no additional speakers, Mayor Johnson closed the hearing at 7:10 p.m.

B. Citizen Comments:

   Barbara Volin, 17206 111th St E, Bonney Lake, said she bought property in Bonney Lake five years ago and is currently building a house on it. She said at first she delayed due to the high costs of permits. She recently found out that the permit fee rates were lowered two months after she got the permits to build. She asked the Council to consider giving her a rebate on her permit fees. Community Development Director Vodopich told Ms. Volin that she could cancel her existing permits and re-apply to get the lower fees, but she would have to pay a new application fee so it may not be worthwhile. Mayor Johnson said he would speak with the City’s legal counsel about the options. Deputy Mayor Swatman said he appreciates Ms. Volin’s situation but it is difficult for the Council to consider exceptions, as they must treat everyone the same. Director Vodopich noted that Ms. Volin did receive the benefit of reduced Transportation Impact Fees when she applied for permits previously.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS

A. Finance Committee: Deputy Mayor Swatman said the committee met at 5:30 p.m. earlier in the evening and discussed personnel updates and the hiring of a maintenance worker, amendments to the Justice Center contract, and review of meeting notes. The committee discussed the vacant position in the Finance Department, which will be ‘under-filled’ as a
Senior Accountant (previously Accounting Manager). The committee is looking for dates for a workshop with the City’s bond advisor, Jim Nelson, regarding refinancing. The committee got input from the CDC on the City’s work to monitor and upgrade water meters; the Finance Committee feels the City has a good program in place. The committee also discussed options to convert street lighting to LED lights, which requires a large up-front cost but realizes savings in the future. He said this could be a good candidate for a future grant program.

B. Community Development Committee: Councilmember McKibbin said the committee met on January 15, 2013 and forwarded six items to the current Consent Agenda.

C. Public Safety Committee: Councilmember Hamilton said the committee has not met since the last Council Meeting.

D. Other Reports:

Pierce County Regional Council: Councilmember Hamilton said the PCRC met on January 17, 2013 and set its yearly agenda and made committee appointments. He said he is an alternate for the Economic Development board. The PCRC reviewed transportation issues and priorities, including completion of SR167. The PCRC is considering raising annual rates for members; for Bonney Lake the rate would change from about $300 per year to $544 per year. He said Bonney Lake’s project for improvements at SR410 and Veterans Memorial Drive are on the PCRC project priority list. The Growth Management committee reported that revisions to the annexation policies will likely not come forward this year. He said last year the outgoing council proposed setting aside funds for smaller cities and placing a cap of 35% of funds for any agency; Councilmember Hamilton said he will keep monitoring this issue in the coming year. The PCRC annual dinner will be held on February 7, 2013 at the Emerald Queen Hotel and Casino in Fife.

Park Board: Councilmember Watson said he attended the Park Board meeting on January 14, 2013. The Board discussed projects, tobacco policy and signage, and elected Jim Bouchard as chair and Chauntelle Hellner as vice-chair. The Board also discussed possible traffic revisions for the boat launch; this discussion will continue at the Public Safety Committee.

Senator Roach Town Hall Meeting: Councilmember Watson said he and Councilmember Rackley attended Pam Roach’s public meeting on January 19th at the Bonney Lake Public Safety Building. Senator Roach discussed the SR167 extension project, focusing on foreign language education in schools, and support for the Rainier School.

Community Events: Councilmember Lewis said a free ‘Bricks for Kids’ Lego workshop is available on Fridays from February 15th through March 1st at the Prairie Ridge Community Center. He said students from Mountainview Middle School participated in their first robotics competition over the previous weekend and placed sixth. He said this program helps get kids interested in math and engineering.

IV. CONSENT AGENDA:

B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:** Accounts Payable checks/vouchers #65264 thru 65316 (and wire transfer #’s 20121220, 20130103, 2013011101) in the amount of $552,183.70 out of the 2012 budget; Accounts Payable checks/vouchers #65317 thru 65331 in the amount of $22,429.47 out of the 2013 budget; Accounts Payable checks/vouchers #65332 thru 65536 in the amount of $1,866.07 for AR Refunds out of the 2013 budget; Accounts Payable checks/vouchers #65337 thru 65343 in the amount of $41,416.01 out of the 2012 budget; Accounts Payable checks/vouchers #65344 thru 65345 in the amount of $400.00 out of the 2013 budget; Accounts Payable checks/vouchers #65346 thru 65358 (and wire transfer # 2013011501) out of the 2012 budget in the amount of $169,081.15; Accounts Payable checks/vouchers #65359 thru 65363 in the amount of $4,747.37 out of the 2013 budget for a grand total of $792,123.77.

C. **AB13-01 – Resolution 2262** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving The Interlocal Agreement Between The City Of Bonney Lake And Pierce County For Two Shared Stormwater Control Facilities.

D. **AB13-09 – Resolution 2263** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving The Acquisition Of Right Of Way For The 192nd Avenue Corridor.

E. **AB13-02 – Resolution 2264** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving The Transportation Improvement Board Fuel Tax Grant Distribution Agreement And Project Funding Status Forms.

F. **AB13-08 – Resolution 2266** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Providing For The Submission Of A Proposition To The Qualified Voters Of The City Of Bonney Lake At A Special Election To Be Held On April 23, 2013, For Their Approval Or Rejection Of The Creation Of A Metropolitan Park District Pursuant To Chapter 35.61 RCW.

G. **AB13-12 – Resolution 2267** – A Resolution Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Submission Of A HUD Community Development Block Grant Application To The WA Department Of Commerce For The Development Of A New Food Bank.

H. **AB13-13 – Resolution 2268** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Service Agreement Between The City Of Bonney Lake, Washington And South Sound 911 For The Continued Services Formerly Provided By Law Enforcement Support Agency (LESA).

I. **AB13-14 – Resolution 2269** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Awarding The Ponderosa Estates Waterline Replacement Project To Pape & Sons.

J. **AB13-06 – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Accept As Complete The Purchase And Installation Of Flygt Pumps At Lift Stations 3, 4, 6, 7, 8, 13 And Spare Contract With Whitney Equipment Company As Complete.**

K. **AB13-11 – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Accept As Complete The 97th Street E Sidewalk Improvements Project With Jennings NW, LLC.**
Councilmember Rackley moved to approve the Consent Agenda. Councilmember Lewis seconded the motion.

Consent Agenda approved 7 – 0.

V. FINANCE COMMITTEE ISSUES:


This item was removed from the agenda during agenda modifications.

VI. COMMUNITY DEVELOPMENT ISSUES: None.

VII. PUBLIC SAFETY COMMITTEE ISSUES: None.

VIII. FULL COUNCIL ISSUES: None.

IX. EXECUTIVE SESSION:

Pursuant to RCW 42.30.110(1)(b) the Council adjourned to an Executive Session at 7:44 p.m. for 15 minutes to discuss property acquisition. Councilmember Rackley returned to Chambers at 7:51 p.m. The Council returned to Chambers at 7:54 p.m.

Deputy Mayor Swatman moved to suspend the Council rules to add AB13-19, proposed Resolution 2273, as an action item to the current agenda. Councilmember Rackley seconded the motion.

Motion to add Resolution 2273 to the agenda approved 7 – 0.

Councilmember Rackley moved to approve AB13-19 – Resolution 2273 – A Resolution Of The City Council Of the City Of Bonney Lake, Washington, Ratifying A Purchase And Sale Agreement To Acquire The Tidball Property At 18422 90th Street East. Councilmember Lewis seconded the motion.

Mayor Johnson thanked Connie Swarthout and the Council for their work to make this a reality. He said he hopes it will help the Food Bank.

Resolution 2273 approved 7 – 0.

X. ADJOURNMENT:

At 7:57 p.m., Councilmember Rackley moved to adjourn the Council Meeting. Councilmember Watson seconded the motion.
Motion to adjourn approved 7 – 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the January 22, 2013 Meeting: None.
City of Bonney Lake, Washington  
City Council Agenda Bill (AB)

Department/Staff Contact:  
Community Development / Jason Sullivan - Senior Planner

Meeting/Workshop Date:  
12 February 2013

Agenda Bill Number:  
AB13-16

Agenda Item Type:  
Ordinance

Ordinance/Resolution Number:  
D13-16

Councilmember Sponsor:

Agenda Subject:  
Amending Sign Regulations for Home Occupations and Temporary Use Permits

Full Title/Motion:  
An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 14.100 And 15.08 Of The Bonney Lake Municipal Code Relating To Home Occupation Signage And Temporary Signage In Conjunction With Temporary Permits.

Administrative Recommendation:

Background Summary:  
In October 2012, an item was added to the Planning Commission work plan that involved amendments to the City’s development regulations that would allow home occupations to attach a sign to their fence and allow temporary businesses to have signage.

This ordinance was drafted by Planning Staff and reviewed by the Planning Commission

Attachments:  
Draft Ordinance D13-16, Planning Commission recommendation memorandum, and November 21, 2012 Planning Commission minutes

BUDGET INFORMATION

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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:  
Date:

Chair/Councilmember

Councilmember

Councilmember

Consent Agenda:  
☒ Yes  ☐ No

Commission/Board Review:  
Planning Commission

Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s):  
5 February 2013

Meeting Date(s):  

Public Hearing Date(s):  

Tabled to Date:

APPROVALS

Director:  
JPD

Mayor:  

Date Reviewed by City Attorney:  
5 February 2013

(if applicable):
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ORDINANCE NO. D13-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 14.100 AND 15.08 OF THE BONNEY LAKE MUNICIPAL CODE RELATING TO HOME OCCUPATION SIGNAGE AND TEMPORARY SIGNAGE IN CONJUNCTION WITH TEMPORARY PERMITS.

WHEREAS, on October 16, 2012 the City Council referred the matter of Home Occupation signage and signage associated with temporary use permits to the Planning Commission for consideration; and

WHEREAS, the proposal is exempt from SEPA pursuant to WAC 197-11-800; and

WHEREAS, RCW 36.70A.106 requiring review by the Washington State Department of Commerce has been complied with; and

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

Section 1. BLMC Section 15.28.100 A. 4 and Ordinance No. 1351 § 1, 2010 is hereby amended to read as follows:

4. Home occupations (see BLMC 18.22.010) may, unless restricted by any applicable protective covenants, have the following signage:

a. One unlighted sandwich board sign not over eight square feet in area counting both sign faces, with permanent letters. The sign shall be placed on the ground and on the premises. The sign shall not be located within the public right-of-way nor attached to any structure, and shall be removed from sight during non-business hours.

b. In-lieu of the sandwich board, one unlighted sign attached to a fence not over four square feet. The sign shall not extend above the maximum height allowed for the fence. The sign shall not be made of plywood, fabric, or banner material.

Section 2. BLMC Section 14.100.020 and Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:

A. The application form shall establish the submittal requirements, which shall include a site plan.

B. The director(s) may issue a temporary permit if he or she finds that, based on the duration of the permit and conditions imposed, the temporary use or construction activity:

1. Conforms to the goals of the comprehensive plan and this development code;
2. Conforms with all other applicable development regulations; and

3. Will not adversely affect the public health, safety, and general welfare.

C. In no case shall the duration of a temporary permit exceed one year. The director(s) may renew a temporary permit, provided its total duration does not exceed two years. Any temporary structure shall be removed from the premises not more than 30 days after the permit expires or the reason for the temporary permit ceases.

D. Temporary signage shall be authorized in conjunction with a temporary permit. Business establishments, except home occupations, are allowed one sign that shall not exceed one and one-half square feet in combined sign area for each linear foot of building frontage, up to a maximum of 150 square feet. Temporary signage shall be removed from the premises not more than seven (7) days after the permit expires or the reason for the temporary permit ceases.

E. A construction office for which a temporary permit has been granted shall not also require a building permit provided it has the Washington State Department of Labor and Industries label. (Black label construction offices are not intended for visitation by the general public.)

F. BLMC 15.08.040, 15.28.090, and 16.20.070 govern specific instances of temporary uses.

Section 3. This Ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication, as required by law.

PASSED by the City Council and approved by the Mayor this ___ day of _______, 2013.

___________________________
Neil Johnson, Mayor

ATTEST:

___________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

___________________________
Kathleen J. Haggard, City Attorney
Memo

Date : January 2, 2013
To : Mayor and City Council
From : Grant Sulham, Planning Commission Chair
Re : Revision to Home Occupation and Temporary Use Permit Signage

In October 2012, an item was added to the Planning Commission work plan that involved amendments to the City’s development regulations that would allow home occupations to attach a sign to their fence and allow temporary businesses to have signage.

This ordinance was drafted by Planning Staff and reviewed by the Planning Commission.

Recommendation:
At the November 21, 2012 meeting, the Planning Commission voted 5-0-0 to recommend that the City Council adopt the attached draft ordinance which amends the City’s development regulations related to home occupation and temporary use permit signage.
The meeting was called to order at 5:30 P.M.

Planning Commission Present
Grant Sulham, Chair
L. Winona Jacobsen, Vice-Chair
Brandon Frederick
Richards Rawlings (absent)
Brad Doll
Dennis Poulsen
Dave Baus

City Staff Present
John Vodopich, Community Development Director
Jason Sullivan, Senior Planner
Debbie McDonald, Commission Clerk

A poll determined that a majority of Commissioners would be available for the regular scheduled meeting on December 5, 2012.

I. APPROVAL OF MINUTES:

MOTION WAS MADE BY COMMISSIONER DOLL AND SECONDED BY COMMISSIONER BAUS TO APPROVE THE MINUTES FROM THE NOVEMBER 7, 2012 MEETING.

MOTION APPROVED 5-0

II. PUBLIC HEARING:
An Ordinance related to Home Occupation and Temporary Use Permit signage

Chair Sulham opened the Public Hearing at 5:31

Having no public comments Chair Sulham closed the Public Hearing at 5:32

III. PUBLIC COMMENT AND CONCERNS: NONE

IV. NEW BUSINESS: NONE

V. OLD/CONTINUING BUSINESS:

An Ordinance related to Home Occupation and Temporary Use Permit signage
Mr. Sullivan discussed the corrections to the ordinance that were requested at the last Planning Commission meeting.

**MOTION WAS MADE BY VICE-CHAIR JACOBSEN AND SECONDED BY COMMISSIONER DOLL TO APPROVE THE ORDINANCE RELATED TO HOME OCCUPATION AND TEMPORARY USE PERMIT SIGNAGE AS WRITTEN.**

MOTION APPROVED 5-0

**VI. FOR THE GOOD OF THE ORDER:**

**Correspondence –**  NONE

**Staff Comments –**  NONE

**Commissioner Comments**  – Vice-Chair Jacobsen commented that the Historical Society moved their items from the Justice Center to the old Council Chambers. Their meeting is on Monday at 7 P.M., books and calendars will be available for purchase.

**VI. ADJOURNMENT:**

**MOTION WAS MADE BY COMMISSIONER DOLL AND SECONDED BY COMMISSIONER RAWLINGS TO ADJOURN.**

MOTION APPROVED 5-0

The meeting ended at 5:36 P.M.

______________________________
Debbie McDonald, Planning Commission Clerk
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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<td>Community Development /</td>
<td>12 February 2013</td>
<td>AB12-15</td>
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**Agenda Subject:** Approval of the Orchard Grove II final plat.

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving The Orchard Grove II Final Plat.

**Administrative Recommendation:** Approve

**Background Summary:** Benjamin Ryan Communities is seeking final plat approval the "Orchard Grove II" 18-lot single-family residential subdivision which received preliminary plat approval from the City November 27, 2006. The Applicant has obtained the necessary/required bonds and/or assignments of funds for maintenance of the infrastructure, streetlights and landscaping. The Bonney Lake Municipal Code 17.16.040 requires the City Council to make written findings that the criteria for final plat approval have been met.

**Attachments:** Resolution 2270 & Staff Report.

**BUDGET INFORMATION**

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**Budget Explanation:**

**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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<td>January 15, 2013</td>
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RESOLUTION NO. 2270

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, APPROVING THE ORCHARD GROVE II FINAL PLAT

WHEREAS, Applicant Benjamin Ryan Communities seek final plat approval for a 18-lot single-family residential subdivision entitled the "Orchard Grove II Plat"; and

WHEREAS, the Orchard Grove II Plat received preliminary plat approval from the City of Bonney Lake on November 27, 2006; and

WHEREAS, the Applicant has obtained the necessary/required bonds and/or assignments of funds for maintenance of the infrastructure, streetlights and landscaping; and

WHEREAS, Bonney Lake Municipal Code § 17.16.040 requires the City Council to make written findings that the criteria for final plat approval have been met; and

WHEREAS, the City Council finds that the Orchard Grove II Plat is properly before the City Council for consideration, and that: (1) the Plat satisfies the subdivision criteria set forth in Chapter 17.16 BLMC; (2) the Final Plat addresses all conditions of preliminary plat approval; (3) the Plat makes appropriate provision for the public health, safety, and welfare for open spaces, drainage ways, streets, roads, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions for school children; (4) as-built CAD drawings and the placement of street signs have been approved by the Public Works department; and (5) approval of the Plat would serve the public interest.

NOW, THEREFORE, the Bonney Lake City Council does hereby resolve that the Orchard Grove II Plat is approved and the Mayor is authorized to sign the mylar.

PASSED by the City Council this 12th day of February, 2013.

_______________________________
Neil Johnson, Jr., Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

_________________________________
Kathleen Haggard, City Attorney
ORCHARD GROVE II – FINAL PLAT APPROVAL

Date: February 5, 2013
To: City Council
From: Ryan Harriman, Associate Planner
RE: Orchard Grove II – Final Plat Approval, PLN-2012-01563

STAFF REPORT

PROJECT DESCRIPTION:
The applicant seeks final plat approval for the Orchard Grove II Plat. The original proposal was modified and now contains 18 single-family residential lots in an R-1 zone.

The plat was preliminarily approved by City of Bonney Lake Hearing Examiner on November 27, 2006, and contained 42 conditions of approval. The original proposal contained 25 single family residential lots, but was reduced to 18 lots.

OWNER: Benjamin Ryan Communities
10011 Bridgeport Way SW
Suite 1500-212
Lakewood, WA 98499

CONTACT: James Kerby
Benjamin Ryan Communities
10011 Bridgeport Way SW
Suite 1500-212
Lakewood, WA 98499

APPLICANT: Benjamin Ryan Communities
10011 Bridgeport Way SW
Suite 1500-212
Lakewood, WA 98499

SITE LOCATION: The project is located at 18404 84th Street East, Bonney Lake, WA, located within the NW 1/4 of Section 33, Township 20 North, Range 5 East, Willamette Meridian, Bonney Lake, Washington.

STAFF FINDINGS:

1. The proposed final plat of Orchard Grove II satisfies the subdivision criteria set forth in Section 17.16 BLMC. The proposed plat makes appropriate provision for the public health, safety, and welfare for open spaces, drainage ways, streets, roads, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions.

2. The final plat submittal was as a Type 2 permit, which was declared complete on October 23, 2012.

3. As-built CAD drawings were approved by Public Works on November 5, 2012.

4. Street signs were determined to be correctly created and adequately placed January 18, 2013.
5. The final plat is properly before the City Council for consideration and a decision.

ADHERENCE WITH CONDITIONS OF APPROVAL

The following is from the conditions of approval of the hearing examiner report dated November 27, 2006:

1. The proposal shall conform to all City of Bonney Lake regulations and standards.

   **Finding:** The Orchard Grove II plat conforms to all City of Bonney Lake regulations and standards.

2. Requirements of BLMC Chapter 16.13 and 16.14 Clearing and Landscaping are applicable to the site. The applicant will be required to obtain Landclearing and Grading permits from the City of Bonney Lake prior to any site development.

   **Finding:** The applicant received authorization to remove vegetation prior to any site development.

3. Utility easements shall be provided on the face of the final plat, which are necessary to the provision of water, power, sewer, natural gas, and mail delivery to the lots within the subdivision.

   **Finding:** The utility easements are illustrated on the face of the final plat.

4. The maintenance of street trees and street lights shall be the responsibility of the Homeowners Association.

   **Finding:** Landscaping and street lights have been approved and bonded for.

5. A landscape plan shall be required showing street trees and a type III landscaping buffer fronting all lots as outlined in BLMC Chapter 16.12. A final landscape plan shall be approved prior to installation of landscape materials and final plat approval.

   **Finding:** The landscaping plan was approved by the City of Bonney Lake on July 31, 2012.

6. All landscape areas shall be fully installed prior to final plat approval unless approved for bonding by the City of Bonney Lake.

   **Finding:** Landscaping and street lights have been approved and bonded for.

7. Buildings constructed within the plat shall meet applicable City of Bonney Lake building code requirements. This includes the payment of any utility connection charges and impact fees.
Finding: Subject properties are required to follow all required building codes, including payment of connection charges and impact fees.

8. To mitigate noise impacts associated with the proposal, all construction shall occur between the hours of 7:00 a.m. to 9:00 p.m., unless otherwise authorized by the Department of Planning and Community Development.

Finding: Developer shall implement building time restrictions at the time of building permit.

9. All plat roads shall be public and dedicated to and maintained by the City of Bonney Lake.

Finding: The road is dedicated to the public per the bill of sale and on the face of the plat.

10. The tract containing the public storm drainage shall be dedicated to and maintained by the City of Bonney Lake.

Finding: The stormwater swale/tract is dedicated to the City of Bonney Lake on the face of the plat.

11. Pursuant to Chapter 15.13 BLMC and the City of Bonney Lake Development Policies and Public Works Standards, a storm drainage plan and subsequent installation of an approved stormwater management system on the site is required.

Finding: The stormwater pond and drainage system was designed to meet Bonney Lake standards and is capable of handling storm events. The slope of the pond wall is so insignificant that normal fencing requirements are unwarranted. Future use of the site may require alternate infrastructure.

12. All storm drains within the development shall be stenciled “Dump NO Waste, Drains to ________” (groundwater, wetlands, or lake, etc. as appropriate).

Finding: The storm drains located within the development have been stenciled per the oversight of the City of Bonney Lake Development Review Engineer.

13. The applicant shall submit an Erosion and Sedimentation Control Plan to the City Engineer for approval. All erosion control facilities shall be properly maintained during all phases of site development to prevent debris, dust, and mud from accumulating on the city right-of-way and/or adjacent properties.

Finding: Completed and approved prior to site development.
14. Pursuant to Chapter 12.20 BLMC, the applicant shall be required to secure a Road Approach Permit from the City of Bonney Lake.

Finding: Completed and approved prior to site development.

15. Pursuant to Chapter 12.08.010 BLMC, the applicant shall be required to secure a right-of-way permit for any work done in the right-of-way.

Finding: Completed and approved prior to site development.

16. The operation of heavy equipment and associated materials in the construction of this project has the potential to result in fugitive dust being generated from the site. Impacts to neighboring properties shall be controlled by the use of watering trucks to water frequently used roads and associated areas as necessary to prevent the travel of dust.

Finding: Completed during site development. Site was then covered with natural vegetation to control dust.

17. If cleared, the City right-of-way shall be seeded, mulched, and stabilized as required by the City.

Finding: Complete.

18. The project shall adhere to the recommendations of the geotechnical report, prepared by GeoResources, LLC dated May 2, 2006.

Finding: Subsequent development is consistent with the provisions of the geotechnical report, prepared by GeoResources, LLC dated May 2, 2006.

19. The intent of the erosion control facilities is to protect downstream property owners from landslides, sediment buildup, and downstream channel scouring. If the intent of the requirement is not met, then all building and construction activity on site shall be discontinued and construction activity shall be directed to meeting the intent of the requirement.

Finding: The development followed a sediment and erosion control plan to ensure stormwater and sediment laden waters were contained, controlled and treated on-site. Adjacent property owners were not impacted by stormwater runoff.

20. All clearing, grading, and other site development on the project shall be performed in accordance with approved site development plans. The construction of the project shall comply with applicable City and State regulations.
Finding: The development followed the approved plat design with minimal alterations. The clearing and grading followed the GeoResources report closely. The site complies with City and State subdivision regulations.

21. Prior to approval of the water supply for this development, a Certificate of Water Availability shall be required as per WAC 246-290 and the Public Works Design Standards. The final plat portion of the Certification of Water Availability shall be signed by the water purveyor prior to final subdivision approval.

Finding: Preliminary approval was issued on December 28, 2012. City policy indicates that the final Certificate of Water Availability will be signed once the plat is recorded.

22. All water lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

Finding: The water lines were designed and constructed to meet City of Bonney Lake standards.

23. All sewer lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

Finding: The sewer lines were designed and constructed to meet City of Bonney Lake standards.

24. All roads will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

Finding: The Street were designed and constructed to meet City of Bonney Lake standards.

25. All grading and filling of land must utilize only clean fill, i.e., dirt and gravel. All other materials, including waste concrete and asphalt, are considered solid waste and permit approval shall be obtained through the Tacoma-Pierce County Health Department (TPCHD) prior to filling.

Finding: The applicant didn’t import fill material to the subject property. The applicant graded the site and removed excess materials.

26. Asbestos containing material shall be removed prior to demolition and disposed in accordance with the requirements of the Puget Sound Clean Air Agency, Washington State Department of Labor and Industries, and the Tacoma-Pierce County Health Department (TPCHD).

Finding: Three single family residences were removed from the subject property. Nothing containing asbestos was found on the subject property.
27. All demolition material, including but not limited to, wood waste, sheet rock, roofing material, and concrete, shall go to a licensed solid waste handling or disposal facility.

**Finding:** Property owner shall ensure that subsequent development of single family residences will comply with the environmental quality provisions contained within the conditions of approval.

28. All wells that will not be included in the public water system for this project must be properly “Decommissioned” per WAC (173-160) prior to final application approval. The TPCHD must be contacted 48 hours prior to any decommissioning activity at the site. Contact Rich Dickerson at 253-798-2885, TPCHD for further information regarding decommissioning wells.

**Finding:** The subject property does not contain a well.

29. Prior to final plat approval fire hydrants and mains capable of providing the required fire flow shall be provided in accordance with IFC and the City of Bonney Lake, Public Works Design Standards. Fire hydrant location shall be approved by the Fire Marshal.

**Finding:** Fire hydrants have been installed, tested, and found to meet IFC and City of Bonney Lake Design Standards. The hydrant locations have been approved by the Fire Marshal.

30. Hydrant flow test results and water “As Built” plans shall be submitted to and approved by the Fire Marshal prior to final plat/plan approval.

**Finding:** Fire hydrants have been installed, tested, and found to meet IFC and City of Bonney Lake Design Standards. The hydrant locations have been approved by the Fire Marshal.

31. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

**Finding:** The development followed a sediment and erosion control plan to ensure stormwater and sediment laden waters were contained, controlled and treated on-site. Adjacent property owners were not impacted by stormwater runoff.

32. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soils and other pollutants into surface water or storm drains.
that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.

Finding: The development followed a sediment and erosion control plan to ensure stormwater and sediment laden waters were contained, controlled and treated on-site. Adjacent property owners were not impacted by stormwater runoff.

33. Proper disposal of construction debris must be on land in such a manner that debris cannot enter the natural stormwater drainage systems, Church Lake or cause water quality degradation of state waters.

Finding: Property owner shall ensure that subsequent development of single family residences will comply with the environmental quality provisions contained within the conditions of approval.

34. During construction, all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills should take precedence over other work on the site.

The applicant followed an erosion control plan and a spill prevention plan to ensure stormwater and potentially polluted waters were contained, controlled and treated on-site. Adjacent properties were not impacted.

35. Soil in stockpiles should be stabilized or protected with sediment-trapping measures to prevent soil loss. All exposed areas of final grade or areas that are not scheduled for work, whether at final grade or otherwise, shall not remain exposed and un-worked for more than two days, between October 1 and April 30. Between May 1 and September 30, no soils shall remain exposed and un-worked for more than 7 days.

Finding: The development followed a sediment and erosion control plan to ensure stormwater and sediment laden waters were contained, controlled and treated on-site. Adjacent property owners were not impacted by stormwater runoff.

36. Clearing limits and / or any easements or required buffers should be identified and marked in the field, prior to the start of any clearing, grading, or construction. Some suggested methods are staking and flagging or high visibility fencing.

Finding: The applicant clearly marked all property lines and buffers prior to site development.
37. Properties adjacent to the site of a land disturbance should be protected from sediment deposition through the use of buffers or other perimeter controls, such as filter fence or sediment basins.

Finding: The development followed a sediment and erosion control plan to ensure stormwater and sediment laden waters were contained, controlled and treated on-site. Adjacent property owners were not impacted by stormwater runoff.

38. Provision should be made to minimize the tracking of sediment by construction vehicles onto paved public roads. If sediment is deposited, it should be cleaned every day by shoveling or sweeping. Water cleaning should only be done after the area has been shoveled out or swept.

Finding: The development followed a sediment and erosion control plan to ensure stormwater and sediment laden waters were contained, controlled and treated on-site. Adjacent property owners were not impacted by stormwater runoff.

39. Wash water from paint and wall finishing equipment should be disposed of in a way which will not adversely impact waters of the state. Untreated disposal of this wastewater is a violation of State Water Quality laws and statutes and as such, would be subject to enforcement action.

Finding: The applicant followed a spill prevention plan to ensure wash waters and potentially polluted waters were contained, controlled and treated on-site, consistent with state and local regulations. Adjacent properties were not impacted.

40. Timber harvested from the site will be subject to a Forest Practice Permit from the Department of Natural Resources. Forest Practices approval shall be obtained prior to site clearing, grading, or logging the site.

Finding: Property was cleared and developed consistent with City and State guidelines.

41. Under the Capital Facilities Plan, the District has determined that single-family residential units produce .419 students per unit. Therefore, twenty-five (25) new homes will generate approximately seven (10) students. The District requests that the developer mitigate the impact of new students by paying a mitigation fee consistent with the City of Bonney Lake School Impact Fee Ordinance.

Finding: Mitigation fees shall be paid to the Sumner School District upon permitting the construction of each single family residence.
42. If required, the applicant shall process a plat alteration to the Enchanted Estates Phase 2 subdivision to remove lots 21-25 and Tract A from said subdivision and add said lots and parcel to Orchard Grove II.

Finding: This condition is not required, as no part of Enchanted Estates - Phase 2 was used in this subdivision.

RECOMMENDATION:

Based on the aforementioned criteria, conditions of approval, application and diagrams, the City of Bonney Lake Community Development Department recommends the Bonney Lake City Council authorize the plat recording of Orchard Grove II, PLN 2012-01563.

Responsible official  Ryan Harriman
Position/title        Associate Planner
Phone                 253 447-4350
Address               P.O. Box 7380, Bonney Lake, WA  98391-0944

1/25/13  Ryan Harriman
Date       Signature

ATTACHMENTS:
1. Final Plat Map;
2. Bill of Sale;
3. Hearing Examiner Decision and Conditions of Approval dated;
4. Approved Addressing;
5. Approved Landscaping Plan.
BE COUT! THE UNDERSIGNED, THE BENEDICT RYAN COMMUNITIES, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, DO HEREBY CERTIFY THE FOLLOWING:

ACKNOWLEDGMENTS:

STATE OF WASHINGTON
COUNTY OF WASHINGTON

ON THIS DAY OF _______, 20__ BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, PERSONALLY KNOWEN OR PROVEN ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON PERSONALLY KNOWN OR PROVEN ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON DESCRIBED HEREBY, AND TO THE PERSONAL KNOWLEDGE OF THE ME, THE NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING IN MY COMMISSION EXPIRES

PRINT NOTARY NAME

AUDITOR'S CERTIFICATE:

FILED FOR RECORD THIS DAY OF ________ IN AND FOR THE STATE OF WASHINGTON

Pierce County Auditor

BY

LAND SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS PLAT OF ORCHARD GROVE II IS BASED ON AN ACTUAL SURVEY OR MAP UNDER THE DIRECT SUPERVISION OF THE PERSON DESCRIBED HEREBY. I HEREBY CERTIFY THAT ALL MONUMENTS HAVE BEEN SET AND THAT ALL OTHER MONUMENTS AND LOT CONVEYS HAVE BEEN BEING SET AND THAT THE CITY WILL BE SET UNLESS RELEASE OF THE RECORD, THAT I HAVE FULLY COMPLIED WITH ALL STATE, COUNTY, AND CITY REQUIREMENTS AND THAT I CONFORM TO THE APPROVED PLAT AND THE CONDITIONS OF APPROVAL THEREOF.

Stephen M. Woods, P.L.S.

Date: 1-21-18

COUT! THE UNDERSIGNED, THE BENEDICT RYAN COMMUNITIES, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, DO HEREBY CERTIFY THE FOLLOWING:

LEGAL DESCRIPTION:

LOTS 1, 2, 3, AND 4, PIERCE COUNTY PLAT NO. 80-42, ACCORDING TO THE PLAT TYPED RECEIVED IN Vol. 263, NO. 49 OF PHT 8, PAGE 8, BEING A RE-COMMISSIONED PIERCE COUNTY PLAT NO. 80-42, IN PIERCE COUNTY, WASHINGTON, TOGETHER WITH THAT PORTION OF 16TH AVE. EAST LABORATORY NO. 13X-85 AND ASSESSOR'S EXTRACTED UNIVERSITY NO. 91080685

SITUE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON

Basis of Bearing:

TRUE NORTH BASED UPON GLOBAL POSITIONING SYSTEM (GPS) LINES SHOWN ON WASHINGTON STATE DEED CORPORATE LANDS FOR COMPASS ANGLE OF 0° 13’ 30’’ AT STATE CENTER OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 5 EAST. THE POINT IS LOCATED AT THE INTERSECTION OF 16TH AVE. EAST AND 16TH AV. EAST IN SPOT 85 TT 911-075607

Notes:

1. THE POINT OF BEGINNING IS LABORATORY NO. 13X-85 AND ASSESSOR'S EXTRACTED UNIVERSITY NO. 91080685

2. THE BASIS OF BEARING SHOWN HEREIN ARE MEASURED IN REFERENCE TO_property lines
RETURN TO:
City of Bonney Lake
Public Works Department
8720 184th Avenue East
P.O. Box 7380
Bonney Lake, Washington 98391-0944

Phone: 253-447-4336
Fax: 253-826-1921

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of the sum of One Dollar ($1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, the undersigned grantor(s) BENJAMIN RYAN COMMUNITIES, LLC do(es) by these presents hereby convey, set over, assign, transfer and sell to the City of Bonney Lake, Pierce County, Washington, a municipal corporation, the following described utility or other improvements and all appurtenances thereto, situated in Pierce County, Washington:

TYPE OF DOCUMENT: BILL OF SALE

GRANTOR(S): BENJAMIN RYAN COMMUNITIES, LLC

GRANTEE: City of Bonney Lake, a Municipal Corporation

ABBREVIATED LEGAL DESCRIPTION: LOTS 1,2,3 AND 4, PIERCE COUNTY SHORT PLAT NO. 80-42

ASSESSOR TAX PARCEL I.D. NUMBERS: 5640000434, 5640000435, 5640000413, 5640000414

NAME OF PROJECT: PLAT OF ORCHARD GROVE II

ADDRESS OF PROJECT: 8311 184TH AVE E

BONNEY LAKE, WA 98391

PROJECT NUMBER: BONNEY LAKE

LEGAL DESCRIPTION: Located here or on Exhibit A of this document

PERSONAL PROPERTY DESCRIPTION: Located here or on Exhibit B of this document

the said grantor(s) hereby warrants that he, they, it, is/are the sole owner(s) of all the property above described; that they have full power to convey all rights herein conveyed and agree to hold the City of Bonney Lake harmless from any and all claims which might result from execution of this document. IN WITNESS WHEREOF the grantor(s) has/have executed these presents this 26th day of DECEMBER, 2013.
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**Grantor (DEVELOPER) SIGNATURE:**

By: ___________________________  By: ___________________________

Its: MANAGING MEMBER  Its: ___________________________

STATE OF WASHINGTON  )
COUNTY OF PIERCE  )

On this 25 day of January, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared John Bay, of Bennett Ryan, to me proven to be the individual described in and who executed the foregoing instrument for himself and acknowledged that he signed the same as his free and voluntary act and deed for himself and also as his free and voluntary act and deed on behalf of said Bennett Ryan, for uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument.

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

[Signature]

Printed Name: John Bay
Notary Public in and for the State of Washington, residing at:
My Commission Expires:
BILL OF SALE

EXHIBIT A

Legal Description

LOTS 1, 2, 3 AND 4, PIERCE COUNTY SHORT PLAT NO. 80-42, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 40 OF SHORT PLAT, PAGE 6, BEING A RE-RECORD OF PIERCE COUNTY SHORT PLAT NO. 78-645, IN PIERCE COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF 184TH AVENUE EAST VACATED BY ORDINANCE NO 628 AND RECORDED UNDER RECORING NO. 9103080206.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.
EXHIBIT B - FINAL COST DATA AND INVENTORY

Permit No.

Name of Project  PLAT OF ORCHARD GROVE II

Per the request of the City of Bonney Lake the following information is furnished concerning final costs for improvements installed and turned over to the City for the above referenced project.

### WATER SYSTEM CONSTRUCTION/CONSTRUCTION COSTS

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<th>Amount</th>
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<th>Size</th>
<th>Type</th>
<th>Item</th>
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Cost of Fire Hydrants must be listed separately
Includes Engineering and Sales Tax if applicable

**TOTAL COST FOR WATER SYSTEM**  $97,509.50

### SANITARY SEWER SYSTEM

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Includes Engineering and Sales Tax if applicable

**TOTAL COST FOR SANITARY SEWER SYSTEM**  $73,952.50
EXHIBIT B – FINAL COST DATA AND INVENTORY

Page 2 of 2

STORM DRAINAGE SYSTEM

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STREET IMPROVEMENT

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TOTAL COST FOR STORM DRAINAGE SYSTEM $79,850.00

SIGNALIZATION

(INCLUDING ENGINEERING DESIGN COSTS, CITY PERMIT FEES, WA STATE SALES TAX)

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SIGNALIZATION $50,135.00

STREET LIGHTING

(INCLUDING ENGINEERING DESIGN COSTS, CITY PERMIT FEES, WA STATE SALES TAX)

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JOHN BAYS

Print Signatory Name

Phone 253-537-3732
E-mail INFO@BENJAMIN-RYAN.COM
FAX NA

Signature by authorized agent or owner of subject development
November 27, 2006

Milestone Homes  
P.O. Box 1376  
Sumner, WA 98390  

RE: PRELIMINARY PLAT OF ORCHARD GROVE II

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Bonney Lake Hearing Examiner relating to the above-entitled matter.

Very truly yours,

STEPHEN K. CAUSSEAX, JR.  
Hearing Examiner

SKC/cka  
cc: Parties of Record  
City of Bonney Lake
CASE NO.: PRELIMINARY PLAT OF ORCHARD GROVE II

APPLICANT: Milestone Homes
P.O. Box 1376
Sumner, WA 98390

AGENT: Raymond Frey
12356 Northup Way, Ste. 119
Bellevue, WA 98005

OWNERS: Ronald and Pam Newman
P.O. Box 1376
Sumner, WA 98390

Robert Cline
8202 183rd Ave. E.
Bonney Lake, WA 98390

George Hollenbeck
7925 N. Oracle Road, Ste. A
Tucson, AZ 85704

Daniel and Angela Anacker
8108 183rd Ave. E.
Bonney Lake, WA 98390

Douglas McCoy
18218 84th St. E.
Bonney Lake, WA 98391

Paul Reich, Reich Construction
29409 39th Avenue South
Roy, WA 98580

Andrew and Kate Gallagher
18216 84th St. E.
Bonney Lake, WA 98391

Michele Johnson
18214 84th St. E.
Bonney Lake, WA 98391

SUMMARY OF REQUEST:

The applicant is proposing the development of a residential subdivision consisting of 25 single family residential lots on approximately 5.65 acres. The site is currently zoned R-1 Low-Density Residential District (BLMC Chapter 18.14). The project is located at 18404 84th Street East, Bonney Lake, WA., located within the NW 1/4 of Section 33, Township 20 North, Range 5 East, Willamette Meridian, Pierce County, Washington.
SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Planning and Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on November 6, 2006, at 10:18 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - Planning and Community Development Staff Report and Attachments
EXHIBIT "2" - Power Point Presentation

HEATHER STINSON appeared, presented the Planning and Community Development Department Staff Report, and testified that the plat parcel includes portions of two vacated City streets. The plat abuts the approved preliminary plat of Orchard Grove I and the City Council has approved the road vacations, but has not signed the ordinance. A resident expressed concerns about additional flooding on her parcel which is presently caused by the damming of a drainage ditch by downstream neighbors. The City storm drainage requirements will ensure no flooding of off-site properties. The preliminary plat includes already platted lots (lots 21 through 25) and Tract A. The project proposes a density of 4.95 dwelling units per acre which meets the R1 classification. At present 184th consists of a dirt road, but runs from 84th St. on the south to 80th St. on the north. From 80th, 184th continues north as a paved road to Lake Bonney. The applicant will improve 184th from 84th to 80th to City standards. The applicant will extend sewer and water to the site as well as other utilities. Neighbor's comments focus on the impacts of stormwater runoff. Lots 21-25 are in the Enchanted Estates subdivision.

RAYMOND FREY appeared on behalf of the request and testified that he had reviewed the staff report and is aware of the vacation. He was unaware of Tract A until late, and they will include it within the plat. They will collect all stormwater from impervious surfaces and drain it to the retention pond to the south. They added the five lots and the tract to meet the density requirements.

GARY MATHEWS appeared and testified that he resides on the east side of the plat at the lowest point and has concerns about water in his building.
ROBY DORMAN, CARNELL SHINAUL, and JOE MAGRUM appeared and also expressed concerns regarding additional stormwater runoff.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 10:30 a.m.

NOTE: A complete record of this hearing is available in the City of Bonney Lake Planning and Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.

2. Pursuant to the State Environmental Policy Act (SEPA) and City of Bonney Lake Environmental Regulations, as codified in BLMC Title 16-Environmental Protection, the SEPA Responsible Official has reviewed this project and issued a Determination of Nonsignificance on October 19, 2006. The comment period ended on November 3, 2006. No appeals were filed.

3. Appropriate notice was provided pursuant to the Bonney Lake Municipal Code.

4. The applicant has a possessory ownership interest in a generally rectangular, 5.65 acre parcel of property extending from the north side of 84th St. E. north to the south side of 80th St. E. within the City of Bonney Lake. The parcel abuts 84th St. for approximately 125 feet and 80th St. E. for 146 feet. The parcel measures approximately 1,320 feet in depth. Included within the parcel are the vacated rights-of-way of 82nd St. E. and 80th St. E., lots 21-25 of the Enchanted Estates Phase 2 subdivision, and Tract A of said subdivision. The applicant requests preliminary plat approval to allow subdivision of the site into 20 new single family residential lots and the addition of the five lots and Tract A from Enchanted Estates Phase 2.

5. Improvements on the site include single family residential homes on lots 21-25, all of which will remain. The three single family residential homes located on the unplatted parcel will be removed. Thus, the plat will provide 17 additional single family residential building sites.

6. The preliminary plat map shows that lots 21-25 will retain their present access onto the roads of Enchanted Estates Phase 2. The map shows that the applicant will improve 184th Avenue E. to City standards from 84th St. E. to 80th St. E., and that all
newly created plat lots will abut the west side of said road and will access directly thereon. Approval of Lots 1 and 13 are conditioned upon the Bonney Lake City Council’s final decision approving the vacation of the 80th St. E. and 82nd St. E. rights-of-way. A storm drainage retention facility abuts 84th St. E. on the south portion of the plat parcel. The plat proposes a minimum lot size of 6,822 square feet, an average lot size of 8,799 square feet, and a density of 4.95 dwelling units per acre. Removal of the five lots from the Enchanted Estates Phase 2 subdivision may require a plat alteration, and a condition of approval requires said process as a condition of final plat approval should the City determine it necessary.

7. The site is located within the Low Density Residential designation of the Bonney Lake Comprehensive Plan which encourages residential development to take place in an orderly and cost efficient manner to best utilize available land and reduce sprawl. The applicant’s unique proposal to increase density within an Urban Growth Area by adding five lots and an open space tract from an adjoining subdivision, satisfies said goal.

8. The parcel is located within the Low Density Residential (R1) zone classification of the Bonney Lake Municipal Code (BLMC). Section 18.14.020(A) BLMC authorizes detached single family residential dwellings as outright permitted uses. Section 18.14.060 BLMC requires no minimum lot size, but requires a density of four to five dwelling units per acre and a minimum lot width of 55 feet. All proposed lots meet the required lot width and the density does not exceed five dwelling units per acre. The rectangular lot shapes provide reasonably sized building envelopes which meet the required yard setbacks and the maximum lot coverage limitation of 60%. The proposed plat satisfies the bulk regulations of the R1 zone classification.

9. Abutting parcels to the north, south, and east are also located within the R1 classification and improved with single family residential dwellings. Parcels to the west are located within the Medium Density Residential classification (R2) and likewise improved with single family residential homes. The applicant’s proposal for a single family residential subdivision is consistent and compatible with existing and future uses of the area.

10. The preliminary plat map shows no open space areas or areas dedicated for outdoor recreational opportunities. However, the stormwater retention pond will provide a non-developed area, and taxes generated by the single family homes will support City parks. The applicant will also satisfy the City’s park impact fee ordinance. The plat makes appropriate provision for open spaces, parks and recreation, and playgrounds.

11. Residents of the area east of the plat express concerns regarding additional flooding from impervious surfaces. The plat road will extend along the plat’s east property
line and will have a public storm drainage system constructed to City standards. Said system will collect all stormwater runoff and direct it through pipes to the storm drainage tract along the south property line where it will infiltrate into the ground following treatment in a bioswale. Construction of the storm drainage facilities to City standards and maintenance thereof by the City will ensure that runoff from impervious surfaces will not impact adjoining parcels. The plat makes appropriate provision for drainage ways.

12. The applicant will construct 184th Avenue E. between 84th St. E. and 80th St. E. to City standards, thereby providing a connection between said roads for the general public and a convenient access for all lots. Adequate entering and stopping sight distance either exists or must exist prior to final plat approval at the intersections of the internal plat road. The plat makes appropriate provision for streets, roads, alleys, and other public ways.

13. The City of Bonney Lake will provide both domestic water and fire flow to the site as well as sanitary sewer service to each lot. Pierce Transit has requested no improvements and therefore the plat makes appropriate provision for potable water supplies, sanitary waste, and transit stops.

14. The applicant must comply with the City School Impact Fee Ordinance and make a per lot payment to the Sumner School District to offset the impacts on the district of school aged children residing in the plat. Compliance with said ordinance will ensure that the plat makes appropriate provision for schools and school grounds.

15. Construction of the street to City standards will include a sidewalk, and therefore the plat makes appropriate provision for safe walking conditions.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.

2. The proposed preliminary plat of Orchard Grove II is consistent with the R1 designation of the Bonney Lake Comprehensive Plan and meets all bulk regulations of the R1 zone classification of the Bonney Lake Municipal Code.

3. The proposed preliminary plat makes appropriate provision for the public health, safety, and general welfare for open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, schools and school grounds, parks and recreation, playgrounds, and safe walking conditions.

4. The proposed preliminary plat will serve the public use and interest by providing an
attractive location for a single family residential subdivision consistent with existing and future development in the area and therefore should be approved subject to the following conditions:

1. The proposal shall conform to all City of Bonney Lake regulations and standards.

2. Requirements of BLMC Chapter 16.13 and 16.14 Clearing and Landscaping are applicable to the site. The applicant will be required to obtain Landclearing and Grading permits from the City of Bonney Lake prior to any site development.

3. Utility easements shall be provided on the face of the final plat, which are necessary to the provision of water, power, sewer, natural gas, and mail delivery to the lots within the subdivision.

4. The maintenance of street trees and street lights shall be the responsibility of the Homeowners Association.

5. A landscape plan shall be required showing street trees and a type III landscaping buffer fronting all lots as outlined in BLMC Chapter 16.12. A final landscape plan shall be approved prior to installation of landscape materials and final plat approval.

6. All landscape areas shall be fully installed prior to final plat approval unless approved for bonding by the City of Bonney Lake.

7. Buildings constructed within the plat shall meet applicable City of Bonney Lake building code requirements. This includes the payment of any utility connection charges and impact fees.

8. To mitigate noise impacts associate with the proposal, all construction shall occur between the hours of 7:00 a.m. to 9:00 p.m., unless otherwise authorized by the Department of Planning and Community Development.

9. All plat roads shall be public and dedicated to and maintained by the City of Bonney Lake.

10. The tract containing the public storm drainage shall be dedicated to and maintained by the City of Bonney Lake.

11. Pursuant to Chapter 15.13 BLMC and the City of Bonney Lake Development Policies and Public Works Standards, a storm drainage plan
and subsequent installation of an approved stormwater management system on the site is required.

12. All storm drains within the development shall be stenciled “Dump NO Waste, Drains to ________” (groundwater, wetlands, or lake, etc. as appropriate).

13. The applicant shall submit an Erosion and Sedimentation Control Plan to the City Engineer for approval. All erosion control facilities shall be properly maintained during all phases of site development to prevent debris, dust, and mud from accumulating on the city right-of-way and/or adjacent properties.

14. Pursuant to Chapter 12.20 BLMC, the applicant shall be required to secure a Road Approach Permit from the City of Bonney Lake.

15. Pursuant to Chapter 12.08.010 BLMC, the applicant shall be required to secure a right-of-way permit for any work done in the right-of-way.

16. The operation of heavy equipment and associated materials in the construction of this project has the potential to result in fugitive dust being generated from the site. Impacts to neighboring properties shall be controlled by the use of watering trucks to water frequently used roads and associated areas as necessary to prevent the travel of dust.

17. If cleared, the City right-of-way shall be seeded, mulched, and stabilized as required by the City.

18. The project shall adhere to the recommendations of the geotechnical report, prepared by GeoResources, LLC dated May 2, 2006.

19. The intent of the erosion control facilities is to protect downstream property owners from landslides, sediment buildup, and downstream channel scouring. If the intent of the requirement is not met, then all building and construction activity on site shall be discontinued and construction activity shall be directed to meeting the intent of the requirement.

20. All clearing, grading, and other site development on the project shall be performed in accordance with approved site development plans. The construction of the project shall comply with applicable City and State regulations.
21. Prior to approval of the water supply for this development, a Certificate of Water Availability shall be required as per WAC 246-290 and the Public Works Design Standards. The final plat portion of the Certification of Water Availability shall be signed by the water purveyor prior to final subdivision approval.

22. All water lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

23. All sewer lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

24. All roads will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

25. All grading and filling of land must utilize only clean fill, i.e., dirt and gravel. All other materials, including waste concrete and asphalt, are considered solid waste and permit approval shall be obtained through the Tacoma-Pierce County Health Department (TPCHD) prior to filling.

26. Asbestos containing material shall be removed prior to demolition and disposed in accordance with the requirements of the Puget Sound Clean Air Agency, Washington State Department of Labor and Industries, and the Tacoma-Pierce County Health Department (TPCHD).

27. All demolition material, including but not limited to, wood waste, sheet rock, roofing material, and concrete, shall go to a licensed solid waste handling or disposal facility.

28. All wells that will not be included in the public water system for this project must be properly "Decommissioned" per WAC (173-160) prior to final application approval. The TPCHD must be contacted 48 hours prior to any decommissioning activity at the site. Contact Rich Dickerson at 253-798-2885, TPCHD for further information regarding decommissioning wells.

29. Prior to final plat approval fire hydrants and mains capable of providing the required fire flow shall be provided in accordance with IFC and the City of Bonney Lake, Public Works Design Standards. Fire hydrant location shall be approved by the Fire Marshal.

30. Hydrant flow test results and water "As Built" plans shall be submitted to and approved by the Fire Marshal prior to final plat/plan approval.
31. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

32. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soils and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.

33. Proper disposal of construction debris must be on land in such a manner that debris cannot enter the natural stormwater drainage systems, Church Lake or cause water quality degradation of state waters.

34. During construction, all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills should take precedence over other work on the site.

35. Soil in stockpiles should be stabilized or protected with sediment-trapping measures to prevent soil loss. All exposed areas of final grade or areas that are not scheduled for work, whether at final grade or otherwise, shall not remain exposed and un-worked for more than two days, between October 1 and April 30. Between May 1 and September 30, no soils shall remain exposed and un-worked for more than 7 days.

36. Clearing limits and / or any easements or required buffers should be identified and marked in the field, prior to the start of any clearing, grading, or construction. Some suggested methods are staking and flagging or high visibility fencing.

37. Properties adjacent to the site of a land disturbance should be protected from sediment deposition through the use of buffers or other perimeter controls, such as filter fence or sediment basins.

38. Provision should be made to minimize the tracking of sediment by construction vehicles onto paved public roads. If sediment is deposited, it should be cleaned every day by shoveling or sweeping. Water cleaning should only be done after the area has been shoveled out or swept.
39. Wash water from paint and wall finishing equipment should be disposed of in a way which will not adversely impact waters of the state. Untreated disposal of this wastewater is a violation of State Water Quality laws and statutes and as such, would be subject to enforcement action.

40. Timber harvested from the site will be subject to a Forest Practice Permit from the Department of Natural Resources. Forest Practices approval shall be obtained prior to site clearing, grading, or logging the site.

41. Under the Capital Facilities Plan, the District has determined that single-family residential units produce .419 students per unit. Therefore, twenty-five (25) new homes will generate approximately seven (10) students. The District requests that the developer mitigate the impact of new students by paying a mitigation fee consistent with the City of Bonney Lake School Impact Fee Ordinance.

42. If required, the applicant shall process a plat alteration to the Enchanted Estates Phase 2 subdivision to remove lots 21-25 and Tract A from said subdivision and add said lots and parcel to Orchard Grove II.

DECISION:

The request for preliminary plat approval of Orchard Grove II is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 27th day of November, 2006.

[Signature]

STEPHEN K. CAUSSEAX, JR.
Hearing Examiner

TRANSMITTED this 27th day of November, 2006, to the following:

APPLICANT: Milestone Homes
P.O. Box 1376
Sumner, WA 98390

AGENT: Raymond Frey
12356 Northup Way, Ste. 119
Bellevue, WA 98005
**OWNERS:**

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<th>Zip</th>
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<td>Ronald and Pam Newman</td>
<td>P.O. Box 1376, Sumner, WA 98390</td>
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<tr>
<td>George Hollenbeck</td>
<td>7925 N. Oracle Road, Ste. A, Tucson, AZ 85704</td>
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<tr>
<td>Douglas McCoy</td>
<td>18218 84th St. E., Bonney Lake, WA 98391</td>
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CASE NO.  PRELIMINARY PLAT OF ORCHARD GROVE

NOTICE

Pursuant to City of Bonney Lake, this decision becomes final and conclusive on December 15, 2006, unless:

1. RECONSIDERATION: Any aggrieved person feeling that the decision of the Examiner is based on errors of procedure or errors of misinterpretation of fact may make a written request for review by the Examiner in writing and filed not later than 5:00 p.m. on December 6, 2006, with the Planning and Community Development Department. This request shall set forth the alleged errors or misinterpretations, and the Examiner may, after review of the record, take such further action as he deems proper and may render a revised decision.

2. APPEAL OF EXAMINER'S DECISION: The final decision by the Examiner on any land use matter within his jurisdiction may be appealed to the City Council by any aggrieved person directly affected by the Examiner's decision. Said appeal procedure is as follows:

   (a) The appellant must file written notice of appeal with the Planning Department in writing with an appeal fee as required by the Department not later than 5:00 p.m. on December 15, 2006.

   (b) Provided that if the Examiner was requested to reconsider the decision, then the appeal must be filed within fourteen (14) days of the mailing of the Examiner's final order or decision on the reconsideration report. The notice of appeal shall concisely specify such
error and/or issue which the City Council is asked to consider an appeal.

NOTE: In an effort to avoid confusion at the time of filing a request for reconsideration or an appeal, please attach this page to the request or appeal.
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

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Agenda Subject: Award contract to Hoffman Construction, Inc for the construction of Allan Yorke and West Tapps Highway Improvements project.

Full Title/Motion: A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Award Contract To Hoffman Construction, Inc For The Construction Of Allan Yorke and West Tapps Highway Improvements Project.

Administrative Recommendation: Approve

Background Summary: The City Council approved the design of the Allan Yorke Dike Project on June 12, 2012 (AB 12-89). The City opened bids for the project on January 30, 2013. Ten bids were received and Hoffman Construction, Inc was the apparent low bidder with a bid of $269,565.06. The Engineer’s Estimate was $293,398.78. Staff has determined that the Hoffman Construction, Inc submittal is consistent with the requirements of the contract provisions.

Attachments: Resolution 2274, Bid Tabulation, Contract, Map

### BUDGET INFORMATION

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Budget Explanation: 302.031.076.594.76.65.01 Allan Yorke Park Dike Project
Construction contract amount: $269,565.06 + 10% Contingency $26,956.51 + 5% Project Mgt. $13,478.25 = Total $309,999.82
Revenue: Parks – CIP
The City expects to use a portion of the 10% contingency to install the wall design with City Logo but does not anticipate going over the budgeted amount of $300k in the Park Fund. Contingency dollars are added for unexpected situations but are rarely used.

### COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review: Community Development
Date: February 5, 2013

- Chair/Councilmember: Randy McKibbin [✓] [No]
- Councilmember: James Rackley [✓] [No]
- Councilmember: Katrina Minton-Davis [✓] [No]

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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N:\everyone\Agenda Review\2013\12-13\AB13-21\AB13-21 Res 2274 AYP Dike Extension Bid Award.doc
Version Oct. 2010
RESOLUTION NO. 2274

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AWARDING THE ALLAN YORKE AND WEST TAPPS HIGHWAY IMPROVEMENTS PROJECT TO HOFFMAN CONSTRUCTION INC.

WHEREAS, the City Council approved the 2013-2014 Biennial Budget on December 11, 2012 per Ordinance 1447; and

WHEREAS, the 2013-2014 Biennial Budget provided funding for the Allan Yorke and West Tapps Highway Improvements Project; and

WHEREAS, the City advertised the Allan Yorke and West Tapps Highway Improvements Project and opened bids on January 30, 2013 and has determined the lowest responsible bid for this contract was received from Hoffman Construction, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to sign the attached contract with Hoffman Construction, Inc. in the amount of $269,565.06 which includes tax.

BE IT FURTHER RESOLVED that the City of Bonney Lake Council does hereby authorize a 10% Construction Contingency ($26,956.51) amount based on the contract bid amount as well as a 5% Construction Engineering ($10,692.00) amount based on the contract bid.

PASSED by the City Council this 12th day of February, 2013.

_____________________________
Neil Johnson, Jr., Mayor

ATTEST:

_____________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

_____________________________
Kathleen Haggard, City Attorney

Agenda Packet p. 67 of 130
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*Table: TOTAL CONSTRUCTION COST ESTIMATE*

*Note: BASE COST values are subject to change based on project specifications and environmental considerations.*
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Agenda Packet p. 70 of 130
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**UNIT COST BASE**

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**LLOYD**

|$1,000 | $4,000 | $7,000 | $10,000 | $13,000 | $16,000 | $19,000 | $22,000 | $25,000 | $28,000 | $31,000 | $34,000 |

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**HENDERSON**

|$1,000 | $4,000 | $7,000 | $10,000 | $13,000 | $16,000 | $19,000 | $22,000 | $25,000 | $28,000 | $31,000 | $34,000 |

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**NPM**

|$1,000 | $4,000 | $7,000 | $10,000 | $13,000 | $16,000 | $19,000 | $22,000 | $25,000 | $28,000 | $31,000 | $34,000 |

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**FRANK**

|$1,000 | $4,000 | $7,000 | $10,000 | $13,000 | $16,000 | $19,000 | $22,000 | $25,000 | $28,000 | $31,000 | $34,000 |

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**ROGNLINS**

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PUBLIC WORKS CONTRACT

THIS AGREEMENT is made and entered into in duplicate this ___ day of __________, 20___, by and between the CITY OF BONNEY LAKE, hereinafter called the “City,” and ____________________________________________, hereinafter called the “Contractor.”

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Agreement, the parties hereto covenant and agree as follows:

1. The Contractor shall do all work and furnish all labor, materials, and equipment for:
   
   CITY OF BONNEY LAKE
   
   Allan Yorke & West Tapps Highway Improvements
   
   In accordance with and as described in the attached Plans and Specifications, and the 2012 Standard Specifications for Road, Bridge, and Municipal Construction, prepared by the Washington State Department of Transportation with the Washington State Chapter of the American Public Works Association (APWA) and all amendments thereto, which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in, or additions to, the work provided under this Contract and every part thereof.

   Work shall start immediately after Notice to Proceed and be completed within the time specified in the Special Provisions of the attached Plans and Specifications.

   If said work and identified milestones are not completed within the time specified, the Contractor agrees to pay to the City liquidated damages as specified in the Standard Specifications for each working day said work remains incomplete after expiration of the specified time.

   The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this Contract and every part thereof, except such as that mentioned in the Specifications to be furnished by the City.

2. The City hereby promises and agrees with the Contractor to employ, and does employ, the Contractor to provide the materials and to do and cause to be done the above-described work and to complete and finish the same according to the attached Plans and Specifications and the terms and conditions herein contained; and hereby contracts to pay for the same according to the attached Specifications and the schedule of unit or itemized prices hereto attached, at the time and in the manner and upon the conditions provided for in the Contract.
3. The City shall not be responsible for delays caused by soil conditions; underground obstructions; labor disputes; fire; delays by third parties, particularly public and private utilities; or reasonably foreseen delays.

4. In addition to limiting claims for unreasonable delays to the actual downtime of labor and equipment, as above provided, Contractor agrees that the City’s liability to the Contractor for payment of claims or damages of any kind whatsoever relating to this Contract shall be limited to direct costs as provided under the force account provisions of the Standard Specifications. Contractor waives all claims for payment of damages that include or are computed on total costs of job performance, extended overhead, or other similar methods that do not relate to the prices stated herein or are not specific as to the actual, direct costs of contract work as defined in the Standard Specifications force account provisions.

5. For purposes of applying RCW 4.24.115 to this Contract, Contractor and City agree that the term “damages” applies only to the finding in a judicial proceeding and is exclusive of third-party claims for damage preliminary thereto. The Contractor agrees to defend, indemnify, and hold harmless the City from all claims for damages by third parties, including costs and reasonable attorney’s fees in the defense of claims for damages arising from performance of the Contractor’s express or implied obligations under this Contract. Contractor specifically and expressly waives immunity under Industrial Insurance Law, Title 51 RCW. This provision has been specifically negotiated. Contractor further waives any right of contribution against the City. The Contractor agrees that all third-party claims for damages against the City for which Contractor’s insurance carrier does not accept defense of the City may be tendered by the City to the Contractor who shall, if so tendered by the City, accept and undertake to defend or settle with the claimant. The City retains the right to approve claims investigation and counsel assigned to said claim, and all investigation of legal work product regarding said claim shall be performed under a fiduciary relationship to the City. In the event that the City agrees or a court finds that the claim arises from the sole negligence of the City, this indemnification shall be void, and the City shall be responsible for all damages payable to the third-party claimant. In the event that the City and Contractor agree or a court finds that the claim arises from or included negligence of both the Contractor and the City, the Contractor shall be responsible for all damages payable by the Contractor to the third-party claimant under the court findings, and, in addition thereto, the Contractor shall hereunder indemnify the City for all damages paid or payable by the City under the court findings in an amount not to exceed the percentage of total fault attributable to the Contractor.

6. Contractor does hereby agree, and for his/her heirs, executors, administrators, successors, and assigns, agrees, to the full performance of all the covenants herein upon the part of the Contractor.

7. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as previously provided herein.
8. The obligations under this Contract shall not be assigned without prior written approval of the City.

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

CITY OF BONNEY LAKE

By: ____________________________
    (Signature)

______________________________
    (Title)

ATTEST:

______________________________
    (Signature)

______________________________
    (Title)

Approved as to Form:

______________________________
    (Signature)

______________________________
    (Title)

CONTRACTOR:

By: ____________________________
    (Signature)

______________________________
    (Printed Name)

______________________________
    (Title)

______________________________
    (Date)
Allan Yorke & West Tapps Hwy Improvements Project

Vicinity Map

Map Legend

- Roads
  - Interstate
  - Limited Access State Routes
  - Other State Routes
  - Ramps
  - Major Arterial
  - Collector
  - Local Access

County - 2011 - Ortho

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 orthophotos and other data may not align. Pierce County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. Pierce County makes no warranty of fitness for a particular purpose.
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

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<td>Resolution</td>
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**Agenda Subject:** Authorization to KPG to provide project management engineering services during construction of the Allan Yorke and West Tapps Highway Improvements Project.

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize Project Management Engineering Services To KPG During Construction Of The Allan Yorke and West Tapps Highway Improvements Project.

**Administrative Recommendation:**

**Background Summary:** The City Council approved the design of the Allan Yorke Dike Project on June 12, 2012 (AB 12-89). City staff will require the professional expertise of the design team to address specific questions, requests for information (RFI’s), review select material submittals, construction staking, as well as civil design support and site meetings during construction of the project.

**Attachments:** Resolution 2275, Contract, Map

**BUDGET INFORMATION**

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**Budget Explanation:** 302.031.076.594.76.65.01 Allan Yorke Park Dike Project
These funds are covered under the 5% Project Mgt. of the Construction contract amount of $269,565.06 per Resolution 2274
Revenue: Parks – CIP

**COMMITTEE, BOARD & COMMISSION REVIEW**

**Council Committee Review:** Community Development
Date: February 5, 2013
- 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**

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<th>Date Reviewed by City Attorney:</th>
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<tr>
<td>Dan Grigsby</td>
<td>Neil Johnson Jr.</td>
<td>(if applicable):</td>
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Version Oct. 2010
RESOLUTION NO. 2275

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AWARDING THE SERVICES DURING CONSTRUCTION CONTRACT FOR THE ALLAN YORKE AND WEST TAPPS HIGHWAY IMPROVEMENTS PROJECT TO KPG ENGINEERING.

WHEREAS, the City Council approved the 2013-2014 Biennial Budget on December 11, 2012 per Ordinance 1447; and

WHEREAS, the 2013-2014 Biennial Budget provided funding for the Allan Yorke and West Tapps Highway Improvements Project; and

WHEREAS, the City advertised the Allan Yorke and West Tapps Highway Improvements Project and opened bids on January 30, 2013 and has awarded the contract per Resolution 2274 to Hoffman Construction, Inc.; and

WHEREAS, the City will use KPG Engineering for construction staking, submittal reviews, as-built surveying, etc. throughout the duration of the contract with Hoffman Construction, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the City of Bonney Lake Council does hereby authorize the Mayor to sign the attached contract with KPG Engineering in the amount of $10,692.00 which includes tax.

PASSED by the City Council this 12th day of February, 2013.

_________________________________
Neil Johnson, Jr., Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

_________________________________
Kathleen Haggard, City Attorney
PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this __________ day of __________________, 2012, by and between the City of Bonney Lake ("City") and ___________ ("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: ____________________________
    Terry Wright Jr.

Attachments:

Exhibit A: Scope of Work - Allan Yorke & West Tapps Improvements - Construction
Exhibit B: Rates - Allan Yorke & West Tapps Improvements - Construction
EXHIBIT A – KPG Scope of Work
City of Bonney Lake
Allan Yorke & West Tapps Improvements – Construction
Project No. 12042 - Supplement 1
January 28, 2013

INTRODUCTION
KPG will provide limited construction services as requested by the City:

SCOPE OF WORK

Task 1.0 – Construction Services

1.1 Project Coordination – Includes project set-up, monthly invoicing, and coordination of staff.

1.2 Preconstruction Meeting – KPG Engineer of Record and Project Surveyor will attend the Preconstruction Meeting. All preparation and meeting minutes will be prepared by the City.

1.3 Submittal Review – Not in budget, it is assumed that all submittals will be reviewed and approved by City.

1.4 Site Visits/Construction Meetings – Attend up to 3 construction meetings and/or site visit as requested by the City.

1.5 Request for Information – Provide assistance as requested by the City to provide clarification to the Contract Documents.

1.6 Miscellaneous Communications – Answer questions and clarifications from City Staff and materials suppliers as required.

Task 2.0 – Construction Staking
KPG will provide construction staking as required in Section 1-05.4, page SP-12 & SP-13 of the project special provisions.

Products:
- Attendance at preconstruction and construction meetings.
- Written Documents addressing Request for Information.
- Staking and Cut Sheets for storm drains, curbs, driveways and sidewalks.

Assumptions:
- Meeting Minutes will be prepared by City.
- Record Drawings will not be required.
- Construction Management and On-site inspection will be provided by the City.
- Design modifications which extend the project limits will not be required.
# EXHIBIT B

## PROJECT SUMMARY

**CLIENT:** City of Bonney Lake  
**PROJ NAME:** Allan Yorke & W. Tapps Improvements - Construction  
**PROJ MGR.:** Terry Wright  
**DATE:** January 31, 2013

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<th>Description</th>
<th>KPG ARCHIT/ENG</th>
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<tbody>
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<td>1.0</td>
<td>Construction Services</td>
<td>$5,705</td>
<td>$5,705</td>
</tr>
<tr>
<td>2.0</td>
<td>Construction Staking</td>
<td>$4,906</td>
<td>$4,906</td>
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<thead>
<tr>
<th></th>
<th>Direct Expense</th>
<th></th>
<th>$81</th>
</tr>
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</table>

|               | Totals               |               | $10,692 |

---

**SUBCONSULTANT**

**City Approval**

Approved By:  
Date:
### EXHIBIT B

**CLIENT:** City of Bonney Lake  
**PROJ NAME:** Allan Yorke & W. Tapps Improvements - Construction  
**Job #:** 12042  
**DATE:** January 31, 2013

#### SUMMARY OF STAFF LABOR HOURS REQUIRED BY TASK

<table>
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<tr>
<th>TASK NO.</th>
<th>TASK DESCRIPTION</th>
<th>Project Manager</th>
<th>Project Engineer</th>
<th>Design Engineer</th>
<th>Sr. Surveyor</th>
<th>Project Surveyor</th>
<th>Survey Crew</th>
<th>Technician</th>
<th>Clerical</th>
<th>Total Hours</th>
<th>Task Total</th>
</tr>
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<tbody>
<tr>
<td>1.0</td>
<td>Construction Services</td>
<td>170.00</td>
<td>115.00</td>
<td>71.49</td>
<td>133.45</td>
<td>113.57</td>
<td>145.00</td>
<td>95.00</td>
<td>88.00</td>
<td>45.0</td>
<td>$5,705</td>
</tr>
<tr>
<td></td>
<td>Task 1 Hours =</td>
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<td>25.0</td>
<td>3.0</td>
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<td>5.0</td>
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<td></td>
<td></td>
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</table>

#### OTHER DIRECT COSTS

- **Other Direct Costs:** $591
  - Hours: 13.0, 26.0, 5.0, 81.0
  - Total: $2,047, $5,770, $440

**TOTALS**  
KPG DESIGN SERVICES LABOR TOTAL = $10,691.97
### OTHER DIRECT COSTS
#### EXPENSE ESTIMATE

**CLIENT:** City of Bonney Lake  
**PROJ NAME:** Allan Yorke & W. Tappes Improvements - Construction  
**Job #:** 12042

**DATE:** January 31, 2013

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<tr>
<th>EXPENSE ITEM</th>
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<tr>
<td>Final Design</td>
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<tr>
<td>Maps and Charts</td>
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<tr>
<td>11 X 17 Copies</td>
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<td>11 X 17 Plot Check Prints</td>
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<td>Plots Large Mylar</td>
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<td>Outside Plan Reproduction Cost</td>
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**Total KPG In-House Expense =** $81
## EXHIBIT B

### CLIENT:
City of Bonney Lake

### PROJ NAME:
Allan Yorke & W.Tapps Improvements - Construction

### Job #
12042

### DATE:
January 31, 2013

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<th>TASK NO.</th>
<th>TASK DESCRIPTION</th>
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<th>Project Engineer</th>
<th>Design Engineer</th>
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<th>Project Surveyor</th>
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<th>Technician</th>
<th>Clerical</th>
<th>Total Hours</th>
<th>Task Total</th>
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<tbody>
<tr>
<td>1.0</td>
<td>Construction Services</td>
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<td></td>
<td></td>
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<td></td>
<td>Project Coordination (3 Months)</td>
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### OTHER DIRECT COSTS

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### TOTALS

$5,704.91
## Task 2 Hour Breakdown

### Staff Labor Hours Required by Task

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<th>Classification</th>
<th>Initials</th>
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<th>Project Engineer</th>
<th>Design Engineer</th>
<th>Sr. Surveyor</th>
<th>Project Surveyor</th>
<th>Survey Crew</th>
<th>Technician</th>
<th>Clerical</th>
<th>Total Hours</th>
<th>Task Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Staking</td>
<td></td>
<td>170.60</td>
<td>115.00</td>
<td>71.49</td>
<td>133.45</td>
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<td>145.00</td>
<td>95.00</td>
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**Other Direct Costs**

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<th>Hours</th>
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<td></td>
<td>26.0</td>
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<tr>
<td><strong>Total</strong></td>
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<td><strong>$4,905.70</strong></td>
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**TASK 1**

- **Description**: Project Manager
- **Date**: January 31, 2013

---

**TASK 2**

- **Description**: Overhead
- **Date**: January 31, 2013

---

**TASK 3**

- **Description**: Staff Labor
- **Date**: January 31, 2013

---

**TASK 4**

- **Description**: Other Direct Costs
- **Date**: January 31, 2013
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

<table>
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<th>Meeting/Workshop Date:</th>
<th>Agenda Bill Number:</th>
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<td>AB13-25</td>
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**Agenda Subject:** Settlement Agreement with Cingular Wireless - Erroneously Collected Utility Tax

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Approving A Settlement Agreement With Cingular Wireless For Erroneously Collecting City Utility Taxes Applicable To Internet Access.

**Administrative Recommendation:** Approve

**Background Summary:** Approximately 2 years ago New Cingular Wireless filed a class action law suit against most cities in the State alleging that Cingular erroneously paid utility taxes to and those taxes were collected by WA cities. As allowed by law Cingular collected those taxes from its WA customers and remitted the tax to the Defendants (WA Cities). Due to a coding error Cingular customers were taxed on telephone services as well as internet access. State and federal law prohibits taxation of charges for internet access. Cingular was sued by their many WA customers and eventually settled. Cingular then proceeded with a class action law suit against WA cities that they had remitted those erroneously collected taxes to.

Our legal department has been monitoring this issue for us. As many smaller cities have done, we took a wait and see approach. During 2012 Seattle and Bellevue filed a court motion to dismiss but the courts denied that action. Thus all WA cities are liable to Cingular for those erroneously collected utility taxes. Cingular provided detailed calculations to our legal department a few months ago, which identified an amount owing of $26,577 from a five year look back period. Since that original amount identified, Cingular subsequently contacted our legal team and said that to expedite the claim they would change their look back period to only three years and the new amount of our liability was now $19,961. Legal advised to wait a bit longer. Last week Cingular again contacted our legal team and said that in an effort to expedite a settlement they were prepared to change the look back period to one year and our liability would be $9,661.21. Kathleen contacted me last Thursday and advised/recommended that we settle for the $9,661.21 figure identified above.

**Attachments:** Settlement Agreement Recommended By Our Legal Department

**BUDGET INFORMATION**

<table>
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<th>Budget Amount</th>
<th>Current Balance</th>
<th>Required Expenditure</th>
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<tr>
<td>$9,661.21</td>
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**Budget Explanation:** This item was not included in the 2013 adopted budget

**COMMITTEE, BOARD & COMMISSION REVIEW**

<table>
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<th>Council Committee Review:</th>
<th>Approvals:</th>
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<tr>
<td>Date:</td>
<td>Chair/Councilmember</td>
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Forward to: Consent Agenda: Yes No
### Commission/Board Review:
### Hearing Examiner Review:

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<tr>
<th>APPROVALS</th>
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<tr>
<td>Director:</td>
</tr>
<tr>
<td>Al Juarez, CFO</td>
</tr>
<tr>
<td>Date Reviewed by City Attorney:</td>
</tr>
<tr>
<td>(if applicable):</td>
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RESOLUTION NO. 2278

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF BONNEY LAKE AND CINGULAR WIRELESS IN THE AMOUNT OF $9,661.21.

The City Council of the City of Bonney Lake, Washington does hereby authorize the Mayor to sign the attached Settlement Agreement with Cingular Wireless to resolve the issues identified in the Agreement.

PASSED by the City Council this 12th day of February, 2013.

______________________________
Neil Johnson, Jr., Mayor

ATTEST:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

______________________________
Kathleen Haggard, City Attorney
AGREEMENT OF SETTLEMENT & RELEASE BETWEEN
NEW CINGULAR WIRELESS PCS LLC
AND THE CITY OF BONNEY LAKE, WASHINGTON

New Cingular Wireless PCS LLC ("Claimant"), the Settlement Class as described below, and the City of Bonney Lake ("City"), enter into the following Agreement of Settlement and Release ("Agreement") with regard to the Claim described and defined below.

WHEREAS, the Claimant and Settlement Class submitted to City a claim dated November 1, 2010, subsequently modified by letter dated June 15, 2012, seeking the refund of $26,577.39 in Local Utility Tax ("Tax"), which Tax had previously been collected by the Claimant from its customers on charges for data services providing Internet access between November 1, 2005 and September 30, 2010, and which Tax previously was remitted by the Claimant to City (the "Claim"); and

WHEREAS, City has asserted various defenses to the Claim, including but not limited to an assertion that certain portions of the Claim are outside the one year limitations period for which a refund of Taxes is available under the City’s municipal code; and

WHEREAS, the Claimant is a party-defendant to the Global Class Action Settlement Agreement approved by the United States District Court for the Northern District of Illinois in Case No. 10-CV-02278, pursuant to which the rights of the customers included in the Settlement Class (the "Settlement Class") have been established; and

WHEREAS, the Settlement Class includes but is not limited to customers from whom the Tax was collected, which Tax is sought in the Claim; and

WHEREAS, the Claimant has filed suit in King County Superior Court against City and others under Cause No. 12-2-15031-1 SEA (the "Lawsuit"); and
WHEREAS, the Claimant and City desire to promptly settle the Claim and dismiss allegations against the City in the Lawsuit, and as a result resolve this matter fully and finally as between the Claimant and City.

NOW, THEREFORE, the parties hereto mutually agree:

FIRST, the Claimant Settlement Class and City agree that this Agreement shall be final with regard to any liability for Tax sought in the Claim.

SECOND, City agrees to pay, and the Claimant and Settlement Class agree to accept payment of $9,661.21 in full satisfaction of any and all obligations with respect to the Claim. In exchange for this payment, the Claimant and Settlement Class agree to release City from any further liability with regard to the Claim.

THIRD, City shall issue a check in the amount of $9,661.21 in the name of AT&T Mobility Settlement Fund (escrow account) and shall within fifteen (15) days after the final execution of this Agreement, send such check via certified mail to John Brophy, ARPC, 1220 19th Street, NW, Suite 700, Washington, DC 20036, for deposit in an escrow account for the benefit of the Settlement Class as prescribed by the Global Class Action Settlement Agreement referenced above. A copy of that check shall simultaneously be mailed to Thomas Giltner, Esq., AT&T, 208 S. Akard St. Suite 3015, Dallas, Texas 75202. A copy of that check shall simultaneously be mailed to James P. Frickleton, Bartimus, Frickleton, Robertson & Gorny, P.C., 11150 Overbrook Road, Suite 200, Leawood, KS 66211; Margaret C. Wilson, Reeder Wilson LLP, 231 Altamont Place, Somerville, NJ 08876; and Michael R. Scott, Hillis Clark Martin & Peterson P.S., 1221 Second Avenue, Suite 500, Seattle, WA 98101.
FOURTH, this Agreement sets forth the entire understanding between the Claimant, Settlement Class and City with respect to the subject matter hereof and supersedes any prior negotiations, agreements, understandings or arrangements between them.

FIFTH, Claimant and City hereby authorize their respective legal counsel to execute a dismissal with prejudice and without the award of costs or attorneys’ fees to any party of all allegations and claims of Claimant against City in the Lawsuit.

SIXTH, this Agreement shall be binding upon and inure to the benefit of the Claimant, Settlement Class, and all of their respective former and current officers, employees and directors, and respective successors and assigns.

SEVENTH, each of the undersigned represents and warrants that he or she is fully authorized to execute and deliver this Agreement on behalf of the party and in the capacity identified below.

EIGHTH, this Agreement may be signed in one or more counterparts.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates shown below.

NEW CINGULAR WIRELESS PCS LLC

By

Name

Title

CITY OF BONNEY LAKE, WASHINGTON

By

Name

Title
ACKNOWLEDGMENT OF CONSENT TO AGREEMENT:

THE SETTLEMENT CLASS, BY AND
THROUGH SETTLEMENT CLASS COUNSEL

By

Date

Name

Title
City of Bonney Lake, Washington

City Council Agenda Bill (AB)

<table>
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**Agenda Subject:** Setting a special Council meeting (retreat) for March 30, 2013 at the Harstine Island Community Hall located at 3371 E Harstine Island Rd N, Shelton, WA 98584 from 9:00 a.m. to 4:00 p.m.

**Full Title/Motion:** A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Setting A Special Council Meeting (Retreat) For March 30, 2013 At The Harstine Island Community Hall.

**Administrative Recommendation:** None.

**Background Summary:** The City Council desires to have a planning retreat, and has selected March 30, 2013 as the date when all the Councilmembers can attend. Arrangements have been made to meet at the Harstine Island Community Hall between the hours of 9:00 a.m. and 4:00 p.m. located At 3371 E Harstine Island Rd N, Shelton, WA 98584 From 9:00 A.M. To 4:00 P.M.

**Attachments:** none

### BUDGET INFORMATION

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<thead>
<tr>
<th>Budget Amount</th>
<th>Current Balance</th>
<th>Required Expenditure</th>
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**Budget Explanation:** No budget impact associated with this action.

### COMMITTEE, BOARD & COMMISSION REVIEW

**Council Committee Review:**

- **Approvals:**
  - Date: 
  - Chair/Councilmember: 
  - Councilmember: 
  - Councilmember: 

**Forward to:**

**Consent Agenda:** Yes No

**Commission/Board Review:**

**Hearing Examiner Review:**

### COUNCIL ACTION

- **Workshop Date(s):** 02/05/13
- **Meeting Date(s):** 02/12/13
- **Public Hearing Date(s):**
- **Tabled to Date:**

### APPROVALS

- **Director:** HTE
- **Mayor:** NHJ
- **Date Reviewed by City Attorney:** N/A

Agenda Packet p. 101 of 130
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

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Agenda Subject: Renewal of Tri-Agency Recreation Agreement

Full Title/Motion: A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Renew And Sign An Interlocal Agreement Between The City of Bonney Lake And The City of Sumner And The Sumer School District For Recreation Services.

Administrative Recommendation: Approve

Background Summary: This is a renewal agreement of the long standing recreation program service agreement between Bonney Lake, Sumner, and the Sumner School District. Funds are included in the adopted 2013-2014 biennial budget. There are no changes to the substance of the agreement. Only the dates (term) of the agreement have been updated. This is a 2 year ILA that runs with the biennial budget.

Attachments: Resolution 2276, Interlocal Agreement

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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review: Finance Committee
Date: 2/12/13

Approvals:
- Chair/Councilmember: Dan Swatman (Yes)
- Councilmember: Mark Hamilton (No)
- Councilmember: Randy McKibbin (No)

Forward to: Consent Agenda: Yes

Commission/Board Review:

Hearing Examiner Review:

COUNCIL ACTION

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

APPROVALS

Director:
Mayor:

Date Reviewed by City Attorney: (if applicable):
RESOLUTION NO. 2276

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN AN INTERLOCAL AGREEMENT WITH THE CITY OF SUMNER AND THE SUMNER SCHOOL DISTRICT FOR RECREATION SERVICES.

The City Council of the City of Bonney Lake, Washington, does hereby resolve that the Mayor is authorized to sign the Interlocal Agreement between the City of Bonney Lake and the City of Sumner, and the Sumner School District for recreation services, attached hereto and incorporated herein by this reference.

PASSED by the City Council this 12th day of February, 2013.

________________________________
Neil Johnson, Mayor

ATTEST:

_________________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

_________________________________
Kathleen Haggard, City Attorney
INTERLOCAL AGREEMENT
BETWEEN
THE SUMNER SCHOOL DISTRICT
AND
THE CITY OF BONNEY LAKE
AND
THE CITY OF SUMNER

THIS IS AN INTERLOCAL AGREEMENT between the SUMNER SCHOOL DISTRICT, a common school district and municipal corporation of the State of Washington, and THE CITY OF SUMNER, a municipal corporation of the State of Washington, and THE CITY OF BONNEY LAKE, a municipal corporation of the State of Washington (collectively referred to as the “parties”), relating to the creation and operation of a Joint Recreation Program. The initial effective date of this agreement is January 1, 2013.

WHEREAS, there is a need for additional recreation and arts programs in the geographic area encompassed by the Sumner School District, the City of Bonney Lake and the City of Sumner; and

WHEREAS, the Sumner School District, the City of Bonney Lake, and the City of Sumner desire to provide the citizens of their respective communities enhanced opportunities for recreation and arts; and

WHEREAS, each part by itself does not have sufficient resources to provide such enhanced recreation and arts opportunities; and

WHEREAS, it is in the public interest that the parties cooperate to provide resources to provide efficient, cost-effective recreation and arts programs; and

WHEREAS, each of the parties is a “public agency” within the meaning of Chapter 39.34 RCW.

NOW, THEREFORE, pursuant to Chapter 39.34 RCW, the Sumner School District, the City of Bonney Lake, and the City of Sumner hereby agree to create and operate a Joint Recreation Program, as follows:

1. JOINT ADVISORY BOARD FOR INTERGOVERNMENTAL COOPERATION.

1.1 Formation of a Joint Advisory Board. Pursuant to RCW 39.34.030(4), the parties hereby establish a Joint Advisory Board for Intergovernmental Cooperation (“Joint Advisory Board”). The Joint Advisory Board is not a separate legal entity.

1.2 Composition of Joint Advisory Board. The Joint Advisory Board shall have three members: one each from the Sumner School District, the City of Bonney Lake and the City of Sumner. The members of the Joint Advisory Board shall be the mayor of the City of Bonney Lake, the mayor of the City of Sumner and the Superintendent of the Sumner School District, or their respective appointees. Each party may appoint its member to the Joint Advisory Board according to its own procedures and policies.

1.3 Joint Advisory Board Responsibilities

1.3.1 The Joint Advisory Board will advise the Joint Recreation Program Coordinator on issues related to the administration of the Joint Recreation Program
1.3.2 The Joint Advisory Board will determine the salary of the Joint Recreation Program Coordinator and other Joint Recreation Program employees and will advise the Superintendent of the Sumner School District or his designee regarding the responsibilities of the Joint Recreation Program Coordinator.

1.3.3 The Joint Advisory Board, through its individual members, shall authorize the Joint Recreation Program Coordinator to make arrangements, when feasible, for use of facilities owned or controlled by the parties to the Joint Recreation Program. It is expressly understood that such facilities will be made available to the Joint Recreation Program without charge to the Joint Recreation Program.

2. JOINT OPERATING ACCOUNT

2.1 Establishment of Operating Accounts. The Joint Advisory Board hereby establishes a separate account to carry out the recreation program. It shall be designated by the appropriate state-defined account title and account code. The Joint Recreation Program Coordinator shall be designated as the administrator of the account.

2.2 Sources of Funding

2.2.1 The Sumner School District, the City of Bonney Lake, and the City of Sumner are on different fiscal year and budget cycles. As a consequence, the advisory board will begin the process of determining the contributions needed from each member of the joint agreement based on a budget submitted to the advisory board no later than June 1 of each year. The Joint Advisory Board will make a final determination of each member’s contribution to the operating account no later than August 1 of each year. No party to this agreement shall be required to make contributions to the Operating Fund without the mutual agreement of all parties to the agreement.

2.2.2 Additional funding will be provided through fees charged to participants in programs of the Joint Recreation Program. It shall be the responsibility of the Joint Recreation Program Coordinator to develop a viable fee structure, with approval of the Joint Advisory Board.

2.2.3 Use of Funds. The Operating Account will be used to pay all expenses necessary for the efficient operation of the Joint Recreation Program. Such expenses include all costs involved in employing the Joint Recreation Program Coordinator and other staff, including but not limited to worker’s compensation contributions, F.I.C.A., employment security contributions, and employee benefits. Other necessary expenses may be paid as the need arises.

2.2.4 Accounting. The Joint Recreation Program Coordinator will keep an account of the manner acquiring, holding, and disposing of funds and real and personal property used in the Joint Recreation Program.

3. ADMINISTRATION OF THE JOINT RECREATION PROGRAM.

3.1 Administration of the Joint Recreation Program shall be the responsibility of the Superintendent of the Sumner School District or his designee.

3.2 The Joint Recreation Program shall be administered as a program of the Sumner School District.
3.3 The Superintendent of the Sumner School District or his designee shall call a meeting of the Joint Advisory Board on at least a quarterly basis to advise the Joint Advisor Board on the status of the Joint Recreation Program and to seek the advice and counsel of the Joint Advisory Board on matters related to the operation and administration of the Joint Recreation Program.

4. RESPONSIBILITIES OF EACH PARTY.

4.1 Sumner School District Responsibilities. The Sumner School District shall have the following responsibilities regarding the operation of the Joint Recreation Program:

4.1.1 Appointing a member to the Joint Advisory Board.

4.1.2 Hiring, evaluating, supervising, and terminating services of a Joint Recreation Program Coordinator. The Joint Recreation Program Coordinator and the other Joint Recreation Program staff will be considered to be employees of the Sumner School District.

4.1.3 Providing a suitable facility for the office of the Joint Recreation Program, including office space.

4.1.4 Seeking, on at least a quarterly basis, the advice of the Joint Advisory Board on matters related to the operation and administration of the Joint Recreation Program.

4.1.5 Overseeing and supervising the work of the Joint Recreation Program Coordinator on a day-to-day basis, consistent with guidelines established by the Joint Advisory Board.

4.1.6 Provide payroll administration and services for the Joint Recreation Program.

4.1.7 Cooperating with the Joint Recreation Program by making Sumner School District facilities available, when feasible, for programs and activities of the Joint Recreation Program.

4.2 Cities of Bonney Lake and Sumner Responsibilities

4.2.1 The Cities of Bonney Lake and Sumner shall appoint a member of the Joint Advisory Board who shall participate actively in carrying out the responsibilities of the Joint Advisory Board.

4.2.2 The Cities of Bonney Lake and Sumner shall cooperate with the Joint Recreation Program by making their facilities available, when feasible, for use for the programs and activities of the Joint Recreation Program.

5. RENEWAL AND DURATION OF AGREEMENT

5.1.1 Renewal. The Agreement may be renewed for succeeding two year terms by agreement of all of the parties.

5.1.2 Duration. This term of this agreement is from January 1, 2013 through December 31, 2014.

6. TERMINATION. The Agreement terminates automatically at the end of each two-year contract term. The Agreement may be terminated at any time by mutual written agreement of all of the parties. Neither the parties, the Joint Advisory Board, nor the Joint Recreation Program
Coordinator shall commit the Joint Recreation Program to any contractual obligation that extends beyond the duration of the Agreement. Upon termination of the Agreement, unexpended and uncommitted joint funds shall be distributed to each of the parties.

7. **INSURANCE.** Insurance coverage obtained by the Sumner School District, the City of Bonney Lake and the City of Sumner shall be individually secured and maintained with responsible insurers. The coverage shall be for damages because of personal or bodily injury, including death resulting from such injuries, damage to or loss of use of building, contents and personal property and other coverage as is customarily maintained for recreation programs to the extent that such insurance can be secured and maintained at a reasonable cost. If the activities of the Joint Recreation program cannot be insured at a reasonable cost through either new policies or riders to existing policies, the Joint Advisory Board shall declare that insurance is unavailable and this agreement shall be terminated immediately.

8. **NONDISCRIMINATION.** The parties to this Agreement declare that they are committed to the principle of equal opportunity consistent with applicable laws.

9. **AUDITS AND INSPECTIONS.** The records and document with respect to all matters covered by this Agreement shall be subject to inspection, review or audit by each of the parties during the term of this agreement and for three years after termination.

10. **AMENDMENTS.** The Agreement may be amended at any time by mutual written agreement of all of the parties.

11. **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.

**IN WITNESS WHEREOF,** the parties have executed this agreement.

**CITY OF BONNEY LAKE**
By________________________
Its________________________
Date_______________________

**CITY OF SUMNER**
By________________________
Its________________________
Date_______________________

**SUMNER SCHOOL DISTRICT**
By________________________
Its________________________
Date_______________________
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

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Agenda Subject: Resolution 2265 Establishing the Eastown Sewer ULA

Full Title/Motion: A Resolution Authorizing Establishment Of The Eastown Sewer Utility Latecomer Agreement.

Administrative Recommendation: Approve.

Background Summary: This agreement results in construction of an extension to the City Sewer System into EASTOWN. This extension will build a new sewer lift station in Eastown and will install a new sewer line from this new lift station westerly along 96th Street creating a connection with the existing lift station in the Safeway parking lot. Additionally, this agreement establishes the method to calculate the Latecomer Fee and benefitting parcels in Eastown. As Latecomer Fees are paid, the City and LLC will be reimbursed for their proportionate share of the actual construction costs. The LLC has signed this agreement and will contribute their share of the estimated construction cost within 30 days after the City Council authorizes the Mayor to sign this agreement.

Attachments: Resolution 2265, Eastown Sewer Development Financing Contract and ULA, ULA Exhibits A-F

BUDGET INFORMATION

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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review: Community Development Date: 20 November 2012

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<td>Chair/Councilmember Randy McKibbin</td>
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<td>Councilmember Jim Rackley</td>
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<td>Councilmember Katrina Minton-Davis</td>
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Forward to: 20NOV2012 Workshop Consent Agenda: Yes No

Commission/Board Review: Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s): 20 November 2012 Public Hearing Date(s): 22 January 2013
Meeting Date(s): 12 February 2013 Tabled to Date:

APPROVALS

Director: D. Grigsby, P.E. Mayor: Neil Johnson, Jr.

Date Reviewed by City Attorney: (if applicable):
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RESOLUTION NO. 2265

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING ESTABLISHMENT OF THE EASTOWN UTILITY LATECOMER AGREEMENT.

WHEREAS, the City Council approved a non-binding Memorandum Of Understanding with the Eastown Sewer Development Association LLC to build a sewer system extension into Eastown with Resolution 2165 on October 18, 2011; and,

WHEREAS, the City and Eastown Sewer Development Association LLC now desire to enter into a Utility Latecomer Agreement for the purpose of building an extension of the City sewer system into Eastown; and,

WHEREAS, the terms of this agreement are as set forth in the attached Utility Latecomer Agreement;

NOW THEREFORE, BE IT RESOLVED; that the City Council of the City of Bonney Lake, Washington, does hereby authorize the Mayor to sign the EASTOWN SEWER DEVELOPMENT FINANCING CONTRACT AND UTILITY LATECOMER AGREEMENT.

PASSED by the City Council this 12th day of February, 2013.

________________________________________
Neil Johnson Jr., Mayor

ATTEST:

________________________________________
Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

________________________________________
Kathleen Haggard, City Attorney
EASTOWN SEWER DEVELOPMENT
FINANCING CONTRACT AND
UTILITY LATECOMER AGREEMENT

WHEREAS, the City of Bonney Lake ("City") and the Eastown Sewer Development Association LLC ("Association") and its individual members, in recognition of the individual and public benefit to be served by installing a sanitary sewer system in the area of Bonney Lake known as Eastown, executed a Memorandum of Understanding (MOU) in Resolution 2165 on October 18, 2011, expressing their intentions to execute a Sewer Development Financing Contract ("Agreement"); and

WHEREAS, installing sewer service in Eastown will augment the City's utility rate base, implement the comprehensive plan of the city by extending utility infrastructure and stimulating commercial development in Eastown, and benefit the sewer utility's efficiency and economy of scale; and

WHEREAS, the City has completed plans and specifications for the development of a sewer lift station and associated sewer system infrastructure in Eastown; and

WHEREAS, Chapter 35.91.020 RCW gives cities the authority to contract with private property owners for construction of utility infrastructure, to assess benefitted properties for pro rata share of construction costs, and to collect reimbursements from property owners who connect to the system within twenty (20) years; and
WHEREAS, the RCW and Bonney Lake Municipal Code ("BLMC") Chapter 13.16 authorize the City to partner with interested parties in financing development of utilities, and to receive latecomer reimbursements for City expenditures on same; and

WHEREAS, the Code provides that no financing arrangement may be approved in which the city participation amounts to more than 95 percent of the total construction costs as determined by the Engineers Estimate.

NOW THEREFORE, the undersigned agree upon all of the following terms:

1. **Construction Project.** The City shall be responsible for the construction of sanitary sewer infrastructure in Eastown, including a lift station and associated infrastructure (hereinafter referred to the Eastown Sewer Development Project, or "Project"). The Project shall consist of a new sewer lift station and a pressure/gravity line along 96th Street East connecting to the existing sewer system. A map indicating the location of construction work is attached as Exhibit A to this Agreement. The City shall have sole discretion and authority to manage the Project and direct the work, including the granting of change orders or alteration of designs where appropriate.

2. **Public works laws.** The City shall manage the Project as a public works project, abiding by all applicable requirements of Title 39 RCW, including competitive bidding, bonding, retainage, and the payment of prevailing wages.

3. **Association’s contribution.** The City’s obligation to construct the Project shall be contingent upon the Association’s upfront payment to the City of five percent (5%) of the total estimated Project construction costs payable within thirty (30) days of execution of this Agreement. The Association’s payment shall be made in cash to the City’s Finance Director. Failure to make the payment within thirty (30) days shall render this Agreement void and of no further effect, and shall nullify the City’s obligation to construct the Project. The Association’s contribution, shall be ninety thousand seven hundred and five dollars ($90,705) the amount calculated as 5% of the Engineer’s Estimate of one million eight hundred and fourteen thousand one hundred dollars ($1,814,100), pursuant to BLMC § 13.60.030E. However, should the actual construction costs be less than the Engineer’s Estimate, the $90,705 amount shall be reduced a proportional amount. Alternatively, should the actual construction costs be greater than the Engineers Estimate, the Association’s contribution shall be increased to ensure participation of at least 5% in the project construction costs per BLMC 13.60.030E. This final Association participation amount shall be determined at the time of construction contract close-out and payable by the Association or City within thirty (30) days of that determination. The Public Works Director will coordinate closely with the Association to ensure that the estimated close-out costs are calculated as early as possible after the construction contract award occurs.
4. **Assessments recorded.** Upon Final Completion of the Project, the City shall record latecomer assessments against all benefiting properties in the assessment reimbursement area ("Latecomer Fees"), including the properties belonging to Association members. The total costs for the Project, including all costs eligible for reimbursement under this agreement, shall be as itemized in Exhibit B, including the proportionate share of the total project costs paid by the City and the Association respectively. The assessment reimbursement area, showing the benefiting properties to be served by the Eastown sewer lift station, is depicted on Exhibit C map to this Agreement. Exhibit D to this agreement summarizes the initial amount of the Latecomer Fee for each benefiting property; however, each year these fees shall be adjusted by Engineering News Record Construction Cost Index (CCI) for the Seattle Area. The latecomer assessments shall require the property owners to contribute their pro-rata share of the construction costs of the Project, payable at the time the property owner is issued a building permit on his or her property or at other such time as allowed by the BLMC. The City shall not allow any owner of a parcel within the assessment reimbursement area to connect to the city sewer system or otherwise utilize the system improvements as described herein without such owner or owners having first paid to the City the latecomer assessment due for that parcel or parcels.

5. **Connection costs.** Each property owner in the Eastown area, including the members of the Association, shall be required to pay all costs and fees applicable for connecting their properties to the sewer system, including the costs of designing and constructing the connection, the Latecomer Fee, the Latecomer Administration Fee (paragraph 12 below), system development charges, and any other fees established by the BLMC in effect at the time of connection.

6. **Assessment calculation.** The pro-rata shares included in the latecomer assessments shall be calculated according to the square footage of the property seeking connection to the system, as follows:

\[
\text{Latecomer Fee} = \text{Parcel Net Square footage} \times \text{Total Project Cost per square foot}
\]

- Parcel Net Square Footage = Pierce County Assessor parcel square footage less future public road right-of-way square footage on that parcel
- Total Project Cost includes design, pre-construction, and construction costs (currently estimated at $2,471,790).
- Total Project Cost per square foot = Total Project Cost / Total net square footage in the assessment reimbursement area
- Square footage conversion to acres will be used for the Assessment Rolls

7. **Form of assessment.** Latecomer assessments recorded against the properties shall substantially take the form of Exhibit E to this Agreement, provided, however, that the City has sole discretion to alter the form of assessments as necessary.
8. **Interest.** Each parcel’s Latecomer Fee and LLC Reimbursement assessment shall be adjusted on January first of each year by the Engineering News Record Construction Cost Index (CCI) for the Seattle Area.

9. **Allocation of latecomer reimbursements.** The City shall be entitled to all reimbursement received from Latecomer Fees less the amount owed to the Association. At time of receipt of each Latecomer Fee, the City shall remit to the Association 5% of the Engineers Estimate of construction costs, as determined in paragraph 3 above and as assessed to each parcel on a pro-rata basis per Exhibit F. The City shall issue the 5% amount due within sixty (60) days after receipt of each Latecomer Fee payment. Payment shall be made to the Association at the address of the Association as set forth hereinafter, or at such other address as the Association shall notify the City. If such payments are returned to the City unclaimed, and if through reasonable efforts the City is unable to locate the Association, or if the Association dissolves or otherwise becomes defunct within the 20 year reimbursement period, the City shall retain all sums then received in a separate fund for two years, and shall release the funds when contacted by any individual or entity with standing to claim the funds. After expiration of the two year period, the Association’s right to the collected latecomer fee shall expire and the City shall be deemed owner of the funds. The Association shall keep the City continually updated with information regarding the current contact information. If the Association fails in this duty and the City is not able through reasonable efforts to determine the rightful recipient of latecomer assessments, the City may collect any reimbursement and deposit those funds into an appropriate capital fund of the City. The City will record a certificate of payment and release of assessment for the entire reimbursement area when all the property owners have paid their assessments or upon expiration of the twenty-year reimbursement period.

10. **Assignment.** The Association may at any time assign its right to receive latecomer reimbursements to the individual or entity of its choosing, provided that it immediately notifies the City in writing of such assignment, and complies with the notification requirements of Section 9 above. Under no circumstances will the City be responsible for deciding or settling any disputes with regard to the proper recipient of latecomer reimbursements, or have any liability for transfer of funds to a recipient. In the event of a dispute, the City may transfer the funds into an escrow account designated by the parties to the dispute. The City may also, at its option, commence an interpleader action joining any party claiming rights under this Agreement, or other parties which the City believes to be necessary or proper parties, and the City shall be discharged from further liability upon paying the person or persons whom any court having jurisdiction of such interpleader action shall determine, and in such action the City shall be entitled to withhold its reasonable attorney’s fees and costs from such payment.

11. **Joint defense.** The City and the Association jointly agree to defend, or pay the cost of such defense, and indemnify the City against any lawsuits attacking the validity of this Agreement. Costs shall be apportioned based on the pro rata contribution of each party to the Extension, as defined in the Utility Extension Agreement. Notwithstanding the foregoing, at any time after it becomes apparent that litigation may ensue, either party may inform the other in writing that it intends terminate this Agreement, at which time its
obligation to defend or pay the cost of defense shall cease. The Association’s termination of this Agreement shall not relieve any of its property owner members of the obligation to pay any latecomer assessments due.

12. Administrative fee. The City shall charge, in addition to its usual and ordinary charges made against persons applying for service from said facility, and in addition to the amount agreed to be collected by the City in this agreement, a sum equal to five percent (5%) of the Engineer's Estimate to be collected from the owner or owners of said properties connecting to or using said facility, which sum shall be used by the City to defray the cost of contract administration, labor, bookkeeping, and accounting, pursuant to the terms of this Agreement. This fee shall be pro-rated to all property owners based on their net beneficial area.

13. Costs. The Parties shall bear their own costs and expenses including, without limitation, attorneys' fees and costs related to this Agreement, the latecomer assessments, and the agreements contemplated herein.

14. Preliminary assessment notices. Prior to this Agreement being recorded, the City shall send a map of the Assessment Reimbursement Area (Exhibit C), a preliminary calculation of the assessments due (Exhibit D), and a description of the property owners’ rights and options, by certified mail to the property owners of record within the assessment reimbursement area pursuant to BLMC 13.16.050(J)(2). Appeals of the assessment shall be made in accordance with this Code section.

15. City’s right to terminate. The City shall have the right, in its sole and absolute discretion, to terminate this Agreement based upon testimony received during City Council appeal hearings held in accordance with Section 14 above.

16. Term of Agreement. This Agreement shall be effective for a period of twenty (20) years following the issuance of the Certificate of Final Completion to the construction contractor, or until every benefited property owner in the assessment reimbursement area has paid the latecomer assessment, whichever is sooner.

17. Timing. The parties agree to use their best efforts to move forward with the Project in anticipation of construction beginning no later than the latter half of 2013.

18. Governing law and venue. Disputes arising under this Agreement shall be brought in Pierce County Superior Court and adjudicated under the laws of the State of Washington.

19. Modification or Amendment. No amendment, change or modification of this Agreement shall be valid unless in writing and signed by all of the parties hereto.

20. Agreement runs with the land. The terms of this Agreement shall run with the land and bind subsequent owners of the properties affected.
21. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect.

22. **Attorneys’ Fees.** Should either party bring suit to enforce this Agreement, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys’ fees and costs incurred in connection with such lawsuit.

23. **Headings.** The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.

24. **Exhibits.** All exhibits attached hereto are incorporated by reference.

25. **Counterparts.** This Agreement may be executed in counterparts, and each set of duly delivered identical counterparts which includes all signatories shall be deemed to be one original document.

26. **Agreement date.** For purposes of calculation of all time periods described in this Agreement, all phrases such as “the date of this Agreement” or “the date of execution of this Agreement” or any other like phrase referring to the date of the Agreement, shall mean and refer to the date the Bonney Lake City Council approves this Agreement.

27. **Recording.** This Agreement shall be recorded with the Pierce County Auditor within thirty (30) days of execution by the City. The City shall pay the costs of recording.

IN WITNESS THEREOF, this Agreement has been approved by the City Council of the City of Bonney Lake as of the _______ day of ________________________, 2013.

CITY OF BONNEY LAKE

By: Neil Johnson, Jr., Mayor
WHEREAS, the Eastown Sewer Development Association LLC and its members as individuals agree to be bound by the terms of this agreement:

EASTOWN SEWER DEVELOPMENT ASSOCIATION LLC

By: [Signature]

Its: [Member]

STATE OF WASHINGTON )
COUNTY OF PIERCE ) ss.

On this 2 day of January, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared [Name], to me known to be the person who signed as [Title], of Eastown Sewer Development Association LLC, the Washington 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 he was duly authorized to execute said instrument on behalf of said corporation.

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

(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC for the State of Washington, residing at: [Address]
My appointment expires: [Expiration Date]
SUMMARY OF EXHIBITS

Exhibit A
Map indicating the location of the construction work.

Exhibit B
The total costs for the Project, including all costs eligible for reimbursement under this agreement, including the proportionate share of the total project costs paid by the City and the Association respectively.

Exhibit C
Map showing location of benefiting parcels/Assessment Reimbursement Area.

Exhibit D
Preliminary Latecomer Fee assessment for each benefitting property.

Exhibit E
(Latecomer assessment standard form.)

NOTICE OF ADDITIONAL SEWER CONNECTION CHARGES

Exhibit F
Preliminary Pro-rata share of received latecomer fees to be distributed to the Association.
# EASTOWN SEWER SYSTEM - LATECOMER FEE - PRELIMINARY COST SUMMARY

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**Notes:**
1. Did not include any City staff time.
Eastown Properties Currently Without Bonney Lake Sewer Service

Overlaid on Eastown Future Sewer Projects and Roads Base Map

Existing Sewer Service
- Existing Bonney Lake Sewer Customer
  - Manhole
  - Lift Station
- Sewer Force Main
- Sewer Gravity Main
- Eastown Tax Parcels with:
  - Parcel number
  - Assessed Value
- Bonney Lake Sewer Service Currently Provided to Existing Lift Station 18
- No Bonney Lake Sewer Service Currently Available; Future Lift Station 28 Service
- No Bonney Lake Sewer Service Currently Available; Future Existing Lift Station 18 Service
- No Bonney Lake Sewer Service Currently Available; Future Rebuild/Expanded Lift Station 18 Service
- No Development Planned; Existing Septic System will be used in the Future

Future Sewer Projects
- Future Sewer Project Number
  - Lift Station
  - SR410 Highway Crossing
  - Project Start/Stop
  - Flow Direction
  - Gravity Main
  - Force Main

Future Roads Base Map
- SR410 Median Islands
- Future Public Roads
- Future Private Roads
- Tax Parcels
- Building
- Paved Road
- Bonney Lake City Limits
- Fennel Creek & Tributaries

Agenda Packet p. 125 of 130
## EASTOWN - SEWER UTILITY LATECOMER AGREEMENT (ULA)

### Latecomer Fee Preliminary Assessment Roll

<table>
<thead>
<tr>
<th>Property Number</th>
<th>Map ID</th>
<th>TAX PARCEL</th>
<th>Parcel ID</th>
<th>Parcel Size - Acres</th>
<th>Future Public Street</th>
<th>Public Street Length - Feet</th>
<th>Street Credit - Sq. Ft.</th>
<th>Future Public Street</th>
<th>Public Street Credit - Sq. Ft.</th>
<th>Net ULA Benefit Area - Acres</th>
<th>Preliminary Assessment Roll - $/Acre (See Calculation Below)</th>
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</table>

**Note:** Actual cost depends on actual scope of work and actual construction costs. To be determined.
## EASTOWN - SEWER UTILITY LATECOMER AGREEMENT (ULA)

### Latecomer Preliminary Assessment Roll

<table>
<thead>
<tr>
<th>Number of Properties</th>
<th>Map ID</th>
<th>TAX PARCEL</th>
<th>Parcel Size Acres</th>
<th>Future Public Street</th>
<th>Public Street Length Feet</th>
<th>Share of Street Width Feet</th>
<th>Public Street Credit SQ FT</th>
<th>Public Street Credit Acres</th>
<th>Net ULA Preliminary $</th>
<th>Preliminary Assessment $/Acres (See Calculation Below)</th>
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### Notes:
- **TBD**: Not available.
- **ULA - 5% Reimbursement Amount to LLC**: $2,471,790
- **ULA Preliminary Assessment Rate**: $3/Acre

---

*Page 2 of 2*

Agenda Packet p. 127 of 130
NOTICE OF ADDITIONAL SEWER CONNECTION CHARGES

WHEREAS, the owner of the property located at [address], Bonney Lake, Washington, having the Tax Parcel Number ______________, is subject to the terms of a Sewer Development Financing Contract and Utility Latecomer Agreement ("Agreement") executed between the City of Bonney Lake and the Eastown Sewer Development Association LLC; and,

WHEREAS, pursuant to Chapter 35.91 RCW and Chapter 13.16 of the Bonney Lake Municipal Code, and the Agreement, a "latecomer" assessment shall be due, equivalent to the pro rata share of Project costs, in the following amount:

[insert $$]

Said sum shall be payable at the time of building permitting, connection to the public sewer system, or at other such time as the City may determine. Said sum shall be due in addition to other fees and charges due pursuant to the Bonney Lake Municipal Code.

Signed this ___ day of __________, 20__.

__________________________________________
Don Morrison, Bonney Lake City Administrator
## EASTOWN - UTILITY LATECOMER AGREEMENT (ULA)

Reimbursement Roll to Eastown Sewer Development Association L.L.C.

<table>
<thead>
<tr>
<th>Number of Properties</th>
<th>Map ID</th>
<th>TAX PARCEL</th>
<th>Parcel Size Acres</th>
<th>Future Public Street</th>
<th>Public Street Length Feet</th>
<th>Share of Street Width Feet</th>
<th>Public Street Credit Sq. Ft.</th>
<th>Public Street Credit Acres</th>
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NORTHERN TOTAL = 11.87

103.53 $61,182

NOTE: Actual cost depends on actual scope of work and actual construction costs... To be determined.
## EASTOWN - UTILITY LATECOMER AGREEMENT (ULA)

Reimbursement Roll to Eastown Sewer Development Association L.L.C.

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<tr>
<th>Number of Properties</th>
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### SOUTHERN TOTAL = 53.56

### NORTHERN AND SOUTHERN AREA TOTAL = 165.43

32.47%

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