RESOLUTION NO. 2361

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE FIRST ADDENDUM TO THE SEWER DEVELOPMENT FINANCING CONTRACT AND UTILITY LATECOMER AGREEMENT WITH KAHNE PROPERTIES, LLC.

WHEREAS, the Bonney Lake City Council wishes to affirm that the March 22, 2011 developer extension agreement between the City and Kahne Properties, LLC has been superseded by the November 26, 2013 Sewer Development Financing Contract and Utility Latecomer Agreement (“ULA”) with Kahne Properties, and is null and void.

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

PASSED by the City Council this 25th day of February, 2014.

(Handwritten signature)

Neil Johnson, Jr., Mayor

ATTEST:

(Handwritten signature)

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

(Handwritten signature)

Kathleen Haggard, City Attorney
FIRST ADDENDUM TO SEWER DEVELOPMENT FINANCING CONTRACT AND UTILITY LATECOMER AGREEMENT

WHEREAS, on November 26, 2013, the Bonney Lake City Council approved Resolution No. 2322, which authorized the Mayor to execute a Sewer Development Financing Contract and Utility Latecomer Agreement ("ULA") with Kahne Properties, LLC ("Kahne"); and

WHEREAS, the ULA provides for the construction of a new gravity sewer main connecting parcels owned by Kahne to the existing City sewer system to the west; and

WHEREAS, on March 22, 2011, the City Council approved Resolution No. 2100, which authorized the Mayor to execute a developer extension agreement ("2011 Agreement") with Kahne for construction of a temporary sewer lift station; and

WHEREAS, the 2013 ULA supersedes the 2011 Agreement because it provides for construction of the sewer facilities along a different route; and

WHEREAS, the Parties wish to declare that the 2011 Agreement is null and void.

NOW, THEREFORE, the Parties agree as follows:

The 2013 ULA executed between the Parties supersedes and nullifies the 2011 Agreement. The 2011 Agreement is of no further effect and is unenforceable by either Party.
IN WITNESS THEREOF, this ADDENDUM has been approved by the City Council of the City of Bonney Lake as of the 25th day of February, 2014.

CITY OF BONNEY LAKE

[Signature]
Neil Johnson, Jr., Mayor

WHEREAS, Kahne agrees to be bound by the terms of this agreement:

KAHNE PROPERTIES, LLC

By: [Signature]

[Its: Managing Member]

On this 12th day of February, 2014, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Kelly Kahne, to me known to be the person who signed as Managing Member, of Kahne Properties 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]

[Signature]
Marilyn Campbell

NOTARY PUBLIC for the State of Washington, residing at: [Address]
My appointment expires: 5/1/14
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

<table>
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<tr>
<th>Department/Staff Contact:</th>
<th>Meeting/Workshop Date:</th>
<th>Agenda Bill Number:</th>
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<tr>
<td>PW / Dan Grigsby</td>
<td>25 February 2014</td>
<td>AB14-29</td>
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<th>Ordinance/Resolution Number:</th>
<th>Councilmember Sponsor:</th>
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<tbody>
<tr>
<td>Resolution</td>
<td>2361</td>
<td>Donn Lewis</td>
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**Agenda Subject:** First Addendum to the Sewer Development Financing Contract and Utility Latecomer Agreement with Kahne Properties, LLC

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Authorize The First Addendum To The Sewer Development Financing Contract And Utility Latecomer Agreement With Kahne Properties, LLC.

**Administrative Recommendation:** Approve

**Background Summary:** On November 26, 2013, the City Council approved Resolution No. 2322, which authorized the Mayor to execute a Sewer Development Financing Contract and Utility Latecomer Agreement ("ULA") with Kahne Properties, LLC. ("Kahne") for construction of a permanent gravity sewer line. On March 22, 2011, the City Council approved Resolution No. 2100, which authorized the Mayor to execute a Developer Extension Agreement ("2011 Agreement") with Kahne for construction of a temporary sewer lift station. At the request of Mr. Kahne, this resolution nullifies the 2011 Agreement.

**Attachments:** Resolution AB14-29, First Addendum to ULA

**BUDGET INFORMATION**

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**Budget Explanation:** NA

**COMMITTEE, BOARD & COMMISSION REVIEW**

Council Committee Review: Community Development Date: 18 February 2014

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<tr>
<td>Chair/Councilmember</td>
<td>Donn Lewis</td>
<td>X</td>
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<td>Councilmember</td>
<td>Randy McKibbin</td>
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Forward to: Consent Agenda: X Yes □ No

Commission/Board Review: Hearing Examiner Review:

**COUNCIL ACTION**

Workshop Date(s): Public Hearing Date(s):
Meeting Date(s): 25 February 2014 Tabled to Date:

**APPROVALS**

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<th>Director:</th>
<th>Mayor:</th>
<th>Date Reviewed by City Attorney:</th>
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<tr>
<td>Dan Grigsby</td>
<td>Neil Johnson Jr.</td>
<td>Kathleen Haggard (if applicable):</td>
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City of Bonney Lake, Washington, Pierce County, Washington
Eastown Southern Sewer Utility Latecomer Agreement  
Kahne Properties, LLC  

Related Records - For Reference Only

- City Council Resolution 2100 – Authorizing The Mayor To Sign The Sewer Extension Agreement Between The City And Kahne Development (3/22/2011) (Superseded by Resolution 2322, 2361)

- Ordinance 1441 – Authorizing the Acquisition of Property by Purchase or Condemnation (0519022007, 21704 SR410 E, Bonney Lake) (11/13/2012)


- City Council Resolution 2361 – Authorizing the Mayor to Sign The First Addendum to the Sewer Development Financing Contract and Utility Latecomer Agreement with Kahne Properties, LLC (2/25/2014)

- Sewer Easement – Kahne Properties – Recorded Doc #201405020359

See also separate Eastown Sewer Utility Latecomer Agreement (for Eastown sewer service area, North of SR 410) – Resolution 2265 and related easements.