RESOLUTION NO. 2430

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A SEWER DEVELOPER EXTENSION AGREEMENT WITH ISOLA CAPITAL MANAGEMENT LLC FOR THE PARK PLACE MULTI-FAMILY PROJECT.

WHEREAS, Park Place is 16 buildings with 92 residential units located at 7011 West Tapps Highway, in the City of Bonney Lake, Washington, located within the city limits and within Bonney Lake's sewer and water service areas; and

WHEREAS, the City of Bonney Lake requires that a developer have an approved Developer Extension Agreement for sewer and water improvements to the City's system; and

WHEREAS, the City Council finds that it is in the public interest that this agreement be carried out at this time;

NOW THEREFORE, BE IT RESOLVED; that the City Council of the City of Bonney Lake, Washington, does hereby authorize the Mayor to sign the attached Sewer and Water Developer Extension Agreements with Isola Capital Management LLC for the Park Place Multi-Family project.

PASSED by the City Council this 13th day of January, 2015

Neil Johnson Jr., Mayor

AUTHENTICATED:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney
THIS AGREEMENT, by and between the City of Bonney Lake, a municipal corporation, hereinafter referred to as “City”, and Isola Capital Management, LLC hereinafter referred to as “Developer”:

WITNESSETH: That whereas the City of Bonney Lake, a municipal corporation, provides water service within the corresponding water service area boundary, and the above-named Developer is preparing to construct a water system, or additions thereto, and said development requires the City’s Water Service;

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Developer agrees to design and/or construct the water system, or additions thereto, to be connected to the City’s water lines, and to maintain such additions until such time as the improvements are accepted by the City, with the agreements conditioned as set forth below. The water system, or additions thereto, shall be located within that area commonly referred to as:

   Park Place, 7001 West Tapps Highway East

which property is described in Exhibit “A” attached hereto and referred to hereinafter as “Premises”.

2. As a condition precedent to City obligations under this agreement, the Developer shall design and/or construct the proposed water system, or additions thereto, within said premises in conformance with the City’s Development Policies and Public Works Design Standards as adopted (and by reference made a part hereof), together with any City approved amendments thereto made, and further to conform with the City’s comprehensive water plan, which agreement shall include oversizing of water mains as may be identified in the City’s adopted water comprehensive plan.

3. The developer agrees that the construction of the water system, or additions thereto, shall not commence until the following conditions have been fulfilled:

   a. The developer shall furnish the City with six (6) sets of detailed plans for the water system, or additions thereto, at Developer’s own expense, prepared by a qualified engineer licensed in the State of Washington.

   b. The above plans shall require the review and approval by the City and its Engineer, and the cost of such review shall be at the Developer’s own expense.

   c. Water system plans have been submitted, reviewed, and approved as required by the Public Works Standard:
(1) Six (6) sets of all plans and documents shall be submitted, wherein two (2) sets will be returned to the applicant.

(2) A preliminary plat of the area in which said water system, or additions thereto, are to be constructed, which plat has been approved by the City, or County as applicable.

(3) A map showing the location of the plat in relation to the surrounding area.

(4) Specifications sufficient to fully describe the work, consistent with City’s “Conditions and Standards.”

(5) Approvals from all regulatory agencies.

d. Construction requirements in addition to the City standards and details for developer extensions, as adopted, are as follows:

(1) Unless otherwise approved in writing by the City, all streets and/or roadways shall be graded to within 6 inches of final grade before installation of water improvements.

(2) All lots shall be fully staked to assist all parties involved in the proper location of the water system including services.

(3) All hydrants and valves shall be fully staked in the field and reviewed and approved by the City prior to installation of same. Adjustments to “approval construction drawings” may be warranted and required by the City based on actual local field conditions.

(4) All contractors and subcontractors shall have a current Washington State Contractors License.

(5) The Developer’s water system, or additions thereto, on Premises shall not be connected to the City water system until authorized by the City, and such connection shall be performed under the supervision and direction of the City.

e. For the purpose of applying RCW 4.24.115 to this Contract, the Developer and the City agree that the term “damages” applies only to the finding in a judicial proceeding and is exclusive of third party claims for damages preliminary thereto.

The Developer agrees to 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 Developer’s express or implied obligations under this Agreement. The Developer waives any right of contribution against the City.

It is agreed and mutually negotiated that in any and all claims against the City or any of its agents or employees by any employee of the Developer, any contractor or subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer or any contractor or subcontractor under Workman’s Compensation Acts, disability benefits acts or other employees’ benefit acts. The City and the Developer agree that all third-party claims for damages against the City for which the Developer’s insurance
carrier does not accept defense of the City may be tendered by the City to the Developer 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 claim investigation and counsel assigned to said claim and all investigation and 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 the Developer agree or a court finds that the claim arises from or includes negligence of both the Developer and the City, the Developer shall be responsible for all damages payable by the Developer to the third party claimant under the court findings, and, in addition thereto, the Developer shall hereunder indemnify the City for all damages paid or payable to the City under the court findings in an amount not to exceed the percentage of total fault attributable to the Developer. For example, where the Developer is 25% negligent, the Developer shall not be required to indemnify the City for any amount in excess of 25% of the claimant’s total damages.

f. In the event the Developer in his operation damages or disrupts existing improvements, the repairs shall be made at the Developer’s expense. In the event they are so damaged or the service disrupted and the Developer fails or is unable to immediately restore the service, then the Owners of the improvements may cause the repairs to be made by others and all costs for the same shall be at the Developer’s own expense.

Where the construction crosses or is adjacent to existing utilities, the Developer shall exercise extreme care to protect such utilities from damage.

If any damage is done to an existing utility, the Developer shall notify the utility company involved, who will dispatch a crew to repair the damage at the Developer’s expense. All costs for the same shall be at the Developer’s own expense.

The Developer shall be aware that some existing water facilities are known to contain asbestos cement pipe. The Developer shall conduct all work related to existing asbestos cement pipe in strict accordance with current WISHA safety regulations and provisions contained within WAC 296-62-077. All costs related to work in compliance with established rules and regulations shall be the responsibility of the Developer. Demolition of existing asbestos cement pipe, if required, will be permitted only after the proper permits are obtained from the Puget Sound Air Pollution Control Agency. The Developer shall be responsible for all associated fees and permits required for asbestos removal and disposal. Work crews shall be provided with proper protective clothing and equipment. Hand tools shall be used, and the asbestos cement pipe shall be scored and broken in lieu of the sawing or other methods which release fibers into the atmosphere. Waste asbestos pipe shall be buried in the trench. Asbestos pipe to be abandoned in place shall not be disturbed, except as noted herein, and shall remain in its original position.

The Developer is cautioned that all existing drainage systems, whether open ditch, buried pipe, or drainage structures, are not on record. It shall be the responsibility of the Developer to repair or replace all such systems found during construction, which are damaged by the Developer’s construction in a manner which is satisfactory to the City.
Where the Developer is allowed to use private property adjacent to the work, the property so used shall be returned to its original or superior condition. The Developer shall make all arrangements in advance with such property owners, to insure that no conflicts will ensue after the property is restored as described above. The Developer will be required to furnish the City with a written release from said private property owners, if the City deems it to be necessary to obtain such document.

4. The construction of the Developer’s water system, or additions thereto, on the Premises shall be supervised by the City in such a manner and at such times as the City deems reasonably necessary to assure that construction of the system will conform to the above-mentioned plans and specifications. The Developer herewith agrees to allow such inspections and agrees to cooperate providing reasonable advance notice on his construction schedule during the various construction phases as requested by the City. The Developer further agrees to reimburse the City for all engineering fees and expenses incurred by the City for such supervision.

5. The Developer’s water system, or additions thereto, on Premises shall not be accepted for service and use until the same have been fully inspected and approved, and the following requirements have been performed:

a. Submit to the City in AutoCAD format, latest revision (unless otherwise approved by the City), the computer file supplied on a CD accompanied by the original Mylars, with all changes from the original design clearly marked to reflect the as-built conditions. The Developer’s Engineer shall certify the accuracy of the record drawings and shall affix his seal and signature.

b. Payment of all permit fees and equivalent assessment charges and any other applicable City charges required for Premises.

c. Payment of all plan check and inspection fees.

d. Prepare and furnish the required easements in compliance with the City’s standard form, and furnish same to the City for approval by the City, prior to recording of same. The proponent shall pay all the necessary recording fees.

e. Furnish the City with an affidavit warranting there are no liens against the improvements constructed on Premises by the Developers; this affidavit shall be in the form prescribed by the City.

f. Furnish the City with a Bill of Sale conveying the water system to the City, which shall include a 2-year guarantee that the water system shall be free of defects in labor and materials. Form shall be as prescribed by the City.

6. In the event any warranty repairs are required, the City agrees, whenever feasible, to provide the Developer with reasonable notice before directly undertaking such repairs. The City reserves the right, however, to effect emergency repairs as deemed necessary by the City. The City shall be reimbursed by the Developer for all costs thereof.
7. Upon performing all requirements, including those as set forth in Paragraph 5 above, the City shall accept the water system, and agree therewith to operate and maintain said system.

SUBMITTED this 11th day of December, 2014.

DEVELOPER: ________________ Date: ________________

Signature

Printed Name
Manager
Company Title (as applicable)

Address

City Totltc WA 98134
State Zip

Phone No. 206. 737. 9700 Fax No. 206. 260. 1339

CITY OF BONNEY LAKE
DEVELOPER AGREEMENT

Accepted this _______ day of ________________________, 20____.

Director of Public Works

CITY OF BONNEY LAKE
DEVELOPER AGREEMENT
EXHIBIT #1A

PLAT NAME: Park Place

DEVELOPER: Isola Capital Management, LLC

LEGAL DESCRIPTION: See attached
Legal Description Revised Parcel A

Beginning at the quarter corner common to Sections 27 and 28, Township 20 North Range 5 East of the W.M. being the True Point of Beginning; thence South 89°38'27" East, a distance of 36.71 feet to the westerly margin of Church Lake County Road as shown on the Plat of Church Lake Waterfront Tracts-Division No. 1, Town of Bonney Lake, as per Plat recorded in Volume 22 of Plats, Pages 1 to 4, records of Pierce County Auditor; thence North 02°04'05" East, a distance of 442.81 feet along the westerly margin of said Church Lake County Road to the beginning of a curve tangent to said line; thence northerly a distance of 90.41 feet along the curve concave to the west, having a radius of 1315.00 feet and a central angle of 3°56'21"; thence North 87°40'42" West leaving the margin of said Church Lake County Road, a distance of 146.19 feet; thence North 02°04'05" East, a distance of 130.03 feet; thence North 87°41'13" West, a distance of 180.00 feet; thence South 02°04'05" West, a distance of 665.21 feet; thence South 87°50'24" East, a distance of 292.60 feet to the Point of Beginning.

AND

The Northerly 36.19' of Lot 21 and the Southerly 160' of Lot 20 Church Lake Waterfront Tracts Division 1 recorded in Book 22 of Plats, Pages 1 to 4, in Pierce County Washington.

Legal Description Revised Parcel B

Lot 1 of Short Plat 8404130220, filed with the Pierce County Auditor.
THIS AGREEMENT, by and between the City of Bonney Lake, a municipal corporation, hereinafter referred to as “City”, and Isola Capital Management, LLC hereinafter referred to as “Developer”:

WITNESSETH: That whereas the City of Bonney Lake, a municipal corporation, provides sewer service within the corresponding sewer service area boundary, and the above-named Developer is preparing to construct a sewer system, or additions thereto, and said development requires the City’s Sewer Service;

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Developer agrees to design and/or construct the sanitary sewer system, or additions thereto, to be connected to the City’s sewer lines, and to maintain such additions until such time as the improvements are accepted by the City, with the agreements conditioned as set forth below. The sewer system, or additions thereto, shall be located within that area commonly referred to as:

   Park Place, 7001 West Tapps Highway East

which property is described in Exhibit “A” attached hereto and referred to hereinafter as “Premises”.

2. As a condition precedent to City obligations under this agreement, the Developer shall design and/or construct the proposed sewer system, or additions thereto, within said premises in conformance with the City’s Development Policies and Public Works Design Standards, as adopted (and by reference made a part hereof), together with any City approved amendments thereto made, and further to conform with the City’s comprehensive sewer plan, which agreement shall include oversizing of sewer mains as may be identified in the City’s adopted sewer comprehensive plan.

3. The developer agrees that the construction of the sewer system, or additions thereto, shall not commence until the following conditions have been fulfilled:
   a. The developer shall furnish the City with six (6) sets of detailed plans for the sewer system, or additions thereto, at Developer’s own expense, prepared by a qualified engineer licensed in the State of Washington.
   b. The above plans shall require the review and approval by the City and its Engineer, and the cost of such review shall be at the Developer’s own expense.
   c. Sewer system plans have been submitted, reviewed, and approved as required by the Public Works Standards:

   City of Bonney Lake
   2008 Development Policies and Public Works Design Standards

   Section 800 – Sewer Developer’s Extension Agreement
   January 2008
   Page 1 of 5
(1) Six (6) sets of all plans and documents shall be submitted, wherein two (2) sets will be returned to the applicant.

(2) A preliminary plat of the area in which said sewer system, or additions thereto, are to be constructed, which plat has been approved by the City, or County as applicable.

(3) A map showing the location of the plat in relation to the surrounding area.

(4) Specifications sufficient to fully describe the work, consistent with City’s Development Policies and Public Works Design Standards.

(5) Approvals from all regulatory agencies.

d. Construction requirements in addition to the City standards and details for developer extensions, as adopted, are as follows:

(1) Unless otherwise approved in writing by the City, all streets and/or roadways shall be graded to within 6 inches of final grade before installation of sewer improvements.

(2) All lots shall be fully staked to assist all parties involved in the proper location of the sewer system including services.

(3) All structures shall be fully staked in the field and reviewed and approved by the City prior to installation of same. Adjustments to “approval construction drawings” may be warranted and required by the City based on actual local field conditions.

(4) All contractors and subcontractors shall have a current Washington State Contractors License.

(5) The Developer’s sewer system, or additions thereto, on Premises shall not be connected to the City sewer system until authorized by the City, and such connection shall be performed under the supervision and direction of the City.

e. For the purpose of applying RCW 4.24.115 to this Contract, the Developer and the City agree that the term “damages” applies only to the finding in a judicial proceeding and is exclusive of third party claims for damages preliminary thereto.

The Developer agrees to 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 Developer’s express or implied obligations under this Agreement. The Developer waives any right of contribution against the City.

It is agreed and mutually negotiated that in any and all claims against the City or any of its agents or employees by any employee of the Developer, any contractor or subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer or any contractor or subcontractor under Workman’s Compensation Acts, disability benefits acts or other employees’ benefit acts. The City and the Developer agree...
that all third-party claims for damages against the City for which the Developer’s insurance carrier does not accept defense of the City may be tendered to the City by the Developer 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 claim investigation and counsel assigned to said claim and all investigation and 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 the Developer agree or a court finds that the claim arises from or includes negligence of both the Developer and the City, the Developer shall be responsible for all damages payable by the Developer to the third party claimant under the court findings, and, in addition thereto, the Developer shall hereunder indemnify the City for all damages payable to the City under the court findings in an amount not to exceed the percentage of total fault attributable to the Developer. For example, where the Developer is 25% negligent, the Developer shall not be required to indemnify the City for any amount in excess of 25% of the claimant’s total damages.

f. In the event the Developer in his operation damages or disrupts existing improvements, the repairs shall be made at the Developer’s expense. In the event they are so damaged or the service disrupted and the Developer fails or is unable to immediately restore the service, then the Owners of the improvements may cause the repairs to be made by others and all costs for the same shall be at the Developer’s own expense.

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7. Upon performing all requirements, including those as set forth in Paragraph 5 above, the City shall accept the sewer system, and agree therewith to operate and maintain said system.

SUBMITTED this 17th day of DECEMBER, 2014.

DEVELOPER: [Signature]

[Name]

Manager

Company Title (if applicable)

1510 1st Ave S #301

Address

[City] [State] [Zip]

Phone No. 206-737-9700 Fax No. 206-200-1339

City of Bonney Lake
2008 Development Policies and Public Works Design Standards

Section 800 – Sewer Developer’s Extension Agreement

January 2008

Page 4 of 5
CITY OF BONNEY LAKE
DEVELOPER AGREEMENT

Accepted this 13th day of January, 2015

[Signature]
Director of Public Works

CITY OF BONNEY LAKE
DEVELOPER AGREEMENT
EXHIBIT #1A

PLAT NAME: Park Place
DEVELOPER: Isola Capital Management, LLC
LEGAL DESCRIPTION: See Attached
Legal Description Revised Parcel A

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AND

The Northerly 36.19' of Lot 21 and the Southerly 160' of Lot 20 Church Lake Waterfront Tracts Division 1 recorded in Book 22 of Plats, Pages 1 to 4, in Pierce County Washington.

Legal Description Revised Parcel B

Lot 1 of Short Plat 8404130220, filed with the Pierce County Auditor.
City of Bonney Lake, Washington
City Council Agenda Bill (AB)

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<th>Meeting/Workshop Date:</th>
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<tr>
<td>Resolution</td>
<td>2430</td>
<td>Donn Lewis</td>
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**Agenda Subject:** Developer Agreement between Isola Capital Management and the City.

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Sewer And Water Developer Extension Agreement Between Isola Capital Management Llc And The City Of Bonney Lake For Park Place.

**Administrative Recommendation:**

**Background Summary:** The Developer's of Park Place Multifamily has requested the City provide installation observation along with testing observation for sewer and water mains at 7001 West Tapps Highway East.

**Attachments:** none

### BUDGET INFORMATION

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**Budget Explanation:**

### COMMITTEE, BOARD & COMMISSION REVIEW

**Council Committee Review:** Community Development Date: 6 January 2015

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**Forward to:**

**Consent Agenda:** X 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:** John Vodopich

**Mayor:** Neil Johnson Jr.

**Date Reviewed by City Attorney:** (if applicable):