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# CITY OF KIRKLAND

## CITY COUNCIL



Joan McBride, Mayor • Doreen Marchione, Deputy Mayor • Dave Asher • Toby Nixon  
Bob Sternoff • Penny Sweet • Amy Walen • Kurt Triplett, City Manager

### *Vision Statement*

*Kirkland is an attractive, vibrant, and inviting place to live, work and visit.  
Our lakefront community is a destination for residents, employees and visitors.  
Kirkland is a community with a small-town feel, retaining its sense of history,  
while adjusting gracefully to changes in the twenty-first century.*

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123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • [www.kirklandwa.gov](http://www.kirklandwa.gov)

### AGENDA

#### KIRKLAND CITY COUNCIL MEETING

#### City Council Chambers

#### Tuesday, March 20, 2012

#### 7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website [www.kirklandwa.gov](http://www.kirklandwa.gov), or at the Public Resource Area at City Hall on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*
4. *EXECUTIVE SESSION*
  - a. To Discuss Potential Litigation
5. *HONORS AND PROCLAMATIONS*
  - a. Earth Hour Proclamation
6. *COMMUNICATIONS*
  - a. *Announcements*
  - b. *Items from the Audience*
  - c. *Petitions*
7. *SPECIAL PRESENTATIONS*
  - a. Recognize Community Emergency Response Team (CERT) Graduates

**EXECUTIVE SESSIONS** may be held by the City Council only for the purposes specified in RCW 42.30.110. These include buying and selling real property, certain personnel issues, and litigation. The Council is permitted by law to have a closed meeting to discuss labor negotiations, including strategy discussions.

**ITEMS FROM THE AUDIENCE** provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk\*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

**QUASI-JUDICIAL MATTERS**

Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

**PUBLIC HEARINGS** are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

**ORDINANCES** are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

**RESOLUTIONS** are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

**NEW BUSINESS** consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

- 8. *CONSENT CALENDAR*
  - a. *Approval of Minutes:* March 6, 2012
  - b. *Audit of Accounts:*
    - Payroll* \$
    - Bills* \$
  - c. *General Correspondence*
  - d. *Claims*
  - e. *Award of Bids*
  - f. *Acceptance of Public Improvements and Establishing Lien Period*
    - (1) 2011 Crosswalk Upgrade Project, Valley Electric, Everett, Washington
  - g. *Approval of Agreements*
    - (1) I-405 Bellevue to Lynnwood Project – Utility Agreement
  - h. *Other Items of Business*
    - (1) Design Review Board Resignation
    - (2) Report on Procurement Activities
- 9. *PUBLIC HEARINGS*
- 10. *UNFINISHED BUSINESS*
  - a. 2012 Legislative Update #4
  - b. Animal Services
  - c. Downtown Pay Parking Outreach
  - d. Board and Commission Interview Selection Committee Recommendation
- 11. *NEW BUSINESS*
  - a. Green Code Project Amendments
- 12. *REPORTS*
  - a. *City Council*
    - (1) Regional Issues

**ITEMS FROM THE AUDIENCE**

Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

*b. City Manager*

(1) Calendar Update

*13. ITEMS FROM THE AUDIENCE*

*14. ADJOURNMENT*



**CITY OF KIRKLAND**  
Department of Public Works  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800  
www.kirklandwa.gov

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**MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Ray Steiger, P.E., Public Works Director  
Van Sheth, Management Analyst  
Donna Burris, Internal Services Manager

**Date:** March 7, 2012

**Subject:** EARTH HOUR PROCLAMATION

**RECOMMENDATION:**

Council authorizes the Mayor to sign the Earth Hour Proclamation.

**BACKGROUND DISCUSSION:**

On Earth Hour hundreds of millions of people, organizations, corporations and governments worldwide will come together to celebrate a worldwide commitment to ongoing change for the betterment of the one thing that unites us all – the planet. They will make a statement about their concern for climate change by doing something quite simple—turning off their lights for one hour. Earth Hour symbolizes that by working together, each of us can have a positive impact in the fight against climate change, protecting our future and that of future generations. Locally, Earth Hour will occur on March 31<sup>st</sup> at 8:30pm. Sustainable Kirkland is working to increase public awareness of the event and will be present at the March 20<sup>th</sup> City Council meeting to deliver the presentation and receive the proclamation.

Please direct any questions to Donna Burris at x3931 or Van Sheth at x3907.



## A PROCLAMATION OF THE CITY OF KIRKLAND

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### Proclaiming March 31, 2012 from 8:30-9:30 p.m. as "Earth Hour" in Kirkland, Washington

**WHEREAS**, this hour has been designated worldwide by World Wildlife Fund as "Earth Hour" in which millions of people around the world will come together to call for action on climate change by turning off their lights for one hour; and

**WHEREAS**, Earth Hour is a reminder that communities, including the City of Kirkland, can make a positive impact to alleviate climate change; and

**WHEREAS**, Kirkland is joining cities and states across the country to raise awareness and demonstrate our nation's commitment to fighting climate change by supporting "Earth Hour;" and

**WHEREAS**, local government actions taken to reduce greenhouse gas emissions and increase energy efficiency provide multiple local benefits by decreasing air pollution, creating jobs, reducing energy expenditures, and saving money for the local government, its businesses, and its residents; and

**WHEREAS**, in 2007, the Kirkland City Council adopted Greenhouse Gas Reduction Targets and a long term action plan was developed that will lead to the targeted reductions in greenhouse gas emissions for municipal operations and the community through capital investment, operational changes, program development and public outreach; and

**WHEREAS**, in 2009, the Kirkland City Council adopted the City's Climate Protection Action Plan committing to the long-range goal of stabilizing atmospheric concentrations of greenhouse gases; and

**WHEREAS**, Kirkland will continue to work toward solutions to the escalating climate crisis and protect its future and that of future generations;

**NOW, THEREFORE, I**, Joan McBride, the Mayor of Kirkland, do hereby proclaim March 31, 2012 from 8:30 – 9:30 p.m. as "Earth Hour" in Kirkland, Washington and call upon all residents and business to turn off their lights for one hour and join the City in pledging their support to climate protection.

Signed this 20<sup>th</sup> day of March, 2012

\_\_\_\_\_  
Joan McBride, Mayor

**CITY OF KIRKLAND**123 Fifth Avenue, Kirkland, WA 98033 425.587.3000  
www.kirklandwa.gov

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**MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Helen Ahrens-Byington, Deputy Fire Chief, City Emergency Manager

**Date:** March 20<sup>th</sup>, 2012

**Subject:** CERT class graduation

**Recommendation:**

Recognize the graduates of our Community Emergency Response Team course with a brief explanation of the program and award them Certificates of Completion.

**Background Discussion:**

The Community Emergency Response Team (CERT) program teaches citizens how to be prepared and trains them to be able to help others after a disaster. The 26-hour CERT course is taught by a trained team of first responders and other professionals. Training covers the Incident Command System, disaster preparedness, fire suppression, basic medical assessment and first aid, light search & rescue operations, and disaster psychology.

CERT members understand the risks disasters pose to people and property. They have taken steps to reduce hazards and lessen the impact of disasters once they have occurred. When disasters overwhelm local response capability, they are trained to take care of themselves and give critical support to their family members, neighbors, and others in their immediate area until professionals arrive. When first responders arrive, CERT's will be able to provide them with useful information and support. Later, they will be able to help City reestablish stability to the community. CERTs may also help with non-emergency projects that help improve the safety of their community.

Kirkland's 13<sup>th</sup> CERT course graduates March 20<sup>th</sup>, 2012. The next course will be held in Fall of 2012. Residents and people who work, or attend school in the City of Kirkland are welcome to participate. Residents outside this area will be accepted on a space-available basis.

A brief introduction of the CERT program and training will be made by Helen Ahrens-Byington, Deputy Fire Chief and City Emergency Manager. Each graduate will then be called up to receive their certificate from the Mayor and Fire Chief Kevin Nalder.

The students graduating are:

| <b>First</b>        | <b>Last</b>  |                               |
|---------------------|--------------|-------------------------------|
| Maureen             | Albi         |                               |
| Susan               | Brennan      |                               |
| Stephanie           | Carter       |                               |
| Peter               | Dodson       |                               |
| Victoria            | Huff         |                               |
| Pat                 | Jovag        |                               |
| David               | King         |                               |
| Gunnar              | Kudrjavets   |                               |
| Jeff                | Lyon         |                               |
| James               | Mach         | <u>Instructor in training</u> |
| Jennie              | Marker       |                               |
| Tim                 | Mason        |                               |
| Shannon             | McCullough   |                               |
| Janet               | Merriam      |                               |
| John                | O'Rourke     |                               |
| Ronald              | Poole        |                               |
| Jennifer<br>(Elise) | Poston       |                               |
| Gregory             | Roeben       |                               |
| Aaron               | Sooter       |                               |
| Jeannette           | Stansell     |                               |
| James               | Szabo        |                               |
| John                | Szabo        |                               |
| Cathy               | Tracey       |                               |
| Marianna            | Villa        |                               |
| Elise Spring        | Vitus        |                               |
| Howard              | Warner (Tim) |                               |
| Roland              | White        |                               |



KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES  
March 06, 2012

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:

Members Present: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Members Absent: None.

3. STUDY SESSION

a. Park Funding Exploratory Committee Recommendation

Joining Councilmembers for this discussion were City Manager Kurt Triplett, Parks and Community Services Director Jennifer Schroder, Deputy Director Michael Cogle and Finance and Administration Director Tracey Dunlap.

4. EXECUTIVE SESSION

None.

5. HONORS AND PROCLAMATIONS

a. Proclaiming 2012 as "The Year of the Girl" and Celebrating 100 Years of Girl Scouting in the City of Kirkland, Washington

Members from the Girl Scout Leadership team (Kristen Gulley and daughter Amy, Pam Hay and daughter Claire, Ann-Marie Speirs and daughter Alena, Ulrike Kornstaedt and daughter Fritz) in the Kirkland area received the proclamation from Mayor McBride and Councilmember Sweet.

b. Proclamation Thanking Bill Vadino for His Service

Bill Vadino received the proclamation from Mayor McBride and Councilmember Amy Walen.

6. COMMUNICATIONS

a. Announcements

b. Items from the Audience

John Michael Gilday  
Terry Durfee  
Jeff Pace  
Brent Anderson  
Doug Davis  
Bruce Wynn  
George Noble  
Lynn Stokesbary  
Ed Doyne  
Jessica Greenway  
Robert Scheuerman  
Loita Hawkinson  
Dave Lyon

Motion to forward a proposed park renaming request to the Park Board for a recommendation.

Moved by Councilmember Dave Asher, seconded by Deputy Mayor Doreen Marchione

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

c. Petitions

7. SPECIAL PRESENTATIONS

None.

8. CONSENT CALENDAR

a. Approval of Minutes: February 21, 2012

b. Audit of Accounts:

Payroll \$1,960,609.38

Bills \$3,655,187.75

run #1075 checks #532640 - 532649

run #1076 checks #532653 - 532800

run #1077 checks #532801 - 532853

run #1078 checks #532854 - 532964

c. General Correspondence

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

h. Other Items of Business

(1) Renewal of Public Art Loans and Leases

(2) Cultural Council Resignation

(3) Parking Advisory Board Resignation

(4) Report on Procurement Activities

(5) Surplus Vehicles for Sale

| <u>Fleet #</u> | <u>Year</u> | <u>Make</u>         | <u>VIN/Serial Number</u> | <u>License #</u> | <u>Mileage</u> |
|----------------|-------------|---------------------|--------------------------|------------------|----------------|
| P09-01         | 2009        | Ford Crown Victoria | 2FAHP71V39X126942        | 49239D           | 89,839         |

Motion to Approve the Consent Calendar, with the exception of item 8.h. (1)., which was pulled for consideration at the March 20, 2012 regular meeting.

Moved by Councilmember Bob Sternoff, seconded by Councilmember Penny Sweet

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

9. PUBLIC HEARINGS

None.

10. UNFINISHED BUSINESS

Council agreed to consider item 10.f. prior to the other items under Unfinished Business due to audience interest.

Council recessed for a short break following consideration of item 10.f.

a. 2012 Legislative Update #3

Intergovernmental Relations Manager Lorrie McKay reviewed the current status of legislative issues and responded to Council questions and comments.

Motion to authorize staff to actively oppose the defunding of MRSC.

Moved by Councilmember Toby Nixon, seconded by Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

b. Transportation Commission Rail Corridor Strategic Plan

Motion to Approve the Transportation Commission Rail Corridor Strategic Plan  
Moved by Deputy Mayor Doreen Marchione, seconded by Councilmember Amy Walen

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

c. Public Safety Building Project Update

Assistant City Manager Marilynne Beard provided an update on outstanding questions related to the Public Safety Building Project and received direction on selected project scope elements. Consultant Jim McLaren and Architect Shawn Roberts also responded to Council questions.

d. Reserve Target Follow-up

Finance and Administration Director Tracey Dunlap reviewed the process to date and provided a follow-up report and received Council direction on the City's reserve policies and targets.

Motion to Approve the Finance Committee's recommended alternative reserve target levels.

Moved by Deputy Mayor Doreen Marchione, seconded by Councilmember Penny Sweet

Vote: Motion carried 6-1

Yes: Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

No: Councilmember Dave Asher.

e. Upcoming City Council Meetings with the Lakeview, Everest and North Rose Hill Neighborhoods

f. Ordinance O-4349, Relating to the Regulation of Watercraft in City of Kirkland Waters

Police Captain Bill Hamilton and Assistant City Attorney Oskar Rey provided a presentation on Ordinance O-4349.

Motion to refer this issue to the Public Safety Committee for further review.  
Moved by Councilmember Penny Sweet, seconded by Councilmember Dave Asher  
Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

- g. Board and Commission Interview Selection Committee Recommendations

Councilmember Asher reviewed the committee's recommendations.

- h. Resolution R-4911, Adopting the Board and Commission Appointment and Reappointment Policy

Motion to Approve Resolution R-4911, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING THE BOARD AND COMMISSION APPOINTMENT AND REAPPOINTMENT POLICY."

Moved by Councilmember Dave Asher, seconded by Councilmember Penny Sweet  
Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

## 11. NEW BUSINESS

- a. Resolution R-4912, Approving the Issuance of a Process IIB Permit as Applied for in Department of Planning and Community Development File No. ZON11-00023 by the Lake Washington School District Being Within a RS 8.5 Zone, and Setting Forth Conditions to Which Such Process IIB Permit Shall be Subject

Councilmember Nixon and Councilmember Sweet provided statements of disclosure. Councilmember Nixon disclosed that on February 9 at a meeting at Lake Washington School District headquarters that included the principal of International Community School there was a brief conversation about the fact that the proposed ICS project was a matter of some interest in the surrounding community, but that there was not any discussion about the substance of the project or any of the arguments for or against it. Councilmember Sweet disclosed a discussion approximately two weeks ago with a constituent about the issue of schools placed on non arterials. No one came forward to rebut the substance of these disclosures.

Project Planner Tony Leavitt provided a presentation on the permit.

Motion to suspend the rules of procedure allowing Council to vote on the resolution at this evening's meeting.

Moved by Councilmember Dave Asher, seconded by Deputy Mayor Doreen Marchione

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Motion to Approve Resolution R-4912, entitled "A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS IIB PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON11-00023 BY THE LAKE WASHINGTON SCHOOL DISTRICT BEING WITHIN A RS 8.5 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIB PERMIT SHALL BE SUBJECT."

Moved by Councilmember Amy Walen, seconded by Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

b. Draft 2012 City Work Program

City Manager Kurt Triplett presented the draft 2012 City Work Plan and responded to Council questions and comments. Council directed the City Manager to bring the Work Plan to the Council Retreat for further discussion.

12. REPORTS

a. City Council

(1) Regional Issues

Councilmember Asher shared information regarding an Emergency Medical Services Advisory Committee meeting; Mayor McBride requested and received agreement to ask staff to analyze impacts in regard to potential funding reductions from King Conservation District; she also requested and received agreement to ask staff to analyze possible methods for the Houghton Community Council to pay for their own costs.

b. City Manager

(1) Calendar Update

City Manager Kurt Triplett provided a final update on the due diligence for the Burlington Northern Rail Corridor purchase, and requested and received approval to move forward with the purchase.

13. ITEMS FROM THE AUDIENCE

None.

14. ADJOURNMENT

The Kirkland City Council regular meeting of March 6, 2012 was adjourned at 11:06 p.m.

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City Clerk

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Mayor



**CITY OF KIRKLAND**  
Department of Finance and Administration  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100  
[www.kirklandwa.gov](http://www.kirklandwa.gov)

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## MEMORANDUM

**To:** Kurt Triplett, City Manager  
**From:** Kathi Anderson, City Clerk  
**Date:** March 7, 2012  
**Subject:** CLAIM(S) FOR DAMAGES

### RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

### POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.040).

### BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) Hui-Chen Pan  
626 17<sup>th</sup> Avenue  
Kirkland, WA 98033

**Amount:** Unspecified

**Nature of Claim:** Claimant states damage to property resulted from a falling tree branch.

- (2) Scott Walker  
16659 NE 88<sup>th</sup> Street  
Redmond, WA 98052

**Amount:** \$129.70

**Nature of Claim:** Claimant states damage to vehicle resulted from driving into a sink hole.

- (3) Bill Zavales  
6816 NE 130<sup>th</sup> Pl  
Kirkland, WA 98034

**Amount:** \$17,794.00

**Nature of Claim:** Claimant states damage to property resulted from a degraded storm water line.

**Note:** Names of claimants are no longer listed on the Agenda since names are listed in the memo.



## CITY OF KIRKLAND

### Department of Public Works

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800  
www.kirklandwa.gov

## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** David Snider, P.E., Capital Projects Manager  
Ray Steiger, P.E., Public Works Director

**Date:** March 8, 2012

**Subject:** 2011 CROSSWALK UPGRADE PROJECT – ACCEPT WORK

### RECOMMENDATION:

It is recommended that City Council accept the work performed on the 2011 Crosswalk Upgrade Project, as constructed by Valley Electric of Everett, Washington, and establish the statutory lien period.

### BACKGROUND DISCUSSION:

The Crosswalk Upgrade Program is a city-wide program for maintaining and improving crosswalks throughout the City and is funded through the CIP. The specific work for the 2011 Project consisted of furnishing and installing specialty signage and a new style of pedestrian crosswalk lights known as Rectangular Rapid Flashing Beacons (RRFBs) at four locations (Attachment A):

- A. NE 124<sup>th</sup> Street at 103<sup>rd</sup> Avenue NE (at the North Kirkland Community Center)
- B. Market Street at 18<sup>th</sup> Avenue
- C. 132<sup>nd</sup> Avenue NE at NE 74<sup>th</sup> Street
- D. NE 60<sup>th</sup> Street (at the Benjamin Franklin Elementary School entrance)



Market Street at 18<sup>th</sup>

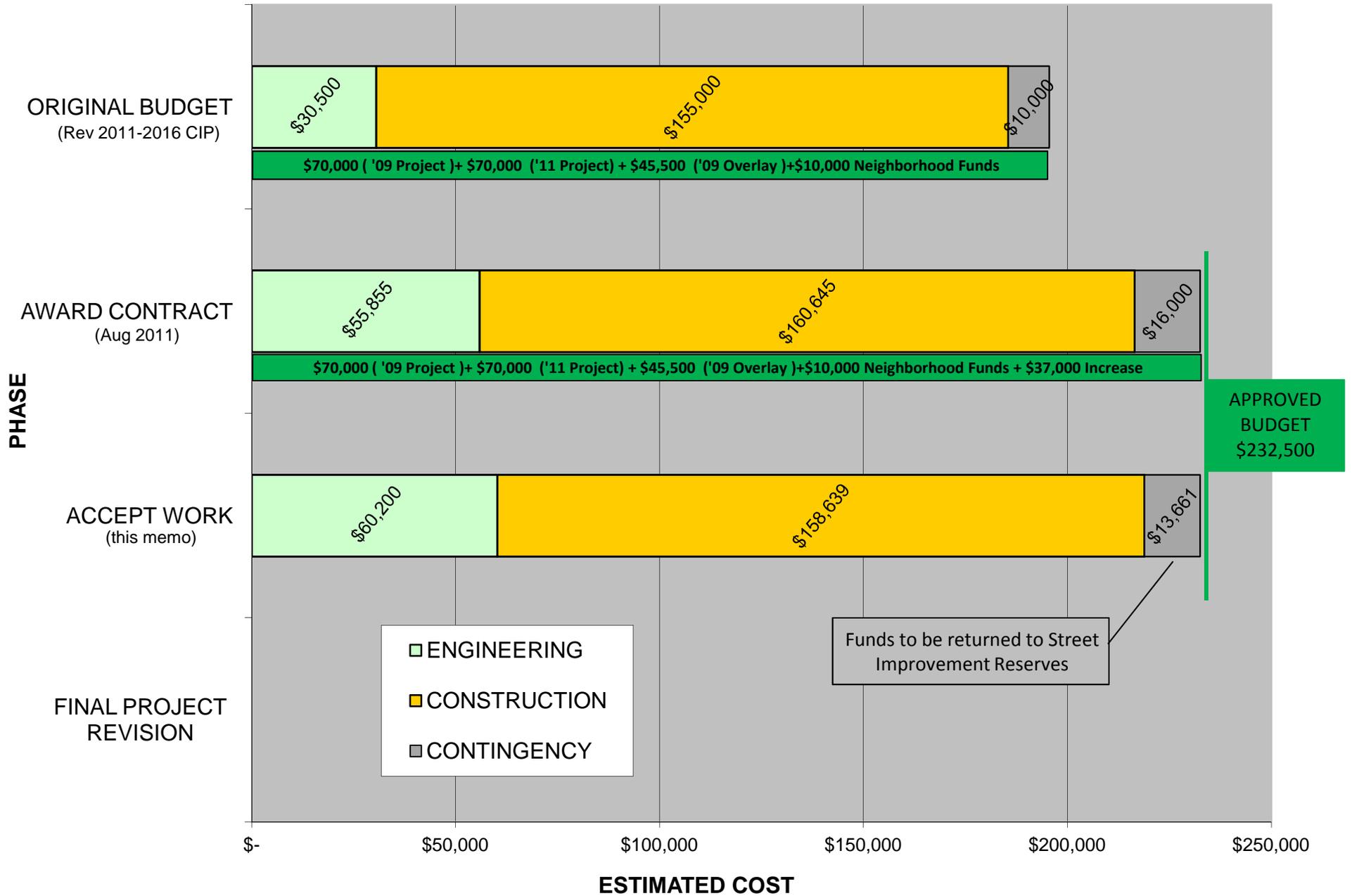
The budget for the Program is \$70,000 every two years with funding available in odd numbered years. The 2011 Project utilized a combination of funding from both the 2009 and 2011 Projects, \$10,000 of Neighborhood Connections funding from the South Rose Hill/Bridal Trails Neighborhood Association, and \$45,500 of 2009 Overlay Project funding. Overlay funds were available due to a Contractor credit for a failed RRFB associated with the 2009 Overlay Project (at location A). The total original budget was \$195,500 (Attachment B).

At their meeting of August 2, 2011, City Council awarded the contract for the 2011 Crosswalk Upgrade Program to Valley Electric, in the amount of \$160,645. At that same meeting, Council approved a Project budget increase of \$37,000 using Street Improvement Reserves in order to complete improvements at all four locations. Construction was completed in January 2012, and a total of \$158,639 was paid to the Contractor; remaining Project funds will be returned to the Street Improvement Reserves for use on future projects.

Attachments: (2)



**2011 Crosswalk Upgrade Project  
(CNM-1112)  
Project Budget Report**





## CITY OF KIRKLAND

### Department of Public Works

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.kirklandwa.gov

## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** David Snider, P.E., Capital Projects Manager  
Ray Steiger, P.E., Public Works Director

**Date:** March 8, 2012

**Subject:** I-405 BELLEVUE TO LYNNWOOD PROJECT – UTILITY AGREEMENT

### RECOMMENDATION:

It is recommended that City Council authorize the City Manager to sign the attached Utility Construction Agreement (Agreement) with the Washington State Department of Transportation (WSDOT). It is further recommended that City Council authorize the use of water/sewer construction reserve funds to pay for protection-in-place measures for certain existing City water and sewer system lines.

### BACKGROUND DISCUSSION:

The I-405 Bellevue-to-Lynnwood Project (aka, *I-405 - NE 6<sup>th</sup> to I-5 Widening and Express Toll Lanes Project* (the Project)), complements the previous WSDOT *Kirkland Nickel Project* by providing one additional northbound and southbound lane between NE 6<sup>th</sup> Street in Bellevue and Bothell, except the portion in Kirkland, between NE 85<sup>th</sup> and NE 124<sup>th</sup> Streets, which already received an extra lane during the *Kirkland Nickel Project*. With further direction expected during the State's 2012 Legislative session, the Project will also convert two I-405 lanes (one HOV and one general purpose) to express high occupancy toll (HOT) lanes together with a new single express toll lane converted from an existing high occupancy vehicle (HOV) lane from Bothell to Lynnwood.

Construction activities are expected to begin in 2012 with completion in 2015; specific Project elements within Kirkland include:

- The widening and adding of a freeway lane in both directions on I-405, north of NE 124<sup>th</sup> Street and south of NE 85<sup>th</sup> Street.
- The conversion of the existing northbound right-hand lane, south of NE 70<sup>th</sup> Street, from an exit-only lane to a through lane.
- The construction of new noise and retaining walls, where warranted in residential areas.



WSDOT Project limits

- A new concrete sidewalk on the north side of the NE 124<sup>th</sup> Street overpass (none currently exists, and staff is working with WSDOT to schedule these improvements early in the Project).
- The placement of tolling equipment at the NE 128<sup>th</sup> Street direct access ramps that will allow for electronic tolling of single-occupancy-vehicle (SOV) traffic entering the managed lane system.
- New electronic toll signage placed in Kirkland's right-of-way near 116<sup>th</sup> Way NE.

As stated within the Utility Construction Agreement (Attachment A), Kirkland, as a permittee with utilities crossing WSDOT property, is responsible for associated Project impact costs attributed to those utility crossings. The options for dealing with Kirkland's utilities in conflict with the Project include relocation or measures designed and taken for protection-in-place. Protection-in-place measures could include options such as encasement of the utility line within a thick-gauge steel pipe or, where the freeway project proposes a noise or retaining wall over the utility, design of the wall to span the utility and direct its loading outside the pipe zone so as not to bear on it.

All Cost overages for design and/or construction are the burden of the Utility (City); however, should the construction activity in any way cause a Kirkland public utility to burst or be damaged, the Agreement provides for all costs of repair to be borne by the state or its contractor.

The two Kirkland utility crossings (Attachment B) that are in conflict with the Project are:

- 20" diameter water line at NE 60<sup>th</sup> Street, and
- 8" diameter sanitary sewer line at NE 80<sup>th</sup> Street

Kirkland staff and WSDOT engineers have concluded that protection-in-place for the existing water and sewer lines is the most prudent and cost effective means for maintaining system integrity. The cost associated with protection-in-place has been estimated to be \$39,500 and staff has identified the water / sewer construction reserve as an available source for funds to reimburse WSDOT for the protection-in-place work (Attachment C).

Attachments (3)

**UTB 1028**  
**UTILITY CONSTRUCTION AGREEMENT**  
**I-405/NE 6<sup>th</sup> St. to I-5 Widening and Express Toll Lanes Project**  
**Work by State – Actual Cost**

This Utility Construction Agreement (Agreement) is made and entered into between the State of Washington, Department of Transportation (State) and the City of Kirkland, that, among other things, provides utility services (referred to herein as (Utility), collectively referred to as the “Parties,” and individually referred to as the “Party.”

WHEREAS, the State is planning the construction or improvement of Interstate 405 (I-405), Control Section 174305, I-405/NE 6<sup>th</sup> St. to I-5 Widening and Express Toll Lanes Project (Project), and in connection therewith, it is necessary to protect, modify and/or relocate certain Utility-owned facilities (Utilities); said work hereinafter referred to as the “Utility Work”; and

WHEREAS, the Parties agree that the State’s inclusion of the Utility Work in the State’s design-build construction contract serves the best interest of the public and promotes efficiency and coordination for timely and cost effective completion of the Project; and

WHEREAS, the Utility agrees to reimburse the State for any Utility Work required for Utilities not located on easements or Utility-owned right-of-way (Category A Utilities), and the State agrees to pay for the protection, modification and/or relocation of Utilities where the Utility has a compensable property interest by virtue of being located on easements or Utility-owned property or right-of-way (Category B Utilities),

NOW, THEREFORE, pursuant to chapter 47.44 RCW, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, covenants, and performances contained herein, including all exhibits which are incorporated by reference and fully made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. Plans, Specifications, Construction, Inspection, Utility Work Acceptance, Ownership, and Maintenance.

1.1 This Agreement addresses Utility Work, relating to Category A Utilities and Category B Utilities, that is necessary to protect, modify and/or relocate Utilities for purposes of the Project.

1.2 The State, through its Design-Builder, agrees to perform the Utility Work, including both design and construction, in accordance with the Special Provisions, marked Exhibit A, including Attachments 1 and 2 to Exhibit A, and Plans, marked Exhibit C.

1.3 The State shall require its Design-Builder to develop the designs for the Utility Work in accordance with the Kirkland City Code and current City of Kirkland Engineering Standards as generally shown on Exhibit C, State utility permit and/or franchise requirements,

and the specifications included in the Project Request for Proposal (RFP) and amendments thereto. To the extent that the RFP specifications affect the Utility Work, such RFP specifications are included in this Agreement, along with Exhibit A by this reference. In accordance with Exhibit A, the Utility shall work directly with the Design-Builder during design and shall review and approve the design-build final plans and specifications proposed for the Utility Work. When approved by the Utility, all Utility Work plans and specifications shall be incorporated with this Agreement herein as if fully set forth. The State shall require its Design-Builder to construct the Utility Work in accordance with the Utility-approved plans and specifications.

1.4 The Utility shall inspect all Utility Work on the Utilities. The Utility agrees that any costs for Category A Utility Work inspection shall be borne solely by the Utility. The State shall reimburse the Utility for the costs associated with Utility inspections of the Category B Utility Work, as provided in Section 3.2. The time of Utility inspections shall be limited to between the hours of 8:00 AM and 5:00 PM, Monday through Friday, on regular business days of the Utility. Subject to the foregoing, the Utility agrees that any inspections on its part will not delay the Design-Builder construction schedule and, if delays to the construction schedule occur, the Utility will be responsible for any related costs due to Design-Builder delay claims. The Utility shall conduct any required inspection by the end of the next business day following receipt of the inspection request. If the Utility does so, it shall not constitute delay for the purpose of this Section.

1.5 The State shall promptly notify the Utility in writing when all Utility Work is completed.

1.6 The Utility shall, within ninety (90) calendar days of being notified that the Utility Work is completed: (a) deliver a letter of conditional acceptance to the State, such acceptance is termed conditional only upon the completion of the one year warranty term as provided in Section 1.8 or (b) deliver to the State written notification listing all reasons based solely upon the Utility-approved plans and specifications for withholding conditional acceptance.

1.7 If the Utility does not respond within ninety (90) calendar days, the Utility Work shall be deemed conditionally accepted by the Utility, such acceptance is termed conditional only upon the completion of the one year warranty term as provided in Section 1.8.

1.8 The State's Design-Build contract requires the Design-Build contractor to provide the State with a one-year warranty on all work per Section 1-05.16, General Warranties, of the General Provisions of the Project RFP, excluding Sections 1-05.16(9) and 1-05.16(10). Warranty Provisions, Section 1-05.16 is attached as Exhibit D. The one-year warranty begins on the date of Project Physical Completion, as defined in the Project RFP. The State will provide the Utility with written notification of the date of Project Physical Completion. During the year following Project Physical Completion, the State will require the State's Design-Builder to correct any defects in the Utility Work in accordance with the terms of the warranty. The Utility shall immediately notify the State in writing of any defects that require correction upon discovering such defects. The State agrees to promptly request the State's Design-Builder to correct the Utility Work defect, and the State will notify the Utility when such work is scheduled. Upon completion of the corrective work, the Utility will perform an inspection and deliver a letter of acceptance for the corrective work to the State.

1.9 After the one year warranty or any extensions for correction of Utility Work defect(s) pursuant to Section 1.8, the Utility shall deliver to the State written notification of final acceptance of the Utility Work, and the State shall be released from all future claims and demands resulting from the performance of the Utility Work.

1.10 Upon completion and final acceptance of the Utility Work pursuant to Section 1.9, the Utility shall be solely responsible for all future ownership, operation, and maintenance of its Utilities, without State liability or expense.

1.11 In regards to Utility Work acceptance as addressed in Section 1.8, the Utility neither waives nor accepts defects in design or construction. It is agreed that the State's liability to the Utility under such circumstances shall not exceed sums, if any, as may be recovered from the Design-Builder. For claims or demands due to defects in design or construction brought by the Utility, the Utility shall have full responsibility for preparation and presentation of such claims, if any, and shall bear all expenses thereof, including attorneys' fees and costs and any expenses of any nature, including attorneys' fees and costs which may be incurred by the State.

## 2. Cost Liability and Payment for Category A Utilities.

2.1 The Utility shall reimburse the State for all actual, direct and related indirect costs associated with Category A Utility Work. The estimated cost for Category A Utility Work to be performed by the State's Design-Builder is Thirty-nine Thousand, Five Hundred dollars (\$39,500.00) as detailed in Exhibit B, Cost Estimate. Exhibit B is based on conceptual designs to protect, modify or relocate Utility Category A Utilities, which have been identified as possibly in need of protection, modification, or relocation as a result of the Project. Exhibit B includes all anticipated costs for both the State and the Design-Builder with respect to Category A Utility Work.

2.2 The State shall invoice the Utility on a monthly basis for the costs related to the Category A Utility Work, which the City shall pay within thirty (30) calendar days of receipt of the invoice. Should the estimated costs as provided in Section 2.1 be in excess of the actual costs for the Category A Utility Work, the State shall (a) reflect the Utility's excess payment by reducing the final invoice charge to the Utility, and if necessary, (b) directly reimburse the Utility for such excess payment within thirty (30) calendar days of the last invoice date.

2.3 Exhibit B described in Section 2.1 may be adjusted by addition or subtraction of Category A Utility Work required by the Project as provided for in Exhibit A, Section 4.4, Scope of Work. In cases where previously unidentified Category A Utility Work is required and unit costs have not been established, the State and Utility shall in good faith mutually negotiate and agree upon costs for such additional work. All adjustments made under this Section will be made by invoice provided by the State to the Utility and paid in accordance with Section 2.5 of this Agreement.

2.4 In accordance with chapter 19.122 RCW, the State will require its Design-Builder to obtain from the Utility, and the Utility agrees to provide reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the Utility shall provide the best available

information as to their locations. The Utility shall be responsible for increased costs to the Design-Builder for Category A Utility Work which result from differing site conditions and other circumstances beyond the control of either the State or the Design-Builder. Increased costs incurred by the Design-Builder under this Section shall be made by invoice provided by the State to the Utility and paid in accordance with Section 2.5 of this Agreement.

2.5 The State shall invoice the Utility monthly with detailed supporting documentation. The Utility agrees to make payment to the State within thirty (30) calendar days of receipt of the State's invoice. No payments made by the Utility shall constitute agreement as to the appropriateness of any item, and the Parties agree that at the time of final invoice, all required adjustments will be made and reflected in a final payment or State remittance as provided in Section 2.2.

2.6 Should the Utility fail to provide the State with payment for any invoice within ninety (90) calendar days after receipt of said invoice, the State shall also charge and expend interest at 1% per month applied to any amount owed until all monies owed and interest charges are recovered.

### 3. Cost Liability and Payment for Category B Utilities.

3.1 If Category B Utility Work is encountered the State shall be responsible for all actual, direct, related, and indirect costs associated with Category B Utility Work, including design costs and construction costs. All costs for the Category B Utility Work, including, design and construction work shall be included in the State's design-build construction contract and paid by the State.

3.2 The State shall also be responsible for all Utility inspection costs associated with Category B Utility Work. The State shall pay such costs directly to the Utility through Utility permit fee process. The Utility shall invoice the State for inspection costs as permit fees associated with Category B Utility Work no more than once per month. The State shall make payment to the Utility within thirty (30) calendar days after receipt of a detailed Utility invoice. The Utility will issue the permit's once payment is received. The current estimated cost for Category B Utility permits is Zero Dollars (\$00.00) and is detailed in Exhibit B, as no Category B Utility work or permits are currently anticipated. The actual costs of Utility Permits for Category B Utilities depends on the location and type of Category B Utility Work found to be necessary; permit fees are generally listed and updated annually on the Utility's website. Exhibit B summarizes the anticipated costs of permits for both Category A Utilities and Category B Utilities. The Parties agree that the State's responsibility for Category B Utility inspection costs as permit fees may be greater than the estimated amount identified in Exhibit B if any Category B Utilities are encountered.

3.2.1 The actual amount paid for inspection costs as permit fees by the State shall depend on the final design and lineal footage of Category B Utilities, if any, require protection, modification, and/or relocation. The final amount will be determined by payment of the final inspection costs as permit fees invoice for Category B Utility Work on the Project.

4. Changes in Scope of Work.

4.1 If the State's Design-Builder determines that a required change in the Scope of Work as contained in Exhibit A or the Utility-approved plans and specifications is required, written approval must be secured from the Utility and the State prior to modifying the Utility Work. For Category A Utilities, a written request from the Design-Builder, passed through the State to the Utility, shall provide documentation for the change and shall include the description of work, justification for the change, and associated cost changes triggered by the requested change to the Utility Work. The Utility shall respond within twelve (12) calendar days to the State, approving, disapproving, or modifying the Design-Builder's change request. If the Utility does not approve the requested Utility Work change, the Parties agree to work together in good faith and with the Design-Builder to resolve all issues in a timely manner. The Utility shall be responsible for all costs, if any, associated with the Design-Builder's cost determination for Category A Utility Work changes if approved.

4.2 The Utility may request elective changes to Category A and/or Category B Utility Work as described in the Scope of Work as contained in Exhibit A or to the Utility-approved plans and specifications. The State shall request its Design-Builder to determine whether it can accommodate such elective changes under the Project permits, state and/or federal law, applicable rules and/or regulations, and/or state design policies and the elective changes do not unreasonably delay critically scheduled Project control activities or negatively affect the Project, and if so, what the costs would be, including all projected Project costs that would be triggered by the requested elective changes. The Utility shall respond in writing within twelve (12) calendar days accepting or rejecting the elective changes and associated costs. The Utility shall be responsible for all costs associated with the Design-Builder's review and cost projections of the Utility's requested elective changes. The State shall invoice the Utility and the Utility shall pay all costs incurred under this Section 4.2 in accordance with Section 2.

5. Dispute Resolution.

5.1 In the event that a dispute arises under this Agreement, the Parties shall work in good faith and collaboratively to resolve disputes promptly and at the lowest organizational level.

5.2 The Utility's Project Coordinator and the State's I-405 Project Engineer shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible. If the issue cannot be resolved at this level, the State's I-405 Engineering Manager and the Utility's Public Works Director shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible.

5.3 In the event a dispute cannot be resolved between the Parties, the dispute shall be resolved in the following manner: Each Party shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any way with the two Parties. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with this process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third dispute board member; however, each Party shall be responsible for its own costs and fees

6. Betterments.

6.1 For purposes of this Agreement, a Betterment is any upgrade to Utilities that are not attributable to the construction of the Project and is made solely for the benefit of and at the election of the Utility, including any increase in Utilities capacity, capability, level of service, efficiency, duration, or function of the relocated or replaced or new Utilities over that which was provided by the existing Utilities.

6.2 The Utility shall be responsible for the additional costs associated with design or construction of any Betterment(s). If the Utility requests or determines a Betterment is necessary in relation to the Utilities covered by this Agreement, said Betterment shall be requested as a Scope of Work change pursuant to Section 4.

6.3 If the Utilities are damaged by Project work and the the Utility requests a Betterment to the Utilities as covered by Section 6.2, the State agrees it is responsible for the cost to repair the damaged Utilities in kind. The Utility agrees to be responsible for any repair costs that constitute a Betterment pursuant to Section 6.2.

7. Compliance.

7.1 The Utility shall comply with all applicable requirements of the Washington State Utilities Accommodation Policy and any amendments thereto, which by this reference are hereby incorporated in and made a part of this Agreement.

7.2 The State shall comply with all applicable federal, state, and local regulations, including but not limited to all regulations governing public works projects.

8. Limited Right of Entry, and Utility Ownership, Operation and Maintenance.

8.1 The Utility hereby grants to the State, including the State's employees, Design-Builder and its employees, consultants and subcontractors, a limited right of entry upon all land in which the Utility has interest that is necessary for performing the Utility Work and any work associated with construction of the Project.

8.2 The limited right of entry as identified in Section 8.1 shall expire upon the completion of the Utility Work warranty term as provided in Section 1.9.

9. Permit, Franchise, or Amendments.

9.1 Following Utility acceptance of the Utility Work pursuant to Section 1.8, the State shall amend or issue to the Utility the necessary permits, franchises or franchise amendments for those Utilities located within State right-of-way. The Utility shall work with the Design-Builder using the process for submittal, review and approval of permits, franchises or franchise amendments found in Section 2.10.4.3 entitled "New Franchises and Permits" of the Project Request for Proposal; a copy of which is attached to Exhibit A as Attachment 2.

10. Termination.

10.1 Neither the State nor the Utility may terminate this Agreement without the concurrence of the other Party. Termination, if mutually agreed upon, shall be in writing and signed by both Parties. If the Agreement is terminated prior to the fulfillment of all of its terms, each Party agrees to perform its obligations under the Agreement up to the date of termination, and neither Party waives any of its rights or remedies under the Agreement for terms that survive the termination of this Agreement.

11. Indemnification.

11.1 To the maximum extent authorized by law, the Utility and State shall indemnify and hold harmless one another and their employees and/or officers from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or costs, of whatsoever kind or nature, brought against the one Party arising out of, in connection with, or incident to the other Party's own negligent performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the Utility and (b) the State, their employees and/or officers, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Utility or State, their employees and/or officers; and provided further, that nothing herein shall require the Utility or State to hold harmless or defend the other or its employees and/or officers from any claims arising from that Party's sole negligence or that of its employees and/or officers. The terms of this section shall survive the termination of this Agreement.

12. Amendments.

12.1 This Agreement may be amended by the mutual consent of the Parties; provided no amendment(s) or modification(s) shall be binding unless put in writing and signed by persons authorized to bind each of the Parties.

13. Audit and Records.

13.1 After execution of this Agreement and for a period of not less than three (3) years from the date of final payment by the Utility for its share of the Utility Work, both Parties shall maintain the records and accounts pertaining to the Utility Work and shall make them available for inspection and audit by the other Party, State Auditor and/or Federal Government, and copies of all records, accounts, documents or other data pertaining to the Utility Work will be furnished upon request. If any litigation, claim or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim or audit finding has been resolved even though such litigation, claim or audit continues past the three-year (3) retention period.

13.2 Each Party shall have full access to and right to examine said records of the other Party during normal business hours and as often as it deems necessary, and each Party shall pay for all costs of copies requested from the other Party.

14. Headings.

Section titles or other headings contained in this Agreement are for convenience only and shall not be part of this Agreement, nor be considered in its interpretation.

15. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall constitute one and the same instrument.

16. No Third Party Beneficiaries.

This Agreement is entered into solely for the mutual benefit of the Parties. This Agreement is not entered into with the intent that it shall benefit any other person or entity and no other such person or entity shall be entitled to be treated as a third party beneficiary of this Agreement.

17. No Waiver.

Neither payment nor performance by a Party shall be construed as a waiver of the other Party's rights or remedies against the Party. Failure to require full and timely performance of any provision at any time shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter.

18. Entire Agreement.

This Agreement, including all Exhibits, attachments, and documents referenced as incorporated here, including any amendments, shall constitute all terms, conditions, and provisions agreed upon by the Parties hereto. No modification or amendment of this Agreement shall be valid or effective unless evidenced in writing and signed by both Parties as required by Section 12.

19. Interpretation.

This Agreement is and shall be deemed jointly drafted and written by each of the Parties to it, and it shall not be construed or interpreted against any of the Parties originating or preparing it.

20. Severability.

If any provisions of this Agreement are held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives originally contemplated.

21. Material Representations.

All promises, representations, statements, or warranties in this Agreement shall be deemed material and shall be deemed to have been relied upon by the Parties and shall survive the execution of this Agreement.

22. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of Washington in effect on the date of execution of this Agreement or any amendment. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in the superior court situated in King County, Washington. Further, the Parties agree that each shall be responsible for its own attorneys' fees and costs.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year last written below.

**WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION**

**CITY OF KIRKLAND**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**APPROVED AS TO FORM**

Date: 2-15-12

Date: \_\_\_\_\_

By:   
Ann E. Salay, Assistant Attorney General

By: \_\_\_\_\_  
City Attorney

**UTB 1028**  
**UTILITY CONSTRUCTION AGREEMENT**  
**I-405/NE 6<sup>th</sup> St. to I-5 Widening and Express Toll Lanes Project**  
**Work by State**

**Exhibit A**  
**Special Provisions**

The Utility Work under this Agreement provides for the State, through its Design-Builder, to design and construct facilities necessary to protect, modify, or relocate Utility -owned Category A and Category B Utilities that are in conflict with the Project. The existence of an actual conflict shall depend on the final design provided by the State's Design-Builder.

The State shall produce preliminary plans, specifications and cost estimates for the design-build Project. The State shall require its Design-Builder to finalize the Project design and the Utility Work protection, modification or relocation designs required to construct the Project. The State shall require its Design-Builder to design the Utility Work to meet or exceed the Utility's design and construction requirements, as well as the State's requirements for the construction of I-405, as further provided in Agreement Section 1.3.

1. Scope of Work

1.1 The State, through its Design-Builder, shall design and construct Utility Work necessary to protect, modify or relocate Utility -owned Category A and Category B Utilities that are in conflict with the Project.

2. Specifications

2.1 The State shall require its Design-Builder to protect, modify, or relocate the Utilities to be designed and constructed as further provided in Agreement Section 1.3.

3. Work By Utility

3.1 The Utility shall review Utility Work specification and plan submittals made by the Design-Builder and return said submittals to the Design-Builder within thirty (30) calendar days after receipt of each submittal. The Utility agrees to indicate on each submittal: (a) "approved," (b) "approved with comments," or (c) "not approved, Design-Builder to revise and resubmit."

The Utility shall review any re-submittals resulting from a prior review and return said submittals to the Design-Builder within fifteen (15) calendar days after receipt of each revision.

3.2 The Utility shall inspect the Utility Work. The Utility shall coordinate a mutually agreeable schedule and scope of inspection directly with the Design-Builder for Utility inspections. The Utility shall report any Utility Work deficiencies in writing to the State and the Design-Builder’s Construction Quality Assurance Manager for resolution.

4. Work by State

4.1 The State shall require its Design-Builder to prepare plans and specifications, as well as construct any protections, modifications or relocations of Utilities in conflict with the Project as provided in the Agreement.

4.2 The State shall require its Design-Builder to perform all inspection, sampling and testing of the Utility Work in accordance with the Design-Builder’s approved Quality Management Plan developed by the Design-Builder and approved by the State.

4.3 The State shall attend meetings between the Design-Builder and the Utility.

4.4 Since the Project is being designed and constructed using a design-build project delivery method, the exact identity and number of Category A Utilities that may require protection, modification, or relocation in order to accommodate the Project is unknown until such time as the design is developed by the Design-Builder. Nevertheless, based on conceptual plans, the Parties have identified the following Category A Utilities as possibly being in conflict with the Project. The Utility Work related to this Category A Utilities will be included in the RFP for the Project.

| <b>Utility Conflict</b> |                 | <b>Existing Utility</b> | <b>Proposed Utility</b> |
|-------------------------|-----------------|-------------------------|-------------------------|
| <b>ID</b>               | <b>Location</b> |                         |                         |
| 308                     | MP 16.43 Right  | Water Main              | Protect in Place        |
| 308                     | MP 16.43 Left   | Water Main              | Protect in Place        |
| 332B                    | MP 17.82 Right  | San. Sewer              | Protect in Place        |

4.5 The Utility is responsible to pay for all work associated with the above referenced Category A Utility at the price contained in Exhibit B, as may be adjusted from time to time pursuant to the design-build contract and Agreement Section 2. If as a result of the final design for the Project the Utility Work identified above is either not required to be performed or reduced in scope, the Parties will amend this Scope of Work and Agreement Section 2. It is

acknowledged by the Parties that there may be additional Category A Utilities to the Utilities identified above that may require protection, modification or relocation in order to accommodate the Project. As the Project progresses, should other Category A Utilities be identified that require protection, modification or relocation, the Parties agree that the resulting Utility Work will be addressed pursuant to the terms of the Agreement and shall not be considered a change to this Scope of Work. In such an event, should the Design-Builder have a right to an increase in contract price pursuant to the design-build contract, the Utility shall cooperate with the Design-Builder in developing a price to perform such Utility Work. The Utility shall be responsible to reimburse the State for all such increases in accordance with Agreement Section 2.

4.6 The exact identity and number of Category B Utilities that may require protection, modification, or relocation in order to accommodate the Project is unknown until such time as the design is developed by the Design-Builder. Nevertheless, based on conceptual plans, the Parties have not identified any Category B Utilities in the vicinity of the Project which may be in conflict with the Project.

4.7 It is acknowledged by the Parties that there may be additional Category B Utilities to those Category B Utilities identified above that may require protection, modification or relocation in order to accommodate the Project. As the Project progresses, should additional Category B Utilities be identified that require protection, modification, or relocation, the Parties agree that the resulting Utility Work shall be addressed pursuant to the terms of this Agreement and shall not be considered a change to the Scope of Work.

4.8 Franchises and Permits: The Utility's current Franchise No. 10109, dated November 13, 1990, which expires November 13, 2015 is Attachment 2 to Exhibit A.

## 2.10 UTILITIES AND RELOCATION AGREEMENTS

### 2.10.1 GENERAL

#### 2.10.1.1 SCOPE

WSDOT has identified the following:

- One Utility Relocation required to accommodate the Project.
- Twelve Utilities with conflict points which the Design-Builder may be able to eliminate by designing and building around the conflict points.
- Four Utilities which the Design-Builder shall leave in place by protecting the Utility. The protection in place cost shall be borne by the Utility Owner, whether the Work is performed by the Design-Builder or by the Utility Owner.
- There are four access manholes located within the bridge deck of the NE 124th Street undercrossing that can be abandoned.

Each Utility is addressed in more detail elsewhere in this Section. Unless expressly stated otherwise, the specific descriptions of Relocation Work in this Section 2.10.1.1 do not limit or replace the general requirements of this Section.

Additional Relocation Work may be necessary to construct the Project. The Design-Builder shall be responsible for determining what, if any, additional Utility Relocations will be required; and shall work with Utility Owners to design and construct such relocations in compliance with the Contract.

Incidental Utility Work and any additional Relocation Work that becomes necessary due to the Design-Builder's correction of any inaccuracies in the Utility Information, changes made by the Design-Builder to the Conceptual Plans, or otherwise, shall be addressed in accordance with this Section and Section 1-07.17 of the General Provisions.

#### **Utility Relocations to be Performed During the Design-Builder's Work Schedule**

The following Utility will be relocated during the Design-Builder's Work schedule:

- 1) Sonoma Villero Condominiums (SVC) stormwater connections (UI 465A and UI 465B): The Project proposes a large combined retaining and noise wall to the west of the SVC. This wall will block the normal water sheet flow into the existing storm drainage system. To maintain the proper water flow, the Design-Builder shall modify and reconnect the SVC sheet flow and point of flow water effluents around the new wall into the modified WSDOT stormwater drainage conveyance system. This Utility is classified as a Category 2 Utility.

#### **Utilities with Potential Conflicts**

The following 12 Utilities have been identified as potential conflicts to proposed Project facilities. Depending on the design, these Utilities may be designed around, either permanently or temporarily Protected in Place, or relocated during construction. The Design-Builder and the Utility Owner shall consider all options in the design process. Either option shall be performed at the Utility Owner's cost.

- 1) Puget Sound Energy (PSE) underground power cable crossing I-405, Milepost (MP) 16.84 at NE 60th Street (UI 309). This Utility is classified as a Category 1 Utility.

- 1           2)     PSE underground power cable crossing I-405, MP 16.84 at NE 60th Street  
2                   (UI 310). This Utility is classified as a Category 1 Utility.
- 3           3)     PSE 4-inch diameter gas line crossing I-405, MP 16.34 at NE 60th Street (UI 633).  
4                   This Utility is classified as a Category 1 Utility.
- 5           4)     City of Kirkland (COK) encased 8-inch sanitary sewer line at MP 17.35 (UI 321B).  
6                   This Utility is classified as a Public Utility.
- 7           5)     Vicinity of NE 80th Street, I-405 MP 17.84. The following Utilities are:
- 8                   a)     COK 12-inch sanitary sewer (UI 332B) classified as a Public Utility;
- 9                   b)     Comcast overhead cable (UI 338) classified as a Category 1 Utility;
- 10                  c)     Verizon Business/MCI overhead fiber (UI 339) classified as a Category 1  
11                    Utility;
- 12                  d)     PSE overhead fiber optic (UI 340) classified as a Category 1 Utility;
- 13                  e)     Frontier buried telephone line (UI 341) classified as a Category 1 Utility; and
- 14                  f)     PSE overhead power line (UI 342).
- 15           6)     Stormwater drainage pipe into the WSDOT drainage system at the CamWest  
16                   Development, north of NE 108th Street (UI 371), now operated by the COK. This  
17                    Utility is classified as a Public Utility.
- 18           7)     Integra/Electric Lightwave Fiber Optic Cable (UI 417). Integra/Electric Lightwave  
19                   owns a buried fiber optic cable line along the west side of the southbound I-405 on-  
20                   ramp from NE 124th Street. This is classified as a Category 1 Utility.
- 21           8)     PSE gas pipeline crossing I-405 at MP 21.91 (UI 643). This Utility is classified as  
22                   a Category 1 Utility.
- 23           9)     The following Utilities are located along Woodinville Drive (Brickyard) under I-  
24                   405 at MP 23.45:
- 25                   a)     PSE power line (UI 468) classified as a Category 1 Utility;
- 26                   b)     City of Bothell 8 inch concrete sanitary sewer line (UI 469) classified as a  
27                    Public Utility;
- 28                   c)     Frontier Communications' six 3.5-inch conduits encased in concrete (UI 470)  
29                    classified as a Category 1 Utility;
- 30                   d)     PSE underground power line (UI 472) classified as a Category 1 Utility;
- 31                   e)     PSE 4-inch gas main (UI 473) classified as a Category 1 Utility; and
- 32                   f)     Comcast buried cable (UI 480) classified as a Category 1 Utility.
- 33           10)    PSE underground power cable crossing I-405 at MP 24.8 (UI 634). This is  
34                   classified as a Category 1 Utility.

### 35           **Utilities for Protection In Place**

36           The following are seven vital Utilities that shall not be relocated or taken out of service.  
37           The Design-Builder shall design around these Utilities and provide either permanent  
38           Protection in Place or temporary Protection in Place:

- 39           1) and 2) Seattle Public Utilities (SPU) Tolt: One 60-inch concrete cylinder water  
40                   transmission main (UI 449) and two 60-inch SPU Tolt steel water transmission

1 mains (UI 450). SPU owns two 60-inch water transmission mains in the Tolt River  
2 Pipeline Corridor crossing I-405 at MP 22.50. The Design-Builder shall contour-  
3 grade the west side of I-405 so that the water main lines will not be subjected to  
4 additional loads in excess of existing soil loads over the pipes.

5 The Design-Builder shall work with SPU during the design and construction to  
6 assess dead and/or live loads that will/may occur over or within 25 feet of these  
7 water lines. The Design-Builder shall verify all applicable loading requirements  
8 relating to the water main lines with SPU.

9 No Work of any kind shall take place within 25 feet of the water main lines without  
10 prior approval of all applicable plans and specifications by SPU. The Design-  
11 Builder shall notify SPU a minimum of 11 Calendar Days prior to commencing  
12 construction within 25 feet of the water main lines.

13 The Design-Builder shall allow SPU access to the Project site to verify that all  
14 Work within 25 feet of the water main lines is performed in accordance with the  
15 SPU approved plans and specifications. If SPU determines that the Work is not  
16 being performed in compliance with the SPU approved plans and specifications,  
17 SPU will notify WSDOT. WSDOT reserves the right to stop the Work, pending  
18 compliance with the SPU approved plans and specifications.

19 The Design-Builder shall transmit the design submittals to SPU and to WSDOT for  
20 review and approval prior to commencing Work within 25 feet of the water main  
21 lines. For informational purposes only, SPU is expected to take up to 10 business  
22 days from receipt of each submittal to respond. The review time for submittals  
23 begins when SPU receives the submittal, and the review time ends when the  
24 Design-Builder receives a response. If SPU rejects a submittal, the Design-Builder  
25 shall revise and re-submit it. If SPU fails to complete a review within the 10  
26 business day review period, the Design-Builder shall not be eligible for an increase  
27 in the Contract Price or the Contract Time.

28 The Design-Builder shall submit an existing condition survey and narrative  
29 explaining the existing condition of the soils in the vicinity of the existing water  
30 lines. The Design-Builder shall pothole and locate the water mains.

31 The Design-Builder shall submit a Water Main Lines Protection Plan stamped by a  
32 Professional Engineer licensed under Title 18 RCW. The Plan shall include means  
33 and methods, equipment, materials, schematics, shoring and cribbing, construction  
34 sequence, temporary and permanent loading calculations, vibration and settlement  
35 monitoring and protection, and a Leak Response Plan.

36 Any I-405 improvements shall not impose any additional permanent load on SPU's  
37 pipelines. This may require protective slabs, casings, knockouts in wall  
38 foundations, and piles, to assume no pipeline loading. There shall be a minimum  
39 5-foot clear space all the way around both pipelines where no footings, piles, or any  
40 other type of improvements can be constructed, unless the pipeline is encased for  
41 10 feet on either side of the improvement in advance.

42 To facilitate future maintenance or repairs to the pipelines, any combination  
43 retaining/sound wall shall have permanently removable panels above each pipeline,  
44 with a minimum width of 10 feet, which can be removed without disturbing the rest  
45 of the retaining or sound wall.

1 Any improvements constructed over the pipelines must be approved by both SPU  
2 and WSDOT. If the Design-Builder elects not to contour grade the area over the  
3 SPU water main lines, a Construction Agreement between WSDOT and SPU will  
4 be required. It is anticipated that it will take no less than 90 days to complete such  
5 an agreement between the two parties. The Design-Builder will not be allowed a  
6 time extension for the time to develop and execute said agreement.

7 These Utilities are classified as Public Utilities.

- 8 3) and 4) COK 24-inch water main line (UI 308) and 8-inch water main line (UI 313):  
9 COK owns a 24-inch water main line that crosses I-405, and an 8-inch water main  
10 line along the west side of I-405 at approximate MP 16.84. The Design-Builder  
11 shall design the noise walls so that the two water main lines will not be subjected to  
12 live and dead load forces that exceed COK standards. The Design-Builder shall  
13 work with COK during design and construction to assess dead and/or live loads  
14 that will/may occur over or within 25 feet of the water main lines. The Design-  
15 Builder shall verify with COK all applicable loading requirements relating to the  
16 water main lines. The Design-Builder shall coordinate with COK to provide and  
17 design permanent Protection in Place for these water main lines.

18 No Work shall take place within 25 feet of the water main lines without prior  
19 approval of all applicable plans and specifications by COK. The Design-Builder  
20 shall notify COK a minimum of 11 Calendar Days prior to commencing  
21 construction within 25 feet of the water main lines.

22 The Design-Builder shall allow COK access to the Project site to verify that all  
23 Work within 25 feet of the water main lines is performed in accordance with the  
24 COK approved plans and specifications. If COK determines that the Work is not  
25 being performed in compliance with the COK approved plans and specifications,  
26 COK will notify WSDOT. WSDOT reserves the right to stop the Work, pending  
27 compliance with the COK approved plans and specifications.

28 The Design-Builder shall transmit the design submittals to COK and to WSDOT  
29 for review and approval prior to commencing Work within 25 feet of the water  
30 main lines. For informational purposes only, COK is expected to take up to 30  
31 Calendar Days from receipt of each submittal to respond. The review time for  
32 submittals begins when COK receives the submittal, and the review time ends  
33 when the Design-Builder receives a response. If COK rejects a submittal, the  
34 Design-Builder shall revise and resubmit it. If COK fails to complete a review  
35 within the 30 Calendar Day review period, the Design-Builder shall not be eligible  
36 for an increase in the Contract Price or the Contract Time.

- 37 5) Northshore Utility District (NUD) has a 12 inch AC sanitary sewer main within a  
38 24 inch steel casing crossing at MP 21.91 (UI 444). This sewer line runs from east  
39 and west and may be in conflict with the proposed noise wall. The Design-Builder  
40 shall design the noise walls so that the sewer will not be subjected to live and dead  
41 load forces that exceed NUD standards. The Design-Builder shall work with NUD  
42 during design and construction to assess dead and/or live loads that will or may  
43 occur over or within 25 feet of the sewer line. The Design-Builder shall verify with  
44 NUD all applicable loading requirements relating to the sewer line. The Design-  
45 Builder shall coordinate with NUD to provide and design permanent Protection in  
46 Place for this sewer line.

- 1           6)       City of Bothell has a 8 inch water main (UI 466) located along Woodinville Drive  
 2                    running east and west under I-405 at approximate MP 23.45. This water line may  
 3                    be in conflict with the proposed sediment trap vault outfall pipe. The Design-  
 4                    Builder shall design the outfall so that the water line will not be subjected to pipe  
 5                    deflections exceeding City of Bothell standards, and any live and dead load forces  
 6                    that exceed City of Bothell standards. The Design-BUILDER shall work with City of  
 7                    Bothell during design and construction to assess potential deflection of the pipe and  
 8                    dead and/or live loads that will or may occur over or within 25 feet of the water  
 9                    line. The Design-BUILDER shall verify with City of Bothell all applicable loading  
 10                   requirements relating to the water line. The Design-BUILDER shall coordinate with  
 11                   City of Bothell to provide and design permanent Protection in Place for this water  
 12                   line.
- 13           7)       City of Bothell has a 8 inch diameter sanitary sewer line crossing I-405 at  
 14                    approximate MP 24.53 that may be in conflict with the proposed noise wall on the  
 15                    west side of the highway. The Design-BUILDER shall design the noise wall so that  
 16                    the sewer will not be subjected to live and dead load forces that exceed City of  
 17                    Bothell standards. The Design-BUILDER shall work with City of Bothell during  
 18                    design and construction to assess dead and/or live loads that will or may occur over  
 19                    or within 25 feet of the sewer line. The Design-BUILDER shall verify with City of  
 20                    Bothell all applicable loading requirements relating to the sewer line. The Design-  
 21                    Builder shall coordinate with City of Bothell to provide and design permanent  
 22                    Protection in Place for this sewer line.

23                    These Utilities are classified as Public Utilities.

#### 24   **2.10.1.2     UTILITY CATEGORY**

25                    All Utilities are classified as Category 1, except as noted. The following are considered  
 26                    Public Utilities:

- 27                   •       City of Seattle – Seattle City Light and Seattle Public Utilities;
- 28                   •       City of Bellevue;
- 29                   •       City of Kirkland;
- 30                   •       City of Bothell;
- 31                   •       King County Wastewater;
- 32                   •       Alderwood Water and Wastewater;
- 33                   •       Northshore Utility District; and
- 34                   •       Snohomish County Public Utility District.

#### 35   **2.10.2     MANDATORY STANDARDS**

##### 36   **2.10.2.1     GENERAL**

37                    All Utility Work (whether performed by the Design-BUILDER or by the Utility Owner) shall  
 38                    comply with the Mandatory Standards, all applicable Governmental Rules, any applicable  
 39                    permits or franchises, the Utility Standards required by the applicable Utility, and any  
 40                    applicable Utility Standards provided in the RFP Appendices. The Design-BUILDER is  
 41                    responsible for obtaining Utility Standards from the Utility Owners, and for obtaining all  
 42                    other Mandatory Standards relating to the Utility Work.

1 The following is a list of publications that shall be used for all design and construction.  
 2 They are listed in hierarchical order, with the most important appearing at the top of the  
 3 list. If there is a conflict between or among any of the Mandatory Standards applicable to  
 4 Relocation, the most stringent standard shall prevail. This is not a comprehensive list;  
 5 other applicable publications may be required to complete the design and construction. If  
 6 the Design-Builder becomes aware of any ambiguities or conflicts relating in any way to  
 7 the Mandatory Standards, the Design-Builder shall notify WSDOT immediately before  
 8 proceeding with design and construction, so that WSDOT may resolve them.

- 9 • Utility Standards (applicable to the particular Utility Owner).
- 10 • Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety
- 11 Standards - 49 CFR 192.
- 12 • Special Provisions (Appendix B2).
- 13 • Amendments to the Standard Specifications (Appendix B1).
- 14 • Standard Specifications (M41-10) (Appendix D18).
- 15 • WSDOT *Utilities Manual* (M22-87) (Appendix D21).
- 16 • WSDOT *Utilities Accommodation Policy* (M22-86) (Appendix D20).
- 17 • WSDOT *Local Agency Guidelines* (M36-63) (LAG) (Appendix D8).
- 18 • Standard Plans (M21-01) (Appendix D17).
- 19 • Design-Builder's Proposal.

## 20 **2.10.3 PERFORMANCE REQUIREMENTS**

### 21 **2.10.3.1 REIMBURSEMENT OF AND COLLECTION FROM UTILITY OWNERS**

#### 22 **2.10.3.1.1 Reimbursement of Utility Owners - General**

23 The Design-Builder shall promptly deliver to WSDOT copies of all invoices received from  
 24 Utility Owners. If the Design-Builder fails to make any payment to a Utility Owner as  
 25 specified in Section 1-07.17 of the General Provisions or elsewhere in the Contract on or  
 26 before the deadline stated in the applicable Relocation Agreement (or if no deadline is  
 27 stated, within 30 Calendar Days after receipt of the Utility Owner's invoice), then WSDOT  
 28 will have the right to pay the Utility Owner the amount due (including any interest and/or  
 29 penalties). If WSDOT pays a Utility Owner, the Design-Builder shall reimburse WSDOT  
 30 for such payment within 14 Calendar Days after receipt of WSDOT's invoice; or WSDOT,  
 31 at its discretion, may deduct the amount of reimbursement due from the payment (or  
 32 payments, if necessary) next due to the Design-Builder under the Contract.

#### 33 **2.10.3.1.2 Collection from Utility Owners - General**

34 The Design-Builder shall promptly deliver to WSDOT copies of all invoices sent to Utility  
 35 Owners. If the Utility Owner fails to make any payment to the Design-Builder for  
 36 Relocation Costs consistent with the applicable franchise, permit, and Governmental Rules,  
 37 the Design-Builder shall notify WSDOT.

38 The Relocation Agreements shall be consistent with the applicable franchise permit and  
 39 Governmental Rules. These agreements shall address any Utility Relocation costs.

**1 2.10.3.2 MAINTENANCE AND CARE DURING CONSTRUCTION**

2 The Design-Builder shall carry out all Work affecting Utilities carefully and skillfully, and  
3 shall support, secure, and exercise care with respect to Utilities to avoid damaging them.

4 The Design-Builder shall ensure continuity of all existing Utility services to all users,  
5 except when a Utility Owner determines that temporary interruption is necessary and  
6 acceptable.

7 The Design-Builder shall not move or remove any Utility without the written consent of  
8 the Utility Owner, unless otherwise directed by WSDOT.

9 The Design-Builder shall comply with all Applicable Laws relating to grading or  
10 excavation in the area of underground Utilities. Before starting construction that may  
11 affect any Utility in a particular area (whether underground or overhead), the Design-  
12 Builder shall notify the affected Utility Owners in writing at least 30 Calendar Days prior  
13 to commencement of the Work. The Design-Builder shall contact the One-Call Locate  
14 Center (1-800-424-5555) prior to performing any excavation. The Design-Builder shall  
15 maintain all appropriate clearances from active power lines in accordance with WAC 296-  
16 155-428.

17 If any Utilities are damaged by the Design-Builder's activities, the Design-Builder shall  
18 immediately notify the affected Utility Owner, the One-Call Locate Center, and WSDOT.  
19 The Design-Builder shall pay for all costs associated with damage caused by the Design-  
20 Builder, including Utility down-time; all reconstruction; all remediation of hazards;  
21 litigation; loss of product; and Utility start-up and delay costs. At the Utility Owner's  
22 request, the Design-Builder shall repair the damage, or the Utility Owner may choose to  
23 repair the damage at the Design-Builder's expense. All repairs by the Design-Builder shall  
24 be performed to the reasonable satisfaction of the Utility Owner. The Design-Builder shall  
25 pay any reimbursement due to the Utility Owner because of any damage caused by the  
26 Design-Builder within 30 Calendar Days after receipt of the Utility Owner's invoice,  
27 unless otherwise provided in an applicable Relocation Agreement.

**28 2.10.3.3 GOVERNMENT APPROVALS AND OTHER PERMITS**

29 The Design-Builder shall obtain or ensure that the Utility Owner obtains all Governmental  
30 Approvals and any other clearances, permits, approvals, and agreements necessary for a  
31 Relocation; and shall verify that the same have been obtained prior to commencing or  
32 permitting the commencement of any construction. The Design-Builder shall verify that  
33 the Work performed (whether by the Design-Builder or by or on behalf of the Utility  
34 Owner) complies with the requirements of such Governmental Approvals and other  
35 clearances, permits, approvals, and agreements.

**36 2.10.3.4 ACCESS TO EXISTING UTILITIES**

37 Any authorized agent of WSDOT, a Utility Owner, or a Utility Owner's representative may  
38 enter the Right-of-Way to inspect, repair, maintain, rearrange, alter, or connect Utility  
39 facilities and equipment. The Design-Builder shall cooperate with such efforts and shall  
40 avoid creating delays or hindrances to the performance of such Work. If the Design-  
41 Builder determines, or a Utility Owner requests, that a Utility Owner must be on site to  
42 protect its facility, the Design-Builder shall provide at least seven Calendar Days advance  
43 notice to the Utility Owner.

44

**1 2.10.3.5 BMPs AND TEMPORARY EROSION AND SEDIMENTATION CONTROL**

2 Regardless of who performs or pays for any Relocation Work, the Design-Builder shall  
3 ensure that appropriate best management practices and temporary erosion and  
4 sedimentation control measures are followed in the performance of Utility Work. Refer to  
5 Section 2.8 for best management practices and temporary erosion and sedimentation  
6 control requirements.

**7 2.10.4 RELOCATION AGREEMENTS, FRANCHISES, AND PERMITS****8 2.10.4.1 RELOCATION AGREEMENTS****9 2.10.4.1.1 Requirements**

10 Each Relocation (other than Relocations subject to a Prior Relocation Agreement or an  
11 Intergovernmental Agreement, and any Protections in Place) shall be addressed in a  
12 Relocation Agreement entered into between the Design-Builder and the Utility Owner as  
13 required by Section 1-07.17 of the General Provisions. The Design-Builder shall prepare  
14 and negotiate each Relocation Agreement including such exhibits as may be appropriate,  
15 and shall prepare and provide all Project information (e.g., reports, plans and surveys)  
16 necessary to negotiate the Relocation Agreement. For each Relocation, the Design-Builder  
17 shall initiate contact with the Utility Owner at the earliest possible time in order to begin  
18 working with the Utility Owner to develop a Relocation Agreement and a Relocation Plan  
19 that meet the Project design and schedule.

20 The Design-Builder shall refer to Chapter 2 of the WSDOT *Utilities Manual*  
21 (Appendix D21) for guidance in preparing Relocation Agreements. At a minimum, each  
22 Relocation Agreement shall set forth the specific details of the Work, which typically  
23 include the following:

- 24 • The nature and location of relocated facilities;
- 25 • Allocation of responsibility for design, construction, and other relocation tasks;
- 26 • Applicable standards;
- 27 • Cost responsibility, cost estimates, and eligibility of costs for reimbursement, if  
28 applicable;
- 29 • Reimbursement procedures, where appropriate;
- 30 • Schedules;
- 31 • Joint use issue resolution; and
- 32 • Procedures for design review and approval including inspection of construction,  
33 acceptance of the Relocation Work, and such other provisions as may be  
34 appropriate or reasonably required by WSDOT.

35 Cost Responsibility for each Relocation shall be determined in accordance with Section 1-  
36 07.17 of the General Provisions, unless otherwise directed by WSDOT. Each Relocation  
37 Agreement shall designate WSDOT as a third-party beneficiary. Schedules for completion  
38 of the tasks specified in each Relocation Agreement shall conform to the Contract  
39 Schedule, which shall provide reasonable and adequate time for each task.

40 The Design-Builder shall provide WSDOT with the opportunity to participate in  
41 negotiations of Relocation Agreements in accordance with Section 1-07.17 of the General

1 Provisions. Accordingly, the Design-Builder shall give WSDOT at least seven Calendar  
 2 Days advance notice of negotiation sessions. The Design-Builder shall submit draft  
 3 minutes of each negotiation session to WSDOT within seven Calendar Days after the  
 4 session, and final minutes incorporating any WSDOT comments within seven Calendar  
 5 Days after WSDOT provides its concurrence.

6 No material modifications to the Relocation Work or terms of a fully-executed Relocation  
 7 Agreement shall be made without processing a revision to the Relocation Agreement using  
 8 the procedures described above.

#### 9 **2.10.4.1.2 Process for WSDOT Review**

##### 10 **2.10.4.1.2.1 Draft Relocation Agreement**

11 The Design-Builder shall submit a draft of each Relocation Agreement and exhibits to  
 12 WSDOT for Review and Comment. The submittal shall also include the most current copy  
 13 of the sections of the Design Documents that identify the Utility facilities being affected by  
 14 the Project. WSDOT will review and deliver its comments within 14 Calendar Days from  
 15 receipt of the draft document. WSDOT's failure to respond within this time frame does  
 16 not constitute an approval of the terms or form of the submittal. The Design-Builder shall  
 17 incorporate all WSDOT comments into the Draft Relocation Agreement, and obtain  
 18 WSDOT approval prior to submitting it to the Utility Owner. The Design-Builder shall  
 19 deliver each Draft Relocation Agreement concurrently to WSDOT and the Utility.

##### 20 **2.10.4.1.2.2 Final Relocation Agreement**

21 The Final Relocation Agreement shall be submitted to WSDOT for review at least 20  
 22 Calendar Days prior to the date scheduled for its full execution. A Relocation Agreement  
 23 shall be considered final and ready for execution when all of its provisions have been  
 24 reviewed and approved by WSDOT through the review process described above.

#### 25 **2.10.4.2 NEW FRANCHISES AND PERMITS**

26 A permit or franchise is required for any Utility Work within Right-of-Way in which the  
 27 Utility Owner has not established a property right. The Utility Owner shall prepare an  
 28 application for a new franchise or permit simultaneously with preparation of the Relocation  
 29 Agreement or design of modifications necessary for Protection in Place. The Design-  
 30 Builder shall ensure that the Utility Owner submits an application for a new franchise or  
 31 permit to WSDOT as far in advance of construction as possible, but in any event not later  
 32 than 30 Calendar Days prior to construction. The application and Relocation Agreement  
 33 shall be revised as necessary to obtain a franchise or permit from WSDOT.

34 The Design-Builder shall ensure that a new franchise or permit has been issued by  
 35 WSDOT prior to beginning construction of any Relocation or Protection in Place. A new  
 36 franchise or permit is not required for the abandonment or removal of an existing Utility  
 37 from within the Right-of-Way. The Design-Builder shall notify WSDOT of any  
 38 abandoned Utility, noting the permit number and how it was abandoned. A list of existing  
 39 Franchise/Permit Utilities is provided in the Utility Information (Appendix U2).

#### 40 **2.10.4.3 ASSIGNMENT/DELEGATION OF UTILITY PERMIT/FRANCHISE RIGHTS AND** 41 **OBLIGATIONS**

42 For each Franchise/Permit Utility determined by the Design-Builder as requiring  
 43 Relocation, the Design-Builder shall prepare an "Assignment/Delegation of Utility

1 Permit/Franchise Rights and Obligations” document in a form substantially similar to  
2 Appendix U1. The Design-Builder shall submit the completed document to WSDOT for  
3 approval and execution. The Design-Builder may begin working with a Utility Owner  
4 prior to execution of the document by WSDOT, provided that the document shall be  
5 submitted to WSDOT no later than the Design-Builder’s submittal of the first draft of a  
6 Relocation Agreement.

7 If the Design-Builder determines that it will be unable to successfully negotiate a  
8 reasonable Relocation Agreement with the Utility Owner for a particular Franchise/Permit  
9 Utility, the Design-Builder shall notify the Utility Owner and WSDOT of such  
10 determination. The Design-Builder may, in addition to requesting assistance from  
11 WSDOT in accordance with Section 1-07.17 of the General Provisions, exercise the rights  
12 that have been assigned to it pursuant to the applicable assignment/delegation document,  
13 provided, however, that WSDOT makes no representation or warranty as to the Design-  
14 Builder’s ability under the assignment/delegation document to enforce those rights in a  
15 manner that satisfies the Design-Builder’s Project requirements, or at all.

## 16 **2.10.5 IDENTIFICATION OF UTILITIES**

### 17 **2.10.5.1 INFORMATION SUPPLIED BY WSDOT**

18 As specified in Section 1-07.17 of the General Provisions, WSDOT has performed certain  
19 investigations of existing Utilities located within the Right-of-Way. These investigations  
20 were preliminary, and their results may be inaccurate and/or incomplete. The Utility  
21 Information is provided in Appendices U1 through U9. The Design-Builder is advised of  
22 the following:

- 23 • WSDOT’s investigations may have included making requests for “as-builts” from  
24 Utility Owners listed in the WSDOT database as having Franchise/Permit Utilities  
25 located within the Right-of-Way; visually locating above-ground Utility objects,  
26 including, but not limited to, poles, cabinets, vents, visible manholes, valve boxes,  
27 and vault covers; and surveying above ground objects.
- 28 • WSDOT has not identified Service Lines for the Project.
- 29 • The information shall not be utilized for determining Utility locations.

30 Refer to Section 1-07.17 of the General Provisions for the limited circumstances in which  
31 the Design-Builder may be entitled to an extension of the Contract Time or an increase in  
32 the Contract Price because of delays and/or increased costs of the Work that are directly  
33 attributable to the correction of inaccurate Utility Information. Unless specified otherwise,  
34 the Design-Builder’s reliance on any Utility Information is at the Design-Builder’s sole  
35 risk.

### 36 **2.10.5.2 UTILITY EASEMENTS**

37 All Utility Easements (existing and proposed) within the Project limits shall be identified  
38 or described by the Design-Builder in the Final Design Documents. All new Utility  
39 Easements within the Right-of-Way are subject to prior Review and Comment by  
40 WSDOT.

#### 41 **2.10.5.2.1 Project Utility Easements**

42 WSDOT investigations have identified two Utilities that have easement rights within the  
43 Project limits.

**1 2.10.5.2.2 New Utility Easements**

2 The Design-Builder is advised that WSDOT does not obtain easements for Utilities outside  
3 of the Right-of-Way. Utility Owners are entitled to reimbursement of their costs for  
4 acquiring such easements only if WSDOT determines that they held a pre-existing property  
5 right entitling them to such reimbursement.

**6 2.10.5.3 DESIGN-BUILDER'S INVESTIGATIONS**

7 The Design-Builder shall be solely responsible for verifying, at its expense, the exact  
8 horizontal and vertical location, size, type, and all other relevant characteristics of all  
9 Utilities located within the Right-of-Way or otherwise potentially impacted by the Project  
10 (including any Utilities located on private property), whether or not such Utilities are  
11 shown in the Utility Information. Such actions shall include making diligent inquiry at the  
12 offices of the Utility Owners, consulting public records, and conducting field studies, as  
13 appropriate. The Design-Builder shall consider the possibility that the Utility Information  
14 and the information provided by Utility Owners may be inaccurate and incomplete.

15 Refer to Section 1-07.17 of the General Provisions for the Design-Builder's obligations  
16 upon determining that any Major Underground Utility was not identified in the Utility  
17 Information with Reasonable Accuracy, or identifying any other Utilities not described in  
18 the Utility Information.

**19 2.10.5.4 UTILITY MANAGEMENT PLAN**

20 The Design-Builder shall maintain a Utility Management Plan in tabular form, in both  
21 electronic and hard copy formats, which shall list each existing and proposed Utility  
22 located within the Right-of-Way or otherwise potentially impacted by the Project. At a  
23 minimum, the Utility Management Plan shall include the following information for each  
24 listed Utility:

- 25 • The name of the Utility Owner;
- 26 • A brief description of the Utility by size and type;
- 27 • The location of the Utility;
- 28 • The proposed disposition (e.g., Relocation, Protection in Place) for the Utility;
- 29 • The determination as to whether the Utility is a Category 1 Utility or a Category 2  
30 Utility, based on information provided by WSDOT;
- 31 • The nature of the Utility Owner's right of occupancy of the Right-of-Way for such  
32 Utility (e.g., franchise, permit, easement), based upon information provided by  
33 WSDOT and the Utility;
- 34 • The status of the applicable Relocation Agreement;
- 35 • The status of Utility design and construction activities; and
- 36 • Such additional information as WSDOT shall reasonably request.

37 The Design-Builder shall update the Utility Management Plan to reflect revisions to Utility  
38 Information and status as new information is received.

**1 2.10.6 SCHEDULING, COORDINATION, AND CORRESPONDENCE****2 2.10.6.1 SCHEDULING**

3 The Contract Schedule shall identify all Utility Work and allow sufficient time for  
4 completion of all such Work.

**5 2.10.6.2 COORDINATION RESPONSIBILITIES**

6 The Design-Builder shall be responsible for coordination with all Utility Owners with  
7 Utilities located within the Project limits. Such responsibilities shall include obtaining  
8 information from and providing information to the Utility Owners; notifying Utility  
9 Owners that Utilities affected will require relocation; coordination and scheduling of  
10 design review, inspections, approvals, and acceptances; and coordination and scheduling of  
11 construction Work. The Design-Builder is responsible for monitoring the progress of  
12 Work by Utility Owners, and for resolving any scheduling difficulties with them.

13 The Design-Builder shall keep Utility Owners informed of the Design-Builder's  
14 construction schedules, and of changes which affect their Utilities. The Design-Builder  
15 shall also provide Utility Owners with sufficient time to notify their customers of any  
16 potential impacts to service.

17 The Design-Builder shall cooperate with the Utility Owners to the extent that such  
18 cooperation is consistent with the Design-Builder's obligations pursuant to the Contract  
19 and the scope of Work. The Design-Builder shall act diligently in maintaining a positive  
20 relationship with the Utility Owners.

**21 2.10.6.3 NOTICES AND CORRESPONDENCE BETWEEN THE DESIGN-BUILDER AND  
22 UTILITY OWNERS**

23 All notices to Utility Owners from the Design-Builder shall be in writing unless otherwise  
24 specified. The Design-Builder shall deliver to WSDOT copies of all correspondence  
25 between the Design-Builder and the Utility Owner within seven Calendar Days of receipt  
26 or sending, as applicable.

**27 2.10.6.4 MEETINGS WITH UTILITY OWNERS**

28 The Design-Builder shall implement a schedule of periodic coordination meetings with  
29 each Utility Owner affected by the Work. Such meetings shall commence as early as  
30 possible in the Project design process and shall continue until Completion of the Project (or  
31 Completion of the Utility Owner's Relocations, if earlier). Such meetings shall include a  
32 preliminary design meeting for the Design-Builder and Utility Owners affected to meet and  
33 familiarize themselves with design elements, Utility facilities, and general features of the  
34 Project. Thereafter, the frequency of meetings between the Design-Builder and each  
35 Utility Owner affected shall be appropriate to the matters under discussion. The Design-  
36 Builder shall notify WSDOT at least seven Calendar Days in advance of each meeting, and  
37 shall allow WSDOT the opportunity to participate in each meeting.

**38 2.10.6.5 MEETINGS BETWEEN WSDOT AND THE DESIGN-BUILDER**

39 Both WSDOT and Design-Builder representatives shall be available to meet as necessary  
40 at the request of either party to discuss and resolve matters relating to Utility Work. The  
41 Design-Builder shall schedule such meetings at the reasonable convenience of WSDOT's  
42 representatives.

**1 2.10.6.6 MEETING MINUTES**

2 The Design-Builder shall record and maintain minutes of all meetings with Utility Owners  
3 and/or WSDOT with respect to Relocation and Utility Work. The Design-Builder shall  
4 deliver copies of these meeting minutes to the meeting attendees and make available to  
5 WSDOT within seven Calendar Days after each meeting.

**6 2.10.6.7 CONTACT INFORMATION**

7 Utility Owners with Utilities potentially affected by the Project are listed in Appendix U3.  
8 The information provided for those Utility Owners includes contact names and mailing  
9 addresses. The contact information is current as of the date of issuance of this RFP. The  
10 Design-Builder shall be responsible for verifying the accuracy of the contact information  
11 and maintaining current contacts for all Utilities affected by the Project, whether or not  
12 such Utility Owners are listed in Appendix U3.

**13 2.10.7 DESIGN REQUIREMENTS****14 2.10.7.1 GENERAL DESIGN CRITERIA**

15 The Design-Builder shall be responsible for verifying that all design plans for Relocation  
16 Work, whether furnished by the Design-Builder or by the Utility Owner, are consistent and  
17 compatible with the following:

- 18 • The requirements specified in this Section;
- 19 • The requirements of the applicable Relocation Agreements and Intergovernmental  
20 Agreements;
- 21 • The Design-Builder's design and construction of the Project;
- 22 • Any other Utilities being installed in the same vicinity;
- 23 • Other WSDOT projects; and
- 24 • The terms and conditions of all applicable new and/or amended permits and  
25 franchises.

26 The Design-Builder shall confirm that all Relocations to be installed within a limited  
27 access Right-of-Way meet WSDOT's requirements as set forth in the Policy on  
28 Accommodation of Utilities on Highway Rights of Way (Chapter 468-34 WAC).

**29 2.10.7.2 RELOCATION DESIGN FURNISHED BY THE DESIGN-BUILDER**

30 Where the Design-Builder and the Utility Owner have agreed that the Design-Builder shall  
31 furnish the Relocation design, the Design-Builder shall submit its design to WSDOT and  
32 the Utility Owner for Review and Comment. The Design-Builder shall coordinate any  
33 necessary modifications and re-submittals with WSDOT and the Utility Owner, and obtain  
34 written approval from the Utility Owner prior to commencing construction of the  
35 Relocation. All subsequent changes to Relocation designs shall be subject to the same  
36 Review, Comment, and written approval process.

37 The Design-Builder is advised that Category 2 Utility Owners are generally entitled to  
38 reimbursement of their design review costs as Relocation Costs.

39

**1 2.10.7.3 RELOCATION DESIGN FURNISHED BY THE UTILITY OWNER**

2 The Design-Builder shall coordinate the delivery of each Relocation design to be furnished  
3 by the Utility Owner pursuant to the applicable Relocation Agreement. The Design-  
4 Builder shall review each design for compliance with the specifications, and shall provide  
5 comments to the Utility Owner as appropriate. The Design-Builder shall submit the  
6 Relocation design to WSDOT for Review and Comment; transmit WSDOT comments to  
7 the Utility Owner; and coordinate modification and re-submittal as necessary.

**8 2.10.8 CONSTRUCTION REQUIREMENTS****9 2.10.8.1 GENERAL CONSTRUCTION CRITERIA**

10 The Design-Builder shall be responsible for verifying that all construction of Relocation  
11 Work, whether performed by the Design-Builder or by the Utility Owner, complies with  
12 the following:

- 13 • The requirements specified in this Section;
- 14 • The requirements of the applicable Relocation Agreements;
- 15 • The Released for Construction Documents;
- 16 • The Design-Builder's design and construction of the Project;
- 17 • Any other Utilities being installed in the same vicinity; and
- 18 • The terms and conditions of all applicable new and/or amended permits and  
19 franchises.

20 The Design-Builder shall cooperate with the Utility Owner to obtain all necessary permits,  
21 and assure that Utility Owners meet all Project safety and environmental requirements.

**22 2.10.8.2 SPECIAL QUALIFICATIONS**

23 For any Relocations for which the Design-Builder is assigned responsibility for  
24 construction as specified in this Section and in Section 1-07.17 of the General Provisions,  
25 and for which special qualifications are required by the Utility Owner to perform such  
26 construction, the Design-Builder shall utilize (or cause its subcontractors to utilize)  
27 qualified personnel acceptable to the Utility Owner to perform such Relocation Work.

**28 2.10.8.3 INSPECTION**

29 The Design-Builder shall perform all inspection, sampling, and testing of the Utility  
30 Owner's and the Design-Builder's Relocation Work necessary to comply with its  
31 obligations under the Contract, Relocation Agreements, and the Quality Management Plan.  
32 The Design-Builder shall immediately notify WSDOT and the Utility Owners regarding  
33 any noncompliance.

34 Each Utility Owner shall have the right to inspect construction performed on its Utilities by  
35 the Design-Builder. The Design-Builder shall not refuse the inspection requests, and shall  
36 coordinate a mutually agreeable schedule and scope with the Utility Owner for the  
37 inspections. The Design-Builder shall inform the Utility Owner in writing, prior to  
38 commencing any Work, so that the Utility Owner may report such deficiencies to the  
39 Design-Builder's Construction Quality Assurance Manager for resolution.

1 The Design-Builder shall obtain the Utility Owner's written acceptance of each Utility for  
2 which the Design-Builder performs construction Relocation Work, promptly upon  
3 completion of the Work. The Design-Builder shall submit the original document of each  
4 written acceptance to WSDOT.

#### 5 **2.10.8.4 ABANDONMENT AND REMOVAL**

6 The Design-Builder shall remove any permanently out of service Utility facility from the  
7 Right-of-Way unless WSDOT approves abandonment of the facility in place.  
8 Abandonment in place shall mean allowing elements of the Utility facility to remain in the  
9 Right-of-Way following flushing, capping, grouting, and other Work required to meet  
10 Utility Standards and/or Applicable Law (whichever is more stringent).

11 The Design-Builder shall be responsible for all Work associated with the removal and  
12 disposal of permanently out of service Utility facilities. If WSDOT approves abandonment  
13 in place of a Utility, the Design-Builder shall make all arrangements and perform all Work  
14 necessary for any proposed abandonment including design, construction, and consent from  
15 Utility Owners and landowners. The Design-Builder shall also obtain any necessary  
16 Governmental Approvals and WSDOT approvals and/or permits, or the Design-Builder  
17 shall confirm that the Utility Owner has performed the same.

18 The Design-Builder is advised that certain Utilities may be composed of asbestos-coated  
19 pipe. The Design-Builder shall design the Project to avoid affecting asbestos-coated pipe  
20 where feasible, and shall take all other appropriate action to minimize conflicts with such  
21 Utility facilities. Any removal of such pipe shall be performed in compliance with all  
22 applicable Governmental Rules and Environmental Laws.

23 Any Utility abandoned outside of the Right-of-Way shall be abandoned in accordance with  
24 the Utility Owner's Utility Standards and the standards of the local agency with jurisdiction  
25 over the affected Utilities.

26 The Design-Builder shall notify WSDOT in writing of any Utilities that will be abandoned  
27 or removed.

#### 28 **2.10.8.5 PROTECTION IN PLACE**

29 The Design-Builder shall be responsible for Protecting in Place (or causing to be Protected  
30 in Place by the Utility Owners) all Utilities impacted by the Project (including any Utilities  
31 remaining in place, any Utilities installed during the course of the Work, and any Prior  
32 Relocations), as necessary to ensure their continued safe operation and structural integrity,  
33 in accordance with the requirements of this Section. WSDOT's prior written approval  
34 shall be required for any Utilities proposed to remain in their existing locations other than  
35 Prior Relocations.

36 Protection in Place may be permanent or temporary, depending upon the types of measures  
37 that are necessary to satisfy the specific requirements of a particular Utility.

38 If the Design-Builder incurs a cost to implement a design to avoid or to provide permanent  
39 protection of a Category # 1 Utility, the cost associated with such modification shall be  
40 recovered directly from the Utility Owner. The cost for such modifications shall not be  
41 included in the lump sum bid cost for the Contract or as a basis for any change order.

#### 42 **2.10.8.5.1 Fire Protection**

43 The Design-Builder shall replace in kind any fire hydrants that are impacted by  
44 construction of the Project.

1     **2.10.8.6     PRIOR RELOCATIONS**

2             Prior Relocations shall not be relocated again during the Contract. Following the initial  
3             Relocation by the Utility Owner, the Design-Builder shall design the Work so that these  
4             Utilities are not in conflict with the Work.

5     **2.10.8.7     MAINTENANCE OF SERVICE**

6             All Utilities shall remain operational during all phases of construction, except as  
7             specifically allowed and approved in writing by the Utility Owner. The Design-Builder  
8             shall obtain the Utility Owner's approval in writing prior to any temporary diversion or  
9             interruption of service of affected Utility facilities.

10    **2.10.8.8     MAINTENANCE OF TRAFFIC**

11            The Design-Builder shall be responsible for all traffic control to ensure safe and efficient  
12            traffic flow during the Utility Work. Refer to Section 2.22 for Maintenance of Traffic  
13            requirements.

14    **2.10.8.9     STREET RESTORATION**

15            The Design-Builder shall ensure that resurfacing, restoration, and re-striping of all streets,  
16            roadside features, or other affected areas are constructed in compliance with the standards  
17            of the local agency with jurisdiction over the affected facilities.

18    **2.10.8.10    ENVIRONMENTAL COMPLIANCE PERTAINING TO UTILITY WORK**

19            The Design-Builder shall comply with all applicable Environmental Laws in performance  
20            of Utility Work. Refer to Section 2.8 for environmental requirements.

21    **2.10.8.11    MAINTENANCE OF RECORDS**

22    **2.10.8.11.1    Construction and Inspection Records**

23            The Design-Builder shall maintain construction and inspection records in order to ascertain  
24            that the Work proposed in a Relocation Agreement is accomplished in accordance with the  
25            approved plans and the requirements of the Contract.

26    **2.10.8.11.2    Utility As-Built Plans**

27            Upon Physical Completion of the Project (or upon completion of the Utility Relocations, if  
28            earlier), the Design-Builder shall deliver to WSDOT a complete set of Utility As-Built  
29            Plans and design files that incorporate all changes and details of the Relocation Work. All  
30            As-Built Plans shall be of a quality and format acceptable to WSDOT, showing the  
31            location of all Utilities within the Right-of-Way and any Utilities located outside of the  
32            Right-of-Way that were part of the Relocation Work.

33            Refer to Section 2.12 for final project documentation requirements.

34

35

End of Section



Washington State  
Department of Transportation

# UTILITY FRANCHISE

FRANCHISE NO. 10109

DISTRICT NO. 1

Name and Address of Applicant:

City of Kirkland  
123 Fifth Avenue  
Kirkland, WA 98033

The Applicant, hereinafter referred to as the "Utility", having applied for a franchise to construct, operate and maintain an 8 inch ductile iron water main on a portion of State Route No. 405 in King County, Washington, the Washington State Department of Transportation or its designee, hereinafter referred to as the "Department", hereby orders that this franchise be granted for a period to expire **NOV 13 2015** subject to the terms and provisions stated upon the reverse hereof and Exhibits attached hereto and by this reference made a part hereof:

Exhibit "A". Special Provisions for Permits and Franchises, Pages 1-5

EXHIBIT "B". Right-of-way plans entitled, "SR 405, Northrup Interchange to NE 140th St.", page 1

A facility entering the right of way at a point east of the centerline of SR 405 opposite approximate Milepost 16.85; thence northerly to a point opposite approximate Milepost 16.97 and leaving the right of way all located in the SE 1/4 of the SE 1/4 of Section 17, Township 25 North, Range 5 East, W.M., more specifically described in Exhibit "B":

Construction of facilities proposed under this franchise shall begin not later than 2 years, and completed within 3 years, from date of issuance, otherwise this franchise shall become considered null and void.

DEPARTMENT OF TRANSPORTATION

By: E. R. Burch

Title: STATE DESIGN ENGINEER

Date: November 13, 1990

## GENERAL PROVISIONS

1. This franchise is subject to Chapter 47.44 RCW and Chapter 468-34 WAC and amendments thereto.
2. Whenever necessary for the construction, repair, improvement, alteration or relocation of all or any portion of said highway as determined by the Department, or in the event that the lands upon which said highway is presently located shall become a new highway or part of a limited access highway, or if the Department shall determine that the removal of any or all facilities from the said lands is necessary, incidental, or convenient to the construction, repair, improvement, alteration or relocation of any public road or street, this franchise may be cancelled (in whole or in part) upon notice by the Department, and any or all of such facilities shall be relocated or removed from said highway as may be required by the Department.
3. Upon failure, neglect or refusal of the Utility to immediately do and perform any change, removal, relaying or relocating of any facilities, or any repairs or reconstruction of said highway herein required of the Utility, the Department may undertake and perform such requirement and the cost and expense thereof shall be immediately repaid to the Department by the Utility.
4. The Utility, its successors and assigns, agrees to protect the State of Washington and save it harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the performance of any such work, character of materials used or manner of installation, maintenance and operation, or by the occupancy of right of way by the Utility; in case any suit or action is brought against the Department for damages arising out of or by reason of any of the above causes, the petitioner, its successors or assigns will, upon notice of commencement of such action, defend the same at its sole cost and expense and satisfy any judgment arising therefrom if determined adverse to the State of Washington.
5. Any breach of any of the conditions and requirements herein made, or failure on the part of the Utility of this franchise to proceed with due diligence and in good faith after its acceptance, with construction work hereunder, shall subject this franchise to cancellation after a hearing before the Department, of which said hearing the Utility shall be given at least ten days written notice, if at that time the Utility is a resident or is doing business in the State of Washington; otherwise, by publishing a notice of said hearing once a week for two consecutive weeks in a newspaper of general circulation in Thurston County, Washington, the last publication to be at least ten days before the date fixed for said hearing.
6. Whenever it is deemed necessary for the benefit and safety of the traveling public, the Department hereby reserves the right to attach and maintain upon any facility by the Utility under this franchise any required traffic control devices, such as traffic signals, luminaries and overhead suspended signs, when the use of such devices or attachments does not interfere with the use for which the facility was constructed. The Department shall bear the cost of attachment and maintenance of such traffic control devices, including the reasonable cost of any extra construction beyond normal; such extra cost to be determined jointly by the Department and the Utility of this franchise. It is not to be construed that the Department is to share in the normal cost of installation, operation or maintenance of any of the facilities installed under this franchise.
7. No assignment or transfer of this franchise in any manner whatsoever shall be valid nor vest any rights hereby granted until the Department consents thereto and the assignee accepts all terms of this franchise. Attempting to assign this franchise without Department consent shall be cause for cancellation as herein provided.
8. The Utility shall within twenty days from receipt of a copy of this order, file with the Department at Olympia its written acceptance of the terms and conditions of this franchise.
9. If the Utility enters into a contract or agreement with a contractor to perform the work provided herein to be performed by the Utility, the Utility for itself, its assigns and its successors in interest, agrees that it will not discriminate on the basis of race, color, sex, or national origin in its choice of contractors and will include all of the nondiscrimination provisions set forth in Appendix "A" from Title VI of the Civil Rights Act of 1964 and Section 162(a) of the Federal Aid Act of 1973 (23 U.S.C. 324), and as said Regulations may be amended. Breach of any of the above nondiscrimination covenants shall be cause for cancellation as herein provided.
10. The Utility pledges that performance of routine cutting and trimming work will be accomplished in such a manner that the roadside appearance will not be disfigured. When major work is involved, or damage to roadside appearance may become significant, the holder shall secure the approval of the Department in advance of the work.



Washington State  
Department of Transportation

## SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES

~~PERMIT~~/Franchise No. 10109

Applicable provisions are denoted by (X)

1. No work provided for herein shall be performed until the Utility is granted authorization by the Department's representative:  
Name: **Send correspondence to:**  
Title: **District Utilities Engineer**  
Address: **15325 S.E. 30th Place, Bellevue, WA 98007**  
Telephone No. **For preconstruction conference call: Mr. Phil George**  
**455-7114 (Northrup)**
2. A copy of the permit or franchise must be on the job site, and protected from the elements, at all times during any of the construction authorized by said permit or franchise within the Department's right-of-way.
3. In the event any milepost, right-of-way marker, fence or guard rail is located within the limits of this project and will be disturbed during construction, these items will be carefully removed prior to construction and reset or replaced at the conclusion of construction to the satisfaction of the Department. All signs and traffic control devices must be maintained in operation during construction.
4. Prior to construction, the Utility shall contact the Department's representative (listed under Special Provision Number 1) to ascertain the location of survey control monuments within the project limits. In the event any monuments will be altered, damaged or destroyed by the project, appropriate action will be taken by the Department, prior to construction, to reference or reset the monuments. Any monuments altered, damaged or destroyed by the Utility's operation will be reset or replaced by the Department at the sole expense of the Utility.
5. In the construction and/or maintenance of this facility, the Utility shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways. If determined necessary by the Department, the Utility shall submit a signing and traffic control plan to the Department's representative for approval prior to construction or maintenance operations.
6. The Utility shall notify the Department's representative upon completion of the work under this permit or franchise so that a final inspection can be made and shall immediately furnish to the District Utilities Engineer a revised franchise or permit plan of the final location or relocation of its facilities if the original franchise or permit plans have been revised during the course of construction.
7. Prior to the beginning of construction, a preconstruction conference shall be held at which the Department and the Utility and his engineer, contractor, and inspector shall be present.
8. Should the Utility choose to perform the work outlined herein with other than its own forces, a representative of the Utility shall be present at all times while the construction is in progress unless otherwise agreed to by the Department. All contact between the Department and the Utility's contractor shall be through the representative of the Utility. Where the Utility chooses to perform the work with its own forces, it may elect to appoint one of its employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Utility within the right-of-way, until said requirement is met.
9. The Utility agrees to schedule the work herein referred to and perform said work in such a manner as not to delay the Department's contractor in the performance of his contract.
10. The Utility agrees that when placing its facility within any portions of the roadbed, the trench shall be backfilled in horizontal layers not to exceed 6 inches in loose thickness, except that the layers of the top 2 feet from profile grade shall not exceed 4 inches in loose thickness. Each layer of the entire backfill shall be compacted to not less than 95 percent of the maximum density as determined by compaction control tests. The moisture content of the backfill material at the time of compaction shall be as specified by the Department. In no case will "water settling" be allowed.
11. Work shall be restricted to the hours between \_\_\_\_\_ and no work shall be allowed on the right-of-way Saturdays, Sundays or Holidays unless otherwise authorized by the Department.
12. If determined necessary by the Department, any or all of the excavated material shall be removed and replaced with suitable material as specified by the Department.
13. Wherever deemed necessary by the Department of Labor and Industries and/or the Department of Transportation, for the safety of the workers and the protection of the highway pavement, the sides of the trench (or excavation) shall be adequately supported to reduce the hazard to workers and prevent any damage by cracks, settlement, etc. to the pavement. No other work in the trench or excavation area will be allowed until this requirement is met.
14. Trenches shall be backfilled as soon as possible behind the laying of pipe or cable. No open trenches shall be left overnight. This includes boring or jacking pits which shall be covered with lumber or other material of sufficient strength to withstand the load of highway traffic if the pit is not to be backfilled with material each night.
15. All slopes, slope treatment, top soil, ditches, pipes, etc., disturbed by this operation shall be restored to their original cross section and condition. All open trenches shall be marked by warning signs, barricades, lights and if necessary, flagmen shall be employed for the purpose of protecting the traveling public. Roadside operations shall be specified by the Department's representative.
16. Where applicable, markers shall be placed at each right-of-way line for all crossings and placed every 500 feet for longitudinal lines to include: company name, pipeline or cable identification, telephone number for contact, and the distance from the marker to the line in feet. Markers shall be placed so as to minimize interference with maintenance operations. Markers shall also be placed at all changes in offset distance from right-of-way line or centerline of highway.

- 17. In the event that construction and maintenance of the highway facility within the proximity of the utility installation becomes necessary during the period which the Utility will occupy a portion of the right-of-way, it is expressly understood that, upon request from the Department's representative, the Utility will promptly identify and locate by suitable field markings any and all of their underground facilities so that the Department or its contractor can be fully apprised at all times of its precise location.
- 18. The shoulders, where disturbed shall be surfaced with crushed surfacing top course \_\_\_\_\_ inches minimum compacted depth, or as directed by the Department's representative. The surface of the finished shoulder shall slope down from the edge of pavement at the rate of 0.02 foot per foot unless otherwise directed. The restored shoulder must not have any strips or sections less than 2 feet wide. The restored shoulder shall be surfaced with \_\_\_\_\_
- 19. All crossings of road intersections surfaced with oil, asphalt concrete pavement or cement concrete pavement shall be accomplished by jacking, boring, or augering the cable or pipe under the roadway, unless specifically provided for otherwise under special provision no. 21.
- 20. The cable or pipe shall be placed within a suitable encasement as specified on the attached exhibits. Said encasement pipe shall be jacked, bored, or augered through the highway grade with a minimum depth of 5 feet from top of casing to finished road grade and a minimum of 3½ feet of depth from bottom of ditch to top of casing.
- 21. Open trench construction will be allowed only at those locations identified on the plan exhibits and/or listed on Exhibit(s) \_\_\_\_\_, with restoration to be performed as noted on the attached "Open Cut Detail," Exhibit \_\_\_\_\_
- 22. No routine maintenance of this facility will be allowed within the limited access area.
- 23. Routine maintenance of this facility will not be permitted from the through traffic roadways or ramps of SR \_\_\_\_\_ and all service to this facility will be by access from \_\_\_\_\_
- 24. Bond coverage required to ensure proper compliance with all terms and conditions of said permit or franchise will be furnished by a Blanket Surety Bond held at Headquarters in Olympia.
- 25. The Utility shall provide to the Department in the amount of \$ \_\_\_\_\_, a surety bond written by a surety company authorized to do business in the State of Washington or an escrow account with a bank approved by the Department, prior to start of construction, to insure compliance with any and all of the terms and conditions of this permit or franchise. Said bond/account to remain in force for a period ending one year after date of completion of construction.
- 26. The Utility agrees to bury the aerial lines covered by this franchise in Scenic Classes "A" and "B", as defined on attached Exhibit \_\_\_\_\_ either at the time of major reconstruction of the line, for that portion of line to be reconstructed, or prior to expiration of this franchise.
- 27. The Utility agrees to bury the aerial lines covered by this franchise in Scenic Classes "A", "AX", "B" and/or "BX", as defined on attached Exhibit \_\_\_\_\_, at the time the pole owner buries its facility.
- 28. The Utility agrees to bury or relocate aerially the existing overhead lines in Scenic Classes "AX" and "BX", as defined on attached Exhibit \_\_\_\_\_ to a location acceptable to the Department either at the time of major reconstruction of the line, for the portion of line to be reconstructed, or prior to the expiration of this franchise. The existing aerial lines may remain in their present location if acceptable to the Department.
- 29. The Utility agrees to be responsible for any construction deficiencies as a result of the roadway installation.
- 30. The Utility will be required to maintain one-way traffic during working hours and two-way traffic at all other times.

**SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES**

- x31. This special provision supersedes Franchise General Provision No. 4, Utility Permit General Provision No. 3 and General Permit General Provision No. 1.

The Utility/Grantee, its successors and assigns, agrees to protect the State of Washington, its officers and employees and save them harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the acts or omissions of the Utility/Grantee, its assigns, agents, contractors, licensees, employees or any person whomsoever, in connection with Utility's/Grantee's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance operation, use or occupancy of the right of way or in the exercise of this permit/franchise. In case any suit or action is brought against the State of Washington, its officers and employees arising out of or by reason of any of the above causes, the Utility/Grantee, its successors or assigns will, upon notice of such action, defend the same at its sole cost and expense and satisfy any judgement against the State of Washington, its officers, or employees: PROVIDED, that if the claims or damages are caused by or result from the concurrent negligence of (a) the State of Washington's agents or employees and (b) the Utility/Grantee or Utility's/Grantee's agents or employees, and involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Utility/Grantee or the Utility's/ Grantee's agents or employees.

The Utility/Grantee, and on behalf of its assigns, agents, licensees, contractors and employees agrees to waive any claims for losses, expenses, damages or lost revenues incurred by it or its agent, contractors, licensees, employees or customers in connection with Utility's/Grantee's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this agreement against the State of Washington, its agents or employees except the reasonable costs of repair to property resulting from the negligent injury or damage to Utility's/Grantee's property by the State of Washington, its agents, contractors or employees.

- x32. In lieu of a surety bond to ensure compliance with the terms and conditions of this franchise the City of Kirkland agrees that the Department may effect reimbursement for the amount necessary to restore the highway from the monthly fuel tax allotments which the City of Kirkland is normally entitled to receive from the Motor Vehicle Fund, and in accordance with RCW 47.08.090.

SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES

- x33. Construction of this facility will not be permitted from the through traffic roadways, shoulders or ramps of SR 405. All access during construction shall be from outside the State right of way.
- x34. The limited access fence must remain in place or temporarily enclose the work area at all times to prevent access to the highway.
- x35. The Utility shall reimburse the Department for all actual direct and related indirect costs necessitated by this franchise/permit. Such costs include, but are not limited to, plan review and inspection.
- x36. All material and workmanship shall conform to the Washington State Department of Transportation Standard Specifications for Road, Bridge and Municipal Construction, current edition, and shall be subject to inspection by the Department.
- x37. Should the Grantee/Utility choose to perform the work outlined herein with other than its own forces, a representative of the Grantee/Utility shall be present at all times unless otherwise agreed to by the District Representative. All contact between the Department and the Grantee/Utility's contractor shall be through the representative of the Grantee/Utility. Where the Grantee/Utility chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Grantee/Utility within the State right of way, until said requirement is met. The Grantee/Utility, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor, subcontractor, agent and others, so as not to endanger or injure any person or property.
- x38. The responsibility of the Grantee/Utility for proper performance, safe conduct and adequate policing and supervision of the project shall not be lessened or otherwise affected by Department approval of plans, specifications or work, or by the presence at the worksite of Department representatives, or by compliance by the Grantee/Utility with any requests or recommendations made by such representatives.
- x39. Utility facilities installed longitudinally within Zone B, outside of Zone A, shall have a minimum cover of 24 inches.

**SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES**

- x40. The utility shall install detector tape or cable a minimum of 12 inches above the underground facility. The tape shall conform to the standards of the American Public Works Association Uniform Color Code.
- x41. Work within the right of way shall be restricted to between the hours of 9 a.m. and 3:30 p.m., and no work shall be allowed on the right of way Saturday, Sunday or holidays, unless authorized by the Department.
- x42. This facility is considered a transmission main. No connections will be allowed.
- x43. The facility shall be placed a minimum of 6' below the elevation of edge of outside lane or a minimum of 24" below the ground, whichever is lower.



**UTB 1028**  
**UTILITY CONSTRUCTION AGREEMENT**  
**I-405/NE 6<sup>th</sup> St to I-5 Widening and Express Toll Lanes Project**  
**Work by State**

**Exhibit B**  
**Cost Estimate**

**Category A (Amount paid to State by Utility)**

**Utility  
Conflict**

| <b>ID</b> | <b>Utility Work Description</b>      | <b>Amount</b> |
|-----------|--------------------------------------|---------------|
| 308 Rt    | Protect in Place 20 inch Water Main  | \$17,500.00*  |
| 308 Lt    | Protect in Place 20 inch Water Main  | \$11,000.00*  |
| 332B Rt   | Protect in Place Sanitary Sewer Line | \$11,000.00   |

\*Amount includes design, construction, and inspection costs including traffic control and site restoration.

Agreement amount            \$39,500.00

**Category B (♦ \$0.00 Estimated Permit fees paid to Utility by State)**

**Category B utilities unknown.**





**1 1-05.13(1) EMERGENCY CONTACT LIST**

2 The Design-Builder shall submit an Emergency Contact List to WSDOT no later than five Calendar  
3 Days after the date the Contract is executed. The list shall include, at a minimum, the Design-  
4 Builder's Project Manager, or equivalent, the Construction Manager and the Traffic Control  
5 Supervisor. The list shall identify a representative with delegated authority to act as the emergency  
6 contact on behalf of the Design-Builder and include one or more alternates. The emergency contact  
7 shall be available upon WSDOT's request at other than normal working hours. The Emergency  
8 Contact List shall include 24-hour telephone numbers for all individuals identified as emergency  
9 contacts or alternates.

**10 1-05.14 COOPERATION WITH OTHER CONTRACTORS**

11 WSDOT may perform other work at or near the Site, including any material site, with other forces  
12 than those of the Design-Builder. This work may be done with or without a contract. If such work  
13 takes place within or next to this Project, the Design-Builder shall cooperate with all other  
14 contractors or forces. The Design-Builder shall carry out Work under this Project in a way that will  
15 minimize interference and delay for all forces involved. WSDOT will resolve any disagreements  
16 that may arise among the contractors or the Design-Builder and WSDOT over the method or order  
17 of doing the Work. WSDOT's decision in these matters shall be final, as provided in Section  
18 1-05.1. Refer to TR Sections 2.1 and 2.18 for known projects that are on or near the Project Limits.

19 The coordination of the Work shall be taken into account by the Design-Builder as part of the site  
20 investigation in accordance with Section 1-02.4 and any resulting costs shall be incidental and  
21 included within the Contract Price.

**22 1-05.15 METHOD OF SERVING NOTICES**

23 Any written notice to the Design-Builder required under the Contract may be served on the Design-  
24 Builder either personally or by mailing or by delivery to the last post office address known to  
25 WSDOT.

26 The Design-Builder shall require all Subcontractors, suppliers, and other individuals or entities  
27 performing or furnishing any of the Work to formally communicate with WSDOT only through the  
28 Design-Builder.

29 All correspondence from the Design-Builder shall be directed to the WSDOT Engineer.

**30 1-05.16 GENERAL WARRANTIES****31 1-05.16(1) GENERAL WARRANTY**

32 The following general Warranty is in addition to any express Warranties provided for elsewhere in  
33 the Contract Documents. The Design-Builder shall represent and warrant the following:

- 34 • All design work performed pursuant to the Contract, including work performed by  
35 Subcontractors and manufacturers, conforms to all professional engineering principles  
36 generally accepted as industry standard in the state of Washington.
- 37 • The Project is free of defects, including design errors, omissions, inconsistencies, and other  
38 defects.
- 39 • Materials, plants, and equipment furnished under the Contract are of good quality, and were  
40 new when installed, unless otherwise approved by WSDOT.
- 41 • The work meets all of the requirements of the Contract.
- 42 • The specifications and/or drawings selected or prepared for use during construction are  
43 appropriate for their intended use.

- 1           •       The Project has been constructed so that it can be used for the intended function.

2   **1-05.16(2)       GENERAL WARRANTY– TIME OF GENERAL WARRANTY**

3       The general Warranty shall commence on the day of Physical Completion. The general Warranty  
4       shall remain in effect until one year after Physical Completion. At any time during the general  
5       Warranty period, if WSDOT determines that any of the Work has not met the standards set forth in  
6       the Contract, then the Design-Builder shall correct the Work in accordance with this section, even if  
7       the performance of such correction extends beyond the stated general Warranty period.

8       Within 7 Calendar Days of receipt of notice from WSDOT specifying a failure of any work  
9       required to satisfy the general Warranty; or specifying a failure of any Subcontractor representation,  
10      Warranty, guarantee, or obligation which the Design-Builder is responsible for enforcing, the  
11      Design-Builder and WSDOT shall mutually agree when and how the Design-Builder shall remedy  
12      such failure. In the case of an emergency requiring immediate curative action, the Design-Builder  
13      shall implement such immediate action it deems necessary, and shall notify WSDOT of the urgency  
14      of a mutually agreed-upon remedy. The Design-Builder and WSDOT shall agree on a remedy  
15      immediately upon notice by or to WSDOT of such emergency. If the Design-Builder does not use  
16      its best efforts to proceed to effectuate a remedy within the 7-day period, or if the Design-Builder  
17      and WSDOT fail to reach an agreement within the 7-day period (or immediately, in the case of  
18      emergency conditions), then WSDOT, upon notice to the Design-Builder, shall have the right to  
19      order the Design-Builder to perform the work, or to perform or have performed by others the  
20      remedy approved by WSDOT, and the costs shall be paid by the Design-Builder.

21   **1-05.16(3)       GENERAL WARRANTY – SUBCONTRACTOR WARRANTIES**

22      Without in any way derogating the Design-Builder's own representations, warranties, and other  
23      obligations with respect to the work, the Design-Builder shall obtain from all Subcontractors and  
24      cause to be extended to WSDOT, appropriate representations, Warranties, guarantees, and  
25      obligations with respect to design, material, plants, workmanship, equipment, tools, and supplies  
26      furnished by all Subcontractors. All representations, Warranties, guarantees, and obligations of  
27      Subcontractors shall be in writing, and shall run directly to and be enforceable by the Design-  
28      Builder and/or WSDOT and their respective successors and assigns.

29   **1-05.16(4)       GENERAL WARRANTY – PERFORMANCE RESPONSIBILITY**

30      The Design-Builder retains responsibility for all work performed on the Project, including all work  
31      of Subcontractors and all materials and equipment provided by suppliers, vendors, and/or  
32      manufacturers. Upon receipt from WSDOT of notice of a failure of any of the work to satisfy a  
33      warranty, representation, covenant, guarantee, or obligation provided by any Subcontractor, the  
34      Design-Builder shall be responsible for enforcing or performing any such warranty, representation,  
35      covenant, guarantee, or obligation, in addition to the Design-Builder's other obligations. WSDOT's  
36      rights under this section shall commence at the time the Warranty, representation, covenant,  
37      guarantee, or obligation is furnished to WSDOT, and shall continue until the expiration of the  
38      Design-Builder's Warranty, including extensions for repaired or replaced work. Until such  
39      expiration, the cost of any equipment, material, plants, labor, including re-engineering, and/or  
40      shipping shall be paid by the Design-Builder, if the cost is covered by the warranty, and the Design-  
41      Builder shall be required to repair or replace defective equipment, material, plants, or workmanship  
42      furnished by Subcontractors.

43   **1-05.16(5)       GENERAL WARRANTY – EXTENSION OF GENERAL WARRANTY**

44      The Warranty shall apply to all repaired or replaced work pursuant to the terms of the Contract. The  
45      general Warranty for repaired or replaced work shall extend beyond the original Warranty period, if  
46      necessary, to provide an additional one-year warranty period following acceptance by WSDOT of

1 any repaired or replaced work.

2 **1-05.16(6) GENERAL WARRANTY – NO LIMITATIONS OF LIABILITY**

3 The Warranty is in addition to all rights and remedies available under the Contract or Applicable  
4 Law, and shall not limit the Design-Builder’s liability or responsibility imposed by the Contract or  
5 by Applicable Law with respect to the Work, including liability for design defects, latent  
6 construction defects, strict liability negligence, or fraud.

7 **1-05.16(7) DAMAGES FOR BREACH OF WARRANTY**

8 In addition to all rights and remedies available under the Contract or Applicable Law, if the Design-  
9 Builder fails or refuses to provide the Warranty remedies described in this section, the Design-  
10 Builder shall be liable for the cost of performance of the warranty work by others.

11 **1-05.16(8) EXCLUSIONS**

12 The Warranty shall not require the Design-Builder to perform repair or replacement work under the  
13 following circumstances:

- 14 • Normal wear and tear, provided that damage and/or deterioration outside allowable limits  
15 specified in the Contract shall not be considered normal wear and tear.
- 16 • Failure to perform routine maintenance consistent with policies and/or procedures  
17 established by WSDOT or other maintenance agencies, including Utility Owners, or in the  
18 absence of such policies and/or procedures in accordance with industry standards of  
19 maintenance for similar Projects in the United States.
- 20 • Rebellion, war, riot, act of sabotage, civil commotion, or acts of vandalism.
- 21 • Wind, flood, and/or earthquakes, and other acts of God.
- 22 • Spill or release of hazardous or contaminated substances not caused by the Design-Builder.

23 **1-05.16(9) LANDSCAPING WARRANTY**

24 The Design-Builder shall provide a landscaping Warranty covering all on-site stream and wetland  
25 mitigation, roadside restoration, and plant establishment requirements described in Sections 2.8 and  
26 2.15, and the Commitments List At any time during the landscaping Warranty period, if WSDOT  
27 determines that any of the on-site stream or wetland mitigation, roadside restoration, or other  
28 landscaping Work has not met the standards set forth in the Contract, the Design-Builder shall  
29 correct the Work, even if the performance of such correction extends beyond the stated landscaping  
30 Warranty period.

31 **1-05.16(9).1 Planting Areas and Acceptance of Initial Planting**

32 Design-Builder shall designate large, discrete areas as “planting areas” as indicated in TR  
33 Section 2.15 for purposes of acceptance of initial planting and management of the Landscaping  
34 Warranty. When Design-Builder’s QA Manager has determined that a given planting area is  
35 complete and meets all Contract requirements, Design-Builder may request such area to be  
36 accepted by WSDOT for initial planting. Upon concurrence by WSDOT that an area has met all  
37 Contract requirements, such area shall be deemed as accepted for initial planting, and the  
38 Landscaping Warranty shall commence for that planting area.

39 **1-05.16(9).2 Landscaping Warranty Inspection**

40 WSDOT and the Design-Builder shall conduct joint annual Landscaping Warranty Inspections of  
41 the Project commencing one year after the first planting area is accepted for initial planting, and  
42 continuing until three years after the last planting area is accepted for initial planting. The

1 measurements and/or tests for those Landscaping Warranty items that require specific remedies  
2 shall be taken during the scheduled joint inspections.

3 **1-05.16(10) WARRANTY FOR ILLUMINATION, TRAFFIC SIGNALS, ITS, AND TOLL INFRASTRUCTURE**

4 Refer to TR Sections 2.16, 2.17, 2.18, and 2.26 for Warranty requirements regarding Illumination,  
5 Traffic Signals, ITS, and Toll Infrastructure.

6 **1-05.16(11) WARRANTY INSPECTIONS**

7 The failure to conduct any inspection specified shall not invalidate or cancel the warranty  
8 provisions, responsibilities, or performance requirements. Notwithstanding the provisions of this  
9 section, WSDOT may inspect any component of the Project at any time prior to the completion of  
10 the warranty, and issue notice to the Design-Builder to perform repair or replacement Work.

11 **1-05.16(12) WARRANTY PERFORMANCE REQUIREMENTS**

12 In addition to the Warranty provisions of this section, the Work shall meet the requirements  
13 specified in the Contract.

14 **1-05.16(13) COSTS OF CORRECTION WORK**

15 All costs of repair and replacement work, including additional testing and inspections, shall be paid  
16 by the Design-Builder. The Design-Builder shall reimburse WSDOT within 14 Calendar Days after  
17 receipt of WSDOT's invoice.

18 **1-05.16(14) DAMAGES FOR BREACH OF WARRANTY**

19 If the Design-Builder fails or refuses to provide any Warranty remedy described in this section, the  
20 Design-Builder shall be liable for the cost of performance of the Warranty work by others.

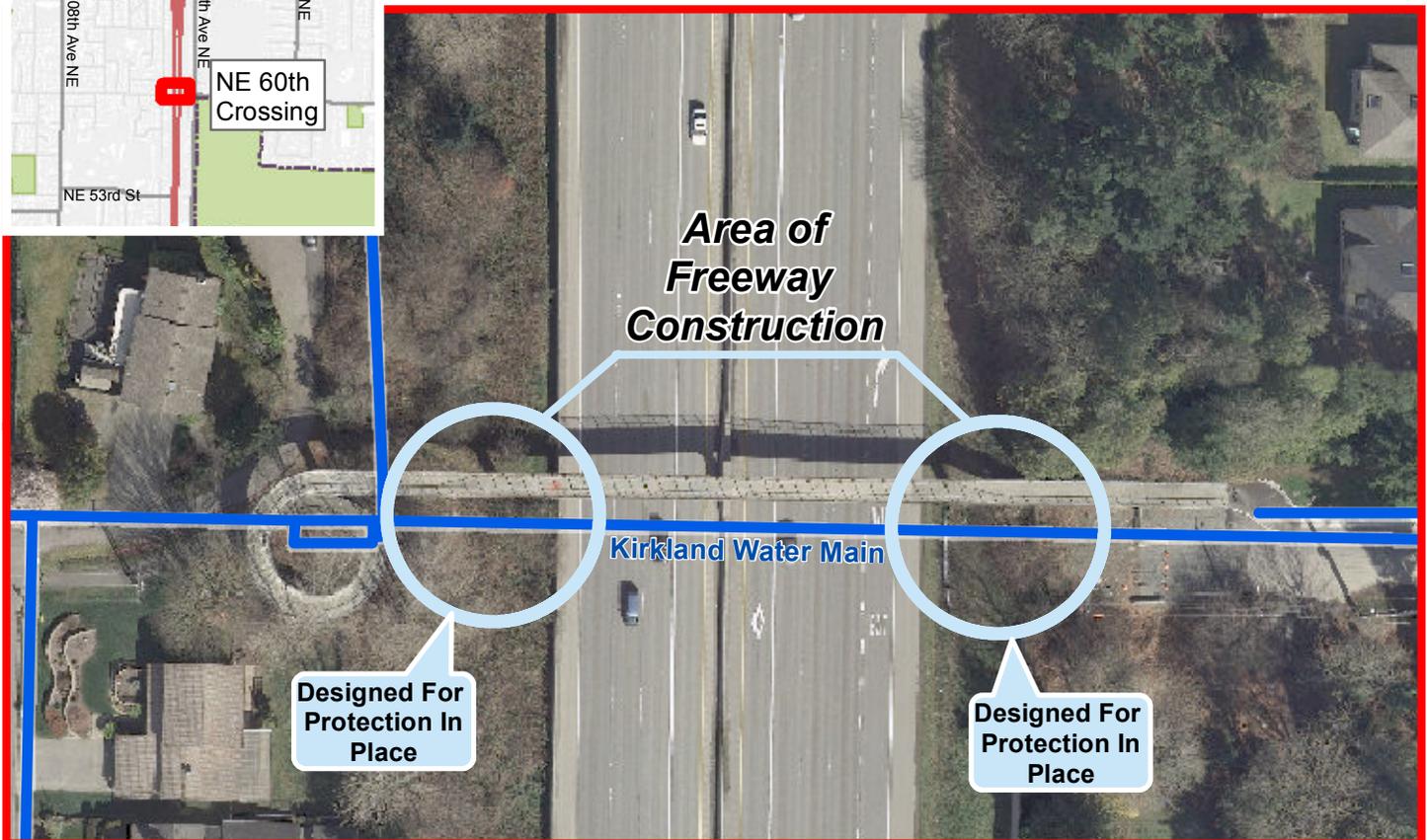
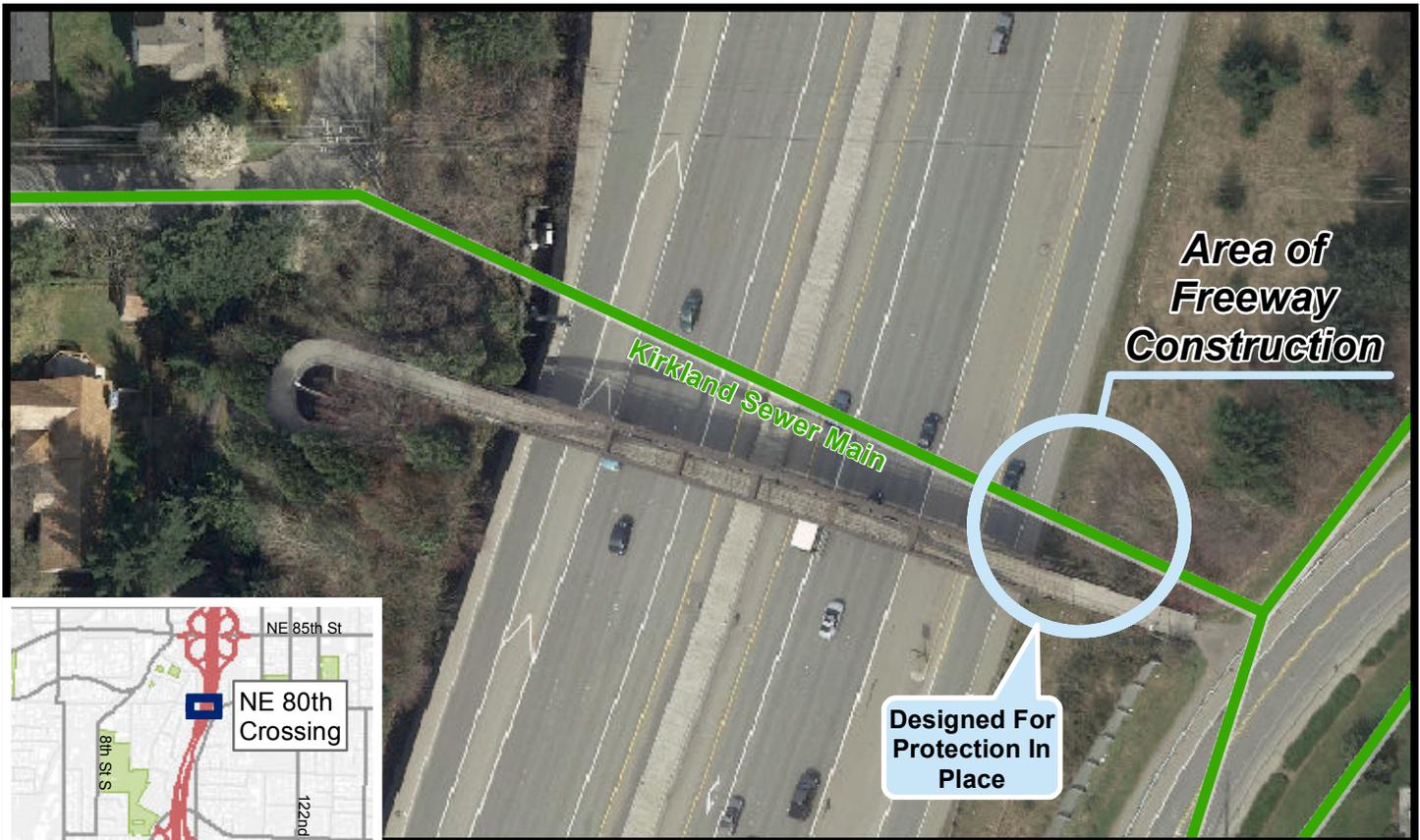
21 **1-05.16(15) DISPUTES**

22 Any disagreement between WSDOT and the Design-Builder relating to this section shall be subject  
23 to the dispute resolution provisions described in Section 1-04.5, provided that the Design-Builder  
24 proceeds as directed by WSDOT, pending resolution of the dispute.

25

# I-405, Bellevue-to-Lynnwood Utility Crossings Protect-in-Place

## Vicinity Map



**FISCAL NOTE**

CITY OF KIRKLAND

| Source of Request  |  |                         |                             |                                  |                        |                             |                |
|--|--|-------------------------|-----------------------------|----------------------------------|------------------------|-----------------------------|----------------|
| Ray Steiger, Public Work Director  |  |                         |                             |                                  |                        |                             |                |
| Description of Request   |  |                         |                             |                                  |                        |                             |                |
| Request for funding of \$39,500 from the Water/Sewer Capital Reserve to cover expected costs from a utility construction agreement with the Washington State Department of Transportation (WSDOT) to protect-in-place City utility infrastructure located in state-owned right-of-way during the next freeway widening project on I-405.   |  |                         |                             |                                  |                        |                             |                |
| Legality/City Policy Basis   |  |                         |                             |                                  |                        |                             |                |
|  |  |                         |                             |                                  |                        |                             |                |
| Fiscal Impact  |  |                         |                             |                                  |                        |                             |                |
| <b>One-time use of \$39,500 of the Water/Sewer Capital Reserve.</b> The reserve is able to fully fund this request.  |  |                         |                             |                                  |                        |                             |                |
| Recommended Funding Source(s)  |  |                         |                             |                                  |                        |                             |                |
| <b>Reserve</b>   | Description  | 2012 Est<br>End Balance | Prior Auth.<br>2011-12 Uses | Prior Auth.<br>2011-12 Additions | Amount This<br>Request | Revised 2012<br>End Balance | 2012<br>Target |
|  | Water/Sewer Capital Reserve  | 9,871,542               | 100,000                     | 0                                | 39,500                 | 9,732,042                   | N/A            |
|  | 2011-12 Prior Authorized Use of this reserve: \$100,000 for NE 116th Street Watermain Upgrades |                         |                             |                                  |                        |                             |                |
| <b>Revenue/Exp<br/>Savings</b>   |  |                         |                             |                                  |                        |                             |                |
| <b>Other Source</b>  |  |                         |                             |                                  |                        |                             |                |
| Other Information  |  |                         |                             |                                  |                        |                             |                |
| The Utility Construction Reserve accounts for capital contributions from utility rates and connections charges and is used to fund capital projects. Capital replacement cycles require that reserves accumulate to pay for future replacement of infrastructure to supplement the use of debt. The liability against this reserve occurs in future years as capital replacement needs peak. |  |                         |                             |                                  |                        |                             |                |

|             |                                      |      |               |
|-------------|--------------------------------------|------|---------------|
| Prepared By | Neil Kruse, Senior Financial Analyst | Date | March 2, 2012 |
|-------------|--------------------------------------|------|---------------|



**CITY OF KIRKLAND**  
Department of Finance & Administration  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100  
www.kirklandwa.gov

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## **MEMORANDUM**

**To:** Kurt Triplett, City Manager  
**From:** Kathi Anderson, City Clerk  
**Date:** March 12, 2012  
**Subject:** Design Review Board Resignation

## **RECOMMENDATION**

Council acknowledges the resignation of Design Review Board member Noriko Marshall and approves the attached correspondence thanking her for her service.

## **BACKGROUND DISCUSSION**

Ms. Marshall's resignation notes that she will be moving from the City and is no longer able to participate on the Board. A recruitment to fill this position has begun.

From: Noriko Marshall [<mailto:norikommarshall@gmail.com>]  
Sent: Monday, March 12, 2012 1:05 PM  
To: City Council; Kathi Anderson  
Subject: My Resignation from Kirkland DRB

I have served since 2008. I am eventually moving from Kirkland to join my husband in California as soon as our younger son leave for college. I think it is about time to pass this opportunity to a new person. I would not mind to serve until a new person is assigned.

Thanks very much for your support.

Noriko Marshall  
Kirkland Design Review Board

**DRAFT**

March 21, 2012

Noriko Marshall  
6412 NE 138th Place  
Kirkland, WA 98034

Dear Noriko,

We have regretfully received your resignation from the Design Review Board.

The City Council appreciates your contributions to the board, and we thank you for volunteering your time and talent to serve the Kirkland community.

Best wishes in your current and future endeavors.

Sincerely,  
Kirkland City Council

by Joan McBride  
Mayor



## CITY OF KIRKLAND

Department of Finance & Administration  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100  
www.kirklandwa.gov

### MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Barry Scott, Purchasing Agent

**Date:** March 8, 2012

**Subject:** REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF MARCH 20, 2012

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of \$50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated February 23, 2012, are as follows:

|    | Project   | Process              | Estimate/Price      | Status  |
|----|---|----------------------|---------------------|---|
| 1. | Thermal Imaging Cameras (7)                       | Cooperative Purchase | \$82,028.54         | Purchase made using WA State contract with SeaWestern.  |
| 2. | Lakeview Elementary Safe Routes to School Project | A&E Roster           | \$68,120.40         | Contract awarded to Parametrix based on qualifications and using A&E Roster process as provided for in RCW 39.80. |
| 3. | Honda Police Motorcycles (4)                      | Invitation for Bids  | \$100,000-\$105,000 | Advertised on 3/5 with bids due on 3/20.  |
| 4. | Central Way Pedestrian Enhancements Project       | Invitation for Bids  | \$250,000-\$280,000 | To be advertised on 3/21 with bids due on 4/11.   |

Please contact me if you have any questions regarding this report.

**CITY OF KIRKLAND**

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001  
www.kirklandwa.gov**MEMORANDUM**

**To:** Kurt Triplett, City Manager  
**From:** Lorrie McKay, Intergovernmental Relations Manager  
**Date:** March 9, 2012  
**Subject:** 2012 LEGISLATIVE UPDATE No. 4

**RECOMMENDATION:**

Council should receive its fourth update on the 2012 legislative session.

**BACKGROUND DISCUSSION:**

At the writing of this memo the regular 2012 Session of the State Legislature concluded its last day (March 8) allowed under state constitution for this short session and adjourned. However, legislators did not finish the 2012 Supplemental Operating Budget and as a result, will reconvene the first Special Session of 2012 next week.

This is an update on the City's legislative interests as of March 9.

**COUNCIL LEGISLATIVE SUBCOMMITTEE:**

The Council's Legislative Subcommittee meets weekly on Friday's at 3pm (Mayor McBride, Deputy Mayor Marchione and Council Member Asher).

The Council's Legislative Subcommittee met on March 9 to discuss the status of the city's 2012 legislative priorities (Attachment A), and other bills of interest to the City (Attachment B).

**Week 9 (3/5 – 3/8)**

In the 9<sup>th</sup> and final week of the regular session, the City was focused on the bill draft related to our 6<sup>th</sup> legislative priority, EHB 1398 which exempts low-income housing projects from impact fees. The bill was amended in the Senate a way that was not acceptable to other cities with impact fee exemptions already on the books. As the bill went to the floor of the Senate for a vote on the last day of the session, an acceptable amendment was proposed and passed. The bill then passed the Senate with 32 yeas and 17 nays. The bill then went back to the House for concurrence and a final vote, where it passed with 56 yeas and 42 nays. EHB 1398 has been sent to the Governor for her signature (Attachment C). ESSB 6470, the bill representing the City's 7<sup>th</sup> legislative priority was passed in week 8 and sent to the Governor for her signature as well (Attachment D). In the final hours of the regular session, Legislators did pass a Transportation budget. However, they did not complete a 2012 Supplemental Operating Budget and therefore did not complete a 2012 Capital Budget. The Governor asked the Legislature to reconvene Monday to finish their budget work for 2012.

**Week 1 – Special (3/12 – 3/18)**

While the special session technically started at noon Monday, it's only "pro forma" on both Monday and Tuesday, meaning no floor votes or committee action will take place and lawmakers aren't required to be at the Capitol. At the same time, Governor Gregoire was scheduled to meet Monday with Democratic and Republican leaders from the House and Senate to address how to close a budget gap of about \$500

million through the end of the two-year budget cycle ending June 2013, as well as leaving money in reserves. The annexation sales tax credit was not touched in the House proposed 2012 Supplemental Budget, nor was it touched in either of the Senate budget proposals. Waypoint Consulting, staff and the Legislative Committee will continue to watch budget developments as closely as possible. The City's continued primary focus is to work toward ensuring that the annexation sales tax credit remains preserved and intact throughout the special session. Staff will also prepare a letter of support to the Governor for EHB 1398 this week.

### 2012 LEGISLATIVE PRIORITIES:

A detailed matrix tracking the status (as of March 8) of Kirkland's legislative priorities is attached to this memorandum. Below is an at-a-glance summary:

| 2012 Legislative Priority   | Bill Number                 | Hearing Status  |
|---|-----------------------------|---|
| State Annexation Sales Tax Credit<br>House Supplemental Operating Budget  | HB 2146<br>HB 2127          | 1/9 - retained in House Ways and Means<br>2/29 - Passed House > yeas, 53; nays, 45.   |
| Senate Democrat's Supplemental<br>Operating Budget  | SB 5967                     | 2/28 - Heard in Senate Committee on Ways & Means  |
| Senate Democrat's Supplemental<br>Operating Budget  | SB 5967                     | 3/3 - Floor AMD Passed Senate > yeas, 25; nays, 24<br>3/8 Floor AMD Passed House > yeas, 53; nays, 45<br>3/8 - Returned to Senate Rules 3   |
| Oppose new mandates and cost shifting   |                             | See bill tracker - monitoring status of all bills.  |
| Financial assistance for the construction<br>of the Public Safety Building  | <i>Several<br/>vehicles</i> |   |
| Preserve all options for future use of the<br>BNSF corridor and state financial<br>assistance to implement multiple uses                        | <i>Several<br/>vehicles</i> |   |
| Transfer fire hydrant-related costs from<br>the City's General Fund to other more<br>appropriate sources  | HB 2591                     | Suspended   |
| Financing options to support<br>public/private partnerships (including<br>flexibility in the use of existing tax<br>sources)                    | SB 6140                     | 2/13 - Passed Senate - yeas, 34; nays, 14; absent, 0;<br>excused, 1<br>3/1 - Passed House - yeas, 88; nays, 9; absent, 0;<br>excused, 1   |
| Amend RCW 82.02.060 to eliminate<br>cities' obligation to pay impact fees<br>when exempting low-income housing<br>from impact fee requirements. | HB 1398                     | 1/27 - Passed House - yeas, 53; nays, 42; absent, 0;<br>excused, 3<br>3/1 - AMD Passed Senate - yeas, 32; nays, 16; absent,<br>0, xcscd, 1<br>3/5 - House refused to concur. Asks Senate to recede<br>from amendments.<br>3/8 - Senate receded from amendments. Floor<br>amendments adopted.<br>- Passed Senate > yeas, 32; nays, 17<br>- House concurred in Senate amendments.<br>- House final passage > yeas, 56; nays, 42 |
| Allow cities the same Fire Benefit<br>Charge authority that fire districts<br>receive under RCW 52.18.010.                                      | HB 2615<br>SB 6470          | 3/8 - By resolution, returned to Rules<br>2/14 - Passed Senate - yeas, 34; nays, 15<br>3/1 - Passed House - yeas, 57; nays, 41  |
| State funding mitigation to communities<br>impacted by diversion caused by tolling<br>of state facilities.                                      | <i>Several<br/>vehicles</i> |   |

**CORRESPONDENCE:**

A letter of support for [SB 6470](#), establishing Fire Benefit Charge authority for cities that annex was sent to the Governor urging her signature (Attachment E).

Attachments: Status of city's 2012 legislative priorities  
List of bills the City is tracking and positions  
Bill Text of EHB 1398, as passed by the legislature  
Bill Text of ESSB 6470, as passed by the legislature  
Letter to the Governor in support of ESSB 6470

Updated 3.9.12

| Legislative Priority  | Bill #  | Prime Sponsor                              | Status   |
|---|---|--|--|
| State Annexation Sales Tax Credit<br><i>(Held harmless in both proposed House and Senate supplemental operating budgets.)</i><br><i>(Held harmless in both House and Senate passed budget bills.)</i> | HB 2146<br>PSHB 2127<br><br>SB 5967   | Hunter/Gov<br>Hunter/Gov<br><br>Murray/Gov | 1/9 - By resolution, retained in present position (House Ways and Means)<br>2/29 <b>Passed House</b> > yeas, 53; nays, 45; absent, 0; excused, 0<br>3/2 – First reading in Senate Ways & Means<br><br>3/3 – <b>Floor AMD Passed Senate</b> - yeas, 25; nays, 24; absent, 0; xcscd, 0<br>3/8 <b>Floor AMD Passed House</b> > yeas, 53; nays, 45; absent, 0; xcscd, 0<br>3/8 – <b>Returned to Senate Rules 3</b>   |
| 1   | Oppose new mandates and cost shifting   |  | See bill tracker – monitoring status of all bills.   |
| 2   | Financial assistance for the construction of the Public Safety Building   | <i>Several vehicles</i>                    |  |
| 3   | Preserve all options for future use of the BNSF corridor and state financial assistance to implement multiple uses  | <i>Several vehicles</i>                    |  |
| 4   | Transfer fire hydrant-related costs   | HB 2591                                    | Rep. Eddy<br>1/25 – 1:30PM Heard in Local Government - SUSPENDED   |
| 5   | Financing options to support public/private partnerships (including flexibility in the use of existing tax sources) | HB 2746<br>SB 5705<br>SB 6140              | Rep. Springer<br>Sen. Kilmer<br>Sen. Kilmer<br>1/30 – Heard in Community & Economic Dev & Housing – “DEAD”<br>1/9 - By resolution, reintroduced & retained in present status – “DEAD”<br>2/13 - <b>Passed Senate</b> - yeas, 34; nays, 14; absent, 0; excused, 1<br>3/1 – <b>Passed House</b> - yeas, 88; nays, 9; absent, 0; excused, 1   |
| 6   | Eliminate cities’ obligation to pay impact fees when exempting low-income housing from impact fee requirements.     | HB 1398                                    | Rep. Fitzgibbon<br>1/27 – <b>Passed House</b> - yeas, 53; nays, 42; absent, 0; excused, 3<br>3/1 – <b>AMENDED Passed Senate</b> - yeas, 32; nays, 16; absent, 0, xcscd, 1<br>3/5 – House refused to concur. Asks Senate to recede from amendments.<br>3/8 – Senate receded from amendments. Floor amendments adopted.<br>– <b>Passed Senate</b> > yeas, 32; nays, 17; absent, 0; excused, 0<br>– House concurred in Senate amendments.<br>– <b>House final passage</b> > yeas, 56; nays, 42; absent, 0; excused, 0 |
| 7   | Allow cities the same Fire Benefit Charge authority that fire districts receive under RCW 52.18.010.                | HB 2615<br><br>SB 6470                     | Rep. Goodman<br><br>Sen. McAuliffe<br>2/13 – <b>Passed House</b> - yeas, 51; nays, 46; absent, 0; excused, 1<br>3/8 – Referred to Rules<br><br>2/14 – <b>Passed Senate</b> - yeas, 34; nays, 15; absent, 0; excused, 0<br>3/1 – <b>Passed House</b> - yeas, 57; nays, 41; absent, 0; excused, 0  |
| 8   | State funding mitigation to communities impacted by diversion caused by tolling of state facilities.                | <i>Several vehicles</i>                    |  |

| Bill                     | Title   | Position                   | Status  |
|--------------------------|---|----------------------------|---|
| <i>Support</i>           |   |                            |   |
| <a href="#">HB 1234</a>  | Security alarms, crime watch  | 2011 - Support             | <b>1/16 - Passed House</b> (yeas, 90; nays, 0; xcscd, 8)<br><b>3/1 - Passed Senate</b> > (yeas, 49; nays; 0)  |
| <a href="#">HB 1398</a>  | Low income housing/fee ex.  | 2011 - Support             | <b>1/27 - Passed House</b> > (yeas, 53; nays, 42; xcscd 3)<br><b>3/1-AMD Passed Senate</b> >yeas, 32; nays, 16; xcscd,1<br>3/5 - House refused to concur. Asks Senate to recede from amendments.<br><b>3/8 - Senate receded. Flr amndmnts adopted.</b><br>- <b>Senate final passage</b> > (yeas, 32; nays, 17)<br>- House concurred with Senate amendments<br>- <b>House final passage</b> > (yeas, 56; nays, 42) |
| <a href="#">HB 2190</a>  | Transp. Supplemental Budget   | Support                    | 3/8 - Senate final passage > (yeas, 43; nays, 6)<br>3/8 - House Passed final passage (yeas, 85; nays, 13>   |
| <a href="#">HB 2191</a>  | Police Dogs   | Support                    | <b>2/8 - Passed House</b> > (yeas, 98; nays, 0; xcscd, 0)<br><b>2/28 - Passed Senate</b> > (yeas, 49; nays, 0)  |
| <a href="#">HB 2201</a>  | Use and governance of hearing examiners   | Support                    | 1/30 - Referred to Rules 2 Review   |
| <a href="#">HB 2216</a>  | Vehicular homicide & assaault   | Support                    | <b>2/13 - Passed House</b> (98 yeas, 0 nays, 0 excused)<br><b>3/1 - Passed Senate</b> > (yeas, 46; nays, 0; xcscd 3)  |
| <a href="#">HB 2253</a>  | Modernizing the functionality of the state environmental policy act   | Support                    | 2/13 - Passed (92 yeas, 6 nays, 0 excused)<br>2/27 - Heard in & Exec'ed from Ways & Means<br>2/29 - Placed on 2nd reading<br>3/8 - Referred to Rules  |
| <a href="#">HB 2302</a>  | Being under the influence w/ child in the vehicle   | Support                    | <b>2/13 - Passed House</b> > (yeas, 98; nays; 0)<br>2/28 - Placed on 2nd reading<br><b>2/29 - Passed Senate</b> > (yeas, 49; nays; 0)   |
| <a href="#">HB 2417</a>  | Increasing \$ amount for construction of a dock that doesn't qualify as a substantial development under SMA | Support                    | 1/30 - Passed (96 yeas, 0 nays, 2 excused)<br>2/28 - Placed on 2nd reading<br>3/8 - Referred to Rules   |
| <a href="#">HB 2482</a>  | Designating innovation partnership zones.   | Support                    | <b>2/9 - Passed House</b> > (yeas 81; nays 16; excscd 1)<br><b>2/29 - Passed Senate</b> > (yeas, 48; nays; 1)   |
| <a href="#">HB 2594</a>  | Concerning criminal street gangs  | Support                    | 2/14 - Returned to Rules  |
| <a href="#">HB 2615</a>  | <b>Authorizing benefit charges for the enhancement of fire protection services</b>                          | <b>Support Priority #7</b> | 2/13 - Passed (51 yeas, 46 nays, 1 excused)<br>3/8 - Returned to Rules  |
| <a href="#">HB 2641</a>  | Reducing nontax administration costs associated with the conduct of city and county operations.             | Support                    | 1/31 - referred to Judiciary  |
| <a href="#">HB 2660</a>  | Addressing transportation revenue   | Support                    | <b>3/8 - Passed House</b> > (yeas, 56; nays, 42)<br><b>3/8 - Passed Senate</b> > (yeas, 30; nays, 19)   |
| <a href="#">HB 2662</a>  | Authorizing community economic revitalization board funding to benefit innovation partnership zones         | Support                    | 2/3 - Referred to Rules 2 Review  |
| <a href="#">HB 2746</a>  | <b>Concerning community redevelopment financing in apportionment districts</b>                              | <b>Support Priority #5</b> | 1/30 - Heard in Comm Econ Dev & Housing   |
| <a href="#">SHB 2751</a> | Concerning local transportation revenue   | AWC - Support              | 2/7 - Referred to Rules 2 Review  |
| <i>Neutral</i>           |   |                            |   |
| <a href="#">HB 1702</a>  | Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants.  | Neutral                    | 2/14 - Return to Rules for 3rd Reading  |
| <a href="#">HB 2610</a>  | Repealing provisions governing community municipal corporations   | Neutral                    | 2/9 - Passed (56 yeas, 40 nays, 2 excused)<br>2/23 - Exec. But motion to report out failed.   |
| <i>Oppose</i>            |   |                            |   |
| <a href="#">HB 2146</a>  | <b>Reducing certain local sales &amp; use tax provsns</b>   | 2012 - Oppose              | 1/9 - Retained in W&M   |
| <a href="#">HB 2140</a>  | Concerning liquor revenue   | Oppose                     | 1/9 - Retained in W&M   |
| <a href="#">HB 2143</a>  | Modifying community supervision provisions  | Oppose                     | 1/11 Heard W&M.   |
| <a href="#">HB 2144</a>  | Modifying offender release provisions   | Oppose                     | 1/11 Heard W&M.   |
| <a href="#">HB 2490</a>  | Simplifying state & local tax & licensing systems   | Oppose                     | 1/16 - Referred to HWM  |
| <a href="#">HB 2520</a>  | Concerning the assessment of property with substantial land use limitations                                 | Oppose                     | 1/17 - Referred to W&M  |
| <i>Undecided</i>         |   |                            |   |

|                         |  |   |   |
|-------------------------|--|---|---|
| <a href="#">HB 2728</a> | Increasing flexibility and diversity of local government revenue   | Concerns as drafted / AWC Rcmmd Support | 1/27 - Referred to W&M<br>2/1 - Heard in W&M  |
| <a href="#">HB 2612</a> | Enacting the Washington voting rights act of 2012  | Concerns                                | 2/14 - Returned to Rules for 2nd Reading  |
| <a href="#">HB 2671</a> | Clarifying procedures for appealing department of ecology final action on a local shoreline master program by ensuring consistency with existing procedural provisions of the growth management act, chapter 36.70A RCW, the administrative procedure act, chapter 34.05 RCW, and the state environmental policy act, chapter 43.21C RCW | No recommendation                       | <b>2/13 - Passed House</b> (54 yeas, 44 nays, 0 excused)<br><b>3/1 - Passed Senate</b> (yeas, 42; nays, 9; xcsd, 1) |
|                         |  |   |   |
|                         |  |   |   |

| Bill                     | Title   | Position                                      | Status  |
|--------------------------|---|---|---|
| <i>Support</i>           |   |   |   |
| <a href="#">SSB 5234</a> | collection, transportation, and disposal of unwanted medicines  | Support                                       | 2/22 - Senate Rules "X" file  |
| SB 5244                  | security alarms, crime watch  | 2011-Support                                  | 2/22 - Senate Rules "X" file  |
| <a href="#">SB 6109</a>  | Exempting video & audio recordings of closed executive session mtgs from public inspection & copying  | Support                                       | 2/13 - Passed (39 yeas, 9 nays, 1 excused)<br>2/20 - Hearing in State Gov & Tribal Affairs  |
| <a href="#">SB 6130</a>  | Modernizing the functionality of the state environmental policy act   | Support                                       | 2/22 - Senate Rules "X" file  |
| <a href="#">SB 6140</a>  | Concerning local economic development financing   | Support                                       | <b>2/13-Passed Senate</b> (34 yeas, 14 nays, 1 xcscd)<br><b>3/1-Passed House</b> > (yeas, 88; nays, 9; xcscd, 1)  |
| <a href="#">SB 6146</a>  | Clarifying restrictions on the use of the PRA for purpose of obtaining records for commercial or profit-making                                      | Support                                       | 2/22 - Senate Rules "X" file  |
| <a href="#">SB 6455</a>  | Addressing transportation revenue   | Support                                       | <b>2/13-Passed Senate</b> (31 yeas, 18 nays, 0 xcscd)<br><b>3/5-Passed House</b> (yeas, 55; nays, 41; xcscd, 2)   |
| <a href="#">SB 6470</a>  | <b>Authorizing fire benefit charges</b>   | <b>Support</b>                                | <b>2/14 - Passed Senate</b> (34 yeas, 15 nays)<br><b>3/1 - Passed House</b> (57 yeas, 41 nays)  |
| <a href="#">SB 6582</a>  | Concerning local transportation revenue options   | AWC Rcmmd<br>Support                          | <b>2/13-Passed Senate</b> (25 yeas, 24 nays, 0 xcscd)<br><b>3/3-AMD Passed House</b> (yeas, 53; nays, 43; xcscd, 2)<br>3/5 - Senate refused to concur<br>3/7 - Conference Committee Reports from both H & S<br>3/8 - Returned to Senate Rules 3 |
| <a href="#">SJR 8218</a> | limit certain initiatives placed on ballot  | Support                                       | 1/9 read GOTRE. 12/15 prefiled  |
| <i>Oppose</i>            |   |   |   |
| <a href="#">SB 5995</a>  | Urban growth area boundaries  | Oppose  | <b>2/10 - Passed Senate</b> > yeas 46; nays 0; xcscd 3<br><b>2/27 - Passed House</b> > yeas 92; nays 2; xcscd 2   |
| <a href="#">SB 6176</a>  | Simplifying state & local tax & licensing systems   | Oppose  | 2/7 - Heard in W&M  |
| <a href="#">SB 6474</a>  | Changing sales tax sourcing from destination based to origin based if congress does not enact legislation requiring remote sellers to collect sales | Oppose  | 1/25 - Referred to W&M  |
| <i>Undecided</i>         |   |   |   |
| <a href="#">SB 6381</a>  | Enacting the Washington voting rights act of 2012   | Concerns                                      | 2/22 - Senate Rules "X" file  |
| <a href="#">SB 6521</a>  | Increasing flexibility and diversity of local government revenue  | Concerns as drafted /<br>AWC Rcmmd<br>Support | 2/6 - Heard in W&M  |

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1398**

62nd Legislature  
2012 Regular Session

Passed by the House March 8, 2012  
Yeas 56 Nays 42

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**Speaker of the House of Representatives**

Passed by the Senate March 8, 2012  
Yeas 32 Nays 17

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1398** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 1398**

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AS AMENDED BY THE SENATE

Passed Legislature - 2012 Regular Session

**State of Washington**                      **62nd Legislature**                      **2012 Regular Session**

**By**            Representatives    Fitzgibbon,    Seaquist,    Orwall,    Springer,  
Upthegrove, and Kenney

Read first time 01/20/11.      Referred to Committee on Community  
Development & Housing.

1            AN ACT Relating to exempting low-income housing from impact fees;  
2            and amending RCW 82.02.060.

3            BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.**    RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each  
5            amended to read as follows:

6            The local ordinance by which impact fees are imposed:

7            (1) Shall include a schedule of impact fees which shall be adopted  
8            for each type of development activity that is subject to impact fees,  
9            specifying the amount of the impact fee to be imposed for each type of  
10           system improvement. The schedule shall be based upon a formula or  
11           other method of calculating such impact fees. In determining  
12           proportionate share, the formula or other method of calculating impact  
13           fees shall incorporate, among other things, the following:

14           (a) The cost of public facilities necessitated by new development;

15           (b) An adjustment to the cost of the public facilities for past or  
16           future payments made or reasonably anticipated to be made by new  
17           development to pay for particular system improvements in the form of  
18           user fees, debt service payments, taxes, or other payments earmarked  
19           for or proratable to the particular system improvement;

1 (c) The availability of other means of funding public facility  
2 improvements;

3 (d) The cost of existing public facilities improvements; and

4 (e) The methods by which public facilities improvements were  
5 financed;

6 (2) May provide an exemption for low-income housing, and other  
7 development activities with broad public purposes, from these impact  
8 fees, provided that the impact fees for such development activity shall  
9 be paid from public funds other than impact fee accounts;

10 (3) May provide an exemption from impact fees for low-income  
11 housing. Local governments that grant exemptions for low-income  
12 housing under this subsection (3) may either: Grant a partial  
13 exemption of not more than eighty percent of impact fees, in which case  
14 there is no explicit requirement to pay the exempted portion of the fee  
15 from public funds other than impact fee accounts; or provide a full  
16 waiver, in which case the remaining percentage of the exempted fee must  
17 be paid from public funds other than impact fee accounts. An exemption  
18 for low-income housing granted under subsection (2) of this section or  
19 this subsection (3) must be conditioned upon requiring the developer to  
20 record a covenant that, except as provided otherwise by this  
21 subsection, prohibits using the property for any purpose other than for  
22 low-income housing. At a minimum, the covenant must address price  
23 restrictions and household income limits for the low-income housing,  
24 and that if the property is converted to a use other than for low-  
25 income housing, the property owner must pay the applicable impact fees  
26 in effect at the time of conversion. Covenants required by this  
27 subsection must be recorded with the applicable county auditor or  
28 recording officer. A local government granting an exemption under  
29 subsection (2) of this section or this subsection (3) for low-income  
30 housing may not collect revenue lost through granting an exemption by  
31 increasing impact fees unrelated to the exemption. A school district  
32 who receives school impact fees must approve any exemption under  
33 subsection (2) of this section or this subsection (3);

34 (4) Shall provide a credit for the value of any dedication of land  
35 for, improvement to, or new construction of any system improvements  
36 provided by the developer, to facilities that are identified in the  
37 capital facilities plan and that are required by the county, city, or  
38 town as a condition of approving the development activity;

1           (~~(+4)~~) (5) Shall allow the county, city, or town imposing the  
2 impact fees to adjust the standard impact fee at the time the fee is  
3 imposed to consider unusual circumstances in specific cases to ensure  
4 that impact fees are imposed fairly;

5           (~~(+5)~~) (6) Shall include a provision for calculating the amount of  
6 the fee to be imposed on a particular development that permits  
7 consideration of studies and data submitted by the developer to adjust  
8 the amount of the fee;

9           (~~(+6)~~) (7) Shall establish one or more reasonable service areas  
10 within which it shall calculate and impose impact fees for various land  
11 use categories per unit of development; and

12           (~~(+7)~~) (8) May provide for the imposition of an impact fee for  
13 system improvement costs previously incurred by a county, city, or town  
14 to the extent that new growth and development will be served by the  
15 previously constructed improvements provided such fee shall not be  
16 imposed to make up for any system improvement deficiencies.

17           For purposes of this section, "low-income housing" means housing  
18 with a monthly housing expense, that is no greater than thirty percent  
19 of eighty percent of the median family income adjusted for family size,  
20 for the county where the project is located, as reported by the United  
21 States department of housing and urban development.

--- END ---

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 6470**

62nd Legislature  
2012 Regular Session

Passed by the Senate February 14, 2012  
YEAS 34 NAYS 15

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**President of the Senate**

Passed by the House March 1, 2012  
YEAS 57 NAYS 41

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6470** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6470**

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Passed Legislature - 2012 Regular Session

**State of Washington                      62nd Legislature                      2012 Regular Session**

**By** Senate Government Operations, Tribal Relations & Elections  
(originally sponsored by Senators McAuliffe and Chase)

READ FIRST TIME 02/03/12.

1            AN ACT Relating to benefit charges for the enhancement of fire  
2 protection services; and adding a new section to chapter 35.13 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 35.13 RCW  
5 to read as follows:

6            (1) A city or town that has annexed since 2006 or is conducting  
7 annexations of all or a part of a fire protection district or fire  
8 protection districts may by resolution, for the enhancement of fire  
9 protection services, fix and impose a benefit charge on personal  
10 property and improvements to real property that are located in the city  
11 or town, to be paid by the owners of the properties: PROVIDED, That a  
12 benefit charge shall not apply to personal property and improvements to  
13 real property owned or used by: (a) Any recognized religious  
14 denomination or religious organization as, or including, a sanctuary or  
15 for purposes related to the bona fide religious ministries of the  
16 denomination or religious organization, including schools and  
17 educational facilities used for kindergarten, primary, or secondary  
18 educational purposes or for institutions of higher education and all  
19 grounds and buildings related thereto, but not including personal

1 property and improvements to real property owned or used by any  
2 recognized religious denomination or religious organization for  
3 business operations, profit-making enterprises, or activities not  
4 including use of a sanctuary or related to kindergarten, primary, or  
5 secondary educational purposes or for institutions of higher education;  
6 or (b) any entity exempt from taxation under RCW 35.82.210,  
7 84.36.030(3), or 84.36.560.

8 (2) A benefit charge imposed shall be reasonably proportioned to  
9 the measurable benefits to property resulting from the enhancement of  
10 services afforded by the city or town fire department. It is  
11 acceptable to apportion the benefit charge to the values of the  
12 properties as found by the county assessor or assessors modified  
13 generally in the proportion that fire insurance rates are reduced or  
14 entitled to be reduced as the result of providing the services. Any  
15 other method that reasonably apportions the benefit charges to the  
16 actual benefits resulting from the degree of protection, which may  
17 include but is not limited to the distance from regularly maintained  
18 fire protection equipment, the level of fire prevention services  
19 provided to the properties, or the need of the properties for  
20 specialized services, may be specified in the resolution and shall be  
21 subject to contest on the ground of unreasonable or capricious action  
22 or action in excess of the measurable benefits to the property  
23 resulting from services afforded by the city or town fire department.  
24 The city or town may determine that certain properties or types or  
25 classes of properties are not receiving measurable benefits based on  
26 criteria they establish by resolution. A benefit charge authorized by  
27 this section shall not be applicable to the personal property or  
28 improvements to real property of any individual, corporation,  
29 partnership, firm, organization, or association maintaining a fire  
30 department and whose fire protection and training system has been  
31 accepted by a fire insurance underwriter maintaining a fire protection  
32 engineering and inspection service authorized by the state insurance  
33 commissioner to do business in this state, but such property may be  
34 protected by the city or town under a contractual agreement. For  
35 administrative purposes, the benefit charge imposed on any individual  
36 property may be compiled into a single charge, provided that the city  
37 or town, upon request of the property owner, provide an itemized list  
38 of charges for each measurable benefit included in the charge.

1 (3) The resolution establishing benefit charges shall specify, by  
2 legal geographical areas or other specific designations, the charge to  
3 apply to each property by location, type, or other designation, or  
4 other information that is necessary to the proper computation of the  
5 benefit charge to be charged to each property owner subject to the  
6 resolution. The county assessor of each county shall determine and  
7 identify the personal properties and improvements to real property  
8 which are subject to a benefit charge in each city or town and shall  
9 furnish and deliver to the county treasurer of that county a listing of  
10 the properties with information describing the location, legal  
11 description, and address of the person to whom the statement of benefit  
12 charges is to be mailed, the name of the owner, and the value of the  
13 property and improvements, together with the benefit charge to apply to  
14 each. These benefit charges shall be certified to the county treasurer  
15 for collection in the same manner that is used for the collection of  
16 fire protection assessments for forest lands protected by the  
17 department of natural resources under RCW 76.04.610 and the same  
18 penalties and provisions for collection shall apply.

19 (4) Each city and town shall contract, prior to the imposition of  
20 a benefit charge, for the administration and collection of the benefit  
21 charge by each county treasurer, who shall deduct a percent, as  
22 provided by contract to reimburse the county for expenses incurred by  
23 the county assessor and county treasurer in the administration of the  
24 resolution and this section. The county treasurer shall make  
25 distributions each year, as the charges are collected, in the amount of  
26 the benefit charges imposed on behalf of the city or town, less the  
27 deduction provided for in the contract.

28 (5) Any benefit charge authorized by this section shall not be  
29 effective unless a proposition to impose the benefit charge is approved  
30 by a sixty percent majority of the voters of the city or town voting at  
31 a general election or at a special election called by the city or town  
32 for that purpose, held within the city or town. An election held  
33 pursuant to this section shall be held not more than twelve months  
34 prior to the date on which the first such charge is to be assessed:  
35 PROVIDED, That a benefit charge approved at an election shall not  
36 remain in effect for a period of more than six years nor more than the  
37 number of years authorized by the voters if fewer than six years unless  
38 subsequently reapproved by the voters.

1 (6) The ballot shall be submitted so as to enable the voters  
2 favoring the authorization of a benefit charge to vote "Yes" and those  
3 opposed thereto to vote "No," and the ballot shall be:

4 "Shall . . . . . be authorized to impose benefit  
5 charges each year for . . . . (insert number of years not to  
6 exceed six) years, not to exceed an amount equal to . . . .  
7 (insert percentage amount not to exceed sixty) percent of its  
8 fire department operating budget?

9 YES NO  
10

11 (7) A city or town renewing the benefit charge may elect to use the  
12 following alternative ballot:

13 "Shall . . . . . be authorized to continue voter-  
14 authorized benefit charges each year for . . . . (insert number  
15 of years not to exceed six) years, not to exceed an amount  
16 equal to . . . . (insert percentage amount not to exceed sixty)  
17 percent of its fire department operating budget?

18 YES NO  
19

20 (8) Not less than ten days nor more than six months before the  
21 election at which the proposition to impose the benefit charge is  
22 submitted as provided in this section, the city or town shall hold a  
23 public hearing specifically setting forth its proposal to impose  
24 benefit charges for the support of its legally authorized activities  
25 which will maintain or improve the services afforded in the city or  
26 town. A report of the public hearing shall be filed with the county  
27 treasurer of each county in which the property is located and be  
28 available for public inspection.

29 (9)(a) Prior to November 15th of each year the city or town shall  
30 hold a public hearing to review and establish the benefit charges for  
31 the subsequent year.

1 (b) All resolutions imposing or changing the benefit charges shall  
2 be filed with the county treasurer for each county in which the  
3 property is located, together with the record of each public hearing,  
4 before November 30th immediately preceding the year in which the  
5 benefit charges are to be collected on behalf of the city or town fire  
6 department.

7 (c) After the benefit charges have been established, the owners of  
8 the property subject to the charge shall be notified of the amount of  
9 the charge.

10 (10) After notice has been given to the property owners of the  
11 amount of the charge, the city or town imposing a benefit charge under  
12 this section shall form a review board for at least a two-week period  
13 and shall, upon complaint in writing of a party aggrieved owning  
14 property in the city or town, reduce the charge of a person who, in  
15 their opinion, has been charged too large a sum, to a sum or amount as  
16 they believe to be the true, fair, and just amount.

17 (11) A person who is receiving the exemption contained in RCW  
18 84.36.381 through 84.36.389 shall be exempt from any legal obligation  
19 to pay a portion of the charge imposed by this section according to the  
20 following:

21 (a) A person who meets the income limitation contained in RCW  
22 84.36.381(5)(a) and does not meet the income limitation contained in  
23 RCW 84.36.381(5)(b) (i) or (ii) shall be exempt from twenty-five  
24 percent of the charge.

25 (b) A person who meets the income limitation contained in RCW  
26 84.36.381(5)(b)(i) shall be exempt from fifty percent of the charge.

27 (c) A person who meets the income limitation contained in RCW  
28 84.36.381(5)(b)(ii) shall be exempt from seventy-five percent of the  
29 charge.

30 (12) For the purposes of this section:

31 (a) "Personal property" includes every form of tangible personal  
32 property, including but not limited to, all goods, chattels, stock in  
33 trade, estates, or crops, except that the term "personal property" does  
34 not include any personal property used for farming, field crops, farm  
35 equipment, or livestock; and

36 (b) "Improvements to real property" does not include permanent  
37 growing crops, field improvements installed for the purpose of aiding

E-Page 88

1 the growth of permanent crops, or other field improvements normally not  
2 subject to damage by fire.

--- END ---



March 6, 2012

The Honorable Christine Gregoire  
Governor of the State of Washington  
PO Box 40002  
Olympia, Washington 98504-0002

RE: Support of ESSB 6470 - Authorizing fire benefit charges for cities.

Dear Governor Gregoire,

On behalf of the City of Kirkland, I am writing to express our full support for Engrossed Substitute Senate Bill 6470 and urge you to sign it into law.

On June 1, 2011, Kirkland annexed 31,000 residents, the second largest annexation in state history. After annexation, Woodinville Fire and Rescue closed a border fire station that provided the equivalent service of 6 fire fighters. Kirkland added 9 firefighters at the cost of over a million dollars annually to replace them. But, because they are responding from a fire station farther away, there are some gaps in response coverage. This bill will help us address that.

We need this bill because our community leaders are asking for it. The attached map shows in white, the areas in the "new" Kirkland that need more service. Our newly annexed residents of Finn Hill and Kingsgate are asking for more fire resources and this bill will allow us to respond to our community. More border service will also help Bothell, Kenmore, Woodinville, Redmond and Bellevue through automatic mutual aid.

Fire Districts and Regional Fire authorities already have this tool. Cities with fire departments should have it as well. Like a city parks or road levy, the city fire benefit charge in this bill simply allows us to ask our voters if they want more service. The city fire benefit charge can only be used to enhance fire services, which is actually more restrictive than the fire district's authority. The bill requires 60% voter approval to authorize a benefit charge and it must be re-authorized by voters at least every 6 years or it expires.

We believe that this is a helpful tool for cities that will allow our citizens to decide if they want more fire service. We urge you to sign ESSB 6470.

Thank you for your consideration. Should you have any questions, please don't hesitate to contact Kurt Triplett, Kirkland City Manager at 206-587-3020.

Sincerely,  
KIRKLAND CITY COUNCIL

A handwritten signature in black ink that reads "Joan McBride".

By Joan McBride, Mayor

Lake Forest Park

Kenmore

Bothell

Woodville

Lake Washington

Kirkland

Redmond

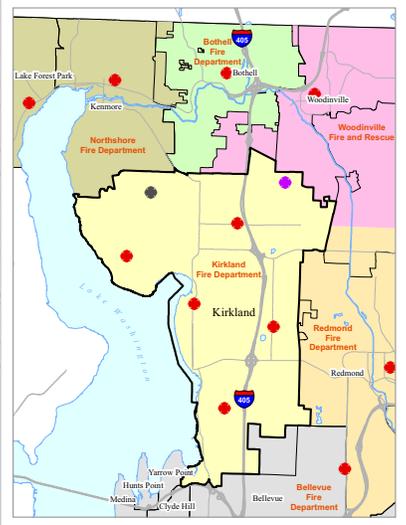
Yarrow Point

Medina

Hunts Point

Clyde Hill

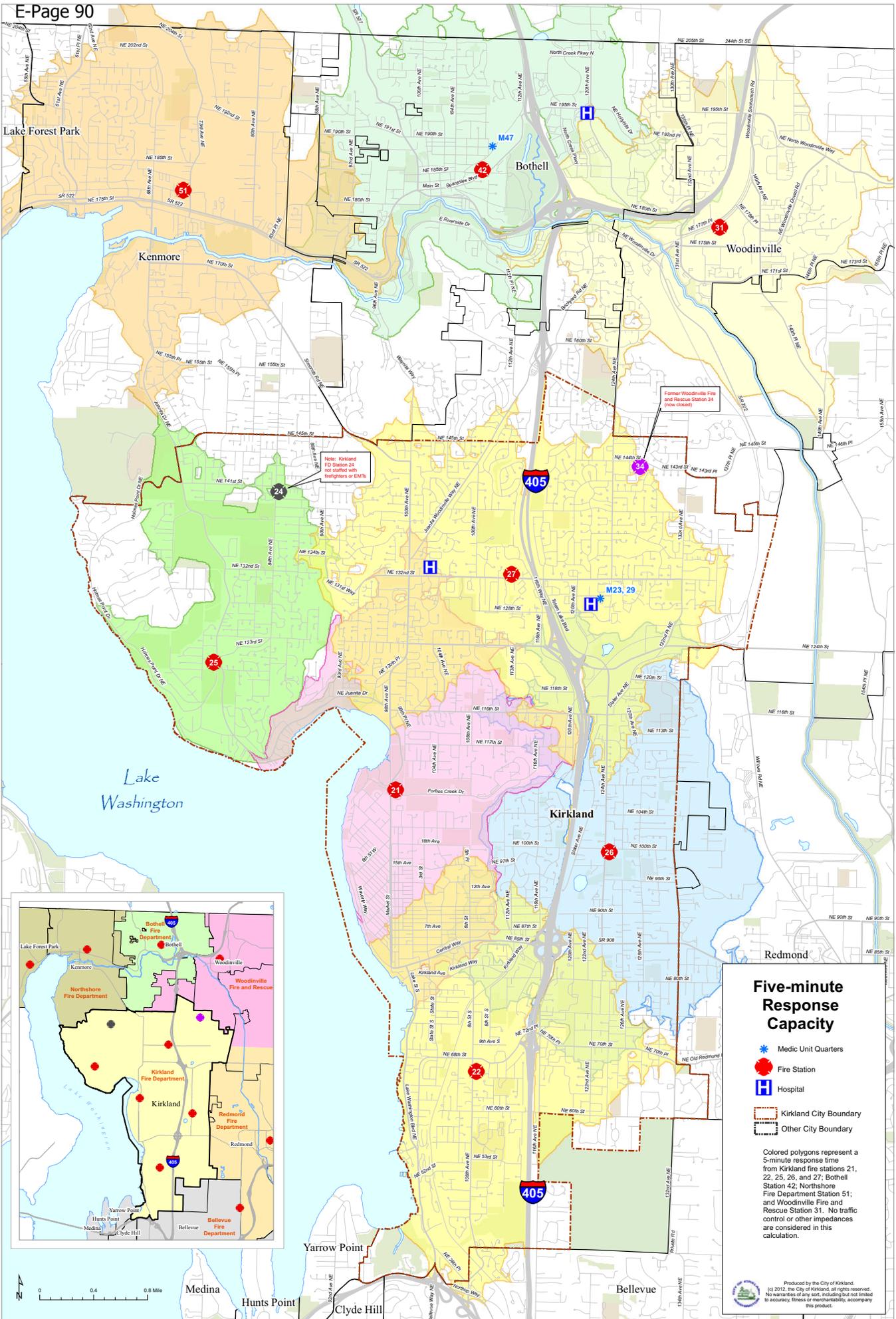
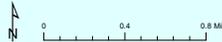
Bellevue



### Five-minute Response Capacity

- Medic Unit Quarters
- Fire Station
- Hospital
- Kirkland City Boundary
- Other City Boundary

Colored polygons represent a 5-minute response time from Kirkland fire stations 21, 22, 25, 26, and 27; Bothell Station 42; Northshore Fire Department Station 51; and Woodville Fire and Rescue Station 31. No traffic control or other impedances are considered in this calculation.





**CITY OF KIRKLAND**  
City Manager's Office  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001  
[www.kirklandwa.gov](http://www.kirklandwa.gov)

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## MEMORANDUM

**To:** Kurt Triplett, City Manager  
**From:** Lorrie McKay, Intergovernmental Relations Manager  
**Date:** March 8, 2012  
**Subject:** ANIMAL SERVICES DELIVERY OPTIONS

## RECOMMENDATION

It is recommended that the City Council receives a briefing on animal services and either requests additional information or provides direction as to the preferred option for providing animal services:

**Option A** – Extend an Interlocal Agreement (2013 ILA) with King County for Regional Animal Services effective January 1, 2013 and ending December 31, 2015

**Option B** – Provide Animal Services locally, via the City of Kirkland, effective January 1, 2013

## BACKGROUND – 2010 REGIONAL ANIMAL SERVICES INTERLOCAL AGREEMENT (ILA)

In September 2009, after having subsidized animal shelter and control services to the cities since the mid 1980's in exchange for keeping all pet licensing revenue, former King County Executive Kurt Triplett expressed his intent to discontinue this service as a County function. King County had identified that the gap between revenue and system costs grew to a level that was not sustainable as the County was contributing in excess of \$2 million annually from its general fund to support animal services. Consequently, in his proposed budget for 2010, Executive Triplett proposed cutting the funding for animal shelter and control, starting in July 2010. The County Council's intent was to establish new, full-cost recovery contracts for animal shelter and control services provided by King County to contracting cities. In January 2010, the County Council and the newly elected King County Executive Dow Constantine committed to working with a Joint Cities-County Work Group to develop a new regional model for the provision of animal services.

A participant of the Joint Cities-County Work Group, Kirkland, along with approximately 26 other cities, worked with the County toward a new business model. In the face of termination of services, Kirkland ultimately chose to contract with King County for animal services which included animal control, animal sheltering and pet licensing. In June of 2010, Kirkland signed the 2010 "Regional Animal Services" ILA with King County, contracting for services effective on July 1, 2010 and expiring on December 31, 2012. (References: March 10, 2010 Reading File memo by Erin Leonhart and follow-up memo to the Interim City Manager for the [April 20, 2010 Council Packet](#)).

### Animal Services Provided

Exhibit A of the (2010) ILA describes the animal services provided to the City by the County. The services are "animal control," "sheltering" and "licensing."

#### **Animal Control**

Control Services include the operation of a public call center, the dispatch of animal control officers in response to calls, and the handling of calls in the field by animal control officers, including the collection and delivery of animals to the County's Kent Shelter.

#### **Animal Sheltering**

Shelter services include the general care, cleaning and nourishment of owner-released, lost or stray dogs, cats and other animals. Such services are provided 7-days per week, 365 days per year at the County's animal shelter in Kent (the "Shelter") or other shelter locations utilized by the County.

#### **Pet Licensing**

Licensing services include the operation and maintenance of a unified system to license pets in Contracting Cities and unincorporated King County. Licenses are required for all dogs and cats living within the regional animal services area. License fees range from \$15 to \$60 per pet depending on their age, whether they've been altered and the status of the owner (e.g. senior). On average, the City receives \$29 for each license sold.

In providing these services under the terms of the ILA, King County has sole discretion over staffing assigned to receive & dispatch calls and is the sole judge as to the most expeditious, efficient and effective manner of handling and responding to calls for animal services.

### 2010 ILA Cost Allocation Model

The geography of the County is divided into four animal service districts. The cost allocation model in the 2010 ILA is designed so that one quarter of animal control services costs are allocated to each control district. Within those districts, costs are further allocated to contracting cities based on a formula consisting of 50% call volume and 50% population (2010). Allocated costs are then offset by actual license revenue generated within the city to result in a net "out-of-pocket cost." The City of Kirkland is within service district 200, which also includes the cities of Shoreline, Lake Forest Park, Kenmore, Woodinville, Carnation, Duvall, Sammamish and Redmond. Portions of unincorporated King County are also in District 200, some of which were annexed by the City of Kirkland in June of 2011, increasing the City's population by 31,000 residents and thereby increasing Kirkland's use of the system.

The effect of the population factor in the current cost allocation model is that cities with low-use of animal services (northern cities generally) subsidize the cities with high-use of the system (southern cities generally). In response to this inequity, King County provided transition funding and a residential credit to some cities. Just prior to the effective date, three cities (Burien, Algona and Pacific<sup>1</sup>) decided that they would not participate in the

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<sup>1</sup> *The following cities do not participate in the King County Regional Animal Services system: Algona, Bothell, Burien, Des Moines, Federal Way, Hunts Point, Medina, Milton, Normandy Park, Pacific, Renton, Seattle, and Skykomish. The cities of Auburn and Shoreline and Kirkland have sent a non-binding statement of intent to King County that they do not plan to extend the ILA in 2013.*

regional model. King County then offered an impact mitigation credit, which was intended to limit the impact to those cities who had committed to sign the 2.5 year agreement. Kirkland benefited from receiving impact mitigation credits to offset program costs beyond revenue generated from pet license sales. In 2010 the credit received was \$15,279, in 2011 it was \$37,540, and in 2012 the credit will be \$54,475. Under the terms of the 2010 ILA, these credits will terminate on December 31, 2012.

Each year, contracting cities are provided an estimate of their coming year's costs and a revenue target. The estimate is refined several times throughout the service year and in June of the following year a reconciliation payment calculation is provided. The City's reconciliation payment calculation for 2010 was received in June 2011, in accordance with the terms of the 2010 ILA. The reconciliation payment calculation represents the final costs for actual usage of the three animal services from July 1, 2010 through December 2010.

### Overview of 2010 - 2012 ILA Costs, Revenue, Credits to Kirkland

The following table summarizes animal services costs for 2010 (five months of service only), and estimated costs for 2011 and 2012 (as provided by King County). The 2011 estimate does not include an allowance for the annexation area (see footnote). The 2012 estimate includes the annexation area.

| Service Description                | 2010 (7/1 – 12/31)<br>Actual Costs | 2011 <sup>2</sup><br>(County<br>Estimated) | 2012<br>(County<br>Estimated) |
|------------------------------------|------------------------------------|--|-------------------------------|
| <b>Control</b>                     | \$22,793                           | \$54,921                                   | \$86,446                      |
| <b>Sheltering</b>                  | \$49,288                           | \$103,569                                  | \$169,604                     |
| <b>Licensing</b>                   | \$18,935                           | \$42,076                                   | \$58,821                      |
| <b>Total Animal Services Costs</b> | <b>- \$91,015</b>                  | <b>- \$200,566</b>                         | <b>- \$314,871</b>            |
| <i>Target Revenue</i>              | <i>\$67,139</i>                    | <i>\$159,211</i>                           | <i>\$248,087</i>              |
| <b>Net Cost Allocation</b>         | <b>- \$23,876</b>                  | <b>- \$41,355</b>                          | <b>- \$66,784</b>             |
| <i>Mitigation Credit</i>           | <i>\$15,279</i>                    | <i>\$37,540</i>                            | <i>\$54,475</i>               |
| <b>Total Net Costs</b>             | <b>- \$8,598</b>                   | <b>- \$3,815</b>                           | <b>- \$12,309</b>             |

### 2010 ILA Timeline

Under the terms of the 2010 ILA, unless the City notifies the County otherwise by **May 1, 2012**, the ILA would automatically extend for three years beginning Jan. 1, 2013. All mitigation credits would be eliminated. However, a 2013 ILA extension is currently being renegotiated between the cities and King County. This new ILA is described later in this memo.

<sup>2</sup> 2011 estimate excludes annexation and 2012 estimate includes annexation. King County's estimated service costs and estimated revenue target for the City of Kirkland were provided to the City in December of 2010. These estimates did not take into account the City's annexation of Juanita, Finn Hill and Kingsgate. King County acknowledged this in its notification to the City and communicated to expect an estimated increase of \$5,500 in total net costs. In February of 2012, King County notified the City that 2011 actuals, reflecting the annexation, would not be available until the 2011 reconciliation payment calculation is provided in June 2012, in accordance with the 2010 ILA.

**Costs Per Unit – Current Regional Animal Services Contract**

In analyzing data that had been compiled by the City's former Intergovernmental Relations Manager as well as the real-time data provided in the 2010 reconciliation calculation, staff was able to determine the cost per unit of service over the 2010 service period. The resulting cost per unit for shelter services under the 2010 model is significant. Under the model, the City paid \$1,027 per animal intake at the King County Regional Animal Shelter in Kent (recently renamed the King County Pet Adoption Center).

**2010 Service Period Actuals (5 months only)**

| <b>Service Description</b> | <b>Actual Use 2010</b> | <b>Actual Cost 2010</b> | <b>Cost Per Unit 2010</b> |
|----------------------------|------------------------|-------------------------|---------------------------|
| <b>Control Calls</b>       | 83                     | \$22,793                | \$275                     |
| <b>Animals Sheltered</b>   | 48                     | \$49,288                | \$1,027                   |
| <b>Licenses Sold</b>       | 2,609                  | \$18,935                | \$7.26                    |

As 2011 service use data came in, staff continued to monitor trends and costs of the system. With this data and with estimated 2012 use projections provided by King County, staff determined costs per unit for animal services for 2011 and 2012. Costs remain high.

**2011\* Service Year**

| <b>Service Description</b> | <b>Actual Use 2011</b> | <b>Estimated Cost 2011*</b> | <b>Estimated Cost Per Unit 2011</b> |
|----------------------------|------------------------|-----------------------------|-------------------------------------|
| <b>Control Calls</b>       | 145                    | \$54,921                    | \$379                               |
| <b>Animals Sheltered</b>   | 83                     | \$103,569                   | \$1,248                             |
| <b>Licenses Sold</b>       | 6,203                  | \$42,076                    | \$6.78                              |

\* See Service Year 2011 footnote on previous page.

**2012 Service Year Estimated<sup>3</sup>**

| <b>Service Description</b> | <b>Estimated Use 2012</b> | <b>Estimated Cost 2012</b> | <b>Estimated Cost Per Unit 2012</b> |
|----------------------------|---------------------------|----------------------------|-------------------------------------|
| <b>Control Calls</b>       | 165                       | \$86,446                   | \$523                               |
| <b>Animals Sheltered</b>   | 107                       | \$169,604                  | \$1,585                             |
| <b>Licenses to Sell</b>    | 8,500                     | \$58,821                   | \$6.92                              |

For each service year, the per unit (animal intake) costs for shelter service alone climbs from \$1,027, to \$1,248 per animal and finally to an estimated \$1,585 per animal over the course of the 2010 ILA contract. Similarly, the per unit cost for control calls under the current ILA are estimated to increase each year. The increase in per unit costs is largely

<sup>3</sup> Control Calls and Sheltering estimates were derived by considering 2010 and 2011 actual use data and extrapolating to account for a full year of service to the City of Kirkland with its current population. Data for the number of licenses necessary for Kirkland to sell is based on the number that the City of Kent sold in 2011 in order to generate \$250,000 in revenue.

due to the formula in the ILA that allocates based on population **and** use (not just use) within each district. The annexation resulted in increased costs because of both the population factor and the increased use.

Although these costs are offset by both the impact mitigation credit and the City's pet license sales revenue, the annual cost increases raise serious concerns. Further, under the terms of the 2010 ILA, the impact mitigation credits are terminated at the end of 2012, leaving the City responsible for offsetting the estimated 2013 program costs through its pet license sales or general fund. While pet license sales do offset the costs of the Regional Animal Services system, license sales do not achieve full cost recovery for the City. Under the terms of the 2010 ILA, the 2013 funding gap for Kirkland is estimated at \$66,000. Depending on license sales, the funding gap could increase up to an estimated \$80,000. The City would be required to sell nearly 10,000 licenses to achieve full cost recovery in regional animal services program costs. Based on 2011 actual activity, a reasonable projection for license sales that assumes a full year with the annexation area is closer to 8,100 which generates approximately \$238,000. Staff believes that the assumption that the City can sell sufficient licenses to achieve full cost recovery represents a financial risk to the City. The following table shows the estimated net costs for Kirkland under the 2010 ILA.

#### Estimate of 2013 Net Costs Under the Current 2010 ILA

| Service Description                | KC 2013<br>(Estimated) | KC RAS<br>Est./Unit Costs |
|------------------------------------|------------------------|---------------------------|
| <b>Control</b>                     | \$86,446               | \$524                     |
| <b>Sheltering</b>                  | \$169,604              | \$1,585                   |
| <b>Licensing</b>                   | \$58,821               | \$6.92                    |
| <b>Total Animal Services Costs</b> | <b>-<br/>\$314,871</b> |                           |
| <i>Target Revenue</i>              | <i>\$248,087</i>       |                           |
| <b>Net Cost Allocation</b>         | <b>- \$66,784</b>      |                           |
| <i>Mitigation Credit</i>           | <i>\$0</i>             |                           |
| <b>Total Net Costs</b>             | <b>- \$66,784</b>      |                           |

Kirkland staff continued analyzing system use data and began exploring options that would allow the City to provide animal services locally, at a lower cost than what the City is paying as a participant of the Regional Animal Services model. Animal sheltering is the primary area where cost savings are likely to be achieved. But some modest savings can also be achieved in the local provision of animal control and animal licensing services.

In his proposed 2012 budget transmitted to the Council in September, the King County Executive offered a case study on "How We Deliver Regional Animal Services" in which he outlined a cost per unit of each of the three services. For shelter services, the Executive indicated that shelter service could be provided at \$543 per intake. However the Executive notes that the model creates challenges in trying to show a cost-per-unit number that reflects the cost from a customer's (contract municipality) perspective because of the combined effect of population and use in the formula.

For purposes of comparison, staff examined the shelter services costs with two local non-profit animal shelter service providers, the Seattle Humane Society and PAWS.

### Comparison of Cost Per Shelter Intake

| Animal Shelter Use Data | King County RAS Cost Per Intake | Seattle Humane Society Cost Per Intake | PAWS Cost Per Intake |
|-------------------------|---------------------------------|--|----------------------|
| 1 Animal Intake         | \$1,027                         | \$225                                  | \$160                |

The table below compares the animal services program costs in 2013 under the terms of the 2010 ILA alongside estimated costs under an animal services program operated by the City of Kirkland. 'Use' estimates for 2012 that are listed above (165 Control calls, 107 Shelter intakes and 8,500 Licenses sold) are applied to project the estimated per unit costs (a more detailed discussion of the local option is included later in this memo).

### Comparison of Estimated 2013 Costs under terms of (2010) ILA versus Kirkland Program

| Service Description                | KC 2013 (Estimated)   | KC RAS Est./Unit Costs | COK 2013 (Estimated) | COK Est./Unit Costs |
|------------------------------------|-----------------------|------------------------|----------------------|---------------------|
| <b>Control</b>                     | \$86,446              | \$524                  | \$103,094            | \$624               |
| <b>Sheltering</b>                  | \$169,604             | \$1,585                | \$17,120             | \$160               |
| <b>Licensing</b>                   | \$58,821              | \$6.92                 | \$32,725             | \$3.85              |
|                                    |                       |                        | \$10,900             | <i>Marketing</i>    |
| <b>Total Animal Services Costs</b> | -<br><b>\$314,871</b> |                        | <b>- \$163,839</b>   |                     |
| <i>Target Revenue</i>              | <i>\$248,087</i>      |                        | <i>\$248,087</i>     |                     |
| <b>Net Cost Allocation</b>         | <b>- \$66,784</b>     |                        | <b>\$84,248</b>      |                     |
| <i>Mitigation Credit</i>           | <i>\$0</i>            |                        | <i>\$0</i>           |                     |
| <b>Total Net Costs</b>             | <b>- \$66,784</b>     |                        | <b>\$84,248</b>      |                     |

### If Cost is Driver City Should Terminate Contract

Assuming the City was able to sell 8,500 pet licenses in order to generate \$248,087 in revenue, a funding gap of \$66,784 is anticipated to remain under the King County Regional Animal Services system. Whereas, assuming the City were able to sell 8,500 pet licenses under a program run by the City of Kirkland, a surplus of approximately \$84,248 would be available. The potential net positive to the City could be as much as \$151,000.

Based on program costs as a primary criteria, the staff recommendation is that under the terms of the original (2010) ILA, the City of Kirkland should terminate its participation in King County's Regional Animal Services system unless a more favorable cost allocation formula (and net cost to Kirkland) could be negotiated.

## **NEGOTIATIONS FOR AN AMENDED AND RESTATED INTERLOCAL AGREEMENT (2013 ILA)**

In September of 2011, the City of Auburn notified King County that they intended to terminate their participation in the Regional Animal Services system at the end of the current (2010) ILA term. Auburn's notice triggered ILA renegotiation discussions between the County and the remaining contracting cities participating in the system.

In November 2011, city representatives and King County began meeting weekly to attempt to reach an agreement in principle on an extension of the current (2010) Animal Services ILA. As noted above, the current (2010) ILA will not be extended beyond December 31, 2012. The parties have until July 1, 2012, to sign an amended (2013) ILA that would be effective January 1, 2013 and would terminate December 31, 2015. If the parties do not reach agreement on a modified contract by July 1, 2012, the ILA terminates December 31, 2012.

Early in the negotiation process, Kirkland requested that the cost allocation model be based on use, rather than use **and** population. The County did model this option and Kirkland's costs were more than fully recovered from license fees. Not surprisingly, cities with high use and low license revenue saw their cost allocation rise dramatically. As a compromise, Kirkland requested a model that resulted in no out-of-pocket costs for low use cities even though there would still be a subsidy of high use cities.

### **City-County Workgroup Weekly ILA Negotiation Meetings**

Since November, the County has listened to cities' concerns and where possible, has taken steps to address many of the concerns raised. Discussions have resulted in the following proposed changes:

- 1) Shift to a cost allocation method based more on use, and less on city population;
- 2) Increase the County's level of financial support to the system and hold that support steady over the 3-year contract term (2013-2015);
- 3) Adjust animal control district boundaries to maintain service levels and control costs;
- 4) Increase focus on system revenue generation; and
- 5) Implement efficiencies and other changes to reduce allocable costs while maintaining service levels.

Taken together, these proposed (option #1) changes do bring down the estimated overall costs of the regional system as well as the estimated program costs to the City of Kirkland (Attachment A). City staff has valued the good faith approach by County staff and the hard work that has gone into these negotiations and the proposed changes to the system.

**Although the model has been modified and total system costs reduced, King County has not yet offered an ILA that meets Kirkland's preference for zero out-of-pocket costs.**

Essentially, the proposed amended ILA was presented at a February 1, 2012 City Manager's meeting managed to keep the Kirkland's estimated costs in 2013 the same as the estimated net costs for 2012 under the current ILA.

### Cost Comparison of the Proposed Amended (2013) ILA versus the 2010 ILA

| Service Description              | 2012 Estimated Cost Allocation<br>(based on 2010 ILA) | 2013 Estimated Cost Allocation<br>(based on amended ILA) |
|----------------------------------|---|--|
| <b>Control</b>                   | \$86,446  | \$84,595   |
| <b>Sheltering</b>                | \$169,604   | \$99,626   |
| <b>Licensing</b>                 | \$58,821  | \$59,940   |
| <b>Total RAS Costs</b>           | <b>- \$314,871</b>                                    | <b>- \$244,162</b>                                       |
| <i>Target Revenue</i>            | <i>\$248,087</i>                                      | <i>\$219,135</i>   |
| <b>Net Cost Allocation</b>       | <b>- \$66,784</b>                                     | <b>- \$25,027</b>  |
| <i>Licensing Support</i>         | <i>\$54,475 Mitigation Credit</i>                     | <i>\$12,718</i>  |
| <b>Total Net Costs / Surplus</b> | <b>- \$12,309</b>                                     | <b>- \$12,309</b>  |

Note: The City of Kirkland 2013 ILA estimated costs in the table above were presented at the monthly meeting of the region's City Managers on February 1.

While the proposed programmatic changes and the proposed changes to the cost allocation model do in fact bring down the overall Animal Services program costs as well as the specific costs to the City, Kirkland's cost per unit for sheltering animals at the King County Pet Adoption Center in Kent (\$914 per intake) remains high.

### Kirkland's Estimated Costs, Revenue and Credits - Proposed Amended (2013) ILA

| Service Description                      | 2013 ILA<br>(Revised Estimate) | Service Use<br>2012 Estimated | Per Unit<br>Estimated<br>Costs |
|--|--------------------------------|-------------------------------|--------------------------------|
| <b>Control</b>                           | \$84,595                       | 230 calls                     | \$368                          |
| <b>Sheltering</b>                        | \$99,626                       | 109 intakes                   | \$914                          |
| <b>Licensing</b>                         | \$59,940                       | 7,855 licenses sold           | \$7.63                         |
| <b>Total RAS Costs</b>                   | <b>- \$244,162</b>             |                               |                                |
| <i>Target Revenue</i>                    | <i>\$219,135</i>               |                               |                                |
| <b>Net Cost Allocation</b>               | <b>- \$25,027</b>              |                               |                                |
| <i>Licensing Support<br/>(2013 only)</i> | <i>\$12,718</i>                |                               |                                |
| <b>Total Net Costs</b>                   | <b>- \$12,309</b>              |                               |                                |

King County's February 1 proposal includes \$12,718 in licensing support for 2013 only and is not a credit (cash) support, but rather a pledge of the County's in-kind investment of licensing staff resources. There is no guarantee of achieving the \$219,135 in offsetting revenue, especially beyond 2013 when licensing support is decreased.

### Kirkland, Shoreline, Auburn Notify County of Intent to Withdraw

As a result of this uncertainty, the City Manager notified King County on February 14, in a non-binding statement of intent, that Kirkland is not likely to participate in a contract extension with King County for regional animal services and asked to be removed from the cost allocation model (Attachment B). The cities of Shoreline and Auburn also expressed their intent not to participate.

The current proposed cost allocation model (option #2) shows the cities of Kirkland, Shoreline and Auburn as non-participating cities (Attachment C).

### **CONSIDERATION OF KIRKLAND PROVISION OF ANIMAL SERVICES**

In the spring of 2011, Kirkland staff began reaching out to the animal service program managers at cities that are providing animal services on their own in order to learn from their experiences. Specifically, staff contacted the cities of Bothell, Federal Way, Des Moines, Renton and Burien to understand how these cities were providing animal services and what lessons they could share.

Several key shared experiences were identified:

- 1) All of these cities, except Burien, run the Animal Control Service out of their Police Departments.
- 2) Before proceeding forward, they stressed that we ensure that an animal sheltering option exists for the City.
- 3) They told us to expect use in Animal Control and Animal Shelter usage to increase by approximately 30% or more based on the availability of local services.

Assuming Kirkland operates Animal Control service from the Police Department, CMO staff initiated communication with KPD staff to begin identifying operational needs and costs.

#### Contracts Available for Shelter and Pet Licensing

Staff reached out to both the Seattle Humane Society and the Progressive Animal Welfare Society (PAWS) to determine if these animal shelter organizations have the capacity to serve the City of Kirkland as well as confirm their interest in contracting shelter service to the City. Both organizations have indicated that they have the capacity and interest to work with Kirkland.

Staff also explored the potential of contracting pet license processing services with PetData, a private company that provides this service by contract to other cities in Washington and in other states across the country. PetData charges \$3.85 per license processed. PetData maintains the data on pet-owners. The company sends out one renewal notice to licensed pet owners annually.

Staff worked internally to estimate the cost of employing an Animal Control Officer. Kirkland's Finance Department and Police Department determined that an Animal Control Officer could be employed by the City at an annual cost of \$102,569 (includes wages, benefits, vehicle rental and replacement, etc.) plus an estimated \$525 in NORCOM dispatch costs. Additionally, there would be an estimated \$10,900 in expenses for marketing and license renewal efforts. Importantly, there may be a one-time City program start-up

expenses of approximately \$98,075 in the first year for the purchase of a vehicle and equipment.

#### Animal Service Program Use Estimates

Finally, staff worked to estimate an increase in service use of both anticipated animal control calls as well as animal intakes at a shelter. In the ILA negotiation process, King County determined preliminary usage estimates for 2013 based on 2011 usage data (Attachment D). Further, the Seattle Humane Society provided data from 2008 and 2009 showing the number of intakes (owner surrendered and strays) that they received from residents of the City of Kirkland.

Working with the County's estimates and the data provided by the Seattle Humane Society, staff developed an animal intake estimate that also considered Kirkland's increase in population following annexation. A similar process was used to identify the number of control calls. Both numbers were calculated conservatively so as not to understate system costs.

#### **2013 Service Year 'Use' Estimates**

| <b>Service Description</b> | <b>King County 2013 Estimated Service Use</b> | <b>Kirkland 2013 Estimated Service Use</b> |
|----------------------------|---|--|
| <b>Control Calls</b>       | 230   | 256  |
| <b>Animals Sheltered</b>   | 109   | 358  |
| <b>Licenses to Sell</b>    | 7,855   | 7,855                                      |

Assuming the City were to contract with PAWS for sheltering service, after applying the revised service 'use' estimates in the table above to the cities cost model (Attachment E), the estimated available surplus under a program operated by the City is estimated to be \$17,619.

#### **Option A Versus Option B**

The table on the following page compares the cost of remaining in the King County Regional system ("Option A") to the cost of providing services locally ("Option B"). The local model assumes one animal control officer. When the officer is not on duty, high priority calls (immediate threat to human or animal) will be answered by a Kirkland Police Officer. High priority calls are infrequent and often require a police response.

### Comparison of Estimated 2013 Costs: Proposed ILA versus Kirkland Program

| Service Description                | OPTION A              |                        | OPTION B             |                     |
|------------------------------------|-----------------------|------------------------|----------------------|---------------------|
|                                    | KC 2013 (Estimated)   | KC RAS Est./Unit Costs | COK 2013 (Estimated) | COK Est./Unit Costs |
| Control                            | \$84,895              | \$368                  | \$103,094            | \$402               |
| Sheltering                         | \$99,626              | \$914                  | \$57,280             | \$160               |
| Licensing                          | \$59,940              | \$7.63                 | \$30,242             | \$3.85              |
|                                    |                       |                        | \$10,900             | <i>Marketing</i>    |
| <b>Total Animal Services Costs</b> | -<br><b>\$244,161</b> |                        | <b>- \$201,516</b>   |                     |
| <i>Target Revenue</i>              | <i>\$219,135</i>      |                        | <i>\$219,135</i>     |                     |
| <b>Net Cost Allocation</b>         | <b>- \$25,026</b>     |                        | <b>\$17,619</b>      |                     |
| <i>Licensing Support</i>           | <i>\$12,718</i>       |                        | <i>\$0</i>           |                     |
| <b>Total Net Costs / Surplus</b>   | <b>- \$12,309</b>     |                        | <b>\$17,619</b>      |                     |

The conservative net benefit to Kirkland of electing Option B is \$30,000 annually.

#### CONSIDERATION OF A SUB-REGIONAL APPROACH TO PROVIDING ANIMAL SERVICES

Since 2010, Kirkland has explored a "sub-regional" model with the cities of Bellevue, Redmond, Mercer Island and recently Newcastle that assumes a use-based model that provides the full range of services (Control, Shelter and Licensing). Up-front capital costs associated with this model are roughly equivalent to the one-time start-up costs the City faces on its own. As of February 14, 2012, none of the other cities in the sub-regional discussions have indicated their intention to pull out of King County's system. Therefore this is not likely an option at this time.

#### ANALYSIS OF OPTIONS – OPERATIONAL CONSIDERATIONS

Aside from the pure financial considerations, there are both benefits and drawbacks to each option which are presented in the tables on the following pages. It should be noted that all of the cities that provide animal services locally were able to accommodate all of the service needs for their community. If Kirkland were to choose a local option for animal services, staff would continue to work with nearby cities, such as Bothell, to explore partnering opportunities that may be mutually beneficial.

**Benefits & Drawbacks of Option A  
Participation in King County Regional Animal Services:**

| <p align="center"><b>Option A Benefits</b><br/>of King County Regional Animal Services</p>   | <p align="center"><b>Option A Drawbacks</b><br/>of King County Regional Animal Services</p>   |
|--|---|
| <ul style="list-style-type: none"> <li>• Provides a consistent level of service, common regulatory approach, and humane animal care across the region.</li> <li>• Allows local police agencies to focus on traditional law enforcement instead of civil animal offenses (barking, off-leash, unlicensed animals).</li> <li>• Provides a low-cost spay and neuter program.</li> <li>• Reduces the demand on individual jurisdictions to respond to public disclosure requests.</li> <li>• Use of volunteers and partnerships with private animal welfare groups increases humane animal treatment with minimal public cost.</li> <li>• Takes advantage of current technology - officers can access calls and database in the field; customers receive email notices prior to mailed renewal notices; citizens can locate lost pets online or by phone; cities get detailed reports on level and types of activity in their jurisdiction.</li> <li>• King County Board of Appeals hears appeals to civil offenses, centralizing the adjudication.</li> <li>• Provides a single access point for residents searching for a lost pet or seeking animal control help and citizen complaints.</li> <li>• Pet Adoption Center is open 7 days a week.</li> <li>• A regional, uniform pet licensing program that is simple for the public to access and understand, with a broad range of accompanying services to encourage licensing; marketing, and license sales.</li> <li>• Online licensing sales increases compliance.</li> <li>• Provides the ability to identify and track rabies and other public health issues related to animals on a regional basis.</li> <li>• Provides capacity to handle unusual and multi-jurisdictional events involving animals that require specialized staff, such as: horse cruelty, animal hoarding, loose livestock, dog-fighting, animal necropsies and quarantine, holding of animals as evidence in criminal cases and retrieval of dead animals.</li> <li>• Animals find new homes and are not euthanized for capacity.</li> <li>• Provides regional preparedness planning and coordination for emergency and disaster response.</li> </ul> | <ul style="list-style-type: none"> <li>• King County has sole discretion and judgment of service prioritization and dispatch decisions.</li> <li>• County's model provides for city input on control response protocols but any recommendations are non-binding and may be dismissed.</li> <li>• Shelter costs are nine times more expensive than alternative shelter options.</li> <li>• There is no flexibility to allow a City an "a la carte" option where they could purchase only licensing or control services.</li> <li>• Pet license sales revenue is modest and may never fully recover program costs.</li> <li>• Cost allocation model assumes City's ability to sell an untested amount of pet licenses to offset program costs.</li> <li>• A city's service reports on levels and types of activities can only be generated by County staff, making timely access to accurate report information inconvenient and challenging.</li> <li>• All report formats are controlled by the County and formats change frequently. Information is not consistent.</li> <li>• Local residents reach out to the City with animal services questions, regardless of King County Animal services representing a single point of contact.</li> <li>• There is no ability for a City to set a service level with King County that is most appropriate to its needs.</li> <li>• County's model requires an increased commitment from cities toward efforts to generate revenue.</li> <li>• At this point in time, the County's model is temporary and still financially unsustainable.</li> </ul> |

**Benefits & Drawbacks of Option B  
Providing Animal Services Locally through the City of Kirkland:**

| <p align="center"><b>Option B Benefits<br/>of Kirkland Providing Animal Services</b></p>   | <p align="center"><b>Option B Drawbacks<br/>of Kirkland Providing Animal Services</b></p>  |
|--|--|
| <ul style="list-style-type: none"> <li>• With historically low service use, net costs of a local animal services program are less expensive and more manageable over time.</li> <li>• If trends in low service use hold, modest pet license sales could fully recover costs.</li> <li>• Allows City to determine appropriate local level of service and regulatory approach</li> <li>• Provides for humane animal care.</li> <li>• City staff would have discretion and judgment of service prioritization and dispatch decisions.</li> <li>• City staff would have immediate access to service report information.</li> <li>• City Animal Control Officer could provide consistent local service and resident familiarity</li> <li>• Subcontracting shelter services to a private non-profit keeps the City out of the shelter business.</li> <li>• Subcontracting shelter services to a non-profit shelter organization decreases the per animal cost by up to \$800.</li> <li>• Non-profit shelter organizations provide a low-cost spay and neuter program for qualifying low income customers.</li> <li>• City use of volunteers and partnerships with private animal welfare groups increases humane animal treatment with minimal public cost.</li> <li>• Provides a local single access point for residents searching for a lost pet or seeking animal control help and citizen complaints.</li> <li>• Subcontracting pet license process enables City Finance Department to continue focusing on current work load.</li> <li>• Subcontracting pet license sales through PetData is simple for the public to access and understand.</li> <li>• Online licensing sales via PetData increases compliance.</li> </ul> | <ul style="list-style-type: none"> <li>• City would be starting a new line a business.</li> <li>• City would have to create a new Full Time Employee position in the Police Department for its Animal Control Officer.</li> <li>• In 2012 &amp; into 2013, there are one-time start-up costs to the City of \$98,075.</li> <li>• Technology - City would need to develop reporting systems &amp; formats for the three services in order to monitor the program and find areas for improvement.</li> <li>• Local residents may be confused during the transition about which agency provides animal services.</li> <li>• City would have to identify a temporary animal holding pen for animals brought in during hours when the non-profit shelter is closed.</li> <li>• City would be fully responsible for developing marketing efforts to encourage licensing and to promote license sales.</li> <li>• City would have to develop relationships with various animal rescue groups, veterinary hospitals and other businesses to manage unusual events involving animals that require specialized staff, such as: horse cruelty, animal hoarding, loose livestock, dog-fighting, animal necropsies and quarantine, holding of animals as evidence in criminal cases and retrieval of dead animals.</li> </ul> |

## **AMENDED KING COUNTY ILA TIMING AND NEXT STEPS**

The following amended timeline outlines the current schedule for decision making for the King County ILA.

|            |   |
|------------|---|
| Mar 7      | Workgroup finalizes ILA draft for attorney review; modifications to cost model if needed and resulting ILA changes  |
| March 8-14 | Cities review with attorneys  |
| March 21   | ILA Work group consensus on Final draft ILA<br>First Draft - Outreach package, Contract, FAQ, Section by section summary, sample/standard PowerPoint presentation for city councils, etc. |
| March 28   | *Last ILA Work Group meeting = Final draft ILA, final draft Cost model, and briefing packet circulated  |
| April 18   | ILA discussion and *First quarterly meeting of Joint City/County Collaboration Committee  |
| May 1      | Cities provide County second non-binding statement of intent  |
| May 10     | Circulate final cost model and briefing materials (including revised ILA if necessary) based on second non-binding statement of interest.   |
| May - June | City Council actions  |
| July 1     | ILA signed (formal adoption and execution of Agreement)   |

Negotiations are continuing with King County and staff will continue to work with the County to determine if there is a financially feasible way for Kirkland to remain in the regional system. The next key date will be May 1 when cities must provide their second non-binding statement of intent. From a practical standpoint, however, if the City is going to provide animal services locally there is planning and preparation that needs to take place so that implementation is seamless and effective.

## **SUMMARY AND RECOMMENDATION**

Staff has been working over the past year to better understand options and costs for providing animal services in Kirkland. The Public Safety Committee received briefings from staff on the status of Animal Services in 2011 on September 15, October 20, and December 15. The last briefing to the Public Safety Committee was January 27, 2012. The committee was briefed on three service delivery models – Regional, Sub-Regional and Local. However the sub-regional model does not appear to be viable at this point.

The options for the provision of animal services are:

**Option A** – Extend an Interlocal Agreement (2013 ILA) with King County for Regional Animal Services effective January 1, 2013 and ending December 31, 2015

**Option B** – Provide Animal Services locally, via the City of Kirkland, effective January 1, 2013

Based on the 2013 ILA model currently proposed by King County, staff recommends Option B whereby Kirkland would provide animal services locally. Local provision of animal service will allow the City to establish certainty, control the service costs and minimize risks while offering the necessary care to the city's animals.

(Note: Negotiations continue and if an alternate model is presented that meets the City's needs staff may recommend remaining with King County.)

### **Council Direction Requested**

Staff requests that the City Council provides direction as to the preferred option for providing animal services or request additional information needed to make a decision.

If Option B is selected, Council is further requested to authorize the City Manager to formally notify King County of the City's intent to withdraw and take appropriate additional action to develop a Kirkland Animal Services program for inclusion in the 2013-2014 budget.

- Attachments
- A. King County's Feb. 1 – 2013 Cost Allocation Model – Option #1
  - B. City of Kirkland's Feb. 14 Non-Binding Statement of Intent Re: Amended (2013) ILA
  - C. King County's Feb. 27 – 2013 Cost Allocation Model – Option #2
  - D. King County's 2011 Estimated Usage Data for Consideration in 2013 Model
  - E. City of Kirkland Animal Services Cost Model

**Regional Animal Services of King County  
DRAFT 2013 Estimated Payment Calculation**

Auburn Out, Allocation Method: Population = 20%, Usage = 80% Control Districts 240 and 260 combined into one (500), with 240 and 260 consolidated to District 500, costs to districts 25%, 25%, 50%. Usage and Licensing Revenue based on 2011 Preliminary Year End. Credits allocated to jurisdictions with shelter intakes per capita above the system average.

**OPTION #1**

|                                | Control     | Shelter     | Licensing | Total Allocated Costs (1) | 2011 Licensing Revenue (est) | Estimated Net Cost |
|--------------------------------|-------------|-------------|-----------|---------------------------|------------------------------|--------------------|
| Budgeted Total Allocable Costs | \$1,770,487 | \$2,819,960 | \$673,640 | \$5,264,087               |                              |                    |
| Budgeted Non-Licensing Revenue | \$80,040    | \$112,507   | \$13,265  | \$205,812                 |                              |                    |
| Budgeted Net Allocable Costs   | \$1,690,447 | \$2,707,453 | \$660,375 | \$5,058,275               | \$2,491,824                  | -\$2,566,451       |

| Animal Control District Number                                   | Jurisdiction   | Estimated Animal Control Cost Allocation (2) | Estimated Sheltering Cost Allocation (3) | Estimated Licensing Cost Allocation (4) | Estimated Total Animal Services Cost Allocation | 2011 Licensing Revenue (Estimated) | Estimated Net Cost Allocation | 2013-2015 Transition Funding (Annual) (5) | 2013 - 2015 Credits (Annual) (6) | Estimated Net Costs with Transition Funding and Credits | Estimated Revenue from Proposed Transitional Licensing Support (7) | Estimated Net Final Cost (8) |                   |
|--|--|--|--|---|---|------------------------------------|-------------------------------|---|----------------------------------|---|--|------------------------------|-------------------|
| 200  | Carnation  | \$4,118                                      | \$3,497                                  | \$1,239                                 | \$8,854   | \$4,752                            | -\$4,102                      | \$552                                     | \$0                              | -\$3,550  | \$966  | -\$2,584                     |                   |
|  | Duwall   | \$11,261                                     | \$15,264                                 | \$5,351                                 | \$31,876  | \$21,343                           | -\$10,533                     |   | \$0                              | -\$10,533   | \$7,658  | -\$2,875                     |                   |
|  | Estimated Unincorporated King County                             | \$83,837                                     | (see total below)                        | (see total below)                       | (see total below)                               | (see total below)                  | (see total below)             | (see total below)                         | NA                               | NA  | NA   | NA                           | NA                |
|  | Kenmore  | \$37,911                                     | \$11,592                                 | \$15,423                                | \$64,926  | \$58,602                           | -\$6,324                      | \$0                                       | \$0                              | -\$6,324  | \$0  | -\$6,324                     |                   |
|  | Kirkland   | \$84,595                                     | \$99,626                                 | \$59,940                                | \$244,162                                       | \$219,135                          | -\$25,027                     | \$0                                       | \$0                              | -\$25,027   | \$12,718   | -\$12,309                    |                   |
|  | Lake Forest Park   | \$22,894                                     | \$7,034                                  | \$12,099                                | \$42,027  | \$48,504                           | \$6,477                       | \$0                                       | \$0                              | \$6,477   | \$0  | \$6,477                      |                   |
|  | Redmond  | \$37,867                                     | \$54,303                                 | \$32,308                                | \$124,478                                       | \$116,407                          | -\$8,071                      | \$0                                       | \$0                              | -\$8,071  | \$0  | -\$8,071                     |                   |
|  | Sammamish  | \$35,341                                     | \$44,214                                 | \$31,129                                | \$110,684                                       | \$117,649                          | \$6,965                       | \$0                                       | \$0                              | \$6,965   | \$0  | \$6,965                      |                   |
|  | Shoreline  | \$92,519                                     | \$29,677                                 | \$38,194                                | \$160,391                                       | \$145,689                          | -\$14,702                     | \$0                                       | \$0                              | -\$14,702   | \$0  | -\$14,702                    |                   |
|  | Woodinville  | \$12,268                                     | \$6,103                                  | \$7,708                                 | \$26,079  | \$29,220                           | \$3,141                       | \$0                                       | \$0                              | \$3,141   | \$0  | \$3,141                      |                   |
| <b>SUBTOTAL FOR CITIES IN 200 (excludes unincorporated area)</b> |  | <b>\$338,776</b>                             | <b>\$271,310</b>                         | <b>\$203,392</b>                        | <b>\$813,477</b>                                | <b>\$761,301</b>                   | <b>-\$52,176</b>              | <b>\$552</b>                              | <b>\$0</b>                       | <b>-\$51,624</b>  | <b>\$21,342</b>  | <b>-\$30,282</b>             |                   |
| 220  | Beaux Arts   | \$86   | \$167                                    | \$246                                   | \$500   | \$930                              | \$430                         | \$0                                       | \$0                              | \$430   | \$0  | \$430                        |                   |
|  | Bellevue   | \$142,322                                    | \$161,486                                | \$75,249                                | \$379,056                                       | \$273,931                          | -\$105,125                    | \$0                                       | \$0                              | -\$105,125  | \$34,449   | -\$70,676                    |                   |
|  | Clyde Hill   | \$1,866                                      | \$3,168                                  | \$1,952                                 | \$6,985   | \$7,170                            | \$185                         | \$0                                       | \$0                              | \$185   | \$0  | \$185                        |                   |
|  | Estimated Unincorporated King County                             | \$166,199                                    | (see total below)                        | (see total below)                       | (see total below)                               | (see total below)                  | (see total below)             | (see total below)                         | NA                               | NA  | NA   | NA                           | NA                |
|  | Issaquah   | \$53,351                                     | \$46,167                                 | \$16,279                                | \$115,797                                       | \$55,947                           | -\$59,850                     | \$0                                       | \$0                              | -\$59,850   | \$0  | -\$59,850                    |                   |
|  | Mercer Island  | \$13,581                                     | \$18,177                                 | \$13,853                                | \$45,611  | \$49,982                           | \$4,351                       | \$0                                       | \$0                              | \$4,351   | \$0  | \$4,351                      |                   |
|  | Newcastle  | \$16,484                                     | \$12,318                                 | \$4,657                                 | \$33,459  | \$15,271                           | -\$18,188                     | \$0                                       | \$0                              | -\$18,188   | \$2,599  | -\$15,589                    |                   |
|  | North Bend   | \$15,851                                     | \$16,273                                 | \$4,128                                 | \$36,252  | \$15,694                           | -\$20,558                     | \$1,376                                   | \$586                            | -\$18,596   | \$6,463  | -\$12,133                    |                   |
|  | Snoqualmie   | \$12,248                                     | \$11,116                                 | \$6,737                                 | \$30,101  | \$25,065                           | -\$5,036                      | \$0                                       | \$0                              | -\$5,036  | \$0  | -\$5,036                     |                   |
|  | Yarrow Point   | \$625  | \$561                                    | \$760                                   | \$1,945   | \$2,700                            | \$755                         | \$0                                       | \$0                              | \$755   | \$0  | \$755                        |                   |
| <b>SUBTOTAL FOR CITIES IN 220 (excludes unincorporated area)</b> |  | <b>\$256,413</b>                             | <b>\$269,432</b>                         | <b>\$123,862</b>                        | <b>\$649,707</b>                                | <b>\$446,670</b>                   | <b>-\$203,037</b>             | <b>\$1,376</b>                            | <b>\$586</b>                     | <b>-\$201,075</b>                                       | <b>\$43,511</b>  | <b>-\$157,564</b>            |                   |
| 500  | Kent   | \$263,232                                    | \$794,101                                | \$69,400                                | \$1,126,733                                     | \$253,944                          | -\$872,789                    | \$110,495                                 | \$495,870                        | -\$266,424  | \$0  | -\$266,424                   |                   |
|  | SeaTac   | \$79,732                                     | \$184,894                                | \$13,311                                | \$277,938                                       | \$47,232                           | -\$230,706                    | \$7,442                                   | \$116,611                        | -\$106,653  | \$0  | -\$106,653                   |                   |
|  | Tukwila  | \$49,635                                     | \$110,787                                | \$9,229                                 | \$169,652                                       | \$32,705                           | -\$136,947                    | \$5,255                                   | \$61,987                         | -\$69,705   | \$0  | -\$69,705                    |                   |
|  | Black Diamond  | \$8,084                                      | \$14,340                                 | \$2,685                                 | \$25,108  | \$10,185                           | -\$14,923                     | \$1,209                                   | \$3,263                          | -\$10,451   | \$2,001  | -\$8,450                     |                   |
|  | Covington  | \$52,490                                     | \$82,456                                 | \$12,634                                | \$147,580                                       | \$48,982                           | -\$98,598                     | \$5,070                                   | \$36,409                         | -\$57,119   | \$0  | -\$57,119                    |                   |
|  | Enumclaw   | \$41,747                                     | \$56,672                                 | \$6,920                                 | \$105,340                                       | \$25,307                           | -\$80,033                     | \$11,188                                  | \$28,407                         | -\$40,438   | \$5,973  | -\$34,465                    |                   |
|  | Estimated Unincorporated King County                             | \$309,089                                    | (see total below)                        | (see total below)                       | (see total below)                               | (see total below)                  | (see total below)             | (see total below)                         | NA                               | NA  | NA   | NA                           | NA                |
|  | Maple Valley   | \$41,215                                     | \$68,380                                 | \$15,080                                | \$124,675                                       | \$56,628                           | -\$68,047                     | \$6,027                                   | \$6,867                          | -\$55,153   | \$6,956  | -\$48,197                    |                   |
|  | <b>SUBTOTAL FOR CITIES IN 500 (excludes unincorporated area)</b> |  | <b>\$536,135</b>                         | <b>\$1,311,631</b>                      | <b>\$129,259</b>                                | <b>\$1,977,025</b>                 | <b>\$474,983</b>              | <b>-\$1,502,042</b>                       | <b>\$146,686</b>                 | <b>\$749,414</b>  | <b>-\$605,942</b>  | <b>\$14,930</b>              | <b>-\$591,012</b> |
|  | <b>TOTAL FOR CITIES</b>  |  | <b>\$1,131,322</b>                       | <b>\$1,852,373</b>                      | <b>\$456,514</b>                                | <b>\$3,440,209</b>                 | <b>\$1,682,954</b>            | <b>-\$1,757,255</b>                       | <b>\$148,614</b>                 | <b>\$750,000</b>  | <b>-\$858,641</b>  | <b>\$79,783</b>              | <b>-\$778,858</b> |
| <b>Total King County Unincorporated Area Allocation</b>          |  | <b>\$559,125</b>                             | <b>\$855,080</b>                         | <b>\$203,861</b>                        | <b>\$1,618,065</b>                              | <b>\$808,870</b>                   | <b>-\$809,195</b>             |   |                                  |   |  | <b>-\$809,195</b>            |                   |
|  |  | \$1,690,447                                  | \$2,707,453                              | \$660,375                               | \$5,058,275                                     | \$2,491,824                        | -\$2,566,451                  |   |                                  |   |  |                              |                   |

Source: Regional Animal Services of King County

Date: Jan 30, 2012 (Draft)

Numbers are estimates only for the purpose of negotiation discussions. The numbers and allocation methodology are subject to change while negotiations are underway.

Notes:

1. Based on various efficiencies and changes to the RASKC operating budget, adjustments for reduced intakes overall, reduced usage with Auburn out, and shifting two positions out of the model (county sponsored), the 2013 Estimated Budgeted Total Allocable Cost has been reduced to \$5,264,087.
2. One quarter of control services costs are allocated to control districts 200 and 220, and one half of control costs are allocated to district 500, then costs are further allocated 80% by total call volume (2011 Calls - Preliminary year end) and 20% by 2011 population.
3. This excludes the cost to northern cities of sheltering their animals at PAWS under separate contracts. Shelter costs are allocated 80% by King County shelter volume intake (2011 Preliminary year end) and 20% by 2011 population.
4. Licensing costs are allocated 20% by population (2011) and 80% by total number of Pet Licenses issued (2011) less \$0.00 Sr. Lifetime Licenses.
5. Transition funding is allocated per capita in a two tier formula to cities with certain per capita net cost allocations. For additional detail, see 2010 Interlocal Agreement Exhibit C-4 (2013 column) for more information. Transition Funding does not change for years 2013 - 2015 (except for minimum payments as specified in the ILA).
6. Credits are allocated to those jurisdictions whose shelter intakes per capita exceeded the system average (.0043) and are intended to help minimize the impact of changing the cost allocation methodology from 50% population/50 usage to the new 20% population/80% usage model. See Interlocal Agreement Exhibit C-4 for more detail.
7. New Transition License Funding has been included for certain jurisdictions to help limit the Estimated Net Final Cost to the 2012 estimated level. Receipt of support is contingent on city providing in-kind services and county ability to provide resources and/or recover costs
8. Net Final Costs greater than \$0 will be reallocated to remaining jurisdictions with a negative net final cost, except northern cities where the anticipated rebate is used to offset the cost of sheltering with PAWS.



February 14, 2012

Lorraine Patterson, Director  
King County Records and Licensing Services Division  
Via email: [Lorraine.patterson@kingcounty.gov](mailto:Lorraine.patterson@kingcounty.gov)

Re: Initial non-binding statement of intent, extension of the regional animal services ILA

Dear Lorraine,

King County Regional Animal Services has requested an initial non-binding statement of intent with regard to the extension of the regional animal services ILA.

Like King County, Kirkland is focused on getting the most value for each tax-payer dollar. Therefore, the City of Kirkland has determined that it is not likely to participate in a contract extension with King County for regional animal services. Please remove Kirkland from the cost allocation model for purposes of developing the final draft contract language and cost estimates.

The City of Kirkland has been a committed partner in the regional model for animal services since January of 2010, when the original ILA was negotiated through the City-County Workgroup. Following the July 1, 2010 effective date of the current contract, Kirkland staff continued to actively participate on the City-County Workgroup, meeting monthly to monitor implementation of the contract, recommend improvements to operational processes and improve reporting of program services. The City has appreciated that the City-County Workgroup exists as a mechanism to provide input to King County's Regional Animal Services Division on recommended improvements to the system from the perspective of the cities. The Workgroup process and contract implementation have been demanding on all parties.

As an involved participant in the weekly City-County Workgroup contract renegotiation meetings over the past three months, Kirkland has valued the good faith approach by County staff and the hard work that has gone into these meeting. The County has listened to cities' concerns and where possible, have taken great steps to address many of the concerns raised. Shifting the cost allocation model to focus more on use and less on city population as well as identifying efficiencies in the system are among the steps that appear to lower the estimated overall costs of the regional system and we appreciate those changes.

There are several key factors that have led the City to withdraw, but primary among them is the City's need to minimize risk, establish certainty and control costs. Kirkland anticipates cuts to state shared revenues nearing \$1 million, which do not even include the additional possibility of losing up to \$3.4 million should the state eliminate the annexation sales tax credit.

While these possible cuts are outside of the City's control, we are committed to managing those things that we can control. We believe that by providing animal services at the local level, the City can establish certainty, minimize risk and offer the necessary care to our city's animals while effectively controlling the service costs.

If you have any comments or questions, please don't hesitate to contact me or Lorrie McKay.

Sincerely,  
Kurt Triplett, City Manager

Cc: Diane Carlson, King County Director of Regional Initiatives  
Lorrie McKay, Intergovernmental Relations Manager

**Regional Animal Services of King County  
Precommitment 2013 Estimated Payment Calculation**

Allocation Method: Population = 20%, Usage = 80% Control Districts 200 and 220 combined into one (420), with 240 and 260 consolidated to District 500, costs to districts 50% and 50%. Usage and Licensing Revenue based on 2011 Preliminary Year End. Credits allocated to jurisdictions with shelter intakes per capita above the system average.

**OPTION #2** Kirkland, Shoreline and Auburn out

**5 ACO's - 2 Districts**

|                                       | Control     | Shelter     | Licensing | Total Allocated Costs (1) | 2011 Licensing Revenue (est) | Estimated Net Cost |
|---------------------------------------|-------------|-------------|-----------|---------------------------|------------------------------|--------------------|
| <b>Budgeted Total Allocable Costs</b> | \$1,665,248 | \$2,811,885 | \$662,371 | \$5,139,504               |                              |                    |
| <b>Budgeted Non-Licensing Revenue</b> | \$80,040    | \$112,507   | \$13,265  | \$205,812                 |                              |                    |
| <b>Budgeted Net Allocable Costs</b>   | \$1,585,208 | \$2,699,378 | \$649,106 | \$4,933,691               | \$2,127,000                  | -\$2,806,691       |

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| Animal Control District Number                                   | Jurisdiction   | Estimated Animal Control Cost Allocation (2) | Estimated Sheltering Cost Allocation (3) | Estimated Licensing Cost Allocation (4) | Estimated Total Animal Services Cost Allocation | 2011 Licensing Revenue (Estimated) | Estimated Net Cost Allocation | 2013-2015 Transition Funding (Annual) (5) | 2013 Shelter Credit (Annual) (6) | Estimated Net Costs with Transition Funding and Credits | Estimated Revenue from Proposed Licensing Support (7) | Estimated Net Final Cost (8) |     |
|--|--|--|--|---|---|------------------------------------|-------------------------------|---|----------------------------------|---|---|------------------------------|-----|
| 420  | Carnation  | \$5,453                                      | \$3,710                                  | \$1,431                                 | \$10,594  | \$4,752                            | -\$5,842                      | \$552                                     | \$0                              | -\$5,290  | \$2,706   | -\$2,584                     |     |
|  | Duval  | \$14,894                                     | \$16,114                                 | \$6,181                                 | \$37,188  | \$21,343                           | -\$15,845                     | \$0                                       | \$0                              | -\$15,845   | \$12,970  | -\$2,875                     |     |
|  | Kenmore  | \$50,161                                     | \$13,407                                 | \$17,811                                | \$81,379  | \$58,602                           | -\$22,777                     | \$0                                       | \$0                              | -\$22,777   | \$16,453  | -\$6,324                     |     |
|  | Kirkland   | \$0  | \$0                                      | \$0                                     | \$0   | \$0                                | \$0                           | \$0                                       | \$0                              | \$0   | \$0   | \$0                          |     |
|  | Lake Forest Park   | \$30,291                                     | \$8,136                                  | \$13,981                                | \$52,408  | \$48,504                           | -\$3,904                      | \$0                                       | \$0                              | -\$3,904  | \$10,381  | \$6,477                      |     |
|  | Redmond  | \$49,766                                     | \$59,657                                 | \$37,283                                | \$146,706                                       | \$116,407                          | -\$30,299                     | \$0                                       | \$0                              | -\$30,299   | \$8,613   | -\$21,686                    |     |
|  | Sammamish  | \$46,491                                     | \$48,726                                 | \$35,937                                | \$131,153                                       | \$117,649                          | -\$13,504                     | \$0                                       | \$0                              | -\$13,504   | \$0   | -\$13,504                    |     |
|  | Shoreline  | \$0  | NA                                       | \$0                                     | \$0   | \$0                                | \$0                           | \$0                                       | \$0                              | \$0   | \$0   | \$0                          | \$0 |
|  | Woodinville  | \$16,191                                     | \$7,059                                  | \$8,901                                 | \$32,150  | \$29,220                           | -\$2,930                      | \$0                                       | \$0                              | -\$2,930  | \$6,071   | \$3,141                      |     |
|  | Beaux Arts   | \$92   | \$194                                    | \$285                                   | \$570   | \$930                              | \$360                         | \$0                                       | \$0                              | \$360   | \$0   | \$360                        |     |
|  | Belleuve   | \$157,525                                    | \$174,378                                | \$86,847                                | \$418,751                                       | \$273,931                          | -\$144,820                    | \$0                                       | \$0                              | -\$144,820  | \$74,144  | -\$70,676                    |     |
|  | Clyde Hill   | \$2,049                                      | \$3,463                                  | \$2,253                                 | \$7,764   | \$7,170                            | -\$594                        | \$0                                       | \$0                              | -\$594  | \$0   | -\$594                       |     |
|  | Estimated Unincorporated King County                             | \$295,381                                    | <i>(see total below)</i>                 | <i>(see total below)</i>                | <i>(see total below)</i>                        | <i>(see total below)</i>           | <i>(see total below)</i>      | <i>(see total below)</i>                  | NA                               | NA  | NA  | NA                           | NA  |
|  | Issaquah   | \$59,242                                     | \$49,510                                 | \$18,778                                | \$127,530                                       | \$55,947                           | -\$71,583                     | \$0                                       | \$0                              | -\$71,583   | \$11,554  | -\$60,029                    |     |
|  | Mercer Island  | \$14,897                                     | \$20,287                                 | \$15,988                                | \$51,173  | \$49,962                           | -\$1,211                      | \$0                                       | \$0                              | -\$1,211  | \$0   | -\$1,211                     |     |
|  | Newcastle  | \$18,293                                     | \$13,375                                 | \$5,368                                 | \$37,036  | \$15,271                           | -\$21,765                     | \$0                                       | \$0                              | -\$21,765   | \$6,176   | -\$15,589                    |     |
|  | North Bend   | \$17,642                                     | \$17,079                                 | \$4,766                                 | \$39,487  | \$15,694                           | -\$23,793                     | \$1,376                                   | \$586                            | -\$21,831   | \$9,697   | -\$12,134                    |     |
|  | Snoqualmie   | \$13,552                                     | \$12,187                                 | \$7,776                                 | \$33,515  | \$25,065                           | -\$8,450                      | \$0                                       | \$0                              | -\$8,450  | \$0   | -\$8,450                     |     |
|  | Yarrow Point   | \$686  | \$648                                    | \$878                                   | \$2,212   | \$2,700                            | \$488                         | \$0                                       | \$0                              | \$488   | \$0   | \$488                        |     |
| <b>SUBTOTAL FOR CITIES IN 420 (excludes unincorporated area)</b> | <b>\$497,223</b>   | <b>\$447,929</b>                             | <b>\$264,464</b>                         | <b>\$1,209,616</b>                      | <b>\$843,147</b>                                | <b>-\$366,469</b>                  | <b>\$1,928</b>                | <b>\$586</b>                              | <b>-\$363,955</b>                | <b>\$158,765</b>  | <b>-\$205,190</b>                                     |                              |     |
| 500  | Kent   | \$246,845                                    | \$821,025                                | \$80,086                                | \$1,147,956                                     | \$253,944                          | -\$894,012                    | \$110,495                                 | \$495,870                        | -\$287,647  | \$0   | -\$287,647                   |     |
|  | SeaTac   | \$74,768                                     | \$191,133                                | \$15,350                                | \$281,251                                       | \$47,232                           | -\$234,019                    | \$7,442                                   | \$116,611                        | -\$109,966  | \$0   | -\$109,966                   |     |
|  | Tukwila  | \$46,545                                     | \$114,734                                | \$10,642                                | \$171,922                                       | \$32,705                           | -\$139,217                    | \$5,255                                   | \$61,987                         | -\$71,975   | \$0   | -\$71,975                    |     |
|  | Auburn   | \$0  | NA                                       | NA                                      | \$0   | \$0                                | \$0                           | \$0                                       | \$0                              | \$0   | \$0   | \$0                          |     |
|  | Black Diamond  | \$7,580                                      | \$14,977                                 | \$3,099                                 | \$25,657  | \$10,185                           | -\$15,472                     | \$1,209                                   | \$3,263                          | -\$11,000   | \$2,550   | -\$8,450                     |     |
|  | Covington  | \$49,222                                     | \$85,653                                 | \$14,588                                | \$149,463                                       | \$48,982                           | -\$100,481                    | \$5,070                                   | \$36,409                         | -\$59,002   | \$0   | -\$59,002                    |     |
|  | Enumclaw   | \$39,148                                     | \$58,779                                 | \$7,988                                 | \$105,915                                       | \$25,307                           | -\$80,608                     | \$11,188                                  | \$28,407                         | -\$41,013   | \$6,549   | -\$34,464                    |     |
|  | Estimated Unincorporated King County                             | \$289,846                                    | <i>(see total below)</i>                 | <i>(see total below)</i>                | <i>(see total below)</i>                        | <i>(see total below)</i>           | <i>(see total below)</i>      | NA  | NA                               | NA  | NA  | NA                           |     |
|  | Maple Valley   | \$38,649                                     | \$71,650                                 | \$17,408                                | \$127,708                                       | \$56,628                           | -\$71,080                     | \$6,027                                   | \$6,867                          | -\$58,186   | \$9,988   | -\$48,198                    |     |
|  | <b>SUBTOTAL FOR CITIES IN 500 (excludes unincorporated area)</b> | <b>\$502,758</b>                             | <b>\$1,357,952</b>                       | <b>\$149,163</b>                        | <b>\$2,009,872</b>                              | <b>\$474,983</b>                   | <b>-\$1,534,889</b>           | <b>\$146,686</b>                          | <b>\$749,414</b>                 | <b>-\$638,789</b>                                       | <b>\$19,087</b>                                       | <b>-\$619,702</b>            |     |
|  | <b>TOTAL FOR CITIES</b>  | <b>\$999,980</b>                             | <b>\$1,805,881</b>                       | <b>\$413,627</b>                        | <b>\$3,219,488</b>                              | <b>\$1,318,130</b>                 | <b>-\$1,901,358</b>           | <b>\$148,614</b>                          | <b>\$750,000</b>                 | <b>-\$1,002,744</b>                                     | <b>\$177,852</b>                                      | <b>-\$824,892</b>            |     |
| <b>Total King County Unincorporated Area Allocation</b>          | <b>\$585,227</b>   | <b>\$893,497</b>                             | <b>\$235,479</b>                         | <b>\$1,714,203</b>                      | <b>\$808,870</b>                                | <b>-\$905,333</b>                  |                               |   |                                  |   | <b>-\$905,333</b>                                     |                              |     |
|  | \$1,585,208  | \$2,699,378                                  | \$649,106                                | \$4,933,691                             | \$2,127,000                                     | -\$2,806,691                       |                               |   |                                  |   |   |                              |     |

Source: Regional Animal Services of King County

Date: March 5, 2012 (Draft)

Numbers are estimates only for the purpose of negotiation discussions. The numbers and allocation methodology are subject to change while negotiations are underway.

Notes:

1. Based on various efficiencies and changes to the RASKC operating budget, adjustments for reduced intakes overall, reduced usage with Auburn, Shoreline and Kirkland out, reducing from six (6) AC officers in the field to five (5) officers, and shifting two positions out of the model (county sponsored), the 2013 Estimated Budgeted Total Allocable Cost has been reduced to \$5,139,504.
2. One half (50%) of Control services costs are allocated to Control District 420, and one half of Control costs are allocated to Control District 500, then costs are further allocated 80% by total call volume (2011 Calls - Preliminary year end) and 20% by 2011 population.
3. This excludes the cost to northern cities of sheltering their animals at PAWS under separate contracts. Shelter costs are allocated 80% by King County shelter volume intake (2011 Preliminary year end) and 20% by 2011 population.
4. Licensing costs are allocated 20% by population (2011) and 80% by total number of Pet Licenses issued (2011) less \$0.00 Sr. Lifetime Licenses.
5. Transition funding is allocated per capita in a two tier formula to cities with certain per capita net cost allocations. For additional detail, see 2010 Interlocal Agreement Exhibit C-4 (2013 column) for more information. Transition Funding does not change for years 2013 - 2015 (except for minimum payments as specified in the ILA).
6. Credits are allocated to those jurisdictions whose shelter intakes per capita exceeded the system average (.0043) and are intended to help minimize the impact of changing the cost allocation methodology from 50% population/50 usage to the new 20% population/80% usage model. See Interlocal Agreement Exhibit C-4 for more detail.
7. New License Support Funding has been included for certain jurisdictions to help limit the Estimated Net Final Cost to the 2012 estimated level (or for PAWS cities, to the 2013 Option 1 Net Final Cost). If Licensing Support is needed in years 2014 and 2015, receipt of License Support will be contingent on the city providing in-kind services and county ability to provide resources and/or recover costs.
8. Net Final Costs greater than \$0 will be reallocated to remaining jurisdictions with a negative net final cost, except for northern cities where the Net Final Cost shall be net of the cities PAWS sheltering costs for the year before determining if there is an amount greater than \$0.

### Preliminary 2011 Usage Data Used for Scenarios 5G, 6B & 6C

| Jurisdiction      | Control District | 2011 Population | Estimated 2011 Total Calls | Estimated 2011 Intakes | Estimated Number of Licenses Issued 2011 | Estimated Net 2011 Licensing Revenues Total |
|-------------------|------------------|-----------------|----------------------------|------------------------|--|---|
| Auburn            | 260              | -               | 0                          | 0                      | -  | 0   |
| Beaux Arts        | 220              | 300             | 0                          | 0                      | 33                                       | 930   |
| Bellevue          | 220              | 123,400         | 317                        | 185                    | 9,380                                    | 273,931                                     |
| Black Diamond     | 260              | 4,160           | 18                         | 24                     | 340                                      | 10,185                                      |
| Carnation         | 200              | 1,780           | 13                         | 5                      | 160                                      | 4,752                                       |
| Clyde Hill        | 220              | 2,985           | 3                          | 3                      | 248                                      | 7,170                                       |
| Covington         | 260              | 17,640          | 132                        | 145                    | 1,642                                    | 48,982                                      |
| Duvall            | 200              | 6,715           | 34                         | 23                     | 712                                      | 21,343                                      |
| Enumclaw          | 260              | 10,920          | 110                        | 101                    | 872                                      | 25,307                                      |
| Issaquah          | 220              | 30,690          | 132                        | 58                     | 1,942                                    | 55,947                                      |
| Kenmore           | 200              | 20,780          | 116                        | 0                      | 2,021                                    | 58,602                                      |
| Kent              | 240              | 118,200         | 614                        | 1454                   | 8,555                                    | 253,944                                     |
| Kirkland*         | 200              | 80,738          | 230                        | 109                    | 7,855                                    | 219,135                                     |
| Lake Forest Park  | 200              | 12,610          | 70                         | 0                      | 1,666                                    | 48,504                                      |
| Maple Valley      | 260              | 22,930          | 89                         | 111                    | 1,919                                    | 56,628                                      |
| Mercer Island     | 220              | 22,710          | 21                         | 11                     | 1,727                                    | 49,962                                      |
| Newcastle         | 220              | 10,410          | 40                         | 13                     | 520                                      | 15,271                                      |
| North Bend        | 220              | 5,830           | 42                         | 26                     | 535                                      | 15,694                                      |
| Redmond           | 200              | 55,150          | 87                         | 47                     | 3,980                                    | 116,407                                     |
| Sammamish         | 200              | 46,940          | 85                         | 36                     | 3,970                                    | 117,649                                     |
| SeaTac            | 240              | 27,110          | 200                        | 339                    | 1,544                                    | 47,232                                      |
| Shoreline         | 200              | 53,200          | 281                        | 0                      | 4,967                                    | 145,689                                     |
| Snoqualmie        | 220              | 10,950          | 27                         | 10                     | 842                                      | 25,065                                      |
| Tukwila           | 240              | 19,050          | 121                        | 200                    | 1,065                                    | 32,705                                      |
| Woodinville       | 200              | 10,940          | 34                         | 0                      | 998                                      | 29,220                                      |
| Yarrow Point      | 220              | 1,005           | 1                          | 0                      | 100                                      | 2,700                                       |
| King Cnty Unncrp* | All              | 253,547         | 1441                       | 1425                   | 27,175                                   | 808,870                                     |
| <b>Total</b>      |                  | <b>970,690</b>  | <b>4258</b>                | <b>4325</b>            | <b>84,768</b>                            | <b>2,491,824</b>                            |

\*Includes adjustments for 2011 annexation (for purposes of estimating 2013). License Counts exclude \$0 (Sr Lifetime) Tags.

Note: Numbers are estimates only for the purpose of negotiation discussions. The numbers and allocation methodology are subject to change while negotiations are underway.

**DRAFT**

|                                      | <u>2013 Ongoing</u> | <u>2013 One-Time</u> | <u>2014 Ongoing</u> |
|--------------------------------------|---------------------|----------------------|---------------------|
| Salaries                             | 43,291              |                      | 43,291              |
| Benefits                             | 28,103              |                      | 28,103              |
| Overtime                             | 5,550               |                      | 5,550               |
| Uniforms                             | 400                 | 2,900                | 400                 |
| Ammunition                           | 1,200               |                      | 1,200               |
| Background                           | -                   | 4,125                | -                   |
| Equipment                            | 45                  | 17,350               | 45                  |
| Temporary Holding Pen                | -                   | 5,000                |                     |
| EPSCA Radio Fees                     | 958                 | -                    | 958                 |
| Operating Supplies                   | 118                 | -                    | 118                 |
| LLTU/Start Up Supplies               | 65                  | 3,000                | 65                  |
| Laptop for Vehicle                   | -                   | 7,500                | -                   |
| New World Software/Pet Data Software | -                   | 8,200                | -                   |
| Office Supplies                      | 150                 | -                    | 150                 |
| Dues and Memberships                 | 34                  |                      | 34                  |
| Training Supplies                    | 25                  |                      | 25                  |
| Training Range/Registrations         | 1,150               |                      | 1,150               |
| Travel                               | 400                 |                      | 400                 |
| Fleet Vehicle Purchase               |                     | 50,000               |                     |
| Fleet Operations and Maintenance     | 5,040               |                      | 5,040               |
| Fleet Replacement                    | 5,856               |                      | 5,856               |
| IT Replacement                       | 2,785               |                      | 2,785               |
| IT Operating                         | 7,171               |                      | 7,171               |
| IT Telecom                           | 228                 |                      | 228                 |
| Marketing                            | 5,000               |                      | 5,000               |
| License Renewal Efforts              | 5,000               |                      | 5,000               |
| Communication                        | 900                 |                      | 900                 |
| <b>Total</b>                         | <b>113,469.00</b>   | <b>98,075.00</b>     | <b>113,469.00</b>   |

**Use' Assumptions Based on 3 Year Average****2013****2014**

|                             |       |       |   |
|-----------------------------|-------|-------|---|
| Estimated Control Calls     | 256   | 256   | Based on 4 Year Average                 |
| Estimated Shelter           | 358   | 358   | 132 KC Est. + 226 SHS Est. for strays & |
| Estimated Licenses          | 7,855 | 7,855 | 655 x 12 months                         |
| Dispatch Priority One Calls | 15    | 15    | 15 x 35 per call                        |

**Estimated Costs**

|  |                |                |   |
|--|----------------|----------------|---|
| Dispatch - NORCOM                        | 525            | 525            | Estimate Priority 1 calls 15 x \$35 /call |
| Estimated Control Calls                  | 102,569        | 102,569        | All costs minus marketing, renewal efft   |
| Estimated Shelter                        | 57,280         | 57,280         | 358 x 160 per shelter                     |
| Estimated Licenses                       | 30,242         | 30,242         | 7,855 X 3.85                              |
| Estimated Administration/Marketing Costs | 10,900         | 10,900         | 5000 marketing, 5000 renewal efforts,     |
| <b>Estimated Program Total Costs</b>     | <b>201,516</b> | <b>201,516</b> |   |

**Estimated Per Unit Costs**

|                         |           |           |   |
|-------------------------|-----------|-----------|---|
| Cost Per Control Call   | \$ 402.71 | \$ 402.71 | Control calls + dispatch / estimated call |
| Cost per Shelter Intake | \$ 160.00 | \$ 160.00 | Estimate shelter / number of shelter (4   |
| Cost Per License Sold   | \$ 3.85   | \$ 3.85   | Estimated licenses/ number of licenses    |

**CITY OF KIRKLAND**

Department of Public Works

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.kirklandwa.gov

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**MEMORANDUM**

**To:** Kirkland City Council

**From:** Parking Advisory Board

**Date:** March 8, 2012

**Subject:** Downtown Pay Parking Recommendations

**RECOMMENDATION:**

It is recommended that the City Council:

- Reviews proposed parking rule changes at the Marina Park and Lake and Central lots;
- Approves an outreach plan for informing the community of the changes Review changes to approximately 50 permit only parking spaces in the Peter Kirk Municipal Garage, making them combination 4 hour/permit allowed stalls.
- Authorizes staff to return to Council for a final recommendation on April 17, 2012

**BACKGROUND:**

At the February 7, 2012, Council study session, the Parking Advisory Board (PAB) recommended pay parking in the Marina Park and Lake and Central lots. This recommendation was based on four issues for which pay parking offers a solution:

- During evenings and seasonally at other times, parking demand is greater than 85%, and yet a funding strategy for additional supply has not been formalized.
- Confusion on the part of parkers regarding regulations and signage resulted in numerous complaints and dissatisfied customers/visitors.
- Facilities, particularly the library garage, are not maintained to a level that patrons feel are a clean, safe, and welcoming environment. Capital equipment, such as pay stations, are not funded to a level to provide for future replacement.
- With the elimination of the Park-Smart program, employees regularly use parking that should be available for customers and visitors, and there is an under-utilization of the employee parking areas designated in the library garage.

Council supported the PAB recommendation and the rationale for adding pay parking to the two surface lots and asked the PAB to return with a formal recommendation at a future meeting. In addition, Council asked the PAB to bring back more information on several topics including:

- A schedule describing how and when parking changes would be implemented and a description of the public *outreach plan* that would accompany the implementation;
- An analysis of options for *validation* including: tokens, prepaid cards, annual passes and other methods, along with options for improving transaction speeds and *payment methods* at the pay station;
- A list of *possible uses for the new revenue* which comes from additional pay parking;
- A *history of major changes to downtown parking* regulations that have occurred over the past few years.

The purpose of this memo is to:

- Provide an outreach plan for approval by Council
- Answer questions that Council raised at their 2/7/12 study session
- Update Council on comments that have been heard already

### *Outreach Plan*

The current PAB recommendation is to implement pay parking this spring in advance of the busy summer season. Due to the concerns and issues raised regarding Downtown parking over the many years, it is critical that new pay parking initiatives be communicated to the public and business community through a robust outreach plan. Editorials and local news coverage of the City's intent to implement pay parking have already been published, however the PAB would like to conduct an outreach plan that is focused on *informing* impacted merchants, customers, visitors, employees, and property owners that pay parking is coming and why it is being implemented.

The proposed outreach plan will be structured differently than one which would simply be *asking* whether or not pay parking is a good idea. While all feedback will be welcome and evaluated, the primary intent of the outreach is to identify concerns with pay parking and address them. In addition to informing stakeholders of the changes that are coming, key messages for the outreach will address the issues leading to recommended pay parking and outlined at the Council Study Session. Table 1 details the proposed outreach plan. Important elements include face to face meetings with merchants (which are underway), meeting with the Chamber of Commerce and the KDA, extensive information through the City website, email and mailings, along with extended outreach on site before and during the first few weeks of the changes.

Table 1. Schedule and Rollout Plan

| Date                | Item   |
|---------------------|--|
| March 12 – 15       | Face to face merchant visits to inform adjacent businesses of coming changes, seek their desired validation options and to understand any of their concerns. |
| Monday, March 19    | Discuss pay parking proposal at Moss Bay Neighborhood.   |
| Tuesday, March 20   | <b>Council meeting to lay out outreach plan and answer Council questions. PAB will be prepared to report feedback thus far to City Council.</b>              |
| Wednesday, March 21 | PAB representatives to meet with Kirkland Chamber  |

|   |  |
|---|--|
| <b>Wednesday, March 21</b>                | Pre-Council decision outreach: web, email list servs, media, internal communications, neighborhoods, users.  |
| <b>Last two weeks of March</b>            | PAB representatives to meet with KDA. KDA does not currently have a meeting scheduled.   |
| <b>Tuesday, April 17</b>                  | <b>Council final decision. Note: The rest of the schedule assumes a decision to move forward with pay parking.</b>   |
| <b>Wednesday, April 18</b>                | Post-Council decision 30 day communication: web, email list servs, media, internal communications, and letters to property owners and businesses, City Update newsletter, neighborhoods, flyers to users, Twitter, Currently Kirkland story. |
| <b>Wednesday, April 18</b>                | Order new signs  |
| <b>Monday, May 7</b>                      | Begin sign installation  |
| <b>Monday, May 7</b>                      | Staff and PAB members on-site outreach (2 weeks), amount of on-site time to increase closer to May 14.   |
| <b>Monday, May 14</b>                     | New pay parking changes go into effect. Enforcement warning period begins. Staff and PAB members on-site outreach continues  |
| <b>Monday, May 21</b>                     | Enforcement warning period ends  |
| <b>Monthly or as needed thru December</b> | Updates to City Council on occupancy, validation, comments, etc.   |
| <b>May 2013</b>                           | Occupancy study, evaluate the program and report back to City Council for direction on whether to continue pay parking.  |

### *Validation and payment methods*

Parking tokens were introduced prior to the installation of pay stations; they were originally intended for use with the single parking meters that were installed at one time in the Lake and Central lot. The pay stations have been modified to accept the tokens as \$1 coins. Tokens are available for merchant purchase at city Hall in rolls of 40 for \$30; representing a 25% subsidy. About 10 to 15 tokens are redeemed each month.

Another validation method is smart cards. The smart cards have value on them and go in the same slot into which credit cards are inserted. The card's value is available to pay for the parking transaction. In order to use smart cards at our current pay stations, the stations would have to be updated at a cost of approximately \$1000 per station. Cards can be purchased from the vendor pre loaded with value or a dispenser can be purchased that allows customers to add value to existing cards, purchase new cards, check balances, etc. Dispensers are estimated to cost approximately \$750 each.

Annual passes could be prepared that would allow the holder to park without paying the meter. Purchasing the pass would not guarantee the holder a parking place however. Therefore their usefulness during peak periods is limited. Decisions would have to be made about who is eligible for the pass, how many passes can be sold and if passes are provided at a discount to standard rates, among other items. Distributing and managing the passes could require substantial additional staff resources.

Remote payment options using smart phones are typically used with pay by space systems, where each stall has a number and the parker then adds value to the certain stall number where they are parked. Pay and display options like the one currently used by Kirkland do not have this option because the receipt displayed on the dashboard is the indication of payment.

Current credit card transaction wait times are around 28 seconds. Coin transaction wait times are around 7-8 seconds. The manufacturer of the current pay stations does not offer a faster system for credit card transactions. Other manufacturers state that their machines offer credit card transaction speeds on the order of 8-15 seconds. In general, pay by space systems are faster than pay and display systems because there is no need to wait for a receipt to be generated. There is also no need to return to the vehicle to display the receipt.

Variable pricing by time of day or day of week is an option. The pay stations are easily programmable to make such changes, and there is no need to change the pay parking signs if rates are not posted on each sign.

The Parking Advisory Board recommends using the current token validation system in the short term, while customers are adjusting to the new pay parking rules. Additional promotion of the tokens will take place during the outreach phase. Once occupancy rates can be observed and experience with the tokens is gathered, decisions can be made about whether or not other validation systems should be pursued or variable rates should be implemented. Replacing pay stations that are at the end of their life with other brands of stations that offer faster transaction time may be helpful and it may be helpful to ultimately switch to pay by space systems. Switching to pay by space may require replacement of the existing pay stations or it may be possible to update the existing pay stations. Staff is investigating this issue.

#### *Cost of implementation*

The cost of implementing the pay parking changes is estimated to be \$3,000 to \$5,000. This includes the cost of new signs and outreach. These costs will be paid from existing budgets and parking reserve funds.

#### *Possible uses of new revenue*

By extending pay parking, the additional potential annual net revenue will be approximately \$100,000/year<sup>1</sup>. The revenue could be put towards the building of future supply, and some of the revenue could address the parking customer needs. It is important that groups like KDA and the Chamber of Commerce have a say in how future revenue is spent. If pay parking is implemented, and with Council approval, the PAB would like to work with these groups and other downtown interests to develop a process for determining a spending plan for some portion of any future revenue. The PAB also feels it is important to recognize that some costs, such as maintenance or other routine costs should not be funded solely by new parking revenue.

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<sup>1</sup> 164 parking stalls x 8 hours x 304 days/year = \$398,848/year x 30% average occupancy = \$119,654/year x (1-12%) to account for credit card fees and operational costs = \$105,295/year, rounded to \$100,000/year.

One use of new revenue could be for the provision of new parking supply. Using the idea of partnering with a developer to construct public stalls, and considering a cost of \$30,000 per stall for 200 stalls would result in a total cost of \$6,000,000. Bonding this amount over 20 years at 4% would result in annual payments of on the order of \$450,000. The amount of funding available from the increment of pay parking proposed at this time would not be adequate to meet these payments. In order to finance new supply it would be more likely that the entire parking supply would need to be priced and that revenue would have to come from other sources as well. If bonding parking revenue is to occur in the future, having experience with all day pay parking will help us to understand the nature of a potential revenue stream.

Improving maintenance at the library garage would be another use of additional revenue. Estimates of one-time and on-going costs are shown below:

Table 2. One-time costs for improving Library Garage

| Item  | Cost     |
|---|----------|
| Refurnishing elevator to make it more vandalism resistant | \$20,000 |
| New flooring for elevator                                 | \$5,000  |
| Camera system upgrade                                     | \$50,000 |
| Painting  | \$55,000 |
| Additional lighting                                       | \$4,000  |

Table 3. Ongoing costs for improving Library Garage

| Item  | Annual Cost     |
|---|-----------------|
| Extend public restroom hours at Peter Kirk Park | To be estimated |
| Additional elevator maintenance                 | \$3,000         |
| Additional Pressure washing                     | \$1,000         |
| Additional Sweeping                             | \$1,100         |

The current pay stations are uncovered customers are exposed to inclement weather while they wait for their receipt to print. Because the pay stations are solar powered, any covering needs to be clear or translucent. This will provide an additional maintenance responsibility as any cover would have to be kept clean of moss, debris etc. Covers may cost on the order of \$1000 each.

The current system of parking wayfinding signs were installed in 2004 as a suggestion from the 2003 parking study. The current signs can be upgraded or replaced. In 2004, the entire wayfinding package including a design study and the signs themselves cost \$41,000.

Two of the current pay stations are near the end of their useful life. Pay parking revenue may be source for purchasing replacement pay stations. Kirkland currently has 8 pay stations. The cost of each new pay station is approximately \$9,000.

#### *History of major changes to downtown parking*

It is acknowledged that parking in downtown Kirkland has been a subject of controversy for more than 50 years. Parking supply and regulation have changed a number of times over this

period. This has included various incarnations of pay parking. Major changes made since 1998 are shown in Table 4.

Table 4. History of Parking Changes

| <b>YEAR</b>          | <b>ITEM</b>  | <b>Comments</b>  |
|----------------------|--|--|
| <b>1998</b>          | Park Smart Program begins to limit downtown employee parking in areas designed for customer parking  | "Voluntary" methods were not working to move employees from downtown customer parking.   |
| <b>2003</b>          | Parking Study recommendation to expand more pay spaces based on occupancy demands and the need for turnover in the two city owned lots   | A direct recommendation of the Parking Study to fund Parking Coordinator, enforcement staff.   |
| <b>June 2004</b>     | Ten coin operated meters removed and two pay stations installed in the center of each lot serving 30 pay spaces. Pay parking was from 9:00 a.m. – 7:30 p.m. (Mon-Sat) at \$1/hr with a 4 Hour time limit | Follow up of recommendation above.   |
|                      | On-street 2 hour parking extended to end at 9:30 PM  | Carry over idea from the KDA parking group that preceded the PAB. This was aimed at increasing turnover in the evening.  |
| <b>December 2004</b> | All 2 hour and 4 hour time limits reverted back to 7:30 PM   | The extensions to 9:30 (above) proved extremely unpopular and were cancelled by Council at the recommendation of the PAB.  |
| <b>2005</b>          | Park Smart Program revised to require the business license fee is tied with the issuing of parking permits for the library garage KMC for Employee escalating fine structure for repeat offenders        | Recommendation of PAB to reduce Park Smart offenders and to put more responsibility on the employer through the business license process.  |
| <b>2005-08</b>       | 73 new parking supply added. Leasing spaces from private owner (Hossman property)  | New stalls were added by restriping and making Lakeshore Plaza one-way. Leasing private parking was a recommendation of the 2003 Parking study. Utilization was very low and the lease was cancelled by the City.                  |
| <b>2006-07</b>       | Designated motorcycle parking spaces Loading zone end time change from 6:00 p.m. to 8:00 p.m.  | Recommendation to make some areas that were not large enough for vehicle parking accessible to motorcycles. Loading zone change was at the request of downtown merchants who wanted to use the loading zones later in the evening. |
| <b>2009</b>          | Converted all spaces to all-day free parking from 9:00 a.m. to 5:00 p.m. and pay parking from 5:00 p.m. to 9:00 p.m. at Marina and Lake & Central lots   | Council approved recommendation from the PAB. Evening parking in all stalls better fit occupancy patterns being high in the evening.   |
| <b>2010</b>          | Leasing of Antique Mall (Park & Main) lot, 89 new parking supply added.  | A method of adding stalls to the downtown supply.  |
| <b>2011</b>          | Reduction of the Park Smart Program  | Due to budget reductions in the finance and police departments.  |

*Shared Parking in the Library Garage*

The PAB recommends approximately 50 stalls to be designated as the “float” between four-hour and permit stalls. Signage similar to that shown in Figure 1 would be posted; these stalls would be available for either of the major garage user types on a first come, first serve basis.

Table 5. Existing stall allocation at the Library Garage

| Garage Level        | Mix of Permit & Four hour stalls | Permit stalls | Four hour stalls | Total      |
|---------------------|----------------------------------|---------------|------------------|------------|
| Lower level         | 50                               | 98            | 0                | <b>50</b>  |
| Ramp between levels | n/a                              | 35            | 0                | <b>35</b>  |
| Upper level         | n/a                              | 34            | 122              | <b>156</b> |
| <b>Total</b>        | <b>50</b>                        | <b>167</b>    | <b>122</b>       | <b>339</b> |

Figure 1. Example of signing for shared use stalls.

*Conclusions*

For the reasons described above, the Parking Advisory Board recommends implementation of pay parking in the Lake and Central and Marina Park lots. A final decision should be made by Council on April 17, 2012. A robust and thorough public information program should be undertaken. There are several ways of providing validation and payment methods. At this time, the existing token validation system should be used as a first step, to be closely monitored and supplemented as needed. New revenue will be available as a result of pay parking. This revenue can be used in a number of ways, but groups such as the Chamber of Commerce and KDA should participate in determining how the revenue is used.

*Council Direction Sought*

The PAB is seeking suggestions and amendments to the outreach plan as well as Council approval of the PAB recommendations on pay parking and shared use of garage spaces. If the Council approves the recommendations and the final outreach plan, Kirkland staff are seeking Council authorization to return with implementation legislation on April 17, 2012.



**CITY OF KIRKLAND**  
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## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Kathi Anderson, City Clerk  
Tracey Dunlap, Director, Finance and Administration

**Date:** March 12, 2012

**Subject:** Board and Commission Interview Selection Committee Recommendations

### **RECOMMENDATION:**

Council considers the Board and Commission Interview Selection committee's final recommendations on candidates that were not interviewed at the March 20, 2012 Study Session.

### **BACKGROUND DISCUSSION:**

At Council's February 21<sup>st</sup> regular meeting, Council appointed an Interview Selection Committee (Committee) to make recommendations on which applicants to interview in the current recruitment process as well as some aspects of the interview process itself. Councilmembers Asher, Sternoff and Walen were selected to the Committee. The Council also agreed on February 21<sup>st</sup> that any Council member may suggest adding additional applicants to the interview list above and beyond the Committee's recommendation. The City Council received and accepted the Committee's recommendations at their March 6, 2012 meeting. The Council adopted Resolution 4911, which updated Council's procedures and reduced the maximum number of applicants to be interviewed per vacancy to three. The Council will be interviewing candidates for *Parking Advisory Board*, *Planning Commission* and *Salary Commission* at the March 20, 2012 Study Session. The Committee met again following the March 6 Council meeting and the Committee's recommendation for the remaining Boards and Commissions is for the Council to interview the following candidates:

#### **Design Review Board (two vacancies)**

Scott Caver  
Jason Gardiner  
Andrea Losekann  
Nolan Morgan  
Dave Russell

#### **Human Services Advisory Committee (one vacancy)**

Jan Cunningham  
Bea Nahon  
Rodney Rutherford

**Library Board (three vacancies)**

Jennifer Bushnell  
Jason Gardiner  
Megan Gustafson (incumbent)  
A. Erik Kennedy  
Pat McWha  
Will Pranzini  
Shawn Thornsberry (was temp annex seat)  
Bethany Williamson

**Park Board (two vacancies)**

Doyne Alward  
Ted Marx (was temp annex seat)  
Matt McCauley  
Robert Neville  
Rick Ockerman  
Tia Scarce

**Transportation Commission (two vacancies)**

Carol Buckingham  
Jason Gardiner  
John Perlic  
Glen Ruhlman  
Carl Wilson (incumbent)

One incumbent currently in a temporary annexation seat on the Park Board, Ted Marx, had previously scheduled travel during the month of March and is not available on the interview date selected. Council agreed to accommodate him with an alternatively scheduled time after his return April 4<sup>th</sup>, since he is unable to be reached by telephone at the scheduled date/time.



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**MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** David Barnes, LEED AP, Planner  
Stacey Rush, LEED AP, Senior Surface Water Engineer  
Paul Stewart, AICP, Deputy Director  
Eric Shields, AICP, Director

**Date:** March 20, 2012

**Subject:** Green Code Project Amendments (File ZON10-00031)

**RECOMMENDATION**

**For Part 1**, receive Planning Commission and Houghton Community Council Recommendation on the proposed Green Codes (see Exhibit 1).

Review the proposed amendments and provide direction to staff on any desired changes for consideration at the April 3<sup>rd</sup> meeting. All of the amendments are shown in Attachment 1 (both Zoning Code and Municipal Code). For reference purposes Attachment 2 consists of the ordinance amending the Zoning Code and Attachment 3 contains the ordinance amending the Municipal Code.

If the City Council takes action on April 3, the amendments applicable in Houghton will be considered by the Houghton Community Council at its April 23, 2012 meeting.

**For Part 2**, review City Council policy items and direct staff to bring back additional information on a Green Building Ordinance for City Facilities at a future meeting and information on surface water utility discounts and tree rebates (see Part 2 of this memo and Attachment 4).

**BACKGROUND**

**Introduction**

In January 2011, the City Council was briefed on the Green Codes Project. Staff explained the project's purpose which is to encourage Low Impact Development (LID), promote sustainable site development and consider methods to make public and private facilities more energy efficient which in turn would support responsible use of natural

resources. At that time, the Council directed staff to move forward with this project and to incorporate flexible standards and incentives into the program.

A Sustainable Actions Matrix (see Attachment 4) was provided to the City Council at the January meeting that exhibited items for City Council review only and other items for the Planning Commission and Houghton Community Council to review and make a recommendation to the City Council. At the conclusion of the January meeting, staff was directed by the City Council to move forward on the Green Codes Project and to pursue incentives rather than mandatory requirements in the Zoning and Municipal Codes. This memo is divided into two parts; the proposed Zoning and Municipal Code amendments (Part 1); and policy questions regarding "greening" city facilities, stormwater utility incentives and other issues (Part 2).

### **Part 1: Green Codes**

Managing stormwater on a site is critical to the protection of Kirkland's streams, salmon and water quality and the sustainability of the City's stormwater infrastructure and budget. Low Impact Development is a strategy to keep as much stormwater onsite as possible when land is developed or redeveloped. This typically results in lower costs to the developer in not having to put in extensive stormwater vaults and to the City for not having to install and maintain surface water infrastructure.

The techniques to achieve effective LID include reduction of impervious surfaces, additions of rain gardens or bio-retention swales, green roofs and preservation of native landscapes and natural site topography. This strategy to apply LID to reduce polluted runoff into our streams and Lake Washington is a fundamental principle that is supported by the WRIA 8 Salmon Recovery and Puget Sound Action Plans.

The City policies that support the Green Codes project were identified in the Natural Resources Management Plan, the City's Comprehensive Plan and Kirkland's Climate Protection Action Plan (APR 2009). Policy NE-2.4 of the City's Comprehensive Plan states:

*"Improve management of stormwater runoff from impervious surfaces by employing low impact development practices where feasible through City projects, incentive programs, and development standards."*

During the course of this project staff conferred with a Technical Advisory Board (TAB) to formulate ideas and bring options for changes to the Zoning Code to the Planning Commission and the Houghton Community Council. The TAB was comprised of local architects, stormwater engineers and landscape architects who contributed their expertise over three meetings held in February and March 2011. Staff was able to utilize ideas from those meetings and develop the first drafts of the proposed code changes.

In November 2011, staff met with a group of local developers to get feedback on the proposed LID Project Chapter 114. The group was very helpful in explaining to staff

what they liked, what they would change and the types of incentives that would encourage them to use the LID project Code. The developer's comments were passed on to the Planning Commission and the Houghton Community and several ideas emerged that were incorporated into the proposed code.

The Master Builders Association (MBA) of King and Snohomish Counties was provided a copy of the draft code for the new LID chapter (KZC 114) along with the rest of the code amendments for their review and comment. Their response came in after the public hearing but it reflects a business perspective and why incentivized codes are preferable to them and their membership of builders and development professionals. They support adoption of the Green Codes, but only if they remain as incentives. (See MBA letter - Attachment 5)

|   |
|---|
| <p><b>Planning Commission (PC) and Houghton Community Council (HCC)<br/>Recommendations and Key Issues/Policy Questions</b></p> |
|---|

**PC and HCC Recommendation:**

Overall, the PC and HCC are in agreement with the majority of proposed amendments. The recommendations from the two bodies are generally consistent as discussion occurred in jointly held meetings that helped inform their specific recommendations. A couple of differences remain such as Floor Area Ratio maximums for LID projects, exceptions for Lot Coverage calculations and height allowances for solar panels on detached dwelling units in low density residential zones. These differences and the recommendations are discussed in greater detail in their transmittal memo (Exhibit 1).

Over the course of this project and the development of the code amendments the following key concepts and policy issues emerged.

**Key Issues/Policy Questions:**

Staff has identified four key discussion areas for the Council's consideration:

- A new LID Chapter in the Zoning Code
- Lot coverage calculations and exemptions
- Solar panel height allowances
- Rooftop appurtenance definitions.

These are discussed in more detail below.

**1. LID Projects – New Chapter 114**

A new chapter (KZC 114) is proposed to encourage the use of LID by providing a variety of flexible and innovative options in single family areas for developers/applicants to choose from. Under our current surface water design manual, some stormwater low impact development (LID) is required as feasible on most projects (10-20% depending on the size of the property). The goal of the new LID Chapter 114 is not to mandate stormwater LID, but to remove barriers,

and establish incentives in exchange for retaining more runoff on site. The approach is to also create consistency between zoning and municipal codes with regard to stormwater LID. The proposed code changes will simplify the process for those who wish to use LID on projects now. This chapter allows an applicant to choose this process and incorporates a variety of flexible development techniques that a developer could employ.

We anticipate future state permit conditions will require 100% of stormwater runoff to be routed to LID facilities as feasible. By offering voluntary incentives now, more stormwater LID facilities will be built today in Kirkland. This will help developers, contractors, and city staff gain experience with LID. In addition the City will benefit from less impervious surfaces, less stormwater runoff, and increased water quality.

The proposed future National Pollutant Discharge Elimination System (NPDES) permit requirements have not been finalized yet, and there has been legislation that may extend the timeline out for another 2 years. LID changes would not be required until 2018.

The table below shows a few specific items and how the requirements compare under the different standards

| Items  | Stormwater Requirements Under Various Standards   |   |  |
|--|---|---|--|
|  | 2007 NPDES Permit and current City Codes  | Proposed LID Projects, KZC 114  | Proposed 2013 NPDES Permit Language  |
| <i>Percent runoff to storm LID BMPs*</i>           | Stormwater LID is required as feasible for a minimum of 10% of site runoff for private projects that add at least 2,000ft <sup>2</sup> impervious surface area. | Provides a menu of incentives if 50% of runoff is routed to LID BMPs.   | New stormwater manual in 2016 requires 100% of runoff from sites to go to LID as feasible, and feasible has a strict definition. |
| <i>Pervious pavement on roads and parking lots</i> | Pervious pavement is not allowed in parking lots and public roads, and is allowed on private local roads.   | Pervious pavement is allowed for parking lots, private roads, and alleys (but not required). Pervious pavement is not allowed for public roads. | Pervious pavement is required for both public and private local roads.   |
| <i>Update city codes</i>                           | Additional updates to city codes are not required.  | Updates zoning and municipal codes to remove barriers and create consistency with stormwater LID.   | Required to review and update zoning and municipal codes to incorporate and require LID principals and LID BMPs by 2016.         |

\*BMPs refers to Best Management Practices

This new voluntary chapter encourages LID for low density residential developments of 4 lots or more. In order to accomplish this, new techniques and incentives were introduced that are compatible with the goal of keeping more stormwater on developed sites.

Staff worked with *Makers* (an Urban Planning and Architectural Services firm) to produce visual representations (a.k.a. axonometric drawings) of a prototypical LID project that voluntarily employs the LID Project code in Chapter 114. One comparison was done between an existing four lot short plat and that same plat applying the incentives from Chapter 114 (see Attachment 6). Another comparison was done for 24 lot subdivision (see Attachment 7).

The differences were quite dramatic and allowed staff, Planning Commission, Houghton Community Council and the public to see how this new chapter could work to encourage low impact development on a larger scale. The drawings illustrate the concepts embodied in the LID chapter including clustering, attached housing, reduced lot sizes and shared driveways.

**Clustered Housing and 2/3 Unit Homes** – This provision is included in order to reduce infrastructure needs (roads, sewer and water lines) and to make sharing common LID facilities such as rain gardens easier.

Clustered Housing is a strategy that allows structures to be located closer together and provides flexibility for development especially on sites where sensitive areas or steep slopes exist. A 2/3 unit home is one in which two or three dwelling units are connected. This housing type would be required to employ similar design features to remain compatible with surrounding detached dwelling units in the LID project. There are several advantages of this housing type which include using less land, reducing impervious surfaces between homes, sharing driveways and increasing the diversity of Kirkland's housing stock.

**Reduced setbacks** – Internal setbacks reductions are proposed with the intent of reducing impervious surfaces such as walkways and driveways and to help encourage clustering of homes. The perimeter setbacks would remain the same.

The front yard setback in most residential zones is 20 feet and this code chapter would allow a 10 foot front yard that could be further reduced to 5 feet if the rear yard was increased by the same distance.

**Reduction in lot sizes** - Lot sizes in an LID project can be reduced to 50% of the lot size for the underlying zone. For example, if the minimum lot size for the zone is 7,200 square feet, then a lot as small as 3,600 square feet could be created. This provision assists in clustering of homes, reduces infrastructure requirements and costs, and promotes diversity in housing and lot sizes. It may also help developers have more flexible site plan options as compared to traditional development patterns.

**Bonus Density provision** - A 10% bonus density is proposed as an incentive to encourage a developer to pursue an LID project. At the request of the PC and the HCC, local developers were asked specifically if they would utilize the incentives of this chapter. There was agreement that a bonus density of 10% would be more attractive to developers to attempt this type of project because it would make up for the reduction in sales value of creating smaller lots.

The bonus density calculation is as follows: Using the standard density calculation for subdivisions, multiply number of lots allowed by 1.1 and if a fraction of .5 or higher results then round to next highest whole number. Therefore, a bonus of an additional lot would not occur unless a project had a minimum of 5 lots and a second lot when the project had reached 15 lots and a third lot for projects of 25 or more lots.

**Lot Coverage** – The overall lot coverage over the entire site in an LID project would be 50%. This is typical for low density residential zones within the City with the exception of the Holmes Point overlay zone. The lot coverage calculation for LID projects is aggregated over the entire site. Individual lots could be created with greater than 50% lot coverage. This was devised as a flexibility option to encourage developers to create smaller lots and devote more area to the required common open space.

**Required Common Open Space** – Sufficient area is needed to incorporate the LID facilities effectively. Through clustering of dwelling units, smaller lots and reduced setbacks, the open space area can be designed to accommodate the LID features. A standard of 40% common open space in an LID project has been determined to be the amount of land necessary to ensure that the LID facilities achieve onsite infiltration of the stormwater produced by the development.

**FAR** – FAR is the ratio of building size to lot area. A .5 FAR means that a building on that lot can have 50% of the square footage of that lot. For example, a 10,000 square foot lot could have a 5,000 square foot house.

A 50% Floor Area Ratio maximum is a common requirement in most low density residential zones throughout the city with the exception of Houghton's jurisdiction. (Note: the recently adopted PLA3C zone on the Houghton Slope has a 50% or .5 floor area ratio maximum.)

The Planning Commission and the Houghton Community Council discussed whether or not a Floor Area Ratio maximum would be appropriate in an LID project. The PC decided that there were positive outcomes for keeping an FAR maximum because it is the best standard that is codified for regulating bulk and mass of structures.

The Houghton Community Council had mixed opinions on whether or not to have a FAR maximum. The HCC's final opinion was to not require a FAR maximum in

LID projects within Houghton as they thought there may be other methods that could be used to regulate bulk and mass of structures. The proposed LID project parameters continue the FAR maximum requirement, with an exception to not include it in Houghton. The Planning Commission concurred with Houghton's preference on this issue.

The floor area ratio in an LID project is based upon the minimum lot size of the underlying zone, regardless of the actual lot size. This means that that in a zone with a minimum lot size of 7,200 square feet, an individual lot can have 3,600 square feet of floor area per lot, regardless of lot size.

The higher FAR was viewed as a tradeoff to help incentivize developers to create smaller lots, but not be penalized in reduced floor area for doing so. It is important to note that while individual lots may vary, the overall FAR remains at 50% for the project site.

**Does the Council agree with the above approach to LID regulations? Are changes desired?**

**2. Lot Coverage Calculations – KZC 115.90**

The method for calculating lot coverage is proposed to be amended. The changes focus on providing credit for materials used and their permeability based on the current Washington State Department of Ecology stormwater manual. Encouraging both homeowners and developers to use pervious material is consistent with the major tenants of LID which is to keep more stormwater onsite.

Both the Planning Commission and the Houghton Community Council agreed that applying best management practices to determine the perviousness of a material was a better approach. This same method is in alignment with the Public Works Department calculations for stormwater credits. In order for a material to not count as 100% lot coverage, it should allow stormwater to infiltrate and promote recharging the groundwater on a developed site. The one difference between the PC and HCC recommendation involves whether or not swimming pools should be counted as impervious surface. This is discussed in their transmittal memo (Exhibit 1).

The PC prefers that swimming pools not be excepted from lot coverage calculations because they do not recharge ground water. This approach is consistent with state standards and adjacent jurisdictions. The HCC felt that swimming pools should be allowed to be counted towards lot coverage only if

they provide a self draining pool cover which would help in reducing stormwater runoff.

**Does the Council agree with the PC or the HCC? Or is there direction to provide other options?**

### **3. Solar Panel Height Exceptions – KZC 115.60**

Solar panel experts were consulted to learn how the City could encourage more production of renewable energy using solar panels. Two things were suggested: expedited permitting for solar panels and some increased height allowances. Reducing the permit review timeline lowers the cost to the user and helps get solar panels installed quicker. Development Review Staff is currently working with the EGov Alliance to address the expedited permitting request. Two additional amendments have been proposed to allow for additional height for solar panels on detached dwelling units and other structures.

Currently, the Zoning Code only allows height exceptions for detached dwelling units for chimneys and 6 inches for rooftop vents and skylights. The Planning Commission recommends that the same 6 inch height exception should be allowed for solar panels installed on flat roofs. The Houghton Community Council recommends that height exceptions not be allowed for installation of solar panels on flat roofs. For a discussion of this issue see the transmittal memo - Exhibit 1, page 7 and 8.

For structures other than detached dwelling units, such as multi-family or commercial buildings a six (6) inch height exception for solar panels on sloped roofs and a 20 inch height exception for flat roofs are proposed.

The PC and the HCC agree with this height exception. However, the HCC would like screening to be required if solar panels exceed the height regulations. In addition, the HCC would like solar panels to be included in the definition of rooftop appurtenances. For a discussion of this issue see the transmittal memo - Exhibit 1, pages 7-9 and the next section below regarding rooftop appurtenances.

**Does the Council agree with the PC or the HCC? Is there direction to provide other options?**

#### **4. Rooftop Appurtenance Definition – KZC 5.10.817**

The definition of rooftop appurtenances was originally created to accommodate the types of mechanical units that are placed on roofs of structures other than detached dwelling units. Some examples of mechanical units include air conditioning, heating units and elevator equipment. However, solar panels are increasingly being placed on rooftops to take advantage of the best solar access. For this reason it is important that solar panels not be restricted by screening and the limits to rooftop coverage.

KZC section 115.120, Rooftop Appurtenances, was created to establish standards when allowing increases up to 4 feet above height limits including screening for rooftop units and limits to the amount of rooftop coverage. This section does not address solar panels, but does regulate mechanical units which are usually much taller than solar panel installations.

The PC and HCC differed on this issue. Their discussion is captured in the transmittal memo – Exhibit 1, pages 8 and 9. The Planning Commission was not in support of including solar panels in the definition of rooftop appurtenances because they would like to see more commercial and multi-family buildings install solar panels on their rooftops. Their rationale was that these types of buildings usually have more available roof space and can generate a significant amount of clean, renewable energy.

The Houghton Community Council felt that commercial buildings that have existing parapets are more suitable for solar panels than multi-family buildings. Their specific concern was that panels could be a visual impact to adjacent property owners that may be looking down on or at solar panels. Their preference was to include solar panels in the rooftop appurtenance definition so that screening would be put in place where existing parapets did not provide visual screening of the solar panels.

If solar panels are included in the rooftop appurtenance definition, four unintended consequences may occur:

- Solar panels, regardless of height would require screening which could shade the panels and reduce their effectiveness.
- Solar panel screening would create more bulk and mass on rooftops.
- Solar panels above the height limit would be limited to covering 25% of the roof's footprint.
- Solar panels would be allowed to exceed the maximum height limit by up to 4 feet in height

The Planning Commission does not agree with including solar panels in the definition. The Houghton Community Council would like it included.

**Does the Council agree with the PC or the HCC? Is there direction to provide other options?**

### **5. Other Code Provisions**

The Planning Commission and the Houghton Community Council were in agreement regarding the remaining code amendments as noted below:

**Electric Vehicle Infrastructure Standards:** [RCW 35.63.126](#) requires jurisdictions to allow Electric Vehicle Infrastructure (EVI) such as charging stations, battery replacement stations and rapid charging stations. Code amendments have been proposed to meet the State's requirements and incentives have also been added to encourage more businesses to provide onsite charging stations for their customers. A federal grant provided funds to purchase and install charging stations at City Hall, Marina Park and the King County Library in Kirkland. They are reporting fairly regular use according to the City's Fleet Manager.

#### **Additional Miscellaneous Code Amendments**

- Revising KZC section 95.32.3 to allow a setback reduction for structures adjacent to an access easement or tract in order to preserve existing significant trees.
- Including language in KZC 95.44 to reference natural drainage landscapes
- Including soil quality standards for required plantings in KZC 95.50.4.
- Revising KZC sections 105.10.2.d, 105.77 and 105.100 to allow pervious surfaces.
- Adding new section KZC 105.67 to provide preferential parking allowances for parking stalls that give priority to carpools, high/efficiency low emission vehicles and electric and other alternative fuel vehicles
- Adding a new section KZC 105.34 to encourage covered/secure bicycle storage for six bicycles in exchange for providing one less parking stall.
- Revising KZC 110.25 and 110.27 to allow pervious surface connections between roads and private driveways and on a case by case basis in alleys.
- Revise Kirkland Municipal Code section 15.52.060 to allow privately maintained stormwater structures in the right-of-way on a case by case basis.

**Does the Council agree with the above changes? Is there direction to provide other options?**

**KZC 135.25 CRITERIA FOR AMENDING THE TEXT OF THE ZONING CODE**

KZC 135.25 establishes the criteria by which changes to the Zoning Code text must be evaluated. These criteria and the relationship of the proposal to them are as follows:

1. *The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan*

The proposed amendments are consistent with the Comprehensive Plan. The proposed amendments are intended to incentivize and remove barriers to sustainable actions that reduce stormwater runoff, increase energy efficiency in both public and private structures, promote Electric Vehicle Infrastructure and the utilization of renewable energy and do not fundamentally change the City's policies. The proposed amendments are consistent with the following goals/policies of the Comprehensive Plan, Chapter V Natural Environment:

- Goal NE-1: Protect natural systems and features from the potentially negative impacts of human activities, including, but not limited to, land development.
- Goal NE-1.5: The City should educate, promote, support incentives and provide resources to encourage citizens, businesses, builders and the development community to adopt sustainable building practices.
- Policy NE-1.6: Encourage Sustainable building and low impact development practices in public and private development
- Policy NE 2.4: Improve management of stormwater runoff from impervious surfaces by employing low impact development practices where feasible through City projects, incentive programs, and development standards.
- Goal NE-3: Manage the natural and built environments to protect and, where possible, to enhance and restore vegetation.
- Policy NE-3.2: Preserve healthy mature native vegetation whenever feasible.
- Policy NE-3.3: Ensure that regulations, incentives, and programs maximize the potential benefits of landscaping.
- Policy NE-5.1: Continue and enhance current actions to improve air quality and reduce greenhouse gas emissions.

2. *The proposed amendment bears a substantial relation to public health, safety, or welfare*

The proposed amendments bear a substantial relation to public health, safety, and welfare. As described in the introduction to the new chapter KZC 114(Low Impact Development), new section 115.33 (Electric Vehicle Infrastructure), KZC Chapter 95 and Comprehensive Plan, Chapter V Natural Environment, sustainable actions provide a number of benefits which include environmental, aesthetic, and economic benefits which affect the public as a whole. The amendments further promote sustainable actions and regulations which are based on the goals and policies of the Comprehensive Plan.

3. *The proposed amendment is in the best interest of the residents of Kirkland*

The proposed amendments are in the best interest to the residents of Kirkland. The amendments seek to promote low impact development, provide Electric Vehicle Infrastructure provisions, and increase energy efficiency in structures, reduce costs and assist in the production of renewable energy. The amendments were created based on balancing the needs of various stakeholder groups and the policies of the Comprehensive Plan. The result of the changes should create more opportunities for incorporating sustainable techniques and actions for both the residential and development community.

## **ENVIRONMENTAL REVIEW**

A Draft and Final Environmental Impact Statement (EIS) on the City's Comprehensive Plan 10-year Update was published in 2004. The EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). An EIS Addendum was issued on January 4, 2012 for the Green Codes project (see Attachment 8). According to SEPA rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document. An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document. The EIS Addendum fulfills the environmental requirements for the proposed changes.

## **PART 2: Council Review Items and Green Building Ordinance**

This section was created by staff to assist Council in evaluating potential policy changes that align sustainability measures and City operations including building and remodeling of City facilities, City projects and how citizens are charged for stormwater management on their private property (see City Council Review items as shown on Attachment 4).

### **A. Sustainable "Green" Infrastructure**

#### **1. Green Building Policy for City Facilities and Projects**

***Comprehensive Plan Policy NE-1.6: Encourage sustainable building and low impact development practices in public and private development.***

In the U.S, buildings account for 36% of total energy consumption, 65% of electricity consumption, 30% of raw material use, 30% of waste output (136 million tons annually) and 12% of all portable water consumption (15 trillion gallons per year). High performance (green) buildings use resources such as water and energy more efficiently and create healthier environments for occupants. There are two distinct financial benefits for Green building - direct benefit of reduction of energy use, and indirect saving by improving the health of

the employees, decreasing sick leave and improving productivity. The benefits of green building include:

- Lower operational and maintenance costs
- Reduced energy use (30% on average)
- Reduced pollutants emission
- Improved employees' productivity and reduced health care costs
- Reduced need for refurbishment in the future

LEED (Leadership in Energy and Environmental Design) certified buildings are at least 20%-30% more energy efficient than conventional buildings and on average save \$50-\$70 per sq ft while the average additional cost is \$3-\$5 per sq ft with 2 to 1 benefit-cost ratio. On average LEED Silver certified buildings consume 32% less energy than conventional building while LEED Gold certified building require 44% less energy.

Using LEED certification system for city-owned facilities saves time and resources, and reduces technical and administrative investments by providing a uniform process and rating system. By adopting a Green building policy, cities protect public health, save money on maintenance and operation, raise awareness of environmental stewardship, and create demonstration projects.

LEED certification for Kirkland-owned facilities is consistent with the city's Climate Protection Action Plan of 2009. In particular, it answers the city's commitment for "make energy efficiency a priority through building code improvements, retrofitting City facilities with energy efficient lighting and urging employees to conserve energy and save money" and "Practice and promote sustainable building practices using the U.S. Green Building Council's LEED program or a similar program".

In the region several municipalities have LEED certification policies for municipal projects. For example:

- Bellingham's resolution 2005-12 (May 2005) requires all new municipal building construction and renovation over 5,000 sq ft where the City provides a majority of the funding to earn LEED Silver certification.
- Everett (May 2007) requires new City capital improvement projects 5,000 square feet or larger to meet LEED Silver. Additionally, their ordinance instructs the City to encourage the use of LEED through its land use regulations, building codes, and development standards.
- King County (October 2001) requires that all new municipal construction and renovation projects costing \$250,000 or more achieve the highest achievable level of LEED certification. This Ordinance was updated in (June 2008) and now includes a LEED Gold requirement (see Attachment 9).

- The City of Seattle (2000) requires LEED Silver certification of all city-owned projects and renovations over 5,000 sq ft. Seattle currently owns 8 LEED Gold certified buildings, 7 LEED Silver certified buildings, and two LEED certified buildings.
- Portland, OR (April 2005) requires all new public projects to achieve LEED Gold certification, all city-owned, occupied, existing buildings to achieve LEED for Existing Buildings at the Silver level, and all tenant improvements or leased facilities to achieve LEED for Commercial Interiors at the Silver level.

Currently 172 agencies and municipalities in the U.S require LEED certification for city-owned facilities, city-funded projects and major renovation. Of them 105 require Minimum LEED Silver certification or equivalent, 8 require LEED Gold certification, and one requires LEED Platinum certification. In Washington State, as of October 2010, 26 city hall buildings are currently certified, 14 of them have LEED gold certification or higher, including city halls in the City of Burien (Gold), City of Mukilteo (Gold), City of Port Townsend (Silver), City of Puyallup (Gold), City of Shoreline (Gold), and City of Seattle (Gold). The net benefits of Seattle's LEED Gold certified city hall over a 25 year analysis period are \$1,580,000, which realizes a benefit to cost ratio of 332%.

Public Safety Building Implications – Any future proposal brought to Council for consideration would not determine the LEED certification of the Kirkland Public Safety Building. The KPSB is currently being designed to be LEED Silver certified as required with the funding it received from the State of Washington.

**Staff recommends that the City Council consider the adoption of a Green Building Ordinance for City Facilities and projects. The purpose of the ordinance is to incorporate sustainable development practices into the design and construction and verification of City Facilities using life cycle cost analysis. If the Council is interested in this proposal, staff will prepare materials for discussion at a future meeting.**

## 2. CIP Policy for projects other than City Facilities

Staff has held several meetings with the City's Capital Improvement Manager and project managers to discuss sustainability measures for projects that do not involve the construction of a new or remodeled City building. Some examples of these projects are roads, sidewalks, sewer and water main repair and extensions. CIP management discussed their evaluation of the Green Roads Certification process for these types of projects. The Green Roads certification is still new and remains to be seen if it will gain the wide spread acceptance as the LEED certification of

buildings. More discussion needs to occur and new ideas could be brought to the table with additional focus on creating greener City infrastructure projects.

**Staff will provide the City Council with a proposal after working with CIP management and other interdepartmental stakeholders.**

### **3. Performance Measures for City's Climate Action Plan**

The City is one of the founding members of the King County Climate Change Collaborative. This inter-jurisdictional group of cities are working with King County and developing an action plan with targeted deliverables. Later in 2012, it is anticipated that the Green Team will have more information from this effort and will report the results back to Council.

### **4. Sustainability/Carbon Footprint Checklist for Building Permit**

Staff researched this, but was unable to locate a current or local example of a sustainability checklist for building permit applications. We recommend not pursuing this further at this time.

## **B. Potable Water Conservation**

An informational brochure on how "gray water" could be reused was the original idea for this effort. Gray water is water that goes down the drain and is filtered and reused again for non-potable uses such as toilet flushing, clothes washing and watering gardens. Since the Green Code process commenced, a local residence has been approved to use gray water for potable uses. As an interim step to completing a gray water handout, the Building Department staff has worked to develop a handout for rainwater harvesting (see Attachment 10). Rainwater harvesting can include items such as rain barrels and cisterns with the intent of collecting and using it instead of valuable potable water sources.

## **C. Stormwater and Landscaping**

### **1. City of Seattle's Green Factor**

Staff evaluated City of Seattle's Green Factor code language and found that it would be difficult to administer and that Kirkland's current regulations for landscaping are very comprehensive. The Planning and Public Works Departments did not feel strongly that we should pursue adopting this code.

## 2. Surface Water Utility Discounts

As part of the 2012 Surface Water Master Plan, staff would like to develop a program to give property owners credit for voluntary installation of stormwater LID installed on private property. The credit would either be a reduction in the annual SWM Utility Rate or a one-time rebate voucher (from the SWM Utility). Current surface water funds could be used to fund a pilot program in 2013, and staff would need to investigate funding opportunities for the future.

**Benefits:** Increased installation of storm LID, reduced stormwater runoff, reduced flooding, increased water quality.

**Costs:** Less revenue for the city, and increased staff time for calculation and verification.

Stormwater LID is already required as feasible with new and redevelopment. This requirement is through our stormwater permit with Washington State Department of Ecology. And more stormwater LID will be required in the next several years. One part lacking in the permit is the requirement for retrofitting existing development projects with storm LID, so this should be our target for incentives. Staff would recommend that we explore this concept further and bring back options for Council's consideration at a later date.

## 3. Rebate for Trees Planted on Private Property

As part of the 2012 Surface Water Master Plan, staff suggests developing a pilot project offering rebates for residents to plant trees on private property. Current surface water funds could be used to fund a pilot program in 2013, and staff would investigate funding opportunities for the future. No decision is needed at this time, but this could be explored further and brought back at a future Council meeting.

**Benefits:** Increased tree canopy, reduced stormwater runoff.

**Costs:** Less revenue for the city (unless grant funding can be obtained), additional staff time to manage program and work with homeowners to verify tree purchase and installation.

The City would need to do a pilot project, or some other "test" to determine if the residents want this type of program. Do residents want to plant more trees on their own property?

Potential Program Guidelines:

- Establish maximum dollar amount per tree (ex. 50% of tree cost or max at \$50), and maximum amount per lot (ex. 10 trees or \$500).
- Tree must be purchased from a WA commercial nursery (not through a nonprofit program or agency).
- Require trees native to Western WA only? Or offer a lower rebate for non-native trees?
- Minimum tree size (ex. 1-inch diameter).
- Require installation on private property only, not in public right-of-way or park property.
- Establish procedure for verification of tree purchase and installation, and form of rebate to resident.
- Resident must sign an agreement allowing staff to verify planting and pledge to water and care for the new tree.
- Would this be limited to SFR only, since multi-family and commercial already have separate landscape requirements?

Funding options:

- Grants – possible
- SWM utility – current level of utility funding is already budgeted for existing services.
- Credit on potable water utility bill – current level of utility funding is already budgeted for existing services.

**NEXT STEPS**

- **Return to the April 3<sup>rd</sup> 2012 Council meeting with Ordinances in Final format for Council approval and Adoption**
- **Bring back information and options at a future Council meeting on city facilities, surface water utility discounts and tree rebates.**

**Exhibits**

1. Planning Commission/Houghton Community Council Recommendation

**Attachments**

1. Zoning and Municipal Code Amendments
2. Ordinance for Zoning Code Amendments
3. Ordinance for Municipal Code Amendments
4. Sustainable Actions Matrix
5. Letter from Master Builders Association of King and Snohomish Counties
6. Maker's Axonometric Drawings for 4 lot short plat
7. Maker's Axonometric Drawings for 24 lot subdivision
8. EIS Addendum
9. King County Green Building Ordinance
10. Rainwater Harvesting Handout

cc: ZON1-00031

Planning Commission  
Houghton Community Council

**CITY OF KIRKLAND**

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**MEMORANDUM**

**To:** Kirkland City Council

**From:** Jay Arnold, Chair, Kirkland Planning Commission  
Rick Whitney, Chair, Houghton Community Council

**Date:** March 1, 2012

**Subject:** Kirkland Planning Commission and Houghton Community Council  
Recommendation to Adopt the Green Codes Amendments  
(File No. ZON10-00031)

**I. Introduction**

On behalf of the Planning Commission and Houghton Community Council we are pleased to recommend the Green Codes Amendments for consideration by the City Council. The 2010 - 2012 adopted Planning Work Program included the LID/Green Codes project. The proposed code amendments are the work of many individuals and groups over the course of 2011 and the beginning of 2012. Staff worked with a Technical Advisory Board (TAB) comprised of local development professionals with experience in Low Impact Development (LID) and sustainable building expertise to develop options for the Planning Commission and the Houghton Community Council's consideration.

The proposed codes as recommended are intended to:

- Encourage the use of low impact development techniques in single family areas through incentives such as lot size flexibility, clustered housing and bonus density provisions;
- Promote energy efficiency by allowing for solar panels where appropriate; and
- Accommodate green infrastructure by adding standards for electrical vehicle charging stations.

The PC and the HCC agreed on a great majority of the proposed Green Code amendments. However, there are a few areas listed below where the

recommendations differ. These differences are also highlighted in the draft code amendments (see Attachment 1 in the Staff memo to Council).

In some cases barriers to developing property more sustainably were removed and references were made to best management practices. Some of the amendments went further and new chapters or sections were created to find solutions that would have a positive impact on the built and natural environment in Kirkland.

Specifically, Green Codes includes over 40 Zoning Code Amendments, and two Municipal Code Amendments. Highlights of the proposed changes to the Kirkland Zoning Code include a new **Low Impact Development (LID)** chapter (Zoning Code Chapter 114). It was created to encourage and incentivize projects that would reduce stormwater runoff by treating more stormwater onsite, promote clustered housing and increase common open space within single family development projects.

Staff worked with design consultants, Makers (an Urban Planning and Architectural firm), to develop site plans and color renditions to show how an existing 4 lot short plat and a 24 lot subdivision could be transformed using the proposed code from the new LID chapter (see Attachments 6 and 7 of Staff Memo to Council). These drawings proved to be invaluable in communicating LID concepts and how these projects could look after completion.

We requested staff confer with local developers to evaluate the LID chapter and to get feedback. As a result we incorporated a bonus density option and further reductions in front yard setbacks as incentives that could encourage developers to use the new LID project chapter.

In addition, the Zoning Code section on Calculating Lot Coverage was revamped to more accurately account for the permeability of hard surfaces based on scientific study developed by the Washington State Department of Ecology. Both of these amendments have a LID focus that provide tools and incentives to builders and homeowners alike to reduce the amount of contaminants entering our streams and Lake Washington, encourage more compact neighborhoods and help recharge our groundwater supply.

A new section was created to address [RCW 35.63.126](#) requirements that all cities in Washington State make code provisions for Electric Vehicle Infrastructure (EVI). Examples of EVI include battery charging stations, rapid charging stations and battery exchange stations. We reviewed the zones where the EVI uses would be best suited for compatibility within Kirkland and that would spur more usage of alternative forms of transportation, reduce energy use while lessening the production of green house gasses.

Minor amendments were proposed to increase alternative forms of transportation including electric and hybrid vehicles and bicycles. All of the proposed amendments are included as exhibits to the ordinances and are described in greater detail later in this memo.

## II. **Recommendation:**

The Planning Commission and the Houghton Community Council recommend that the following amendments be approved (see Attachment 1 of the staff memo to Council):

- Add a new Chapter 114 to the Kirkland Zoning Code for Low Impact Development projects.
- Revision to the Zoning Code section –Calculating Lot Coverage.
- Add language to Chapter 95 (Provide Variations to Development and internal parking lot standards to encourage more LID and significant tree preservation.
- Add language to Chapter 105 to promote LID material for use in Easements/Tracts and Parking Area Design.
- Revise sections of Chapter 110 to allow the use of pervious surfaces where not previously allowed to provide connections to the right-of-way or in alleys.
- Revise language in Chapter 15 of the Kirkland Municipal Code to reference privately maintained stormwater structures that can be approved by the Public Works Director.
- Add language to Chapter 115 of the Kirkland Zoning Code to provide height exceptions for Solar Panel on Detached Dwelling Units and other structures.
- Add a new Zoning Code section 115.33 – Electric Vehicle Infrastructure (EVI), to make provisions for proper siting of EVI.
- Add language to Chapter 105 to encourage more covered bicycle storage. Also revise language in KZC 105 that is not consistent with new methods for calculating lot coverage in KZC 115.90.

### III. Process, Public Comments and PC/HCC Recommendation

#### **Green Codes Process**

The Planning Commission and the Houghton Community Council (HCC) conducted total of six study sessions each and one jointly held study session, that spanned a period from January 2011 to November 2011, to discuss the Planning Commission review items. The meeting packets for the PC meetings are available [here](#) and the meeting packets for the HCC are [here](#).

Based on feedback from these study sessions, and the January 12<sup>th</sup> 2012 joint public hearing, staff prepared the proposed code amendments. The HCC and Planning Commission were in agreement on the majority of the issues and proposed code amendments. In some sections, the Planning Commission concurred with the HCC that there should be an exception in Houghton. There was only one topic on which the HCC differed from Planning Commission recommendations and it is identified in the PC and HCC recommendation section below.

#### **Public Comments**

The Planning Commission and Houghton Community Council held a joint public hearing on January 12<sup>th</sup> 2012. The meeting packet can be viewed in two parts, [Part 1](#) and [Part 2](#). The audio of the hearing can be listened to [here](#). Seven citizens made public comment primarily on solar panel height exemptions as proposed in KZC 115.60.2.a.4. Several speakers commented that an exception to height for solar panels should **not** be adopted because solar panels could block views and reduce the value of their investment.

We received two emails regarding the Green Codes, one that further expressed opinions that a height allowance would reduce property values because home values are based on views and another regarding the placement of street trees in relation to transit stops. The public comment period was kept open until January 20<sup>th</sup> 2012. Three additional emails were received after the public hearing. One email requested that the 6 inch height allowance remain in place, another stated opposition to any additional height allowance for solar panels and a third expressed support for low impact development code amendments. Copies of all the written public comment can be viewed [here](#) by scrolling to Attachments 2 and 3 of Planning Commission's February 9<sup>th</sup> 2012 meeting packet.

### **PC and HCC Recommendations**

The HCC and the PC each voted unanimously to recommend approval of the Green Code amendments at our January 23<sup>rd</sup> and February 9<sup>th</sup> meetings respectively. There was a great deal of cooperation between the PC and the HCC that was instrumental in making the new Chapter 114 – Low Impact Development, more attractive to developers. A summary of those areas are outlined below:

- Bonus Density – Staff had received feedback from local developers for a bonus density incentive. A discussion was held that helped the PC and HCC come to similar conclusions to allow a 10% density bonus for LID projects.
- Condominium Process – Condominium projects using the LID chapter provide more flexibility for the developer and the types of housing that could be provided such as attached housing (a 2/3 unit home).
- Permitted Housing Types – Detached dwelling units and accessory dwelling units were originally the only type of housing proposed, but the PC and the HCC were able to consider the 2/3 unit home and its value in diversifying the residential housing stock.
- Minimum Required Yards – The minimum required front yard was proposed to be 10 feet. However, after feedback from local developers that homeowners generally wanted a smaller front yard and larger back yards, both the PC and the HCC felt that a 5 foot reduction in the required front yard would be acceptable if the rear yard was increased by the same distance.

### **Differences Between the PC and HCC**

The differences between the PC and the HCC recommendation for the Green Code amendments are outlined below. In order to help identify the differences:

- Orange is used for PC wording
- Blue is used for HCC wording

#### **1. Kirkland Zoning Code 114.15, Parameters for Low Impact Development: Maximum Floor Area.**

### Issue Discussion

Most single family zones outside of Houghton currently have a maximum floor area ratio of 50% (or .5 FAR). Under the proposed LID chapter there are provisions for clustering, smaller lots and 2/3 unit attached homes. The Planning Commission desired to maintain a similar FAR in order to be consistent with this general standard. This Zoning Code regulation stipulates that a 50% maximum Floor area ratio apply to an LID project e for the underlying zone when Chapter 114 is utilized. Currently, floor area is regulated in all parts of the City (outside of the HCC jurisdiction with the exception of PLA3). Low density zones employ a floor area ratio maximum with the intent of limiting the bulk and mass of the structures. This regulation is intended to limit the bulk and mass of single family structures, but does not regulate design of the structure.

### PC and HCC Discussion and Recommendation

PC recommends keeping language in place that retains a Maximum Floor Area for Low Impact Development projects. However, the PC was agreeable to allowing an exception for Houghton that is compatible with the HCC recommended language below because with the exception of the PLA3 Zone, floor area is not regulated in Houghton.

HCC recommends creating the following footnote in this Zoning Code section: **The Maximum Floor Area for LID projects does not apply within the disapproval jurisdiction of Houghton.** The HCC felt that floor area ratio maximums would not provide any more protection on bulk and mass that were provided by required setbacks, height limits and lot coverage maximums.

Explanation of Differences: If the Low Impact Development Chapter is used, the homes on the property will be subject to a maximum floor area, except within the HCC's jurisdiction.

## **2. Kirkland Zoning Code 115.90, Calculating Lot Coverage:** Exceptions to Lot Coverage (i.e. swimming pools).

### Issue Discussion

This zoning code section was devised to limit the amount of hard surfaces covering a parcel. Pervious surfaces are preferable when considering limiting the amount of surface water runoff. The revisions to this code section provide allowances when pervious surfaces are used and give exemptions and exceptions based on scientific research by the Washington State Department of Ecology's 2009 Stormwater Design Manual. The PC and HCC were in agreement on the exceptions to lot coverage. The only discussion point was whether or not swimming pools should be counted when calculating lot coverage.

### PC and HCC Discussion and Recommendation

PC recommends using the language as suggested by the code amendment. City-Wide, the PC does not approve of providing an exception for swimming pools as they are not pervious, may cause stormwater runoff and do not allow stormwater to infiltrate the site. In addition, the PC does not support providing an exception for swimming pools that provide a self-draining pool cover (as recommended by the HCC below) because although a self-draining pool cover may not cause stormwater runoff, it would not allow water to infiltrate onsite.

HCC recommends using the language as suggested by the code amendment with an exception provided for swimming pools that provide a self-draining pool cover. The HCC reasoning was that swimming pools are good for community building and they should not be limited. But, it was recognized by the HCC that pools that are completely covered would contribute to stormwater runoff. The HCC proposed a footnote to the exceptions that reads:

**An exception for swimming pools is allowed in the Houghton Jurisdiction only if the applicant provides a self-draining pool cover which drains into the swimming pool and does not cause surface water runoff as determined by the Planning Official.**

Explanation of Differences: Pools are not exempt from lot coverage calculations, except within Houghton's Jurisdiction and only if a self draining pool cover is provided to eliminate surface water runoff that would be normally associated with a regular pool cover.

### **3. Kirkland Zoning Code 115.60.2.a.4 – Height Regulations and solar panels – Detached Dwelling Units**

#### Issue Discussion

Solar Panels placed on sloped and flat roofs need certain conditions and allowances to not only operate most efficiently, but to incentivize more citizens and businesses to utilize them to generate renewable energy. For sloped roofs, solar panels only need a slight offset from the surface of the roof to install the mounting hardware and the panel. In most cases this can be accomplished within the maximum height for a residential zone, but there may be instances where an exception of six (6) inches could be advantageous to the placement and to reduce shading from a chimney or tree. Staff's original proposed option to the PC and the HCC was a six (6) inch exception to the maximum height limits for solar panels on sloped roofs. Solar panels mounted on flat roofs are a special case and are most effective when facing south and tilted at an angle of approximately 30 degrees. In order to achieve the proper tilt/angle on a flat roof, one side of the panel must be significantly higher in elevation than the opposite side. On flat roofed residences, which may be built

close to height limits, an exception to the height limits would be required to achieve similar conditions and efficiencies to sloped roofs. Staff's original proposed option was a twenty (20) inch exception to the height limits for flat roofs.

#### *PC and HCC Discussion and Recommendation*

The PC understood the rationale behind the increased height limits for solar panels on sloped and flat roofs. In fact, prior to the public hearing, the PC agreed with Staff's proposed options. However, after receiving written comment and listening to public comment at and after the hearing, a decision was made to revise the PC position. The PC felt that most public comment pointed to citizen's displeasure with allowing a twenty (20) inch height exception on flat roofs for solar panels.

The PC felt that some allowance should be made for flat roofs on detached dwelling units to help increase the production of renewable energy. Without this height exception, owners of flat roofed homes that are at maximum height would be precluded from even placing panels flat on the roof surface. The PC recommended a six (6) inch height allowance above the height limits of the zone for solar panels on flat roofs. The PC also recommended that the six (6) inch height exception for solar panels on sloped roofs could be eliminated as most systems could be installed under the height limits. The PC agreed that an exception could be made for Houghton and that the 6 inch height exemption for solar panels on flat roofs would not be required in Houghton.

The Houghton Community Council also listened to public input but took a different tact and recommended that no height exception for solar panels be provided on flat or sloped roofs. In their opinion, the homeowner would need to comply with existing height regulations when considering locating solar panels on their rooftops because views and visual clutter on rooftops and possible reductions in property value were of primary importance. In addition, the HCC discussed the fact that technology is rapidly changing and there may soon be solar panels that do not require any exceptions to height limits.

*Explanation of Differences:* Solar panels placed on flat roofs will be allowed a 6 inch height exception to the maximum height limits on detached dwelling units, unless they are located in Houghton.

#### **4. Kirkland Zoning Code Definition 5.10.817 and KZC 115.20 – Rooftop Appurtenances & Solar Panels**

##### *Issue Discussion*

Outside of single family areas, the Kirkland Zoning Code ([KZC 115.20](#)) allows for rooftop appurtenances to allow increases up to 4 feet above the applicable height

limit subject to screening and specific standards such as screening and rooftop coverage restrictions. This is to allow mechanical units such as air conditioning, vents and heating uses that are typically located on the roof in commercial, office, multi-family and industrial buildings. This height exception does not apply to detached dwelling units.

The issue before the Planning Commission and HCC was whether or not solar panels should be included in the definition of "rooftop appurtenances" subject to the screening and rooftop area limitations (10%) and the other standards noted in KZC 115.20. This section allows modifications to these standards subject to additional criteria.

*PC and HCC Discussion and Recommendation*

The Planning Commission's **City-Wide** recommendation is to **not** include solar panels in the definition of *Rooftop Appurtenances*. The PC's rationale acknowledges that limits of coverage for solar panels should not be placed on structures such as multi-family and commercial structures where there is so much opportunity for solar panels. This is an incentive that the PC thought would encourage more solar panels and they will determine in the future if it works the way it was intended.

The Houghton Community Council wants the limitations on roof coverage and screening protection provided by including solar panels in the definition of *Rooftop Appurtenances* which would require them to comply with KZC 115.120. The HCC's concern was especially related to multi-family structures and the additional view blockage that could occur. However, on commercial structures there was less concern of view blockage as there is usually a parapet that would limit the solar panels from being viewed by adjacent properties.

*Explanation of Differences:* On **all other structures besides detached dwelling units**, solar panels will not require screening, not be limited in rooftop coverage and will have a height exception for sloped roofs (6 inches) and flat roofs (20 inches). However, in Houghton, solar panels mounted above height limits will require screening, have a maximum roof top coverage of 25% and will be able to exceed the use zone's maximum height limit by up to 4 feet.

cc: ZON10-00031  
Planning Commission  
Houghton Community Council

## Chapter 114 – LOW IMPACT DEVELOPMENT

### Sections:

- 114.05 User Guide
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### 114.05 User Guide

This chapter provides standards for an alternative type of site development that ensures low impact development (LID) facilities are utilized to manage stormwater on project sites in specified low density zones. If you are interested in proposing detached dwelling units or two unit home that reduce environmental impacts or you wish to participate in the City's decision on a project including this type of site development, you should read this chapter.

### 114.10 Voluntary Provisions and Intent

The provisions of this chapter are available as alternatives to the development of typical lots in low density zones.. In the event of a conflict between the standards in this chapter and the standards in KZC Chapters 15, 17 or 18, the standards in this chapter shall control except for the standards in KZC 83 and 141.

The goal of LID is to conserve and use existing natural site features, to integrate small-scale stormwater controls, and to prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development sites by maintaining a more hydrologically functional landscape. LID may not be applicable to every project due to topography, high groundwater, or other site specific conditions.

The LID requirements in this code do not exempt an applicant from stormwater flow control and water quality treatment development requirements. LID facilities can be counted toward those requirements, and in some cases may meet the requirements without traditional stormwater facilities (pipes and vaults).

The purpose of this chapter is to allow flexibility, establish the development guidelines, requirements and standards for low impact development projects. Because all projects are required to use some form of LID techniques and facilities as feasible, the use of LID techniques does not necessarily fulfill all the requirements for a LID project. This chapter is intended to fulfill the following purposes:

- (1) Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic conditions.
- (2) Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate new technologies and techniques, and the efficient layout of streets, utility networks and other public improvements.
- (3) Minimize impervious surfaces.
- (4) Encourage the creation or preservation of permanent forested open space.

(5) Encourage development of residential environments that are harmonious with on-site and off-site natural and built environments.

(6) Further the goals and the implementation of the policies of the Comprehensive Plan.

### 114.15 Parameters for Low Impact Development

Please refer to KZC 114.30 and 114.35 for additional requirements related to these standards.

|                         |  |
|-------------------------|--|
| Permitted Housing Types | <ul style="list-style-type: none"> <li>• Detached Dwelling Units</li> <li>• Accessory Dwelling Units</li> <li>• 2/3 Unit Homes</li> </ul>  |
| Minimum Lot Size        | <ul style="list-style-type: none"> <li>• Individual lot sizes must be at least 50% of the minimum lot size for the underlying Zone.</li> </ul>   |
| Minimum Number of lots  | <ul style="list-style-type: none"> <li>• 4 lots</li> </ul>   |
| Maximum Density         | <ul style="list-style-type: none"> <li>• As defined in underlying zone's Use Zone Chart</li> <li>• Bonus Density is calculated by multiplying number of lots or units by .10. If a fraction of .5 or higher is obtained then round to the next whole number.</li> </ul>  |
| Low Impact Development  | <ul style="list-style-type: none"> <li>• LID techniques must be employed to control stormwater runoff generated from 50% of all hard surfaces. This includes all vehicular and pedestrian access. LID facilities must be designed according to Public Works stormwater development regulations as stated in KMC 15.52.</li> </ul>  |
| Locations               | <p>Allowed in Low density Residential Zones with the exception of the following:</p> <p>PLA 16, PLA 3C, RSA 1, RSA8 , RS 35 and RSX 35 zones in the Bridle Trails neighborhood, and the Holmes Point Overlay zone. Any property or portion of a property with shoreline jurisdiction must meet the regulations found in Chapter 83 KZC, including minimum lot size or units per acre and lot coverage.</p> |
| Review Process          | <ul style="list-style-type: none"> <li>• Short Plats shall be reviewed under KMC 22.20.15 and Subdivisions shall be reviewed under KMC 22.12.015.</li> <li>• Condominium Projects shall be reviewed under KZC 145, Process I</li> </ul>  |

|   |   |
|---|---|
| Parking Requirements  | <ul style="list-style-type: none"> <li>• 2 stalls per detached dwelling unit</li> <li>• 1 stall per accessory dwelling unit</li> <li>• 1.5 stalls per unit in multi-unit home, rounded to next whole number</li> <li>• See KZC 105.20 for guest parking requirements</li> <li>• Parking pad width required in KZC 105.47 may be reduced to 10 feet.</li> <li>• Parking Pad may be counted in required parking</li> <li>• Tandem Parking is allowed where stalls are share by the same dwelling unit.</li> <li>• Shared garages in separate tract are allowed</li> <li>• All required parking must be provided on the LID project site.</li> </ul> |
| Ownership Structure   | <ul style="list-style-type: none"> <li>• Subdivision</li> <li>• Condominium</li> </ul>  |
| Minimum Required Yards<br>(from exterior property lines of the LID project) | <ul style="list-style-type: none"> <li>• 20 feet for all front yards</li> <li>• 10 feet for all other required yards</li> </ul>   |
| Minimum Required Yards<br>(from internal property lines)                    | <ul style="list-style-type: none"> <li>• Front: 10 feet</li> <li>• Option: Required front yard can be reduced to 5 feet, if required rear yard is increased by same amount of front yard reduction.</li> <li>• Side and Rear: 5 feet</li> <li>• Zero Lot line for 2/3 unit homes between internal units.</li> </ul>   |
| Front Porches   | <ul style="list-style-type: none"> <li>• Must comply with KZC 115.115.3.(n), except that Front Entry porches may extend to within 5 feet of the interior required front yard.</li> </ul>  |
| Garage Setbacks   | <ul style="list-style-type: none"> <li>• Must comply with KZC 115.43, except that attached garages on front façade of dwelling unit facing internal front property line must be setback 18 feet from internal front property line.</li> </ul>   |
| Lot Coverage (All impervious surfaces)                                      | <ul style="list-style-type: none"> <li>• Maximum lot coverage for entire site is based on maximum lot coverage percentage of underlying zone.</li> </ul>  |
| Required Common Open Space(RCOS)  | <ul style="list-style-type: none"> <li>• Minimum of 40% of entire development</li> <li>• Native &amp; undisturbed vegetation is preferred</li> <li>• Allowance of 1% of required common open space for shelters or other recreational structures</li> <li>• Paths connecting and within required common open space to development must be pervious</li> <li>• Landscape Greenbelt Easement is required to protect and keep required common open space undeveloped in perpetuity.</li> </ul>   |
| Maximum Floor Area <sub>1</sub>   | <ul style="list-style-type: none"> <li>• Maximum Floor Area is 50% of the minimum lot size of the underlying zone.</li> </ul>   |

**Footnotes:**

1. The Maximum Floor Area for LID projects does not apply within the disapproval jurisdiction of Houghton.

**114.20 Design Standards and Guidelines****1. Required Low Impact Development Stormwater Facilities**

Low Impact Development (LID) Stormwater facilities shall be designed to control stormwater runoff from 50% of all hard surfaces created within entire development. This includes all vehicular and pedestrian access. LID facilities shall be designed according to Public Works stormwater development regulations, as stated in KMC 15.52.060. The maintenance of LID facilities shall be maintained in accordance with requirements in KMC 15.52.120. The proposed site design shall incorporate the use of LID strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

- 1) Preservation of natural hydrology.
- 2) Reduced impervious surfaces.
- 3) Treatment of stormwater in numerous small, decentralized structures.
- 4) Use of natural topography for drainage ways and storage areas.
- 5) Preservation of portions of the site in undisturbed, natural conditions.
- 6) Restoration of Disturbed Sites
- 7) Reduction of the use of piped systems. Whenever possible, site design shall use multifunctional open drainage systems such as rain gardens, vegetated swales or filter strips that also help to fulfill landscaping and open space requirements.

**2. Required Common Open Space**

Required Common open space shall support and enhance the project's LID stormwater facilities; secondarily to provide a sense of openness, visual relief, and community for Low Impact Development projects. The minimum percentage for required common open space is 40% and is calculated using the size of the whole development. The required common open space must be outside of wetlands, streams, and developed and maintained to provide for passive recreational activities for the residents of the development.

- 1) Conventional Surface water management facilities, such as vaults and tanks shall be limited within common open space areas and shall be placed underground at a depth to sufficiently allow landscaping to be planted on top of them. Low Impact Development (LID) features are permitted, provided they do not adversely impact access to or use of the common open space for passive recreation. Neither conventional or LID stormwater

facilities can result in the removal of healthy native trees, unless a positive net benefit can be shown and there is no other alternative for the placement of stormwater facilities. The Public Works Director must approve locating conventional stormwater facilities within the Common Open Space.

- 2) Existing native vegetation, forest litter and understory shall be preserved to the extent possible in order to reduce flow velocities and encourage sheet flow on the site. Invasive species, such as Himalayan blackberry, must be removed and replaced with native plants (see Kirkland Native Plant List). Undisturbed native vegetation and soil shall be protected from compaction during construction.
- 3) If no existing native vegetation, then applicant may propose a restoration plan that shall include all native species. No new lawn is permitted and all improvements installed must be of pervious materials.
- 4) Vegetation installed in common open space areas shall be designed to allow for access and use of the space by all residents, and to facilitate maintenance needs. However, existing mature trees should be retained.

## 114.25 Review Process

### 1. Approval Process – Low Impact Development Projects

- a. The City will review and process an application for a LID project concurrent with and through the same process as the underlying subdivision proposal (Process I, Chapter 145 KZC for Short Plats; Process IIA, Chapter 150 KZC for Subdivisions. However, public notice for LID projects shall be as set forth under the provisions of Chapter 150 KZC (Process IIA). A Process I and site plan review will be required for projects that use a condominium ownership structure and do not subdivide the property into individually platted lots.
- b. Lapse of Approval

Unless otherwise specified in the decision granting Process I approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the Process I approval within four years after the final decision granting the Process I approval or that decision becomes void. The applicant must substantially complete construction consistent with the Process I approval and complete all conditions listed in the Process I approval decision within six years after the final decision on the Process I approval or the decision becomes void. "Final decision" means the final decision of the Planning Director.

### 2. Approval Process – 2/3 Unit Homes

The City will review and process a LID project application that includes a 2/3 unit home with an additional land use process as follows:

One 2/3 unit home requires a Process I review

More than one 2/3 unit home requires a Process IIA review

### 3. Approval Process – Requests for Modifications to Standards

a. Minor Modifications

Applicants may request minor modifications to the general parameters and design standards set forth in this chapter. The Planning Director under a Process I, KZC 145 or Hearing Examiner under Process IIA, KZC 150 may modify the requirements if all of the following criteria are met:

- 1) The site is constrained due to unusual shape, topography, easements or sensitive areas, and
- 2) The modification is consistent with the objectives of this chapter, and
- 3) The modification will not result in a development that is less compatible with neighboring land uses.

### **114.30 Additional Standards**

1. The City's approval of a Low Impact Development project does not constitute approval of a subdivision or short plat. An applicant wishing to subdivide in connection with a development under this chapter shall seek approval to do so concurrently with the approval process under this chapter.
2. To the extent there is a conflict between the standards set forth in this chapter and Title 22 of the Kirkland Municipal Code, the standards set forth in this chapter shall control.

### **114.35 Required Application Documentation**

1. Site Assessment documents to be submitted with application include:
  - a. Survey prepared by a registered land surveyor or civil engineer.
  - b. Location of all existing and proposed lot lines and easements.
  - c. Location of all sensitive areas, including lakes, streams, wetlands, flood hazard areas, and steep slope/erosion hazard areas.
  - d. Landscape Plan showing existing and proposed trees and other vegetation.
2. Soil report prepared by a licensed civil engineer, geotechnical engineer, or engineering geologist.
3. Stormwater Drainage Report/Technical Information Report

## Chapter 5 Amendments:

### 5.490.5 Low Impact Development

- A stormwater management and land development strategy applied at the parcel and the subdivision scale that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

## New - Kirkland Municipal Code Amendment

### 22.28.041 Lots---Low Impact Development

In multiple lot subdivisions (4 lots or more) not located in an RSA 1 zone or in the Holmes Point Overlay and not subject to Sections 22.28.030 and 22.28.040, the minimum lot area shall be deemed to have been met if the minimum lot area is not less than 50% of the lot area required of the zoning district in which the property is located as identified on the zoning map; provided that all lots meet the following standards:

- (a) Within the RSA 6 zone, the lots shall be at least 2,550 square feet.
- (b) Within the RSA 4 zone, the lots shall be at least 3,800 square feet.
- (i) The lots within the Low Impact Development meet the design standards and guidelines and approval criteria as defined in Chapter 114 of the Kirkland Zoning Code.

## KZC 18.10 Special Regulation Amendments

1. Maximum units per acre is as follows:
  - a. In RSA 1 zone, the maximum units per acre is one dwelling unit.
  - b. In RSA 4 zones, the maximum units per acre is four dwelling units.
  - c. In RSA 6 zones, the maximum units per acre is six dwelling units.
  - d. In RSA 8 zones, the maximum units per acre is eight dwelling units.

In RSA 1, 4, 6 and 8 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot.
2. Minimum lot size per dwelling unit is as follows:
  - a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area.
  - b. In RSA 4 zones, the minimum lot size is ~~7,600~~ 3,800 square feet.
  - c. In RSA 6 zones, the minimum lot size is ~~5,400~~ 2,550 square feet.
  - d. In RSA 8 zones, the minimum lot size is 3,800 square feet.
3. Road dedication and vehicular access easements or tracts may be included in the density calculation, but not in the minimum lot size per dwelling unit.
4. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
  - a. In RSA 1 zone, F.A.R. is 20 percent of lot size.
  - b. In RSA 4 zones, F.A.R. is 50 percent of lot size.
  - c. In RSA 6 zones, F.A.R. is 50 percent of lot size.
  - d. In RSA 8 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to 12 feet horizontal.

F.A.R. is not applicable for properties located within the jurisdiction of the Shoreline Management Act regulated under Chapter 83 KZC.

See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.
5. On corner lots, only one front yard must be a minimum of 20 feet. All other front yards shall be regulated as a side yard (minimum five-foot yard). The applicant may select which front yard shall meet the 20-foot requirement.
6. Garages shall comply with the requirements of KZC 115.43, including required front yard.
7. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

## Chapter 115 Zoning Code Amendments

### 115.90 Calculating Lot Coverage

1. General – The area of all structures and pavement and any other impervious surface on the subject property will be calculated as a percentage of total lot area. If the subject property contains more than one (1) use, the maximum lot coverage requirements for the predominant use will apply to the entire development. The following exceptions shall not exceed an area equal to ten percent of the total lot area. Lot area not calculated under lot coverage must be devoted to open space as defined in KZC 5.610.
2. Exceptions<sup>1</sup>
  - ~~a. Wood decks may be excluded if constructed with gaps between the boards and if there is pervious surface below the decks.~~
  - ~~ba. An access easement or tract that is not included in the calculation of lot size will not be used in calculating lot coverage for any lot it serves or crosses.~~
  - ~~c. For detached dwelling units in low density zones and having a front yard, 10 feet of the width of a driveway, outside of the required front yard, serving a garage or carport; provided, that:
 
    - ~~1) This exception cannot be used for flag or panhandle lots;~~
    - ~~2) The portion of the driveway excepted from lot coverage calculations shall not exceed 10 percent of the lot area; and~~
    - ~~3) The portion of the driveway excepted is not located in an access easement.~~~~
  - ~~d. Grass grid or brick pavers and compact gravel, when installed over a pervious surface, will be calculated as impervious surface at a ratio of 50 percent of the total area covered.~~
  - ~~e. Outdoor swimming pools.~~
  - ~~f. Pedestrian walkways required by Chapter 83 KZC and KZC 105.18.~~
  - ~~gb. Pervious areas below eaves, balconies, and other cantilevered portions of buildings.~~
  - ~~hc. Landscaped areas at least two (2) feet wide and 40 square feet in area located over subterranean structures if the Planning Official determines, based on site-specific information submitted by the proponent and prepared by a qualified expert, soil and depth conditions in the landscaped area will provide cleansing and percolation similar to that provided by existing site conditions.~~
  - ~~i. Retaining walls not immediately adjacent to other impervious areas.~~
3. Exemptions – The following exemptions will be calculated at a ratio of 50 percent of the total area covered. Exempted area shall not exceed an area equal to ten percent of the total lot area. Installation of exempted surfaces shall be done in accordance with the current adopted King County Stormwater Design Manual.

1. Permeable pavement (non-grassed).
2. Grassed modular grid pavement.
3. Open grid decking over pervious area.
4. Pervious surfaces in compliance with the stormwater design manual adopted in KMC 15.52.06.

Footnote<sup>1</sup>: An exception for Swimming pools is allowed in the Houghton Jurisdiction only if the applicant provides a self-draining pool cover which drains into the swimming pool and does not cause surface water runoff as determined by the Planning Official.

## **Chapter 5 - Definitions**

### 5.10.610 Open Space

~~– Land not covered by buildings, roadways, parking areas or surfaces through which water can percolate into the underlying soils. Vegetated and pervious land not covered by buildings, roadways, sidewalks, driveways, parking areas, plazas, terraces, swimming pools, patios, decks, or other similar impervious or semi-impervious surfaces.~~

## Chapter 95

### 95.32.3 Incentives and Variations to Development Standards

In order to retain trees, the applicant should pursue provisions in Kirkland's codes that allow development standards to be modified. Examples include but are not limited to number of parking stalls, right-of-way improvements, lot size reduction under Chapter 22.28 KMC, lot line placement when subdividing property under KMC Title 22, Planned Unit Developments, and required landscaping, including buffers for lands use and parking/driving areas.

Requirements of the Kirkland Zoning Code may be modified by the Planning Official as outlined below when such modifications would further the purpose and intent of this chapter as set forth in KZC 95.05 and would involve trees with a high or moderate retention value.

1. Common Recreational Open Space. Reductions or variations of the area, width, or composition of required common recreational open space may be granted.
2. Parking Areas and Access. Variations in parking lot design and/or access driveway requirements may be granted when the Public Works and Planning Officials both determine the variations to be consistent with the intent of City policies and codes.
3. Required Yards. Initially, the applicant shall pursue options for placement of required yards as permitted by other sections of this code, such as selecting one (1) front required yard in the RSX zone and adjusting side yards in any zone to meet the 15-foot total as needed for each structure on the site. The Planning Official may also reduce the front, ~~or~~ side or rear required yards; provided, that:
  - a. No required side yard shall be less than five (5) feet; and
  - b. The required front yard shall not be reduced by more than five (5) feet in residential zones. There shall not be an additional five (5) feet of reduction beyond the allowance provided for covered entry porches.
  - c. Rear yards that are not directly adjacent to another parcel's rear yard but that are adjacent to an access easement or tract, may be reduced by (5) feet.
  - d. No required yard shall be reduced by more than (5) feet in residential zones.

### 95.44 Internal Parking Lot Landscaping Requirements

The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight (8) parking stalls.

1. The parking lot must contain 25 square feet of landscaped area per parking stall planted as follows:
  - a. The applicant shall arrange the required landscaping throughout the parking lot to provide landscape islands or peninsulas to separate groups of parking spaces (generally every eight (8) stalls) from one another and each row of spaces from any adjacent driveway that runs perpendicular to the row. This island or peninsula must be

surrounded by a 6-inch-high vertical curb and be of similar dimensions as the adjacent parking stalls. Gaps in curbs are allowed for stormwater runoff.

- b. Landscaping shall be installed pursuant to the following standards:
  - 1) At least one (1) deciduous tree, two (2) inches in caliper, or a coniferous tree five (5) feet in height.
  - 2) Groundcover shall be selected and planted to achieve 60 percent coverage within two (2) years.
  - 3) Natural drainage landscapes (such as rain gardens, bio-infiltration swales and bioretention planters) are allowed when designed in compliance with the stormwater design manual adopted in KMC 15.52.060.
- c. Exception. The requirements of this subsection do not apply to any area that is fully enclosed within or under a building.

**95.50.4** Installation Standards for Required Plantings

- 4. Soil Specifications. Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than one and three-tenths (1.3) grams per cubic centimeters shall be loosened to increase aeration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage. ~~The soil quality organic content of soils in any landscape area shall comply with the soil quality requirements of the Public Works Pre-Approved Plans. be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings.~~ See subsection (9) of this section for mulch requirements.

**105.18**      Pedestrian Access

3. Pedestrian Access – Required Improvements
  - a. Pedestrian Walkway Standards – General – The applicant shall install pedestrian walkways pursuant to the following standards:
    - 1) Must be at least five (5) feet wide;
    - 2) Must be distinguishable from traffic lanes by painted markings, pavement material, texture, or raised in elevation;
    - 3) Must have adequate lighting for security and safety. Lights must be nonglare and mounted no more than 20 feet above the ground;
    - ~~4) Will not be included with other impervious surfaces for lot coverage calculations;~~
    - 54) Must be centrally located on the subject property;
    - 65) Must be accessible;
    - 76) Barriers which limit future pedestrian access between the subject property and adjacent properties are not permitted;
    - 87) Easements to provide rights of access between adjacent properties shall be recorded prior to project occupancy.

**105.19**      Public Pedestrian Walkways

2. Required Improvements – The applicant shall install public pedestrian walkways pursuant to the following standards:
  - a. General:
    - 1) Pedestrian access shall be provided by means of dedicated rights-of-way, tracts, or easements at the City's option;
    - 2) The width of the access right-of-way, tract, or easement, and the walkway material and width, shall be determined per the Public Works Pre-Approved Plans;
    - 3) The height of solid (blocking visibility) fences along a pedestrian walkway that is not directly adjacent to a public or private street right-of-way shall be limited to 42 inches unless otherwise approved by the Planning or Public Works Directors;
    - 4) All new building structures shall be set back a minimum of five (5) feet from any pedestrian access right-of-way, tract, or easement that is not directly adjacent to a public or private street right-of-way;
    - 5) The alignment of walkways shall consider the location of proposed and existing buildings (preferably located along building fronts or property lines);
    - ~~6) The area developed as public pedestrian walkways will not be included with other impervious surfaces for lot coverage calculations;~~

- 76) Adequate pedestrian lighting at a maximum of 12 feet in height shall be provided along the pathway;
- 87) Overhead weather protection shall be installed consistent with KZC [105.18\(3\)](#).

**105.10.2.d**     Vehicular Access Easement or Tract Standards

- d. The paved surface in an easement or tract shall have a minimum of two (2) inches of asphalt concrete over a suitably prepared base which has a minimum thickness of four (4) inches of crushed rock or three (3) inches of asphalt-treated base. The Department of Public Works is authorized to modify the standards for a paved surface on a case-by-case basis. Pervious surfaces (such as pervious concrete or asphalt, and modular or grassed modular grid pavement) can be used in compliance with the stormwater design manual adopted in KMC 15.52.060.

**105.77**     Parking Area Design – Curbing

All parking areas and driveways, for uses other than detached dwelling units, must be surrounded by a 6-inch high vertical concrete curb. Gaps in Curbs are allowed for stormwater runoff.

**105.100**     Parking Area Design – Surface Materials

- 1. General – The applicant shall surface the parking area and driveway with a material comparable or superior to the right-of-way providing direct vehicle access to the parking area. Pervious surfaces (such as pervious concrete or asphalt, and modular grid pavement) can be used in compliance with the stormwater design manual adopted in KMC 15.52.060.
- 2. Exception – ~~Grass grid pavers~~ Grassed Modular Pavement may be used for emergency access areas that are not used in required permanent circulation and parking areas.

**110.25** Required Public Improvements

1. General – KZC 110.27 through 110.50 establish different improvements for the different classifications of rights-of-way listed in KZC 110.20 and 110.22. KZC 110.52 establishes specific sidewalk and other public improvement standards in Design Districts. Except as specified in subsections (2), (3) and (4) of this section, the applicant shall install the specified improvements from the center line of the right-of-way to the applicant's property line. The applicant may increase the dimensions of any required improvement or install additional improvements in the right-of-way with the written consent of the Public Works Director.
2. Half-Street Improvements – If the one-half (1/2) of the right-of-way opposite the subject property has not been improved based on the provisions of this chapter, the applicant shall install improvements in the right-of-way as follows:
  - a. Alleys. The applicant shall install the required improvements for the entire width of the alley.
  - b. All Other Rights-of-Way.
    - 1) The applicant shall install the required improvements from his/her property line to and including the curb.
    - 2) The applicant shall grade to finished grade all the required driving and parking lanes in the entire right-of-way and a 5-foot-wide shoulder on the side of the right-of-way opposite the subject property.
    - 3) The applicant shall pave outward 20 feet from the curb adjacent to his/her property or as required by the Public Works Director. Pervious pavement is permitted for the section of the right-of-way between the edge of the road way to the private driveway, if approved by the Public Works Director.
3. Required Paved Connection – In all cases except for alleys, if the access point for the subject site is not connected to an existing improved street by an improved hard surface, the applicant shall provide a hard surface improvement, of at least 20 feet in width, to the existing improved street. Pervious pavement can be permitted as the hard surface. The applicant may request a modification, deferment or waiver of this requirement through KZC 110.70.
4. Capital Improvement Projects – If the City Council has approved a capital improvements plan for a particular public right-of-way, that plan will govern the improvements required for right-of-way. To the extent feasible, public projects shall be designed pursuant to the standards established for each Design District contained in the Public Works Pre-Approved Plans manual.

**110.27** Alleys

The pavement width of an alley must be at least 12 feet but may be required to be increased by the Public Works Director or Fire Marshall. For all commercial, industrial, office, or multifamily projects, the applicant shall improve the alley abutting the subject property and extend it to the existing improved street, and may be required to improve an additional 30 feet past the property frontage to provide emergency turnaround. For single-family dwellings using the alley for primary vehicular access, the applicant shall pave a 12-foot-wide asphalt apron

extending 20 feet from the nearest improved street toward the subject property. For all types of development permits, the Public Works Director shall determine the extent and nature of other improvements required in alleys on a case-by-case basis. Typical improvements include, but are not limited to, replacement of the alley driveway apron and curb, installation of storm drainage, repair of existing paving, and installation of crushed rock in gravel alleys. The use of pervious pavement in alleys will be considered if approved by the Public Works Director.

**15.52.060 Design and construction standards and requirements.**

(a) The standard plans as defined in Section 15.04.340 shall include requirements for temporary erosion control measures, storm water detention, water quality treatment and storm water conveyance facilities that must be provided by all new development and redevelopment projects. These standards shall meet or exceed the thresholds, definitions, minimum requirements, and exceptions/variances criteria found in Appendix I of the Western Washington Phase II Municipal Stormwater Permit, the 2009 King County Surface Water Design Manual, and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual as presently written or hereafter amended.

(b) Unless otherwise provided, it shall be the developer's and property owner's responsibility to design, construct, and maintain a system which complies with the standards and minimum requirements as set forth in the standard plans.

(c) In addition to providing storm water quality treatment facilities as required in this section and as outlined in the standard plans, the developer and/or property owner shall provide source control ~~BMPs~~ best management practices as described in Volume IV of the 2005 Stormwater Management Manual for Western Washington, such as structures and/or a manual of practices designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to, carwashing at multifamily residential sites and oil storage at auto repair businesses.

(d) Privately maintained stormwater structures are not allowed within the public right-of-way, except on a case by case basis with approval from the Public Works Director.

~~(e)~~(e) The city will inspect all permanent storm water facilities prior to final approval of the relevant permit. All facilities must be clean and fully operational before the city will grant final approval of the permit. A performance bond may not be used to obtain final approval of the permit prior to completing the storm water facilities required under this chapter.

~~(f)~~(f) Adjustment Process. Any developer proposing to adjust the requirements for, or alter design of, a system required as set forth in the standard plans must follow the adjustment process as set forth in the standard plans.

~~(g)~~(g) Other Permits and Requirements. It is recognized that other city, county, state, and federal permits may be required for the proposed action. Further, compliance with the provisions of this chapter when developing and/or improving land may not constitute compliance with these other jurisdictions' requirements. To the extent required by law, these other requirements must be met. (Ord. 4214 § 1, 2009; Ord. 3711 § 4 (part), 1999)

**115.60.2.a.4** Height Regulations – Exceptions – Detached Dwelling Units

- 4) Solar panels on flat roof forms (less than 2:12) may exceed the height limit by a maximum of six (6) inches.<sup>1</sup>

<sup>1</sup>This sub-section is not effective within the disapproval jurisdiction of the Houghton Community Council

**115.60.2.a.4.b.4**b. Other Structures

- 1) Rooftop appurtenances and their screens, subject to KZC 115.120, including roof forms pursuant to KZC 115.120(3).
- 2) The provisions in Chapter 117 KZC related to personal wireless service facilities supersede the provisions of this section to the extent an appurtenance falls within the definition of a personal wireless service facility.
- 3) Skylights may exceed the height limit by a maximum of six (6) inches.
- 4) Solar panels on sloped roof forms(greater than 2:12) may exceed height limits by a maximum of six (6) inches. Solar Panels on flat roof forms(less than 2:12) may exceed height limits by a maximum of twenty (20) inches.

**115.115.3.q** Required Yards

- q. Insulation, installed in or on an existing structure, may encroach eight (8) inches into a required yard unless precluded by Fire or Building Codes.

**5.10.817** Rooftop Appurtenances

– HVAC equipment, mechanical, or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that extend above the roofline of a building, but not including personal wireless service facilities as defined by KZC 117.15 or solar panels as defined by KZC 5.10.881.1.

**5.10.881.1** Solar Panel

-A panel designed to absorb the sun's rays for generating electricity or heating.

## 115.33 is a new section

### 115.33 Electric Vehicle Infrastructure

1. Purpose and Intent - It is the intent of these development regulations to encourage the use and viability of electric vehicles as they have been identified as a solution to energy independence, cleaner air and significantly lower green house gas emissions.

Electric vehicles need access to Electric Vehicle Infrastructure (EVI) in appropriate locations. In 2009 the Washington State Legislature passed House Bill 1481 relating to electric vehicles. The bill addressed EVI which includes the structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

The purpose of the development regulations in this section is to meet the State of Washington requirements and to also allow battery charging stations and battery exchange stations in appropriate use zones throughout the City.

1. General – This section establishes where the components of Electric Vehicle Infrastructure are allowed within the City.

Exceptions-

Electric Vehicle Infrastructure may not be located in any sensitive areas, their buffer or buffer setbacks.

2. All Use Zones

Level I and Level II Battery Charging Stations are allowed as an accessory use to an approved use within all Use Zones.

3. Commercial Zones

- a. A Battery Exchange station is allowed as an accessory use to all commercial zones where repair or maintenance of vehicles is permitted.
- b. A Rapid Battery (Level III) Charging Station is allowed as an accessory use to all commercial zones where repair and maintenance of vehicles is permitted including Gas Stations.

4. Industrial Zones

- a. A Rapid Battery(Level III) Charging Station is allowed as an accessory use to an approved use within the Light Industrial Technology (LIT) or other Industrial zones where Repair and Maintenance of vehicles is permitted.
- b. A Battery Exchange Station is allowed as an accessory use to an approved use within the Light Industrial Technology (LIT) or other industrial zones where repair and maintenance of vehicles is permitted.

5. Institutional Uses

A Rapid Battery Charging Station (Level III) is allowed as an accessory use to an

approved institutional use.

6. Signage is required to identify a charging station for the exclusive use of an electric vehicle. Onsite signage shall also be required to provide directional assistance. (See Plate 45 in KZC 180).

## 5.10 Definitions

### 5.10.071 Battery Charging Station (Level I, II and III)

- An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW as amended and consistent with rules adopted under RCW 19.27.540 as amended. The terms 1, 2, and 3 are the most common electric vehicle charging levels, and include the following specifications:

- Level 1 is considered slow charging.
- Level 2 is considered medium charging.
- Level 3 is considered fast or rapid charging.

### 5.10.071.5 Battery Electric Vehicle (BEV)

- Any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.

### 5.10.071.6 Battery Exchange Station

- A facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery.

### 5.10.271 Electric Vehicle

- Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle

### 5.10..272 Electric Vehicle Charging Station

-Electrical Vehicle Charging Station - A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

### .273 Electric Vehicle Infrastructure (EVI)

- Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

.274 Electric Vehicle Parking Space

- Any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

**5.10.667 Plug-in-Hybrid Electric Vehicle (PHEV)**

- An electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; (2) charges its battery primarily by connecting to the grid or other off-board electrical source; (3) may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and (4) has the ability to travel powered by electricity.

**5.10.756 Rapid Charging Station**

- An industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels and that meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

**5.10.682 Preferential Parking**

Parking for Carpools, HOV's, high efficiency/low emission electric and alternative fuel vehicles.

## **105 Parking**

**105.67 Parking Area Design – Preferential Parking Allowance**

Parking stalls may be allocated for Preferential Parking. A restriction on types of vehicles using preferred stalls applies from 7AM to 10AM daily.

## Chapter 180 - Plates

### Plate 45

#### Electric Vehicle Charging Station Signage



12" X 12"

Directional – Off-street Parking Lot or Parking Garage



12" X 6"

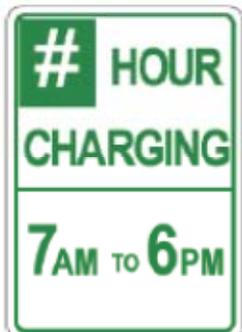


12" X 12"

Off-Street Electric Vehicle Parking – Parking Space with Charging Station Equipment



12" X 18"



12" X 18"

**105.34** Covered Bicycle Storage

If covered and secured bicycle storage is provided on site, a credit towards parking requirements at a ratio of one less parking stall per 6 bicycle spaces will be granted. The Planning Official may increase credits according to size of development and anticipated pedestrian and bicycle activity and proximity to transit facilities. A maximum reduction of 5% of required parking stalls may be granted. If a reduction of 5 or more stalls is granted, then changing facilities including showers, lockers shall be required.

**5.10.177** Covered Bicycle Storage

An enclosure or shelter in which bicycles can be secured and provides fully covered protection for bicycles from inclement weather and theft.

## ORDINANCE NO.

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE, ADOPTING A "GREEN CODE" AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 5 – DEFINITIONS, CHAPTER 18 SINGLE-FAMILY RESIDENTIAL A (RSA) ZONES, CHAPTER 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING, CHAPTER 105 PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS, CHAPTER 110 – REQUIRED PUBLIC IMPROVEMENTS, CHAPTER 114 – LOW IMPACT DEVELOPMENTS, CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission and the Houghton Community Council to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendations of the Planning Commission and the Houghton Community Council dated March 1, 2012 and bearing Kirkland Department of Planning and Community Development File No.ZON10-00031; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.100, on January 12, 2012 held a joint public hearing with the Houghton Community Council, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendations of the Planning Commission and Houghton Community Council;

NOW, THEREFORE, the City Council of the City of Kirkland does ordain as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachment A attached to this Ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. To the extent the subject matter of this Ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this Ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this Ordinance within 60 days of the date of the passage of this Ordinance.

Section 4. Except as provided in Section 3, this Ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the Original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this \_\_\_\_ day of \_\_\_\_\_, 2012.

SIGNED IN AUTHENTICATION thereof this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**ATTACHMENT A  
KIRKLAND ZONING CODE CHANGES**

**KIRKLAND ZONING CODE AMENDMENTS  
FOR GREEN CODES  
FILE ZON10-00031**

**Chapter 5 – Definitions**

(no change until)

5.10.071 Battery Charging Station (Level I, II and III)

- An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW as amended and consistent with rules adopted under RCW 19.27.540 as amended. The terms 1, 2, and 3 are the most common electric vehicle charging levels, and include the following specifications:

- Level 1 is considered slow charging.
- Level 2 is considered medium charging.
- Level 3 is considered fast or rapid charging.

5.10.071.5 Battery Electric Vehicle (BEV)

- Any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.

5.10.071.6 Battery Exchange Station

- A facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery.

(no further change until)

5.10.177 Covered Bicycle Storage

- An enclosure or shelter in which bicycles can be secured and provides fully covered protection for bicycles from inclement weather and theft.

(no further change until)

5.10.271 Electric Vehicle

- Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle

5.10..272 Electric Vehicle Charging Station

-Electrical Vehicle Charging Station - A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

5.10.273 Electric Vehicle Infrastructure (EVI)

- Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

5.10.274 Electric Vehicle Parking Space

- Any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

(no further change until)

5.490.5 Low Impact Development

A stormwater management and land development strategy applied at the parcel and the subdivision scale that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

(no further change until)

5.10.610 Open Space-Land not covered by buildings, roadways, parking areas or surfaces through which water can percolate into the underlying soils. Vegetated and pervious land not covered by buildings, roadways, sidewalks, driveways, parking areas, plazas, terraces, swimming pools, patios, decks, or other similar impervious or semi-impervious surfaces.

(no further change until)

5.10.667 Plug-in-Hybrid Electric Vehicle (PHEV)

- An electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; (2) charges its battery primarily by connecting to the grid or other off-board electrical source; (3) may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and (4) has the ability to travel powered by electricity.

(no further change until)

5.10.682 Preferential Parking

Parking for Carpools, HOV's, high efficiency/low emission electric and alternative fuel vehicles.

(no further change until)

5.10.756 Rapid Charging Station

- An industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels and that meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(no further change until)

5.10.817 Rooftop Appurtenances

HVAC equipment, mechanical, or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that extend above the roofline of a building, but not including personal wireless service facilities as defined by KZC 117.15 or solar panels as defined by KZC 5.10.881.1.

(no further change until)

5.10.881.1 Solar Panel

-A panel designed to absorb the sun's rays for generating electricity or heating.

(No Further Changes)

## Chapter 18 – Single-Family Residential A (RSA) Zones

### KZC 18.010 Special Regulations

1. Maximum units per acre is as follows:
  - a. In RSA 1 zone, the maximum units per acre is one dwelling unit.
  - b. In RSA 4 zones, the maximum units per acre is four dwelling units.
  - c. In RSA 6 zones, the maximum units per acre is six dwelling units.
  - d. In RSA 8 zones, the maximum units per acre is eight dwelling units.

In RSA 1, 4, 6 and 8 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot.
2. Minimum lot size per dwelling unit is as follows:
  - a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area.
  - b. In RSA 4 zones, the minimum lot size is ~~7,600~~ 3,800 square feet.
  - c. In RSA 6 zones, the minimum lot size is ~~5,100~~ 2,550 square feet.
  - d. In RSA 8 zones, the minimum lot size is 3,800 square feet.
3. Road dedication and vehicular access easements or tracts may be included in the density calculation, but not in the minimum lot size per dwelling unit.
4. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
  - a. In RSA 1 zone, F.A.R. is 20 percent of lot size.
  - b. In RSA 4 zones, F.A.R. is 50 percent of lot size.
  - c. In RSA 6 zones, F.A.R. is 50 percent of lot size.
  - d. In RSA 8 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to 12 feet horizontal.

F.A.R. is not applicable for properties located within the jurisdiction of the Shoreline Management Act regulated under Chapter 83 KZC.  
See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.
5. On corner lots, only one front yard must be a minimum of 20 feet. All other front yards shall be regulated as a side yard (minimum five-foot yard). The applicant may select which front yard shall meet the 20-foot requirement.
6. Garages shall comply with the requirements of KZC 115.43, including required front yard.
7. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

(No Further changes)

## Chapter 95 – Tree Management and Required Landscaping

(no changes until)

### 95.32.3 Incentives and Variations to Development Standards

In order to retain trees, the applicant should pursue provisions in Kirkland's codes that allow development standards to be modified. Examples include but are not limited to number of parking stalls, right-of-way improvements, lot size reduction under Chapter 22.28 KMC, lot line placement when subdividing property under KMC Title 22, Planned Unit Developments, and required landscaping, including buffers for lands use and parking/driving areas.

Requirements of the Kirkland Zoning Code may be modified by the Planning Official as outlined below when such modifications would further the purpose and intent of this chapter as set forth in KZC 95.05 and would involve trees with a high or moderate retention value.

1. Common Recreational Open Space. Reductions or variations of the area, width, or composition of required common recreational open space may be granted.
2. Parking Areas and Access. Variations in parking lot design and/or access driveway requirements may be granted when the Public Works and Planning Officials both determine the variations to be consistent with the intent of City policies and codes.
3. Required Yards. Initially, the applicant shall pursue options for placement of required yards as permitted by other sections of this code, such as selecting one (1) front required yard in the RSX zone and adjusting side yards in any zone to meet the 15-foot total as needed for each structure on the site. The Planning Official may also reduce the front, ~~or~~ side or rear required yards; provided, that:
  - a. No required side yard shall be less than five (5) feet; and
  - b. The required front yard shall not be reduced by more than five (5) feet in residential zones. There shall not be an additional five (5) feet of reduction beyond the allowance provided for covered entry porches.
  - c. Rear yards that are not directly adjacent to another parcel's rear yard but that are adjacent to an access easement or tract, may be reduced by (5) feet.
  - d. No required yard shall be reduced by more than (5) feet in residential zones.

(No further changes until)

## 95.44 Internal Parking Lot Landscaping Requirements

The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight (8) parking stalls.

1. The parking lot must contain 25 square feet of landscaped area per parking stall planted as follows:
  - a. The applicant shall arrange the required landscaping throughout the parking lot to provide landscape islands or peninsulas to separate groups of parking spaces (generally every eight (8) stalls) from one another and each row of spaces from any adjacent driveway that runs perpendicular to the row. This island or peninsula must be surrounded by a 6-inch-high vertical curb and be of similar dimensions as the adjacent parking stalls. Gaps in curbs are allowed for stormwater runoff.
  - b. Landscaping shall be installed pursuant to the following standards:
    - 1) At least one (1) deciduous tree, two (2) inches in caliper, or a coniferous tree five (5) feet in height.
    - 2) Groundcover shall be selected and planted to achieve 60 percent coverage within two (2) years.
    - 3) Natural drainage landscapes (such as rain gardens, bio-infiltration swales and bioretention planters) are allowed when designed in compliance with the stormwater design manual adopted in KMC 15.52.060.
  - c. Exception. The requirements of this subsection do not apply to any area that is fully enclosed within or under a building.

(no further changes until)

## 95.50.4 Installation Standards for Required Plantings

4. Soil Specifications. Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than one and three-tenths (1.3) grams per cubic centimeters shall be loosened to increase aeration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage. ~~The soil quality organic content of soils in any landscape area shall comply with the soil quality requirements of the Public Works Pre-Approved Plans. be as necessary to provide adequate nutrient and moisture retention levels for the establishment of plantings.~~ See subsection (9) of this section for mulch requirements.

(No Further Changes)

## Chapter 105 - Parking Areas, Vehicle and Pedestrian Access, and Related Improvements

(No Changes Until)

### 105.10.2.d Vehicular Access Easement or Tract Standards

- d. The paved surface in an easement or tract shall have a minimum of two (2) inches of asphalt concrete over a suitably prepared base which has a minimum thickness of four (4) inches of crushed rock or three (3) inches of asphalt-treated base. The Department of Public Works is authorized to modify the standards for a paved surface on a case-by-case basis. Pervious surfaces (such as pervious concrete or asphalt, and modular or grassed modular grid pavement) can be used in compliance with the stormwater design manual adopted in KMC 15.52.060.

(No Further Changes Until)

### **105.18 Pedestrian Access**

#### 3. Pedestrian Access – Required Improvements

- a. Pedestrian Walkway Standards – General – The applicant shall install pedestrian walkways pursuant to the following standards:
  - 1) Must be at least five (5) feet wide;
  - 2) Must be distinguishable from traffic lanes by painted markings, pavement material, texture, or raised in elevation;
  - 3) Must have adequate lighting for security and safety. Lights must be nonglare and mounted no more than 20 feet above the ground;
  - 4) ~~Will not be included with other impervious surfaces for lot coverage calculations;~~
  - 54) Must be centrally located on the subject property;
  - 65) Must be accessible;
  - 76) Barriers which limit future pedestrian access between the subject property and adjacent properties are not permitted;
  - 87) Easements to provide rights of access between adjacent properties shall be recorded prior to project occupancy.

(No further Changes Until)

### **105.19 Public Pedestrian Walkways**

(No changes until)

2. Required Improvements – The applicant shall install public pedestrian walkways pursuant to the following standards:
  - a. General:
    - 1) Pedestrian access shall be provided by means of dedicated rights-of-way, tracts, or easements at the City's option;
    - 2) The width of the access right-of-way, tract, or easement, and the walkway material and width, shall be determined per the Public Works Pre-Approved Plans;
    - 3) The height of solid (blocking visibility) fences along a pedestrian walkway that is not directly adjacent to a public or private street right-of-way shall be limited to 42 inches unless otherwise approved by the Planning or Public Works Directors;
    - 4) All new building structures shall be set back a minimum of five (5) feet from any pedestrian access right-of-way, tract, or easement that is not directly adjacent to a public or private street right-of-way;
    - 5) The alignment of walkways shall consider the location of proposed and existing buildings (preferably located along building fronts or property lines);
    - ~~6) The area developed as public pedestrian walkways will not be included with other impervious surfaces for lot coverage calculations;~~
    - 76) Adequate pedestrian lighting at a maximum of 12 feet in height shall be provided along the pathway;
    - 87) Overhead weather protection shall be installed consistent with KZC [105.18\(3\)](#).

(No further Changes until)

### **105.34 Covered Bicycle Storage**

If covered and secured bicycle storage is provided on site, a credit towards parking requirements at a ratio of one less parking stall per 6 bicycle spaces will be granted. The Planning Official may increase credits according to size

of development and anticipated pedestrian and bicycle activity and proximity to transit facilities. A maximum reduction of 5% of required parking stalls may be granted. If a reduction of 5 or more stalls is granted, then changing facilities including showers, lockers shall be required.

(No Further Changes Until)

#### 105.67 Parking Area Design – Preferential Parking Allowance

Parking stalls may be allocated for Preferential Parking. A restriction on types of vehicles using preferred stalls applies from 7AM to 10AM daily.

(No further Changes until)

#### 105.77 Parking Area Design – Curbing

All parking areas and driveways, for uses other than detached dwelling units, must be surrounded by a 6-inch high vertical concrete curb. Gaps in Curbs are allowed for stormwater runoff.

(No further Changes until)

#### 105.100 Parking Area Design – Surface Materials

1. General – The applicant shall surface the parking area and driveway with a material comparable or superior to the right-of-way providing direct vehicle access to the parking area. Pervious surfaces (such as pervious concrete or asphalt, and modular grid pavement) can be used in compliance with the stormwater design manual adopted in KMC 15.52.060.
2. Exception – ~~Grass grid pavers~~ Grassed Modular Pavement may be used for emergency access areas that are not used in required permanent circulation and parking areas.

(No Further Changes)

## Chapter 110 – Required Public Improvements

(No Changes Until)

### 110.25 Required Public Improvements

1. General – KZC 110.27 through 110.50 establish different improvements for the different classifications of rights-of-way listed in KZC 110.20 and 110.22. KZC 110.52 establishes specific sidewalk and other public improvement standards in Design Districts. Except as specified in subsections (2), (3) and (4) of this section, the applicant shall install the specified improvements from the center line of the right-of-way to the applicant's property line. The applicant may increase the dimensions of any required improvement or install additional improvements in the right-of-way with the written consent of the Public Works Director.
2. Half-Street Improvements – If the one-half (1/2) of the right-of-way opposite the subject property has not been improved based on the provisions of this chapter, the applicant shall install improvements in the right-of-way as follows:
  - a. Alleys. The applicant shall install the required improvements for the entire width of the alley.
  - b. All Other Rights-of-Way.
    - 1) The applicant shall install the required improvements from his/her property line to and including the curb.
    - 2) The applicant shall grade to finished grade all the required driving and parking lanes in the entire right-of-way and a 5-foot-wide shoulder on the side of the right-of-way opposite the subject property.
    - 3) The applicant shall pave outward 20 feet from the curb adjacent to his/her property or as required by the Public Works Director. Pervious pavement is permitted for the section of the right-of-way between the edge of the road way to the private driveway, if approved by the Public Works Director.
3. Required Paved Connection – In all cases except for alleys, if the access point for the subject site is not connected to an existing improved street by an improved hard surface, the applicant shall provide a hard surface improvement, of at least 20 feet in width, to the existing improved street. Pervious pavement can be permitted as the hard surface. The applicant may request a modification, deferment or waiver of this requirement through KZC 110.70.
4. Capital Improvement Projects – If the City Council has approved a capital improvements plan for a particular public right-of-way, that plan will govern the improvements required for right-of-way. To the extent feasible, public projects shall be designed pursuant to the standards established for

each Design District contained in the Public Works Pre-Approved Plans manual.

### **110.27 Alleys**

The pavement width of an alley must be at least 12 feet but may be required to be increased by the Public Works Director or Fire Marshall. For all commercial, industrial, office, or multifamily projects, the applicant shall improve the alley abutting the subject property and extend it to the existing improved street, and may be required to improve an additional 30 feet past the property frontage to provide emergency turnaround. For single-family dwellings using the alley for primary vehicular access, the applicant shall pave a 12-foot-wide asphalt apron extending 20 feet from the nearest improved street toward the subject property. For all types of development permits, the Public Works Director shall determine the extent and nature of other improvements required in alleys on a case-by-case basis. Typical improvements include, but are not limited to, replacement of the alley driveway apron and curb, installation of storm drainage, repair of existing paving, and installation of crushed rock in gravel alleys. The use of pervious pavement in alleys will be considered if approved by the Public Works Director.

(No Further Changes)

## **New Chapter**

### **Chapter 114 – Low Impact Development**

#### **Sections:**

- 114.05 User Guide
- 114.10 Voluntary Provisions and Intent
- 114.15 Parameters for Low Impact Development
- 114.20 Design Standards and Guidelines
- 114.25 Review Process
- 114.30 Additional Standards
- 114.35 Required Application Documentation

#### **114.05 User Guide**

This chapter provides standards for an alternative type of site development that ensures low impact development (LID) facilities are utilized to manage stormwater on project sites in specified low density zones. If you are interested in proposing detached dwelling units or two unit home that

reduce environmental impacts or you wish to participate in the City's decision on a project including this type of site development, you should read this chapter.

#### **114.10 Voluntary Provisions and Intent**

The provisions of this chapter are available as alternatives to the development of typical lots in low density zones.. In the event of a conflict between the standards in this chapter and the standards in KZC Chapters 15, 17 or 18, the standards in this chapter shall control except for the standards in KZC 83 and 141.

The goal of LID is to conserve and use existing natural site features, to integrate small-scale stormwater controls, and to prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development sites by maintaining a more hydrologically functional landscape. LID may not be applicable to every project due to topography, high groundwater, or other site specific conditions.

The LID requirements in this code do not exempt an applicant from stormwater flow control and water quality treatment development requirements. LID facilities can be counted toward those requirements, and in some cases may meet the requirements without traditional stormwater facilities (pipes and vaults).

The purpose of this chapter is to allow flexibility, establish the development guidelines, requirements and standards for low impact development projects. Because all projects are required to use some form of LID techniques and facilities as feasible, the use of LID techniques does not necessarily fulfill all the requirements for a LID project. This chapter is intended to fulfill the following purposes:

- (1) Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic conditions.
- (2) Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate new technologies and techniques, and the efficient layout of streets, utility networks and other public improvements.
- (3) Minimize impervious surfaces.
- (4) Encourage the creation or preservation of permanent forested open space.
- (5) Encourage development of residential environments that are harmonious with on-site and off-site natural and built environments.
- (6) Further the goals and the implementation of the policies of the Comprehensive Plan.

#### **114.15 Parameters for Low Impact Development**

Please refer to KZC 114.30 and 114.35 for additional requirements related to these standards.

|                         |   |
|-------------------------|---|
| Permitted Housing Types | <ul style="list-style-type: none"> <li>• Detached Dwelling Units</li> <li>• Accessory Dwelling Units</li> <li>• 2/3 Unit Homes</li> </ul>   |
| Minimum Lot Size        | <ul style="list-style-type: none"> <li>• Individual lot sizes must be at least 50% of the minimum lot size for the underlying Zone.</li> </ul>  |
| Minimum Number of lots  | <ul style="list-style-type: none"> <li>• 4 lots</li> </ul>  |
| Maximum Density         | <ul style="list-style-type: none"> <li>• As defined in underlying zone's Use Zone Chart</li> <li>• Bonus Density is calculated by multiplying number of lots or units by .10. If a fraction of .5 or higher is obtained then round to the next whole number.</li> </ul>   |
| Low Impact Development  | <ul style="list-style-type: none"> <li>• LID techniques must be employed to control stormwater runoff generated from 50% of all hard surfaces. This includes all vehicular and pedestrian access. LID facilities must be designed according to Public Works stormwater development regulations as stated in KMC 15.52.</li> </ul>   |
| Locations               | <p>Allowed in Low density Residential Zones with the exception of the following:</p> <p>PLA 16, PLA 3C, RSA 1, RSA8 , RS 35 and RSX 35 zones in the Bridle Trails neighborhood, and the Holmes Point Overlay zone. Any property or portion of a property with shoreline jurisdiction must meet the regulations found in Chapter 83 KZC, including minimum lot size or units per acre and lot coverage.</p>  |
| Review Process          | <ul style="list-style-type: none"> <li>• Short Plats shall be reviewed under KMC 22.20.15 and Subdivisions shall be reviewed under KMC 22.12.015.</li> <li>• Condominium Projects shall be reviewed under KZC 145, Process I</li> </ul>   |
| Parking Requirements    | <ul style="list-style-type: none"> <li>• 2 stalls per detached dwelling unit</li> <li>• 1 stall per accessory dwelling unit</li> <li>• 1.5 stalls per unit in multi-unit home, rounded to next whole number</li> <li>• See KZC 105.20 for guest parking requirements</li> <li>• Parking pad width required in KZC 105.47 may be reduced to 10 feet.</li> <li>• Parking Pad may be counted in required parking</li> <li>• Tandem Parking is allowed where stalls are share by the same dwelling unit.</li> <li>• Shared garages in separate tract are allowed</li> <li>• All required parking must be provided on the LID project site.</li> </ul> |
| Ownership Structure     | <ul style="list-style-type: none"> <li>• Subdivision</li> <li>• Condominium</li> </ul>  |

|   |   |
|---|---|
| Minimum Required Yards<br>(from exterior property lines of the LID project) | <ul style="list-style-type: none"> <li>• 20 feet for all front yards</li> <li>• 10 feet for all other required yards</li> </ul>   |
| Minimum Required Yards<br>(from internal property lines)                    | <ul style="list-style-type: none"> <li>• Front: 10 feet</li> <li>• Option: Required front yard can be reduced to 5 feet, if required rear yard is increased by same amount of front yard reduction.</li> <li>• Side and Rear: 5 feet</li> <li>• Zero Lot line for 2/3 unit homes between internal units.</li> </ul>   |
| Front Porches   | <ul style="list-style-type: none"> <li>• Must comply with KZC 115.115.3.(n), except that Front Entry porches may extend to within 5 feet of the interior required front yard.</li> </ul>  |
| Garage Setbacks   | <ul style="list-style-type: none"> <li>• Must comply with KZC 115.43, except that attached garages on front façade of dwelling unit facing internal front property line must be setback 18 feet from internal front property line.</li> </ul>   |
| Lot Coverage (All impervious surfaces)                                      | <ul style="list-style-type: none"> <li>• Maximum lot coverage for entire site is based on maximum lot coverage percentage of underlying zone.</li> </ul>  |
| Required Common Open Space(RCOS)  | <ul style="list-style-type: none"> <li>• Minimum of 40% of entire development</li> <li>• Native &amp; undisturbed vegetation is preferred</li> <li>• Allowance of 1% of required common open space for shelters or other recreational structures</li> <li>• Paths connecting and within required common open space to development must be pervious</li> <li>• Landscape Greenbelt Easement is required to protect and keep required common open space undeveloped in perpetuity.</li> </ul> |
| Maximum Floor Area <sub>1</sub>   | <ul style="list-style-type: none"> <li>• Maximum Floor Area is 50% of the minimum lot size of the underlying zone</li> </ul>  |

### **Footnotes:**

1. The Maximum Floor Area for LID projects does not apply within the disapproval jurisdiction of Houghton.

## **114.20 Design Standards and Guidelines**

### **1. Required Low Impact Development Stormwater Facilities**

Low Impact Development (LID) Stormwater facilities shall be designed to control stormwater runoff from 50% of all hard surfaces created within entire development. This includes all vehicular and pedestrian access. LID facilities shall be designed according to Public Works stormwater development regulations, as stated in KMC 15.52.060. The maintenance of LID facilities shall be maintained in accordance with requirements in KMC 15.52.120. The proposed site design shall incorporate the use of LID strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water,

which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

- 1) Preservation of natural hydrology.
- 2) Reduced impervious surfaces.
- 3) Treatment of stormwater in numerous small, decentralized structures.
- 4) Use of natural topography for drainage ways and storage areas.
- 5) Preservation of portions of the site in undisturbed, natural conditions.
- 6) Restoration of Disturbed Sites
- 7) Reduction of the use of piped systems. Whenever possible, site design shall use multifunctional open drainage systems such as rain gardens, vegetated swales or filter strips that also help to fulfill landscaping and open space requirements.

## 2. Required Common Open Space

Common open space shall support and enhance the project's LID stormwater facilities; secondarily to provide a sense of openness, visual relief, and community for Low Impact Development projects. The minimum percentage for common open space is 40% and is calculated using the size of the whole development. The common open space must be outside of wetlands, streams, and developed and maintained to provide for passive recreational activities for the residents of the development.

- 1) Conventional Surface water management facilities, such as vaults and tanks shall be limited within common open space areas and shall be placed underground at a depth to sufficiently allow landscaping to be planted on top of them. Low Impact Development (LID) features are permitted, provided they do not adversely impact access to or use of the common open space for passive recreation. Neither conventional or LID stormwater facilities can result in the removal of healthy native trees, unless a positive net benefit can be shown and there is no other alternative for the placement of stormwater facilities. The Public Works Director must approve locating conventional stormwater facilities within the Common Open Space.
- 2) Existing native vegetation, forest litter and understory shall be preserved to the extent possible in order to reduce flow velocities and encourage sheet flow on the site. Invasive species, such as Himalayan blackberry, must be removed and replaced with native

plants (see Kirkland Native Plant List). Undisturbed native vegetation and soil shall be protected from compaction during construction.

- 3) If no existing native vegetation, then applicant may propose a restoration plan that shall include all native species. No new lawn is permitted and all improvements installed must be of pervious materials.
- 4) Vegetation installed in common open space areas shall be designed to allow for access and use of the space by all residents, and to facilitate maintenance needs. However, existing mature trees should be retained.

## 114.25 Review Process

### 1. Approval Process – Low Impact Development Projects

- a. The City will review and process an application for a LID project concurrent with and through the same process as the underlying subdivision proposal (Process I, Chapter 145 KZC for Short Plats; Process IIA, Chapter 150 KZC for Subdivisions. However, public notice for LID projects shall be as set forth under the provisions of Chapter 150 KZC (Process IIA). A Process I and site plan review will be required for projects that use a condominium ownership structure and do not subdivide the property into individually platted lots.

- b. Lapse of Approval

Unless otherwise specified in the decision granting Process I approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the Process I approval within four years after the final decision granting the Process I approval or that decision becomes void. The applicant must substantially complete construction consistent with the Process I approval and complete all conditions listed in the Process I approval decision within six years after the final decision on the Process I approval or the decision becomes void. "Final decision" means the final decision of the Planning Director.

### 2. Approval Process – 2/3 Unit Homes

The City will review and process a LID project application that includes a 2/3 unit home with an additional land use process as follows:

One 2/3 unit home requires a Process I review

More than one 2/3 unit home requires a Process IIA review

### 3. Approval Process – Requests for Modifications to Standards

a. Minor Modifications

Applicants may request minor modifications to the general parameters and design standards set forth in this chapter. The Planning Director under a Process I, KZC 145 or Hearing Examiner under Process IIA, KZC 150 may modify the requirements if all of the following criteria are met:

- 1) The site is constrained due to unusual shape, topography, easements or sensitive areas, and
- 2) The modification is consistent with the objectives of this chapter, and
- 3) The modification will not result in a development that is less compatible with neighboring land uses.

### **114.30 Additional Standards**

1. The City's approval of a Low Impact Development project does not constitute approval of a subdivision or short plat. An applicant wishing to subdivide in connection with a development under this chapter shall seek approval to do so concurrently with the approval process under this chapter.
2. To the extent there is a conflict between the standards set forth in this chapter and Title 22 of the Kirkland Municipal Code, the standards set forth in this chapter shall control.

### **114.35 Required Application Documentation**

1. Site Assessment documents to be submitted with application include:
  - a. Survey prepared by a registered land surveyor or civil engineer.
  - b. Location of all existing and proposed lot lines and easements.
  - c. Location of all sensitive areas, including lakes, streams, wetlands, flood hazard areas, and steep slope/erosion hazard areas.
  - d. Landscape Plan showing existing and proposed trees and other vegetation.
2. Soil report prepared by a licensed civil engineer, geotechnical engineer, or engineering geologist.
3. Stormwater Drainage Report/Technical Information Report

## Chapter 115 – Miscellaneous Use Development and Performance Standards

(No Changes Until)

### **115.33 is a new section**

#### **115.33 Electric Vehicle Infrastructure**

1. Purpose and Intent - It is the intent of these development regulations to encourage the use and viability of electric vehicles as they have been identified as a solution to energy independence, cleaner air and significantly lower green house gas emissions.

Electric vehicles need access to Electric Vehicle Infrastructure (EVI) in appropriate locations. In 2009 the Washington State Legislature passed House Bill 1481 relating to electric vehicles. The bill addressed EVI which includes the structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

The purpose of the development regulations in this section is to meet the State of Washington requirements and to also allow battery charging stations and battery exchange stations in appropriate use zones throughout the City.

1. General – This section establishes where the components of Electric Vehicle Infrastructure are allowed within the City.

Exceptions-

Electric Vehicle Infrastructure may not be located in any sensitive areas, their buffer or buffer setbacks.

2. All Use Zones

Level I and Level II Battery Charging Stations are allowed as an accessory use to an approved use within all Use Zones.

3. Commercial Zones

- a. A Battery Exchange station is allowed as an accessory use to all commercial zones where repair or maintenance of vehicles is permitted.
- b. A Rapid Battery (Level III) Charging Station is allowed as an accessory use to all commercial zones where repair and maintenance of vehicles is permitted including Gas Stations.

#### 4. Industrial Zones

- a. A Rapid Battery(Level III) Charging Station is allowed as an accessory use to an approved use within the Light Industrial Technology (LIT) or other Industrial zones where Repair and Maintenance of vehicles is permitted.
- b. A Battery Exchange Station is allowed as an accessory use to an approved use within the Light Industrial Technology (LIT) or other industrial zones where repair and maintenance of vehicles is permitted.

#### 5. Institutional Uses

A Rapid Battery Charging Station (Level III) is allowed as an accessory use to an approved institutional use.

6. Signage is required to identify a charging station for the exclusive use of an electric vehicle. Onsite signage shall also be required to provide directional assistance. (See Plate 45 in KZC 180).

(No further Changes Until)

### 115.60 Height Regulations – Exceptions

1. General – No element or feature of a structure, other than as listed in subsection (2) of this section, may exceed the applicable height limitation established for each use in each use zone in Chapters [15](#) through [60](#) KZC.

For properties within jurisdiction of the Shoreline Management Act, see Chapter [83](#) KZC.

#### 2. Exceptions

##### a. Detached Dwelling Units

- 1) Vents and chimneys for a detached dwelling unit may exceed the maximum height limit.

- 2) Skylights may exceed the height limit by a maximum of six (6) inches.
- 3) Rod, wire and dish antennas, to the extent they do not constitute personal wireless service facilities, which are subject to the provisions of Chapter [117](#) KZC, may not be placed above the maximum height allowed for any structure unless approved by the Planning Director. The City will approve the application if it can be demonstrated that views across the subject property are not substantially impaired and that the antenna must be placed above the roofline in order to function properly. The decision of the Planning Director in approving or denying a rod, wire, or dish antenna may be appealed using the appeal provision, as applicable, of Process I, KZC [145.60](#).

For the purposes of this subsection, "dish antenna" includes any antenna, whether or not it is of solid or mesh construction, designed or constructed so that the horizontal dimension of its microwave reflector or collector face equals or exceeds 30 percent of its vertical dimension. The phrase "rod or wire antenna" includes those antennas not falling within the definition of dish antenna and antennas for use by licensed amateur radio operators.

- 4) Solar panels on flat roof forms (less than 2:12) may exceed the height limit by a maximum of six (6) inches.<sup>1</sup>

<sup>1</sup>This sub-section is not effective within the disapproval jurisdiction of the Houghton Community Council

b. Other Structures

- 1) Rooftop appurtenances and their screens, subject to KZC 115.120, including roof forms pursuant to KZC 115.120(3).
- 2) The provisions in Chapter 117 KZC related to personal wireless service facilities supersede the provisions of this section to the extent an appurtenance falls within the definition of a personal wireless service facility.
- 3) Skylights may exceed the height limit by a maximum of six (6) inches.
- 4) Solar panels on sloped roof forms(greater than 2:12) may exceed height limits by a maximum of six (6) inches. Solar Panels on flat roof forms(less than 2:12) may exceed height limits by a maximum of twenty (20) inches.

(No Further changes until)

## 115.90 Calculating Lot Coverage

1. General – The area of all structures and pavement and any other impervious surface on the subject property will be calculated as a percentage of total lot area. If the subject property contains more than one (1) use, the maximum lot coverage requirements for the predominant use will apply to the entire development. The following exceptions shall not exceed an area equal to ten percent of the total lot area. Lot area not calculated under lot coverage must be devoted to open space as defined in KZC 5.610.
2. Exceptions<sup>1</sup>
  - ~~a. Wood decks may be excluded if constructed with gaps between the boards and if there is pervious surface below the decks.~~
  - ~~b<sub>a</sub>. An access easement or tract that is not included in the calculation of lot size will not be used in calculating lot coverage for any lot it serves or crosses.~~
  - ~~c. For detached dwelling units in low density zones and having a front yard, 10 feet of the width of a driveway, outside of the required front yard, serving a garage or carport; provided, that:
    - ~~1) This exception cannot be used for flag or panhandle lots;~~
    - ~~2) The portion of the driveway excepted from lot coverage calculations shall not exceed 10 percent of the lot area; and~~
    - ~~3) The portion of the driveway excepted is not located in an access easement.~~~~
  - ~~d. Grass grid or brick pavers and compact gravel, when installed over a pervious surface, will be calculated as impervious surface at a ratio of 50 percent of the total area covered.~~
  - ~~e. Outdoor swimming pools.~~
  - ~~f. Pedestrian walkways required by Chapter 83 KZC and KZC 105.18.~~
  - ~~g<sub>b</sub>. Pervious areas below eaves, balconies, and other cantilevered portions of buildings.~~

~~h~~c. Landscaped areas at least two (2) feet wide and 40 square feet in area located over subterranean structures if the Planning Official determines, based on site-specific information submitted by the proponent and prepared by a qualified expert, soil and depth conditions in the landscaped area will provide cleansing and percolation similar to that provided by existing site conditions.

~~i. Retaining walls not immediately adjacent to other impervious areas.~~

3. Exemptions – The following exemptions will be calculated at a ratio of 50 percent of the total area covered. Exempted area shall not exceed an area equal to ten percent of the total lot area. Installation of exempted surfaces shall be done in accordance with the current adopted King- County Stormwater Design Manual.

1. Permeable pavement (non-grassed).
2. Grassed modular grid pavement.
3. Open grid decking over pervious area.
4. Pervious surfaces in compliance with the stormwater design manual adopted in KMC 15.52.06.

Footnote<sup>1</sup> : An exception for Swimming pools is allowed in the Houghton Jurisdiction only if the applicant provides a self-draining pool cover which drains into the swimming pool and does not cause surface water runoff as determined by the Planning Official.

(No Changes until)

### **115.115.3.q Required Yards**

q. Insulation, installed in or on an existing structure, may encroach eight (8) inches into a required yard unless precluded by Fire or Building Codes.

(No Further Changes)

(No Changes until New Plate)

### Plate 45

## Electric Vehicle Charging Station Signage



12" X 12"

Directional – Off-street Parking Lot or Parking Garage



12" X 6"



12" X 12"

Off-Street Electric Vehicle Parking – Parking Space with Charging Station Equipment



12" X 18"



12" X 18"

ORDINANCE NO

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE SUBDIVISION OF LAND, ADOPTING "GREEN CODE" PROVISIONS AND APPROVING A SUMMARY FOR PUBLICATION (FILE NO. ZON10-00031).

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission and the Houghton Community Council to amend certain sections of the Kirkland Municipal Code, as set forth in that certain staff report approved by the Planning Commission and the Houghton Community Council dated March 1, 2012, and bearing Kirkland Department of Planning and Community Development File No.ZON10-00031; and

WHEREAS, prior to making said recommendation, the Planning Commission, on January 12, 2012, held a public hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, prior to making said recommendation, the Houghton Community Council, on January 12, 2012, held a courtesy hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA) there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission and the Houghton Community Council.

NOW, THEREFORE, the City Council of the City of Kirkland does ordain as follows:

Section 1. Kirkland Municipal Code ("KMC") Section 15.52.060 is hereby amended to read as follows:

**15.52.060 Design and construction standards and requirements.**

(a) The standard plans as defined in Section 15.04.340 shall include requirements for temporary erosion control measures, storm water detention, water quality treatment and storm water conveyance facilities that must be provided by all new development and redevelopment projects. These standards shall meet or exceed the thresholds, definitions, minimum requirements, and exceptions/variances criteria found in Appendix I of the Western Washington Phase II Municipal Stormwater Permit, the 2009 King County Surface Water Design Manual, and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual as presently written or hereafter amended.

(b) Unless otherwise provided, it shall be the developer's and property owner's responsibility to design, construct, and maintain a system which complies with the standards and minimum requirements as set forth in the standard plans.

(c) In addition to providing storm water quality treatment facilities as required in this section and as outlined in the standard plans, the developer and/or property owner shall provide source control BMPs best management practices as described in Volume IV of the 2005 Stormwater Management Manual for Western Washington, such as structures and/or a manual of practices designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to, carwashing at multifamily residential sites and oil storage at auto repair businesses.

(d) Privately maintained stormwater structures are not allowed within the public right-of-way, except on a case by case basis with approval from the Public Works Director.

~~(d)~~(e) The city will inspect all permanent storm water facilities prior to final approval of the relevant permit. All facilities must be clean and fully operational before the city will grant final approval of the permit. A performance bond may not be used to obtain final approval of the permit prior to completing the storm water facilities required under this chapter.

~~(e)~~(f) Adjustment Process. Any developer proposing to adjust the requirements for, or alter design of, a system required as set forth in the standard plans must follow the adjustment process as set forth in the standard plans.

~~(f)~~(g) Other Permits and Requirements. It is recognized that other city, county, state, and federal permits may be required for the proposed action. Further, compliance with the provisions of this chapter when developing and/or improving land may not constitute compliance with these other jurisdictions' requirements. To the extent required by law, these other requirements must be met.

Section 2. A new Section 22.28.041 of the KMC is hereby adopted to read as follows:

**22.28.041 Lots - Low Impact Development**

(a) In multiple lot Low Impact Development subdivisions (4 lots or more) not located in an RSA 1 zone or in the Holmes Point Overlay and not subject to Sections 22.28.030 and 22.28.040, the minimum lot area shall be deemed to have been met if the minimum lot area is not less than 50% of the lot area required of the zoning district in which the property is located as identified on the zoning map; provided that all lots meet the following standards:

(1) Within the RSA 6 zone, the lots shall be at least 2,550 square feet.

(2) Within the RSA 4 zone, the lots shall be at least 3,800 square feet.

(b) The lots within the Low Impact Development meet the design standards and guidelines and approval criteria as defined in Chapter 114 of the Kirkland Zoning Code.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. The subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, and therefore, this ordinance shall become effective within the Houghton Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 5. Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017 in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 6. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

| PHASE ONE - SUSTAINABLE ACTIONS             |   |                                   |                           |
|---|---|-----------------------------------|---------------------------|
| CITY COUNCIL REVIEW                         |   |                                   |                           |
|   |   | PROJECT TEAM                      | REQUIRED ACTION           |
| <b>A SUSTAINABLE "GREEN" INFRASTRUCTURE</b> |   |                                   |                           |
| 1   | LEED Gold certification for all new facilities and LEED Silver for all renovated facilities   | Green Building Team (GBT)         | Policy Decision/Ordinance |
|   | Create ordinance requiring all new City facilities to achieve a LEED Gold certification and all renovated facilities to meet LEED Silver certification and/ or meet Energy Star requirements. Currently, policy is to achieve LEED Certification, but the level is not defined.                       | Scott Guter/Green Building Intern |                           |
| 2   | Evaluate existing policies for City Capital Improvement Roads Projects and consider comparing to Green Roads program or similar rating program.   | GBT, CIP Department               |                           |
|   | Currently, best management practices are used and certification programs are being tested for possible use as a standard.   |                                   |                           |
| 3   | Develop measurable goals for the Green Building Section of the Climate Protection Action Plan with an emphasis on GHG reduction.  | Green Building Team               | Policy Decision           |
|   | Revise Green Building section of the Climate Protection Action Plan to include new Green Building Program goals. The Green Building Program will establish goals for GHG reduction through updated program incentives. Possible program amendmends to include a deconstrucion v.s.demolition program. |                                   |                           |
| 4   | Require all project applicants to complete a Sustainability and/or Carbon Footprint checklist with building permit applications.  | GBT                               | Policy Decision           |
|   | Require all building permit applicants to complete a Sustainability Feasibility Checklist (Pierce Co), or Carbon Calculator Checklist (King Co) prior to submitting building permit. New SEPA rules may require this.   |                                   |                           |
| <b>B POTABLE WATER CONSERVATION</b>         |   |                                   |                           |
| 1   | Develop tools to help manage gray water and its reuse by creating an educational program  | GBT                               | Educational Program       |
| <b>C STORMWATER &amp; LANDSCAPING</b>       |   |                                   |                           |
| 1   | Adopt the the City of Seattle's "Green Factor" list after comparing with current landscaping standards.   | GBT                               | Policy Decision/Ordinance |
|   | Need to compare with existing landscape standards and note differences. Green Factor will require additional City staff time in review and inspection.  |                                   |                           |
| 2   | Modify Surface Water Utility Rate to give discounts for storm Low Impact Development (LID) installed on site  | GBT, Jenny, Rob                   | Policy Decision           |
|   | Consider a discounted rate for new single-family, Multi-family and Commercial development based on actual impervious area. We would need to increase basic rate, and require verification of discount eligibility.  |                                   |                           |
| 3   | Provide a rebate ("Treebate") to residential homeowners to encourage them to plant trees on their private property.   | GT, UF                            | Policy Decision/Program   |
|   |   |                                   |                           |

| PHASE ONE - SUSTAINABLE ACTIONS, CONTINUED    |   |                           |                                  |
|---|---|---------------------------|----------------------------------|
| PLANNING COMMISSION REVIEW                    |   |                           |                                  |
|   |   | PROJECT TEAM              | REQUIRED ACTION                  |
| <b>A SUSTAINABLE "GREEN" INFRASTRUCTURE</b>   |   |                           |                                  |
| 1   | Modify design regulations to incorporate bicycle storage and low-emission & fuel-efficient vehicle parking.   | Green Building Team (GBT) | Zoning Code Amendment            |
|   | Increase ratio of bicycle racks to required parking stalls. Require a portion of parking areas to include stalls for low emission & fuel efficient vehicles (much like requirements for ADA stalls). LEED Req. for commercial & multi-family.   |                           |                                  |
| 2   | Create regulations for Electric Vehicle Infrastructure (EVI) in Use Zones as required by WA State Law   | GBT                       | Zoning Code Amendment            |
|   | Amend Zoning Code Chapter 115 for allowed zones and chapter 5 for definitions for EVI.  |                           |                                  |
| <b>B STORMWATER &amp; LANDSCAPING</b>         |   |                           |                                  |
| 1   | Promote LID through lot coverage/open space standards. Incorporate vegetated roof provisions into KZC Chapter 5 (definitions) and KZC 115.90 (lot coverage exemptions).   | GBT, UF, PW and PCD       | Zoning Code Amendment            |
|   | The issue is that most storm LID uses more open space than traditional sw structures (like dispersion and rain gardens vs. underground pipes). Possibly reduce standard lot coverage from 50% to 40% (or other), but allow 50% if the applicant uses stormwater LID. Goal is to keep more existing trees and existing landscape. Trees and existing landscape detain more runoff. Reducing allowable lot coverage to 40% would help keep some existing landscape. Use KC definition for compatibility with KMC standards. Example: Reduce lot coverage from 50 to 40%, but then allow back up to 50% if structure has vegetated roof. |                           |                                  |
| 2   | Provide incentives for single family use regulations to encourage clustered housing (like King County).   | GBT, Jeremy               | Zoning /Municipal Code Amendment |
|   | Consider modifying subdivision regulations removing minimum lot size requirements and replacing with units per acre.  |                           |                                  |
| 3   | Revise standards to encourage pervious surfaces for driveways, private roads and parking lots.  | GBT, Jenny, Rob           | Zoning Code Amendment            |
|   | Modular grid pavement, grassed modular grid pavement, or ribbon grass strips for residential driveways or private streets - incorporate into KZC Chapter 105? Recently added LID section to 2010 Pre-Approved Plans, with rain gardens and porous concrete sidewalks. Could be expanded to include other pervious pavement, bioinfiltration boxes, etc. Verify if other standards should be updated.  |                           |                                  |
| 4   | Revise landscape regulations to incorporate natural drainage structures and native plants requirements for commercial and multi-family sites  | GBT                       | Zoning Code Amendment            |
|   | Incorporate natural drainage landscapes (bioswales, rain gardens, and bioengineered planting strips) within parking lots in KZC Chapter 105 and 95.   |                           |                                  |
| 5   | Incorporate soil amendment provisions into KZC Chapter 95   | GBT, Jenny, Rob           | Zoning Code Amendment            |
|   | Zoning code requires amended soil for tree installation, but does not define amended soil. Apply Ecology definition of amended soil for consistency with stormwater KMC.  |                           |                                  |
| <b>C ENERGY EFFICIENCY &amp; INDEPENDENCE</b> |   |                           |                                  |
| 1   | Create regulations and incentives for small scale wind, photovoltaic, solar hot water, and passive solar design.  | GBT                       | Zoning Code Amendment            |
|   | 1. Possible incentives: height exemption for solar equipment installations<br>2. Add code language to prevent development from impeding the solar access of neighboring properties.<br>3. Allow height and setback encroachments for small scale wind energy systems (KZC 115.60 and 115.115)   |                           |                                  |
|   | Allow building envelopes to encroach into required setback yards for exterior rigid insulation  | GBT                       | Zoning Code Amendment            |
| 2   | Add language to allow reasonable encroachment into required yards to exceed energy code in new construction or to retro fit existing structure. Consider using Passive House concepts as a guideline.   |                           |                                  |



Master Builders Association  
of King and Snohomish Counties  
335 116th Ave. SE  
Bellevue, Washington 98004  
t: (425) 451-7920 / (800) 522-2209  
f: (425) 646-5985  
[www.MasterBuildersInfo.com](http://www.MasterBuildersInfo.com)

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February 20, 2012

Dear Councilmembers,

On behalf of the 3,000 member companies of the Master Builders Association of King and Snohomish Counties (MBA), I'm writing to comment on and urge your support for the adoption and implementation of the city's proposed Green Codes, which includes an incentive Low Impact Development (LID) section. I would like to thank city staff for the inclusive and informative nature of the discussions that has led to the draft you will be discussing in early March.

Our association is an industry leader when it comes to cost effective, environmentally sound, incentive based, green-building initiatives. For over a decade our Built Green™ program has worked to educate members of the public and our association on the benefits of environmentally sound development and construction. Supported by both the private and public sectors, Built Green™ has established its brand as an independent, reliable organization, aimed at providing measurable results for the environment and consumers. To that end, over the past 13 years Built Green™ has certified 20,077 housing units and 9 new communities. In Kirkland, 102 single family homes and 273 multifamily homes are Built Green™ Certified. Additionally, they provide a remodel certification which provides affordable, reliable accreditation for consumers wanting to ensure their remodel is environmentally sound. Following a significant improvement to the remodel checklist two years ago, 5 renovations in Kirkland have been certified Built Green™.

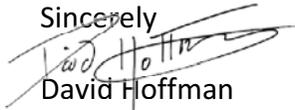
As we have learned, it can be a challenge to make land development and home building as environmentally friendly as possible while maintaining cost effectiveness. However, if a formula exists for achieving both goals it may be found through incentive based codes. We applaud city staff for including a provision for meaningful density bonus in the draft code. Home builders will be incentivized to preserve open space since they will be allowed to recoup losses with greater densities elsewhere in their projects. We encourage the council to maintain this provision.

While we strongly encourage incentive based programs, we would oppose making this program mandatory. In their current form these codes are a significant "carrot," encouraging the

building industry to choose a path that is more attentive to Low Impact Development and green building techniques. We encourage the council and city administration to remain on this course.

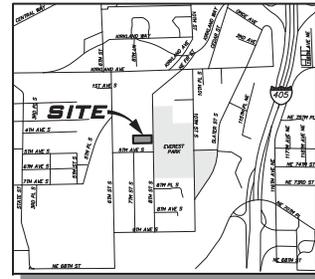
We support the council's adoption of this Green Codes ordinance, which will establish incentives to make it financially sensible for members of the building industry to build green in Kirkland. Thank you for the opportunity to comment. If you have any questions or would like to discuss our opinion on a particular provision of the ordinance please contact me at (425) 460-8224.

Sincerely

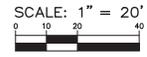
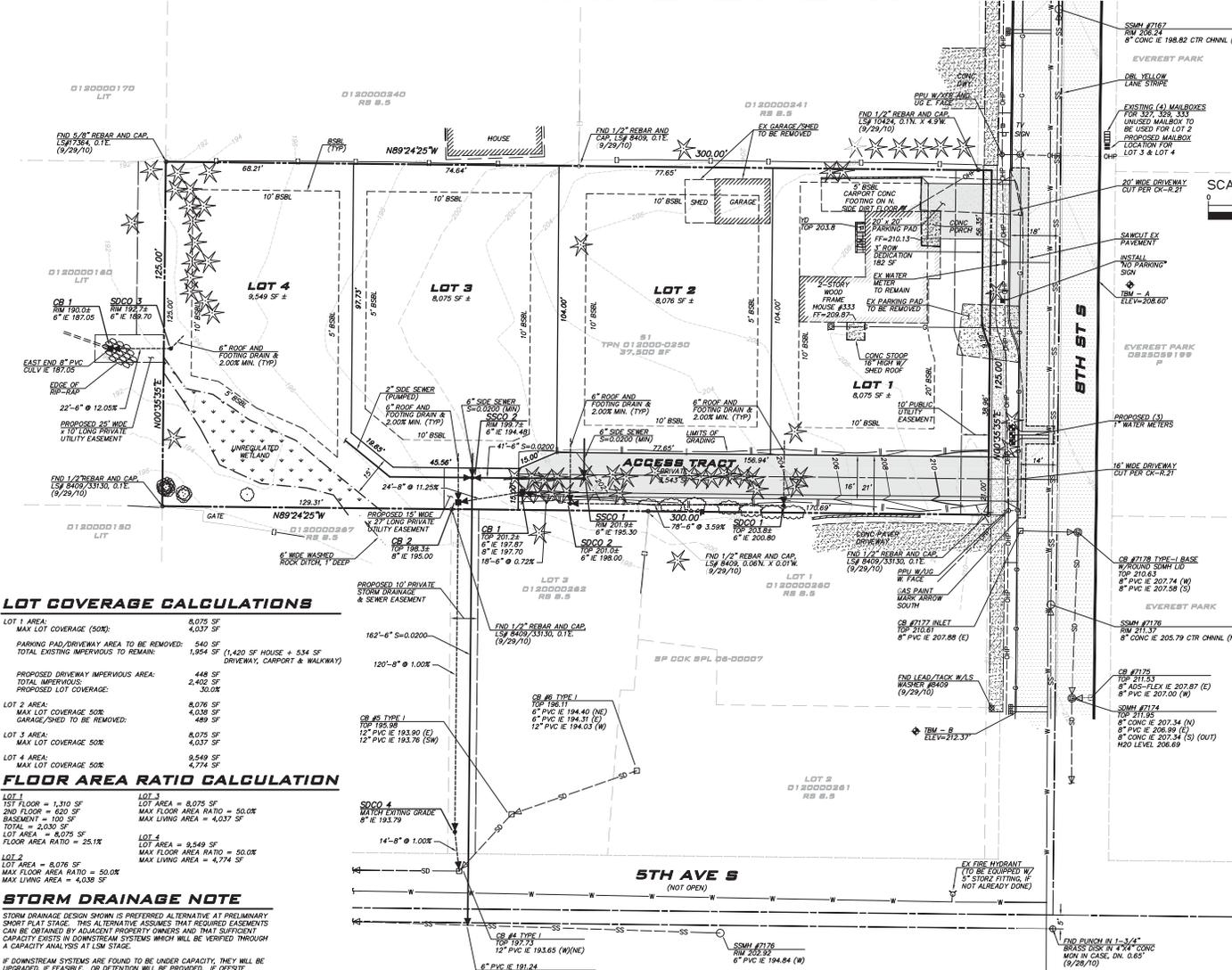
A handwritten signature in black ink, appearing to read "David Hoffman", written over a horizontal line.

David Hoffman  
King County Manager

# NE SEC 8, TWP 25N, RGE 5E, W.M. WANG SHORT PLAT



**BLUELINE**  
SCALE: AS NOTED  
PROJECT MANAGER:  
BRIAN J. DARROW, PE  
PROJECT ENGINEER:  
BRIAN J. DARROW, PE  
DESIGNER:  
DOMINQUE GABALDON  
ISSUE DATE:  
3/31/2011



**PROJECT TEAM**  
**OWNER**  
LIN WANG & YONG SHENG  
333 8TH ST S  
KIRKLAND, WA 98033  
(206) 894-9523  
**CIVIL ENGINEER**  
THE BLUELINE GROUP  
24 CENTRAL WAY SUITE 400  
KIRKLAND, WA 98033  
(425) 216-6511/222  
CONTACT: BRIAN J. DARROW, PE

**SURVEYOR**  
AHS SURVEY AND MAPPING  
13005 NE 128TH PL  
KIRKLAND, WA 98034  
(425) 823-5700  
CONTACT: ALLEN W. GROSSMAN, PLS

**SITE DATA**  
PARCEL NUMBER: 0120000250  
SITE AREA: 37,500 SF  
ACREAGE: 0.861 AC  
TOTAL NUMBER OF LOTS: 4  
ZONING: RS 8.5  
AVERAGE LOT SIZE: 8,444 SF  
PROPOSED USE: SINGLE FAMILY RESIDENTIAL  
SEWER DISPOSAL: CITY OF KIRKLAND  
WATER SYSTEM: CITY OF KIRKLAND  
SETBACKS: 20' FRONT, 5'10" SIDE (15' TOTAL), 10' REAR

**DATUM/BASIS OF BEARINGS**  
NAD 83(91)  
MIDLINE N89°24'25\"/>

**LEGAL DESCRIPTION**  
TRACT 51 OF ALEXANDER ACRE TRACTS, AS PER PLAT RECORDED IN VOLUME 12 OF PLATS, PAGE 59, RECORDS OF KING COUNTY, WASHINGTON.  
EXCEPT THE EAST 5 FEET THEREOF CONVEYED TO KING COUNTY FOR RIGHT OF WAY FOR 110TH AVENUE NE AND RECORDED UNDER RECORDING NO. 300685.  
SITUATE IN THE CITY OF KIRKLAND, COUNTY OF KING, STATE OF WASHINGTON.

**ORIGINATING BENCHMARK:**  
CITY OF KIRKLAND MONUMENT NO. 14, AS PUBLISHED ON THE CITY OF KIRKLAND SURVEY CONTROL DATABASE WEBSITE.  
VERTICAL DATUM: NAVD 88  
ELEVATION: 266.76'  
TM - A  
SCT. SCORBED SQUARE\* ON TOP BACK OF CURB ON SOUTH HWY CONC. MARK EAST TO PARK. EAST SIDE OF 8TH ST S, OPPOSITE HOUSE NUMBER 333.  
ELEV=206.69'  
TM - B  
SCT. SCORBED SQUARE\* ON TOP BACK OF CURB @ SOUTH END CURB. ADJACENT HOUSE #301 WEST SIDE OF 8TH ST.  
ELEV=212.37'

**SHEET INDEX**  
1 PU-01 PRELIMINARY UTILITY PLAN  
2 PP-01 PRELIMINARY ROAD PROFILE  
3 TR-01 TREE RETENTION PLAN

**U. S. POSTAL SERVICE**  
APPROVED FOR MAILBOX LOCATIONS  
BY: ON FILE  
DATE: ON FILE

**LOT COVERAGE CALCULATIONS**

|  |  |
|--|--|
| LOT 1 AREA:                                | 8,075 SF   |
| MAX LOT COVERAGE (50%):                    | 4,037 SF   |
| PARKING (PAD/DRIVEWAY) AREA TO BE REMOVED: | 540 SF   |
| TOTAL EXISTING IMPERVIOUS TO REMAIN:       | 1,954 SF (1,420 SF HOUSE + 534 SF DRIVEWAY, CARPORT & WALKWAY) |
| PROPOSED DRIVEWAY IMPERVIOUS AREA:         | 448 SF   |
| TOTAL IMPERVIOUS:                          | 2,402 SF   |
| PROPOSED LOT COVERAGE:                     | 30.0%  |
| LOT 2 AREA:                                | 8,076 SF   |
| MAX LOT COVERAGE 50%:                      | 4,038 SF   |
| GARAGE/SHED TO BE REMOVED:                 | 489 SF   |
| LOT 3 AREA:                                | 8,075 SF   |
| MAX LOT COVERAGE 50%:                      | 4,037 SF   |
| LOT 4 AREA:                                | 9,549 SF   |
| MAX LOT COVERAGE 50%:                      | 4,774 SF   |

**FLOOR AREA RATIO CALCULATION**

|                          |                              |                              |                              |
|--------------------------|------------------------------|------------------------------|------------------------------|
| LOT 1                    | LOT 2                        | LOT 3                        | LOT 4                        |
| TST FLOOR = 1,310 SF     | LOT AREA = 8,075 SF          | LOT AREA = 8,075 SF          | LOT AREA = 9,549 SF          |
| 2ND FLOOR = 620 SF       | MAX FLOOR AREA RATIO = 50.0% | MAX FLOOR AREA RATIO = 50.0% | MAX FLOOR AREA RATIO = 50.0% |
| BASEMENT = 100 SF        | MAX LIVING AREA = 4,037 SF   | MAX LIVING AREA = 4,037 SF   | MAX LIVING AREA = 4,774 SF   |
| TOTAL = 2,030 SF         |                              |                              |                              |
| LOT AREA = 8,075 SF      |                              |                              |                              |
| FLOOR AREA RATIO = 25.1% |                              |                              |                              |
| LOT 2                    | LOT 3                        | LOT 4                        |                              |
| TST FLOOR = 1,310 SF     | LOT AREA = 8,075 SF          | LOT AREA = 9,549 SF          |                              |
| 2ND FLOOR = 620 SF       | MAX FLOOR AREA RATIO = 50.0% | MAX FLOOR AREA RATIO = 50.0% |                              |
| BASEMENT = 100 SF        | MAX LIVING AREA = 4,037 SF   | MAX LIVING AREA = 4,774 SF   |                              |
| TOTAL = 2,030 SF         |                              |                              |                              |
| LOT AREA = 8,075 SF      |                              |                              |                              |
| FLOOR AREA RATIO = 25.1% |                              |                              |                              |

**STORM DRAINAGE NOTE**  
STORM DRAINAGE DESIGN SHOWN IS PREFERRED ALTERNATIVE AT PRELIMINARY SHORT PLAT STAGE. THIS ALTERNATIVE ASSUMES THAT REQUIRED EASEMENTS CAN BE OBTAINED BY ADJACENT PROPERTY OWNERS AND THAT SUFFICIENT CAPACITY EXISTS IN DOWNSTREAM SYSTEMS WHICH WILL BE VERIFIED THROUGH A CAPACITY ANALYSIS AT LDM STAGE.  
IF DOWNSTREAM SYSTEMS ARE FOUND TO BE UNDER CAPACITY, THEY WILL BE UPGRADED, IF FEASIBLE, OR DETENTION WILL BE PROVIDED. IF OFFSITE EASEMENTS CANNOT BE OBTAINED, DETENTION WILL BE PROVIDED AND STORMWATER WILL BE PUMPED TO STORM SYSTEM IN 8TH STREET SOUTH.

**SANITARY SEWER NOTE**  
SEWER DESIGN SHOWN IS PREFERRED ALTERNATIVE AT SHORT PLAT STAGE. IF OFFSITE EASEMENT CANNOT BE OBTAINED, LOTS 2-4 WILL BE BUILT WITH GRINDER PUMPS WHICH WILL PUMP TO A CLEANOUT AND 6-INCH GRAVITY STUB TO SEWER MAIN IN 8TH STREET SOUTH.

**FIRE HYDRANT NOTE**  
HOUSES ON LOTS 3 & 4 TO BE EQUIPPED WITH FIRE SPRINKLERS.

**WATER SERVICE NOTE**  
THE EXISTING WATER SERVICE MAY BE USED FOR LOT 1 PROVIDED THAT IT IS IN THE CORRECT LOCATION, IS NOT GALVANIZED, AND IS SIZED ADEQUATELY TO SERVE THE BUILDING (PER THE UNIFORM PLUMBING CODE) (CONTRACTOR TO VERIFY)

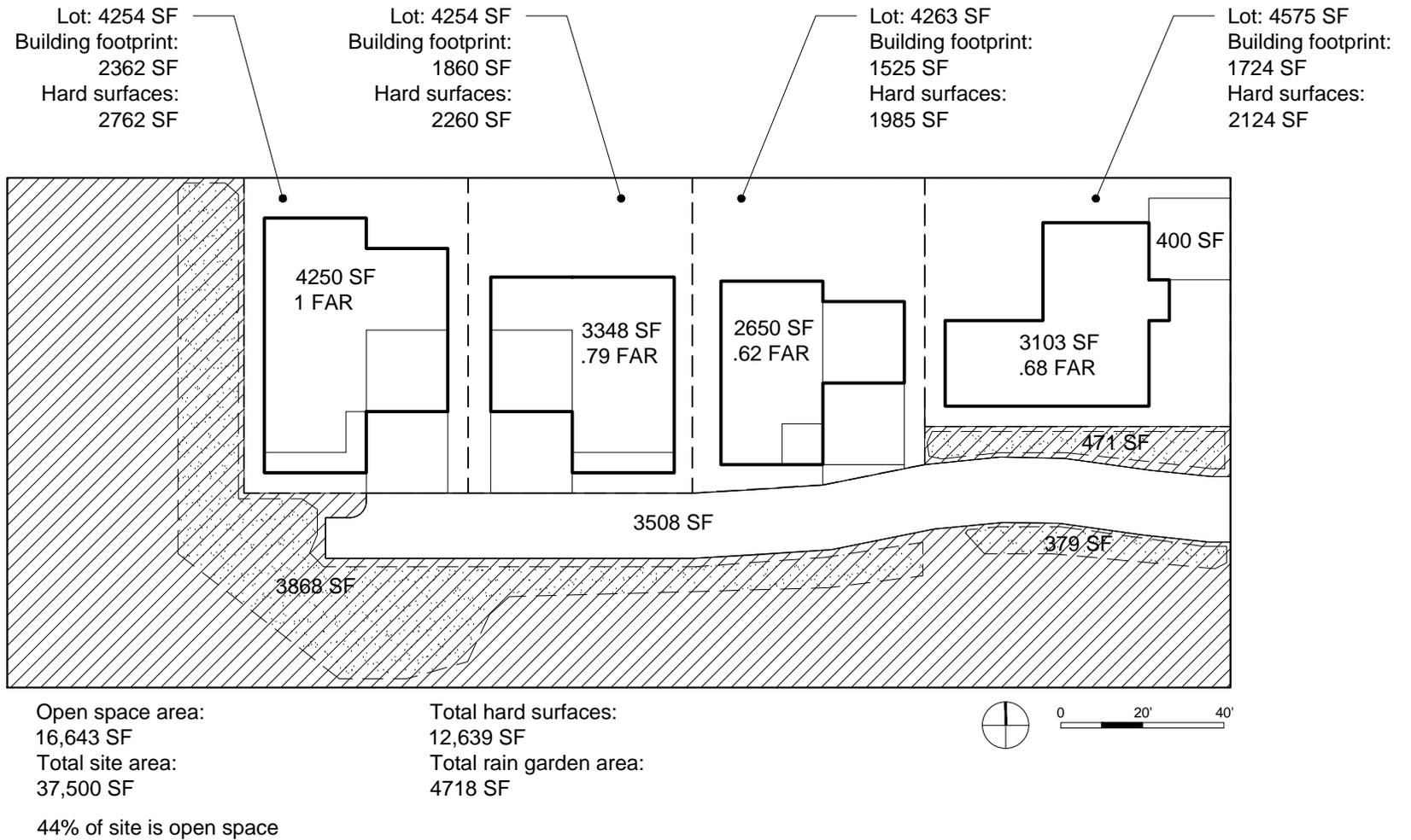
**UTILITY CONNECTIONS**  
ALL PROPOSED ON-SITE UTILITY TRANSMISSION LINES SHALL BE UNDERGROUND.

**UNDERGROUND UTILITY NOTE**  
UNDERGROUND UTILITIES ARE SHOWN IN THE APPROXIMATE LOCATION. THERE IS NO GUARANTEE THAT ALL UTILITY LINES ARE SHOWN, OR THAT THE LOCATION, SIZE AND MATERIAL IS ACCURATE. THE CONTRACTOR SHALL UNCOVER ALL INDICATED PIPING WHERE CROSSING, INTERFERENCES, OR CONNECTIONS OCCUR PRIOR TO TRENCHING OR EXCAVATION FOR ANY PIPE OR STRUCTURES. TO DETERMINE ACTUAL LOCATIONS, SIZE AND MATERIAL, THE CONTRACTOR SHALL MAKE THE APPROPRIATE PROVISION FOR PROTECTION OF SAID FACILITIES. THE CONTRACTOR SHALL NOTIFY ONE CALL AT 1-800-424-5555 AND ARRANGE FOR FIELD LOCATION OF EXISTING FACILITIES BEFORE CONSTRUCTION.

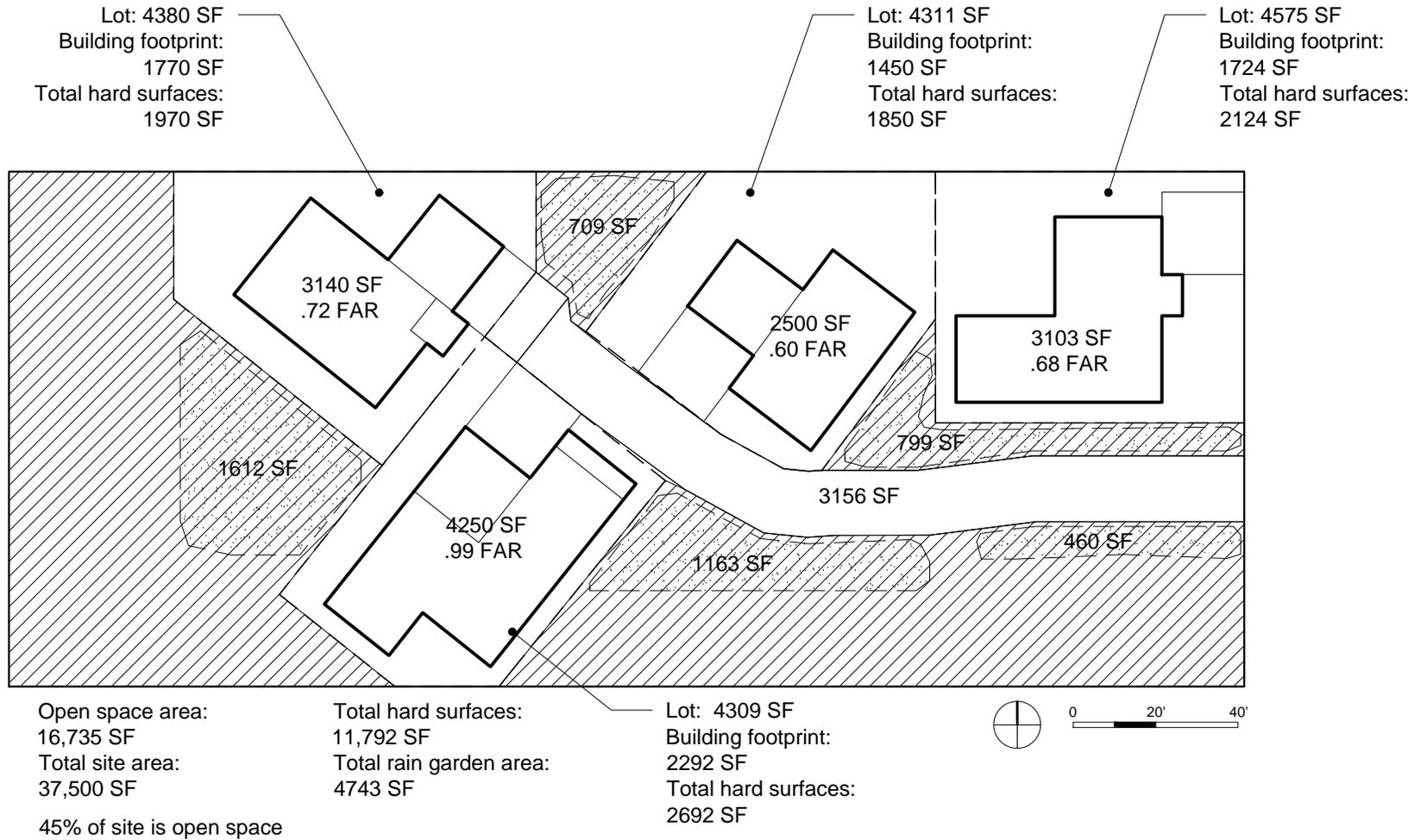
**PRELIMINARY UTILITY PLAN**  
**WANG SHORT PLAT**  
**333 8TH ST S**  
**CITY OF KIRKLAND**  
**WASHINGTON**



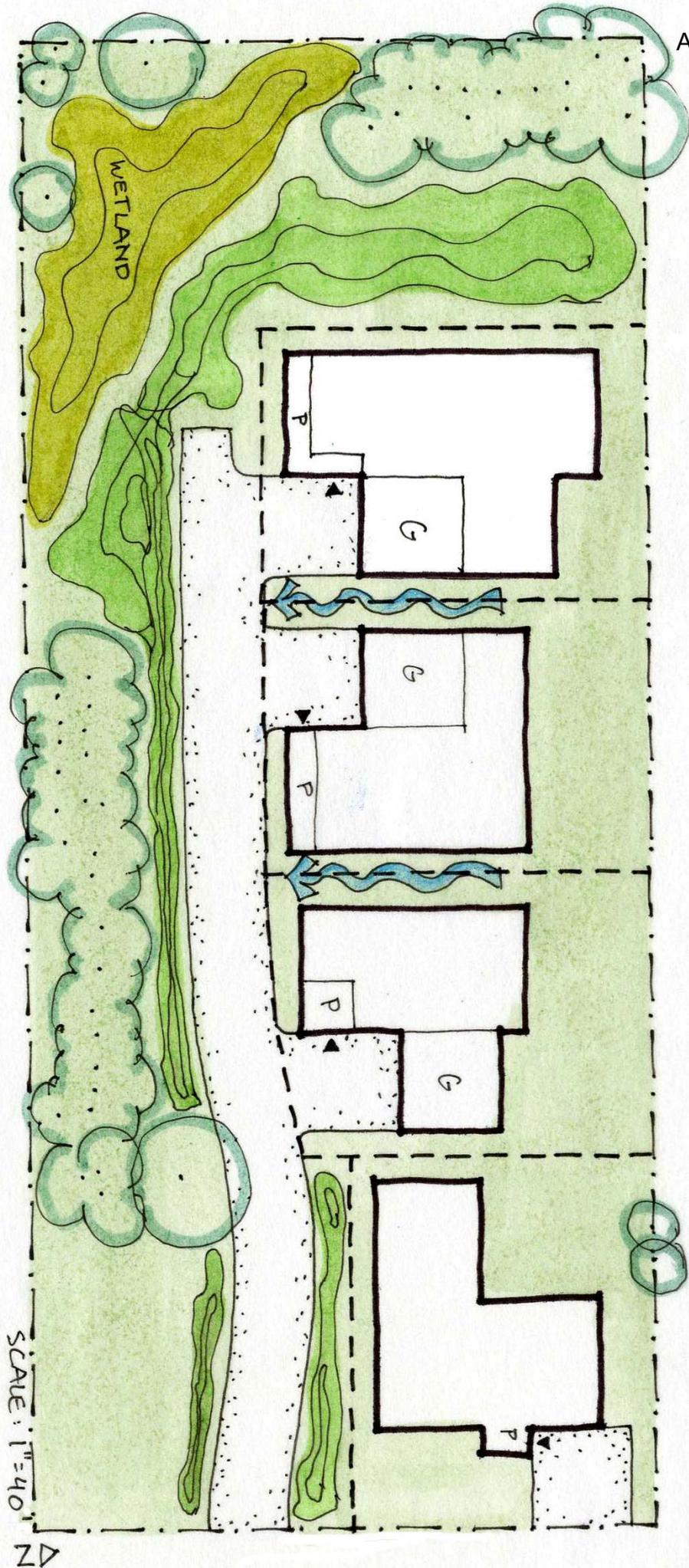
3/31/2011  
JOB NUMBER:  
**10-073**  
SHEET NAME:  
**PU-01**  
SHT 1 OF 3



# Wang Short Plat OPTION 1



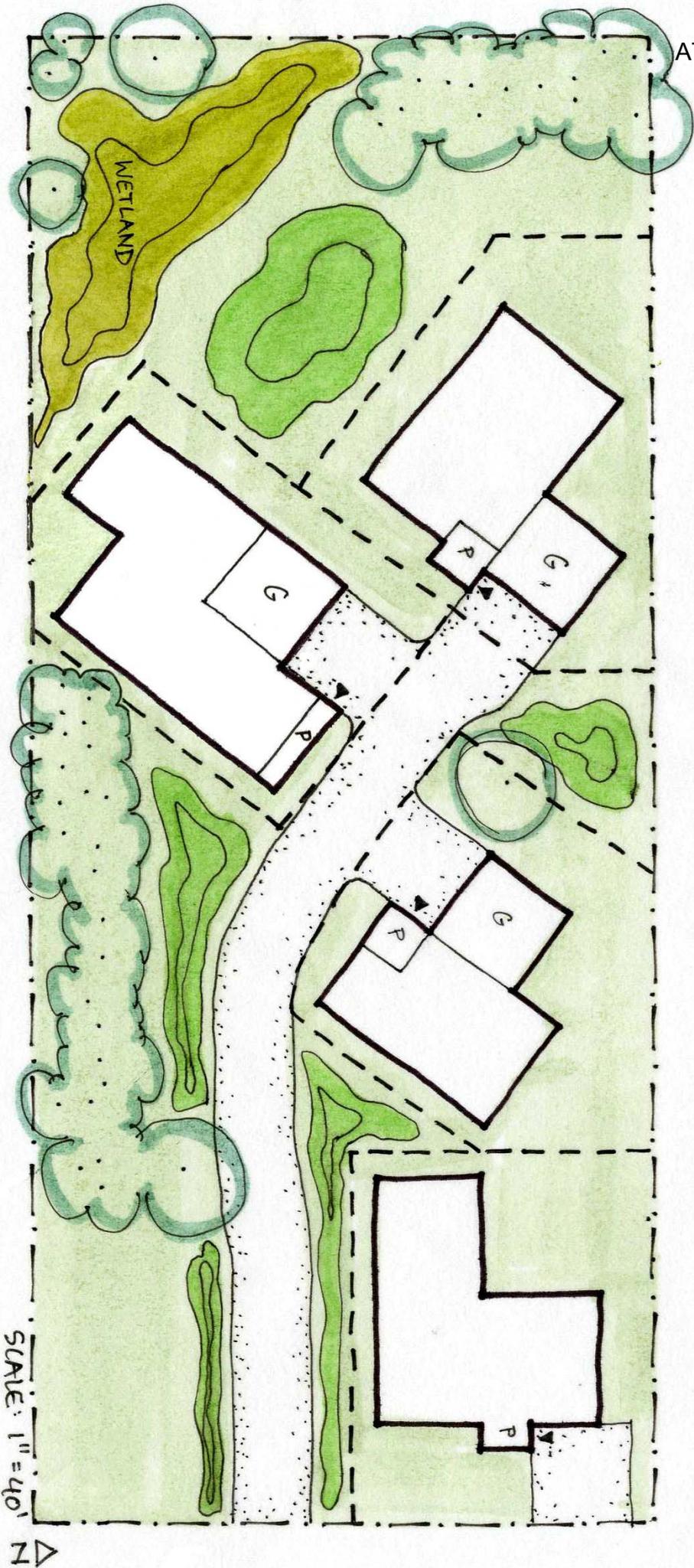
# Wang Short Plat OPTION 2



Wang  
OPTION 1

SCALE: 1" = 40'

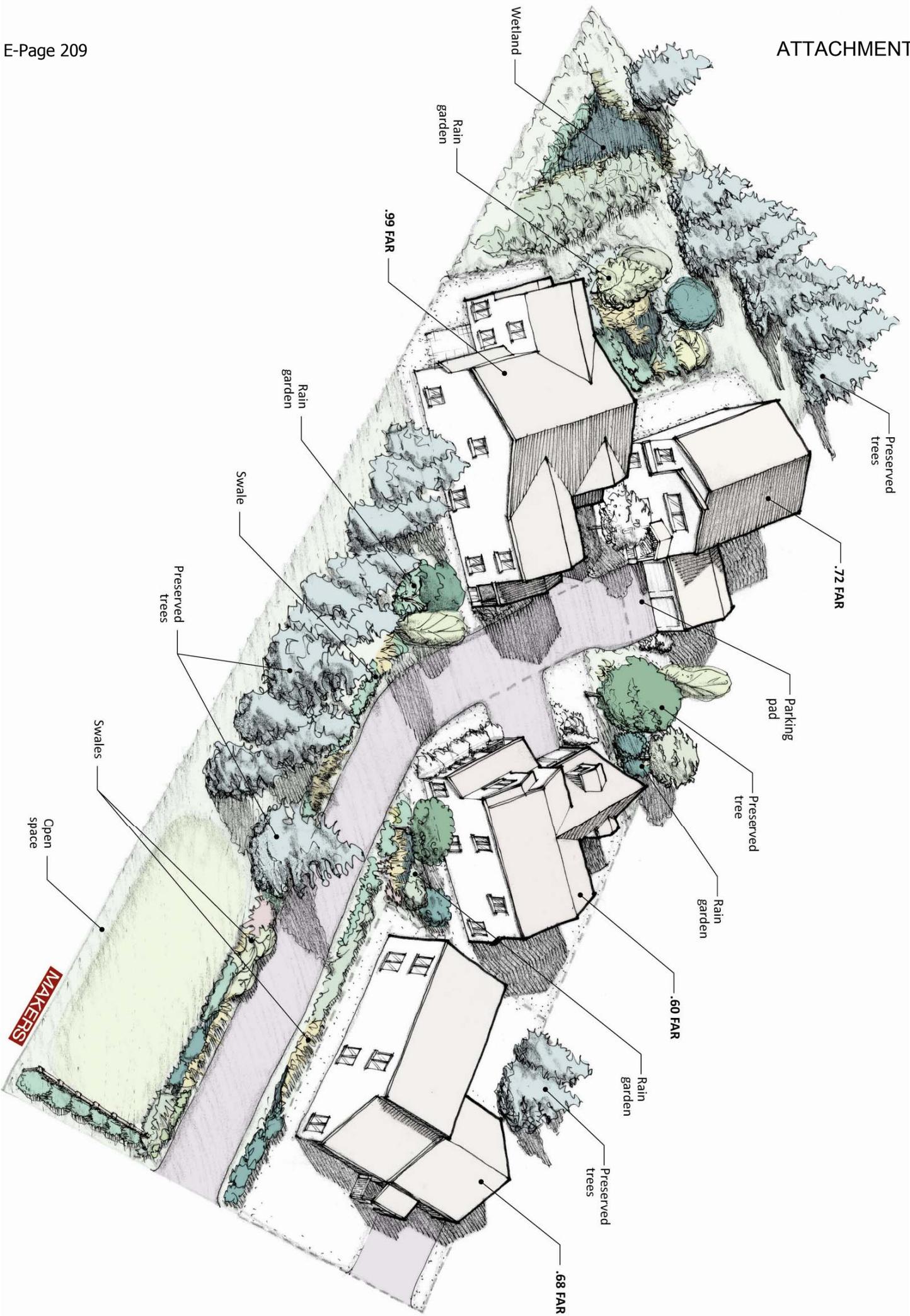




Wang  
OPTION 2

SCALE: 1" = 40'





# GARDEN GATE

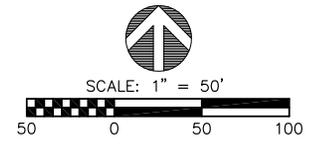
A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., CITY OF KIRKLAND, KING COUNTY, WASHINGTON



### LEGEND

- ⊙ CONCRETE MONUMENT WITH PUNCHMARK IN BRASS DISK IN CASE, STAMPED "29291" (TO BE SET AS CONSTRUCTION IS COMPLETED).
- SET 1/2" X 24" REBAR & PLASTIC CAP "SSI LS 29291", AT CORNERS AND ANGLE POINTS, AS SHOWN (TO BE SET AS CONSTRUCTION IS COMPLETED).
- FOUND PROPERTY CORNER AS NOTED (VISITED: MARCH, 2007)
- (R) RADIAL BEARING
- (A) EXISTING 15' WIDE SANITARY SEWER EASEMENT PER RECORDING NO. 20080429001814
- (B) EXISTING 15' WIDE WATER LINE EASEMENT PER RECORDING NO. 20080429001815
- (C) 15' WIDE ACCESS & UTILITY EASEMENT AS GRANTED BY THIS PLAT & EXISTING 15' WIDE SANITARY SEWER EASEMENT PER RECORDING NO. 20080429001780
- (D) 15' WIDE ACCESS & UTILITY EASEMENT AS GRANTED BY THIS PLAT & EXISTING 15' WIDE SANITARY SEWER EASEMENT PER RECORDING NO. 20080429001781
- (E) 10' WIDE UTILITY & PUBLIC STORM DRAINAGE EASEMENT PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE NORTH PORTION OF LOT 1 AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF THE EASTERLY PORTION OF LOTS 9 AND 10, AS SHOWN, AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 12 THROUGH 17 AND LOT 24, AS SHOWN.
- (F) 13' WIDE UTILITY, PUBLIC STORM DRAINAGE & PUBLIC SIDEWALK/PEDESTRIAN EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE EAST PORTION OF LOT 1 AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 2 THROUGH 7, AS SHOWN.
- (G) 20' WIDE UTILITY & PUBLIC STORM DRAINAGE EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 18 THROUGH 23, AS SHOWN.
- (H) 16' WIDE UTILITY, PUBLIC STORM DRAINAGE & PUBLIC SIDEWALK/PEDESTRIAN EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOT 8, OR AS SHOWN, AND THE NORTHEAST PORTION OF LOT 9, AS SHOWN.
- (J) 10' WIDE PUBLIC SIDEWALK/PEDESTRIAN EASEMENT
- (K) 5' WIDE PRIVATE STORM DRAINAGE EASEMENT
- (L) 5' WIDE PUBLIC SIDEWALK/PEDESTRIAN EASEMENT
- (M) 5' WIDE PUBLIC SIDEWALK/PEDESTRIAN EASEMENT, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 9 AND 10, AS SHOWN.
- (N) 10' WIDE PUGET SOUND ENERGY EASEMENT, PER RECORDING NO. 20080807000600, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE NORTH PORTION OF LOT 1 AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 16 THROUGH 24, AS SHOWN.
- (P) 25' WIDE PUGET SOUND ENERGY EASEMENT, PER RECORDING NO. 20080807000600, PARALLEL WITH AND ADJOINING THE STREET FRONTAGE ALONG THE EAST PORTION OF LOT 1, AS SHOWN, AND PARALLEL WITH AND ADJOINING THE STREET FRONTAGE OF LOTS 2 THROUGH 15, AS SHOWN.
- S.S.E. SANITARY SEWER EASEMENT
- W.E. WATER LINE EASEMENT

| CURVE | DELTA     | LENGTH | RADIUS |
|-------|-----------|--------|--------|
| C1    | 86°12'33" | 37.62' | 25.00' |
| C2    | 22°20'23" | 9.75'  | 25.00' |
| C3    | 23°50'50" | 10.41' | 25.00' |
| C4    | 76°21'30" | 53.31' | 40.00' |
| C5    | 28°38'52" | 20.00' | 40.00' |
| C6    | 31°32'20" | 22.02' | 40.00' |
| C7    | 33°19'29" | 23.27' | 40.00' |
| C8    | 28°38'53" | 20.00' | 40.00' |
| C9    | 73°51'22" | 51.56' | 40.00' |
| C10   | 17°32'37" | 7.65'  | 25.00' |
| C11   | 28°38'36" | 12.50' | 25.00' |
| C12   | 93°47'27" | 40.92' | 25.00' |
| C13   | 05°08'27" | 2.24'  | 25.00' |
| C14   | 10°07'47" | 4.42'  | 25.00' |

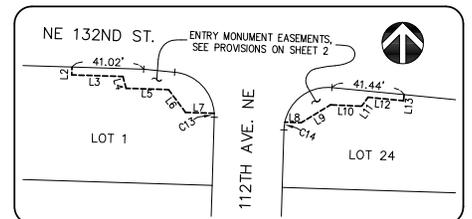


**BASIS OF BEARING**  
 HELD BEARING OF N88°14'53"W BETWEEN MONUMENTS FOUND AT THE NORTH 1/4 CORNER AND THE NE SECTION CORNER OF SECTION 29 PER THE PLAT OF HAMILTON SQUARE, REC. NO. 198209270586 RECORDS OF KING COUNTY, WA.

EQUIPMENT USED:  
 5-SECOND THEODOLITE W/ELECTRONIC DISTANCE METER

METHOD: FIELD TRAVERSE

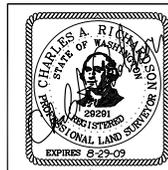
ACCURACY:  
 MEETS OR EXCEEDS STANDARDS SET BY W.A.C. 332-130-090



ENTRY MONUMENT EASEMENT DETAIL 1" = 50'

| LINE | BEARING      | LENGTH |
|------|--------------|--------|
| L1   | N84°26'01"W  | 17.78' |
| L2   | N01°45'07"E  | 4.50'  |
| L3   | N88°14'53"W  | 29.22' |
| L4   | N15°28'22"W  | 6.98'  |
| L5   | N88°14'53"W  | 24.27' |
| L6   | N36°38'38"W  | 16.23' |
| L7   | N88°14'53"W  | 16.39' |
| L8   | N88°14'53"W  | 9.30'  |
| L9   | N58°47'20"E  | 19.63' |
| L10  | N87°30'07"W  | 17.82' |
| L11  | N135°24'22"E | 6.24'  |
| L12  | N84°26'01"W  | 20.38' |
| L13  | N05°33'59"E  | 3.50'  |

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 29, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., CITY OF KIRKLAND, KING COUNTY, WASHINGTON

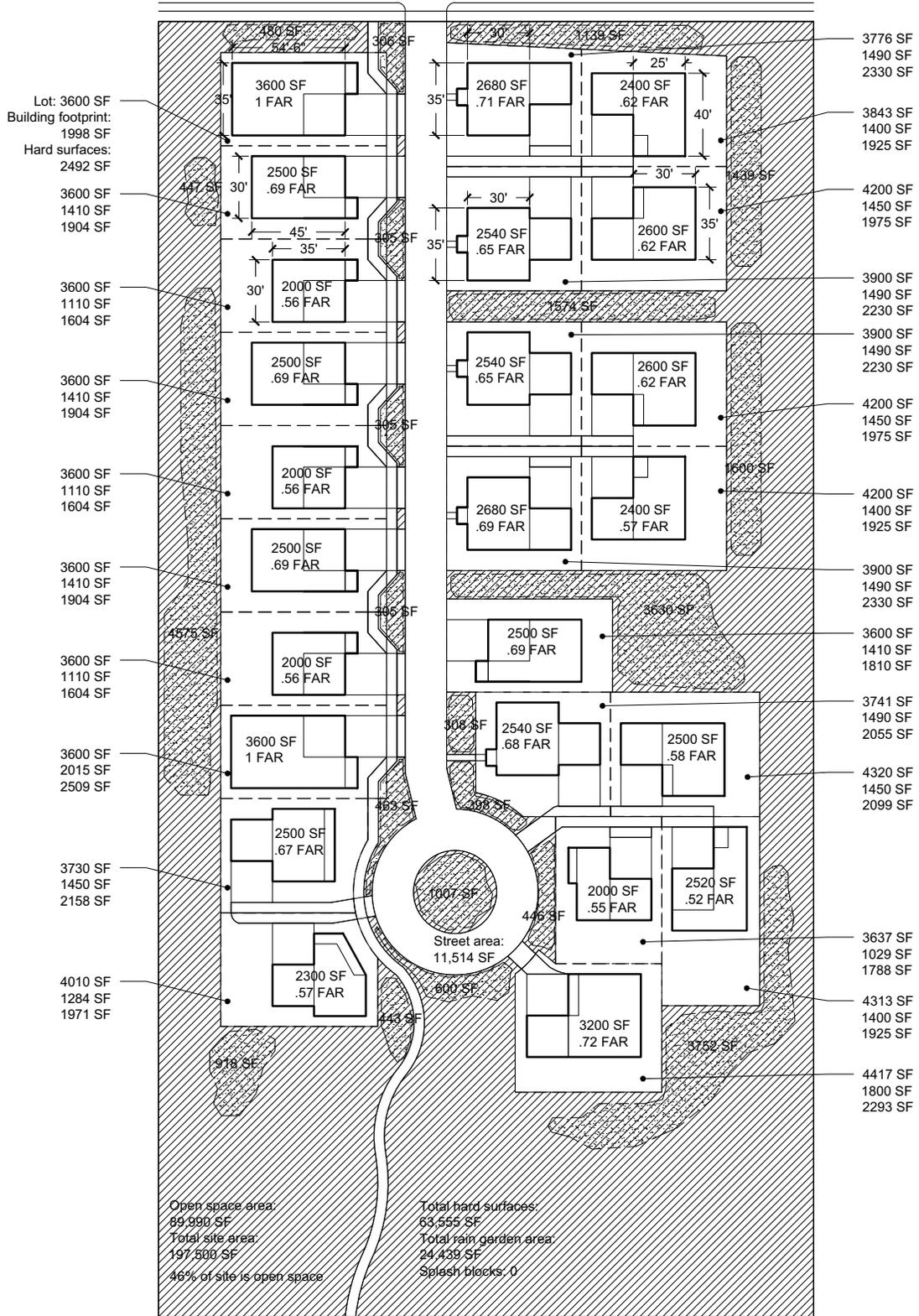


**SUMMIT SURVEYING**  
 12606-82ND AVE. N.E., KIRKLAND, WA 98034  
 (425) 814-8487

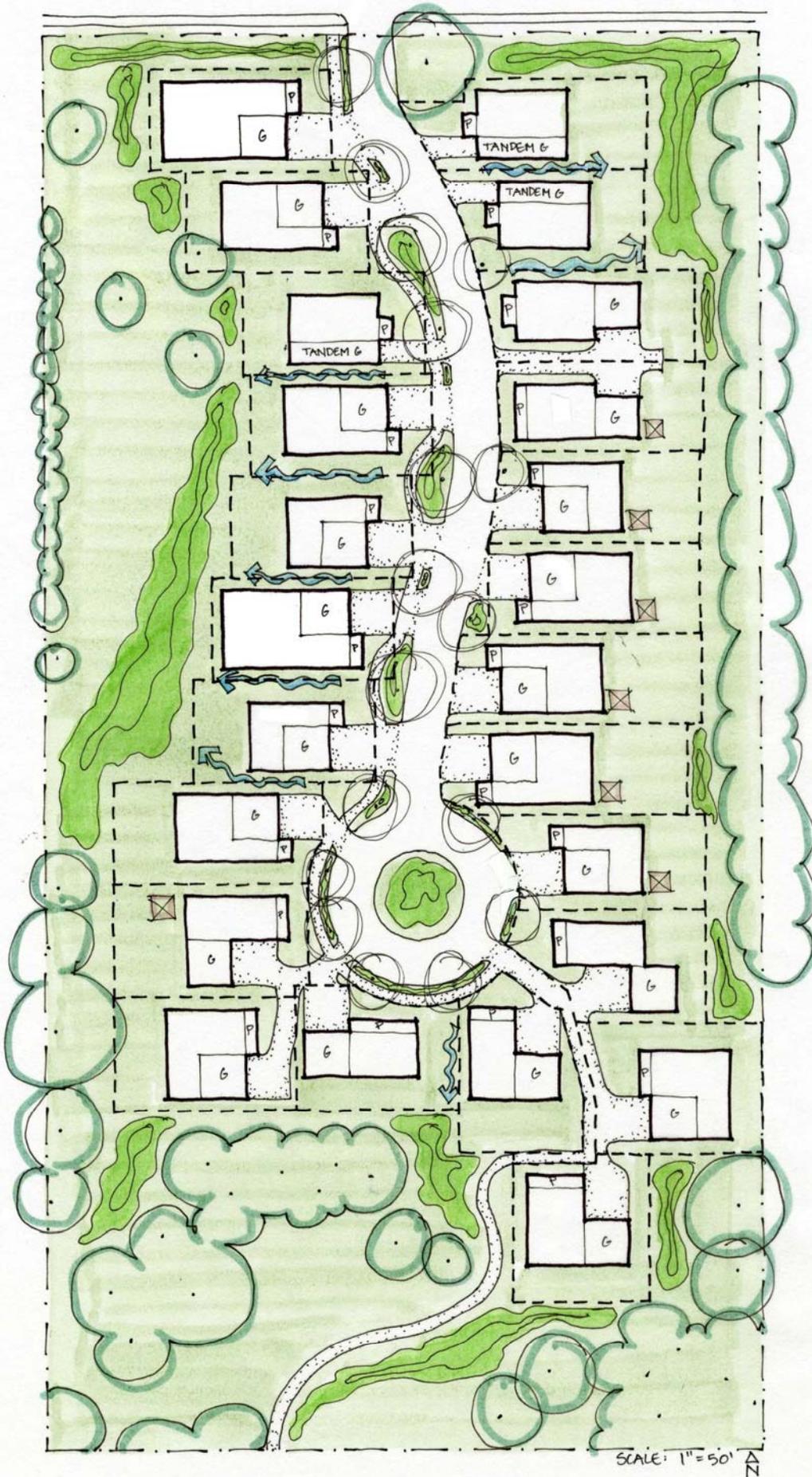
|                   |                 |               |
|-------------------|-----------------|---------------|
| DRAWN BY: CR      | DATE: MAY, 2008 | JOB NO. 07109 |
| CHECKED BY: CR/UT | SCALE: 1" = 50' | SHEET: 3 OF 3 |

08/14/08



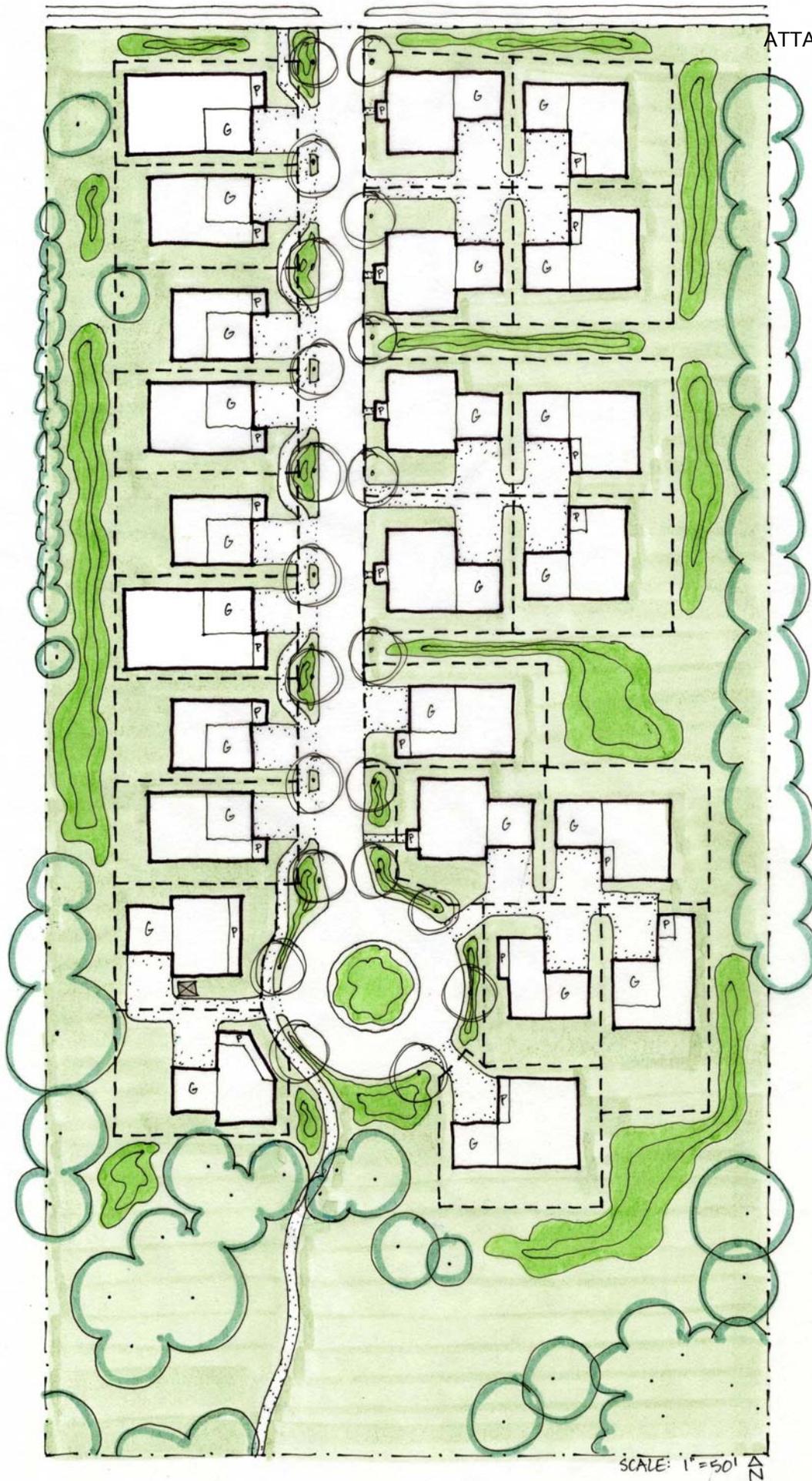


Garden Gate  
 OPTION 2



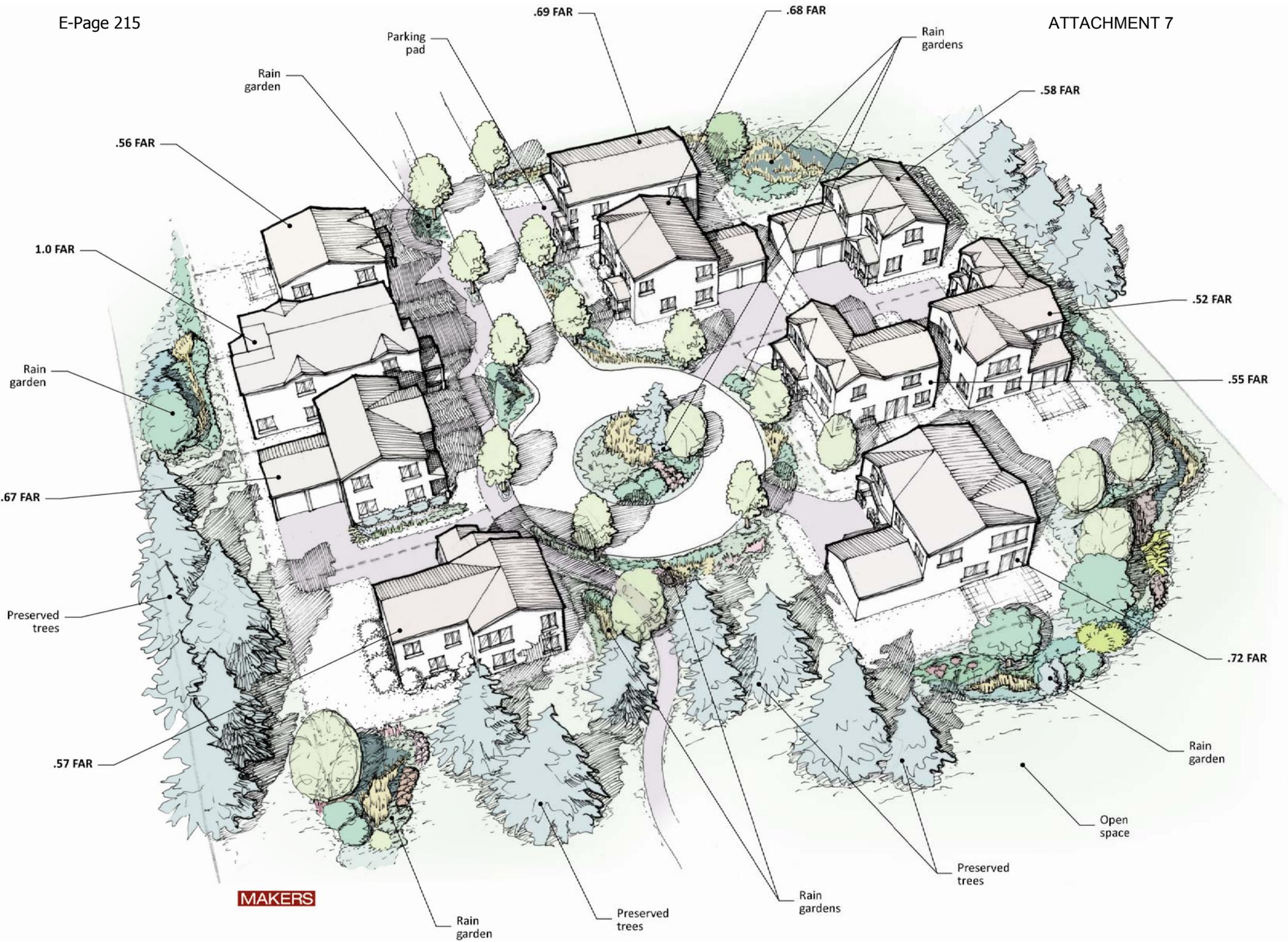
SCALE: 1" = 50' 

Garden Gate  
OPTION 1



SCALE: 1" = 50' N

Garden Gate  
OPTION 2



**MAKERS**

### Fact Sheet

**Action Sponsor and Lead Agency**

City of Kirkland  
Department of Planning and  
Community Development

**Proposed Action**

Legislative adoption of  
Amendments to Kirkland Zoning  
Code Chapters 5, 18, 95, 105,  
110, 115, new Chapter 114 and  
Kirkland Municipal Code Chapters  
15 and 22 – Green Codes  
pursuant to Chapter 160 KZC  
(Process IV).

**Responsible Official**



**Eric R. Shields, AICP**  
**Planning Director**

**Contact Person**

David Barnes - Planner/Project  
Manager, City of Kirkland (425)  
587-3250.

**Required Approvals**

Adoption by Kirkland City Council  
Approval by Houghton  
Community Council for  
amendments within its  
jurisdiction.

**Location of Background Data**

File ZON10-00031  
City of Kirkland  
Department of Planning and  
Community Development  
123 Fifth Avenue  
Kirkland, WA 98033

**Date of Issuance**

January 4, 2012

**City of Kirkland**  
**Process IV – Green Codes**  
**EIS Addendum dated January 4, 2012**  
**File No. ZON10-00031**

**I. Background**

The City of Kirkland proposes to amend Kirkland Zoning Code Chapters 5, 18, 95, 105, 110, 115, new Chapter 114 and Kirkland Municipal Code Chapters 15 and 22 as part of Green Codes. The amendments will be reviewed using the Chapter 160 KZC, Process IV with adoption by City Council and final approval by the Houghton Community Council as the amendments are within their jurisdiction.

This Environmental Impact Statement (EIS) Addendum is intended to fulfill the environmental requirements pursuant to the State Environmental Policy Act (SEPA) for the proposed Zoning Code amendment.

**II. EIS Addendum**

According to the SEPA Rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(2)). An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document (WAC 197-11-600(4)(c), -625 and -706).

The City published the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. This EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). Elements of the environment addressed in this EIS include population and employment growth, earth resources, air quality, water resources, plants and animals, energy, environmental health (noise, hazardous materials), land use, socioeconomics, aesthetics, parks/recreation, transportation, and public services/utilities.

This addendum to the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* is being issued pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities. The EIS evaluated plan alternatives and impacts that encompass the same general policy direction, land use pattern, and

environmental impacts that are expected to be associated with the proposed amendments to Kirkland Zoning Code Chapters 5, 18, 95, 105, 110, 115, new Chapter 114 and Kirkland Municipal Code Chapters 15 and 22 as part of the Green Codes as discussed herein. While the specific location, precise magnitude, or timing of some impacts may vary from those estimated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, they are still within the range of what was evaluated and disclosed there. No new significant impacts have been identified.

### **III. Non-Project Action**

Decisions on the adoption or amendment of zoning ordinances are referred to in the SEPA rules as "non-project actions" (WAC 197-11-704(2)(b)). The purpose of an EIS in analyzing a non-project action is to help the public and decision-makers identify and evaluate the environmental effects of alternative policies, implementation approaches, and similar choices related to future growth. While plans and regulations do not directly result in alteration of the physical environment, they do provide a framework within which future growth and development – and resulting environmental impacts – will occur. Both the adoption of the Comprehensive Plan evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* and eventual action on the Kirkland Zoning Code Chapters 5, 18, 95, 105, 110, 115, new Chapter 114 and Kirkland Municipal Code Chapters 15 and 22 as part of Green Codes are "non-project actions".

### **IV. Environmental Analysis**

The *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* evaluated the environmental impacts associated with adoption of proposed policies and land use designations. The plan's policies are intended to accomplish responsibilities mandated by the Washington State Growth Management Act (GMA), and to mitigate the impacts of future growth. In general, environmental impacts associated with the proposed Zoning Code amendment are similar in magnitude to the potential impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. As this proposal is consistent with the policies and designations of the Comprehensive Plan and the environmental impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, no additional or new significant impacts beyond those identified in the EIS for the Comprehensive Plan are anticipated.

## **V. Description of the Proposal**

Green Codes proposes changes to Kirkland Zoning Code (KZC) Chapters 5, 18, 95, 105, 110, 115, new Chapter 114 and Kirkland Municipal Code Chapters 15 and 22. The changes are summarized as follows:

- Revising Code language to allow pervious surfaces where it was not previously allowed
- Allowing reductions in setback yards for retention of moderate value trees
- Allowing gaps in parking lot curbing and providing examples of natural drainage solutions for Internal Parking lots
- Revising code language to promote use of pervious materials and low impact solutions for lot coverage calculations
- Allowing pervious materials in alleys and privately maintained stormwater facilities in right-of-way with approval from the Public Works Director.
- Creating a new chapter KZC 114 to promote Low Impact Development, smaller lot sizes, and clustering of homes at a short plat or subdivision scale
- Creating new section KZC 115.33 Electric Vehicle Infrastructure (EVI) to comply with the State of Washington requirements (RCW 35.63.125) and make provisions to allow EVI such as charging stations and battery exchange stations and clarify where they are allowed.
- Revising code language to promote alternative fuel vehicles and covered bicycle storage
- Providing height exemptions for solar panels on flat and sloped roofs
- Allowing setback reductions for thicker, energy efficient insulated walls for existing structures
- Adding new definitions and terms

## **VI. Public Involvement**

Staff invited various development professionals (landscape architects, a stormwater engineer and several architects) to attend and contribute their expertise at three meetings held at City Hall. The meetings were meant to obtain input from the perspective of the various professional to help staff identify opportunities for Code changes. Over the course of three meetings and engaging discussions during February and March 2011, staff was able to utilize ideas from the Technical Advisory Board (TAB) meeting to develop the first iteration of proposed Code Changes.

A presentation about the Green Codes project and its intent was made to the Kirkland Alliance of Neighborhoods on November 9<sup>th</sup> 2011. The presentation was well received and the neighborhood leaders were very complimentary of staff efforts.

On November 17<sup>th</sup> 2011, staff convened a few local developers and an engineering firm to review and brainstorm about a major project component, a new LID projects chapter. The meeting was very effective in giving staff feedback on what developers liked, did

not like which incentives were the most attractive. The developer's comments were passed on to the Planning Commission and the Houghton Community Council and several new ideas emerged.

The Planning Commission and the Houghton Community Council will hold a hold joint public hearing on January 12, 2012. Public notice of the amendments and the public hearing and meeting is being provided in accordance with State law. The City Council will take final action on the proposal in March 2012. All dates are subject to change.

## **VII. Conclusion**

This EIS Addendum fulfills the environmental review requirements for the proposed amendments to the Kirkland Zoning Code Chapters 5, 18, 95, 105, 110, 115, new Chapter 114 and Kirkland Municipal Code Chapters 15 and 22 as part of the Green Codes update. The impacts of the proposal are within the range of impacts disclosed and evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*; no new significant impacts have been identified. Therefore, issuance of this EIS Addendum is the appropriate course of action.

### Attachments:

1. New Low Impact Development (LID) Chapter 114, related draft code for KZC 5.490.5, KMC 22.28.042 and KZC 18.10
2. Draft Code for KZC 115.90 – Calculating Lot Coverage
3. Draft Code for KZC 95.32, 95.44, 95.50
4. Draft Code for KZC 105.10, 105.77, 105.100
5. Draft Code for KZC 110.25 and KZC 110.27
6. Draft Code for KMC 15.52.060
7. Draft Code for 115.60.2.a.4, KZC 115.60.2.b.4, KZC 5.10.881.1, KZC 5.10.817 and KZC 115.115.3.q
8. Draft Code for new section KZC 115.33 (EVI), related chapter 5 definitions and KZC 105.67
9. Draft Code for new section 105.34 – Covered Bicycle Storage and KZC 5.10.177

## Chapter 114 – LOW IMPACT DEVELOPMENT

### Sections:

- 114.05 User Guide
- 114.10 Voluntary Provisions and Intent
- 114.15 Parameters for Low Impact Development
- 114.20 Design Standards and Guidelines
- 114.25 Review Process
- 114.30 Additional Standards
- 114.35 Required Application Documentation

### 114.05 User Guide

This chapter provides standards for an alternative type of site development that ensures low impact development (LID) facilities are utilized to manage stormwater on project sites in specified low density zones. If you are interested in proposing detached dwelling units or two unit home that reduce environmental impacts or you wish to participate in the City's decision on a project including this type of site development, you should read this chapter.

### 114.10 Voluntary Provisions and Intent

The provisions of this chapter are available as alternatives to the development of typical lots in low density zones.. In the event of a conflict between the standards in this chapter and the standards in KZC Chapters 15, 17 or 18, the standards in this chapter shall control except for the standards in KZC 83 and 141.

The goal of LID is to conserve and use existing natural site features, to integrate small-scale stormwater controls, and to prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development sites by maintaining a more hydrologically functional landscape. LID may not be applicable to every project due to topography, high groundwater, or other site specific conditions.

The LID requirements in this code do not exempt an applicant from stormwater flow control and water quality treatment development requirements. LID facilities can be counted toward those requirements, and in some cases may meet the requirements without traditional stormwater facilities (pipes and vaults).

The purpose of this chapter is to allow flexibility, establish the development guidelines, requirements and standards for low impact development projects. Because all projects are required to use some form of LID techniques and facilities as feasible, the use of LID techniques does not necessarily fulfill all the requirements for a LID project. This chapter is intended to fulfill the following purposes:

- (1) Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic conditions.
- (2) Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate new technologies and techniques, and the efficient layout of streets, utility networks and other public improvements.
- (3) Minimize impervious surfaces.
- (4) Encourage the creation or preservation of permanent forested open space.

(5) Encourage development of residential environments that are harmonious with on-site and off-site natural and built environments.

(6) Further the goals and the implementation of the policies of the Comprehensive Plan.

### 114.15 Parameters for Low Impact Development

Please refer to KZC 114.30 and 114.35 for additional requirements related to these standards.

|                         |  |
|-------------------------|--|
| Permitted Housing Types | <ul style="list-style-type: none"> <li>• Detached Dwelling Units</li> <li>• Accessory Dwelling Units</li> <li>• 2/3 Unit Homes</li> </ul>  |
| Minimum Lot Size        | <ul style="list-style-type: none"> <li>• Individual lot sizes must be at least 50% of the minimum lot size for the underlying Zone.</li> </ul>   |
| Minimum Number of lots  | <ul style="list-style-type: none"> <li>• 4 lots</li> </ul>   |
| Maximum Density         | <ul style="list-style-type: none"> <li>• As defined in underlying zone's Use Zone Chart</li> <li>• Bonus Density of 10% is under consideration</li> </ul>  |
| Low Impact Development  | <ul style="list-style-type: none"> <li>• LID techniques must be employed to control stormwater runoff generated from 50% of all hard surfaces. This includes all vehicular and pedestrian access. LID facilities must be designed according to Public Works stormwater development regulations as stated in KMC 15.52.</li> </ul>  |
| Locations               | <p>Allowed in Low density Residential Zones with the exception of the following:</p> <p>PLA 16, PLA 3C, RSA 1, RSA8 , RS 35 and RSX 35 zones in the Bridle Trails neighborhood, and the Holmes Point Overlay zone. Any property or portion of a property with shoreline jurisdiction must meet the regulations found in Chapter 83 KZC, including minimum lot size or units per acre and lot coverage.</p> |
| Review Process          | <ul style="list-style-type: none"> <li>• Short Plats shall be reviewed under KMC 22.20.15 and Subdivisions shall be reviewed under KMC 22.12.015.</li> </ul>   |
| Parking Requirements    | <ul style="list-style-type: none"> <li>• 2 stalls per detached dwelling unit</li> <li>• 1 stall per accessory dwelling unit</li> <li>• 1.5 stalls per unit in multi-unit home, rounded to next whole number</li> <li>• See KZC 105.20 for guest parking requirements</li> <li>• Parking pad width required in KZC 105.47 may be reduced to 10 feet.</li> </ul>   |

|   |   |
|---|---|
|   | <ul style="list-style-type: none"> <li>• Parking Pad may be counted in required parking</li> <li>• Tandem Parking is allowed where stalls are share by the same dwelling unit.</li> <li>• Shared garages in separate tract are allowed</li> <li>• All required parking must be provided on the LID project site.</li> </ul>   |
| Ownership Structure   | <ul style="list-style-type: none"> <li>• Subdivision</li> <li>• Condominium</li> </ul>  |
| Minimum Required Yards<br>(from exterior property lines of the LID project) | <ul style="list-style-type: none"> <li>• 20 feet for all front yards</li> <li>• 10 feet for all other required yards</li> </ul>   |
| Minimum Required Yards<br>(from internal property lines)                    | <ul style="list-style-type: none"> <li>• Front: 10 feet</li> <li>• Side and Rear: 5 feet</li> <li>• Zero Lot line for 2/3 unit homes</li> </ul>   |
| Front Porches   | <ul style="list-style-type: none"> <li>• Must comply with KZC 115.115.3.(n), except that Front Entry porches may extend to within 5 feet of the interior required front yard.</li> </ul>  |
| Garage Setbacks   | <ul style="list-style-type: none"> <li>• Must comply with KZC 115.43, except that attached garages on front façade of dwelling unit facing internal front property line must be setback 18 feet from internal front property line.</li> </ul>   |
| Lot Coverage (All impervious surfaces)                                      | <ul style="list-style-type: none"> <li>• Maximum lot coverage for entire site is based on maximum lot coverage percentage of underlying zone.</li> </ul>  |
| Common Open Space   | <ul style="list-style-type: none"> <li>• Minimum of 40% of entire development</li> <li>• Native &amp; undisturbed vegetation is preferred</li> <li>• Allowance of 1% of common open space <b>area</b> for shelters or other recreational structures</li> <li>• Paths connecting <b>and through</b> open space to development must be pervious</li> <li>• Landscape Greenbelt Easement is required to protect and keep open space undeveloped in perpetuity</li> </ul> |
| Maximum Floor Area  | <ul style="list-style-type: none"> <li>• Maximum Floor Area is 50% of the minimum lot size of the underlying zone.</li> </ul>   |

## 114.20 Design Standards and Guidelines

### 1. Required Low Impact Development Stormwater Facilities

Low Impact Development (LID) Stormwater facilities shall be designed to control stormwater runoff from 50% of all hard surfaces created within entire development. This includes all vehicular and pedestrian access. LID facilities shall be designed according to Public Works stormwater development regulations, as stated in KMC 15.52.060. The maintenance of LID facilities shall be maintained in accordance with requirements in KMC 15.52.120. The proposed site design shall incorporate the use

of LID strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

- 1) Preservation of natural hydrology.
- 2) Reduced impervious surfaces.
- 3) Treatment of stormwater in numerous small, decentralized structures.
- 4) Use of natural topography for drainage ways and storage areas.
- 5) Preservation of portions of the site in undisturbed, natural conditions.
- 6) Restoration of Disturbed Sites
- 7) Reduction of the use of piped systems. Whenever possible, site design shall use multifunctional open drainage systems such as rain gardens, vegetated swales or filter strips that also help to fulfill landscaping and open space requirements.

## 2. Required Common Open Space

Common open space shall support and enhance the project's LID stormwater facilities; secondarily to provide a sense of openness, visual relief, and community for Low Impact Development projects. The minimum percentage for common open space is 40% (~~35-40%, exact % is to be determined~~) and is calculated using the size of the whole development. The common open space must be outside of wetlands, streams and their buffers, and developed and maintained to provide for passive recreational activities for the residents of the development.

- 1) Conventional Surface water management facilities, such as vaults and tanks shall be limited within common open space areas and shall be placed underground at a depth to sufficiently allow landscaping to be planted on top of them. Low Impact Development (LID) features are permitted, provided they do not adversely impact access to or use of the common open space for passive recreation. Neither conventional or LID stormwater facilities can result in the removal of healthy native trees, unless a positive net benefit can be shown and there is no other alternative for the placement of stormwater facilities. The Public Works Director must approve locating conventional stormwater facilities within the Common Open Space.
- 2) Existing native vegetation, forest litter and understory shall be preserved to the extent possible in order to reduce flow velocities and encourage sheet flow on the site. Invasive species, such as Himalayan blackberry, must be removed and replaced with native plants (see Kirkland Native Plant List). Undisturbed native vegetation and soil shall be protected from compaction during construction.
- 3) If no existing native vegetation, then applicant may propose a restoration plan that shall include all native species. No new lawn is permitted and all improvements installed must be of pervious materials.

- 4) Vegetation installed in common open space areas shall be designed to allow for access and use of the space by all residents, and to facilitate maintenance needs. However, existing mature trees should be retained.

## 114.25 Review Process

### 1. Approval Process – Low Impact Development Projects

- a. The City will review and process an application for a LID project concurrent with and through the same process as the underlying subdivision proposal (Process I, Chapter 145 KZC for Short Plats; Process IIA, Chapter 150 KZC for Subdivisions. However, public notice for LID projects shall be as set forth under the provisions of Chapter 150 KZC (Process IIA). A Process I review will be required for projects that use a condominium ownership structure and do not subdivide the property into individually platted lots.
- b. Lapse of Approval

Unless otherwise specified in the decision granting Process I approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the Process I approval within four years after the final decision granting the Process I approval or that decision becomes void. The applicant must substantially complete construction consistent with the Process I approval and complete all conditions listed in the Process I approval decision within six years after the final decision on the Process I approval or the decision becomes void. "Final decision" means the final decision of the Planning Director.

### 2. Approval Process – 2/3 Unit Homes

The City will review and process a LID project application that includes a 2/3 unit home with an additional land use process as follows:

One 2/3 unit home requires a Process I review

More than one 2/3 unit home requires a Process IIA review

### 3. Approval Process – Requests for Modifications to Standards

#### a. Minor Modifications

Applicants may request minor modifications to the general parameters and design standards set forth in this chapter. The Planning Director under a Process I, KZC 145 or Hearing Examiner under Process IIA, KZC 150 may modify the requirements if all of the following criteria are met:

- 1) The site is constrained due to unusual shape, topography, easements or sensitive areas, and
- 2) The modification is consistent with the objectives of this chapter, and
- 3) The modification will not result in a development that is less compatible with neighboring land uses.

### 114.30 Additional Standards

1. The City's approval of a Low Impact Development project does not constitute approval of a subdivision or short plat. An applicant wishing to subdivide in connection with a development under this chapter shall seek approval to do so concurrently with the approval process under this chapter.
2. To the extent there is a conflict between the standards set forth in this chapter and Title 22 of the Kirkland Municipal Code, the standards set forth in this chapter shall control.

### 114.35 Required Application Documentation

1. Site Assessment documents to be submitted with application include:
  - a. Survey prepared by a registered land surveyor or civil engineer.
  - b. Location of all existing and proposed lot lines and easements.
  - c. Location of all sensitive areas, including lakes, streams, wetlands, flood hazard areas, and steep slope/erosion hazard areas.
  - d. Landscape Plan showing existing and proposed trees and other vegetation.
2. Soil report prepared by a licensed civil engineer, geotechnical engineer, or engineering geologist.
3. Stormwater Drainage Report/Technical Information Report

## Chapter 5 Amendments:

- 5.490.5 Low Impact Development
- A stormwater management and land development strategy applied at the parcel and the subdivision scale that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

## New - Kirkland Municipal Code Amendment

### 22.28.042 Lots---Low Impact Development

In multiple lot subdivisions (4 lots or more) not located in an RSA 1 zone or in the Holmes Point Overlay and not subject to Sections 22.28.030 and 22.28.040, the minimum lot area shall be deemed to have been met if the minimum lot area is not less than 50% of the lot area required of the zoning district in which the property is located as identified on the zoning map; provided that all lots meet the following standards:

- (a) Within the RSA 6 zone, the lots shall be at least 2,550 square feet.
- (b) Within the RSA 4 zone, the lots shall be at least 3,800 square feet.
- (i) The lots within the Low Impact Development meet the design standards and guidelines and approval criteria as defined in Chapter 114 of the Kirkland Zoning Code.

## KZC 18.10 Special Regulation Amendments

1. Maximum units per acre is as follows:
  - a. In RSA 1 zone, the maximum units per acre is one dwelling unit.
  - b. In RSA 4 zones, the maximum units per acre is four dwelling units.
  - c. In RSA 6 zones, the maximum units per acre is six dwelling units.
  - d. In RSA 8 zones, the maximum units per acre is eight dwelling units.

In RSA 1, 4, 6 and 8 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot.
2. Minimum lot size per dwelling unit is as follows:
  - a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area.
  - b. In RSA 4 zones, the minimum lot size is ~~7,600~~ 3,800 square feet.
  - c. In RSA 6 zones, the minimum lot size is ~~5,400~~ 2,550 square feet.
  - d. In RSA 8 zones, the minimum lot size is 3,800 square feet.
3. Road dedication and vehicular access easements or tracts may be included in the density calculation, but not in the minimum lot size per dwelling unit.
4. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows:
  - a. In RSA 1 zone, F.A.R. is 20 percent of lot size.
  - b. In RSA 4 zones, F.A.R. is 50 percent of lot size.
  - c. In RSA 6 zones, F.A.R. is 50 percent of lot size.
  - d. In RSA 8 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to 12 feet horizontal.

F.A.R. is not applicable for properties located within the jurisdiction of the Shoreline Management Act regulated under Chapter 83 KZC.  
See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information.
5. On corner lots, only one front yard must be a minimum of 20 feet. All other front yards shall be regulated as a side yard (minimum five-foot yard). The applicant may select which front yard shall meet the 20-foot requirement.
6. Garages shall comply with the requirements of KZC 115.43, including required front yard.
7. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

## Chapter 115 Zoning Code Amendments

### 115.90 Calculating Lot Coverage

1. General – The area of all structures and pavement and any other impervious surface on the subject property will be calculated as a percentage of total lot area. If the subject property contains more than one (1) use, the maximum lot coverage requirements for the predominant use will apply to the entire development. The following exceptions shall not exceed an area equal to ten percent of the total lot area. Lot area not calculated under lot coverage must be devoted to open space as defined in KZC 5.610.
2. Exceptions<sup>1</sup>
  - ~~a. Wood decks may be excluded if constructed with gaps between the boards and if there is pervious surface below the decks.~~
  - ~~ba. An access easement or tract that is not included in the calculation of lot size will not be used in calculating lot coverage for any lot it serves or crosses.~~
  - ~~c. For detached dwelling units in low density zones and having a front yard, 10 feet of the width of a driveway, outside of the required front yard, serving a garage or carport; provided, that:
    - 1) This exception cannot be used for flag or panhandle lots;
    - 2) The portion of the driveway excepted from lot coverage calculations shall not exceed 10 percent of the lot area; and
    - 3) The portion of the driveway excepted is not located in an access easement.~~
  - ~~d. Grass grid or brick pavers and compact gravel, when installed over a pervious surface, will be calculated as impervious surface at a ratio of 50 percent of the total area covered.~~
  - ~~e. Outdoor swimming pools.~~
  - ~~f. Pedestrian walkways required by Chapter 83 KZC and KZC 105.18.~~
  - ~~gb. Pervious areas below eaves, balconies, and other cantilevered portions of buildings.~~
  - ~~hc. Landscaped areas at least two (2) feet wide and 40 square feet in area located over subterranean structures if the Planning Official determines, based on site-specific information submitted by the proponent and prepared by a qualified expert, soil and depth conditions in the landscaped area will provide cleansing and percolation similar to that provided by existing site conditions.~~
  - ~~i. Retaining walls not immediately adjacent to other impervious areas.~~
3. Exemptions – The following exemptions will be calculated at a ratio of 50 percent of the total area covered. Exempted area shall not exceed an area equal to ten percent of the total lot area. Installation of exempted surfaces shall be done in accordance with the current adopted King County Stormwater Design Manual.

1. Permeable pavement (non-grassed).
2. Grassed modular grid pavement.
3. Open grid decking over pervious area.
4. Pervious surfaces in compliance with the stormwater design manual adopted in KMC 15.52.06.

Footnote<sup>1</sup>: An exemption for Swimming pools is allowed in the Houghton Jurisdiction if the pool cover is self-draining into the swimming pool and does not cause surface water runoff as determined by the Planning Official.

## **Chapter 5 - Definitions**

### 5.10.610 Open Space

~~– Land not covered by buildings, roadways, parking areas or surfaces through which water can percolate into the underlying soils. Vegetated and pervious land not covered by buildings, roadways, sidewalks, driveways, parking areas, plazas, terraces, swimming pools, patios, decks, or other similar impervious or semi-impervious surfaces.~~

## Chapter 95

### 95.32.3 Incentives and Variations to Development Standards

In order to retain trees, the applicant should pursue provisions in Kirkland's codes that allow development standards to be modified. Examples include but are not limited to number of parking stalls, right-of-way improvements, lot size reduction under Chapter 22.28 KMC, lot line placement when subdividing property under KMC Title 22, Planned Unit Developments, and required landscaping, including buffers for lands use and parking/driving areas.

Requirements of the Kirkland Zoning Code may be modified by the Planning Official as outlined below when such modifications would further the purpose and intent of this chapter as set forth in KZC 95.05 and would involve trees with a high or moderate retention value.

1. Common Recreational Open Space. Reductions or variations of the area, width, or composition of required common recreational open space may be granted.
2. Parking Areas and Access. Variations in parking lot design and/or access driveway requirements may be granted when the Public Works and Planning Officials both determine the variations to be consistent with the intent of City policies and codes.
3. Required Yards. Initially, the applicant shall pursue options for placement of required yards as permitted by other sections of this code, such as selecting one (1) front required yard in the RSX zone and adjusting side yards in any zone to meet the 15-foot total as needed for each structure on the site. The Planning Official may also reduce the front, ~~or~~ side or rear required yards; provided, that:
  - a. No required side yard shall be less than five (5) feet; and
  - b. The required front yard shall not be reduced by more than five (5) feet in residential zones. There shall not be an additional five (5) feet of reduction beyond the allowance provided for covered entry porches.
  - c. Rear yards that are not directly adjacent to another parcel's rear yard but that are adjacent to an access easement or tract, may be reduced by (5) feet.
  - d. No required yard shall be reduced by more than (5) feet in residential zones.

### 95.44 Internal Parking Lot Landscaping Requirements

The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight (8) parking stalls.

1. The parking lot must contain 25 square feet of landscaped area per parking stall planted as follows:
  - a. The applicant shall arrange the required landscaping throughout the parking lot to provide landscape islands or peninsulas to separate groups of parking spaces (generally every eight (8) stalls) from one another and each row of spaces from any adjacent driveway that runs perpendicular to the row. This island or peninsula must be

surrounded by a 6-inch-high vertical curb and be of similar dimensions as the adjacent parking stalls. Gaps in curbs are allowed for stormwater runoff.

- b. Landscaping shall be installed pursuant to the following standards:
  - 1) At least one (1) deciduous tree, two (2) inches in caliper, or a coniferous tree five (5) feet in height.
  - 2) Groundcover shall be selected and planted to achieve 60 percent coverage within two (2) years.
  - 3) Natural drainage landscapes (such as rain gardens, bio-infiltration swales and bioretention planters) are allowed when designed in compliance with the stormwater design manual adopted in KMC 15.52.060.
- c. Exception. The requirements of this subsection do not apply to any area that is fully enclosed within or under a building.

**95.50.4** Installation Standards for Required Plantings

- 4. Soil Specifications. Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than one and three-tenths (1.3) grams per cubic centimeters shall be loosened to increase aeration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage. The soil quality organic content of soils in any landscape area shall comply with the soil quality requirements of the Public Works Pre-Approved Plans. ~~be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings.~~ See subsection (9) of this section for mulch requirements.

**105.10.2.d** Vehicular Access Easement or Tract Standards

- d. The paved surface in an easement or tract shall have a minimum of two (2) inches of asphalt concrete over a suitably prepared base which has a minimum thickness of four (4) inches of crushed rock or three (3) inches of asphalt-treated base. The Department of Public Works is authorized to modify the standards for a paved surface on a case-by-case basis. Pervious surfaces (such as pervious concrete or asphalt, and modular or grassed modular grid pavement) can be used in compliance with the stormwater design manual adopted in KMC 15.52.060.

**105.77** Parking Area Design – Curbing

All parking areas and driveways, for uses other than detached dwelling units, must be surrounded by a 6-inch high vertical concrete curb. Gaps in Curbs are allowed for stormwater runoff.

**105.100** Parking Area Design – Surface Materials

1. General – The applicant shall surface the parking area and driveway with a material comparable or superior to the right-of-way providing direct vehicle access to the parking area. Pervious surfaces (such as pervious concrete or asphalt, and modular grid pavement) can be used in compliance with the stormwater design manual adopted in KMC 15.52.060.
2. Exception – ~~Grass grid pavers~~ Grassed Modular Pavement may be used for emergency access areas that are not used in required permanent circulation and parking areas.

**110.25** Required Public Improvements

1. General – KZC 110.27 through 110.50 establish different improvements for the different classifications of rights-of-way listed in KZC 110.20 and 110.22. KZC 110.52 establishes specific sidewalk and other public improvement standards in Design Districts. Except as specified in subsections (2), (3) and (4) of this section, the applicant shall install the specified improvements from the center line of the right-of-way to the applicant's property line. The applicant may increase the dimensions of any required improvement or install additional improvements in the right-of-way with the written consent of the Public Works Director.
2. Half-Street Improvements – If the one-half (1/2) of the right-of-way opposite the subject property has not been improved based on the provisions of this chapter, the applicant shall install improvements in the right-of-way as follows:
  - a. Alleys. The applicant shall install the required improvements for the entire width of the alley.
  - b. All Other Rights-of-Way.
    - 1) The applicant shall install the required improvements from his/her property line to and including the curb.
    - 2) The applicant shall grade to finished grade all the required driving and parking lanes in the entire right-of-way and a 5-foot-wide shoulder on the side of the right-of-way opposite the subject property.
    - 3) The applicant shall pave outward 20 feet from the curb adjacent to his/her property or as required by the Public Works Director. Pervious pavement is permitted for this section between the edge of the road way to the private driveway.
3. Required Paved Connection – In all cases except for alleys, if the access point for the subject site is not connected to an existing improved street by an improved hard surface, the applicant shall provide a hard surface improvement, of at least 20 feet in width, to the existing improved street. Pervious pavement can be permitted as the hard surface. The applicant may request a modification, deferment or waiver of this requirement through KZC 110.70.
4. Capital Improvement Projects – If the City Council has approved a capital improvements plan for a particular public right-of-way, that plan will govern the improvements required for right-of-way. To the extent feasible, public projects shall be designed pursuant to the standards established for each Design District contained in the Public Works Pre-Approved Plans manual.

**110.27** Alleys

The pavement width of an alley must be at least 12 feet but may be required to be increased by the Public Works Director or Fire Marshall. For all commercial, industrial, office, or multifamily projects, the applicant shall improve the alley abutting the subject property and extend it to the existing improved street, and may be required to improve an additional 30 feet past the property frontage to provide emergency turnaround. For single-family dwellings using the alley for primary vehicular access, the applicant shall pave a 12-foot-wide asphalt apron

extending 20 feet from the nearest improved street toward the subject property. For all types of development permits, the Public Works Director shall determine the extent and nature of other improvements required in alleys on a case-by-case basis. Typical improvements include, but are not limited to, replacement of the alley driveway apron and curb, installation of storm drainage, repair of existing paving, and installation of crushed rock in gravel alleys. The use of pervious pavement in alleys will be considered if approved by the Public Works Director.

**15.52.060 Design and construction standards and requirements.**

(a) The standard plans as defined in Section 15.04.340 shall include requirements for temporary erosion control measures, storm water detention, water quality treatment and storm water conveyance facilities that must be provided by all new development and redevelopment projects. These standards shall meet or exceed the thresholds, definitions, minimum requirements, and exceptions/variances criteria found in Appendix I of the Western Washington Phase II Municipal Stormwater Permit, the 2009 King County Surface Water Design Manual, and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual as presently written or hereafter amended.

(b) Unless otherwise provided, it shall be the developer's and property owner's responsibility to design, construct, and maintain a system which complies with the standards and minimum requirements as set forth in the standard plans.

(c) In addition to providing storm water quality treatment facilities as required in this section and as outlined in the standard plans, the developer and/or property owner shall provide source control ~~BMPs~~ best management practices as described in Volume IV of the 2005 Stormwater Management Manual for Western Washington, such as structures and/or a manual of practices designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to, carwashing at multifamily residential sites and oil storage at auto repair businesses.

(d) Privately maintained stormwater structures are not allowed within the public right-of-way, except on a case by case basis with approval from the Public Works Director.

~~(e)~~(e) The city will inspect all permanent storm water facilities prior to final approval of the relevant permit. All facilities must be clean and fully operational before the city will grant final approval of the permit. A performance bond may not be used to obtain final approval of the permit prior to completing the storm water facilities required under this chapter.

~~(f)~~(f) Adjustment Process. Any developer proposing to adjust the requirements for, or alter design of, a system required as set forth in the standard plans must follow the adjustment process as set forth in the standard plans.

~~(g)~~(g) Other Permits and Requirements. It is recognized that other city, county, state, and federal permits may be required for the proposed action. Further, compliance with the provisions of this chapter when developing and/or improving land may not constitute compliance with these other jurisdictions' requirements. To the extent required by law, these other requirements must be met. (Ord. 4214 § 1, 2009; Ord. 3711 § 4 (part), 1999)

**115.60.2.a.4** Height Regulations – Exceptions

- 4) Solar panels on sloped roof forms(greater than 2:12) may exceed height limits by a maximum of six (6) inches. Solar panels on flat roof forms(less than or equal to 2:12) may exceed height limits by a maximum of twenty (20) inches.

**115.60.2.a.4.b.4**b. Other Structures

- 1) Rooftop appurtenances and their screens, subject to KZC 115.120, including roof forms pursuant to KZC 115.120(3).
- 2) The provisions in Chapter 117 KZC related to personal wireless service facilities supersede the provisions of this section to the extent an appurtenance falls within the definition of a personal wireless service facility.
- 3) Skylights may exceed the height limit by a maximum of six (6) inches.
- 4) Solar panels on sloped roof forms(greater than 2:12) may exceed height limits by a maximum of six (6) inches. Solar Panels on flat roof forms(less than 2:12) may exceed height limits by a maximum of twenty (20) inches.

**115.115.3.q** Required Yards

- q. Insulation, installed in or on an existing structure, may encroach eight (8) inches into a required yard unless precluded by Fire or Building Codes.

**5.10.817** Rooftop Appurtenances

– HVAC equipment, mechanical or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that extend above the roofline of a building, but not including personal wireless service facilities as defined by KZC 117.15. or solar panels as defined by KZC 5.10.881.1.

**5.10.881.1** Solar Panel

-A panel designed to absorb the sun's rays for generating electricity or heating.

## 115.33 is a new section

### 115.33 Electric Vehicle Infrastructure

1. Purpose and Intent - It is the intent of these development regulations to encourage the use and viability of electric vehicles as they have been identified as a solution to energy independence, cleaner air and significantly lower green house gas emissions.

Electric vehicles need access to Electric Vehicle Infrastructure (EVI) in appropriate locations. In 2009 the Washington State Legislature passed House Bill 1481 relating to electric vehicles. The bill addressed EVI which includes the structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

The purpose of the development regulations in this section is to meet the State of Washington requirements and to also allow battery charging stations and battery exchange stations in appropriate use zones throughout the City.

1. General – This section establishes where the components of Electric Vehicle Infrastructure are allowed within the City.

Exceptions-

Electric Vehicle Infrastructure may not be located in any sensitive areas, their buffer or buffer setbacks.

2. All Use Zones

Level I and Level II Battery Charging Stations are allowed as an accessory use to an approved use within all Use Zones.

3. Commercial Zones

- a. A Battery Exchange station is allowed as an accessory use to all commercial zones where repair or maintenance of vehicles is permitted.
- b. A Rapid Battery (Level III) Charging Station is allowed as an accessory use to all commercial zones where repair and maintenance of vehicles is permitted including Gas Stations.

4. Industrial Zones

- a. A Rapid Battery(Level III) Charging Station is allowed as an accessory use to an approved use within the Light Industrial Technology (LIT) or other Industrial zones where Repair and Maintenance of vehicles is permitted.
- b. A Battery Exchange Station is allowed as an accessory use to an approved use within the Light Industrial Technology (LIT) or other industrial zones where repair and maintenance of vehicles is permitted.

5. Institutional Uses

A Rapid Battery Charging Station (Level III) is allowed as an accessory use to an

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approved institutional use.

6. Signage is required to identify a charging station for the exclusive use of an electric vehicle. Onsite signage shall also be required to provide directional assistance. (See Plate 45 in KZC 180).

## 5.10 Definitions

### 5.10.071 Battery Charging Station (Level I, II and III)

- An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW as amended and consistent with rules adopted under RCW 19.27.540 as amended. The terms 1, 2, and 3 are the most common electric vehicle charging levels, and include the following specifications:

- Level 1 is considered slow charging.
- Level 2 is considered medium charging.
- Level 3 is considered fast or rapid charging.

### 5.10.071.5 Battery Electric Vehicle (BEV)

- Any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.

### 5.10.071.6 Battery Exchange Station

- A facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery.

### 5.10.271 Electric Vehicle

- Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle

### 5.10..272 Electric Vehicle Charging Station

-Electrical Vehicle Charging Station - A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

### .273 Electric Vehicle Infrastructure (EVI)

**Attachment 8**

- Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

.274 Electric Vehicle Parking Space

- Any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

**5.10.667 Plug-in-Hybrid Electric Vehicle (PHEV)**

- An electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; (2) charges its battery primarily by connecting to the grid or other off-board electrical source; (3) may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and (4) has the ability to travel powered by electricity.

**5.10.756 Rapid Charging Station**

- An industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels and that meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

**5.10.682 Preferential Parking**

Parking for Carpools, HOV's, high efficiency/low emission electric and alternative fuel vehicles.

## **105 Parking**

**105.67 Parking Area Design – Preferential Parking Allowance**

Parking stalls may be allocated for Preferential Parking. A restriction on types of vehicles using preferred stalls applies from 7AM to 10AM daily.

**105.34** Covered Bicycle Storage

If covered and secured bicycle storage is provided on site, a credit towards parking requirements at a ratio of one less parking stall per 6 bicycle spaces will be granted. The Planning Official may increase credits according to size of development and anticipated pedestrian and bicycle activity and proximity to transit facilities. A maximum reduction of 5% of required parking stalls may be granted. If a reduction of 5 or more stalls is granted, then changing facilities including showers, lockers shall be required.

**5.10.177** Covered Bicycle Storage

An enclosure or shelter in which bicycles can be secured and provides fully covered protection for bicycles from inclement weather and theft.



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**June 24, 2008**

**Ordinance 16147**

**Proposed No.** 2008-0107.3

**Sponsors** Ferguson, Constantine, Phillips,  
Dunn, Lambert, Hague and  
Patterson

1           AN ORDINANCE requiring the use of green building and  
2           sustainable development practices in all capital projects  
3           that the county plans, designs, constructs, remodels,  
4           renovates, and operates or to which the county lends or  
5           grants funds enabling construction or executes long-term  
6           leases or other legal financial instruments causing the  
7           construction of capital projects, as long as certain financial  
8           requirements are met; and adding new sections to K.C.C.  
9           chapter 2.95.

10  
11           BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

12           SECTION 1. Findings:

13           A. Green building and sustainable development practices support the broad goals  
14           of King County, including, but not limited to, growth management, economic  
15           development, historic preservation, fiscal responsibility, environmental protection, access  
16           to public transportation, social equity, stewardship of resource lands, climate change  
17           initiatives, efficient energy and other natural resource uses, preserving fish and wildlife

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18 habitat, reducing and creating resources from wastes and protecting and improving  
19 citizen health.

20 B. King County has shown leadership in establishing climate protection goals  
21 and energy conservation goals through the completion of its climate and energy plans.  
22 The built environment plays a significant role in greenhouse gas emissions and energy  
23 consumption.

24 C. The incorporation of green and sustainable practices into the design,  
25 construction and operation of capital improvement projects can reduce greenhouse gas  
26 emissions, reduce pollution, reduce the use of natural resources, reduce energy and other  
27 operating costs, enhance asset value, optimize performance, promote cultural  
28 sustainability by preserving historic resources and create healthier and more appealing  
29 environments for the visiting public and for King County employees.

30 D. Ordinance 15118, adopted in February 2005, established a green building  
31 policy for all King County buildings, renovations and remodel projects. It requires that  
32 projects seek the United States Green Building Council's ("USGBC") Leadership in  
33 Energy and Environmental Design (LEED®) ("LEED") certification whenever possible.  
34 Ordinance 15118 expires April 1, 2008. By continuing and building on the green  
35 building policies set forth in the current ordinance, the county will further its  
36 sustainability goals.

37 E. The LEED rating system is a nationally recognized system for rating the  
38 performance of buildings and to guide project design. The LEED rating system  
39 components include: sustainable site design; water efficiency; energy and atmosphere;  
40 indoor environmental quality; materials and resources; and innovation in design. The

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41 achievement of LEED performance targets reduces operating costs, enhances asset value,  
42 optimizes building performance and creates healthier and more productive workplaces for  
43 King County employees and visitors. Members of the USGBC representing all segments  
44 of the building industry created the LEED program and continue to contribute to its  
45 development.

46 F. Statistics show that green buildings that use the LEED rating system cost on  
47 average zero to two percent more to build, but depending on the level of LEED  
48 certification, may save as much as fifty dollars to seventy-five dollars per square foot  
49 over a twenty-year period. For example, a one-hundred-thousand-square-foot building  
50 may return a savings of between five million dollars to seven million five hundred  
51 thousand dollars in operating costs over twenty years.

52 G. King County currently has fourteen buildings registered with the USGBC.  
53 Three of these buildings have been completed and have received their LEED  
54 certification. These buildings are the Kent Pullen Regional Communication &  
55 Emergency Coordination Center, which is LEED Certified, King Street Center, which is  
56 LEED-existing building operations (EB) Gold, and Power Distribution Headquarters,  
57 which is LEED Certified.

58 H. King County has shown its commitment to incorporating green building and  
59 sustainable development practices in capital improvement projects through a variety of  
60 projects. The types of projects where LEED certification may apply include, but are not  
61 limited to, office buildings, transfer stations, portions of wastewater treatment plants,  
62 maintenance facilities, recreational facilities and medical facilities. The types of projects  
63 where LEED certification may not be feasible because of the scope of the project or the

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64 type of structure, but where sustainable development practices could apply include, but  
65 are not limited to, bus passenger shelters, restroom facilities, pump stations, parking  
66 garages, roads, sidewalks, bridges, flood control improvements, conveyance lines and  
67 rehabilitation of designated landmarks or properties that are eligible for landmark  
68 designation.

69 I. King County develops, owns and operates a wide variety of facilities that  
70 require ongoing operation and maintenance. Ensuring that these facilities are designed,  
71 operated and maintained using green and sustainable practices have the goal of reducing  
72 operating and maintenance costs, conserving energy, reducing greenhouse gas emissions  
73 and improving indoor air quality.

74 J. As of May 2008, King County is facing potential general fund shortfalls as  
75 much as \$21.7 million in 2008 and \$67.3 million in 2009 as reported by the office of  
76 management and budget. These financial conditions necessitate careful consideration  
77 and accounting of the costs of construction, operations and maintenance of all county  
78 facilities.

79 NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 2.95 a  
80 new section to read as follows:

81 The definitions in this section apply throughout this chapter unless the context  
82 clearly requires otherwise.

83 A. "Capital project" refers to a project with a scope that includes one or more of  
84 the following elements: acquisition of a site or acquisition of an existing structure, or  
85 both; program or site master planning; environmental analysis; design; construction;  
86 major equipment acquisition; reconstruction; demolition; or major alteration of a capital

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87 asset. A capital project shall include: a project program plan; scope; budget by task; and  
88 schedule.

89 B. "County green building team" or "green building team" means a group that  
90 includes representatives from county agencies with capital project or building  
91 management staff including, but not limited to, the department of transportation, the  
92 department of natural resources and parks, the department of executive services, the  
93 department of development and environmental services, the department of public health  
94 and the historic preservation program in the office of business relations and economic  
95 development. The members represent staff with expertise in project management,  
96 construction management, architecture, landscape architecture, environmental planning,  
97 design, engineering, historic preservation and resource conservation, public health,  
98 building energy systems, building management, budget analysis and other skills as  
99 needed. The green building team provides assistance and helps to disseminate  
100 information to project managers in all county agencies.

101 C. "Facility" means all or any portion of buildings, structures, infrastructure,  
102 sites, complexes, equipment, utilities and conveyance lines.

103 D. "GreenTools program" means the support team located within the solid waste  
104 division of the department of natural resources and parks that provides green building  
105 technical assistance to county divisions, cities and the general public within King County.

106 E. "Integrated design process" means an approach to project design that seeks to  
107 achieve high performance on a wide variety of well-defined environmental and social  
108 goals while staying within budgetary and scheduling constraints. It relies on a  
109 multidisciplinary and collaborative team whose members make decisions together based

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110 on a shared vision and a holistic understanding of the project. It is an iterative process  
111 that follows the design through the entire project life, from predesign through operation.

112 F. "Leadership in Energy and Environmental Design" or "LEED" means a  
113 voluntary, consensus-based national standard for developing high-performance,  
114 sustainable buildings. A LEED certification is available for: new construction and major  
115 renovation projects, which is LEED-NC; existing building operations, which is LEED-  
116 EB; commercial interior projects, which is LEED-CI; and core and shell projects, which  
117 is LEED-CS. LEED certifications that are in the pilot phase now include LEED for  
118 Homes and LEED for Neighborhood Development.

119 G. "LEED-eligible building" means a new construction project larger than five  
120 thousand gross square feet of occupied or conditioned space as defined in the Washington  
121 state energy code, which is chapter 51-11 WAC, or a major building remodel or  
122 renovation project.

123 H. "Major remodel or renovation" means work that demolishes space down to the  
124 shell structure and rebuilds it with new interior walls, ceilings, floor coverings and  
125 systems, when the work affects more than twenty-five percent of a LEED-eligible  
126 building's square footage and the affected space is at least five-thousand square feet or  
127 larger.

128 I. "Minor remodel or renovation" means any type of remodel or renovation that  
129 does not qualify as a major remodel or renovation.

130 J. "New construction" means a new building or structure.

131 K. "Present value" means the value on a given date of a future payment or series  
132 of future payments, discounted to reflect the time value of money and other factors such

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133 as investment risk.

134 L. "Retrocommissioning" is a detailed, systematic process for investigating an  
135 existing building's operations and identifying ways to improve performance. The  
136 primary focus is to identify operational improvements to obtain comfort and energy  
137 savings.

138 M. "Sustainable development practices" means whole system approaches to the  
139 design, construction and operation of buildings and infrastructure that help to mitigate the  
140 negative environmental, economic, health and social impacts of construction, demolition,  
141 operation and renovation while maximizing the facilities' positive fiscal, environmental  
142 and functional contribution. Sustainable development practices recognize the  
143 relationship between natural and built environments and seek to minimize the use of  
144 energy, water and other natural resources while providing maximum benefits and  
145 contribution to service levels to the system and the connecting infrastructures.

146 N. "Sustainable infrastructures" means those infrastructures and facilities that are  
147 designed, constructed and operated to optimize fiscal, environmental and functional  
148 performance for the lifecycle of the facility. Sustainable performance of infrastructure  
149 shall be determined through an integrated assessment, one that accounts for fiscal,  
150 environmental and functional costs and benefits, over the life of the facility.

151 SECTION 3. There is hereby added to K.C.C. chapter 2.95 a new section to read  
152 as follows:

153 A. The intent of this policy is to ensure that the design, construction, maintenance  
154 and operation of any King County-owned or financed capital project is consistent with  
155 the latest green building and sustainable development practices.

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156 B. This policy applies to all King County-owned or lease-to-own capital projects,  
157 excluding projects that have already completed thirty percent of the design phase at the  
158 time of ordinance adoption.

159 C. All capital projects to which this chapter applies shall utilize relevant LEED  
160 criteria to implement sustainable development practices in planning, design, construction  
161 and operation as set forth in this chapter.

162 D. All LEED-eligible new construction and major remodels and renovations shall  
163 be registered through the United States Green Building Council and should plan for and  
164 achieve a LEED Gold certification, as long as a Gold certification can be achieved with  
165 no incremental cost impact to the current expense fund over the life of the asset and an  
166 incremental cost impact of no more than two percent to other funds over the life of the  
167 asset, as compared to a project that is not seeking a LEED rating. At or before the project  
168 has reached thirty percent of the design phase, the project team shall conduct an analysis  
169 that determines the incremental costs for achieving a LEED Gold rating as compared to a  
170 building that is not seeking a LEED rating. The analysis shall include the up-front  
171 incremental construction costs, the up-front costs of registration and certification and the  
172 present value of operations and maintenance cost savings over the life of the asset. For  
173 the purposes of this analysis, operations and maintenance cost savings shall be comprised  
174 of projected costs the county will incur over the life of the asset. The costs included in  
175 this analysis shall be quantifiable, documented and verifiable by third-party review upon  
176 project completion and thereafter.

177 At thirty percent of the design phase, the project team shall also provide a  
178 summary discussion of the LEED points that the project will achieve and the LEED

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179 points that are technically infeasible for the project to obtain.

180 For projects achieving a LEED rating, the project team shall ensure that energy  
181 efficiency is given the highest priority. Project teams shall submit a completed LEED  
182 checklist, which documents which LEED points the project team expects to achieve, to  
183 the green building team, initially at the schematic or thirty percent design phase of the  
184 project and then at the completion of the project.

185 If it is determined that costs are too high to achieve a LEED Gold rating, or that  
186 the project is unable to achieve that rating for technical reasons, projects shall achieve the  
187 highest rating possible with no incremental cost impact to the current expense fund over  
188 the life of the asset and an incremental cost impact of no more than two percent to other  
189 funds over the life of the asset as compared to a project not achieving a LEED rating.

190 There may be extenuating circumstances for some LEED-eligible projects that make it  
191 cost prohibitive to achieve any level of LEED certification. These projects must submit a  
192 written summary to the director of the department managing the project for approval,  
193 documenting the reasons why the project is not getting a LEED certification.

194 E. All capital projects, where the scope of the project or type of structure limits  
195 the ability to achieve LEED certification, shall incorporate cost-effective green building  
196 and sustainable development practices based on relevant LEED criteria and other  
197 applicable sustainable development goals and objectives. These projects shall use a  
198 project scorecard that is to be developed by the green building team, along with  
199 guidelines for using the scorecard. The project scorecard and guidelines will be  
200 developed by the green building team in conjunction with divisions that have capital  
201 project or building management staff and the GreenTools technical support team. The

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202 project scorecard and related guidelines for non-LEED projects shall be developed by  
203 January 1, 2009. Project teams shall submit a completed project scorecard to the green  
204 building team, initially at the schematic or thirty percent design phase of the project and  
205 then at the completion of the project. For small, related capital projects with construction  
206 costs of less than seven hundred and fifty thousand dollars each that are implemented as  
207 part of a program, the project scorecard and reporting requirements may be done for the  
208 program rather than for each individual small project.

209 F. For those projects which only involve making either renewable energy  
210 improvements or energy efficiency improvements, or both, at or before the project has  
211 reached thirty percent of the design phase, the project team shall conduct an analysis that  
212 determines the incremental costs of making such improvements. The costs to be included  
213 in this analysis shall include the up-front incremental construction costs and the present  
214 value of the operations and maintenance cost savings over the life of the asset. For the  
215 purposes of this analysis, operations and maintenance cost savings shall be comprised of  
216 projected costs the county will incur over the life of the asset. The costs included in this  
217 analysis shall be quantifiable, documented and verifiable by third-party review upon  
218 project completion and thereafter.

219 G. To help achieve a standard level of green building operations in existing  
220 buildings, the green building team, in coordination with divisions that have capital project  
221 or building management staff and the GreenTools technical support team, shall develop a  
222 set of both mandatory and recommended green building operational guidelines for  
223 divisions to incorporate into their facility operations procedures. The guidelines shall  
224 provide direction on the use of green practices in minor remodels and renovations, water

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225 and energy conservation, waste reduction and recycling expectations, green cleaning  
226 standards and retrocommissioning to improve a facility's operating performance. The  
227 guidelines shall be developed by January 1, 2009.

228 H. No later than January 31 of each year, all divisions responsible for capital  
229 improvement projects or building management shall submit a report to the department of  
230 natural resources and parks, detailing the green building and sustainable development  
231 accomplishments for the previous year. The green building team shall develop a  
232 reporting form for this purpose and issue it to all divisions responsible for capital  
233 improvement projects or building management no later than January 1, 2009, to be used  
234 for the 2009 reporting year. Information to be submitted shall include, but not be limited  
235 to:

236 1. The total number of capital projects a division is responsible for; number of  
237 LEED projects and other sustainable development projects, such as historic restoration  
238 and adaptive reuse, and their status;

239 2. The additional costs associated with achieving LEED certification;

240 3. The total number of non-LEED projects that have completed a sustainable  
241 development scorecard;

242 4. The green strategies employed;

243 5. The operations and maintenance costs for all completed projects  
244 incorporating green building principles and practices and projects incorporating  
245 renewable energy or energy efficiency components, as well as the operations and  
246 maintenance costs that were projected before construction;

247 6. The reductions in greenhouse gas emissions;

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248 7. The construction waste recycled; renewable resources used;

249 8. The green materials used; and

250 9. The fiscal performance of all projects incorporating green building principles  
251 and practices including an accounting of all project costs and benefits that can be  
252 quantified, documented and verified.

253 I. The department of natural resources and parks shall compile an annual progress  
254 report of county projects using the information submitted by departments. Eleven copies  
255 of the annual progress report shall be filed with the clerk of the council by May 1 of each  
256 year, for distribution to all councilmembers.

257 J. The green building team shall coordinate and share information about the use  
258 of sustainable development practices countywide and, with assistance from the  
259 GreenTools program, develop tools and training for project managers to implement this  
260 legislation. Its role includes:

261 1. Helping to assess regionally appropriate green building and sustainable  
262 development practices;

263 2. Developing regionally appropriate building and infrastructure design  
264 standards and guidelines;

265 3. Developing tools and procedures for assessing life-cycle fiscal,  
266 environmental and functional costs and benefits;

267 4. Convening and facilitating sustainable development planning and charrette  
268 workshops;

269 5. Evaluating performance of projects and facilities, including conducting post  
270 occupancy surveys, energy and water use audits and evaluating benefits realized; and

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271           6. Tracking and reporting progress on implementation of green building and  
272 sustainable development practices.

273           K. Each division with capital project or building management staff shall  
274 designate one or more green building team member or members. The team member is  
275 expected to regularly attend meetings and actively participate in disseminating  
276 sustainable development practices information back to the respective division. Green  
277 building team members should also receive either specialized training or additional  
278 training, or both, in green building design and should be encouraged to achieve the LEED  
279 Accredited Professional designation, as appropriate.

280           L. County capital improvement project managers that are currently managing or  
281 will manage projects that fit the criteria in subsections D. and E. of this section are  
282 responsible for attending appropriate LEED and sustainable development training and  
283 annual refresher courses. Trainings shall be coordinated by the green building team.

284           M. The GreenTools program shall provide technical support for the county green  
285 building team and to cities and the general public in the county as appropriate, including,  
286 but not limited to, training on LEED and other green building and sustainable  
287 development technologies, research, project review, assisting with budget analysis and  
288 convening groups to develop strategies and policies relating to green buildings and  
289 sustainable infrastructures.

290           N. The preservation, restoration and adaptive reuse of existing buildings is an  
291 important green building strategy because historic preservation is, in itself, sustainable  
292 development. As part of the county green building strategy, the county shall preserve and  
293 restore the historic landmarks and properties eligible for landmark designation that are

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294 owned by the county, except in cases where a certificate of appropriateness is granted by  
295 the King County landmarks commission. Projects involving designated landmarks or  
296 properties that are eligible for landmark designation shall seek to maximize green  
297 building strategies such as natural daylighting and passive ventilation. However, the  
298 King County landmarks commission or other applicable regulatory body may waive  
299 requirements of this section upon issuing findings that strict compliance with this chapter  
300 would adversely affect the historic character of the resource in question, or that there are  
301 no feasible alternatives for preservation.

302 SECTION 4. There is hereby added to K.C.C. chapter 2.95 a new section to read  
303 as follows:

304 A. The department of natural resources and parks shall continue the green  
305 building grant program established to provide incentives to the private sector, nonprofit  
306 organizations and suburban cities to adopt green building and sustainable development  
307 practices.

308 B. Grant funding shall be supported by the solid waste division, the water and  
309 land resources division and the wastewater treatment division. Other county department  
310 and divisions may also participate in the grant program. Grant funding shall be identified  
311 annually, consistent with approved funding of each division's annual budget.

312 C. Grant funds shall be managed by the GreenTools program in cooperation with  
313 the wastewater treatment and water and land resources divisions.

314 D. Green building grant funding may go to residential or commercial projects  
315 that meet a discrete set of eligibility requirements, are in the service area of the division  
316 providing the grant funding and are selected in a competitive award process. Grant

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317 projects must provide educational opportunities to the public to increase the awareness  
318 and benefits of green building and sustainable development in King County.

319 SECTION 4. This ordinance expires December 31, 2013.

320

321

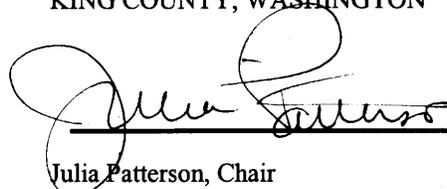
Ordinance 16147 was introduced on 2/25/2008 and passed as amended by the Metropolitan King County Council on 6/23/2008, by the following vote:

Yes: 9 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague

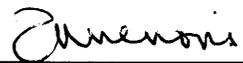
No: 0

Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
\_\_\_\_\_  
Julia Patterson, Chair

ATTEST:

  
\_\_\_\_\_  
Anne Noris, Clerk of the Council

APPROVED this 3 day of July, 2008.

  
\_\_\_\_\_  
Ron Sims, County Executive

**Attachments**      None

|  |   |
|--|---|
| Bellevue . Bothell . Burien . Duvall . Gig Harbor . Issaquah . Kenmore . Kirkland . Mercer Island  |   |
|  <p>a service of eCityGov.net<br/><b>MyBuildingPermit.com</b></p> | <p><b>DRAFT</b></p> <p><b>Alternate Methods<br/>Rainwater Harvesting</b><br/>September 2009</p> |
| Mill Creek . Mukilteo . Renton . Sammamish . Sea Tac . Snohomish County . Snoqualmie . Woodinville   |   |

### What is Rainwater Harvesting?

Rainwater harvesting involves the capture and storage of rainwater, the practice of which has been ongoing for thousands of years. Captured rainwater has many uses. In the Pacific Northwest, people use it for eco-friendly purposes such as supplementing yard irrigation or use with some plumbing fixtures. Rainwater harvesting can be as simple as collecting roof water stored in rain barrels to complex systems using underground tanks, filters, valves and pumps.

### Are there government regulations involved in rainwater harvesting?

In the State of Washington, the Department of Ecology (DOE) regulates water resources by law. RCW 43.27A.020 broadly defines water resources as “*all water above, upon or beneath the surface of the earth located within the state*”. DOE however recognizes that rainwater harvesting has many benefits and that regulating the use of small amounts of rainwater was not likely the intention of the statute and therefore does not require permits for systems using negligible amounts of rainwater. The term “negligible” is not specifically defined by the state but DOE does provide an example noting residential rain barrels storing a few hundred gallons. DOE is currently working on new rulemaking to better define this. Property owners then must be aware that if they intend to collect rainwater over 200 gallons without DOE permits, they do so without certainty that they are free from potential enforcement. If in doubt, obtain verification from DOE regarding your specific project.

As a general rule, local governments **do not** allow rainwater systems or any other unapproved water source to be connected to plumbing systems or public water supply. Plumbing systems are strictly regulated through the state amended Uniform Plumbing Code (UPC) which is adopted by local jurisdictions. Plumbing systems include all potable water, distribution pipes, plumbing fixtures, traps, vent pipes, drains, sewers, joints connections, devices, receptors and appurtenances within the property.

Building departments that are members of the e-Gov Alliance and MyBuildingPermit.com have created this document which provides for an exemption and alternate method addressing these regulations. These are identified below.

### Are there any permit exemptions allowed for installing simple rainwater harvesting systems at my residence?

Simple systems that collect roof rainwater through downspouts then directly deposit that water into approximate 55 gallon rain barrels are exempt from the requirements of a local permit. Water barrels may be interconnected and the collected water may only be used for outdoor irrigation purposes. There shall be no electrical power, pumps, pressurization, controls or potable water connection to any part of the system. This exemption only applies to detached one and two family dwellings and townhomes as defined in the International Residential Code.

### Are there alternatives methods allowed to connect rainwater systems to building plumbing systems?

The state amended version of the Uniform Plumbing Code regulates any and all work connected with plumbing. The code generally allows for an alternate method of design when strict compliance of the code is not possible and where it can be shown that the intent of the code is met and or exceeded.

**Approved Alternative Method allowing for harvested rainwater connection to building plumbing systems**

Proposed harvested rainwater systems that are connected to a structure's plumbing system may be approved when all applicable design conditions noted below are complied with. Please check with your local jurisdiction for their requirements in processing of Alternate Methods requests.

**General Requirements:**

- Rainwater harvesting systems shall be designed by a WA State licensed engineer experienced in designing harvested rain water systems.
- Rainwater harvesting systems shall be subject to plan review and applicable fees.
- Rainwater shall only be collected from roofs, gutters and downspout systems not containing copper or preservative treatment such as fungicides or herbicides.
- Provide isometric drawings showing the extent of supply up to and including specific fixtures. Clearly identify how potable water isolation is maintained. Include irrigation details if also used for irrigation. Show all detail of how rain water is collected along with down spouts that will be used to divert rainwater to the collection system.
- Provide calculations to demonstrate appropriate water pressure delivery to plumbing fixtures as required by the plumbing code.
- Premise isolation shall be required using at a minimum, a double check valve which is inspected annually by a state certified backflow inspector. Clearly identify this on the drawings.
- An automatic factory listed "first flush" system shall be installed to divert the first 10 gallons of water following a rain event. Water shall be disposed of away from a building so as not to cause damage to property or cause erosion.
- Potable water shall only be introduced to the storage tank by providing a minimum 1 inch air gap. There shall not be a potable water connection directly to any plumbing fixture which is served by harvested rainwater supply.
- Provide approved equipment isolation valves to allow removal of equipment without affecting remaining system.
- All piping used for harvested rainwater shall be appropriately identified and labeled. Identification shall note "Non potable water – DO NOT DRINK" or other wording approved by the building official. The piping shall be light purple in color with black colored label markings visible on two sides of the pipe and visible in every stud bay. All piping shall conform to UPC standards for water use.
- Installation of materials shall conform to UPC requirements
- All other products used in the construction of a rainwater harvesting system shall be listed as required by code for the purpose intended and suitable for use in a potable water system.
- All storage containers must have secure covers
- All hose bibs or irrigation outlets shall be permanently identified with a permanent sign stating "Non potable water – DO NOT DRINK" along with the international non potable water symbol
- Each equipment room containing harvested rainwater shall have a permanent sign posted with the following wording in 1 inch letters:

**CAUTION: HARVESTED RAINWATER  
DO NOT DRINK  
DO NOT CONNECT TO DRINKING WATER SYSTEM**

**NOTICE  
CONTACT BUILDING MANAGEMENT BEFORE PERFORMING  
ANY WORK ON THIS WATER SYSTEM**

The sign shall be posted in a location that is visible to anyone working on or near the system.

**Tank/Water Storage Requirements:**

- Approved storage tanks listed for rainwater harvesting use requires seismic anchoring if installed above grade. Tanks must also meet minimum height to width ratio of 1:2 if installed above ground.

- Tanks shall be vented and protected from freezing.
- Tanks shall be accessible for inspections and cleaning. Minimum access opening (if enclosed) shall be 18" x 24". Provide a light, light switch and power source within equipment rooms and similar enclosures including crawlspaces.
- Tanks shall be supported on a foundation designed to carry the tank at full water capacity. Provide engineering calculations for the foundation design.
- Soils reports may be required for above grade or below grade tanks. Check with your local building department for specific requirements.
- If the tank is installed below grade, provide a manhole riser that extends a minimum of 8" above the adjacent grade. The cover to the manhole must be secure and locked. Provide signage at the opening stating " Danger Confined Space".
- Tanks shall have a designated overflow (minimum of 4 inches) and capable of diverting the volume of all water devices supplying the tank. The overflow shall be protected by a screen having openings no greater than 0.25 inches. Overflow water shall be disposed at an approved location away from a building so as not to cause damage to property or cause erosion.
- Storage tanks if pressurized or connected to pumps shall provide UPC required pressure to fixtures.
- Water shall be drawn at least 4" above the bottom of the tank.
- Harvested rainwater requires filtering both at the gutter or downspouts and within the tank collection. Access must be provided to maintain filters.

#### Fixture Connections:

- Only landscape irrigation, exterior decorative water features, toilets, urinals and or clothes washers may be connected to a harvested rainwater system.
- Piping carrying Harvested Rainwater shall not be located in the same trench as potable water unless separated by 12 inches vertically and horizontally.
- All fixtures connected to a harvested rainwater system shall be affixed with a universal symbol for non potable water.

#### Other Requirements:

- Operational and maintenance manuals: provide a document that includes all operations and maintenance necessary to ensure proper function for the life of the rainwater harvesting system. Information should include timing on the replacement or cleaning of filters, removing of sediment, backflow inspections, valve inspections and operations and seasonal startup/shutdown.
- All work shall comply with this publication, building codes and manufacturer installation instructions.
- A flow test shall be performed through the system to the point of water distribution and disposal. In addition, the water distribution system shall be tested and proved tight at the operating pressure. Where the manufacturer permits, a 50 psi air test may substitute for the test above. All lines shall be water tight.

### What permits are required to install a harvested rainwater system?

Check with your local building department. Permits may include:

- Building permits for storage tank support, footings and foundations
- Plumbing permit
- Land use review for setback and critical areas
- Grading permits if tank is to be installed underground
- Electrical permits for lighting, power, pumps and controls
- DOE permits for systems using more than "negligible" amounts of water. (see section on Government Regulations above)

**Resources**

Information provided in this publication uses resources from:

- Washington State Department of Ecology
- King County Department of Public Health
- City of Seattle