



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, P.E., Interim Public Works Director
Denise Pirolo, P.E., Project Engineer

Date: April 6, 2010

Subject: NE 68TH STREET/108TH AVENUE NE INTERSECTION IMPROVEMENTS
AUTHORIZE CONDEMNATION

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance authorizing staff to proceed with acquisition of right of way through Eminent Domain (aka Condemnation) for parcels associated with the NE 68th Street/108th Avenue NE St Intersection Improvement Project.

BACKGROUND DISCUSSION:

The NE 68th Street/108th Avenue NE St Intersection Improvement Project (the Project) is approved in the 2009-2014 CIP as CTR-0085 and began in January, 2009. In addition to City funding for the Project, it is also partially funded as part of Sound Transit's improvements in conjunction with the new Downtown Transit Center currently under construction.

The City's component of the Project includes construction of a westbound to northbound right turn lane to maintain an intersection level of service less than the required 1.4 volume to capacity ratio. All four corners of the intersection will be modified to improve pedestrian safety with widened sidewalk while also accommodating improved turning movements (Attachment A). Sound Transit's component of the Project addresses the sidewalk radius at the southwest corner of the intersection where the Starbucks is currently located. The sidewalk and curb radius at this corner do not allow an eastbound articulated bus to safely turn southbound onto 108th Ave NE without driving up and over the sidewalk; consequently it creates a pedestrian safety hazard.

The Project requires the acquisition of right of way and/or temporary construction easements affecting five parcels and five property owners (Attachment B). The table summarizes the property and temporary construction easement requirements, the current offers made by the City, and the negotiation status for each parcel. Prior to the start of construction of the Project, the City must either settle the property transactions or obtain "possession and use" agreements for the properties while settlements are reached.

After completing the preliminary design, the property appraisals were done in the summer of 2009, and the City's right of way consultant began negotiations with the affected property owners in September of

2009. Temporary construction agreements have been reached with two of the five property owners, and it is likely that compensation settlements will be reached with two of the remaining four (7-11 and Starbucks), although at the time of this memo, the City does not yet have signed agreements, therefore they have been included as part of this recommended action.

Settlement with the fifth and final property is becoming somewhat challenging and may impact the ability to proceed with the Project under the current bidding climate. The City and its representative Aybeta and Associates have taken diligent steps to negotiate the Sabegh property acquisition, similar to the other properties, since last fall. These negotiations have been concurrent with ongoing development action that is underway by Mr. Sabegh on the property. The negotiation steps are many and are included at the end of this memo under "negotiation chronology". We will continue to work with Mr. Sabegh in order to reach a settlement, although staff is recommending that Council allow the condemnation process to begin while we further negotiate with Mr. Sabegh, in order to insure we meet the scheduled start of construction in mid 2010.

The City must begin the condemnation process soon as the judicial process can take several months or longer; Staff will continue to work with the property owners to address their concerns and to offer a fair market value for the property, however the mechanics of the ordinance will provide an opportunity to begin the necessary legal documents while working through negotiations.

RCW 8.12 authorizes and empowers Cities to condemn land and property for improvements such as those proposed for this project. Condemnation authority is not granted to public entities as a coercive measure as much as it is to allow for the progress of improvements deemed being in the public's interest. In any action, it would be imperative that the public agency prove the necessity of the improvement. The statutes were written to prevent unreasonable demands being placed on public entities and to afford property owners a fair market value for their properties. Passing of the Ordinance by City Council at this time does not preclude agreements being reached with all property owners prior to the actual condemnation proceedings taking place, but it will enable the City to move toward construction in the event an impasse is reached with any of the property owners. A best case scenario would be to resolve the right of way transaction without undertaking the condemnation option.

Public Works staff has worked closely with the City Attorney's Office in preparing the attached ordinance to comply with the requirements of this eminent domain process. The project budget report is attached as Attachment C.

Sabegh negotiation chronology

Background

- Prior to the Sabegh purchase of this property, there was a class action lawsuit filed in the late 1970's involving the property. The Superior Court of the State of Washington for King County ruled that properties affected by *newly implemented comprehensive plans* (the Sabegh property was one such affected) be allowed to develop under the BC zoning designation. As a result of the Court ruling, the City adopted a resolution (on July 16, 1979) which would allow the future development of the Sabegh site under either the existing zoning at the time of application or the BC zoning; it was up to the applicant.

August 2006

Memorandum to Marilynne Beard
March 29, 2010

- Mr. Sabegh began working with Planning, Public Works, and other pertinent departments on developing his vacant Parcel #082505-9081 (map Ref #3); The Sabegh application for development was submitted under the City's Community Business (BC) zoning; currently the Sabegh parcel is zoned to multi-family (RM-3.6).
- The property abuts NE 68th Street on the north side, and the Kirkland Zoning Code requires half-street improvements of the right-of-way abutting the subject property. In the case of this development, half-street improvements (curb, gutter, and sidewalk) currently existed adjacent to the property, however during the application process, the following conditions were outlined for the Applicant. From the Kirkland Zoning Code Sections 110.30-110.50, consistent with the City's overall transportation needs, NE 68th Street was to be improved beyond its existing conditions as such:
 - *The City of Kirkland will be installing a dedicated right-hand turn lane and bikes lanes in the westbound direction on NE 68th Street across the property continuing west towards 108th Ave NE. This new turn lane and improvements will require a right-of-way dedication from the subject property that will be 12' wide from the western property line to the east side of the (development's) proposed driveway; from the east side of the proposed driveway, the 12' wide dedication shall taper to 5' wide at the east property line.*
 - *Since the City is scheduled to build these (turn lane) improvements, the (Sabegh) development will not be required to construct street improvements along the NE 68th Street property frontage.*
 - *The development will receive a traffic impact fee credit for the dedicated right-of-way; the value of the credit will be based on the value of the dedicated right-of-way. If the values of the traffic impact fees exceed the value of the right-of-way dedication, the development project shall pay the difference.*

March 2009

- Abeyta and Associates was hired to perform the right-of-way acquisition on behalf of the City for the 68th/108th Intersection Improvement Project; the Company is a sub-consultant to the design engineering firm INCA/Tetra-Tech.

September 2009

- The Appraisal for the Sabegh property was submitted to the City based on utilizing the current RM-3.6 zoning (recall the applicant submitted under BC zoning); the Appraiser maintains that the RM-3.6 is the highest and best use of the property.

October 2009

- The City's required second party Review Appraisal (of the original appraisal) was submitted to the City and concurred with the methodology employed in the original appraisal.

October 2009

- Initial acquisition offer to Mr. Sabegh; no formal response.

December 2009

- Second request sent to Mr. Sabegh; no formal response.

January 2010

Memorandum to Marilynne Beard
April 6, 2010

- Third request sent to Mr. Sabegh; no formal response, however Mr. Sabegh expressed his disagreement with the price per sq ft offer presented, which is based on the appraiser's opinion of the best use of the property.
- Mr. Sabegh has requested the City pay for his own independent appraisal by Lamb Hanson & Lamb; the complete appraisal was estimated to be \$4,000 to \$4,500, however this level of compensation was not acceptable, and Staff's recommendation was to proceed with the eminent domain process as allowed in our right of way procedures.

February 2010

- Mr. Sabegh agreed to accept \$700 towards a second review appraisal of the City's original appraisal. The City (via Abeyta and Associates) has entered into a contract with Lamb, Hanson, & Lamb to perform a second independent review of the appraisal, and the results are expected by the end of April.

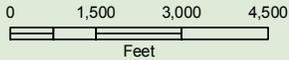
March 2010

- Mr. Sabegh concurs with moving ahead with the administrative (City Council) actions that are required to proceed with eminent domain. It is likely that negotiations will reach a compensation settlement on the Sabegh property, however if and when impasse is reached, the opportunity to utilize the Jury or Judge process outlined in the State Statutes will allow resolution such that the City may proceed with the Project.

Attachments



Vicinity Map

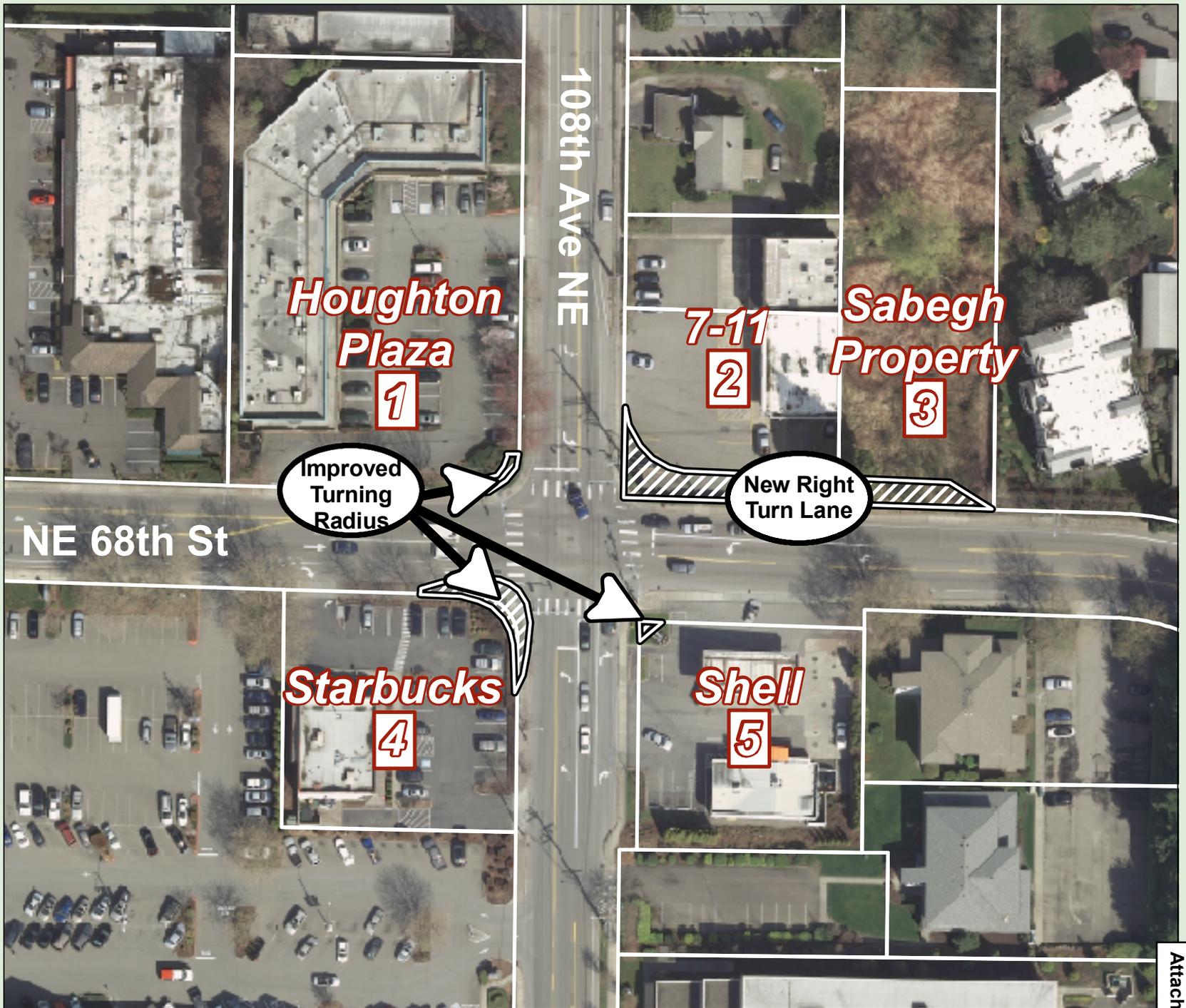


Legend

Map Reference Number



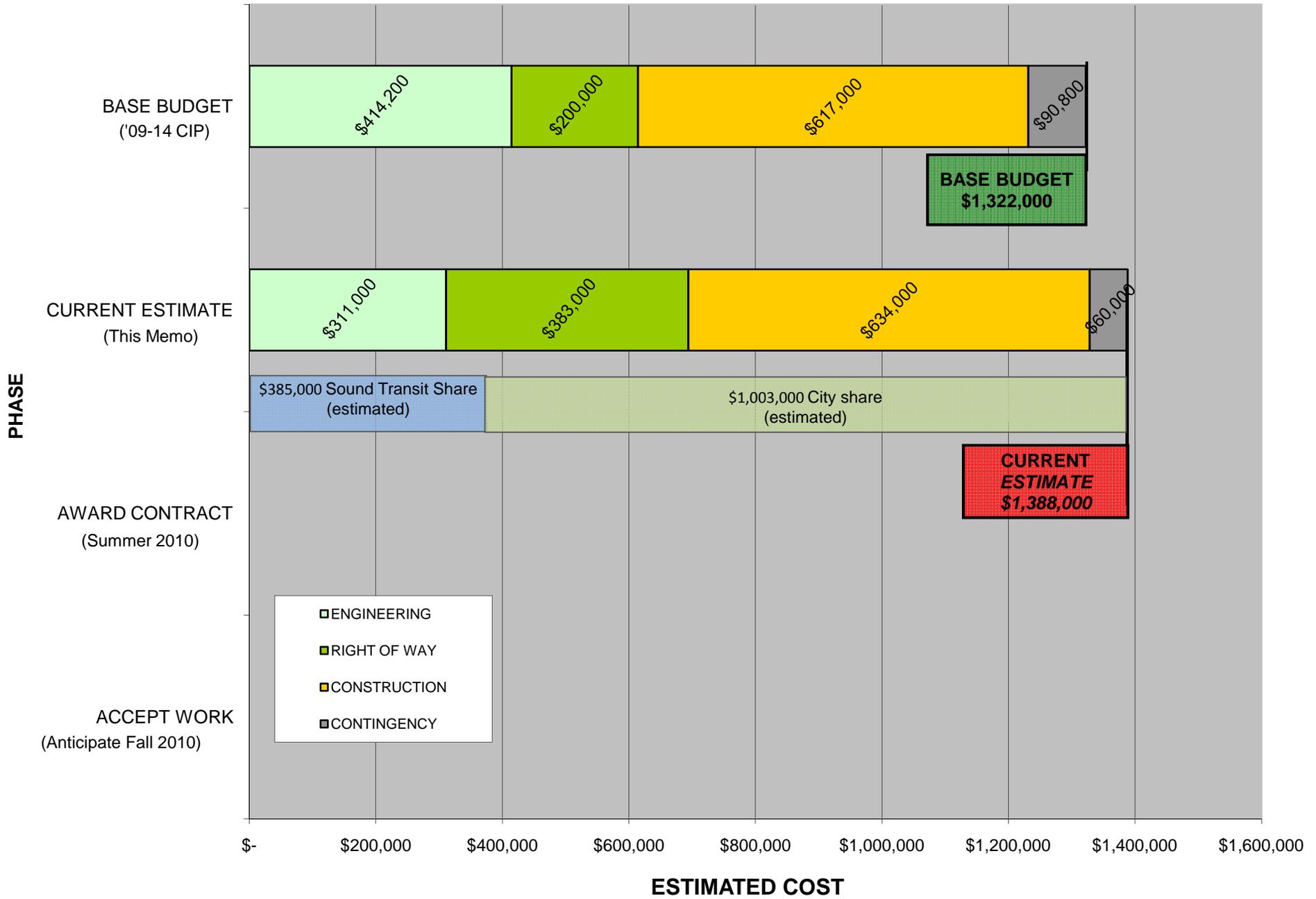
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NE 68th St / 108th Ave NE Intersection Improvement Project

Ref #	Business	Tax Payer name/address	ROW Price (\$F)	ROW Cost	Temp Construction Easement	Permanent Utility Easement (\$F)	Perm Util	Improvements Taken	Estimated Damages	Admin Settlement	Total Offer	Status
1	Houghton Plaza	Houghton Plaza Limited Liability, 720 Fourth Ave, Suite 120, Kirkland, WA 98033			\$ 1,715						\$ 1,715	Administrative offer of Settlement (AOS) Complete/Easement recorded/payment executed
2	7-11	DS Edison LLC, Attn: Tax Dept #18146, PO Box 711, Dallas, TX 75221	\$ 75	\$ 174,200	\$ 9,200	\$75/sf @ 15%	\$ 400	\$ 26,200	\$ 30,700		\$ 241,000	In negotiations, waiting for response back from client, who is working with renter on the sign relocation compensation.
3	Vacant (Sabegh Property)	Mariam Sabegh, c/o Chianglin Law Firm, PLLC, 12501 Bel-Red Road, Suite 209, Bellevue, WA 98005	\$ 52	\$ 63,100	\$ 2,200						\$ 65,300	Offer has been presented, at the request of Mr. Sabegh the City has agreed to pay \$750 towards an independent review of the original review appraisal with Lamb Hanson & Lamb.
4	Starbucks	Houghton Group, LLC c/o Kennedy Wilson PO Box 52850 Bellevue, WA 98015	\$ 75	\$ 2,925	\$ 3,300	\$75/sf @ 15% & \$11.25/sf	\$47587 + \$1677	\$ 6,700	\$ 1,200	\$5,830	\$ 69,219	Negotiations complete, City Attorney's Office working with clients attorney on finalized acquisition/easement documentation.
5	Shell	Pac West Energy, LLC, 3450 Commercial Court, Meridian, ID 83643		\$500 (minimum offer)							\$ 500	AOS Complete/Easement recorded/payment executed

NE 68th ST / 108th Avenue NE Intersection Improvements PROJECT BUDGET REPORT



ORDINANCE NO. 4236

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION OF THE NE 68TH STREET/108TH AVENUE NE INTERSECTION IMPROVEMENTS PROJECT WITHIN THE CITY OF KIRKLAND, PROVIDING FOR THE COST OF PROPERTY ACQUISITION AND AUTHORIZING THE INITIATION OF APPROPRIATE EMINENT DOMAIN PROCEEDINGS IN THE MANNER PROVIDED FOR BY LAW.

WHEREAS, the NE 68th Street/108th Avenue NE Intersection Improvements Project is an approved and funded project in the 2009-2014 Capital Improvement Program ("CIP"), listed as Project No. TR 0085 ("Project"); and

WHEREAS, the 2009-2014 CIP was approved by the Kirkland City Council on December 16, 2008 by Resolution R-4753; and

WHEREAS, the Project improvements are necessary to provide needed lane configurations, pedestrian facilities, and utility systems and installation of traffic signal controllers and components; and

WHEREAS, the City Council finds that the public health, safety, necessity, and convenience require construction of the Project and acquisition of the property described in this Ordinance; and

WHEREAS, the City has provided notice to affected property owners of this final action authorizing condemnation pursuant to RCW 8.25.290.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The lands and property rights within the City of Kirkland, King County, Washington, described in Exhibit A attached to this Ordinance and which descriptions are hereby incorporated by reference, necessary for public road purposes, are hereby condemned, appropriated and taken for such public purposes, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

Section 2. The Project is fully-funded and the expense of acquiring said property rights shall be paid for from the appropriate funding source within the city's portion of general current revenue for each CIP project.

Section 3. The City Attorney is authorized and directed to begin and prosecute legal proceedings in the manner provided by the law to purchase, condemn, take, appropriate, and otherwise acquire

the lands and other property rights and privileges necessary to carry out the purposes of this Ordinance.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in regular, open meeting this ____ day of _____, 2010.

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

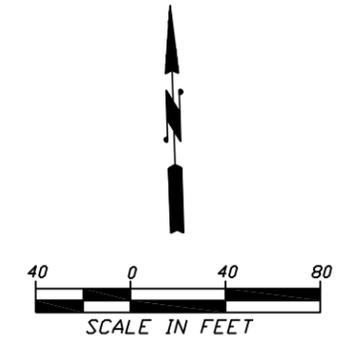
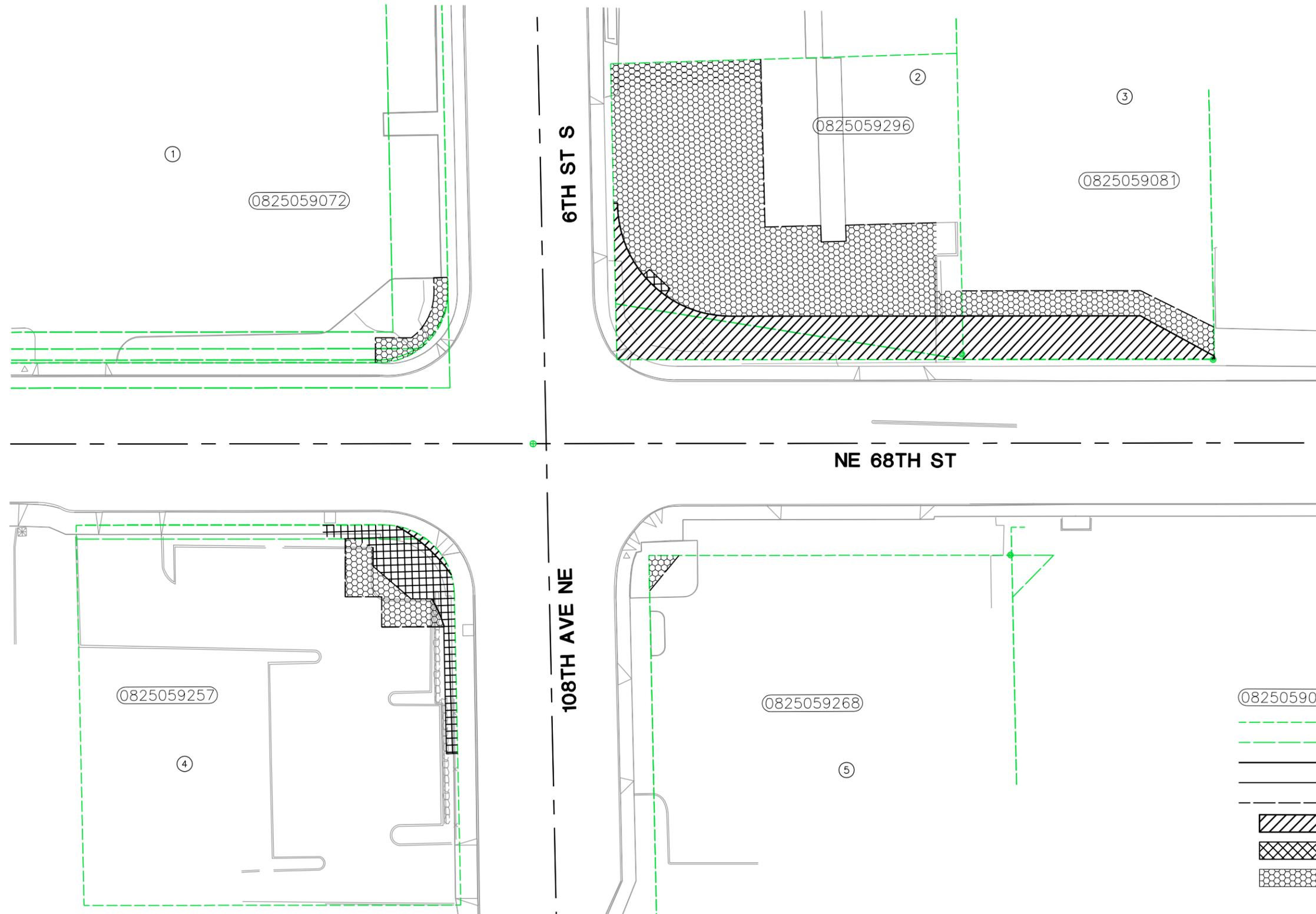
Attest:

City Clerk

Approved as to Form:

City Attorney

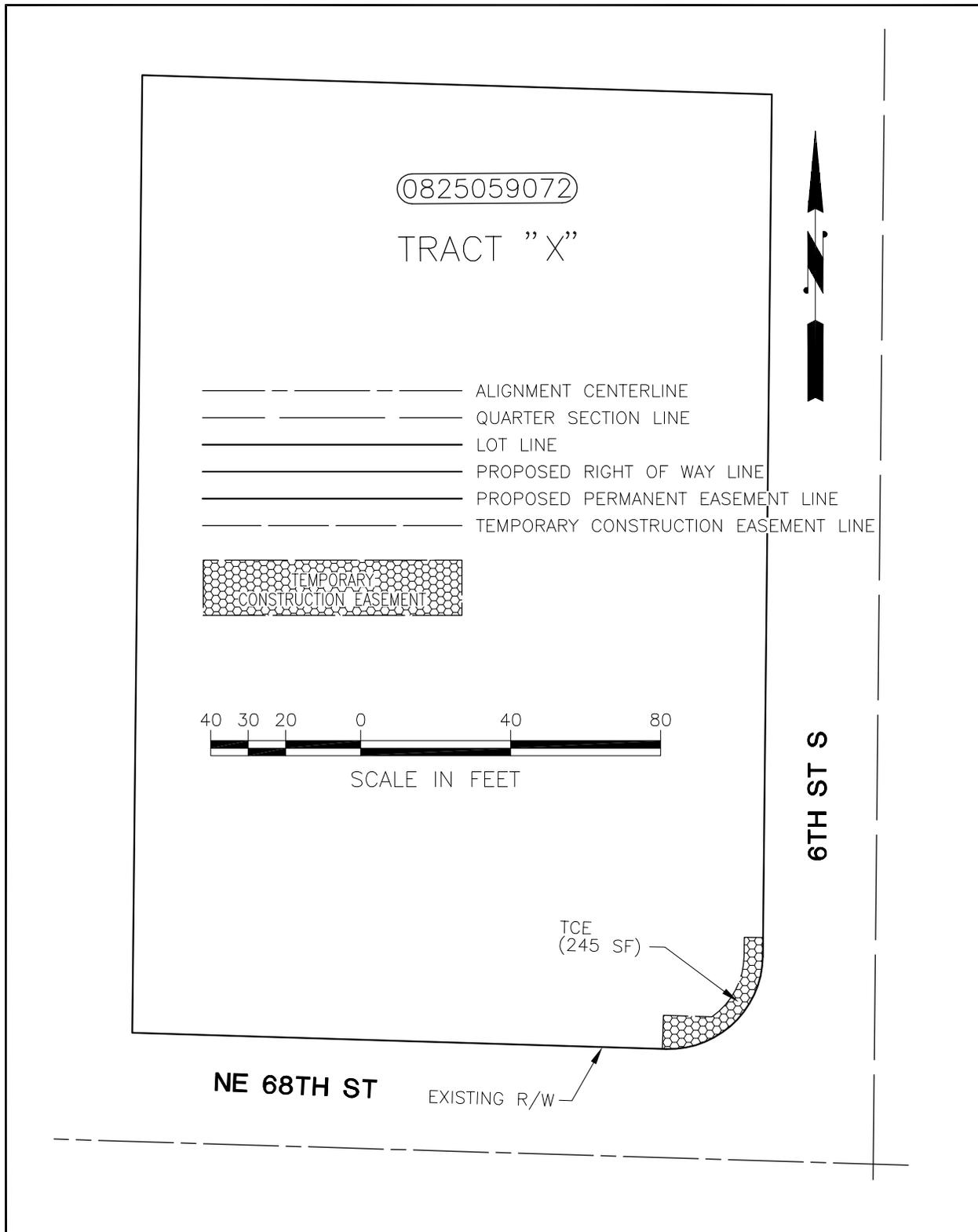
SEC. 8 NE., T. 25 N., R. 5E



LEGEND

0825059072	PROPERTY NUMBER
---	EXISTING RIGHT OF WAY
---	EXISTING EASEMENT
---	PROPOSED RIGHT OF WAY
---	PROPOSED PERMANENT EASEMENT
---	TEMPORARY CONSTRUCTION EASEMENT
▨	RIGHT OF WAY
▩	PERMANENT EASEMENT
▧	TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT A



TEMPORARY CONSTRUCTION EASEMENT AREA DESCRIPTION:

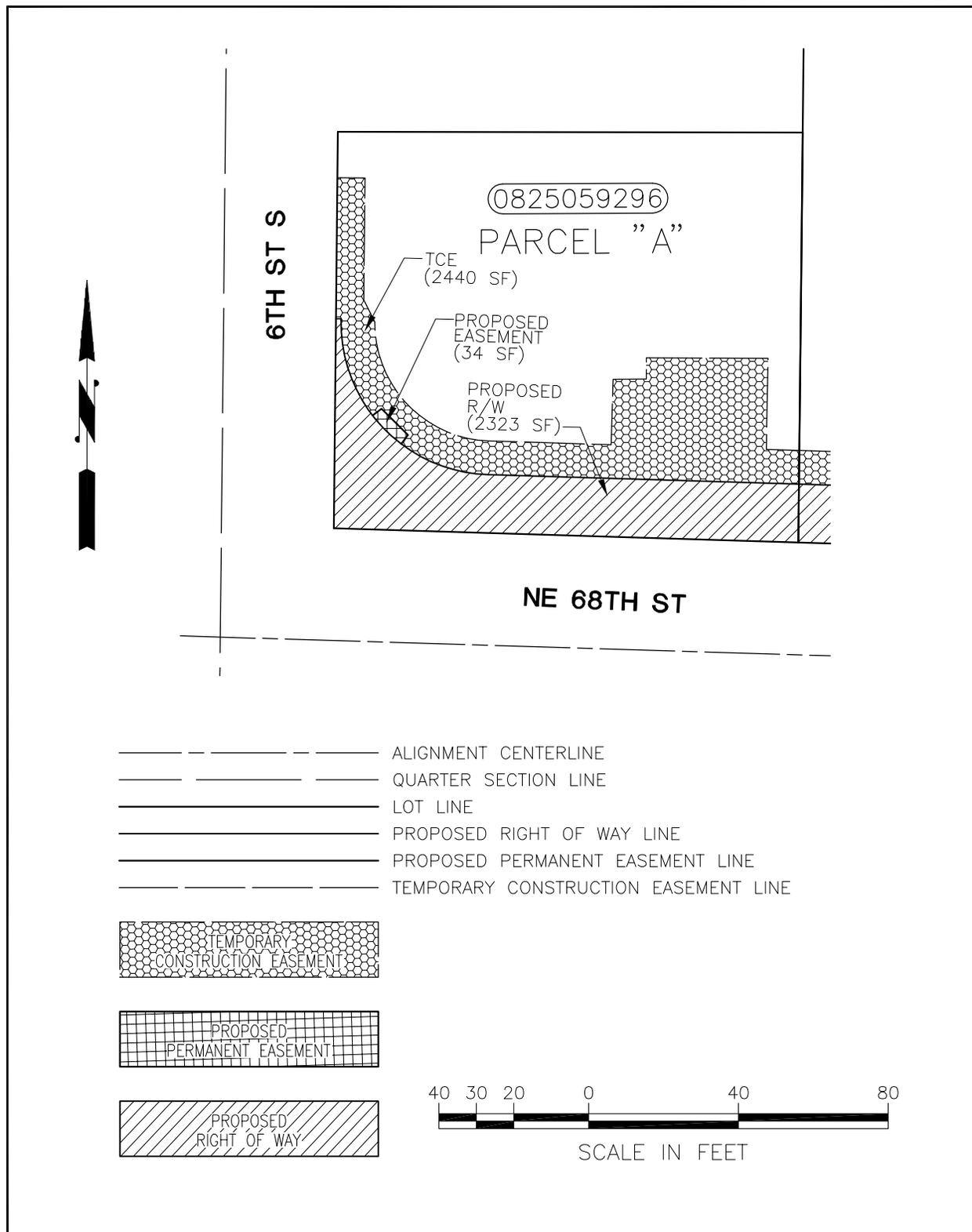
A TEMPORARY CONSTRUCTION EASEMENT BEING ALL THAT LAND LYING WITHIN THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE SOUTHWEST CORNER OF TRACT "X" AS DESCRIBED BELOW; THENCE S 88°14'41" E ALONG THE SOUTH LINE OF SAID TRACT "X" A DISTANCE OF 141.43 FEET TO THE TRUE POINT OF BEGINNING; THENCE S 88°14'41" E 1.00 FEET; THENCE ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 25.00 FEET THROUGH A CENTRAL ANGLE OF 91°09'43" A DISTANCE OF 39.78 FEET; THENCE N 0°35'36" E ALONG THE EAST LINE OF SAID TRACT "X" A DISTANCE OF 5.00 FEET; THENCE N 89°24'24" W 5.00 FEET; THENCE S 0°35'36" W PARALLEL WITH SAID EAST LINE 5.00 FEET; THENCE ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 54°34'18" A DISTANCE OF 19.05 FEET; THENCE N 88°14'41" W PARALLEL WITH SAID SOUTH LINE OF TRACT "X" 12.92 FEET; THENCE S 1°45'19" W 8.94 FEET TO THE POINT OF BEGINNING.

TRACT "X" IS THAT PORTION OF TRACT "B", SOUTH KIRKLAND ACREAGE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE 94, RECORDS OF KING COUNTY, WASHINGTON, SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 259.11 FEET SOUTH OF THE NORTHEAST CORNER OF SAID TRACT "B"; THENCE SOUTH ALONG THE WEST LINE OF 108TH AVENUE NE A DISTANCE OF 264.49 FEET TO THE NORTH LINE OF COUNTY ROAD; THENCE WESTERLY ALONG THE NORTH LINE OF SAID COUNTY ROAD 167.94 FEET; THENCE NORTH 264.49 FEET, MORE OR LESS, TO THE SOUTH LINE OF THE TRACT CONVEYED TO CARL NILSON BY DEED RECORDED UNDER RECORDING NO. 1234234; THENCE S 88°38'00" E 167.94 FEET TO THE POINT OF BEGINNING; EXCEPT THE SOUTH 9 FEET THEREOF; EXCEPT THAT PORTION THEREOF LYING SOUTHEASTERLY OF AN ARC WHICH HAS A RADIUS OF 25.00 FEET AND WHOSE RADIUS POINT IS 54.00 FEET NORTHERLY WHEN MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF NE 68TH STREET AND LYING ON A LINE 55.00 FEET WESTERLY OF AND PARALLEL TO THE CENTERLINE OF 108TH AVENUE NE, SAID ARC BEGINNING ON A LINE 29.00 FEET NORTHERLY WHEN MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF NORTHEAST 68TH STREET AND TERMINATING AT A POINT ON THE WESTERLY RIGHT OF WAY MARGIN OF 108TH AVENUE NE, KING COUNTY, WASHINGTON.

TOTAL TEMPORARY CONSTRUCTION EASEMENT AREA = 245 SQUARE FEET



	<p>CITY OF KIRKLAND – INTERSECTION IMPROVEMENT KING COUNTY ASSESSOR'S # 0825059072</p>	<p>PAGE 2 OF 2</p>
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RIGHT OF WAY AREA DESCRIPTION:

A PROPOSED RIGHT OF WAY BEING A PORTION OF PARCEL "A" OF CITY OF KIRKLAND SHORT PLAT NO. 75-9-11, AS RECORDED OCTOBER 29, 1975 UNDER RECORDING NO.7510290579, RECORDS OF KING COUNTY, WASHINGTON, SITUATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON. SAID RIGHT OF WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF LAND LYING WITHIN THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE N 0°35'36" E ALONG THE WEST LINE OF SAID PARCEL "A" 55.96 FEET; THENCE S 89°24'24" E 1.39 FEET; THENCE S 0°35'36" W 0.51 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 40.50 FEET TO WHICH A RADIAL LINE BEARS N 89°04'18" W; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°11'24" A DISTANCE OF 63.04 FEET; THENCE S 88°15'05" E 83.03 FEET TO A POINT ON THE EAST LINE OF SAID PARCEL "A"; THENCE S 0°35'36" W 15.57 FEET ALONG SAID EAST LINE TO A POINT ON THE SOUTH LINE OF SAID PARCEL "A"; THENCE N 88°14'41" W ALONG SAID SOUTH LINE 124.11 FEET TO THE POINT OF BEGINNING.

TOTAL RIGHT OF WAY AREA = 2323 SQUARE FEET



PERMANENT EASEMENT AREA DESCRIPTION:

A PROPOSED PERMANENT EASEMENT BEING A PORTION OF PARCEL "A" OF CITY OF KIRKLAND SHORT PLAT NO. 75-9-11, AS RECORDED OCTOBER 29, 1975 UNDER RECORDING NO. 7510290579, RECORDS OF KING COUNTY, WASHINGTON, SITUATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON. SAID EASEMENT BEING MORE PARTICULARLY BE DESCRIBED AS FOLLOWS:

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TOTAL PERMANENT EASEMENT AREA = 34 SQUARE FEET



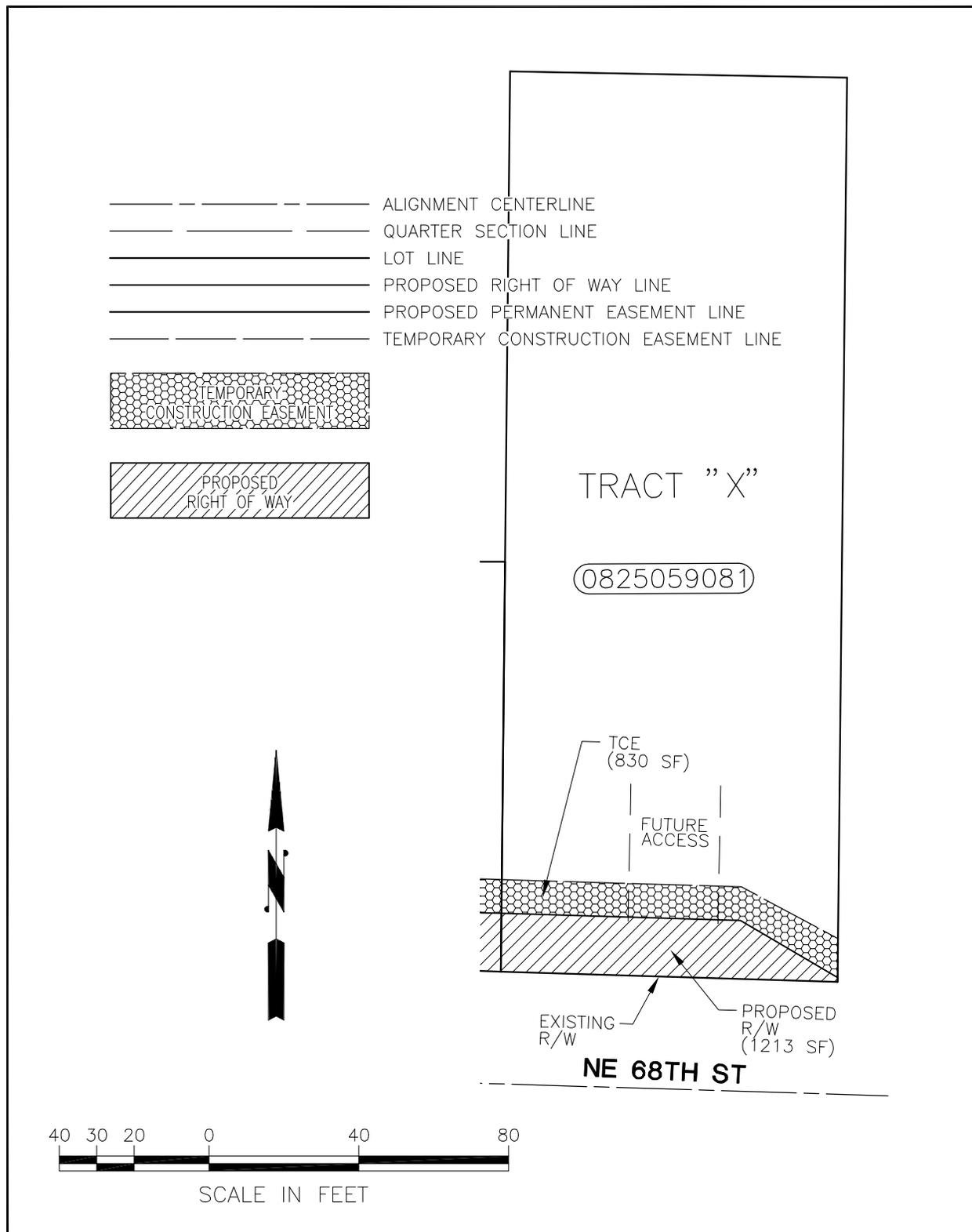
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TOTAL TEMPORARY CONSTRUCTION EASEMENT AREA = 2440 SQUARE FEET





RIGHT OF WAY AREA DESCRIPTION:

A PROPOSED RIGHT OF WAY BEING ALL THAT PORTION OF LAND LYING WITHIN THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE SOUTHEAST CORNER OF TRACT "X" AS DESCRIBED BELOW; THENCE N 0°35'36" E 1.16 FEET ALONG THE EAST LINE OF SAID TRACT "X"; THENCE N 59°36'28" W 30.09 FEET; THENCE N 88°15'05" W 63.87 FEET TO A POINT ON THE WEST LINE OF SAID TRACT "X"; THENCE S 0°35'36" W 15.57 FEET ALONG THE WEST LINE OF SAID TRACT "X"; THENCE S 88°14'41" E 89.98 FEET ALONG THE NORTH LINE OF STATE AID ROAD NO. 4 (AND THE SOUTH LINE OF SAID TRACT "X") TO THE POINT OF BEGINNING.

TRACT "X" IS THE SOUTH ONE-HALF OF THE FOLLOWING DESCRIBED TRACT: BEGINNING 154.08 FEET EAST AND 30.00 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON; THENCE N 89°39'02" E 89.95 FEET; THENCE S 0°15'29" E 485.43 FEET, MORE OR LESS, TO STATE AID ROAD NO. 4 (NE 68TH STREET); THENCE WESTERLY ALONG THE NORTH LINE OF SAID ROAD, 89.98 FEET; THENCE N 0°15'29" W 483.10 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

TOTAL RIGHT OF WAY AREA = 1213 SQUARE FEET



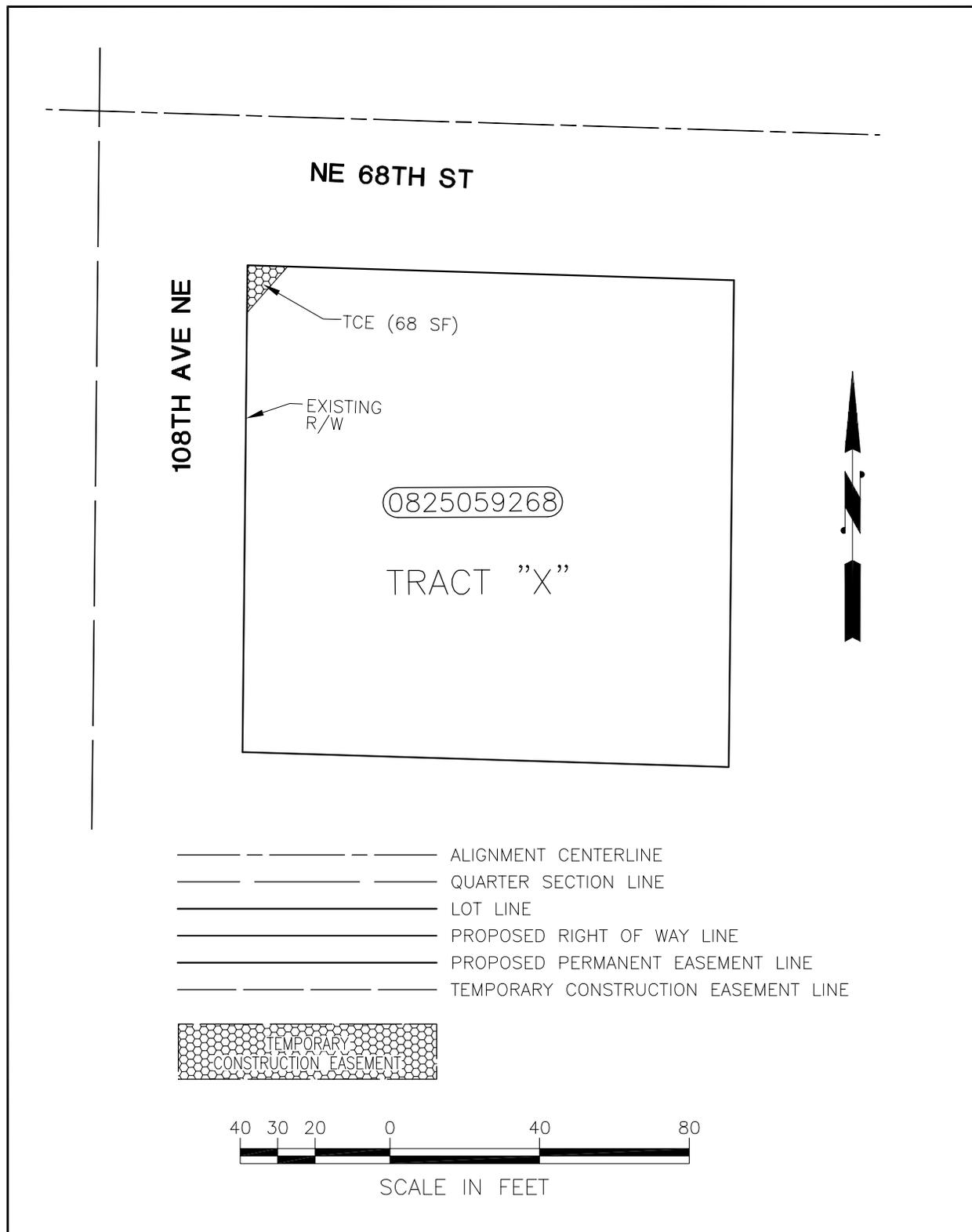
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TOTAL TEMPORARY CONSTRUCTION EASEMENT AREA = 830 SQUARE FEET





TEMPORARY CONSTRUCTION EASEMENT AREA DESCRIPTION:

A TEMPORARY CONSTRUCTION EASEMENT BEING A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS THE INTERSECTION OF THE SOUTH RIGHT OF WAY MARGIN OF NE 68TH STREET AND THE EAST RIGHT OF WAY MARGIN OF 108TH AVENUE NE AND RUNNING THENCE SOUTH ALONG SAID EAST MARGIN OF 108TH AVENUE NE A DISTANCE OF 140 FEET; THENCE RUNNING EAST PARALLEL TO THE SOUTH MARGIN OF NE 68TH STREET A DISTANCE OF 140 FEET; THENCE RUNNING NORTH PARALLEL TO THE EAST MARGIN OF 108TH AVENUE NE A DISTANCE OF 140 FEET; THENCE WESTERLY ALONG THE SOUTH MARGIN OF NE 68TH STREET A DISTANCE OF 140 FEET TO THE POINT OF BEGINNING; EXCEPT THE NORTH AND WEST 10 FEET AS CONVEYED FOR STREET BY DEED RECORDED MARCH 6, 1967 UNDER RECORDING NO. 6146279. HEREAFTER KNOWN AS TRACT "X"

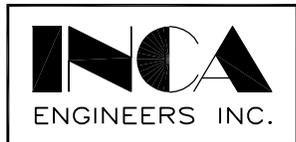
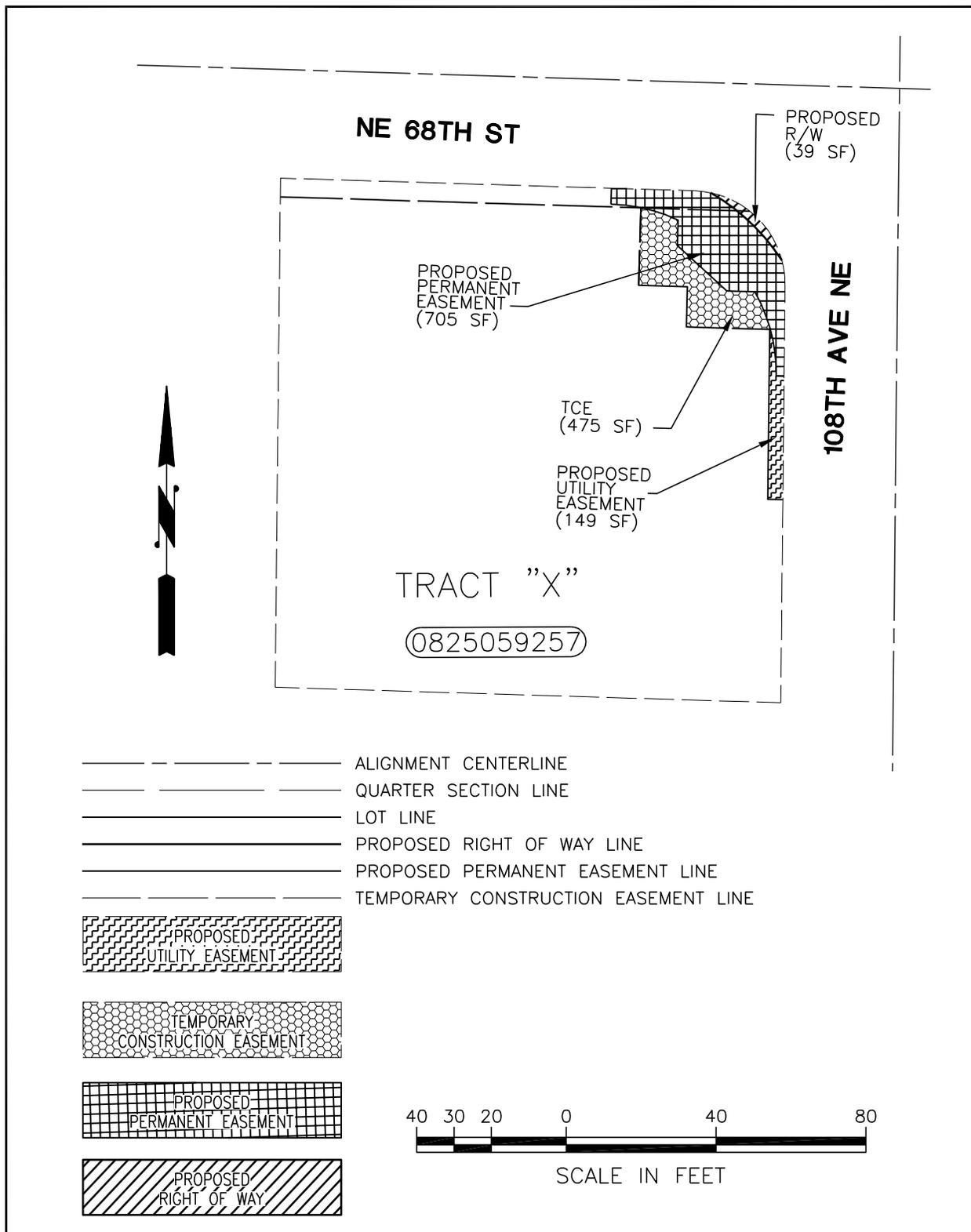
ALL THAT PORTION OF TRACT "X" LYING WITHIN THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT ; THENCE S 88°14'41" E ALONG THE NORTH LINE OF SAID TRACT 10.75 FEET; THENCE S 41°26'37" W 16.44 FEET TO A POINT ON THE WEST LINE OF SAID TRACT; THENCE N 0°35'36" E ALONG THE WEST LINE OF SAID TRACT 12.65 FEET TO THE POINT OF BEGINNING AND THE TERMINUS OF THIS LINE.

TOTAL TEMPORARY CONSTRUCTION EASEMENT = 68 SQUARE FEET



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RIGHT OF WAY AREA DESCRIPTION:

A PROPOSED RIGHT OF WAY BEING ALL THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "X" LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT "X"; THENCE S 88°14'41" E ALONG THE NORTH LINE OF SAID TRACT "X" 110.51 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 25.00 FEET, SAID CURVE BEING A CONTINUATION OF THE NORTH LINE OF TRACT "X"; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°02'01" A DISTANCE OF 4.38 FEET TO THE TRUE POINT OF BEGINNING; THENCE DEPARTING FROM SAID NORTH LINE ALONG A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST THE RADIUS POINT OF WHICH BEARS S 29°56'06" W, 56.00 FEET DISTANT, THROUGH A CENTRAL ANGLE OF 27°09'06" A DISTANCE OF 26.54 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF SAID TRACT "X", AND THE TERMINUS OF THIS LINE.

TRACT "X" IS THAT PORTION OF AN UNPLATTED TRACT OF LAND SHOWN ON THE PLAT OF SOUTH KIRKLAND ACREAGE, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE 94, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EASTERLY PROLONGATION OF THE NORTH LINE OF TRACT 27 IN SAID PLAT WITH THE WEST LINE OF COUNTY ROAD; THENCE WEST ALONG SAID EASTERLY PROLONGATION, 135 FEET; THENCE SOUTHERLY, PARALLEL WITH THE SAID WEST LINE OF COUNTY ROAD, 145 FEET; THENCE EAST, PARALLEL WITH SAID EASTERLY PROLONGATION, 135 FEET; THENCE NORTHERLY ALONG SAID WEST LINE OF COUNTY ROAD, 145 FEET TO THE POINT OF BEGINNING; EXCEPT THAT PORTION THEREOF LYING WITHIN NE 68TH STREET.

TOTAL PROPOSED RIGHT OF WAY AREA = 39 SQUARE FEET



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PERMANENT EASEMENT AREA DESCRIPTION:

A PROPOSED PERMANENT EASEMENT BEING ALL THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "X" LYING WITHIN THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT "X"; THENCE S 88°14'41" E ALONG THE NORTH LINE OF SAID TRACT "X" 88.41 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE S 88°14'41" E, A DISTANCE OF 22.10 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 25.00 FEET, SAID CURVE BEING A CONTINUATION OF THE NORTH LINE OF TRACT "X"; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°02'01" A DISTANCE OF 4.38 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST THE RADIUS POINT OF WHICH BEARS S 29°56'06" W, A DISTANCE OF 56.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°09'06" A DISTANCE OF 26.54 FEET TO A POINT ON THE EAST LINE OF SAID TRACT "X" AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE WEST THE RADIUS POINT OF WHICH BEARS S 75°13'58" W, A DISTANCE OF 25.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°21'39" A DISTANCE OF 6.70 FEET; THENCE S 0°35'36" W ALONG SAID EAST LINE A DISTANCE OF 24.29 FEET; THENCE N 89°24'48" W, A DISTANCE OF 2.09 FEET, ALONG THE RADIAL LINE OF A CURVE TO A POINT THAT IS THE BEGINNING OF SAID CURVE, WHICH IS CONCAVE TO THE SOUTHWEST AND HAS A RADIUS OF 45.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°38'51" A DISTANCE OF 23.54 FEET; THENCE N 88°31'41" W, A DISTANCE OF 7.46 FEET; THENCE N 47°33'45" W, A DISTANCE OF 17.94 FEET; THENCE N 1°44'51" E, A DISTANCE 6.82 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTH THE RADIUS POINT OF WHICH BEARS S 25°04'37" W, A DISTANCE OF 45.50 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23°19'42" A DISTANCE OF 18.53 FEET; THENCE N 1°44'55" E, A DISTANCE OF 4.24 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING AND THE TERMINUS OF THIS LINE.

TRACT "X" IS THAT PORTION OF AN UNPLATTED TRACT OF LAND SHOWN ON THE PLAT OF SOUTH KIRKLAND ACREAGE, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE 94, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EASTERLY PROLONGATION OF THE NORTH LINE OF TRACT 27 IN SAID PLAT WITH THE WEST LINE OF COUNTY ROAD; THENCE WEST ALONG SAID EASTERLY PROLONGATION, 135 FEET; THENCE SOUTHERLY, PARALLEL WITH THE SAID WEST LINE OF COUNTY ROAD, 145 FEET; THENCE EAST, PARALLEL WITH SAID EASTERLY PROLONGATION, 135 FEET; THENCE NORTHERLY ALONG SAID WEST LINE OF COUNTY ROAD, 145 FEET TO THE POINT OF BEGINNING; EXCEPT THAT PORTION THEREOF LYING WITHIN NE 68TH STREET.

TOTAL PROPOSED PERMANENT EASEMENT AREA = 705 SQUARE FEET



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UTILITY EASEMENT AREA DESCRIPTION:

A PROPOSED UTILITY EASEMENT BEING ALL THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "X" LYING NORTH, EAST, SOUTHWEST AND SOUTH OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT "X"; THENCE N 0°35'36" E ALONG THE EAST LINE OF SAID TRACT "X" 54.27 FEET TO THE TRUE POINT OF BEGINNING; THENCE N 89°24'24" W, A DISTANCE OF 4.00 FEET; THENCE N 0°35'36" E, A DISTANCE OF 45.99 FEET; THENCE SOUTHERLY ALONG A NON-TANGENT CURVE CONCAVE TO THE WEST THE RADIUS POINT OF WHICH BEARS S 73°55'11" W, 45.50 FEET DISTANT, THROUGH A CENTRAL ANGLE OF 16°40'00" A DISTANCE OF 13.24 FEET; THENCE S 89°24'48" E, A DISTANCE OF 2.09 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF SAID TRACT "X", AND THE TERMINUS OF THIS LINE.

TRACT "X" IS THAT PORTION OF AN UNPLATTED TRACT OF LAND SHOWN ON THE PLAT OF SOUTH KIRKLAND ACREAGE, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE 94, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EASTERLY PROLONGATION OF THE NORTH LINE OF TRACT 27 IN SAID PLAT WITH THE WEST LINE OF COUNTY ROAD; THENCE WEST ALONG SAID EASTERLY PROLONGATION, 135 FEET; THENCE SOUTHERLY, PARALLEL WITH THE SAID WEST LINE OF COUNTY ROAD, 145 FEET; THENCE EAST, PARALLEL WITH SAID EASTERLY PROLONGATION, 135 FEET; THENCE NORTHERLY ALONG SAID WEST LINE OF COUNTY ROAD, 145 FEET TO THE POINT OF BEGINNING; EXCEPT THAT PORTION THEREOF LYING WITHIN NE 68TH STREET.

TOTAL PROPOSED UTILITY EASEMENT AREA = 149 SQUARE FEET



TEMPORARY CONSTRUCTION EASEMENT AREA DESCRIPTION:

A TEMPORARY CONSTRUCTION EASEMENT BEING ALL THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "X" LYING WITHIN THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT "X"; THENCE S 88°14'41" E ALONG THE NORTH LINE OF SAID TRACT "X" 88.41 FEET; THENCE S 1°44'55" W, A DISTANCE OF 4.24 FEET, ALONG THE RADIAL LINE OF A CURVE TO THE POINT OF BEGINNING OF SAID CURVE, WHICH IS CONCAVE TO THE SOUTH AND HAS A RADIUS OF 45.50 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°08'59" A DISTANCE OF 8.06 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°10'44" A DISTANCE OF 10.47 FEET; THENCE S 1°44'51" W, A DISTANCE OF 6.82 FEET; THENCE S 47°33'45" E, A DISTANCE OF 17.94 FEET; THENCE S 88°31'41" E, A DISTANCE OF 7.46 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE WEST THE RADIUS POINT OF WHICH BEARS S 60°56'21" W, 45.50 FEET DISTANT; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°58'50" A DISTANCE OF 10.31 FEET; THENCE S 0°35'36" W, A DISTANCE OF 0.61 FEET; THENCE N 88°17'42" W, A DISTANCE OF 22.24 FEET; THENCE N 1°28'19" E, A DISTANCE OF 10.78 FEET; THENCE N 88°15'09" W, A DISTANCE OF 13.02 FEET; THENCE N 1°44'51" E, A DISTANCE OF 20.70 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING, AND THE TERMINUS OF THIS LINE.

TRACT "X" IS THAT PORTION OF AN UNPLATTED TRACT OF LAND SHOWN ON THE PLAT OF SOUTH KIRKLAND ACREAGE, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE 94, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EASTERLY PROLONGATION OF THE NORTH LINE OF TRACT 27 IN SAID PLAT WITH THE WEST LINE OF COUNTY ROAD; THENCE WEST ALONG SAID EASTERLY PROLONGATION, 135 FEET; THENCE SOUTHERLY, PARALLEL WITH THE SAID WEST LINE OF COUNTY ROAD, 145 FEET; THENCE EAST, PARALLEL WITH SAID EASTERLY PROLONGATION, 135 FEET; THENCE NORTHERLY ALONG SAID WEST LINE OF COUNTY ROAD, 145 FEET TO THE POINT OF BEGINNING; EXCEPT THAT PORTION THEREOF LYING WITHIN NE 68TH STREET.

TOTAL TEMPORARY CONSTRUCTION EASEMENT AREA = 475 SQUARE FEET



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PUBLICATION SUMMARY
OF ORDINANCE NO. 4236

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION OF THE NE 68TH STREET/108TH AVENUE NE INTERSECTION IMPROVEMENTS PROJECT WITHIN THE CITY OF KIRKLAND, PROVIDING FOR THE COST OF PROPERTY ACQUISITION AND AUTHORIZING THE INITIATION OF APPROPRIATE EMINENT DOMAIN PROCEEDINGS IN THE MANNER PROVIDED FOR BY LAW.

SECTION 1. Authorizes condemnation of property necessary for the NE 68th Street/108th Avenue NE Intersection Improvements Project.

SECTION 2. Provides that the Project is fully funded and that the expense of acquiring the property shall be paid for from the appropriate funding source within the city's portion of general current revenue for each CIP project.

SECTION 3. Authorizes the City Attorney to initiate condemnation proceedings to acquire the property necessary for the Project.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2010.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk