



REVISED AGENDA V.2

STAFF PRESENTATIONS

PUBLIC COMMENT

SHORELINE CITY COUNCIL VIRTUAL/ELECTRONIC REGULAR MEETING

Monday, June 28, 2021
7:00 p.m.

Held Remotely on Zoom
<https://zoom.us/j/95015006341>

In an effort to curtail the spread of the COVID-19 virus, the City Council meeting will take place online using the Zoom platform and the public will not be allowed to attend in-person. You may watch a live feed of the meeting online; join the meeting via Zoom Webinar; or listen to the meeting over the telephone.

The City Council is providing opportunities for public comment by submitting written comment or calling into the meeting to provide oral public comment. To provide oral public comment you must sign-up by 6:30 p.m. the night of the meeting. Please see the information listed below to access all of these options:



[Click here to watch live streaming video of the Meeting on shorelinewa.gov](#)



Attend the Meeting via Zoom Webinar: <https://zoom.us/j/95015006341>



Call into the Live Meeting: 253-215-8782 | Webinar ID: 950 1500 6341



[Click Here to Sign-Up to Provide Oral Testimony](#)

Pre-registration is required by 6:30 p.m. the night of the meeting.



[Click Here to Submit Written Public Comment](#)

Written comments will be presented to Council and posted to the website if received by 4:00 p.m. the night of the meeting; otherwise they will be sent and posted the next day.

| | <u>Page</u> | <u>Estimated Time</u> |
|--|-------------|---------------------------|
| 1. CALL TO ORDER | | 7:00 |
| 2. ROLL CALL | | |
| (a) Proclaiming Parks, Recreation, and Cultural Services Month | <u>2a-1</u> | |
| 3. APPROVAL OF THE AGENDA | | |
| 4. REPORT OF THE CITY MANAGER | | |
| 5. COUNCIL REPORTS | | |
| 6. PUBLIC COMMENT | | |

Members of the public may address the City Council on agenda items or any other topic for three minutes or less, depending on the number of people wishing to speak. The total public comment period will be no more than 30 minutes. If more than 10 people are signed up to speak, each speaker will be allocated 2 minutes. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign up by 6:30 p.m. the night of the meeting via the [Remote Public Comment Sign-in form](#). Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed up.

7. CONSENT CALENDAR

- | | | |
|-----|---|--------------|
| (a) | Approval of Minutes of Regular Meeting of June 7, 2021 | <u>7a1-1</u> |
| | Approval of Minutes of Regular Meeting of June 14, 2021 | <u>7a2-1</u> |
| (b) | Approval of Expenses and Payroll as of June 11, 2021 in the Amount of \$1,672,884.89 | <u>7b-1</u> |
| (c) | Authorize the City Manager to Execute Agreements to Request Coronavirus State and Local Fiscal Recovery Funds from the American Rescue Plan Act (ARPA) | <u>7c-1</u> |
| (d) | Authorize the City Manager to Purchase a Crosswind J Street Sweeper and Upfitting Equipment in the Amount of \$354,143 for the Public Works Surface Water Program | <u>7d-1</u> |
| (e) | Authorize the City Manager to Enter into an Interlocal Data Sharing Agreement with the Washington State Auditor's Office for the Purpose of Data Sharing | <u>7e-1</u> |
| (f) | Authorize the City Manager to Execute Change Order #5 to Contract 9262 in the amount of \$225,000 with New Restoration and Recovery Services, LLC, d\ b\ a Aqualis, for Annual Stormwater Drainage Cleaning Maintenance | <u>7f-1</u> |
| (g) | Authorize the City Manager to Execute a Settlement Agreement and Release Related to the Storm Creek Erosion Management Project and Related Easement Agreements | <u>7g-1</u> |
| (h) | Adoption of Resolution No. 480 – Determining the Lowest Responsible, Responsive Bidder, Rejecting the Bid of Diversified Holdings NW, Awarding a Public Works Contract to Kamins Construction for the 1 st Avenue NE (N 193 rd Street to NE 195 th Street) New Sidewalk Project in the Amount of \$596,153, and Authorizing the City Manager to Execute the Same | <u>7h-1</u> |

8. ACTION ITEMS

- | | | | |
|-----|---|-------------|------|
| (a) | Action on Ordinance No. 932 - Authorizing the Placement of a Ballot Measure on the 2021 November General Election Ballot to Authorize a Property Tax Bond Measure for Park Improvements and Park Land Acquisition | <u>8a-1</u> | 7:20 |
| (b) | Action on Ordinance No. 933 - Authorizing the Use of Eminent Domain for Acquisition of Certain Real Properties to Construct the NW Innis Arden Way Culvert Replacement | <u>8b-1</u> | 7:40 |

9. EXECUTIVE SESSION: Property Acquisition – RCW 42.30.110(1)(b) 7:50

The Council may hold Executive Sessions from which the public may be excluded for those purposes set forth in RCW 42.30.110 and RCW 42.30.140. Before convening an Executive Session the presiding officer shall announce the purpose of the Session and the anticipated time when the Session will be concluded. Should the Session require more time a public announcement shall be made that the Session is being extended.

10. ADJOURNMENT 8:10

Any person requiring a disability accommodation should contact the City Clerk's Office at 206-801-2230 in advance for more information. For TTY service, call 206-546-0457. For up-to-date information on future agendas, call 206-801-2230 or visit the City's website at shorelinewa.gov/councilmeetings. Council meetings are shown on the City's website at the above link and on Comcast Cable Services Channel 21 and Ziplay Fiber Services Channel 37 on Tuesdays at 12 noon and 8 p.m., and Wednesday through Sunday at 6 a.m., 12 noon and 8 p.m.

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

| | | | |
|----------------------|---|---|--|
| AGENDA TITLE: | Proclamation of Parks, Recreation and Cultural Services Month | | |
| DEPARTMENT: | Parks, Recreation and Cultural Services | | |
| PRESENTED BY: | Colleen Kelly, RCCS Director and Sara Lane, ASD Director | | |
| ACTION: | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Resolution | <input type="checkbox"/> Motion |
| | <input type="checkbox"/> Discussion | <input type="checkbox"/> Public Hearing | <input checked="" type="checkbox"/> Proclamation |

ISSUE STATEMENT:

July is National Parks and Recreation Month, which provides an opportunity to celebrate the value of Shoreline's parks, recreation programs, and cultural services, and to honor the community partners and programs that enrich the lives of Shoreline residents in many ways.

Parks and Recreation Month invites us to recognize the role parks and open spaces, recreation programs, and cultural services play in establishing and maintaining quality of life and in contributing to the physical, economic, and environmental well-being of communities. This time of pandemic has further emphasized the critical value of parks, recreation and cultural amenities to our communities, and Shoreline has seen a very high utilization rate of both park facilities and available programming throughout the past year.

For more than a year of curtailed social activities, Shoreline's parks, recreation and cultural services have responded to meet the community's evolving needs. Safe, clean parks and open spaces have remained open to the public as an important source of respite, exercise, and comfort during challenging times. After running a highly modified, COVID-safe summer camp program, staff designed and implemented a COVID-safe remote learning program to support students and families through the transition to virtual education.

The Youth and Teen Development Program also created modified programming that allowed for some on-site programming at both the Richmond Highland Recreation Center and at Ballinger Homes. Specialized Recreation developed a very successful slate of zoom activities to engage and foster connections for residents in that program, and special events and cultural programs also developed virtual options for bringing neighbors and families together in creative, new, and safe ways. In addition, Shoreline's Public Art Program completed installation of two new sculptures in the Park at Town Center and successfully piloted a new Artist in Residency Program that is now entering its second year.

In Shoreline, we also celebrate the important work of many community partners, including ShoreLake Arts, King County Library System, Kruckeberg Botanic Garden Foundation, Shoreline Historical Museum, the Shoreline-Lake Forest Park Senior Center, the Shoreline School District, the Dale Turner YMCA, and others. All of these organizations, plus several Shoreline businesses, are working collaboratively with City staff to provide opportunities for recreation and cultural activities so Shoreline residents of all ages can continue to gain knowledge, develop skills, and stay healthy.

RECOMMENDATION

The Mayor should read the proclamation declaring July as Parks, Recreation and Cultural Services Month in the City of Shoreline.

ATTACHMENTS:

Attachment A: 2021 Parks, Recreation and Cultural Services Month Proclamation

Approved By: City Manager **DT** City Attorney **MK**



PROCLAMATION

WHEREAS, parks, recreation and cultural programs are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all people, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS, parks and open spaces are fundamental to the emotional and environmental health and wellbeing of our community; providing respite and opportunities to recreate, improving the environment, providing vegetative buffers to development, and producing habitat for wildlife; and

WHEREAS, recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and improve the mental and emotional health of all people; and

WHEREAS cultural services strengthen the community's identity, enhance the natural and built environment, and support Shoreline's commitment to equity, social justice and the arts; and

WHEREAS, the U.S. House of Representatives has designated July as Parks and Recreation Month; and likewise, the City of Shoreline recognizes the benefits derived from parks, recreation and cultural services;

NOW, THEREFORE, I, Will Hall, Mayor of the City of Shoreline, on behalf of the Shoreline City Council, do hereby proclaim the month of July 2021 as

PARKS, RECREATION AND CULTURAL SERVICES MONTH

in the City of Shoreline.

Will Hall, Mayor

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF REGULAR MEETING

Monday, June 7, 2021
7:00 p.m.

Held Remotely via Zoom

PRESENT: Mayor Hall, Deputy Mayor Scully, Councilmembers McConnell, McGlashan, Chang, Robertson, and Roberts

ABSENT: None.

1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Mayor Hall who presided.

2. ROLL CALL

Upon roll call by the City Clerk, all Councilmembers were present except for Councilmember Roberts, who arrived at 7:04 p.m.

3. APPROVAL OF THE AGENDA

The agenda was approved by unanimous consent.

4. REPORT OF CITY MANAGER

Debbie Tarry, City Manager, provided an update on the COVID-19 pandemic and reported on various City meetings, projects and events.

5. COUNCIL REPORTS

Councilmember McGlashan reported that, at the SeaShore meeting, they heard an update on transportation related actions at the national level and finalized the joint letter to Sound Transit prioritizing the 522/523 Bus Rapid Transit. He suggested that the City emphasize the importance of station area parking garages to Sound Transit.

Deputy Mayor Scully said that, at the recent Water Resource Inventory Area (WRIA) 8 Salmon Recovery Council, it was announced that the precipitous decline in Coho salmon traces back to a chemical reaction in automobile tire rubber.

Mayor Hall added that at the King County Cities Climate Collaboration work session they discussed the impacts of tire rubber and greenhouse gases and the strong commitment to

continuing to address climate change. He said the Growth Management Planning Council is considering an update to the climate goals.

6. PUBLIC COMMENT

Jackie Kurle, Shoreline resident, spoke regarding the Enhanced Shelter. She emphasized the importance of supporting ongoing community safety for issues associated with the Shelter.

Kathleen Russell, Shoreline resident, spoke on behalf of Save Shoreline Trees regarding tree protection plans at private development sites. She emphasized the challenges in monitoring and asked how the City plans to manage tree protection in these situations.

Jingjing Sun, Shoreline resident, spoke to raise awareness of the ongoing persecution of Falun Gong practitioners in China as well as local discrimination and harassment. She shared examples of the negative experiences of the practitioners and described her personal experience with harassment.

7. CONSENT CALENDAR

Upon motion by Deputy Mayor Scully and seconded by Councilmember McGlashan and unanimously carried, 7-0, the following Consent Calendar items were approved:

- (a) Approval of Minutes of Regular Meeting of May 24, 2021**
- (b) Action on the Reprogramming of \$71,885 in 2021 Community Development Block Grant Contingency Funding to the Compass Housing Leak Repair Project**
- (c) Authorize the City Manager to Enter into a Member Jurisdiction Grant Agreement with the King Conservation District in the Amount of \$58,100 for the Green Shoreline Partnership**

8. ACTION ITEMS

- (a) Public Hearing and Discussion of Ordinance No. 935 - Extending Interim Regulations to Allow for Additional Extensions of Application Deadlines

Rachael Markle, Director of Planning and Community Development, delivered the staff presentation. Ms. Markle stated that these Interim Regulations were first adopted on July 27, 2020 and while Ordinance No. 916 will expire July 19, 2021, some statewide restrictions continue that impact the application process. She shared information on other COVID-19 related building and construction impacts and said the Master Builders Association has reaffirmed the current challenges for the industry. Ms. Markle stated that this proposed six-month extension may subsequently be extended by additional Council action.

Ms. Markle summarized that this Ordinance extends authorization of one additional, 180-day extension for permits that are ready to issue for a total possible extension period of 360 calendar days and that the same extension would apply to Right of Way permit applications.

Mayor Hall opened the Public Hearing. Seeing no members of the public wishing to provide testimony, he closed the Public Hearing.

Councilmembers McGlashan and Chang expressed support for Ordinance No. 935.

It was agreed that Ordinance No. 935 would return as a Consent Item.

(b) Public Hearing and Discussion of Ordinance No. 936 - Extending Interim Regulations for Outdoor Seating

Andrew Bauer, Planning Manager, delivered the staff presentation. Mr. Bauer said the interim regulations for outdoor seating were first adopted with Ordinance No. 895 on July 27, 2020, extended once, and will expire on July 11, 2021. He recognized that while statewide restrictions are being lifted, eating and drinking establishments continue to suffer. Mr. Bauer summarized that proposed Ordinance No. 936 would continue interim regulations that permit outdoor seating on private property for businesses with registration and no parking requirement; expedited permit review for seating in City right-of-way, and waiver of fees.

Mayor Hall opened the Public Hearing. Seeing no members of the public wishing to provide testimony, he closed the Public Hearing.

Mayor Hall and Councilmembers Roberts, Chang, McConnell, and Robertson expressed support for Ordinance No. 936.

Councilmember Roberts asked about the timetable considering permanent regulations. Mr. Bauer said it is on the Planning Commission's radar to develop some form of permanent regulations to allow more flexibility for outdoor seating. Councilmember Robertson said she is also very interested in having a conversation about longer term/permanent changes for outdoor dining and commented on the success she has seen in parking spaces being used for this purpose.

Councilmember Chang asked why so few businesses had taken advantage of the interim regulations and if there were any options to encourage increased usage. Mr. Bauer said there was a significant amount of outreach done with local businesses and he shared possible reasons for the limited usage.

Councilmember McConnell said she would like to support the businesses with outdoor seating but is hesitant to prioritize consideration of permanent regulations until all safety issues are addressed. It was clarified that the interim regulations do not waive any building, life, safety or ADA regulations, nor any licensing requirements.

Mayor Hall encouraged residents to support local restaurants and observed that while restrictions are lifting, it is still important to remember that many are not yet fully vaccinated, and while outdoor dining is safer than indoor dining, he urged people to continue to take precautions to minimize the spread of the virus.

It was agreed that Ordinance No. 936 would return as a Consent Item.

9. STUDY ITEMS

(a) Discussion of the 2021 State Legislative Session with 32nd District Legislators

Jim Hammond, Intergovernmental Program Manager, delivered the staff presentation. Mr. Hammond welcomed Debora Munguia of Capitol Consulting, the City's contract lobbyist for state issues, who joined him in the presentation. Mr. Hammond said the 2021 State Legislative Session was incredibly productive and shared some of the adjustments made due to the pandemic. He said the major business of this long session was to set the biennial budget for the State. Mr. Hammond gave an overview of the significant policy achievements in this session regarding fiscal flexibility, public safety, homelessness/housing stability, and the Fircrest Campus redevelopment.

Ms. Munguia complimented the work of the 32nd District Delegation, the City Council, and City staff, and said their efforts contributed to the legislative successes. She stated that the City-specific element of the housing stability policy work done was the Multi Family Tax Exemption Bill. She described the Bill and the Shoreline-specific amendment that provides for a pilot project for 20-year exemptions. Mr. Hammond emphasized that this pilot program will be a great learning opportunity, whether or not it is successful. Ms. Munguia said regarding City-specific capital budget items, funding was secured for parks restrooms, a public pavilion at Shoreline Park, a nursing facility at Fircrest, and expansion of the state public health laboratory in Shoreline. She said the transportation budget that was passed was a bare bones budget and recognized that the legislature has work to do towards a new transportation package. She listed the funding secured for city transportation-related projects.

Mr. Hammond welcomed the 32nd District Delegation, Senator Jesse Salomon and Representatives Cindy Ryu and Lauren Davis. Mr. Hammond explained that each had been asked to speak regarding their biggest personal achievements this session, the next 'undone' thing, and the biggest surprise.

Senator Salmon said this session was surprisingly productive with a lot of good Bills passing. He is most proud about the passage of Senate Bill 5226, which says that no longer can a person lose their driver's license or be subjected to a criminal charge if unable to pay a ticket. He plans to continue work on Senate Bill 5134 regarding Police arbitration and described the problems with the current procedures the Bill would address. Senator Salomon said he remains concerned about public drug use and plans to address it in the future.

Representative Ryu said this session had an emphasis on an equitable and inclusive recovery, which focused on the aspects of COVID-19 response, economic recovery, racial equity and justice, and climate change. She summarized her ongoing work on House Bill 1128 concerning Housing Benefits Districts and the introduction of House Bill 1147 creating the Washington State Office of Resiliency. She reviewed the status of other efforts this session, which include work towards expanding the sales and use tax exemption for farm workers, the passage of a bill focused on contracting opportunities for Women and BIPOC owned businesses, and the

significant steps taken with both the working families tax rebate and capital gains excise tax. Representative Ryu talked about the Community and Economic Development committee she chairs; shared information on the Public Broadband Act recently passed; and concluded with a status update on actions involving the Fircrest Campus.

Representative Davis said the extra funding from the Federal government made this a once in a lifetime session. She shared details on the investments in both K-12 and higher education, described the Fair Start for Kids Act, and outlined her work on substance abuse recovery services and treatment. She stated that in July 2022 a one-stop behavioral health phone number (988) goes into effect, through which callers will reach behavioral health call centers and have access to mobile crisis response teams and follow up care. She reviewed specifics of the Healthy Environment for All Act (HEAL).

Councilmember Roberts thanked the Delegation for their continued support in securing funding in both the House and Senate budgets for the 148th Street non-motorized bridge project. Representative Ryu shared updates on the United States Transportation Committee activities, which prioritizes bike and pedestrian infrastructure, stating that she is hopeful there will be federal funding made available. Mayor Hall added that Shoreline's 2020 Sustainability Report included reporting that shows the carbon footprint of new homes in the station areas is dramatically less than existing homes, and offered that in addition to the equity and mobility lens, there is an extraordinary environmental rationale for supporting the bridge. Senator Salomon added that the Multi Family Tax Exemption amendment for Shoreline was largely around getting housing development at affordable rates in the station areas.

The proposed mileage-based tax program was discussed. Councilmember Chang asked if there was discussion on the equitability of this proposal, since people have to drive farther to find less expensive housing. Senator Salomon shared his observations and concerns with the program and offered a fuel tax could be a better approach. Councilmember McGlashan said at a recent SeaShore meeting it was reported that the pay per mile program was dead, and Senator Salomon added it is still in the minds of important legislators.

Councilmember Chang asked what Mental Health teams might look like on the ground. Representative Davis explained that 988 would be a hub call center that employs mental health professionals who will address the vast majority of the calls, including scheduling appointments, making referrals, following up with callers, or sending a mobile crisis team to respond. She said statistics from similar programs indicated that when implemented, it becomes very rare that law enforcement needs to be involved in responses.

When asked for more information on the Police Arbitration issue, Senator Salomon said that he supports unions and collective bargaining, but the collective bargaining agreements around arbitration are problematic and need to be more regulated. He observed that making change in this area is a heavy lift that requires community driven support. He reflected on the huge positive changes made in police accountability this year but stated that it is not correct to pay for private justice for a public service.

Mayor Hall thanked the delegation for their support of Shoreline.

10. ADJOURNMENT

At 8:34 p.m., Mayor Hall declared the meeting adjourned.

Jessica Simulcik Smith, City Clerk

DRAFT

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF REGULAR MEETING

Monday, June 14, 2021
7:00 p.m.

Held Remotely via Zoom

PRESENT: Mayor Hall, Deputy Mayor Scully, Councilmembers McConnell, McGlashan, Chang, Robertson, and Roberts

ABSENT: None.

1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Mayor Hall who presided.

2. ROLL CALL

Upon roll call by the City Clerk, all Councilmembers were present with the exception of Councilmember McConnell, who arrived prior to 7:09 p.m.

3. APPROVAL OF THE AGENDA

The agenda was approved by unanimous consent.

4. REPORT OF CITY MANAGER

John Norris, Assistant City Manager, provided an update on COVID-19 and reported on various City meetings, projects and events.

5. COUNCIL REPORTS

Councilmember Chang provided a report on a workshop held by the Regional Transit Committee for updating documents dealing with how Metro allocates resources. She said the Sound Cities Association Committee drafted some guiding principles which will be submitted to the Puget Sound Regional Council Public Issues Committee for approval.

Councilmember Robertson said at the recent North King County Shelter Task Force meeting the King County Housing Authority gave a presentation on the Regional Action Framework that is being created and she shared details about that process.

Councilmember Roberts said at the recent Sound Cities Association Meeting the Public Issues Committee discussion included updates on affordable housing and the King County countywide planning policies.

6. PUBLIC COMMENT

Kate Perez-Lopez, Shoreline resident, spoke in support of a Parks Bond. She said the parks were one of the reasons she moved to Shoreline and this initiative will make the parks even better and more inclusive to more people.

Katie Schielke, Shoreline resident and representative of Kruckeberg Garden Foundation, encouraged Council to support the addition of the Parks Bond package as presented by staff to the November ballot.

John Ramsdell, Shoreline resident, spoke in support of the ballot measure associated with Ordinance No. 932 and suggested that it include an appropriate level of funds directed towards developing the City's two new park acquisitions.

Jackie Kurle, Shoreline resident, spoke regarding the Enhanced Shelter and emphasized the importance of ongoing oversight and reporting for the facility.

7. CONSENT CALENDAR

Upon motion by Deputy Mayor Scully and seconded by Councilmember Chang and unanimously carried, 7-0, the following Consent Calendar items were approved:

(a) Approval of Expenses and Payroll as of May 28, 2021 in the Amount of \$4,333,104.38

***Payroll and Benefits:**

| Payroll Period | Payment Date | EFT Numbers (EF) | Payroll Checks (PR) | Benefit Checks (AP) | Amount Paid |
|-------------------|--------------|------------------|---------------------|---------------------|-----------------------|
| 04/18/21-05/01/21 | 5/7/2021 | 96716-96929 | 17283-17295 | 82449-82452 | \$598,935.83 |
| 04/18/21-05/01/21 | 5/14/2021 | | | WT1183-WT1184 | \$133,003.24 |
| 05/02/21-05/15/21 | 5/21/2021 | 96930-97146 | 17296-17342 | 82549-82555 | \$811,234.96 |
| 05/02/21-05/15/21 | 5/28/2021 | | | WT1186-WT1187 | \$133,583.50 |
| | | | | | <u>\$1,676,757.53</u> |

***Wire Transfers:**

| Expense Register Dated | Wire Transfer Number | Amount Paid |
|------------------------|----------------------|-------------|
| 5/24/2021 | 1185 | \$41,318.42 |

\$41,318.42

***Accounts Payable Claims:**

| Expense Register Dated | Check Number (Begin) | Check Number (End) | Amount Paid |
|------------------------------|----------------------------|--------------------------|----------------------------|
| 5/12/2021 | 82402 | 82414 | \$123,073.57 |
| 5/12/2021 | 82415 | 82448 | \$288,016.15 |
| 5/19/2021 | 82453 | 82467 | \$149,862.06 |
| 5/19/2021 | 82468 | 82482 | \$101,872.59 |
| 5/19/2021 | 82483 | 82497 | \$418,577.26 |
| 5/19/2021 | 82498 | 82511 | \$61,985.57 |
| 5/19/2021 | 82512 | 82513 | \$49,746.48 |
| 5/19/2021 | 82514 | 82517 | \$1,041,899.26 |
| 5/26/2021 | 85218 | 82540 | \$183,150.87 |
| 5/26/2021 | 82541 | 82548 | \$161,424.71 |
| 5/27/2021 | 82556 | 82567 | \$35,419.91 |
| | | | <hr/> \$2,615,028.43 <hr/> |

(b) Authorize the City Manager to Execute an Agreement with Sound Transit for the Shoreline North/185th Station Pedestrian Connection

(c) Authorize the City Manager to Execute a Construction Contract with Doolittle Construction, LLC in the Amount of \$398,200 for the 2021 Bituminous Surface Treatment project

8. **STUDY ITEMS**

(a) Discussion of Ordinance No. 932 - Authorizing the Placement of a Ballot Measure on the 2021 November General Election Ballot to Authorize a Property Tax Bond Measure for Park Improvements and Park Land Acquisition

Christina Arcidy, Management Analyst, delivered the staff presentation. Ms. Arcidy reviewed the background on this potential ballot measure, stating that Council guidance in 2020 was to develop a bond measure proposal to fund park improvements and park land acquisition. While the COVID-19 public health emergency delayed consideration, Council gave direction to place a 20-year bond measure before the voters in April 2021, but this measure failed to reach the validation threshold. She said Ordinance No. 932 contains the same bond measure components, totaling \$38.5 Million, and reviewed the estimated annual costs to homeowners.

Ms. Arcidy displayed the proposed ballot title, which remains unchanged from that used in the April 2021 election. She listed the next steps and timeline should Council wish to place a property tax bond measure for park improvements and park land acquisition on the 2021

November general election ballot. She concluded that staff recommends that Council adopt proposed Ordinance No. 932.

The Councilmembers unanimously expressed support for proposed Ordinance No. 932 and placing the bond measure on the November ballot. Mayor Hall and Councilmembers Robertson, Chang, McConnell, and McGlashan specified they support it as presented by staff, with no amendments.

Councilmember Robertson thanked the community members who supported the April 2021 ballot measure and spoke to their efforts to spread the word. She recognized the wide range of public opinion and response to the ballot measure. Councilmember Robertson said this version of the bond measure (Proposition 1) has already been discussed by Council with input from the Parks Board and staff and is a very thoughtful package of improvements to parks and open spaces that is equitably spread across the City and widely endorsed by community groups. She said it is her goal to get it on the November ballot and ask that the Council actively encourage its passage.

Deputy Mayor Scully said he generally does not support putting a measure that did not pass back on the ballot, but in this circumstance, he does. He spoke to the incentive behind keeping the same package and recognized the work done in the community to publicize it and the work it would create in their messaging efforts if the package was modified. He said he would like to take a closer look at Councilmember Roberts' proposal, and stated the information related to it that he would like provided.

Councilmember Roberts said it makes sense to put the same, or a similar, measure on the ballot again. He confirmed when the project and acquisition costs were most recently updated and thanked staff for the explanation of the financial impact on the median household of adding bond capacity. He said the additions of some money for improvements for the Park at Town Center and to complete some of the work at James Keogh Park makes sense. Ms. Arcidy described the differences between the PRCS committee recommendation and the staff recommendation for this park. He added that this ballot measure is a good avenue to secure funding for the acquisition of pocket parks if the opportunity presents itself.

In consideration of the impacts of amending the bond measure, Councilmember McConnell said she does not want to pass the tipping point for passage because of tweaks to the proposal. Councilmember Chang said she supports the proposal as-is, primarily because people had already decided to support it, so having to reeducate people on changes gets complicated and the proposed bond feels like the right size. Also, it is important to leave some bonding capacity for future Councils to consider a Community and Aquatics Center. Councilmember McGlashan said to change the bond measure at this time might be seen as a bait and switch. Mayor Hall agreed that bringing it back as-is avoids voter confusion and added that it would feel a little odd to add more to it, since it did not pass in April. He then recalled the other potential funding sources for parks improvements and acquisitions.

Mayor Hall summarized that a majority of Council support moving forward with Ordinance No. 932 as presented, and if any Councilmember wanted to propose amendments, submitting them this week would give staff time to consult with the Bond counsel prior to Action.

(b) Discussion of Proposed American Rescue Plan Act (ARPA) Funding Allocation

Susana Villamarin, Senior Management Analyst, delivered the staff presentation. Ms. Villamarin explained that the American Rescue Plan Act (ARPA) is the economic stimulus bill passed by the Senate to help with local fiscal recovery. Shoreline has been allocated approximately \$7.6 Million, to be received in two tranches that must be spent by the end of 2026. She reviewed the rules regarding the usage of funds and described the guiding principles used by staff to develop the recommended ARPA funding allocations.

Ms. Villamarin displayed a chart of the proposed allocations within the categories “Response to public emergency with respect to the Coronavirus Disease”, “Cost recovery for COVID related expenses”, and “Necessary investments in water, sewer, stormwater, or broadband infrastructure”. She stated that staff recommends utilizing a phased approach for allocation of funds and reviewed the proposed allocations for Phase 1 for ARPA navigators, community and youth recovery services, business recovery support, and infrastructure investments.

Ms. Villamarin asked for feedback on staff’s overall approach to developing recommendations for the use of the funds, asked if Council supports the proposed targeted allocation of the funds, and if they are comfortable with the phased approach to fund allocations.

Councilmembers McGlashan and McConnell expressed support for the staff recommendation.

In discussion related to the proposed infrastructure allocation, Deputy Mayor Scully said he is unlikely to support a package that puts all the infrastructure allocation in the Light Rail Station areas because growth improvements should pay for growth. His greatest concern is that this is supposed to be money for recovery; therefore, he would like to see a set of proposals that will benefit people across the City. He asked staff to completely rethink how the infrastructure funds are being allocated and suggested projects related to stormwater runoff. Councilmember Chang explained that she is supportive of a larger amount going towards infrastructure because she has heard from developers that projects are not penciling out, partially because of the cost of infrastructure improvements. She said that vibrant station areas will help economic recovery and asked if the infrastructure investments would help jumpstart activity in the station areas. Randy Witt, Public Works Director, described the positive impacts the projects would have, benefitting stormwater quality, flood management, and sewer capacity.

Councilmember Roberts said that while he broadly agrees with staff’s proposal on how to use funds, he wishes the prioritization on the Stormwater Master Plan would have been followed a little more closely. Ms. Villamarin added that there will be more discussions around the Capital Improvement Plan, but when staff analyzed the projects, it included making sure they qualify with the funding requirements. Councilmember Roberts said he supports the buckets, but not necessarily the infrastructure projects identified by staff. Councilmember Robertson agreed, stating she likes projects that are above ground and visible.

Mayor Hall said he supports putting the bulk of the funding into infrastructure, which will stimulate future economic recovery. He does not see a need to make sure this specific funding is used for infrastructure projects evenly throughout the City as long as issues across the whole City are supported equally overall. He noted that these funds cannot be used for general park improvements.

When reflecting on the necessity of ARPA navigators, Deputy Mayor Scully asked what value they would provide and what their work would look like. Colleen Kelly, Community Services Director, explained that right now there is a lot of money going to a lot of places, through many systems, so it is difficult to know what the needs are locally until it is first identified how people are accessing other resources. The ARPA navigators are experts about where all the funding resources are, how they are being offered, and how to provide direct support and assistance to help people access resources and identify and fill in the gaps. Mayor Hall said he initially questioned why \$511,000 was dedicated to this FTE, but after hearing the rationale it makes sense.

In consideration of the allocations for business recovery and stabilization, Councilmember Chang said she would have liked to see more money directed to business recovery, rather than studying business recovery and stabilization. She observed that the issues have already been identified, so this money should be used for grants and direct assistance. Nate Daum, Economic Development Manager, explained that the study would be a partnership with the Shoreline Chamber of Commerce to increase intentional outreach, work with businesses to understand their needs, and identify both pandemic-specific and long-term challenges. He said this is a unique time for local government to connect with the business community to build relationships, provide support, and foster retention. He elaborated on support methods the City is interested in exploring and described the efforts at business retention and development the Chamber would help with. Councilmember Robertson likes the idea of support for tenant improvements and grants for business storefronts.

Councilmember McConnell said using this funding to stimulate growth in station areas is wise. She recognized that the underground projects tend to cost the most, are not always visible, but are necessary.

The majority of the Councilmembers expressed support for the general allocations.

Councilmember Roberts asked what the next steps are for this decision making. Mr. Norris said staff is looking for general direction, and since this is direct Federal funding being provided to the City, staff did not feel a Resolution or Ordinance was required to codify this funding proposal. The next steps would be to bring forward a budget amendment putting elements of Phase 1 into the Budget. Deputy Mayor Scully said he would like a chance to vote on the allocations before a budget amendment.

Mayor Hall reviewed the proposed allocations for Phase 1 and the Council had no objection to moving forward with the ARPA navigators, funding for community and youth recovery, or the \$93k for partnering with the Chamber of Commerce. The Council directed staff to prepare more

information on how the prioritization decisions were made for the infrastructure funding and provide alternatives for consideration.

- (c) Discussion of Ordinance No. 933 - Authorizing the Use of Eminent Domain for Acquisition of Certain Real Properties to Construct the NW Innis Arden Way Culvert Replacement Project

Tricia Juhnke, City Engineer, delivered the staff presentation. Ms. Juhnke said Ordinance No. 933 is for the second phase of the Hidden Lake Dam removal project. She defined the powers associated with the use of eminent domain and said this condemnation ordinance is a precautionary step taken to keep the project on schedule. She stated that this Ordinance authorizes condemnation, creates a finding of public use and necessity, and establishes compensation requirements. Ms. Juhnke said this project requires easements from three property owners and displayed a map of the locations of the properties. She said the City has been in contact with all the property owners and eminent domain would not be used until negotiation efforts were exhausted and described the process to date.

Councilmember Robertson reflected on the duration of the Hidden Lake Dam project, and said she supports the process to move it forward. Mayor Hall concurred.

9. ADJOURNMENT

At 8:42 p.m., Mayor Hall declared the meeting adjourned.

Jessica Simulcik Smith, City Clerk

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Approval of Expenses and Payroll as of June 11, 2021
DEPARTMENT: Administrative Services
PRESENTED BY: Sara S. Lane, Administrative Services Director

EXECUTIVE / COUNCIL SUMMARY

It is necessary for the Council to formally approve expenses at the City Council meetings. The following claims/expenses have been reviewed pursuant to Chapter 42.24 RCW (Revised Code of Washington) "Payment of claims for expenses, material, purchases-advancements."

RECOMMENDATION

Motion: I move to approve Payroll and Claims in the amount of \$1,672,884.89 specified in the following detail:

***Payroll and Benefits:**

| Payroll Period | Payment Date | EFT Numbers (EF) | Payroll Checks (PR) | Benefit Checks (AP) | Amount Paid |
|------------------------------------|--------------|------------------|---------------------|---------------------|---------------------|
| Prior period check voided/reissued | | | 17285/17343 | | \$0.00 |
| Prior period check voided/reissued | | | 17340/17344 | | \$0.00 |
| 05/16/21-05/29/21 | 6/4/2021 | 97147-97370 | 17345-17385 | 82627-82630 | \$611,283.96 |
| 05/16/21-05/29/21 | 6/4/2021 | | | WT1188-WT1189 | \$135,004.48 |
| | | | | | <u>\$746,288.44</u> |

***Accounts Payable Claims:**

| Expense Register Dated | Check Number (Begin) | Check Number (End) | Amount Paid |
|------------------------|----------------------|--------------------|---------------------|
| 6/2/2021 | 82568 | 82579 | \$376,226.76 |
| 6/2/2021 | 82580 | 82580 | \$2,520.00 |
| 6/2/2021 | 82581 | 82590 | \$53,973.74 |
| 6/10/2021 | 82591 | 82610 | \$289,103.32 |
| 6/10/2021 | 82611 | 82626 | \$204,772.63 |
| | | | <u>\$926,596.45</u> |

***Accounts Payable Claims:**

| Expense Register Dated | Check Number (Begin) | Check Number (End) | Amount Paid |
|------------------------------|----------------------------|--------------------------|----------------|
|------------------------------|----------------------------|--------------------------|----------------|

Approved By: City Manager **DT**

City Attorney **MK**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Authorizing the City Manager to Execute Agreements to Request Coronavirus State and Local Fiscal Recovery Funds from the American Rescue Plan Act (ARPA)

DEPARTMENT: Recreation, Cultural and Community Services

PRESENTED BY: Susana Villamarin, Senior Management Analyst

ACTION: ☐ Ordinance ☐ Resolution ☒ Motion
 ☐ Discussion ☐ Public Hearing

PROBLEM/ISSUE STATEMENT:

The American Rescue Plan Act (ARPA) was signed into law on March 11, 2021 and federal funding will be distributed from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) to state and local governments to aid in the recovery from the budgetary, economic, and financial impacts of the COVID-19 pandemic. On [June 14, 2021](#), staff presented a proposed funding plan for the City's allocation from the CSLFRF totaling \$7,533,842. As discussed on June 14th, the City will receive the funds from the CSLFRF in two tranches, with 50% received this year and the remaining 50% in 2022 a year from the first tranche date. The City is required to request the funds through the U.S. Department of the Treasury's *Treasury Submission Portal* and will be required to execute other related contracts, agreements, amendments, and documents in connection with ARPA. To do so, the City Council must designate an Authorized Representative. Tonight, staff is requesting the City Council designate the City Manager as the City's Authorized Representative to execute related documents, with the approval as to form by the City Attorney, without further Council action.

RESOURCE/FINANCIAL IMPACT:

The City is allocated \$7,533,842 in funding from the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) that will cover eligible expenditures that will aid in the recovery from the budgetary, economic, and financial impacts of the COVID-19 pandemic that are fully obligated by December 31, 2024. Subsequent budget amendment ordinances will be presented to the City Council that authorize appropriation and expenditure of funds for activities eligible under the American Rescue Plan (ARPA).

RECOMMENDATION

Staff recommends that the City Council move to designate the City Manager as the City of Shoreline's Authorized Representative to execute all documents associated with the funds received from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) allocated from the American Rescue Plan Act (ARPA).

Approved By: City Manager **DT** City Attorney **MK**

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--|
| AGENDA TITLE: | Authorize the City Manager to Purchase a Crosswind J Street Sweeper and Upfitting Equipment in the Amount of \$354,143 for the Public Works Surface Water Program |
| DEPARTMENT: | Administrative Services |
| PRESENTED BY: | Sara Lane, Administrative Services Director Dan Johnson, Parks, Fleet & Facilities Manager |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

Staff is requesting City Council authorization to purchase a new Crosswind J Street Sweeper in the amount of \$354,143 for the Public Works Surface Water Program. The existing 2015 Elgin Crosswind Street Sweeper has required extensive maintenance and repairs and is ready for replacement.

In accordance with Shoreline Municipal Code, 2.60.050 (5), City Council authorization is required for equipment purchases more than \$100,000. Staff will be utilizing the Washington State Department of Enterprise Services (WADES) cooperative agreement (#02613) to purchase the new street sweeper from the Owen Equipment Company.

The 2021-2022 Biennial Budget includes an appropriation to purchase the sweeper; however, an amendment for additional appropriation and funding is necessary to complete the purchase, which will be presented to the City Council as part of the 2021-2022 Mid-Biennial Budget update.

RESOURCE/FINANCIAL IMPACT:

The total price for the Crosswind J Street Sweeper including upfitting equipment (radios, decals, dura seal tires, etc.) totals \$354,143. The 2021-2022 Biennial Budget includes an appropriation in the amount of \$312,026 that is currently funded with \$264,702 of replacement reserves dedicated for the new sweeper and the balance from the salvage value to be received by surplus the existing sweeper. At this point, as staff is considering downfleeting and not surplus the existing sweeper, to complete the purchase, an increase of the appropriation by \$42,117 to a total of \$354,143 will be required.

The funding gap between the purchase price and current replacement reserves of \$264,702 will need to be filled with an additional \$89,441 provided from the Surface Water Utility Fund to the Equipment Replacement Fund. This purchase may be made now within current appropriations because some replacements that are currently budgeted are being deferred to a future biennium. The 2021-2022 Mid-Biennial Budget

update to be presented to Council in November will include all amendments needed to fully and accurately fund the purchase.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to purchase the Crosswind J Street Sweeper and upfitting equipment needed for the Sweeper in the amount of \$354,143.

Approved By: City Manager ***DT*** City Attorney ***MK***

BACKGROUND

The City's existing street sweeper is a 2015 Elgin Crosswind Street Sweeper. It has undergone extensive maintenance and repair costs in the performance of regular operations, and a new Crosswind J Street Sweeper has been identified for its replacement.

City maintenance staff use the street sweeper extensively to perform year-round critical street sweeping services for the Surface Water Program. This includes cleaning public streets (major arterials, collector arterials and residential streets), gutters, parking lots and general surface areas. Parking lots that are cleaned by the street sweeper include the Hamlin Maintenance, North Maintenance, and Wastewater Maintenance Facility parking lots and parks facilities parking lots.

The street sweeper cleans leaves, sand, debris, and other surface material that may interfere with drainage systems and potentially create flooding throughout the City. The sweeper also prevents contaminated material from entering drainage systems and waterways that flow into streams, retention ponds, lakes, and Puget Sound. During the Winter, the application of sand and deicing materials used to manage roadways are swept up to prevent the contamination of waterways and drainage systems.

DISCUSSION

The new proposed Crosswind J Street Sweeper, which costs \$354,143 including upfitting equipment, such as radios, decals, and dura seal tires, is designed to operate with a single engine and higher horsepower versus the existing sweeper that includes an engine and auxiliary motor. Staff plans to downfleet the existing street sweeper and monitor its performance and when the new sweeper arrives and is placed into service.

In accordance with Shoreline Municipal Code, 2.60.050 (5), City Council authorization is required for equipment purchases more than \$100,000. Staff will be utilizing the Washington State Department of Enterprise Services (WADES) cooperative agreement (#02613) to purchase the new street sweeper from the Owen Equipment Company.

The 2021-2022 Biennial Budget includes an appropriation to purchase the sweeper; however, an amendment for additional appropriation and funding is necessary to complete the purchase, which will be presented to the City Council as part of the 2021-2022 Mid-Biennial Budget update.

RESOURCE/FINANCIAL IMPACT

The total price for the Crosswind J Street Sweeper including upfitting equipment (radios, decals, dura seal tires, etc.) totals \$354,143. The 2021-2022 Biennial Budget includes an appropriation in the amount of \$312,026 that is currently funded with \$264,702 of replacement reserves dedicated for the new sweeper and the balance from the salvage value to be received by surplus the existing sweeper. At this point, as staff is considering downfleeting and not surplus the existing sweeper, to complete the purchase, an increase of the appropriation by \$42,117 to a total of \$354,143 will be required.

The funding gap between the purchase price and current replacement reserves of \$264,702 will need to be filled with an additional \$89,441 provided from the Surface Water Utility Fund to the Equipment Replacement Fund. This purchase may be made now within current appropriations because some replacements that are currently budgeted are being deferred to a future biennium. The 2021-2022 Mid-Biennial Budget update to be presented to Council in November will include all amendments needed to fully and accurately fund the purchase.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to purchase the Crosswind J Street Sweeper and upfitting equipment needed for the Sweeper in the amount of \$354,143.

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--|
| AGENDA TITLE: | Authorizing the City Manager to Enter into an Interlocal Data Sharing Agreement with the Washington State Auditor's Office for the Purpose of Data Sharing |
| DEPARTMENT: | Administrative Services |
| PRESENTED BY: | Sara Lane, Administrative Services Director |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

The purpose of this Interlocal Data Sharing Agreement (IDSA) is to establish the terms under which the Washington State Auditor's Office (WSAO) and City of Shoreline will voluntarily exchange confidential information related to the City's Annual Audit, as applicable, and in accordance with the agreement and pursuant to the authority granted by Chapter 39.34 RCW and 43.09 RCW. Tonight, staff is seeking Council authorization for the City Manager to enter into this IDSA with the WSAO.

RESOURCE/FINANCIAL IMPACT:

There is no financial impact in the authorization of the IDSA.

RECOMMENDATION

Staff recommends that the City Council move to authorize the City Manager to enter into an Interlocal Data Sharing Agreement with the Washington State Auditor's Office for the purpose of data sharing.

Approved By: City Manager **DT** City Attorney **JA-T**

BACKGROUND

In 2016, the City entered into an interlocal data sharing agreement with the Washington State Department of Revenue. This 2016 agreement established the terms under which the entities may voluntarily share tax and licensing information for tax enforcement and other official purposes pursuant to RCW 19.02.115(3)(j) and RCW 82.32.330(3)(h), as applicable. The staff report for that Council action is available at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2016/staffreport050216-7e.pdf>.

Although the City is required to share its financial information with Washington State Auditor's Office (WSAO) each year during the City's annual audit, this is the first time the WSAO has requested that the City to enter into a data sharing agreement.

DISCUSSION

The proposed draft Interlocal Data Sharing Agreement (IDSA; Attachment A) provides similar authorization for the City to share data with WSAO during the City's annual audit. The City Attorney is working with the WSAO to finalize the agreement. The WSAO has implemented this requirement as part of its data security protocols to address a data security breach that occurred in 2020. While the City of Shoreline was not impacted by that event, these agreements will formalize all the steps the WSAO takes to protect data, without requiring changes to existing practices.

The WSAO would like this IDSA to be executed prior to the start of the City's annual audit of the 2020 Financial Statements, which will begin on July 19, 2021. Tonight, staff is seeking Council authorization for the City Manager to enter into this IDSA with the WSAO.

RESOURCE/FINANCIAL IMPACT

There is no financial impact in the authorization of the IDSA.

RECOMMENDATION

Staff recommends that the City Council move to authorize the City Manager to enter into an Interlocal Data Sharing Agreement with the Washington State Auditor's Office for the purpose of data sharing.

ATTACHMENTS

Attachment A: Draft Interagency Data Sharing Agreement Between the City of Shoreline and the Office of the Washington State Auditor

INTERAGENCY DATA SHARING AGREEMENT

Between

City of Shoreline

And the Office of the Washington State Auditor

This Interagency Data Sharing Agreement (DSA) is entered into by and between City of Shoreline hereinafter referred to as “Agency”, and the Office of the Washington State Auditor, hereinafter referred to as “SAO”, pursuant to the authority granted by Chapter 39.34 RCW and 43.09 RCW.

AGENCY PROVIDING DATA: Agency

Agency Name: _____
Contact Name: _____
Title: _____
Address: _____
Phone: _____
E-mail: _____

AGENCY RECEIVING DATA: SAO

Agency Name: Office of the Washington State Auditor
Contact Name: Wendy Choy
Title: Program Manager
Address: 40 Lake Bellevue Drive Suite 123
Phone: 425-502-7067
E-mail: Wendy.Choy@sao.wa.gov

1. PURPOSE OF THE DSA

The purpose of the DSA is to provide the requirements and authorization for the Agency to exchange confidential information with SAO. This agreement is entered into between Agency and SAO to ensure compliance with legal requirements and Executive Directives (Executive Order 16-01, RCW 42.56, and OCIO policy 141.10) in the handling of information considered confidential.

2. DEFINITIONS

“Agreement” means this Interagency Data Sharing Agreement, including all documents attached or incorporated by reference.

“Data Access” refers to rights granted to SAO employees to directly connect to Agency systems, networks and/ or applications combined with required information needed to implement these rights.

DSA Agreement between Agency and SAO
Agency DSA: 21-01

“Data Transmission” refers to the methods and technologies to be used to move a copy of the data between systems, networks and/ or employee workstations.

“Data Storage” refers to the place data is in when at rest. Data can be stored on removable or portable media devices such as a USB drive or SAO managed systems or OCIO/ State approved services.

“Data Encryption” refers to enciphering data with a NIST-approved algorithm or cryptographic module using a NIST-approved key length. Encryption must be applied in such a way that it renders data unusable to anyone but the authorized users.

“Personal Information” means information defined in RCW 42.56.590(10).

3. PERIOD OF AGREEMENT

This agreement shall begin on July 1, 2021, or date of execution, whichever is later, and end on June 30, 2024, unless terminated sooner or extended as provided herein.

4. JUSTIFICATION FOR DATA SHARING

SAO is the auditor of all public accounts in Washington State. SAO’s authority is broad and includes both explicit and implicit powers to review records, including confidential records, during the course of an audit or investigation.

5. DESCRIPTION OF DATA TO BE SHARED

The data to be shared includes information and data related to financial activity, operation and compliance with contractual, state and federal programs, security of computer systems, performance and accountability for agency programs as applicable to the audit(s) performed. Specific data requests will be limited to information needed for SAO audits, investigations and related statutory authorities as identified through auditor requests.

6. DATA ACCESS

If desired, with the Agency’s permission, the Agency can provide direct, read-only access into its system. SAO will limit access to the system to employees who need access in support of the audit(s). SAO agrees to notify the agency when access is no longer needed.

7. DATA TRANSMISSION

Transmission of data between Agency and SAO will use a secure method that is commensurate to the sensitivity of the data being transmitted.

8. DATA STORAGE AND HANDLING REQUIREMENTS

Agency will notify SAO if they are providing confidential data. All confidential data provided by Agency will be stored with access limited to the least number of SAO staff needed to complete the purpose of the DSA.

9. INTENDED USE OF DATA

The Office of the Washington State Auditor will utilize this data in support of their audits, investigations, and related statutory responsibilities as described in RCW 43.09.

DSA Agreement between Agency and SAO
Agency DSA: 21-01

10. CONSTRAINTS ON USE OF DATA

The Office of the Washington State Auditor agrees to strictly limit use of information obtained under this Agreement to the purpose of carrying out our audits, investigations and related statutory responsibilities as described in RCW 43.09.

11. SECURITY OF DATA

SAO shall take due care and take reasonable precautions to protect Agency's data from unauthorized physical and electronic access. SAO complies with the requirements of the OCIO 141.10 policies and standards for data security and access controls to ensure the confidentiality, and integrity of all data shared.

12. NON-DISCLOSURE OF DATA

SAO staff shall not disclose, in whole or in part, the data provided by Agency to any individual or agency, unless this Agreement specifically authorizes the disclosure. Data may be disclosed only to persons and entities that have the need to use the data to achieve the stated purposes of this Agreement. In the event of a public disclosure request for the Agency's data, SAO will notify the Agency

- a. SAO shall not access or use the data for any commercial or personal purpose.
- b. Any exceptions to these limitations must be approved in writing by Agency.
- c. The SAO shall ensure that all staff with access to the data described in this Agreement are aware of the use and disclosure requirements of this Agreement and will advise new staff of the provisions of this Agreement.

13. OVERSIGHT

The SAO agrees that Agency will have the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance.

14. TERMINATION

Either party may terminate this Agreement with 30 days written notice to the other party's Agreement Administrator named on Page 1. However, once data is accessed by the SAO, this Agreement is binding as to the confidentiality, use of the data, and disposition of all data received as a result of access, unless otherwise amended by the mutual agreement of both parties.

15. DISPUTE RESOLUTION

In the event that a dispute arises under this Agreement, a Dispute Board shall determine resolution in the following manner. Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review facts, contract terms, and applicable statutes and rules and make a determination of the dispute.

16. GOVERNANCE

- a. The provisions of this Interagency Data Sharing Agreement are severable. If any provision of this Agreement is held invalid by any court that invalidity shall not affect the other provisions of this Interagency Data Sharing Agreement and the invalid provision shall be considered modified to conform to the existing law.

- b. In the event of a lawsuit involving this Interagency Data Sharing Agreement, venue shall be proper only in Thurston County, Washington.

17. SIGNATURES

The signatures below indicate agreement between the parties.

Agency

Office of the Washington State Auditor

Signature

Date

Signature

Date

Title: _____

Title: _____

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Authorizing the City Manager to Execute Change Order #5 to Contract 9262 in the Amount of \$225,000 with New Restoration and Recovery Services, LLC, d\ba Aqualis, for Annual Stormwater Drainage Cleaning Maintenance

DEPARTMENT: Public Works

PRESENTED BY: John Featherstone, Surface Water Utility Manager

ACTION: ☐ Ordinance ☐ Resolution ☒ Motion
 ☐ Discussion ☐ Public Hearing

PROBLEM/ISSUE STATEMENT:

The City's *Western Washington Phase II Municipal Stormwater Permit* (NPDES Permit) requires time-sensitive maintenance of City owned or operated storm water infrastructure, including routine "vactor" cleaning of storm water infrastructure based on inspections. As of June 2021, the Surface Water Utility (Utility) has expended nearly 80% of the total contract amount on the contractor that performs routine storm water infrastructure cleaning for the Utility, which is New Restoration and Recovery Services, LLC, doing business as (d\ba) Aqualis (Contract #9262). Contract #9262 with Aqualis was executed on February 28, 2019, with a three-year term and a total amount of \$300,000.

Staff have identified an ongoing need to clean stormwater pipes, as supported by 2018 Surface Water Master Plan recommendations and budgeting, and determined that this need would be best served under this existing contract. Accordingly, staff propose extending Contract #9262 by one year and increasing the contract value by \$225,000. This change order would allow the City to continue completing routine vactor work for another year, including addressing the backlog of cleaning work generated from stormwater pipe condition assessments. Tonight, staff is requesting Council authorization for the City Manager to execute this change order with Aqualis.

RESOURCE/FINANCIAL IMPACT:

Funding for this change order will come from the Utility's Surface Water Management (SWM) budget item designated for Annual Vactor Maintenance, which allocates \$150,000 per year for 2021-2022 and was intended to include scheduled stormwater pipe cleanings. Increasing the contract value by \$225,000 will allow the Utility to meet the budget target of performing \$150,000 of work in both 2021 and 2022.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a change order with New Restoration and Recovery Services, LLC, d/b/a Aqualis, for a one-year contract extension and a \$225,000 contract value increase.

Approved By: City Manager ***DT*** City Attorney ***MK***

BACKGROUND

The Surface Water Utility (Utility) operates the City's *Western Washington Phase II Municipal Stormwater Permit* (NPDES Permit) and conducts annual inspections of City owned or operated stormwater infrastructure. To comply with the NPDES Permit, the City has adopted maintenance best management practices from the Department of Ecology's *Stormwater Management Manual for Western Washington*. A large part of the required annual maintenance involves utilizing a vactor truck to clean catch basins, pipes, and water quality infrastructure. Historically the Utility has completed required cleanings using contracted vactor services hired through a competitive bidding process.

Systematic Citywide stormwater pipe closed-circuit television (CCTV) inspections have been underway since 2013, and the Utility has now inspected roughly half of the approximately 140 miles of stormwater pipes owned and operated by the City. Pipes with sedimentation or other issues in need of maintenance cleaning are identified during CCTV inspections. While the 2018 Surface Water Master Plan made a general recommendation to include pipe cleaning under system maintenance, scheduled maintenance cleanings of stormwater pipes based on CCTV inspection results had not previously been incorporated into the Utility's maintenance program. Not addressing pipe cleaning needs in the long term creates a risk of reduced system conveyance capacity and flooding. Staff recognized the need to begin to address the backlog of stormwater pipe cleanings and the 2021-2022 SWM budget was created to allocate funding for this specific need.

DISCUSSION

Based on this, staff have identified a need to continue to clean stormwater pipes and determined that this need would be best served under the City's existing stormwater pipe cleaning contract with New Restoration and Recovery Services, LLC, d/b/a Aqualis (Contract #9262). This contract was executed on February 28, 2019, in the amount of \$300,000, with the original term of the contract being up to three years, expiring on February 28, 2022.

As of June 2021, the Utility has expended nearly 80% of the total contract amount on Contract #9262 with Aqualis. Accordingly, staff propose extending Contract #9262 by one year and increasing the contract value by \$225,000. This change order would allow the City to continue completing routine vactor work for another year, including addressing the backlog of cleaning work generated from stormwater pipe condition assessments.

Tonight, staff is requesting Council authorization for the City Manager to execute this change order with Aqualis. If approved, this change order would represent a key first step in addressing the backlogged need for stormwater pipe cleaning, while also providing an extended period of service for the other stormwater asset maintenance historically done under this contract.

COUNCIL GOAL(S) ADDRESSED

This contract supports City Council Goal #2 to continue to deliver highly-valued public services through management of the City's infrastructure and stewardship of the natural environment.

RESOURCE/FINANCIAL IMPACT

Funding for this change order will come from the Utility's Surface Water Management (SWM) budget item designated for Annual Vactor Maintenance, which allocates \$150,000 per year for 2021-22 and was intended to include scheduled stormwater pipe cleanings. Increasing the contract value by \$225,000 will allow the Utility to meet the budget target of performing \$150,000 of work in both 2021 and 2022.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a change order with New Restoration and Recovery Services, LLC, d\l\ a Aqualis, for a one-year contract extension and a \$225,000 contract value increase.

ATTACHMENTS

Attachment A – Change Order #9262.05 and Executed Contract #9262

| | | |
|--|---|-----------------------------------|
| City of Shoreline Contract Change Order | 1. Contract Change Order No. (Clerk's No.): 9262.05 | |
| | 2. Page 1 of 1 | |
| 3. Name of Contractor: New Restoration and Recovery Services LLC, d/b/a Aqualis | 4. Issued By: Chris Berrington | 5. Effective Date: Upon Execution |
| 6. Project Title: Stormwater Drainage Cleaning Maintenance | 7. Original Contract No. 9262 | |
| DESCRIPTION OF CHANGE: This change order provides for a one year contract time extension and a \$225,000 contract value increase. | | |
| EXCEPT AS EXPRESSLY CHANGED HEREIN, ALL CONTRACT OBLIGATIONS REMAIN UNCHANGED AND IN FULL EFFECT | | |
| <p>9. Adjustments to Contract Sum and Contract Time: The following adjustments, if any, to the Contract Sum and Contract Time constitute the complete and final settlement of all costs of labor, materials, equipment, overhead, fee, and damages, whether direct, indirect, and any other claim by the Contractor, as a result of the change.</p> <p>(a) The Contract Sum is hereby increased by the fixed sum of \$225,000.</p> <p>(b) The Contract Time is hereby increased by one year and will expire on February 28, 2023</p> <p>10. NOTE: Execution of this Change Order by the Contractor constitutes the Contractor's irrevocable acceptance of all the terms hereof, including the above described adjustments, if any, in the Contract Sum and Contract time.</p> | | |
| 11. BY CITY OF SHORELINE | 12. ACCEPTANCE BY CONTRACTOR | |
| Signature | Signature | |
| Name and title | Name and title | |
| Date: | Date: | |



PUBLIC WORKS
UNIT PRICED CONTRACT

Contract # and Title 9262 Stormwater Drainage Cleaning Maintenance

Contractor Name: LKP, Inc. dba Innovative Vacuum Services
 Address: 20909 70th Ave West, Edmonds, WA
 Contact: Nirpaul Kang
 Phone: 206-783-3317
 Email: nirpaul@innovac.com

Date: 2/19/2019
 Department Contact: Chris Berrington
 Phone: 206-801-2456
 Email: cberrington@shorelinewa.gov

Insurance and Indemnification: The Contractor shall defend, indemnify and hold the City and all of its employees harmless from any and all liabilities, claims, damages, costs or expenses (including reasonable attorneys' fees) arising from or relating to the work performed under this Agreement to the extent of the Contractor's negligence. The Contractor waives, with respect to the City, its immunity under industrial insurance, Title 51 RCW. This waiver has been mutually negotiated by the parties. This indemnification shall survive the expiration or termination of this Agreement. Contractor shall secure and maintain, at its own cost and expense, Comprehensive General Liability and Property Damage insurance in the amount of not less than \$1,000,000 for death or injury in any one occurrence and \$1,000,000 for property damage in any one occurrence which provides, at a minimum, the following coverage: Premises and Operation; Explosions, Collapse and Underground Hazards (Where Applicable); Products/Completed Operations; Contractual Liability; Broad Form Property Damage; Independent Contractors; and Personal Injury.

Contractor shall secure and maintain, at its own cost and expense, Comprehensive Auto Liability insurance in the amount of not less than \$1,000,000 per occurrence which provides, at a minimum the following coverages: Owned Vehicles; Non-Owned Vehicles; Hired Vehicles; Property Damage.

This coverage shall be issued from an insurance company authorized to do business in the State of Washington. The City of Shoreline shall be named as additional insured on said insurance in a form acceptable to the City Attorney. The Contractor agrees to repair and replace all property of the City and all property of others damaged by the Contractor, Contractor's employees, subcontractors and agents. It is understood that the whole of the work under this contract is to be done at the Contractor's risk and that the Contractor is familiar with the conditions of materials, climatic conditions, and other contingencies likely to affect the work and has made their bid accordingly and that the Contractor will assume the responsibility and risk of all loss or damage to materials or work which may arise from any cause whatsoever prior to completion.

Warranties: If within one year after the completion date of each Work Order, defective and unauthorized Work is discovered, the Contractor shall promptly, upon written order by the City, return and in accordance with the City's instructions, either correct such work, or if such Work has been rejected by the City, remove it from the site and replace it with non-defective and authorized Work, all without cost to the City.

Nondiscrimination: The Contractor shall comply with all applicable federal and state laws, and city ordinances, for equal employment opportunity and nondiscrimination laws.

Gifts: The City's Code of Ethics and Washington State law prohibit City employees from soliciting, accepting, or receiving any gift, gratuity or favor from any person, firm or corporation involved in a contract or transaction. To ensure compliance with the City's Code of Ethics and state law, the Contractor shall not give a gift of any kind to City employees or officials.

Business License: As mandated by SMC 5.05.030, the Contractor shall obtain a City of Shoreline Business License prior to performing any services and maintain the business license in good standing throughout the term of this contract with the City.

Prevailing Wages: This contract is subject to prevailing wages according to RCW 39.12.020. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. L&I forms in compliance with Prevailing Wage requirements shall be submitted annually. Contractor shall submit an approved Intent to Pay Prevailing Wages form upon contract execution before any payments can be made. An Affidavit of Wages Paid form must be filed annually at the end of each contract year for all work completed within that contract year. Contractor will pay all fees associated with filing the forms. If any work is subcontracted on a project, Intent to Pay Prevailing Wages and Affidavit of Wages Paid forms must be submitted by each sub-contractor annually.

Bonds/Retainage: A Contract Bond is required. Retainage is required and is withheld for each individual work order/invoice until contract close out. The City shall not release retainage until it has received releases from the State Department of Revenue, Employment Security, the State Department of Labor & Industries, any liens, and receipt of approved Affidavits of Wages paid for the Contractor and each and every subcontractor.

Industrial Insurance Status: Contractor is responsible for maintaining a current status of their industrial insurance premiums with the Department of Labor and Industries (L&I). Prior to issuing final payment, the City will verify with L&I the status of the contractor's premiums. Under RCW 60.28 the City can withhold and pay the contractor's delinquent premiums from final payment.

Payment: The City shall pay the Contractor within 30 days of submittal of a properly itemized invoice.

Governing Law and Venue: This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be King County Superior Court.

Severability: Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Contractor, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

Entire Agreement: This agreement contains the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this agreement, shall be deemed to exist or bind any of the parties hereto. Either party may request changes in the agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendment to this agreement.

Assignment: This Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by the Contractor to any other person or entity without the prior written consent of the City, which consent will not be unreasonably withheld. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of Contractor as stated herein.

Term: The initial term of this contract shall be three years with the City having the option to renew for one additional year and shall not exceed \$300,000 including Washington State sales tax, whichever occurs first. The City has the right to terminate this contract, with or without cause, at any time with 14-day written notice to Contractor.

Captions: The titles of sections or any other parts of this Agreement are for convenience only and do not define or limit the contents.

Counterpart Originals: This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by a Party shall have the same force and effect as if that Party had signed all other counterparts.

Authority to Execute: Each person executing this Agreement on behalf of a Party represents and warrants that he or she is fully authorized to execute and deliver this Agreement on behalf of the Party for which he or she is signing. The Parties hereby warrant to each other that each has full power and authority to enter into this Agreement and to undertake the actions contemplated herein and that this Agreement is enforceable in accordance with its terms.

Completion Date: 12/31/2021

The scope of work in accordance with the bid documents, including any addenda, and the schedule of rates and charges are attached as Exhibit A.

Prevailing wage rates will be updated annually, using the rates in effect at the beginning of each contract year. No other cost modifications other than prevailing wages will be accepted.

Any changes to the rates or additions to the scope attached as Exhibit A will be formalized in a change order to the contract.

The contractor should send invoices to: Accounts Payable at accountspayable@shorelinewa.gov

The contractor shall not start an individual work task/project until the City provides a written Notice to Proceed for that task/project. This agreement shall terminate without cost if an initial Notice to Proceed is not issued within 60 days. The City will not issue a Notice to Proceed before approved evidence of insurance is received.

This agreement is executed by:

Contractor

(Signature)

Print Name

2/27/19

Date

Department

(Signature)

Print Name

2/28/19

Date

BID PROPOSAL SHEET (Page 1 of 4)

**Stormwater Drainage Cleaning Maintenance
Bid 9262**

**BID DUE No Later than JANUARY 31, 2019, 2:00 PM, EXACTLY, PACIFIC LOCAL
TIME**

Having carefully examined all documents enclosed herein, the undersigned proposes to perform all Work in strict compliance with all documents, for the amount set forth below.

SCHEDULE:

Work tasks shall be completed within 50 working days after the indicated starting date appearing in an official "Notice to Proceed" issued by Shoreline. A penalty shall be imposed as specified in the Contract Documents for each day Contractor fails to meet the completion date.

BID ITEM QUANTITIES: Bid item quantities are based on the estimated scope of work. Quantities of items and work performed may vary on an annual basis and will be determined based on annual inspections.

BID AWARD:

Determination of low bidder will be made based on the 'Total Schedule A plus total Schedule B bid' amount; Partial bids will not be considered.

COMPANY NAME Innovac

BID PROPOSAL SHEET (Page 2 of 4)**Annual Stormwater Drainage Cleaning
Bid 9262****BID ITEMS (SCHEDULE A) - Catch basin cleaning**

| Item No. | Item Description | Bid Quantity | Bid Unit | Unit Price (Figures) | Total Amount (Figures) |
|----------|--------------------|--------------|----------|----------------------|------------------------|
| 1 | Type 1 Catch basin | 1000 | EA | \$40.00 | \$40,000.00 |
| 2 | Type 2 Catch basin | 50 | EA | \$56.00 | \$2,800.00 |

SUBTOTAL SCHEDULE A BID \$ 42,800.00

(In Figures)

SALES TAX (10.0%) \$ 4,280.00

(In Figures)

TOTAL SCHEDULE A BID \$ 47,080.00

(In Figures)

Forty-seven thousand, eighty dollars and zero cents

(Total Schedule A Bid to be written in words)

COMPANY NAME Innovac

BID PROPOSAL SHEET (Page 3 of 4)**Annual Stormwater Drainage Cleaning
Bid 9262****BID ITEMS (SCHEDULE B) - other non-catch basin cleaning**

| Item No. | Item Description and Unit Price | Bid Quantity | Bid Unit | Unit Price (Figures) | Total Amount (Figures) |
|----------|---|--------------|----------|----------------------|------------------------|
| 1 | Vactor truck and Operator | 125 | HR | \$177.00 | \$22,125.00 |
| 2 | Laborer incl. underground sewer & water | 50 | HR | \$70.00 | \$3,500.00 |
| 3 | Disposal of Solid Materials | 1 | TN | \$70.00 | \$70.00 |
| 4 | Flagger | 16 | HR | \$70.00 | \$1,120.00 |
| 5 | CCTV Inspection and Operator | 10 | HR | \$150.00 | \$1,500.00 |

SUBTOTAL SCHEDULE B BID \$ 28,315.00*(In Figures)***SALES TAX (10.0%)** \$ 2,831.50*(In Figures)***TOTAL SCHEDULE B BID:** \$ 31,146.50*(In Figures)*Thirty-one thousand one hundred forty-six dollars and fifty cents***(Total Schedule B Bid to be written in words)***

\$

TOTAL SCHEDULE A BID \$47,080.00*(In Figures)***TOTAL SCHEDULE B BID** \$ 31,146.50*(In Figures)***TOTAL SCHEDULE A PLUS B BID** \$ 78,226.50*(In Figures)*Seventy eight thousand, two hundred, twenty-six dollars and fifty cents***(Total Schedule A Bid plus Schedule B to be written in words)*****COMPANY NAME** Innovac

BID PROPOSAL SHEET (Page 4 of 4)**Annual Stormwater Drainage Cleaning
Bid 9262**

- ☐ This page of the bid form must be signed.
- ☐ Use ink and print legibly.
- ☐ Unit prices, when relevant, are mandatory and shall control.
- ☐ Initial and date any changes, erasures or cross-outs.
- ☐ Initial here 18 to verify your Bid considers addenda: _____ through _____

Company Name: Innovac

Company Address: 20909 70th Ave West

City/State/Zip: Edmonds

Phone: 206-783-3317 Fax: 206-783-9109

E-Mail: service@innovac.com

State of Incorporation or formation of business entity: WA

Location of Washington Office, if any: Edmonds

Print Name of Signatory: Lawrence Train

Print Title of Signatory: President

Contractor Signature: [Signature]

Date: 11/30/19

EXHIBIT A
City of Shoreline
Stormwater Drainage Cleaning Maintenance

Scope of Work
Bid 9262

1. OBJECTIVE

The objective of this contract is to provide the City of Shoreline with storm drainage cleaning maintenance, generated by annual inspections, for stormwater assets within the City. The City operates and maintains a variety of stormwater structures above and below ground that include natural and proprietary features. A vendor should be versed in all aspects of stormwater facility maintenance to effectively perform the work for this contract.

2. WORK ACTIVITIES

The Contractor shall perform the following work activities as requested by the City's Surface Water contract manager:

- Provide vacuum (vactor) truck(s) and operator(s) throughout the City of Shoreline to clean stormwater infrastructure including, but not limited to, type one (1) and type two (2) catch basins, stormwater filters vaults, detention vaults, pipes, detention pipes, ditch culverts, and other stormwater infrastructure
- Perform follow-up NASCCO Pipeline Assessment Certification Program (PACP) CCTV inspections when requested
- Perform hydro-excavation of ditch materials by vactor truck
- Contech StormFilter replacement requiring permit-required confined space entry
- Hand cleaning of debris in or around stormwater assets, with possible permit-required confined space entry
- Cleaning of Contech's VortClarex oil/water separators according to manufacturer's specifications
- Provide traffic control and flaggers, where necessary, in accordance with MUTCD standards
- Provide comments and update work orders statuses, including but not limited to fields such as Actual Finish date, Status, and Comments, within the City of Shoreline's web-based asset management system (AMS), Cityworks AMS
- Provide invoices to the City for payment

3. PROJECT SPECIFICATIONS

A. SCOPE OF WORK

Annually, throughout the calendar year, the City shall provide Notices to Proceed (NTP) for various stormwater cleaning maintenance tasks (*see table 1*). The City shall assign a set of work orders for each task by way of the City's web-based asset management system, Cityworks AMS. The contractor shall complete the task within fifty (50) working days from the NTP date.

Work done under this contract will be assigned by Tasks 1-7. Multiple groups of work orders may be assigned under the same task throughout the calendar year. Tasks will be invoiced according to Bid Schedule A and B in the Bid Proposal Sheet as shown in Table 1 below

TABLE 1: TASKS

| Tasks | Task Description | Stormwater Asset Types | Schedule |
|-------|--|---|----------|
| 1 | City Right of Way (ROW) Type 1,2 Catch Basins Cleaning | Type 1,2 catch basins, manholes | A |
| 2 | Regional Stormwater Facility Asset Cleaning | Type 1,2 catch basins, manholes, pipes, Contech Stormfilter vaults, bioretention cells, Filterrras, control structures, detention pipes, and VortClarex oil/water separators and vaults | B |
| 3 | Residential Stormwater Facility Asset Cleaning | Type 1,2 catch basins, manholes, pipes, control structures, and detention pipes | B |
| 4 | Facility's (Operated) Stormwater Facility Asset Cleaning | Type 1,2 catch basins, manholes, pipes, Contech Stormfilter vaults, control structures, and detention pipes | B |
| 5 | Park Stormwater Facility Asset Cleaning | Type 1,2 catch basins, manholes, pipes, Contech Stormfilter vaults, control structures, and detention pipes | B |
| 6 | City ROW Pipe-Jet Cleaning | Conveyance pipe s of all sizes, infiltration pipes, and pipe culverts | B |
| 7 | CCTV Inspections | Pipes and detention pipes | B |

Schedule A (Task 1) consists of cleaning Type 1 catch basins, Type 2 catch basins, and manholes at various locations throughout the City. The disposal cost of solids and liquids used and removed during cleaning operations shall be **included in the unit bid price**. Traffic control is required as mandated by current MUTCD standards and costs shall be borne by the contractor and inclusive within the unit price of Schedule A. If Flaggers are required to maintain safe operating conditions, Flaggers shall be invoiced at the Schedule B unit bid cost.

Schedule B (Task 2-6) covers all other stormwater asset types associated with City-operated drainage facilities. Temporary traffic control is required as mandated by current MUTCD standards and costs shall be borne by the contractor and inclusive within the unit price of Schedule B. If Flaggers are required to maintain safe operating conditions, Flaggers shall be invoiced at the Schedule B unit bid cost. Written notification with justification shall be provided to the City contract manager if more than one (1) Laborer, per Line Item No.2 from Schedule B, is required to perform a work activity in addition to the Operator. The City contract manager shall provide written approval when additional personnel is deemed necessary to complete the work activity.

B. MOBILIZATION and DEMOBILIZATION

Billable hours commence when the Contractor arrives at the location of the first work order and leaves the location of the last work order. Costs for travel to and from the Contractor's office or another entity's work site shall not be billed to the City. Travel to and from closest available decant/disposal facility shall be billable if it occurs between work orders or directly after the last work order is completed. Travel to and from water source for the purpose of reloading water to complete City work orders shall be billable hours.

C. TRAFFIC CONTROL AND FLAGGING

The contractor is responsible for traffic control and maintaining safe traffic conditions. All traffic control must comply with current MUTCD standards. Traffic control plan submittals will be required if work activities fall outside of mobile operations, as defined by the MUTCD, and will impact an arterial road. The traffic control plan must be submitted to the City contract manager five (5) working days in advance of the scheduled work. Lane closures on arterials should only occur between the hours of 9am and 3pm. The City will place 'No Parking Signs', at written request of the contractor, in designated work areas, three (3) days in advance of the scheduled work. Use of Flaggers, invoiced at the Schedule B unit bid cost, shall be approved by the City contract manager prior to scheduled work.

D. WORK HOURS

All work activities shall occur Monday through Friday between the hours of 7am and 5pm. Work shall not occur on City-designated holidays listed below:

New Year's Day
 Martin Luther King's Birthday
 President's Day
 Memorial Day
 Independence Day
 Labor Day
 Veteran's Day
 Thanksgiving
 Day after Thanksgiving
 Christmas

E. MATERIAL DISPOSAL

Materials generated or collected from work activities must be disposed or recycled in accordance with local, state, and federal laws. For Schedule B tasks, only disposal of solid materials shall be invoiced using the Material Disposal line item in Schedule B. Decanted liquid material shall not be invoiced. Material disposal receipts shall be provided to the City for each completed task.

F. EQUIPMENT, SUPPLIES, AND MATERIALS

The vendor is responsible for providing all materials, supplies, and equipment required to complete tasks which fall under the scope of the contract, except for any proprietary water quality filters or media. The City will provide proprietary water quality filters or media to the vendor for replacement work activities. Some pipe jets may require the removal of roots; for such work activities, a root cutter shall be carried and used to remove the roots.

G. DELIVERY OF TASKS AND WORK ORDERS

Cityworks AMS is a web-based asset management system the City of Shoreline uses to track work orders, inspections, and customer service requests. The contractor is responsible for providing equipment capable of accessing Cityworks AMS. Cityworks AMS can be accessed through the Cityworks App on an iOS 10.0 device (or later) or an Android supported device. Cityworks AMS may also be accessed from any computer or device which supports common browser programs.

The City will provide the contractor with user login(s) to access the Cityworks AMS website or App. The City will assign work orders, via Cityworks, which will contain the work locations, work description, work order number, due date, and any specific instructions provided by the City.

The vendor shall provide the completion date of the work, comments and status updates on the work orders via Cityworks AMS. No paper or electronic maps will be provided to the vendor, Cityworks AMS provides a map service for users showing assigned work orders and their locations. The vendor shall have mobile access to Cityworks AMS while in the field.

Upon request, the City will provide hands on training to contractor personnel prior to work commencing. The City shall not be invoiced for any labor, equipment or materials attributed to the City-provided Cityworks AMS training.

4. ADDITIONAL WORK ACTIVITIES, LABOR, PARTS, EQUIPMENT, OR MATERIALS

If additional work or services are desired by the City, which goes outside the agreed scope of services, an amendment to the contract shall be executed. The additional work or services requested should be specified by the City and the Contractor shall receive hourly labor compensation per Bid Schedule pricing. Written approval by the City shall be obtained prior to the start of any additional work.

If work activities, inclusive of the scope of work covered in this contract, require extraordinary labor, equipment and/or materials, the vendor must provide written notification to the City's contract manager prior to proceeding with work. Upon City approval, parts, equipment, materials, and/or prevailing wage labor classifications not listed shall be marked up according to SCHEDULE C in the Bid Proposal Sheet

5. INVOICES

The contractor shall provide an invoice to the City within 15 calendar days of each Task completion. The invoice shall be itemized and include at a minimum:

- Total number of work orders completed and list of work order numbers

- Work order date of completion
- Invoice Task number
- Material disposal quantity with facility disposal ticket receipts
- Type 1 and Type 2 catch basins cleaned (Schedule A)
- Line item quantity totals for each Task according to Schedule B

6. CONTRACT TERM

The contract term will be for three (3) years or when the contract costs have reached \$300,000, whichever comes first. The City reserves the right to terminate this Agreement at any time, with or without cause by giving fourteen (14) days notice to Vendor in writing. If the Vendor is unavailable to perform the scope of services, the City may, at its option, cancel this Agreement immediately.

The Vendor reserves the right to terminate this Agreement with not less than sixty (60) days written notice, or in the event outstanding invoices are not paid within 90 days.

7. PRICE ADJUSTMENT

Payment rates may be adjusted in each succeeding year of this contract for any increase in prevailing wages upon written request by the Contractor.

In submitting bid proposals, each vendor shall set forth the amount they will accept for the first year in payment for services in accordance with the contract.

8. PENALTY FOR NON-PERFORMANCE

The City's Stormwater System is operated under the guidance of the National Pollution Discharge Elimination System (NPDES) Permit. The NPDES permit sets timelines for completing corrective maintenance. If the timelines are not met, the City falls out of compliance resulting in additional documentation and reporting. Therefore, a standard monetary penalty shall be deducted from the Contractor's payment request for non-performance. The amount of the penalty shall be fifty dollars (\$50.00) per day per Task. To establish a non-performance penalty the Contract Manager shall notify the designated Contractor representative by telephone and email documenting any deficiency or deficiencies. Performance and required corrective actions. To avoid the "Penalty for Non-Performance, the Contractor shall correct all deficiencies and notify the Project Manager within five (5) business days after receiving notification.

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--|
| AGENDA TITLE: | Authorizing the City Manager to Execute a Settlement Agreement and Release Related to the Storm Creek Erosion Management Project and Related Easement Agreements |
| DEPARTMENT: | City Attorney |
| PRESENTED BY: | Margaret King, City Attorney |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

Staff is requesting that Council authorize the City Manager to execute a Settlement Agreement and Release (Attachment A) related to the Storm Creek Erosion Management Project (Project) and related easement agreements. The Project will address an eroding reach of Storm Creek to manage erosion and mitigate landslide and flood risk within a bluff-side area. The Project site is located at 18321 17th Place NW where Storm Creek crosses under 17th Place NW, passes between three homes and descends a steep coastal bluff ravine, then crosses a culvert under the BNSF Railway and enters the Puget Sound.

The City has partnered with the Innis Arden Club (homeowners association) and adjacent private property owners to collaborate on a solution to this issue. If this agreement is approved by all parties, the City will initiate design of the Project and the Capital Improvement Plan will be amended to reflect this project in the mid-bi update. Council authorization is required for the proposed Settlement Agreement and Release to formalize the collaboration and cost sharing that the Project Partners have negotiated in relation to the Project.

FINANCIAL IMPACT:

The Agreement sets the City's funding contribution for this Project at \$365,000, with the possibility that it could increase up to \$474,500 if Project costs increase beyond the current estimate or grant funding expires. This provides for up to a 30% (\$109,500) contingency that the City would be committing to. If the City's contribution were estimated to exceed \$474,500, the Agreement would terminate in 60 days unless the Project Partners execute an amendment to the Agreement to adjust the funding commitments.

City funding would come from a 50-50 split between the Surface Water Management Capital Fund and Wastewater Management Capital Fund. Budget from these City funds will be updated or added to the City Capital Improvement Plan during the 2022 mid-biennium budget process, pending Council authorization of this Agreement.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute the Settlement Agreement and Release for the Storm Creek Erosion Management Project and execute the required construction and maintenance easement agreements in a form acceptable to the City Attorney.

Approved By: City Manager ***DT*** City Attorney ***MK***

BACKGROUND

Over the span of decades, severe erosion along Storm Creek between 17th Place NW and the BNSF railway has deeply down-cut the steep bluff ravine within an Innis Arden Reserve property located at 18321 17th Place NW and between three homes. If no action is taken, severe erosion is anticipated to continue, and the risk of catastrophic erosion, landslide, and blockage-driven flooding will increase, threatening public safety, critical public infrastructure, private residences, and Puget Sound water quality.

As part of a collaborative solution to address this Storm Creek erosion issue, the Ronald Wastewater District (now assumed into the City), the Innis Arden Club (homeowners association), the three adjacent private property owners, and the City (collectively, the Project Partners) developed a project concept design (Exhibit A) for potential construction. The Project entails directing Storm Creek into a new pipe which would run most of the length of the narrow erosion canyon downstream of the first wastewater gabion (just west of 17th Place NW), with approximately five to 12 feet of cover partially filling the canyon above the pipe. More specifically, the Project would install over 100 linear feet of 36-inch diameter pipe and three large maintenance hole-type structures to convey streamflow through the erosion area, over 1,000 cubic yards of quarry spalls to fill the narrow ravine above the pipe, and full site restoration, including stream restoration improvements upstream and downstream of the new pipe, plantings, and other restoration work.

The expected long-term outcomes of the Project, if it is constructed, include broad economic and other benefits, including:

1. Proactively protecting public infrastructure upstream of the project area, including sanitary sewer, storm drain, stream culverts, and 17th Place NW roadway infrastructure, and implementing improvements before worsening erosion conditions can damage public infrastructure and/or require a costlier solution.
2. Protecting the public safety of nearby residents, 17th Place NW roadway users, BNSF railway users and passengers, and Richmond Beach Saltwater Park beachgoers from landslide and flood hazards.
3. Protecting the Puget Sound habitat/environment and recreational users (fishing, shell fishing, etc.) from landslide and flooding driven turbidity (suspended soils entering the Sound via Storm Creek erosion at the site).

The consultant that worked with the Project Partners to help develop this conceptual solution provided a very preliminary cost estimate of \$771,000 in January 2018 for this Project. To better account for the long timeframe to design, permit and construct this solution and the very initial level of concept design that this solution is currently at, staff escalated the estimated cost of this Project from \$771,000 to \$1,000,000. This amount also accounts for some additional contingency in the Project and inflation in the construction market.

Following the development of this concept solution, City staff, with the support of the Project Partners, applied for the competitive King County Flood Control District 2016 Flood Reduction Grant on June 14, 2019. Notification of the grant offer was received on September 18, 2019, and Council authorized the \$225,000 grant agreement on November 18, 2019. The staff report for this Council action can be found at the

following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2019/staffreport111819-7e.pdf>.

On June 24, 2020, the KCFCD Board approved an additional \$227,000 in funding for the Project under a 2019 Supplemental Flood Reduction Grant. On September 21, 2020, the Council authorized the second grant agreement, increasing KCFCD grant funding for the Project to \$452,000. The staff report for this Council action can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport092120-7c.pdf>.

The success in securing grant funding was in large part based on staff working for an extended period of time on this Project with the Project Partners. Following the receipt of the KCFCD grants, the Project Partners worked to develop a funding agreement for the remaining cost of the Project not covered by grant funds. The Settlement Agreement and Release (Attachment A) sets out the collaboration and cost sharing agreement that the Project Partners have negotiated in relation to the Project. While the Agreement was negotiated with the Ronald Wastewater District as one of the Project Partners, as the District as was assumed by the City on April 30, 2021, they are not included as a party to the Agreement.

DISCUSSION

The Settlement Agreement and Release sets out the collaboration and cost sharing agreement that the Project Partners have negotiated in relation to the Project. It provides that the City will be responsible for the primary activities of the Project, which will include the following:

- Design and permitting of the Project, which will be completed by an engineering consultant managed by the City with input from the Project Partners, and
- Construction of the Project, which will be done by a construction contractor hired by the City under a public works contract.

Design and permitting will be completed by an engineering consultant who will be hired under a qualifications-based selection process that will be managed by the City, with consultation with the other Project Partners. The City will make all design drawing, contract specifications, and permitting documents available to the other Partners for their review and comment, who will provide comments within a set amount of time. The City will also solicit timely design input from the Partners following 30%, 60%, and 90% design submittals. The primary design deliverables will be a set of final bid documents ready for bid advertisement and all necessary permits.

Construction of the Project will be done by a construction contractor hired by the lowest responsible and responsive qualified bidder process, all in accordance with the requirements of State law and City Code. After construction is completed, the Project will be a stormwater capital facility and the ongoing routine maintenance and repair of the Project, equipment, and all necessary and related facilities and structures will be the

responsibility of the City. Project replacement, if and when necessary in the future, will be subject to the regular budget and capital project procedures of the City.

The adjacent private property owners will contribute funding and the necessary easements for construction and maintenance of the Project and the Innis Arden Club will grant all required easements for the construction and maintenance of the Project, which are both a condition of the Agreement. Exhibit B to the Agreement provides a Draft Construction and Maintenance Easement Agreement, which is still being finalized between the City and the Project Partners. All of the Project Partners in the Agreement agree to provide mutual releases and indemnification for damages or injuries related to the Project as well as for past erosion and flooding.

Project Funding Agreement

As noted above, the planning-level Project cost is estimated at \$1,000,000. Funding for the Project would be shared between the Partners as follows:

- The City will contribute funds in the amount of \$365,000 (36.5%),
- The three adjacent Property Owners will contribute \$183,000 (18.3%), and
- The KCFCD Flood Reduction Grant will provide \$452,000 (45.20%).

The Agreement provides for timing of payments and allocation of percentage towards design, permitting, and construction. As noted above, the three Property Owners and the Innis Arden Club will also provide all necessary construction and maintenance easements for the Project. All the easements will be provided at no additional cost to the City.

The Agreement also sets forth a process of addressing the situation where the Project costs come in under or over the estimated \$1,000,000 amount, providing that any additional amount saved or owed after deducting the KCFCD grant contribution and relative to the cost share allocations listed above shall be divided 50% to the City and 50% to the three Property Owners. If the cost of the Project exceeds either Party's contribution by more than 30%, the Partners shall have 60 days to execute an amendment to adjust funding or terminate the Agreement.

FINANCIAL IMPACT

The Agreement sets the City's funding contribution for this Project at \$365,000, with the possibility that it could increase up to \$474,500 if Project costs increase beyond the current estimate or grant funding expires. This provides for up to a 30% (\$109,500) contingency that the City would be committing to. If the City's contribution were estimated to exceed \$474,500, the Agreement would terminate in 60 days unless the Project Partners execute an amendment to the Agreement to adjust the funding commitments.

City funding would come from a 50-50 split between the Surface Water Management Capital Fund and Wastewater Management Capital Fund. Budget from these City funds will be updated or added to the City Capital Improvement Plan during the 2022 mid-biennium budget process, pending Council authorization of this Agreement.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute the Settlement Agreement and Release for the Storm Creek Erosion Management Project and execute the required construction and maintenance easement agreements in a form acceptable to the City Attorney.

ATTACHMENT

Attachment A: Settlement Agreement and Release for Storm Creek Erosion Management Project

Attachment A, Exhibit A: Project Conceptual Configuration

Attachment A, Exhibit B: *Draft* Construction and Maintenance Easement Agreement

SETTLEMENT AGREEMENT AND RELEASE

June 1, 2021 Draft

THIS SETTLEMENT AGREEMENT AND RELEASE (“Agreement”) is entered into between the parties listed in the Section below and effective on the date listed on page 12 of this Agreement.

I. PARTIES

The following are parties to this Agreement: (1) The City of Shoreline, a Washington municipal corporation (“the City”); (2) The Innis Arden Club, a Washington non-profit corporation, (“IAC”); (3) Dennis and Susan Aker, husband and wife and the marital community comprised thereof, and their property located at 18315 – 17th Place N.W., Shoreline, WA 98177 (“Aker”); (4) the Estate of Marc Weinberg, Marion Woodfield, personal representative, and Marion Woodfield, individually, and their property located at 18335 - 17th. Place N.W., Shoreline, WA 98177 (“Woodfield”); and (5) Douglas Henrikson, and his property located at 18345 - 17th Place N.W., Shoreline, WA 98177 (“Henrikson”). Aker, Woodfield, and Henrikson are collectively referred to herein as the “Individual Property Owners”. All of the above-listed individual parties are collectively referred to as “Parties” and singularly as “Party”.

II. RECITALS

- A. Over the years the characteristics of the Storm Creek basin have been studied with several reports describing the slope and soil characteristics of the area near 17th Place NW. Around 1995-1997, the Ronald Wastewater District (RWD) installed two gabions within Storm Creek downstream of 17th Place NW to stabilize stream erosion in order to protect an RWD-owned sanitary sewer main crossing the creek.
- B. A very large 24-hour precipitation event occurred on December 3, 2007, and erosion damage within Lower Storm Creek included a trail washout and exposed sanitary sewer main near NW 185th Street, and heavy sediment deposition and erosion of the culvert headwall at the 17th Place NW culvert inlet (birdcage) structure.
- C. Denny Aker (owner of 18315 17th Place NW) began to informally measure and record the depth of the scour hole (also known as an erosion “knickpoint”) just below the westernmost RWD placed gabion downstream of 17th Place NW. In November 2010, the reported depth from bottom of hole to top of gabion was approximately 3.3 feet. Knickpoint height, as measured by Mr. Aker, increased by 5.5 feet over the following 24 months, then dramatically by another five feet during the first few months of 2013. The final available measurement taken by Mr. Aker on September 7, 2013 showed a knickpoint height of 14.7 feet.

- D. The City's Storm Creek Basin Plan update, dated March 2013, also identified erosion in Lower Storm Creek. Section 5.1.2 of the Storm Creek Basin Plan lists seven recommendations for the Storm Creek erosion issue (priority level per Table 18 in Section 6 of the Basin Plan):
- St-Study-2: Study deep infiltration of stormwater
 - St-Study-3: Evaluate out-of-basin routing and infiltration
 - St-Mon-3: Monitor erosion
 - St-CIP-2: Convert roadside ditches to bioretention
 - St-Ed-5: Voluntary rain garden program
 - St-CIP-1: Tightline Storm Creek
 - St-Ed-4: Bluff landscaping
- E. In 2017, the City began meeting with RWD, IAC, and the Individual Property Owners to identify a potential proactive, cooperative solution, and to review the feasibility of implementing the Storm Creek Basin Plan Project ST-CIP-1 recommendation: Tightline Storm Creek. After multiple meetings and preliminary investigation, the Parties identified a conceptual plan (described below) that the Parties believe will help protect City and RWD infrastructure as well as address ongoing erosion problems that are impacting the real property owned by the Individual Property Owners and by IAC.
- F. The conceptual plan, referred to herein as the Storm Creek Erosion Management Project ("Project"), addresses existing and future erosion and landslide risks downstream of 17th Place NW and upstream of the Burlington Northern Santa Fe Railway ("BNSF") Right-of-Way. The scope of work generally includes constructing improvements to pipe Storm Creek streamflow through the most eroded channel reach, and backfilling the eroded area above the new pipe, planting appropriate landscaping, and placing signage and fencing to the extent allowed by the City's shoreline and critical areas ordinances, and state and federal shoreline or railroad regulations, to forbid/prevent pedestrians from using the Project site area adjacent to the Individual Property Owners' properties as an access point to or from the beach. The Project is expected to prevent future downcutting during Storm Creek peak flows. The Project's primary activities will include the design, permitting, and construction of improvements. Design and permitting will be the responsibility of the City and will be completed by an engineering consultant who will be hired under a qualifications-based selection process that will be managed by the City with consultation with the other Parties to this Agreement. The City will make all design drawing, contract specifications, and permitting documents available to the other Parties for their review as soon as possible. The other Parties will have at least 30 days to review the documents and provide comments to the City, provided that they may waive the 30-day requirement. The City will respond to any comments prior to adoption and will make a good faith effort to address any concerns raised by the other Parties. The primary design deliverable will be a set of final bid documents ready for bid advertisement. The City will solicit timely design input from all of the other Parties following 30, 60, and 90 percent design submittals. Should those final bid documents differ materially and adversely from the approved designs and from the design of the Project described herein, the Parties must revise the same, and shall have thirty (30) days to revise any said design or permitting documents to mitigate

any said material and adverse impacts. Construction of the Project will be done by a construction contractor hired by the lowest responsible and responsive qualified bidder process in accordance with the requirements of Washington State Law and Shoreline Municipal Code and will be managed by the City under a public works contract.

- G. Based on a conceptual design presented in 2018 by Northwest Hydraulic Consultants (NHC), and previously vetted by all Parties, the Project is expected to address the erosion issue by installing over 100 linear feet of 36-inch diameter pipe and three large manhole-type structures to convey streamflow through the length of channel most impacted by erosion, placing over 1,000 cubic yards of quarry spalls to fill the narrow ravine above the new pipe, and restoring all disturbed areas within the project extents – including stream restoration improvements upstream and downstream of the new pipe, plantings, and other restoration and related landscaping work. See Exhibit A for Project conceptual configuration. Proposed improvements and estimated costs will be refined during the Project design process; final design and constructed improvements for the Project may differ from the conceptual design described above, but shall not materially or adversely differ in such a way that allows for a greater risk of existing and future erosion and landslide risks downstream of 17th Place NW and upstream of the BNSF Right-of-Way, than does the Project. The City’s public works contract construction documents with the contractor will adopt as binding terms the most recent version of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction (“Standard Specifications”), and the most recent version of the Special Provisions for the WSDOT Standard Specifications (“Special Provisions”) and shall address the items in Section V of the McAleer Creek – Goheen Project Bid Number 7604 (Bid Date No Later Than April 21 2015) (“McAleer Project”). The Parties agree that in the event the City needs to adjust any such Special Provisions referenced in the McAleer Project, as a result of the specific needs or differences of the two different projects, it will consult with IAC and the Private Property Owners who shall act in good faith to promptly agree to any reasonable and appropriate modifications. IAC and the Private Property Owners shall be designated as third-party beneficiaries of the duties of the contractor under the public works contract and shall be named as additional insureds under the insurance policies required by that contract.
- H. Proposed improvements will require access onto property and the granting of temporary construction and permanent easements by the Parties which temporary construction and permanent easements will allow for access and maintenance and be in substantially the form attached hereto as Exhibit B. It is understood that the Project scope will not include any ravine side slope stabilization beyond what is needed to construct the improvements to stabilize stream channel erosion as described above. Notwithstanding any of the foregoing, the City shall ensure and require in its contracts that design of the Project will be in compliance with the industry standard of care for design professionals in the Puget Sound region, and that construction shall be performed in a workmanlike manner and up to industry standards.
- I. To further the objectives above, the Parties desire to enter into this Agreement to cooperatively address the Lower Storm Creek erosion and flooding and related problems.

III. AGREEMENT, RELEASE, INDEMNIFICATION AND HOLD HARMLESS

IN CONSIDERATION OF and subject to the terms and conditions set forth herein, the parties agree as follows

1. **Incorporation of Recitals.** The Parties hereby incorporate the Recitals and Exhibits A and B as material terms to this Agreement as if fully set forth herein.

2. **Ongoing Maintenance and Repair of the Project and Lower Storm Creek.** Upon construction of the Project, or reasonable variant thereof, the ongoing routine maintenance and repair of the Project, equipment, and all necessary and related facilities and structures, shall be the sole and exclusive responsibility of the City or the City's successors in interest.

The duty of ongoing inspection, maintenance, repair and / or replacement of the constructed facility, including all costs associated therewith, and the benefit to the Parties, shall touch and concern the land.

Project replacement shall be subject to the regular budget and capital project procedures of the City.

The City shall be responsible for all mitigation and restoration of vegetation as required by any conditions or permits that relate to the Project subject to the terms of the easements.

3. **Cost Sharing and Cost Sharing Contingencies.**

a. Total Cost for design, permitting, and construction of the Project is estimated at one million dollars (\$1,000,000.00 or One Million). Cost sharing for the Total Cost of the Project based on the estimated cost of \$1,000,000.00 will be allocated as follows:

- i. A King County Flood Control District ("KCFCD") Flood Reduction Grant will provide up to \$452,000 (45.20%) in Project funding for design, permitting, and construction phases of the Project.
- ii. The City shall contribute the amount of \$365,000 (36.5%)
- iii. Woodfield shall contribute \$68,625 (6.86%)
- iv. Aker shall contribute \$68,625 (6.86%)
- v. Henrikson shall contribute \$45,750 (4.58%)

b. The City and the Individual Property Owners understand that the Total Cost of the Project after construction is complete may be lower or higher than the estimated cost of \$1,000,000.00. Should that occur, the additional amount saved or owed shall be divided 50% to the City and 18.75% to Aker, 18.75% to Woodfield, and 12.5% to Henrikson. Notwithstanding the foregoing, if any funding Party's contribution exceeds their contribution set out in subsection 3(a) by more than 30%, the funding Parties shall have 60

days to execute an amendment to adjust funding of this Agreement, otherwise the Agreement shall terminate. The funding Parties are the City, Aker, Woodfield, and Henrikson.

c. The Parties further understand KCFCD grant funding referenced in 3(a)(i) is time sensitive and contingent. The current grant expires on December 31, 2022. The Parties acknowledge that it will likely be necessary for the City to seek an extension of the grant by one year in order to extend the expiration date of the grant. Accordingly, the Parties recognize and acknowledge that time is of the essence in this regard and each Party shall agree to any extensions and act expeditiously in all review and approvals set forth in this Agreement.

d. In addition to the expiration of the KCFCD grant funding, there are additional restrictions and approvals required for the grant funding. Due to the contingent nature of this KCFCD grant funding, the Parties agree that should the KCFCD grant funding be reduced, revoked, or expire, the Parties shall support the City's attempt to apply for and obtain any additional grant funding available to replace the KCFCD grant. The Parties also understand that the City may seek or receive additional funding and is currently pursuing additional grant funding and has submitted a FEMA BRIC grant application that is currently being reviewed. Should the FEMA BRIC grant funding be approved and provide additional funding in excess of the current KCFCD grant, the funding Parties shall be credited equally as if the cost of the Project was reduced as set forth in subsection 3(b). Should the KCFCD grant be reduced, revoked, or expire, any additional funds obtained from the FEMA BRIC grant shall first be applied to replace the amount of the KCFCD grant before any remaining amounts shall be equally credited, and this same methodology will apply for any other or additional grants that the City may receive in relation to this project. Should there be no additional funds, or not enough funding to replace the KCFCD grant, the Parties shall have 60 days to execute an amendment to adjust funding of this Agreement, otherwise the Agreement shall terminate.

e. The City's obligations under this Agreement are expressly contingent upon the City's receipt of funding from the Individual Property Owners. Should Individual Property Owners fail to provide the funding in the amounts and at the times provided for herein, the City may nevertheless, in its sole discretion, move forward with the project. Should it do so, the Individual Property Owners shall forfeit any additional share from any additional funding that may become available for the Project and shall still be responsible for their share of funding, not to exceed 30 percent more than the amounts agreed to in Section 3(a), which shall become a lien on their respective properties in the amount owed by each Individual Owner. The amount owed by the Individual Property Owners is not joint and several, and any individual property owner(s) shall not be liable for amounts unpaid by other property owner(s).

4. Access to Property and Easements. IAC and the Individual Property Owners, to the extent they own land that is needed for the construction and/or maintenance of the Project, shall

each grant to the City any easements as reasonably needed for construction, maintenance, and repair of the Project. Each party shall be responsible for its own attorney's fees involved in the negotiation of the language of the easement. The easement shall include the right of access to properties they own or control on, around or adjacent to the Project area as needed or requested to do tests, studies, surveys, or other reasonably necessary actions to plan and construct the Project.

This Agreement is expressly contingent upon the Parties providing all necessary easement identified by the City for the Project. The easement necessary for this project is solely for the purpose of construction and maintenance of the Project and does not independently confer an obligation or rights separate or apart from the terms of this Agreement and the Easement.

5. Payments.

a. Within sixty (60) days of execution of this Agreement by all Parties, Aker and Woodfield shall each pay to the City \$7,500, and Henrikson shall pay \$5,000, and this \$20,000 shall be applied toward design and permitting of the Project. The remainder of the costs of design and permitting shall be paid for by the City and by the expected KCFCF grant.

b. After the construction contract price is known, and prior to award of the City Project construction contract, the Individual Property Owners will each pay fifty percent (50%) of their respective shares in paragraph 3(a) above to the City. The City shall thereafter execute the Project construction contract and fund the Project costs through completion of the Project.

c. The remaining share of the Project Costs to be paid by the Individual Property Owners to the City (after deducting the \$20,000 paid for design and permitting, and the 50% paid under paragraph 5(b), and any other amounts paid to date), shall be paid within thirty (30) days of the final completion of the Project.

The City shall have a lien on the properties owned by the Individual Property Owners at the addresses listed in the Recitals, securing the timely payment of that owner's share owed hereunder. All sums owed by each Individual Property Owner are due on sale of their respective property even if payment is not yet due in accordance with this Agreement. The amount due on sale is the maximum sum that could be owed under Section 3(a) plus 30% of that sum, which shall be held in escrow by the title company and paid to the City at the times provided for herein. Any amounts remaining in escrow upon completion of the Project shall be paid to the Individual Owner who sold. Upon closing of any such sale, the City shall release its lien on the real estate, but shall have a lien on the proceeds held in escrow.

6. Mutual Releases. Each and every Party to this Agreement hereby releases, covenants not to sue, and fully and forever discharges each and every other Party and the "Additional Released Parties" as defined below, from any and all "*Released Claims*," as defined below.

“Released Claims” means any and all claims, demands, causes of action, actions, rights, liabilities, damages, and/or attorney’s fees or costs whatsoever at law or in equity or otherwise, fixed or contingent, direct or indirect, known or unknown, likely or unlikely, that each Party now owns or holds and/or has at any time heretofore owned or held against any other Party which are or may be based upon any fact, act, omission, cause, or matter of any kind occurring or existing at any time up to and including the date of this Agreement and which are related to (i) the presence of Storm Creek on the property of any Party or on any other Party’s property, (ii) acts or omissions of the City or any Party who is an upstream or downstream property owner, and/or (iii) the erosion, flooding, and related problems that the Project is designed to ameliorate.

Without limiting the generality of the foregoing, *“Released Claims”* includes, without limitation: (i) claims up to and including the date of this Agreement for monetary or equitable relief; (ii) claims up to and including the date of this Agreement for costs, expenses, attorneys’ fees, or any other charges; (iii) claims up to and including the date of this Agreement based on negligence, breach of express or implied contract, tortious interference with business expectancy, assault, battery, trespass, invasion of privacy, intentional or negligent infliction of emotional distress, outrage, slander, libel, retaliation, RCW ch. 64.40, violation of any state or federal constitutional right, violation of state, federal and/or local law, regulation or policy, and any other common law theory of liability whatsoever; provided the same arise out of or are related to (i) the presence of Storm Creek on the property of any Party or on any other Party’s property, (i) acts or omissions of the City or any Party who is an upstream or downstream property owner, and/or (iii) the erosion, flooding, and related problems that the Project is designed to ameliorate.

The Parties have cooperated in choosing which potential fix to pursue and understand that there are no guarantees that the selected Project will work. As such, *“Released Claims”* also includes claims relating to the decision to pursue the Project, and what type of project to pursue, including but not limited to claims that a different project would have worked or worked better, or any claim by one Party against another arising out of or related to the Project during the existence of the Project.

Notwithstanding anything herein to the contrary, *“Released Claims”* does not include (a) any claim arising out of design errors or omissions, occurring after the date of this Agreement, by any firm hired to design or engineer the Project, or (b) any claim for construction defects caused by a contractor hired to build the Project, provided that the Parties shall be third party beneficiaries as set forth below, and any such claims by a Party against these third parties shall be limited to only those third parties, and shall not include any ability for any Party to claim or recover comparative or contributory fault against another Party. Claims for gross negligence or intentional misconduct by any Party arising after the date of this Agreement are also not included as *“Released Claims”*. In the event of any injury or damage to a Party’s property, or breach of the contract documents which materially and adversely damage a Party’s property, by the Contractor or Engineer, the Party shall contact the City in writing and request the City cure/enforce the same within thirty (30) days from the written notice. The City may choose to cure/enforce the matter pursuant to the notice. If the City accepts to cure/enforce the matter, the City shall diligently prosecute the same to its

conclusion in accordance with the contract documents. In the alternative, if the City fails or refuses to timely cure/enforce, the City shall then assign its rights to the Party and whom may at its sole cost and expense prosecute the contract documents to cure/enforce the matter against the Contractor and/or Engineer.

Nothing in this Agreement shall be deemed to release, trigger, or impose upon IAC or the Individual Property Owners any duty of maintenance or repair of the Project.

Except as set forth herein or the easement set forth in Section 6 above, nothing in this Agreement shall be deemed to impose upon the City of Shoreline any duty of maintenance or repair of the Project that differs from the Public Duty Doctrine or other law generally applicable to maintenance and repair of City-owned infrastructure.

The Release in this Agreement extends to and inures to the benefit of each and every Party to this Agreement, and to the following “*Additional Released Parties*”: (1) The City of Shoreline and all of its past and present council-members, elected and/or appointed officials, officers, directors, agents, employees, volunteers, marital communities, representatives, partners, attorneys, accountants, insurers (including Washington Cities Insurance Authority), consultants, subsidiaries, affiliates, programs, predecessors, successors, transferees, assigns, and/or related entities thereof, and all past and present members, commissioners, officers, directors, agents, employees, volunteers, marital communities, representatives, consultants partners, attorneys, accountants, insurers, parents, subsidiaries, affiliates, programs, predecessors, successors, heirs, transferees, and/or assigns of any of those persons and/or related entities; and (2) the Ronald Wastewater District and all of its past and present elected and/or appointed officials, officers, directors, agents, employees, volunteers, marital communities, representatives, partners, attorneys, accountants, insurers, consultants, subsidiaries, affiliates, programs, predecessors, successors, transferees, assigns, and/or related entities thereof, and all past and present members, commissioners, officers, directors, agents, employees, volunteers, marital communities, representatives, consultants partners, attorneys, accountants, insurers, parents, subsidiaries, affiliates, programs, predecessors, successors, heirs, transferees, and/or assigns of any of those persons and/or related entities; and (3) The Innis Arden Club and all of its past and present officers, directors, shareholders, members, agents, employees, volunteers, marital communities, representatives, partners, attorneys, accountants, insurers, consultants, subsidiaries, committee members, affiliates, programs, predecessors, successors, transferees, assigns, and/or related entities thereof.

This Release binds each and every one of the Parties to this Agreement and its or their heirs, survivors, legatees, executors, personal representatives, receivers, trustees, insurers, future marital communities, successors, subrogees, transferees, and assigns, agents and employees.

Each Party represents, warrants, and agrees that: (i) they understand the foregoing Release; (ii) they are releasing potentially unknown claims; (iii) these releases are fairly and knowingly made; (iv) these releases are voluntarily made without any undue influence; (v) these releases are supported by adequate consideration; (vi) the Parties have disclosed all claims known to them, to the other Parties; and (vi) they are aware that they may have limited knowledge with respect to

certain of the Released Claims. The Parties specifically allocate the risk of any mistake of fact by any party in entering into this Agreement to the party or parties who later claim that party was mistaken.

The Parties represent and warrant that they have not filed or initiated any administrative appeal, charge, lawsuit, arbitration or other proceeding of any kind whatsoever against the City, RWD or any of the “*Additional Released Parties*” that has not been dismissed or otherwise completely terminated, and they further represent that they have not assigned or given to anyone any Released Claims they have, will have, ever had, or claimed to have against the City, RWD, IAC, or any of the “*Additional Released Parties*”.

The Parties represent and warrant that they have full right, power and authority to enter into these releases, that they own or have the right to release each and all of the Released Claims that they purport to release.

7. Authority. The persons signing this Agreement represent and warrant that they have the full right, power, and authority to enter into this Agreement, to bind the party on behalf of whom they are signing, and to grant the benefits they assert in this Agreement.

8. No Admission. Execution of this Agreement shall not be construed as an admission of liability, responsibility, or lack of liability or responsibility, on the part of any of the Parties hereto. Each and every Party hereby expressly disclaims any liability for any of the Released Claims.

9. Specific Performance. The Parties agree that damages are not an adequate remedy for breach of this Agreement, and that the Parties are entitled to compel specific performance of all material terms of this Agreement by any Party in default herein. All terms and provisions of this Agreement are material. In the event of a default by any party, the non-defaulting party may seek any and all remedies permitted by law or in equity. Specifically, this Agreement may be enforced by restraining orders and injunctions (temporary, preliminary, mandatory, or permanent) mandating compliance with the provisions hereof. The act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity. The rights and remedies in this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

10. Governing Law, Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Venue for any action arising from and/or relating to this Agreement shall lie in the King County Superior Court.

11. Entire Agreement. This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof and shall not be modified or amended in any way except in writing and signed by the relevant Parties.

12. Full Understanding; Independent Legal Counsel. The Parties each acknowledge, represent and agree that they have read this Agreement; that they fully understand the terms thereof; that they have been fully advised by their independent legal counsel, or have been advised to obtain independent legal counsel; that they are executed by them upon the advice and recommendation of their independent legal counsel; and that they have voluntarily and freely signed this Agreement.

13. Waiver. No right or obligation under this Agreement will be deemed to have been waived unless evidenced by a writing signed by the Party against whom the waiver is asserted, or by its duly authorized representative. Any waiver will be effective only with respect to the specific instance involved and will not impair or limit the right of the waiving party to insist upon strict performance of the right or obligation in any other instance, in any other respect, or at any other time.

14. Governing Documents. The City and IAC acknowledge that the Mutual Restrictive Easements for Innis Arden 1, 2 and 3 (King County Recorder's Office file numbers 3187136, 3530990, and 3897377 as amended ("MREs", "Covenants")) remain in full force and effect, and that nothing in this Agreement is intended to authorize violation of their provisions.

15. Other Necessary Acts. Each Party shall execute and deliver to the other all such further instruments and documents and take such additional acts as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Party the full and complete enjoyment of rights and privileges hereunder.

16. Binding Nature of Agreement. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties, their heirs, executors, administrators, successors, devisees, assigns, including subsequent purchasers of the Property, and all persons now or hereafter holding or having all or any part of any interest of a Party to this Agreement. Any of the benefits and obligations of this Agreement shall specifically run with the land and continue following the subdivision, leasing, or transfer of ownership of property.

17. Severability. If any portion of this Agreement is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Agreement.

18. Third Party Beneficiaries. Except as specifically set out otherwise herein, this Agreement is neither expressly nor impliedly intended to be for the benefit of any third party, and it is neither expressly nor impliedly enforceable by any third party.

19. Duty to Record Agreement. The terms, conditions and duties imposed under this Agreement are expressly intended to touch and concern the Properties and to run with the Properties (those parcels identified in the Recitals). Within ten (10) days of the effective date of this Agreement, the City shall record a fully executed copy of this Agreement with the King County Auditor's (or Recorder's) Office and provide proof of recording to the Parties and/or their attorneys. This recording requirement is a material term of this Agreement.

20. Notice. Any notice under this Agreement shall be delivered to the Parties' representatives at the addresses listed below by certified U.S. Mail:

City

City Manager
City of Shoreline
17500 Midvale Avenue N
Shoreline, WA 98133

Innis Arden Club

With Copy to Eglick and Whited
Eglick & Whited PLLC,
Suite 3130, 1000 2nd Avenue, Seattle, WA 98104

Dennis and Susan Aker
18315 17th Place NW, Shoreline, WA 98177
Copy to: madamson@jpclaw.com

Marion Woodfield
18335 17th Place NW, Shoreline, WA 98177
Copy to: madamson@jpclaw.com

Douglas Hendrikson
18345 17th Place NW, Shoreline, WA 98177
Copy to: madamson@jpclaw.com

21. **Effective Date of Agreement.** This Agreement shall be effective, and all Parties bound by it on _____, 2021 (hereinafter the “Effective Date”)

EXECUTED by the parties on the dates hereafter set forth

THE CITY OF SHORELINE

By _____
City Manager

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2021 before me personally appeared _____ to me known to be the City Manager of the City of Shoreline, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

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

(Signature)

(Name legibly printed or stamped)

Notary public in and for the State of Washington,

Residing at: _____

My appointment expires _____

INNIS ARDEN CLUB

By _____
President

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2021 before me personally appeared _____ to me known to be the President for The Innis Arden Club, a Washington nonprofit corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

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

(Signature)

(Name legibly printed or stamped)
Notary public in and for the State of Washington,
Residing at: _____
My appointment expires _____

MARION WOODFIELD

Personal Representative of the Estate of Mark Weinberg

Marion Woodfield, individually

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2021 before me personally appeared Marion Woodfield to me known to be the individual who executed the within and foregoing instrument and acknowledged said instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

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

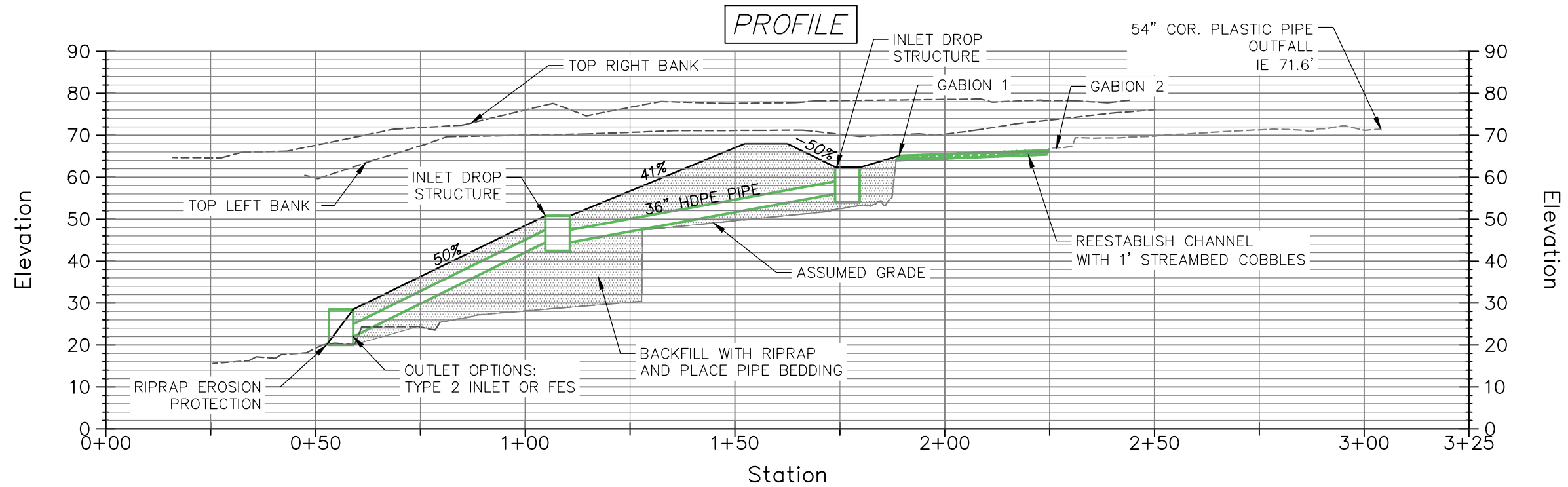
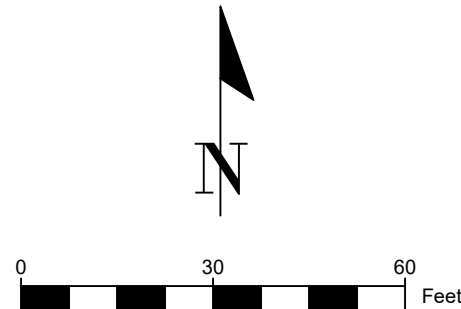
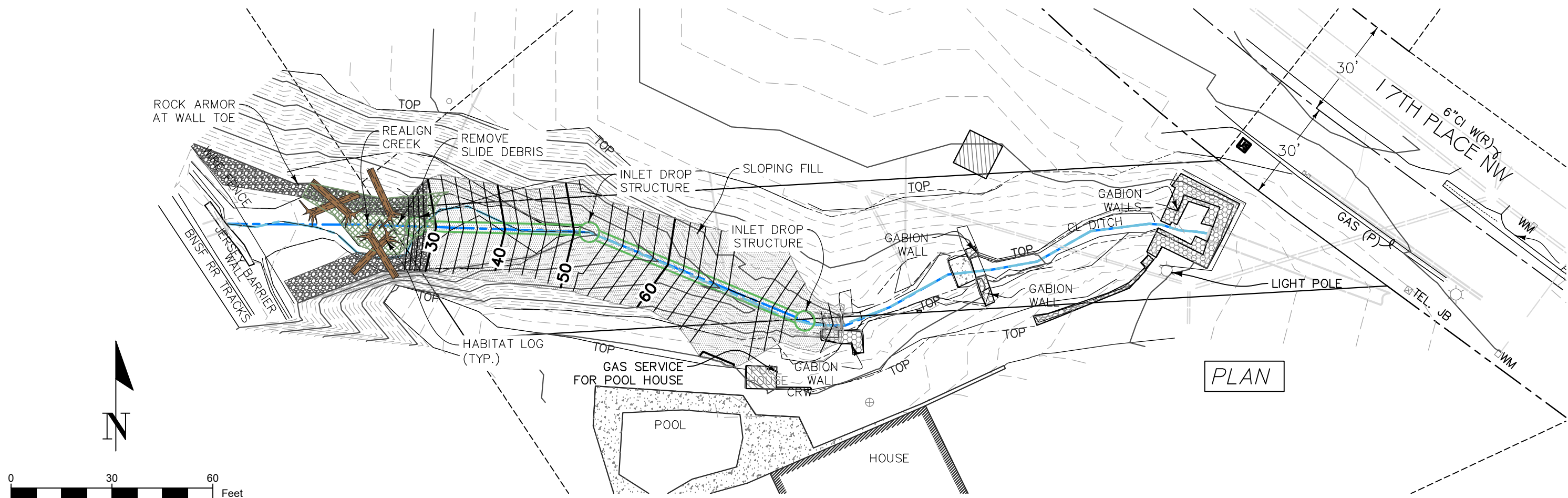
(Signature)

(Name legibly printed or stamped)

Notary public in and for the State of Washington,

Residing at: _____

My appointment expires _____



INFORMATION ONLY

nhc
 northwest hydraulic consultants
 12787 gateway drive south
 tukwila, washington 98168-3308
 phone: (206) 241-6000
 fax: (206) 439-2420

Job: 2003259
 Rev: 0
 Drft: JML
 Chkd: VC
 Date: 26Jan18

STORM CREEK
 CONCEPTUAL DESIGN NO. 1
 PIPE THROUGH JUNCTIONS

AFTER RECORDING RETURN TO:

City of Shoreline

Attn: Public Works – Surface Water Division

City Reference # (if applicable): _____

17500 Midvale Ave. N.

Shoreline, WA 98133-4921

Grantor(s) _____

Grantee: CITY OF SHORELINE, a Washington municipal corporation

Property Legal Description (abbreviated): _____

Tax Parcel ID#: _____

SURFACE WATER DRAINAGE EASEMENT

A. WHEREAS, The Innis Arden Club, a Washington non-profit corporation, (“Innis Arden”) is the authorized governing body for the common areas located west of 17th Place NW in Shoreline, Washington, known as Tax Parcel No. 358590TRCT, legally described in Exhibit A (the “Innis Arden Property”).

B. WHEREAS, the City of Shoreline (“City”) is a municipal corporation of the State of Washington.

C. WHEREAS, pursuant to the Settlement Agreement and Release between the City of Shoreline and The Innis Arden Club and other parties dated _____ (“Settlement Agreement”) the City of Shoreline agrees to construct and maintain certain facilities in Storm Creek pursuant to the Storm Creek Erosion Management Project described therein (“Project”).

D. WHEREAS, Innis Arden and the City agree to this easement for the construction and maintenance of the Project on the Innis Arden Property.

NOW, THEREFORE, in consideration of mutual covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. **Grant of Easement.** Subject to the terms and conditions set forth herein, the GRANTOR, The Innis Arden Club, hereby grants and conveys to the City of Shoreline, (GRANTEE), its contractors, employees, agents, successors, and assigns, a non-exclusive perpetual surface water drainage easement (“Easement”) over, under, along, and across the Easement Area, and together with the right of ingress and egress upon the Innis Arden Property for access to and from the Easement Area for the purposes set forth below.

2. **Purpose of Easement.** GRANTEE shall construct, install, operate, maintain, repair, replace, improve, remove, and access, (but not expand or enlarge) the Project as described in the Settlement Agreement, which includes constructing improvements to pipe Storm Creek streamflow through the most eroded channel reach, and backfilling the eroded area above the new pipe, planting appropriate landscaping,

and placing signage to forbid pedestrians from using the Project site to walk to or from the beach within the Easement Area. Within the Easement Area, the City shall install the Project – including stream restoration improvements upstream and downstream of the new pipe, appropriate plantings, and other restoration and landscaping work -- only with Innis Arden's prior approval. GRANTEE shall have the right to cut, trim, remove, or control any and all brush, trees, or other vegetation in the Easement Area by any prudent and reasonable means on a continuing basis, only with Innis Arden's prior approval and in accordance with applicable state and city codes and regulations, provided that GRANTEE shall not be required to manage said restoration and vegetation beyond the permit restoration requirements or ten years, whichever is longer. Innis Arden may withhold, condition, or delay its approval for any landscaping by GRANTEE, in order to effectuate the preservation of views contained in Innis Arden's governing documents. Nothing herein shall preclude Innis Arden from managing said vegetation in its sole and exclusive discretion.

Any use of, or activity on, the Easement Area by GRANTEE that is inconsistent with the purposes of the Easement is prohibited, and GRANTEE shall not conduct, engage in or permit any such activities.

GRANTOR reserves for itself and its successors and assigns, any use of, or activity on, the Property which is consistent with the purposes of the Easement. GRANTOR shall not grant or convey to a third party any easement or other right of usage in the Property that would impair or limit the GRANTEE'S use of the Easement Area.

GRANTOR reserves all right, title, and interest in and to the Easement Area for any purpose so long as the use does not interfere with the Easement rights herein granted. GRANTOR shall not in any way block, restrict, impede, or obstruct access to the Easement Area; shall not alter the ground surface and subsurface within the Easement Area by excavation or placement of fill material; or allow any third party to do the same without prior consent of the GRANTEE.

In carrying out any work under this Easement, the GRANTEE shall place protection and erosion control to avoid any unnecessary injury to any trees, shrubs, lawns, buildings, or appurtenances within the Innis Arden Property. Upon completion of any work, the GRANTEE shall restore the surface of the Easement Area and any private improvements disturbed or destroyed during the execution of the work to the same or similar condition in which it was before the start of the improvements pursuant to section 4 below.

GRANTEE shall be solely responsible for the costs of exercising the Easement rights herein. It is agreed that the improvements constructed on the Easement Area shall remain the property of the City, its successors and assigns. GRANTEE shall be solely responsible, at its sole cost and expense, for the maintenance, repair, and replacement of the improvements constituting the Project on the Easement Area.

In case of emergency, GRANTEE shall have the right, without prior notice or proceeding at law, to enter upon the Innis Arden Property subject to this Easement for the purpose of construction, repair, and maintenance of the surface water facilities and appurtenances. However, if prior notice is not given, GRANTEE shall provide GRANTOR with electronic and written notice as soon as possible after entry. In all other cases, GRANTEE shall notify the GRANTOR of the need to enter the Easement Area a minimum of seven (7) working days prior to doing so. Notice shall be via written hard copy as well as via e-mail.

3. Property Subject to Easement.

The Innis Arden Property subject to this Easement is legally described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein by this reference; the Easement Area being a portion of the Innis Arden Property. The Easement Area as described in this easement is legally described in Exhibit C attached hereto and incorporated herein by this reference.

4. **Construction and Maintenance of Project.** Subject to the terms of the Settlement Agreement:

a. The City shall proceed to prepare construction drawings and shall submit such construction drawings to Innis Arden for comment in accordance with the Settlement Agreement (the “Construction Drawings”).

b. Construction Drawings submitted by the City to Innis Arden for comment must detail the City’s construction plans.

c. The City shall not submit any plans to contractors for bid, that have been prepared by contractors, subcontractors, or suppliers. All plans and specifications must be prepared by a licensed engineer.

d. The City shall select its own architect and contractor. The contractor must be appropriately qualified, licensed, bonded and insured, and name Innis Arden as an additional insured for any work on the Innis Arden Property (which includes but is not limited to the construction and maintenance of the Project).

e. Once finalized per the Settlement Agreement, no changes shall be made in the City’s Construction Drawings except with the prior written consent of Innis Arden, which shall not be unreasonably withheld. Innis Arden shall be provided with and entitled to retain at least one copy of said plans.

f. The City agrees to consider requests for revisions or modifications in its Construction Drawings that may be requested by Innis Arden as a result of the review process pursuant to the terms of the Settlement Agreement.

g. The City shall at its own expense and initiative obtain, or cause to be obtained, all governmental and utility permits, inspections, and approvals, if any, for the work on the Innis Arden Property. Additionally, The City will secure approvals of the approved Construction Drawings from the appropriate governmental authorities as well as any related permits for work. The City shall exercise diligence in prosecuting its application(s) for all permits. The City will provide Innis Arden with written evidence of the approvals and permits prior to commencement of work. Notwithstanding issuance of a building permit, no construction shall commence until all necessary approvals are obtained unless waived in writing by Innis Arden.

h. Prior to commencement of work, the City’s contractor will meet with Innis Arden’s on-site representative to review the nature of the work to be done as well as to review the restrictions imposed by this Easement and the Settlement Agreement.

i. Construction may commence after the requirements contained herein, and in the Settlement Agreement have been met. The City agrees to begin construction promptly upon the later to occur of (i) Innis Arden’s notice to the City, or (ii) issuance of all necessary governmental permits or approvals necessary to begin construction.

j. The City understands that Innis Arden may regularly and routinely monitor the construction on the Innis Arden Property and Easement Area to insure general conformity to approved plans and specifications and to ensure continuous progress toward completion of the City’s work.

k. The failure on behalf of Innis Arden to note variances in the work from the final bid documents shall not relieve the City of its obligation to correct such variances upon later discovery.

l. All work performed in the Easement Area shall be performed pursuant to, and comply with, the construction documents required per Section G of the Settlement Agreement.

m. The GRANTEE will not use electrical outlets belonging to any owner within the Innis Arden Property as a power source for construction work. Vehicles or equipment associated with the Project or its workers may not be parked or stored outside of the Easement Area on the Innis Arden Property at any time or on residential streets without advance written approval from Innis Arden.

n. Once plans are finalized, the parties agree that any work on the Easement Area will be limited in scope to the plans.

o. The parties accept the Innis Arden Property in “as is” and “where is” condition. The parties acknowledge that Innis Arden has not made any representation or warranty as to the present or future suitability of any of the Innis Arden Property for any work, or for the intended outcome.

p. The City shall pay all costs and expenses associated with the work and the Project on the Easement Area and Innis Arden Property, including, but not limited to agency fees, surveying, design, permitting, staking, construction, inspection, and related costs.

q. During any work performed on the Easement Area, or access to the Innis Arden Property required by the GRANTEE, the City shall coordinate its activities in the Construction Easement Area so as to cause minimum disruption of Grantor and Grantor’s residents.

r. Promptly upon completion of any work, GRANTEE shall remove all equipment and materials not incorporated into the Project. In the event that GRANTEE disturbs the Easement Area or Innis Arden Property after the initial construction of the Project, or in connection with any repair, maintenance, replacement, relocation, or reconstruction work on the Project, GRANTEE shall restore the Easement Area, or Innis Arden Property, as the case may be, including any paved areas, to the condition in which it existed at the commencement of such activity, all at no cost or expense to GRANTOR.

s. If in exercising its rights under this Easement, GRANTEE fails to restore any damage to the Easement Area and/or Innis Arden Property caused by GRANTEE, its employees and/or contractors, as determined by GRANTOR in its reasonable discretion, then GRANTOR shall have the right, upon fourteen (14) business days prior written notice to GRANTEE, to take such action as is reasonably calculated to cure the failure of GRANTEE, all in the name of and for the account of GRANTEE. GRANTEE shall, on demand, reimburse GRANTOR for taking such action for the monies actually expended by it in so taking such action. Reimbursement by GRANTEE shall be due and owing within thirty (30) days of demand by GRANTOR. In the event of a default, or a default which may in the sole discretion of GRANTOR threatens immediate personal injury or the like), then no notice shall be required and GRANTOR may act immediately to cure the failure without the giving of any prior notice and shall nevertheless be entitled to reimbursement as provided herein. GRANTEE reserves the right to challenge any claim of alleged damage as well as the reasonableness or relatedness of any said expenses and shall be entitled to be reimbursed where such a challenge prevails.

5. **Indemnification.** The GRANTEE shall indemnify, defend, and hold GRANTOR and its officers, directors, employees, agents, members, and other owners harmless from any and all claims, demands, causes of action, losses, costs, expenses, liabilities, suits, damages, actions, rights, attorney’s fees, torts, sums of money, accountings, reckonings, bills, covenants, controversies, or agreements, whether direct or indirect, known or unknown, liquidated or contingent, which any third party or person now owns or holds or has at any time heretofore owned or held, now or hereafter acquired, arising from or related to (i) the construction, installation, maintenance, repair, replacement of the Project on the Innis Arden Property and

Easement Area, whether by the GRANTEE or its agents or employees, or any third parties (other than those retained by GRANTOR), (ii) any improvements, modifications, alterations, or repairs made to the GRANTOR'S Property that are improperly made or outside the scope of this Easement, (iii) any damage to the Innis Arden Property, (iv) the exercise of the rights herein granted to GRANTEE, and/or (v) the use or operation of, or mere presence on Innis Arden property of, the Project, (together as "Claims"). Claims include, but are not limited to other complaints made by third parties or other residents within Innis Arden.

6. **Indemnification for Liens.** Additionally, the City shall keep the Innis Arden Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by or on behalf of the City. In furtherance of the foregoing, the City further agrees to indemnify, defend, and hold Innis Arden, and their officers, directors, employees, agents, and other owners harmless from the payment of any amounts to any person or entity performing work and/or supplying labor or materials for the work on behalf of the City. The City agrees that any amounts described in this Section are the sole responsibility of the City to pay to any such person or entity, and that Innis Arden shall have no responsibility or liability for the payment of any amounts. In the event of any lien being placed against the Innis Arden Property, the City shall pay to Innis Arden immediately upon demand, the amount of said lien and any and all costs and expenses to remove the same, including but not limited to attorney's fees.

7. **Disclaimer.** INNIS ARDEN MAKES NO WARRANTIES HEREUNDER, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED FOR ANY WORK PERFORMED BY THE GRANTEE ON INNIS ARDEN PROPERTY. INNIS ARDEN SHALL HAVE NO LIABILITY TO THE CITY UNDER THIS EASEMENT OR OTHERWISE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOST BUSINESS) EVEN IF THE CITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. **No Nuisance.** During any construction, maintenance, repair, or use, the City shall not do or permit anything to be done in or about the Innis Arden Property and/or Easement Area, nor bring or keep anything therein, which will (i) in any way increase or affect the existing rate of any fire or other insurance policy, or cause a cancellation of any such insurance policy, (ii) cause, maintain or suffer or permit any nuisance in, on or about the Innis Arden Property and/or Easement Area, or (iii) commit or allow to be committed any waste in or upon the Innis Arden Property and/or Easement Area. The City shall not do or permit anything to be done in or about the Innis Arden Property and/or Easement Area, nor bring or keep anything thereon, that is or will constitute or create a hazardous waste or substance or violate any environmental law. The City shall defend, indemnify and hold Innis Arden harmless from any and all damages related to the City's introduction to, or creation of, hazardous waste on the Innis Arden Property and/or Easement Area.

9. **No Liability.** In no event shall GRANTOR be liable for any damage to the Project, or any damage to, or loss of, personal property or equipment sustained or installed in the Easement Area. whether or not it is insured, even if such loss is caused by the negligence of GRANTOR, provided that the GRANTOR shall be responsible to the extent of its negligence. The improvements installed as part of the Project shall be constructed and maintained at the sole risk and expense of the City. As it relates to work performed by the GRANTEE under this Easement, and the Settlement Agreement, Innis Arden shall not be liable to the GRANTEE for any injury or damage, either to person or property from any cause whatsoever, unless due to the gross negligence or intentional misconduct of Innis Arden.

10. **Survival.** The insurance, indemnification and liability provisions shall survive the termination or expiration of this Easement for any reason whatsoever.

11. **Insurance.** The GRANTEE, or any party performing any type of work on the Easement Area, including but not limited to the construction, operation, maintenance, repair or replacement of the Project,

or upon accessing the Innis Arden Property shall comply with the insurance requirements set forth in this Section for any and all work:

a. The GRANTEE shall self insure, and require the contractor to purchase from and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located and which carry a Best's Rating of A-VII or higher or are otherwise acceptable to the Innis Arden, such insurance as will protect the GRANTEE from claims set forth herein which may arise out of or result from the GRANTEE's operations on the Easement Area or the location of the Project on the Easement Area, and for which the GRANTEE may be legally liable, whether such operations be by the GRANTEE or by anyone directly or indirectly employed by Grantee or contractor, or by anyone for whose acts any of them may be liable. The insurance shall be written for not less than the following limits and coverages, or greater limits and coverages where required by law.

- A. Workers' Compensation
 - 1. State and applicable Federal authority
 - a. Statutory Limits
 - 2. Employer's Liability
 - a. \$1,000,000 Per Accident, Disease, Policy Limit
 - 3. United States Longshoreman's Act and Employee Harbor Worker's Act, if applicable
 - a. \$1,000,000 Disease Each Employee
 - 4. Benefits stipulated by labor contracts where applicable
- B. Commercial General Liability (including Premises/Operations, Independent Contractor's Protective, Products and Completed Operations, Broad Form Property Damages, Personal Injury, Blanket Contractual, Explosion, Collapse and Underground):
 - 1. Bodily Injury and Property Damage
 - a. \$1,000,000 Each Occurrence
 - b. \$2,000,000 Aggregate (per project)
 - 2. Products and Completed Operations to be maintained for (three) 3 years after final payment (and does not include the Excess Liability Umbrella), and the GRANTEE shall continue to provide evidence of such coverage to the Innis Arden on an annual basis during this three-year period.
 - a. \$2,000,000 Aggregate
 - 3. Property Damage Liability Insurance shall provide coverage for X, C, and U perils.
 - 4. Broad Form Property Damage Coverage shall include completed operations.
 - 5. Contractual Liability, (Hold Harmless Coverage): Bodily Injury and Property Damage
 - a. \$1,000,000 Each Occurrence
 - b. \$2,000,000 Aggregate
 - 6. Personal Injury with Employment Exclusion deleted. If the General Liability includes a General Aggregate, such General Aggregate shall be not less than \$2,000,000. The policy shall be endorsed to have General Aggregate apply to this Project only.
 - a. \$1,000,000 Aggregate
- C. Business Auto Liability (Including owned, non-owned and hired vehicles):
 - 1. Bodily Injury and Property Damage
 - a. \$1,000,000 Combined Single Limit

- D. Umbrella Liability Insurance policy covering the excess over the limits specified for all employer's liability, commercial general liability, business auto liability, watercraft liability, and aircraft liability insurance required hereunder with minimum limits of \$5,000,000 aggregate per policy year. There shall be no self-insured retention.
- E. Innis Arden shall be included as Additional Insureds on all City and/or contractor liability and umbrella policies associated with the City's work or operations on the Easement Area. Such insurance is primary and will not seek contribution from any other insurance available to the Additional Insureds.
- F. Certificates of Insurance acceptable to Innis Arden shall be filed with Innis Arden prior to commencement of the any work by the GRANTEE, and maintained for as long as the Project remains on the Easement Area. These certificates and the insurance policies required by this Section shall contain a provision that coverages afforded under the policies will not be non-renewed, canceled or allowed to expire until at least 60 days' prior written notice has been given to Innis Arden. Information concerning reduction of coverage shall be furnished by the GRANTEE with reasonable promptness in accordance with GRANTEE's information and belief.
 - 1. All Certificates of Insurance required under this Article shall be submitted on either an AIA Document G705 form or an ACORD Certificate of Insurance form and shall be filed with Innis Arden within prior to any work on the Easement Area. The Certificate of Insurance shall specifically set forth evidence of all coverage required by this Section. If this ten (10) day period for delivery of insurance certificates has passed without delivery of satisfactory insurance certificates, Innis Arden shall be entitled to suspend the work at no cost to Innis Arden and without triggering any claim or right of termination by the GRANTEE until such time as Innis Arden has received satisfactory insurance certificates or has procured the required insurance on the GRANTEE's behalf and at the GRANTEE's expense. Renewal certificates, acceptable to Innis Arden, shall be filed with Innis Arden not later than 10 days prior to any coverage expiration date.
 - 2. The acceptance of any certificate of insurance evidencing the insurance coverages and limits required in this Easement does not constitute approval or agreement by Innis Arden that the insurance requirements have been met or that the insurance policies shown are in compliance with this Easement.
- G. All required coverages shall remain in force for the benefit of Innis Arden for claims arising out of the work performed by the GRANTEE under this Easement and during the entire term the Project is located on the Easement Area.
- H. The GRANTEE shall furnish to Innis Arden copies of any endorsements that are subsequently issued amending coverages or limits. Failure of Innis Arden to collect certificates does not void the requirement to obtain insurance.
- I. Insurance effected or procured by the GRANTEE shall not reduce or limit the GRANTEE's obligation to indemnify and defend Innis Arden for claims made or suits brought which result from or are in connection with the performance of this Easement.
- J. The City may self insure, but must otherwise comply with the terms and coverages set forth herein.

b. The City shall require its contractor and subcontractors of every tier to carry similar insurance coverages and limits of liability as required under Section, adjusted to the nature of such subcontractor's operations, and shall submit evidence of such coverage to Innis Arden before such subcontractor commences work. In the event the GRANTEE fails to obtain the required insurance, the City shall defend, indemnify and hold Innis Arden, Innis Arden's members, directors, officers, agents and affiliates harmless against any and all claims, cost or expense arising out of the matter which should have been covered by insurance.

12. **Authority.** The GRANTOR warrants that it is the legal owner of or has an interest in the property described herein and have the authority to grant and convey the easements and covenants herein.

13. **Covenants Run With the Land.** All the covenants, agreements, conditions and restrictions set forth in this Easement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of and enforceable by, the parties and their respective representatives, heirs, successors and assigns, lessees and tenants. Specifically, the covenants herein shall be appurtenant to and for the benefit of the parties' property as set forth herein and each part thereof and shall run with the land. Innis Arden, or its successor in interest shall have the right to enforce by proceedings at law or in equity, all covenants now or thereafter imposed by the provisions of this Easement

14. **Term.** This Easement, and all rights and obligations provided for herein, shall run in perpetuity and shall terminate and expire only by mutual agreement or unanimous consent of Innis Arden and the City, which subsequent agreement shall be recorded in the same places as this Easement is recorded.

15. **Default, Injunctive Relief.** A breach of any provision in this Easement is a default under this Easement. In the event of a default by either party, the non-defaulting party may seek any and all remedies permitted by law or in equity. Specifically, this Easement may be enforced by restraining orders and injunctions (temporary, preliminary, mandatory, or permanent) mandating compliance with the provisions hereof. The act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity. The rights and remedies in this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

In the event of any violation or threatened violation by the City of the terms of this Easement, Innis Arden shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction upon \$100.00 bond. The right of injunction shall be in addition to all other remedies set forth in this Easement and all remedies available under statute, law and/or equity.

16. **Modification Provision.** This Easement may not be modified in any respect whatsoever, or rescinded, in whole or in part, except with the unanimous consent of both of Innis Arden, and the City at the time of such modification or rescission and then only by written instrument duly executed and acknowledged by all of the parties and duly recorded in the office of the Recorder of King County, Washington. No modification or rescission of this Easement shall affect the rights of any lienholder unless the lienholder consents in writing to the modification or rescission.

17. **No Rights to the Public or by Prescription.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the properties to, or for, the general public or to, or for, any public purpose whatsoever, it being the intention of the parties that this Easement shall be strictly limited to and for the purposes herein expressed. It is not intended that this Easement convey any rights to the public to use, travel on or occupy the Easement Area. Any person or persons not authorized, empowered or privileged to use the Easement Area may be ejected therefrom by Innis Arden and/or the City.

18. **Breach Shall Not Permit Termination.** It is expressly agreed that no breach of this Easement shall entitle Innis Arden and/or the City, to cancel, rescind or otherwise to terminate this Easement, and such limitation shall not affect, in any manner, any other rights or remedies which such party may have hereunder by reason of any breach of this Easement. Any breach of this Easement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Easement shall be binding upon and be effective against any owner whose title is acquired by foreclosure, trustee's sale or otherwise.

19. **Notices.** All notices to be given pursuant to this Easement shall be by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), and e-mail of a PDF document (with confirmation of receipt of document), as well as certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Easement, a notice is effective only: (a) upon receipt by the receiving party and (b) if the party giving the notice has complied with one of the delivery requirements of this Section 19.

Notice shall be sent as follows:

To the Grantor: _____

With Copy to : Josh Whited

To the Grantee:

20. **Attorneys' Fees.** Should it be necessary for any party to this Easement to initiate legal proceedings to enforce this Easement, the party or parties to such legal proceedings who substantially prevail, regardless of whether the proceedings proceed to final judgment, shall be entitled to attorneys' fees, costs and disbursements, including the fees and expenses of expert and fact witnesses, reasonably incurred or made by the substantially prevailing parties in preparing for, and participating in, any proceeding or suit, during said proceeding or suit, on any appeal, on petition for review, and in enforcing any judgment or award, from the other party or parties.

21. **Construction.** The Recitals and other matter preceding the first numbered paragraph are a part of this Easement and incorporated herein by this reference. Headings in this Easement have been included for convenience and ease of reference only and shall not be used to interpret or construe this Easement or any of its provisions.

22. **No Partnership.** This Easement shall not be interpreted or construed to create an association, joint, venture or partnership between the parties or to impose any partnership obligation or liability upon the parties. Except as expressly provided in this Easement, no party shall have any right, power or authority to enter into any agreement or undertaking for, or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other parties.

23. **Nonwaiver.** The failure of any party to insist upon or enforce strict performance by any other party of any provision of this Easement shall not be a waiver or relinquishment to any extent of such party's right to assert or rely on any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect. No right or obligation under this Easement will be deemed to have been waived unless evidenced by a writing signed by the party against whom the waiver is asserted, or by its duly authorized representative. Any waiver will be effective only with respect to the specific instance involved and will not impair or limit the right of the waiving party to insist upon strict performance of the right or obligation in any other instance, in any other respect, or at any other time.

24. **Severability.** The parties intend that this Easement be enforced to the greatest extent permitted by applicable law. If any term or provision of this Easement, or the application of it, to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Easement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision of this Easement shall be valid and shall be enforced to the extent permitted by law.

25. **Washington Law.** This Easement shall be interpreted and enforced, and the rights, duties and obligations of the parties will be determined, according to the laws of the State of Washington, without regard to its conflicts of laws provisions. In the event of any dispute arising out of this Easement, the parties waive any right to use the rule of construction that the Easement is to be constructed against the drafter thereof. All parties shall submit and not object to jurisdiction and venue in the King County Superior Court, Seattle Case Assignment Area State of Washington, in connection with any claims arising out of this Easement.

26. **Entire Agreement.** In addition to the Settlement Agreement, this Easement, and attached exhibits, constitutes the entire agreement (both final and integrated) of the parties on these subjects. This Easement may not be modified, interpreted, amended, waived or revoked, unless by a writing signed by all parties. This Easement supersedes and replaces all prior agreements, discussions and representations on these subjects, all of which are merged into, and superseded by, this Easement. No party is entering into this Easement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Easement. There are no other prior or contemporaneous agreements, either written or oral, between the parties with respect to this subject.

27. **Time of the Essence.** Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.

28. **Further Cooperation.** Each party agrees to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this Easement.

29. **Subordination.** Intentionally Omitted.

30. **Estoppel Certificates.** Each party shall execute, acknowledge, and deliver to the other party, within ten (10) days of request, a certificate certifying:

a. That this Easement is unmodified and in full force and effect or, if there have been modifications, that this Easement is in full force and effect, as modified, and that the modifications are as described in (or attached to) the certificate.

b. that the party delivering the certificate has not given to the other party notice of default under this Agreement that has not been cured and, to the best of the party's knowledge and belief, no default exists or, if there has been notice given or a default exists, certifying to those facts and to the accuracy of the description of the default.

Certificates delivered under this Section 30 may be relied on by the receiving party's prospective mortgagees, prospective tenants, and prospective successors in interest under this Agreement.

31. **Easement, Rights, and Obligations Subject to Existing Restrictions.** The rights and obligations in this Easement are made subject to: (a) any and all existing covenants, conditions, restrictions, and easements of record affecting the Easement Area; and (b) all applicable building and zoning codes and

ordinances. The parties acknowledge that Innis Arden is governed by the Mutual Restrictive Easements for Innis Arden 1, 2 and 3 (King County Recorder's Office file numbers 3187136, 3530990, and 3897377 as amended ("MREs")) which remain in full force and effect, and the parties specifically acknowledge that as it relates to Innis Arden, this Easement is subordinate to the MREs.

THESE COVENANTS AND AGREEMENTS SHALL RUN WITH THE LAND AND SHALL BE BINDING ON ALL PARTIES HAVING OR ACQUIRING ANY RIGHT, TITLE, OR INTEREST IN THIS LAND DESCRIBED HEREIN OR ANY PART THEREOF, AND IT SHALL PASS TO AND BE FOR THE BENEFIT OF EACH OWNER THEREOF.

EXECUTED. In Witness whereof, the undersigned herein set their hands as of the day and year first above written

Dated this _____ day of _____, 20____.

GRANTOR

Printed Name: _____
Title (if applicable): _____

GRANTEE

By: _____
Its: _____
Date: _____

State of Washington)
) ss.
County of King)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me on _____, 20____, and said person acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

.
GIVEN under my hand and official seal this _____ day of _____, 20_____.

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My appointment expires _____
Print Name _____

State of Washington)
) ss.
County of King)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me on _____, 20____, and said person acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

.
GIVEN under my hand and official seal this _____ day of _____, 20_____.

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My appointment expires _____
Print Name _____

EXHIBIT A

Legal Description of the Innis Arden Property

EXHIBIT B

Depiction of the Innis Arden Property

EXHIBIT C

Legal Description of the Easement Area

During Initial Construction

EXHIBIT D

Legal Description of the Easement Area

After Initial Construction

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|---|
| AGENDA TITLE: | Adoption of Resolution No. 480 – Determining the Lowest Responsible, Responsive Bidder, Rejecting the Bid of Diversified Holdings NW, Awarding a Public Works Contract to Kamins Construction for the 1 st Avenue NE (N 193 rd Street to NE 195 th Street) New Sidewalk Project in the Amount of \$596,153, and Authorizing the City Manager to Execute the Same |
| DEPARTMENT: | Public Works |
| PRESENTED BY: | Tricia Juhnke, City Engineer |
| ACTION: | <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

Shoreline residents approved an increase in the Sales and Use Tax in 2018 to construct new sidewalks. The ballot measure included 12 specific locations for construction of new sidewalk. The 1st Avenue NE (N 193rd Street to NE 195th Street) New Sidewalk Project (1st Avenue NE New Sidewalk Project) is the first of those specific sidewalk projects to come before the Council for construction contract award. This project involves the construction of a new sidewalk along the east side of 1st Avenue NE from N 193rd Street to NE 195th Street. Construction is anticipated to start in July 2021 with a total contract time of 60 working days.

Between May 26 and June 16, 2021, the City solicited bids for the construction of the 1st Avenue NE New Sidewalk Project as Bid #9967. While the bid from Diversified Holdings NW in the amount of \$538,060 was the apparent low bid, City staff determined the bid is materially unbalanced and therefore nonresponsive. City staff has determined that the second lowest bid from Kamins Construction is the lowest responsive bid that has also met the City's requirements. Proposed Resolution No. 480, pursuant to RCW 35.23.352, rejects the apparent low bid due to findings that the bid was unbalanced. Staff is requesting that the City Council adopt proposed Resolution No. 480 and authorize the City Manager to execute a contract with the second lowest bidder, Kamins Construction, for construction of the 1st Avenue NE New Sidewalk Project in the amount of \$596,153.

RESOURCE/FINANCIAL IMPACT:

The ballot measure requires all projects be funded with bond revenue that is then repaid with the Sales and Use Tax collected over the next 20 years. In 2019, the City issued the first series of bonds in the amount of \$11.6 million to fund the initial programming, design, and construction of several sidewalk routes. Ordinance No. 903 provided

\$4,700,000 in the 2021-2022 biennium for this program. This contract amount is within that authorized budget. The project cost and budget summary is as follows:

EXPENDITURES

Design:

| | |
|---------------------------------|-------------------|
| Staff and other Direct Expenses | \$ 25,000 |
| DOWL – Design Contract | \$ 265,000 |
| Design Subtotal | \$ 290,000 |

Construction:

| | |
|-------------------------------------|-------------------|
| Staff and other Direct Expenses | \$ 50,000 |
| <i>Kamins Construction Contract</i> | \$ 596,153 |
| Contingency (10%) | \$ 60,000 |
| Construction Subtotal | \$ 706,153 |

| | |
|-----------------------------------|-------------------|
| Total Project Expenditures | \$ 996,153 |
|-----------------------------------|-------------------|

REVENUE

| | |
|--------------|------------|
| Bond Revenue | \$ 996,153 |
|--------------|------------|

| | |
|------------------------------|-------------------|
| Total Project Revenue | \$ 996,153 |
|------------------------------|-------------------|

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 480 rejecting the apparent low bid of Diversified Holdings NW and authorize the City Manager to execute a construction contract with Kamins Construction in the amount of \$596,153 for the 1st Avenue NE New Sidewalk Project.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

The 1st Avenue NE New Sidewalk Project is part of the City's New Sidewalk Program that includes 12 specific new sidewalk locations. The program is funded from a 0.2% increase in Sales and Use Tax that voters approved in November 2018. The 1st Avenue NE New Sidewalk Project is one of two initial sidewalk projects. [Council authorized the City Manager to execute a contract](#) for the design of the sidewalk in April 2020.

The sidewalk will be installed on the east side of 1st Avenue NE and fills a critical gap in the existing sidewalk network. The sidewalk will connect to existing pedestrian facilities at N 193rd Street and NE 195th Street. The design of the sidewalk will incorporate drainage facilities, permeable concrete and an 11-foot-wide pathway sufficient for this section to act as a shared use path for pedestrians and bicyclists.

DISCUSSION

Project Bid Process – Bid #9967

Between May 26 and June 16, 2021, the City solicited bids for contractors to construct the Project under Bid #9967 as noted above. Bids were opened on June 16, 2021 and four (4) bids were received. Diversified Holdings NW was the apparent low bidder with a bid of \$539,060. The other bid proposals were for \$596,152.91, \$639,245, and \$650,732.

On June 17, 2021 a bid protest was received which claimed that Diversified Holdings NW's bid should be considered nonresponsive due to several irregularities. Multiple items in the apparent low bid were significantly lower than the Engineer's Estimate and the average and median bid. An analysis showed that these items were bid well below acquisition costs for materials, which was supported with quotes from subcontractors and suppliers. City staff reviewed the lowest bid independently from the bid protest and found that it was materially unbalanced, meaning that "there is reasonable doubt that awarding to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the Government". The unbalancing of the bid was found to be excessive to the point of detriment to the City and therefore the apparent low bidder would not be considered responsive.

The second lowest bid from Kamins Construction was determined to be responsive and met the requirements of the City. This was verified by:

- Evaluation and analysis of the bid through the creation of bid tabulations, and
- Verification that the contractor is properly licensed in Washington State and has not been barred from contracting on federal- and state-funded projects.

The engineer's estimate for construction of the Project was \$605,725. Construction is anticipated to start in July 2021 and be completed within 60 working days.

COUNCIL GOAL(S) ADDRESSED

This Project addresses Council Goal #2: Continue to deliver highly valued public services through management of the City's infrastructure and stewardship of the natural

environment, and specifically Action Step 1: Implement the new Sidewalk Construction Program.

RESOURCE/FINANCIAL IMPACT

The ballot measure requires all projects be funded with bond revenue that is then repaid with the Sales and Use Tax collected over the next 20 years. In 2019, the City issued the first series of bonds in the amount of \$11.6 million to fund the initial programming, design, and construction of several sidewalk routes. Ordinance No. 903 provided \$4,700,000 in the 2021-2022 biennium for this program. This contract is within that authorized budget. The project cost and budget summary is as follows:

EXPENDITURES

Design:

| | |
|---------------------------------|-------------------|
| Staff and other Direct Expenses | \$ 25,000 |
| DOWL – Design Contract | \$ 265,000 |
| Design Subtotal | \$ 290,000 |

Construction:

| | |
|-------------------------------------|-------------------|
| Staff and other Direct Expenses | \$ 50,000 |
| <i>Kamins Construction Contract</i> | \$ 596,153 |
| Contingency (10%) | \$ 60,000 |
| Construction Subtotal | \$ 706,153 |

| | |
|-----------------------------------|-------------------|
| Total Project Expenditures | \$ 996,153 |
|-----------------------------------|-------------------|

REVENUE

| | |
|--------------|------------|
| Bond Revenue | \$ 996,153 |
|--------------|------------|

| | |
|------------------------------|-------------------|
| Total Project Revenue | \$ 996,153 |
|------------------------------|-------------------|

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 480 rejecting the apparent low bid of Diversified Holdings NW and authorize the City Manager to execute a construction contract with Kamins Construction in the amount of \$596,153 for the 1st Avenue NE New Sidewalk Project.

ATTACHMENTS

Attachment A – Proposed Resolution No. 480

RESOLUTION NO. 480

A RESOLUTION OF THE CITY COUNCIL OF CITY OF SHORELINE, WASHINGTON DETERMINING THE LOWEST RESPONSIBLE, RESPONSIVE BIDDER, REJECTING THE BID OF DIVERSIFIED HOLDINGS NW, AWARDING A PUBLIC WORKS CONTRACT TO KAMINS CONSTRUCTION FOR THE 1ST AVENUE NE (N 193RD TO NE 195TH STREET) NEW SIDEWALK PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME.

WHEREAS, Shoreline residents approved an increase in the Sales and Use Tax in 2018 to construct new sidewalks; and

WHEREAS, the ballot measure included 12 specific locations for construction of new sidewalk; and

WHEREAS, the 1st Avenue NE (N 193rd Street to NE 195th Street) New Sidewalk Project (1st Avenue NE New Sidewalk Project) involves the construction of a new sidewalk along the east side of 1st Avenue NE from N 193rd Street to NE 195th Street and is the first of those specific sidewalk projects to come before the Council for construction contract award with an anticipated start in July 2021 with a total contract time of 60 working days; and

WHEREAS, between May 26 and June 16, 2021, the City solicited bids for the construction of the 1st Avenue NE New Sidewalk Project (Bid Project #9967); and

WHEREAS, the City received four (4) bids for the 1st Avenue NE New Sidewalk Project; and

WHEREAS, a bid from Diversified Holdings NW in the amount of \$538,060 was the apparent low bid; and

WHEREAS, on June 17, 2021, a timely bid protest was received which claimed that Diversified Holdings NW's bid should be considered nonresponsive due to several irregularities; and

WHEREAS, City staff reviewed the protest and the lowest bid independently from the bid protest and found multiple items in the apparent low bid were significantly lower than the Engineer's Estimate and the average and median bid. The analysis also showed that these items were bid well below acquisition costs for materials, which finding is supported with quotes from subcontractors and suppliers. Based on that analysis, the City determined that Diversified Holdings NW's bid was materially unbalanced, meaning that "there is reasonable doubt that awarding to the bidder submitting the unbalanced bid will result in the lowest ultimate cost to the Government"; and

WHEREAS, the unbalancing of the bid was found to be excessive to the point of detriment to the City and therefore the apparent low bidder was not considered responsive; and

WHEREAS, excluding Diversified Holdings NW's proposal, the bid proposal submitted by Kamins Construction, in the amount of \$596,152.91 was the lowest responsive bid; and

WHEREAS, City staff have checked references and otherwise determined that Kamins Construction meets the mandatory bidder responsibility criteria specified in RCW 39.04.350(1) and any applicable supplemental bidder responsibility criteria adopted by the City of Shoreline;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Rejection of Apparent Low Bid. Because the bid from Diversified Holdings NW was unbalanced due to the fact that it was significantly lower than the Engineer's Estimate and the average and median bid amounts in several critical respects, as well as below acquisition costs for several materials, the bid of Diversified Holdings NW is hereby rejected as non-responsive.

Section 2. Determination of Lowest Responsive, Responsible Bidder. Based on the foregoing recitals, which are hereby incorporated as findings of fact, Kamins Construction is the lowest responsive and responsible bidder for the 1st Avenue NE New Sidewalk Project.

Section 3. Award of Public Works Contract. The contract for the 1st Avenue NE New Sidewalk Project, is hereby awarded to Kamins Construction in accordance with its bid proposal.

Section 4. Authorization for Contract Execution. The City Manager is authorized to execute a public works contract with Kamins Construction in accordance with the bid requirements in a form acceptable to the City Attorney.

ADOPTED BY THE CITY COUNCIL ON JUNE 28, 2021.

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith

Approved as to form:

Margaret King, City Attorney

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

| | | | |
|----------------------|---|-------------------------------------|---------------------------------|
| AGENDA TITLE: | Action on Ordinance No. 932 - Authorizing the Placement of a Ballot Measure on the 2021 November General Election Ballot to Authorize a Property Tax Bond Measure for Park Improvements and Park Land Acquisition | | |
| DEPARTMENT: | City Manager's Office | | |
| PRESENTED BY: | Christina Arcidy, Management Analyst | | |
| ACTION: | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Resolution | <input type="checkbox"/> Motion |
| | <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Discussion | |

PROBLEM/ISSUE STATEMENT:

In July 2017, following an 18-month community engagement process, the City Council adopted the 2017-2023 Parks, Recreation and Open Space Plan (PROS Plan) via Resolution No. 412. The PROS Plan identifies a 20-year vision and framework for Shoreline's recreation and cultural programs, and for maintenance and investment in park, recreation, and open space facilities. Strategic Action Initiative (SAI) #3 in the PROS Plan established a goal to "expand recreation facility opportunities" and SAI #7 established a goal to "ensure adequate parkland for future generations." Since the adoption of the PROS Plan, staff have developed concept designs for selected parks and reviewed opportunities for property acquisition to achieve those goals.

On December 7, 2020, staff was directed by Council to develop the legislation to place a ballot measure on the April 2021 ballot to fund improvements to five neighborhood parks; investments in park amenities for three additional parks; and the acquisition and improvement of new park land. That measure failed to validate, though 72% of voters supported the measure with a 'yes' vote.

On June 14, 2021, the Council discussed proposed Ordinance No. 932 (Attachment A) which would authorize the placement of this ballot measure on the 2021 November General Election Ballot. Following the discussion of June 14th, Council supported moving proposed Ordinance No. 932 forward for potential action and directed staff to draft voter's pamphlet language to support the proposed ballot measure. Tonight, Council is scheduled to take action on proposed Ordinance No. 932.

FINANCIAL IMPACT:

While proposed Ordinance No. 932 does not have an immediate financial impact, the Ordinance would authorize the City to place a measure on the ballot, and if approved by voters, would authorize the issuance of bonds in the principal amount of up to \$38,500,000 for improvements to five neighborhood parks; investments in park amenities for three additional parks; and the acquisition and improvement of new park

land. Repayment of these bonds would be supported by a special property tax levy that is estimated to impact the median priced homeowner by a net average of \$112 per year for up to 20 years.

The Ordinance provides that Senior Citizens, Disabled Persons, and Disabled Veterans meeting age, income, and/or disability requirements identified in RCW 84.36.381 would be eligible, and can apply with King County, for an exemption or deferral from this tax.

RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 932.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

The [2017-2023 Parks, Recreation and Open Space Plan](#) (PROS Plan), adopted by the City Council on July 31, 2017, establishes a 20-year vision and framework for Shoreline's recreation and cultural programs, and guides maintenance and investments in park, recreation and open space facilities. The PROS Plan includes a series of Strategic Action Initiatives with goals and objectives, including:

- Strategic Action Initiative #3 established the objective to "Expand recreation facility opportunities by adding at least one community garden, two basketball courts, two multi-purpose/pickleball courts, one playground, one swing set, one paved loop path, one spray park, and one adventure playground."
- Strategic Action Initiative #7 established the objective to "Ensure adequate parkland for future generations by adding five acres of new parkland by 2023 and 20 additional acres by 2030."

The City Council re-emphasized the importance of park improvements and land acquisition in its 2021-2023 City Council Goals and Workplan:

- Goal 2: Continue to deliver highly valued public services through management of the City's infrastructure and stewardship of the natural environment.
 - Action Step 2: Continue to Implement the Parks, Recreation, and Open Space Plan, including implementation of the 2021 Park Bond if approved by voters.

Council Direction

The City Council's guidance from its February 28, 2020, Strategic Planning Workshop was for staff to develop a proposal for a voter approved bond measure to fund improvements to parks and park land acquisition. The Council's Strategic Planning Workshop was held prior to the Declaration of Health Emergency for COVID-19. The Council discussed whether to place a bond measure on the ballot at their March 30, June 15, and November 2, 2020 meetings, and each time directed staff to bring it back for further discussion at a future Council meeting because of the unknown economic impacts of the COVID-19 pandemic and concerns about 2021 election validation requirements, given that they were set by the 2020 General Election voter turnout.

On December 7, 2020, the City Council further discussed the priority park improvements; amenity improvements; and acquisition and improvement of new park land. At this meeting, Council gave staff formal direction to prepare appropriate legislation to place a 20-year bond measure before the voters for improvements to five neighborhood parks; investments in park amenities for three additional parks; and the acquisition and improvement of new park land. The staff report from this Council discussion is available here: [Continued Discussion of Park Improvement and Acquisition Priorities for Potential Bond Measure](#).

The proposed Bond Measure at that time consisted of the following components:

Bond Measure Components and Cost

| Bond measure component | Cost (millions) |
|----------------------------------|-----------------|
| Priority Park Improvements | \$20.6 |
| Priority Park Amenities | \$4.7 |
| Park Land Acquisition | \$9.5 |
| Improvement to Acquired Property | \$3.7 |
| TOTAL | \$38.5 |

On January 25, 2021, Council approved Ordinance No. 918 authorizing the placement of a ballot measure on the April 2021 Special Election Ballot to authorize a property tax bond measure for park improvements and park land acquisition. That measure failed to reach the number of ballots necessary to validate the election, though it received support from 72% of ballots counted.

Following the failed April 2021 Special Election bond measure, the Council discussed proposed Ordinance No. 932 (Attachment A) on June 14th, which would authorize the placement of this ballot measure on the 2021 November General Election Ballot. During this discussion, a Councilmember was interested in potentially adding additional investments to the bond measure, including additional funding at James Keough Park, adding new funding for the Park at Town Center, and adding additional funding for park land acquisition. While these potential additional investments were discussed by Council, no formal proposed amendment was received by staff at the time of the writing of this staff report to amend the bond measure. The staff report for the June 14th Council discussion can be found here: [Discussion of Ordinance No. 932 - Authorizing the Placement of a Ballot Measure on the 2021 November General Election Ballot to Authorize a Property Tax Bond Measure for Park Improvements and Park Land Acquisition.](#)

DISCUSSION

Tonight, Council is scheduled to take action on whether a ballot measure should be placed on the 2021 November General Election Ballot. As was discussed on June 14th, the ballot title in proposed Ordinance No. 932 is as follows:

CITY OF SHORELINE PROPOSITION NO. 1**GENERAL OBLIGATION BONDS FOR
PARKS AND RECREATION IMPROVEMENTS**

The City Council of the City of Shoreline adopted Ordinance No. 932 concerning neighborhood park improvements. This proposition authorizes the City to improve and/or construct City parks, including playgrounds, an accessible play area, splash-pads, multi-sports courts, walking and sensory trails, picnic shelters, off-leash dog areas, sports fields and/or other park amenities; install public art; acquire and improve new park land; issue up to \$38,500,000 of general obligation bonds maturing within 20 years to finance and refinance such projects; and levy annual excess property taxes to repay such bonds, as provided in Ordinance No. 932.

Should this proposition be approved:

YES..... ☐

NO ☐

Council had no concerns with this proposed ballot title and language when it was discussed on June 14th and provided general direction to staff to bring back proposed Ordinance No. 932 with this ballot language included for potential action tonight. While Council did discuss some potential additions to the ballot measure at their June 14th meeting, the majority of Councilmember were interested in moving forward the same measure as was in front of voters in April. Staff did not receive any proposed amendments to proposed Ordinance No. 932 as of the writing of this staff report.

Pro and Con Committees

The City is also responsible for appointing committees to prepare statements in favor of and in opposition to the ballot measure for the voters' pamphlet. There is a limit of three members per committee. The committee appointments must be filed by August 3, 2021. If Council moves forward with adoption of proposed Ordinance No. 932, staff will schedule these committee appointments at the City Council meeting on July 19, 2021, since the Council will be on its first summer break between June 28 and July 19. Staff would begin advertising for interested parties to submit applications on June 29, 2021.

The statements in favor of or in opposition to the ballot measure must be submitted by the Pro and Con committees to King County Elections no later than August 10, 2021. These statements are limited to 200 words. Rebuttal statements by each of the respective committees must be submitted to the County no later than August 12, 2021. Rebuttal statements are limited to 75 words.

Next Steps

If Council directs staff to continue to move forward with a ballot measure to fund the park improvements, the next steps in the process would be as follows:

- Schedule Council appointment of Pro and Con committees for the Voters' Pamphlet on July 19, 2021.
- Execute the Communication Plan regarding the ballot measure, including a City mailer to all residents about the ballot measure.

FINANCIAL IMPACT

While proposed Ordinance No. 932 does not have an immediate financial impact, the Ordinance would authorize the City to place a measure on the ballot, and if approved by voters, would authorize the issuance of bonds in the principal amount of up to \$38,500,000 for improvements to five neighborhood parks; investments in park amenities for three additional parks; and the acquisition and improvement of new park land. Repayment of these bonds would be supported by a special property tax levy that is estimated to impact the median priced homeowner by a net average of \$112 per year for up to 20 years.

The Ordinance provides that Senior Citizens, Disabled Persons, and Disabled Veterans meeting age, income, and/or disability requirements identified in RCW 84.36.381 would be eligible, and can apply with King County, for an exemption or deferral from this tax.

RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 932.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 932

ORDINANCE NO. 932

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, PROVIDING FOR THE FORM OF THE BALLOT PROPOSITION AND SPECIFYING CERTAIN OTHER DETAILS CONCERNING SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY AT A GENERAL ELECTION TO BE HELD THEREIN ON NOVEMBER 2, 2021, OF A PROPOSITION FOR THE ISSUANCE OF ITS GENERAL OBLIGATION BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$38,500,000, OR SO MUCH THEREOF AS MAY BE ISSUED UNDER THE LAWS GOVERNING THE INDEBTEDNESS OF CITIES FOR THE PURPOSE OF PROVIDING FUNDS TO FINANCE AND REFINANCE PARK AND RECREATIONAL FACILITY IMPROVEMENTS, INCLUDING THE ACQUISITION OF LAND, AND LEVY EXCESS PROPERTY TAXES TO PAY THE BONDS.

WHEREAS, on July 31, 2017, following an 18-month community outreach engagement process, the Shoreline City Council (the “Council”) unanimously passed Resolution No. 412, adopting the 2017-2023 Parks, Recreation & Open Space Plan (the “PROS Plan”); and

WHEREAS, the PROS Plan identifies a 20-year vision and framework for the City of Shoreline’s (the “City”) recreation and cultural programs, and for maintenance and investment in park, recreation and open space facilities; and

WHEREAS, Strategic Action Initiative #3 in the PROS Plan established a goal to expand recreation facility opportunities and Strategic Action Initiative #7 established a goal to ensure adequate parkland for future generations; and

WHEREAS, since the adoption of the PROS Plan, City staff have developed concept designs and cost estimates for selected parks and reviewed opportunities for property acquisition to achieve those goals; and

WHEREAS, in order to pay the costs of financing and refinancing a portion of the costs of the PROS Plan, including the acquisition of real property, it is deemed necessary and advisable by the Council that the City issue and sell one or more series of its unlimited tax general obligation bonds in the principal amount of not to exceed \$38,500,000 (the “Bonds”); and

WHEREAS, the Constitution and laws of the State of Washington provide that the question of whether such Bonds may be issued and sold for such purposes, and taxes levied to pay such Bonds, must be submitted to the qualified electors of the City for their ratification or rejection;

THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Findings. The Council hereby finds that the best interests of the residents of the City require the City to construct, develop, equip, upgrade, acquire, and improve the parks and recreation facilities, including the acquisition of park land, as described in the PROS Plan, as it

may be amended from time to time (the “Projects”). The Projects may include, depending on the location, the following:

- Improvements to Brugger’s Bog, Hillwood, Richmond Highlands, Briarcrest Community (Hamlin East), and James Keough Parks, including constructing and/or improving playgrounds, splash-pads, multi-sports courts, walking trails, picnic shelters, off-leash dog areas, and accessible play areas for people of all physical abilities;
- Constructing a new off-leash dog area and play area at Ridgecrest Park;
- Improving the off-leash dog area and making field improvements at Shoreview Park;
- Improving the education center and children’s garden at Kruckeberg Botanic Garden to make it more accessible to people of all abilities, among other improvements;
- Installing public art throughout the City park system;
- Acquiring land and/or making park improvements to expand Paramount Open Space, Brugger’s Bog, and Rotary Park, in addition to other park land acquisitions; and
- Constructing, developing, equipping, upgrading, acquiring and improving other park and recreational facilities in the City park system.

The Projects shall include the acquisition of real property as necessary to locate such facilities. The City shall complete the Projects at the time, in the order and in the manner deemed most necessary and advisable by the Council. Costs of the Projects, which are estimated to be more than \$38,500,000, will be paid from, or refinanced with, proceeds of the Bonds (as defined in Section 2) authorized herein and other available funds of the City.

The cost of all necessary appraisals, negotiation, property acquisition, closing, architectural, engineering, project management, financial, legal and other consulting services, inspection and testing, demolition, administrative and relocation expenses, permitting, mitigation, construction, and other costs incurred in connection with the foregoing capital improvements shall be deemed a part of the capital costs of such Projects. Such Projects shall be complete with all necessary real property, equipment and appurtenances.

The Council shall determine the exact specifications for the Projects, and the components thereof, as well as the timing, order and manner of completing the components of the Projects. The Council may alter, make substitutions to, and amend such components as it determines are in the best interests of the City and consistent with the general descriptions provided herein. The Council shall determine the application of moneys available for the various Projects so as to accomplish, as nearly as may be, all of the Projects.

If the Council shall determine that it has become impractical to design, construct, improve, obtain permits, renovate, acquire, develop, or equip all or any component of the Projects by reason of changed conditions, incompatible development, costs substantially in excess of the amount of Bond proceeds or tax levies estimated to be available, or acquisition by or dependence on a superior governmental authority, the City shall not be required to provide such component or components. If all of the Projects have been constructed or acquired or duly provided for, or found

to be impractical, the City may apply remaining proceeds of the Bonds authorized herein (including earnings thereon) or any portion thereof to other park, recreation and open space capital purposes or to the redemption of the Bonds as the Council, in its discretion, shall determine.

In the event that the proceeds from the sale of the Bonds, plus any other money of the City legally available for such purpose, are insufficient to accomplish all of the Projects, the City shall use the available funds for paying the cost of those portions of the Projects deemed by the Council most necessary and in the best interest of the City.

Section 2. Authorization of Bonds. For the purpose of providing all or a portion of the funds necessary to finance and/or refinance debt previously issued by the City to finance the costs of the Projects, together with incidental costs and costs of issuance of the Bonds, the City shall issue and sell its unlimited tax general obligation bonds in the aggregate principal amount of not to exceed \$38,500,000 (the “Bonds”). The Bonds shall be issued in an amount not exceeding the amount approved by the electors of the City and not exceeding the amount permitted by the Constitution and laws of the State of Washington. The balance, if any, of the cost of the Projects shall be paid out of any other legally available funds. The Bond proceeds (and earnings thereon) shall be used to finance and refinance the costs of the Projects, together with incidental costs and costs related to the sale and issuance of the Bonds, and shall not be used for the replacement of equipment or for a purpose other than a capital purpose.

Section 3. Details of the Bonds. The Bonds provided for in Section 2 hereof shall be issued in such amounts and at such time or times as deemed necessary and advisable by the Council and as permitted by law. The Bonds may be issued in one or more series and shall bear interest payable at a rate or rates authorized by the Council. The Bonds shall mature in such amounts and at such times within a maximum term of 20 years from date of issue of a series, all as authorized by the Council and as provided by law. The Bonds shall be unlimited tax general obligations of the City and, unless paid from other sources, both principal of and interest on the Bonds shall be payable out of annual tax levies to be made upon all the taxable property within the City without limitation as to rate or amount and in excess of any constitutional or statutory tax limitations. The exact date, form, terms, maturities, covenants and manner of sale of the Bonds shall be as hereafter fixed by ordinance or ordinances of the Council.

In anticipation of the issuance of the Bonds, the City has issued and may issue additional short-term obligations as authorized by chapter 39.50 RCW. Such obligations may be paid or refunded with proceeds of the Bonds. The proceeds of the Bonds may also be used to reimburse the City for expenditures previously made for such Projects.

Section 4. Bond Election. It is hereby found that the best interests of the inhabitants of the City require the submission to the qualified electors of the City of a proposition authorizing the City to issue Bonds for the purposes of funding the Projects, at an election to be held on November 2, 2021. The City Council has determined that the excess levy would be eligible for exemptions and deferrals as allowed under RCW 84.36.381. The King County Director of Records and Elections, as *ex officio* supervisor of elections in King County, Washington, is hereby requested to assume jurisdiction of and to call and conduct the election to be held within the City and to submit to the qualified electors of the City the proposition hereinafter set forth. Such election shall be conducted by mail.

The City Clerk is hereby authorized and directed to certify the proposition to the King County Director of Records and Elections (the “Director”) in substantially the following form:

CITY OF SHORELINE PROPOSITION NO. 1

**GENERAL OBLIGATION BONDS FOR
PARKS AND RECREATION IMPROVEMENTS**

The City Council of the City of Shoreline adopted Ordinance No. 932 concerning neighborhood park improvements. This proposition authorizes the City to improve and/or construct city parks, including playgrounds, an accessible play area, splash-pads, multi-sports courts, walking and sensory trails, picnic shelters, off-leash dog areas, sports fields and/or other park amenities; install public art; acquire and improve new park land; issue up to \$38,500,000 of general obligation bonds maturing within 20 years to finance and refinance such projects; and levy annual excess property taxes to repay such bonds, as provided in Ordinance No. 932.

Should this proposition be approved?

YES..... ☐

NO ☐

For purposes of receiving notice of the exact language of the ballot proposition required by RCW 29A.36.080, the City Council hereby designates: (a) the City Clerk and (b) the City Attorney, as the individuals to whom such notice should be provided. The City Attorney and City Clerk are each authorized individually to approve changes to the ballot title, if any, deemed necessary by the Director.

The City Clerk is authorized to make necessary clerical corrections to this Ordinance including, but not limited to, the correction of scrivener's or clerical errors, references, numbering, section/subsection numbers, and any reference thereto.

The proper City officials are authorized to perform such duties as are necessary or required by law to submit the question of whether the Bonds shall be issued, as provided in this Ordinance, to the electors at the November 2, 2021 election.

Section 5. Voters’ Pamphlet. The Council finds and declares it to be in the best interests of the City to have information regarding the aforesaid proposition included in local voters’ pamphlets, and authorizes the appropriate costs thereof to be charged to and paid by the City, and further authorizes and directs the City Attorney and City Clerk to provide such information to the Director and to take such other actions as may be necessary or appropriate to that end.

Section 6. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and confirmed.

Section 7. Severability. If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds. All acts taken pursuant to the authority granted in this Ordinance but prior to its effective date are hereby ratified and confirmed.

Section 8. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval, and publication, as required by law. A summary of this Ordinance, consisting of the title, may be published in lieu of publishing the Ordinance in its entirety.

PASSED BY THE CITY COUNCIL ON JUNE 28, 2021.

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Pacifica Law Group LLP
Bond Counsel

Date of Publication: _____
Effective Date: _____

CERTIFICATE

I, the undersigned, City Clerk of the City of Shoreline, Washington, and keeper of the records of the City Council, DO HEREBY CERTIFY:

1. That the attached Ordinance is a true and correct copy of Ordinance No. _____ of the City (the "Ordinance"), as finally adopted at a regular meeting of the City Council held on _____, 2021, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, including but not limited to Washington State Governor Inslee's emergency proclamation No. 20-28 issued on March 24, 2020, as amended and supplemented, temporarily suspending portions of the Open Public Meetings Act (chapter 42.30 RCW), and due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of said Ordinance; that all other requirements and proceedings incident to the proper passage of said Ordinance have been fully fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

Dated this ____ day of _____, 2021.

CITY OF SHORELINE, WASHINGTON

City Clerk

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | | | |
|----------------------|--|---|---------------------------------|
| AGENDA TITLE: | Action on Ordinance No. 933 - Authorizing the Use of Eminent Domain for Acquisition of Certain Real Properties to Construct the NW Innis Arden Way Culvert Replacement Project | | |
| DEPARTMENT: | Public Works | | |
| PRESENTED BY: | Tricia Juhnke | | |
| ACTION: | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Resolution | <input type="checkbox"/> Motion |
| | <input type="checkbox"/> Discussion | <input type="checkbox"/> Public Hearing | |

PROBLEM/ISSUE STATEMENT:

The NW Innis Arden Way Culvert Replacement Project (Phase 2 of the Hidden Lake Dam Removal Project), has been a City priority since 2014 when City Council authorized staff to cease dredging Hidden Lake and begin a phased approach to remove Hidden Lake Dam and restore Boeing Creek's natural stream bed through Hidden Lake. The Project is currently in the right-of-way (ROW) acquisition phase. Settlement negotiations with the property owners affected by this project have been underway for several months and in February 2021 the City presented owners with offers to purchase property rights. In the months since, the City and its consultants have maintained regular contact with the property owners, and while we intend to continue negotiations, time is of the essence for this Project and exercise of eminent domain may become necessary

Eminent domain is a power granted to political subdivisions, such as the City of Shoreline, through RCW 8.12 to acquire private property for public use. City staff is requesting that the Council consider moving forward with a condemnation ordinance as the necessary next step to keep this Project on schedule.

Proposed Ordinance No. 933 (Attachment A) provides for this condemnation authority. Included in proposed Ordinance No. 933 are three partial property acquisitions from properties located downstream of the NW Innis Arden Way culvert. The City Council discussed proposed Ordinance No. 933 on June 14, 2021 and directed staff to return with this proposed ordinance for potential action at tonight's Council meeting.

RESOURCE/FINANCIAL IMPACT:

Passage of proposed Ordinance No. 933 does not in itself affect the settlement amount. Council passing this Ordinance is the first step for moving forward with the use of eminent domain if negotiations come to an impasse.

A Statutory Evaluation Allowance (SEA) is available to the property owner if an offer is made under the threat of eminent domain to help defray the owner's expenses. Under

RCW 8.25.020, when the City is acquiring property by eminent domain or under the threat of it, property owners are entitled to reimbursement of up to \$750 for costs incurred evaluating the City's offer.

RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 933 authorizing the use of eminent domain for acquisition of certain real properties to construct the NW Innis Arden Way Culvert Replacement Project.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

The City Council discussed the management plan for Hidden Lake, which included alternative surface water management approaches for the Hidden Lake facility, at their September 8, 2014 meeting. At this meeting, the Council [authorized staff to cease dredging of the lake](#) and begin a phased approach to remove Hidden Lake Dam and reestablish Boeing Creek with the goal of reducing long-term costs to the surface water utility.

Without dredging, Hidden Lake is expected to gradually fill with sediment at which time the lake outlet will be vulnerable to blockage or the outlet will be bypassed by other natural processes which could cause flood flows to overtop and erode the existing dam spillway and block the NW Innis Arden Way culvert inlet. To avoid this scenario, which could lead to a sudden rush of water of the road embankment and other major flooding damage, the existing Dam should be removed, and the NW Innis Arden Way culverts replaced.

The Hidden Lake Dam Removal (Phase 1) and NW Innis Arden Way Culvert Replacement (Phase 2) Project is currently in the ROW acquisition phase of the project and 60% design has been completed. Easements have been obtained for the Phase 1 portion of the work. Easement offers have been presented to property owners for the Phase 2 portion of the work, and negotiations are still underway.

DISCUSSION

The City Council [discussed proposed Ordinance No. 933](#) (Attachment A) at their June 14, 2021 Council meeting and provided direction to staff to bring the Ordinance back for approval at tonight's Council meeting.

A notice of final action, adoption of Ordinance No. 933, has been published in the Seattle Times once a week for two successive weeks; and notice sent via certified mail to the three property owners impacted by the final action at least 15 days prior to final action; all at the City's expense. Publication in the Seattle Times was on May 31, 2021 and June 6, 2021, and notice was sent by certified mail on May 27, 2021.

COUNCIL GOAL(S) ADDRESSED

Completion of improvements for the NW Innis Arden Way Culvert Replacement Project helps to implement City Council Goal 2: Continue to deliver highly-valued public services through management of the City's infrastructure and stewardship of the natural environment.

RESOURCE/FINANCIAL IMPACT

Passage of proposed Ordinance No. 933 does not in itself affect the settlement amount. Council passing this Ordinance is the first step for moving forward with the use of eminent domain if negotiations come to an impasse.

A Statutory Evaluation Allowance (SEA) is available to the property owner if an offer is made under the threat of eminent domain to help defray the owner's expenses. Under RCW 8.25.020, when the City is acquiring property by eminent domain or under the threat of it, property owners are entitled to reimbursement of up to \$750 for costs they incurred evaluating the City's offer.

RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 933 authorizing the use of eminent domain for acquisition of certain real properties to construct the NW Innis Arden Way Culvert Replacement Project.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 933, including Exhibit A

ORDINANCE NO. 933

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS BY NEGOTIATED VOLUNTARY PURCHASE, UNDER THREAT OF CONDEMNATION, BY CONDEMNATION, OR BY SETTLING CONDEMNATION LITIGATION, FOR THE PURPOSE OF FACILITATING CONSTRUCTION AND FUTURE MAINTENANCE OF THE NW INNIS ARDEN WAY CULVERT REPLACEMENT PROJECT; FINDING PUBLIC USE AND NECESSITY; AUTHORIZING JUST COMPENSATION FROM THE GENERAL FUND; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 8.12.030 authorizes the use of condemnation for culverts, drainage, making changes in the grade of any street for the construction of slopes or retaining walls for cuts and fills upon real property abutting any street, or other public use after just compensation has been made; and

WHEREAS, the City has been planning for replacement of the NW Innis Arden Way culvert to support the proposed Hidden Lake Dam Removal and Boeing Creek Restoration Projects which are intended to allow Hidden Lake to return to its natural condition, and improve wildlife habitat in and near Hidden Lake and Boeing Creek, including removal of barriers to fish passage; and

WHEREAS, the City Council finds that acquisition of easements, permanent and temporary, on the properties generally depicted and described in Exhibit A, attached hereto (the “Acquired Properties”), is necessary for the construction of NW Innis Arden Way Culvert Replacement Project; and

WHEREAS, just compensation for the Acquired Properties can be funded through the City’s Surface Water Utility Fund; and

WHEREAS, there will be sustained efforts to negotiate with the owners of the Acquired Properties, and eminent domain action will be taken judiciously after reasonable efforts to reach a negotiated settlement with the owners; and

WHEREAS, in the event that negotiated acquisition of the Acquired Properties is not fully successful, it is essential that the City be prepared to initiate condemnation proceedings; and

WHEREAS, the owners of the Acquired Properties were given notice of the City Council’s June 14, 2021 and June 28, 2021 meetings, and were afforded an opportunity to submit comment at or for those meetings; and

WHEREAS, the City has provided notice of the adoption of this Ordinance in the manner set forth in RCW 8.12.005 and 8.25.290; and

WHEREAS, acquisition of the Acquired Properties is categorically exempt from SEPA review under WAC 197-11-800(5)(a);

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

Section 1. Condemnation Authorized. The City Manager is hereby authorized to take necessary steps to acquire all necessary property interests in the land located within the City of Shoreline, County of King, State of Washington, depicted and legally described in Exhibit A attached hereto and by this reference incorporated herein (the “Acquired Properties”) which is necessary for construction and maintenance of the NW Innis Arden Way Culvert Replacement Project, and is hereby condemned,

appropriated and taken for such public use, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

The City Manager or designee is hereby authorized and directed to execute all documents for the acquisition of all necessary property interests in the Acquired Properties and bring proceedings in the manner provided for by law to condemn, take, damage, and appropriate the Acquired Properties described in this Ordinance pursuant to the powers granted to the City of Shoreline, including RCW 35A.64.200 and Chapters 8.12 and 8.25 RCW. This authorization includes the right to condemn all reversionary interests, easements, and options in said Acquired Properties.

The City Attorney is authorized to begin and prosecute legal proceedings in the manner provided by the law to purchase, condemn, take, appropriate, and otherwise acquire the land and all other interests and property rights and privileges necessary to carry out the purposes of this Ordinance. The City Attorney is also authorized to make minor amendments to any property descriptions or maps of the properties, generally depicted on the attached Exhibit A, as may become necessary to correct scrivener's errors or to conform the legal description to the precise boundaries of the Acquired Properties.

Section 2. Finding of Public Use and Necessity. The Shoreline City Council finds that the acquisition of the Acquired Properties is for a public use and purpose, to-wit: to provide for the construction of the NW Innis Arden Way Culvert Replacement Project that will replace aging critical infrastructure, mitigate flood and erosion risk, and improve wildlife habitat through stream restoration and removal of fish barriers. The City Council further finds property interests, permanent and temporary easements, on the properties generally depicted in Exhibit A, are necessary for the proposed public use and for the benefit of the public. The Whereas clauses set forth above are hereby incorporated into and made part of the Council's findings.

Section 3. Compensation. Compensation to be paid to the owners of the Acquired Properties identified in Section 1, above, and costs and expenses of litigation authorized by this Ordinance, shall be paid from the City's Surface Water Utility Fund.

Section 4. Effective Date and Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper and the Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON JUNE 28, 2021.

Mayor Will Hall

ATTEST:

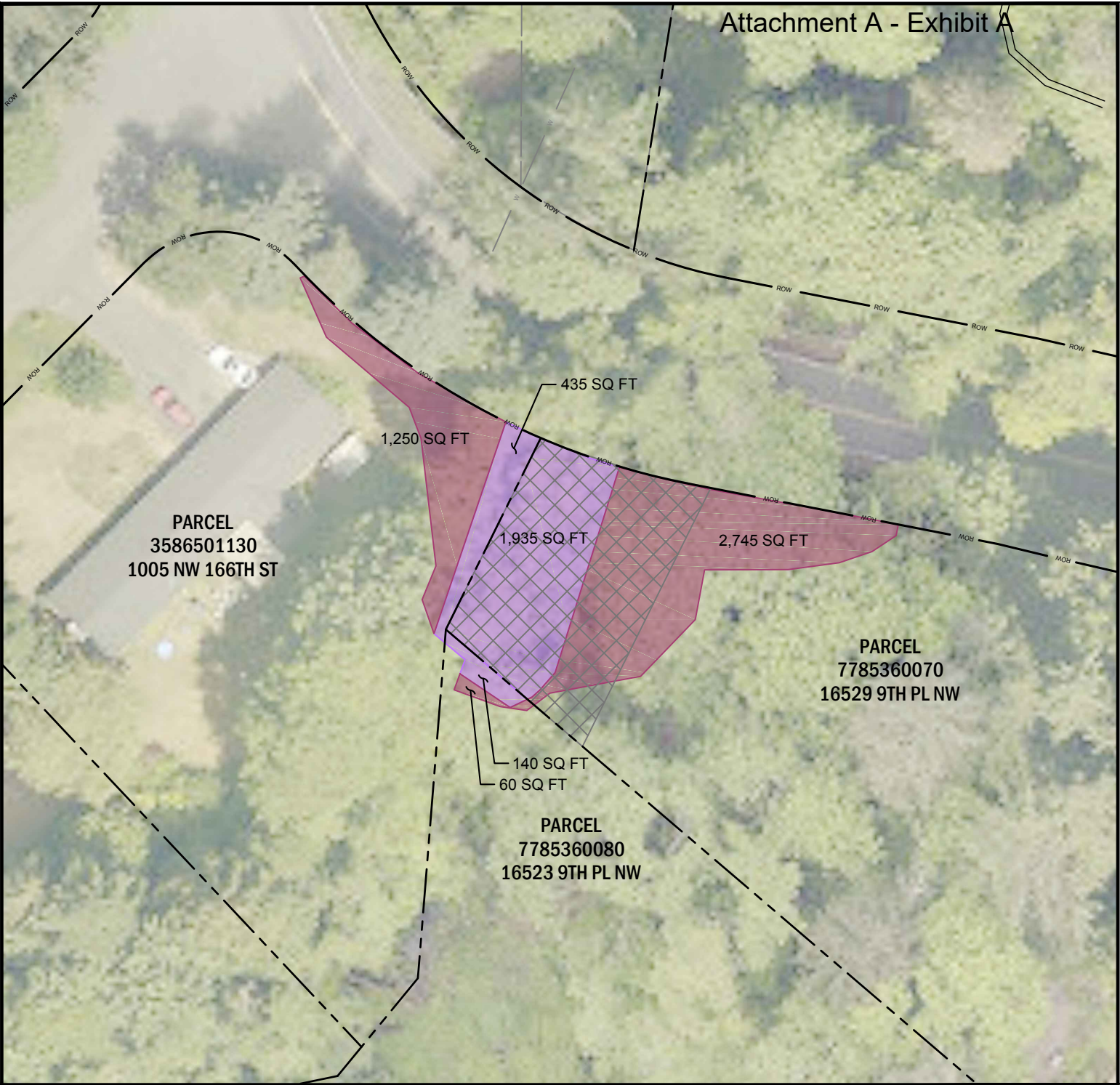
APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk




Julie Ainsworth-Taylor, Assistant City Attorney
on behalf of Margaret J. King, City Attorney

Publication Date: _____, 2021

Effective Date: _____, 2021



Legend

- PROPERTY LINE
- ROW — RIGHT-OF-WAY
-  EXISTING EASEMENT - 3,550 SQ FT
-  TEMPORARY CONSTRUCTION EASEMENT
-  PERMANENT EASEMENT

NW Innis Arden Way Boeing Creek
Culvert Replacement Project.
Proposed Easements for Properties
South of NW Innis Arden Way.

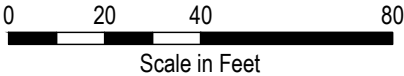


EXHIBIT A
"SUBJECT PARCEL LEGAL"

PARCEL NO. 3586501130

LOT 1, BLOCK 32, INNIS ARDEN NO. 3, ACCORING TO THE PLAT THEREOF, RECORDED IN VOLUME 46 OF PLATS, PAGE(S) 42 THROUGH 45, INCLUSIVE, IN KING COUNTY, WASHINGTON.

(PER RECORDED DEED 20130329002359)

SW1/4 SEC. 12,T.26N.,R.3E.,W.M.

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|---|-----------------|--------|
|  <p>PACIFIC GEOMATIC SERVICES, INC. LAND SURVEYING & MAPPING SERVICES QUALITY SERVICE - CREATIVE SOLUTIONS 12201 CYRUS WAY, SUITE 105 MUKILTEO, WA 98275 PHONE:(425) 778-5620 FAX:(425) 775-2849 WEB: www.PacGeolnc.com</p> | DWN BY: SPJR | CHK. |
| | SCALE: NTS | KDB |
| | DATE: 3/17/2021 | |
| | JOB NUMBER | SHEET |
| | 15-019-01 | 1 OF 3 |

EXHIBIT B "EASEMENT LEGAL"

LOT 1, BLOCK 32, INNIS ARDEN NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 46 OF PLATS, PAGE(S) 42 THROUGH 45, INCLUSIVE, IN KING COUNTY, WASHINGTON.

FURTHER DESCRIBED AS FOLLOWS.

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 8 OF SAID PLAT;

THENCE NORTH 26°21'43" EAST A DISTANCE OF 61.25 FEET TO THE SOUTHERN MARGIN OF NW INNIS ARDEN WAY, AND THE BEGINNING OF A CURVE TO THE NORTHWEST HAVING A RADIUS OF 208.56 FEET WHICH CENTER BEARS NORTH 23°14'02" EAST;

THENCE NORTHWESTERLY ALONG SAID MARGIN THROUGH A CENTRAL ANGLE OF 3°01'36" AN ARC DISTANCE OF 11.02 FEET;

THENCE SOUTH 18°21'18" WEST A DISTANCE OF 64.07 FEET;

THENCE SOUTH 47°44'44" EAST A DISTANCE OF 3.62 FEET TO THE WESTERLY BOUNDARY OF LOT 8;

THENCE NORTH 04°34'26" EAST A DISTANCE OF 3.77 FEET ALONG SAID WESTERLY BOUNDARY OF LOT 8 TO THE POINT OF BEGINNING AND TERMINUS OF SAID EASEMENT.

CONTAINING 419.49 SQUARE FEET



SW1/4 SEC. 12, T.26N., R.3E., W.M.



PACIFIC GEOMATIC SERVICES, INC.

LAND SURVEYING & MAPPING SERVICES
QUALITY SERVICE - CREATIVE SOLUTIONS

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| DATE: 3/17/2021 | |
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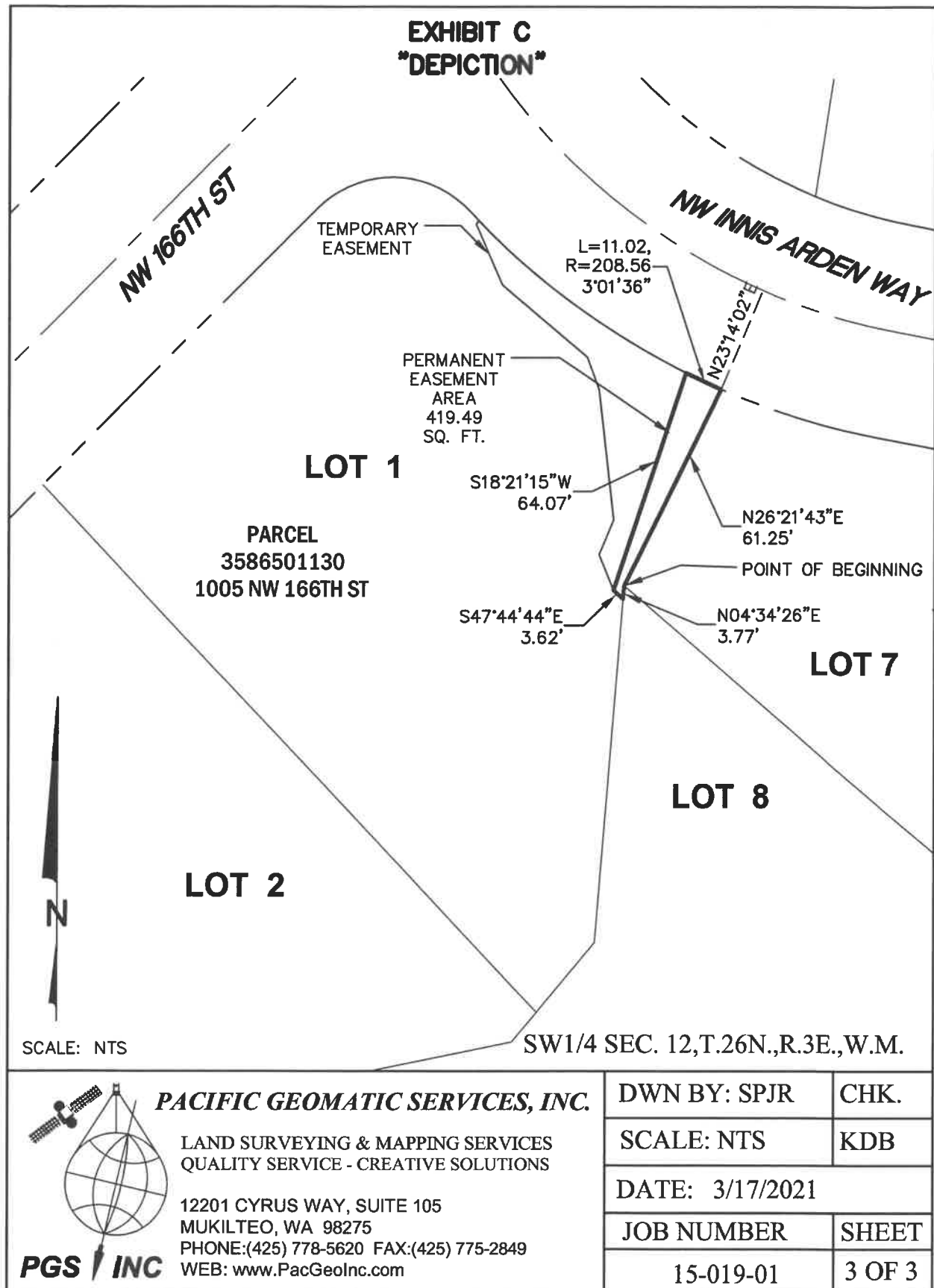


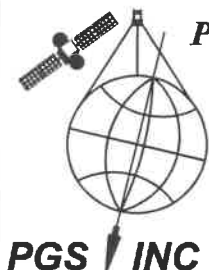
EXHIBIT A
"SUBJECT PARCEL LEGAL"

PARCEL NO. 3586501130

LOT 1, BLOCK 32, INNIS ARDEN NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 46 OF PLATS, PAGE(S) 42 THROUGH 45, INCLUSIVE, IN KING COUNTY, WASHINGTON.

(PER RECORDED DEED 20130329002359)

SW1/4 SEC. 12,T.26N.,R.3E.,W.M.



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| 15-019-01 | 1 OF 3 |

EXHIBIT B "EASEMENT LEGAL"

LOT 1, BLOCK 32, INNIS ARDEN NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 46 OF PLATS, PAGE(S) 42 THROUGH 45, INCLUSIVE, IN KING COUNTY, WASHINGTON.

FURTHER DESCRIBED AS FOLLOWS.

COMMENCING AT THE SOUTHERLY CORNER OF LOT 1 OF SAID PLAT;

THENCE NORTH 39°24'02" EAST ALONG THE EASTERLY LINE OF LOT 1 A DISTANCE OF 25.45 FEET;

THENCE NORTH 04°34'26" EAST ALONG SAID LINE A DISTANCE OF 96.55 FEET;

THENCE NORTH 47°44'44" WEST ALONG SAID LINE A DISTANCE OF 3.62 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 21°55'12" WEST A DISTANCE OF 10.75 FEET;

THENCE NORTH 22°28'26" EAST A DISTANCE OF 10.47 FEET;

THENCE NORTH 06°27'06" WEST A DISTANCE OF 36.70 FEET;

THENCE NORTH 20°30'14" WEST A DISTANCE OF 9.60 FEET;

THENCE NORTH 49°30'25" WEST A DISTANCE OF 31.10 FEET;

THENCE NORTH 23°29'35" WEST A DISTANCE OF 18.50 FEET;

THENCE NORTH 39°00'39" EAST TO THE SOUTHERN MARGIN OF NW INNIS ARDEN WAY A DISTANCE OF 1.19 FEET, SAID POINT IS THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 208.56' WHICH CENTER BEARS NORTH 46°05'03" EAST;

THENCE SOUTHERLY ALONG SAID MARGIN THROUGH A CENTRAL ANGLE OF 19°49'25" AN ARC DISTANCE OF 72.16 FEET;

THENCE SOUTH 18°21'18" WEST A DISTANCE OF 64.08 FEET TO THE POINT OF BEGINNING AND THE TERMINUS OF SAID EASEMENT.

CONTAINING 1,275.46 SQUARE FEET



SW1/4 SEC. 12, T.26N., R.3E., W.M.



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| 15-019-01 | 2 OF 3 |

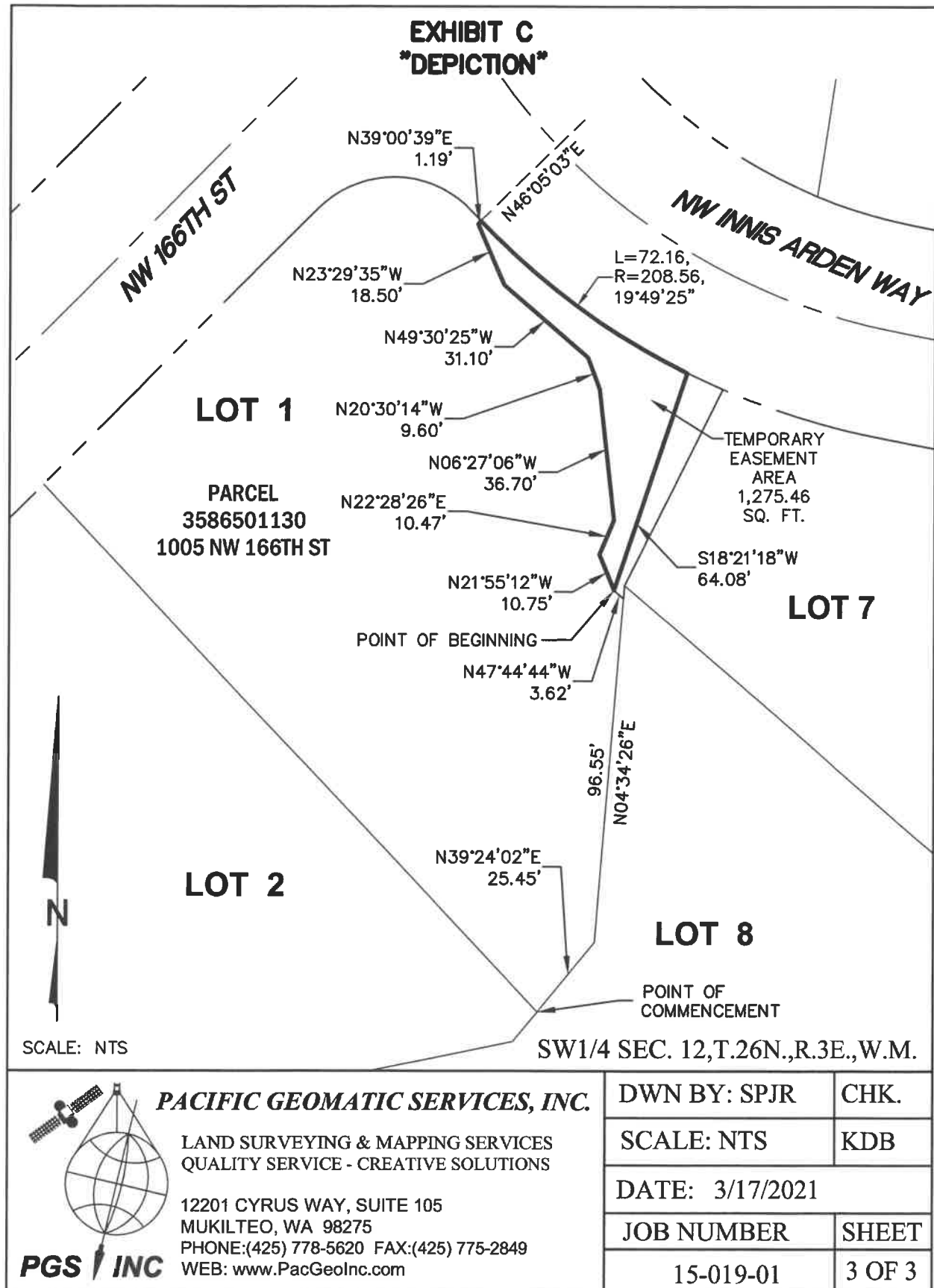


EXHIBIT A
"SUBJECT PARCEL LEGAL"

PARCEL NO. 7785360070

LOT 7 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S)
 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

SW1/4 SEC. 12,T.26N.,R.3E.,W.M.



PACIFIC GEOMATIC SERVICES, INC.

LAND SURVEYING & MAPPING SERVICES
 QUALITY SERVICE - CREATIVE SOLUTIONS

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| JOB NUMBER | SHEET |
| 15-019-01 | 1 OF 3 |

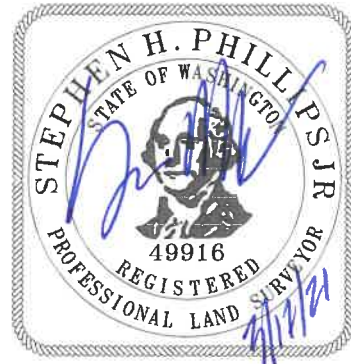
EXHIBIT B

EASEMENT LEGAL

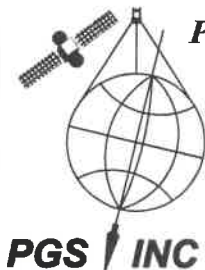
LOT 7 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S) 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

FURTHER DESCRIBED AS FOLLOWS BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 8 OF SAID PLAT
 THENCE SOUTH 49°28'30" EAST ALONG THE SOUTHERLY LINE OF LOT 7 A DISTANCE OF 30.77 FEET;
 THENCE NORTH 63°53'22" EAST A DISTANCE OF 1.47 FEET;
 THENCE NORTH 47°55'46" EAST A DISTANCE OF 3.03 FEET;
 THENCE NORTH 41°09'27" EAST A DISTANCE OF 6.63 FEET;
 THENCE NORTH 17°22'28" EAST A DISTANCE OF 61.84 FEET TO THE SOUTHERLY MARGIN OF NW INNIS ARDEN WAY
 SAID POINT BEING THE BEGINNING OF A CURVE TO THE RIGHT WITH A RADIUS OF 208.51 FEET WHICH THE RADIAL
 LINE BEARS NORTH 16°43'52" EAST;
 TO THE NORTHWEST THROUGH A CENTRAL ANGLE OF 6°36'29" A DISTANCE OF 24.05 FEET TO THE WESTERLY LINE
 OF LOT 7
 THENCE ALONG SAID CURVE THENCE SOUTH 26°21'43" WEST ALONG SAID WESTERLY LINE A DISTANCE OF 61.25
 FEET MORE OR LESS TO THE POINT OF BEGINNING AND THE TERMINUS OF SAID EASEMENT;

CONTAINING 1,936.89 SQ. FT.



SW1/4 SEC. 12,T.26N.,R.3E.,W.M.



PACIFIC GEOMATIC SERVICES, INC.

LAND SURVEYING & MAPPING SERVICES
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| 15-019-01 | 2 OF 3 |

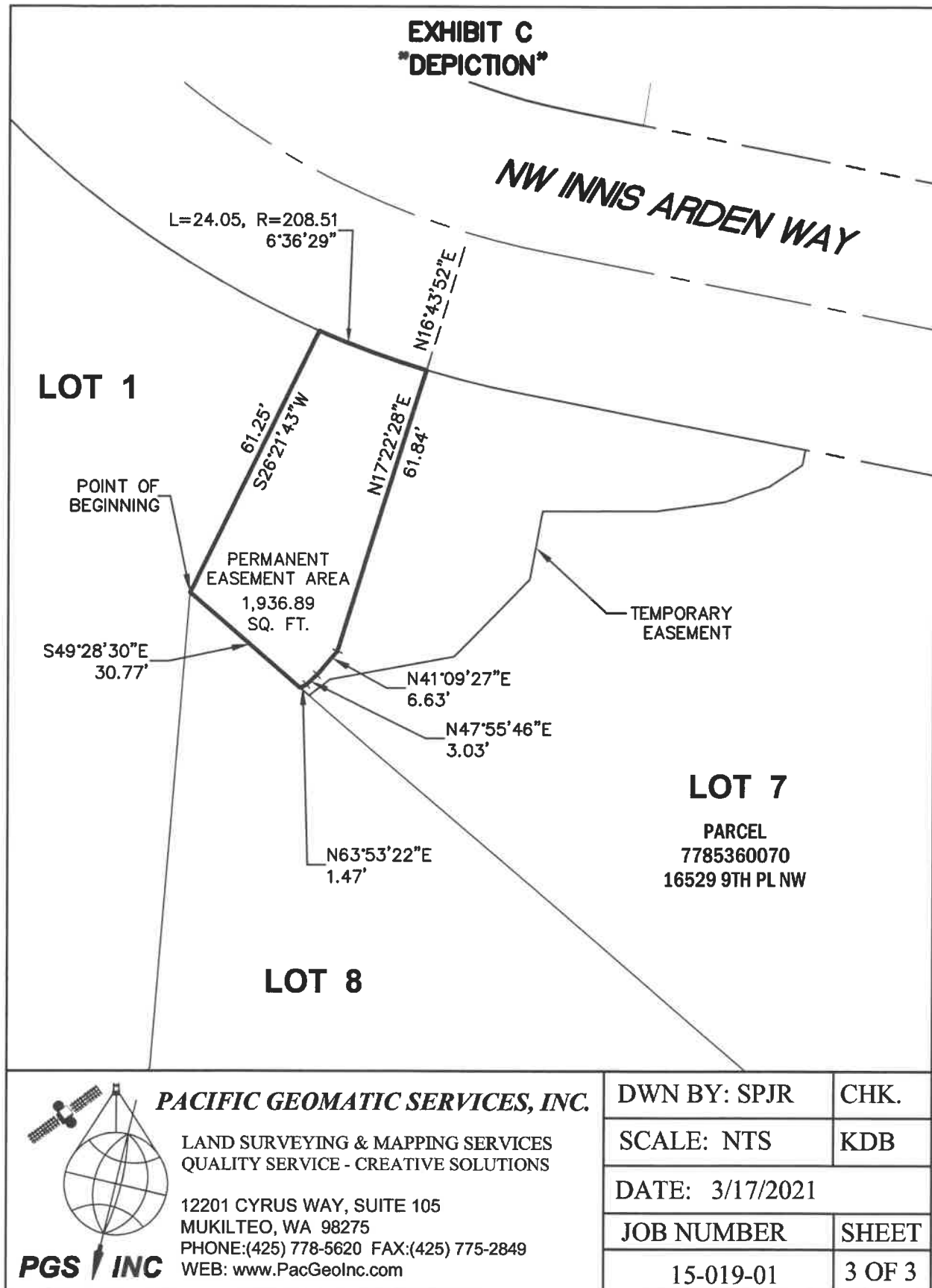


EXHIBIT A
"SUBJECT PARCEL LEGAL"

PARCEL NO. 7785360070

LOT 7 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S)
 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

SW1/4 SEC. 12,T.26N.,R.3E.,W.M.



PACIFIC GEOMATIC SERVICES, INC.

LAND SURVEYING & MAPPING SERVICES
 QUALITY SERVICE - CREATIVE SOLUTIONS

12201 CYRUS WAY, SUITE 105
 MUKILTEO, WA 98275
 PHONE:(425) 778-5620 FAX:(425) 775-2849
 WEB: www.PacGeolnc.com

PGS INC

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| DWN BY: SPJR | CHK. |
| SCALE: NTS | KDB |
| DATE: 3/17/2021 | |
| JOB NUMBER | SHEET |
| 15-019-01 | 1 OF 3 |

EXHIBIT B "EASEMENT LEGAL"

LOT 7 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S) 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

FURTHER DESCRIBED AS FOLLOWS COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 8 OF SAID PLAT
THENCE SOUTH 49°28'30" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 7 A DISTANCE OF 30.77 FEET TO THE
POINT OF BEGINNING;

THENCE NORTH 63°53'22" EAST A DISTANCE OF 1.47 FEET;

THENCE NORTH 47°55'46" EAST A DISTANCE OF 3.03 FEET;

THENCE NORTH 41°09'27" EAST A DISTANCE OF 6.63 FEET;

THENCE NORTH 17°22'28" EAST TO THE SOUTHERLY MARGIN OF NW INNIS ARDEN WAY A DISTANCE OF 61.84 FEET
SAID POINT BEING THE BEGINNING OF A CURVE TO THE LEFT WITH A RADIUS OF 201.20 FEET WHICH THE RADIAL
LINE BEARS NORTH 16°43'52" EAST;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 5°48'09" AN ARC DISTANCE OF 20.38 FEET;

THENCE SOUTH 78°58'13" EAST ALONG SAID SOUTHERLY MARGIN A DISTANCE OF 61.25 FEET;

THENCE SOUTH 11°01'47" WEST A DISTANCE OF 3.24 FEET;

THENCE SOUTH 56°35'58" WEST A DISTANCE OF 8.27 FEET;

THENCE SOUTH 71°04'39" WEST A DISTANCE OF 9.93 FEET;

THENCE SOUTH 82°22'02" WEST A DISTANCE OF 14.72 FEET;

THENCE SOUTH 89°50'18" WEST A DISTANCE OF 24.00 FEET;

THENCE SOUTH 10°32'15" WEST A DISTANCE OF 14.51 FEET;

THENCE SOUTH 43°55'21" WEST A DISTANCE OF 22.60 FEET;

THENCE SOUTH 79°27'01" WEST A DISTANCE OF 26.48 FEET;

THENCE SOUTH 53°00'18" WEST TO THE SOUTHERLY LINE OF
SAID LOT 7 A DISTANCE OF 5.62 FEET;

THENCE NORTH 49°28'30" WEST ALONG SAID SOUTHERLY LINE A DISTANCE OF 2.54 FEET TO THE POINT OF
BEGINNING AND THE TERMINUS OF SAID EASEMENT;

CONTAINING 2,757.67 SQ. FT.



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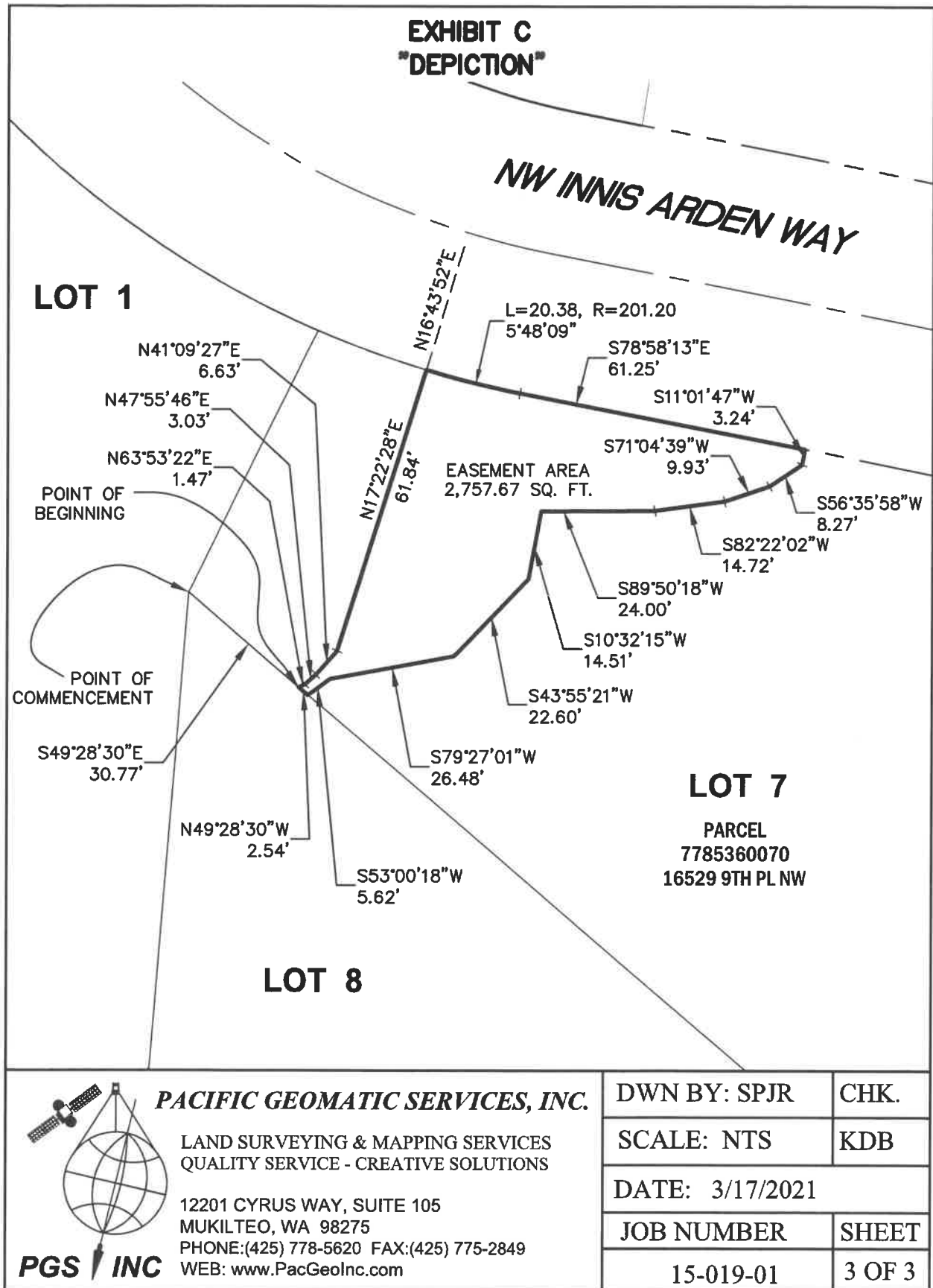


EXHIBIT A **"SUBJECT PARCEL LEGAL"**

PARCEL NO. 7785360080

LOT 8 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S) 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

(RECORDED DEED 1986043201618 (IMAGE UNAVAILABLE))

SW1/4 SEC. 12,T.26N.,R.3E.,W.M.



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EXHIBIT B "EASEMENT LEGAL"

LOT 8 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S) 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

FURTHER DESCRIBED AS FOLLOWS.

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 8 OF SAID PLAT

THENCE SOUTH 04°24'29" WEST ALONG THE WESTERLY LINE OF SAID LOT A DISTANCE OF 3.80 FEET;

THENCE SOUTH 50°02'29" EAST A DISTANCE OF 7.58 FEET;

THENCE SOUTH 19°57'37" WEST A DISTANCE OF 4.31 FEET;

THENCE SOUTH 56°06'33" EAST A DISTANCE OF 17.32 FEET;

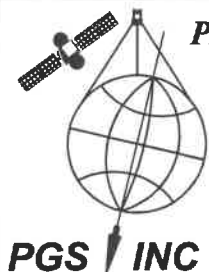
THENCE NORTH 64°28'57" EAST TO THE EASTERLY LINE OF SAID LOT 8 A DISTANCE OF 5.50 FEET;

THENCE NORTH 49°28'30" WEST ALONG SAID EASTERLY LINE A DISTANCE OF 30.77 MORE OR LESS TO THE POINT OF BEGINNING AND THE TERMINUS OF SAID EASEMENT.

CONTAINING 143.29 SQUARE FEET



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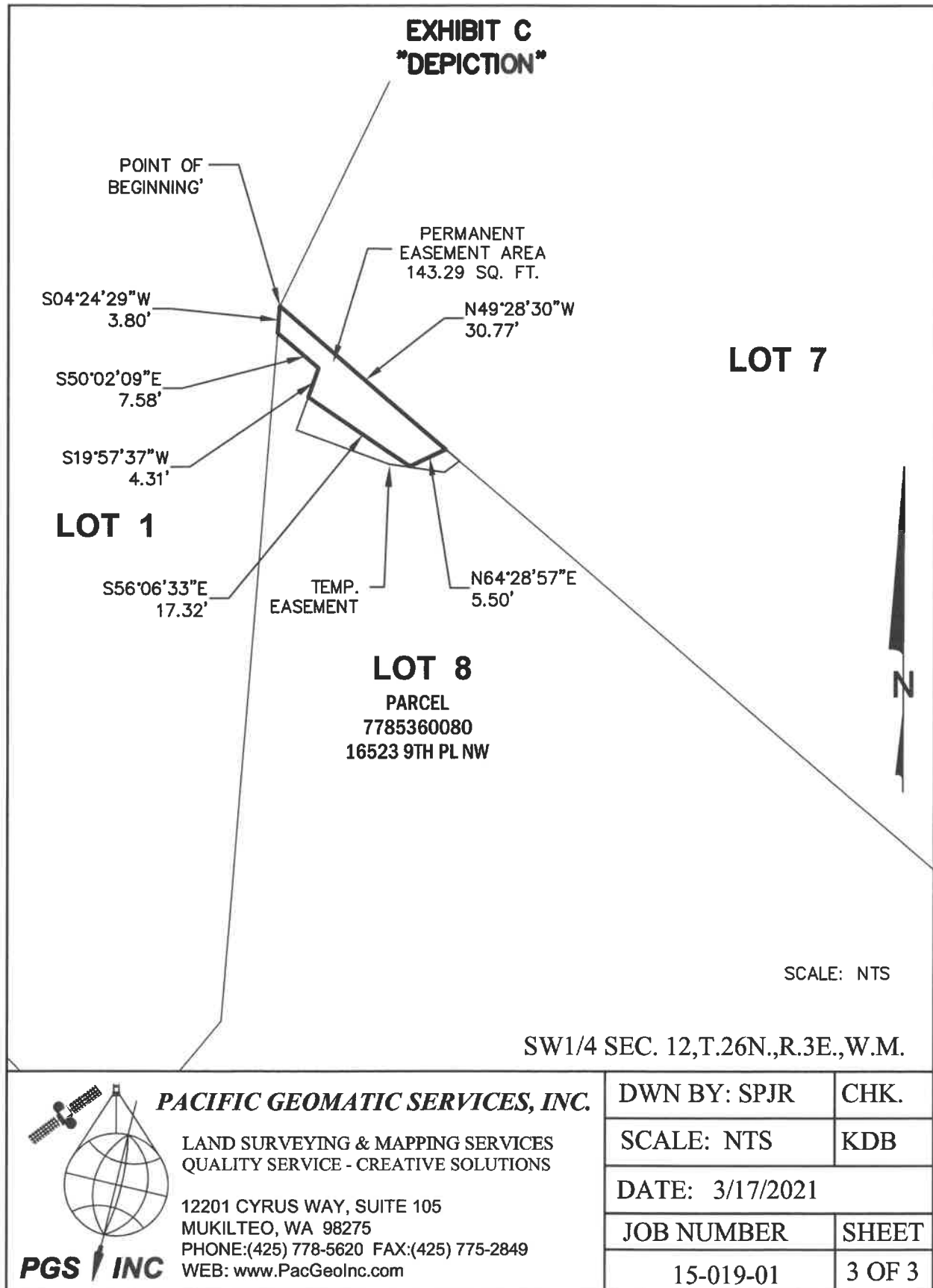


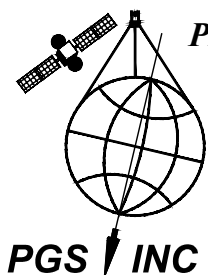
EXHIBIT A **"SUBJECT PARCEL LEGAL"**

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(RECORDED DEED 1986043201618 (IMAGE UNAVAILABLE))

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LOT 8 OF SHOREWOOD HILLS DIVISION 2, ACCORDING TO PLAT RECORDED IN VOLUME 112 OF PLATS AT PAGE(S) 48, 49 AND 50 IN KING COUNTY, WASHINGTON.

FURTHER DESCRIBED AS FOLLOWS.

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 8 OF SAID PLAT

THENCE SOUTH 49°28'30" EAST ALONG THE EASTERLY LINE OF SAID LOT A DISTANCE OF 69.28 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID LINE SOUTH 49°28'30" EAST A DISTANCE OF 2.54 FEET;

THENCE SOUTH 52°58'31" WEST A DISTANCE OF 2.62 FEET;

THENCE NORTH 81°34'26" WEST A DISTANCE OF 7.77 FEET;

THENCE NORTH 70°02'23" WEST A DISTANCE OF 14.00 FEET;

THENCE NORTH 19°57'37" EAST A DISTANCE OF 4.90 FEET;

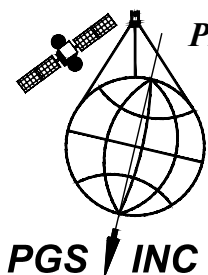
THENCE SOUTH 56°06'33" EAST A DISTANCE OF 17.32 FEET;

THENCE NORTH 64°28'57" EAST TO THE EASTERLY LINE OF SAID LOT 8 A DISTANCE OF 5.50 FEET MORE OR LESS TO THE POINT OF BEGINNING AND THE TERMINUS OF SAID EASEMENT.

CONTAINING 57.87 SQUARE FEET



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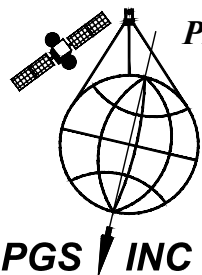
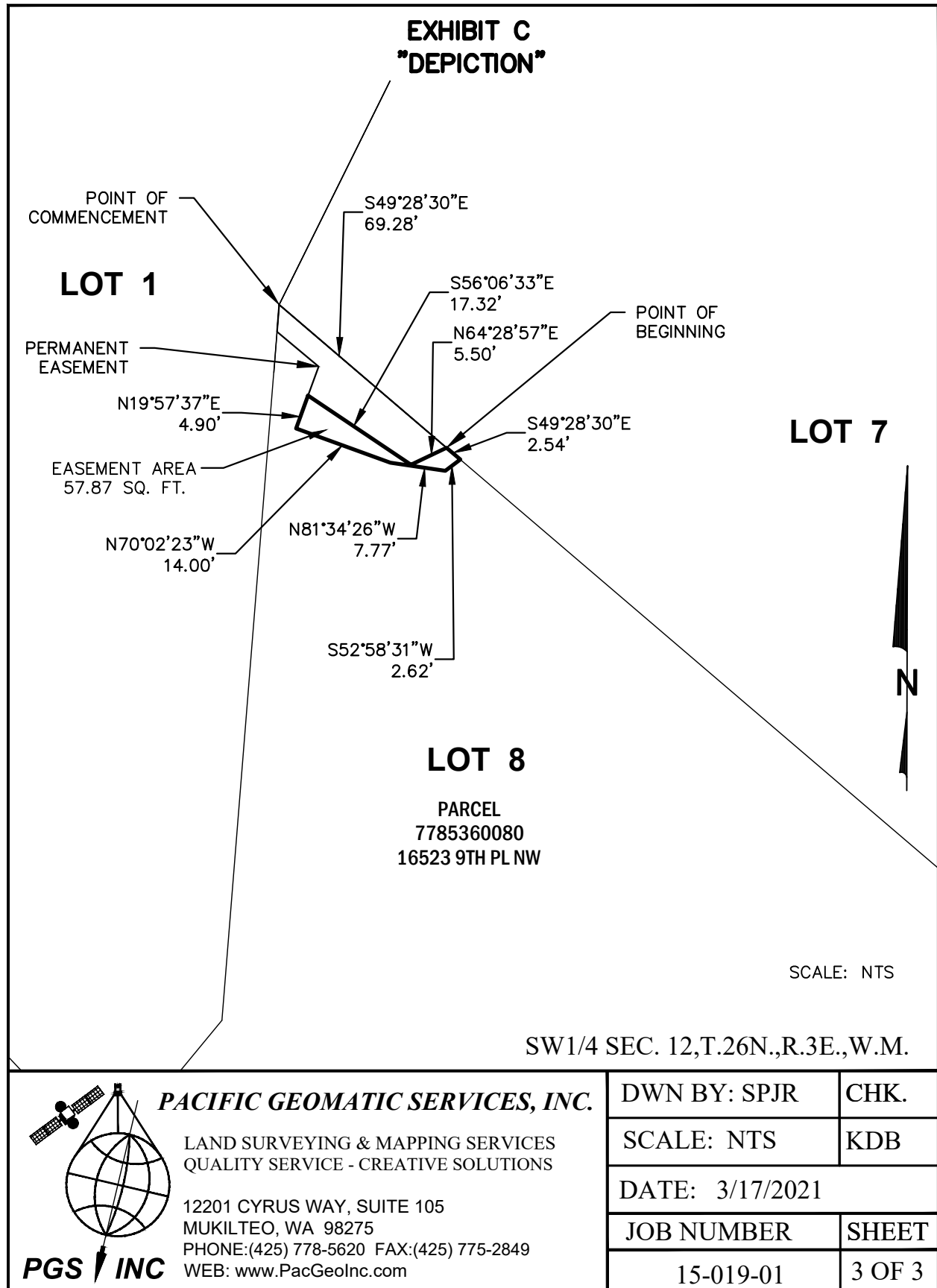


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