

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--|
| AGENDA TITLE: | Adoption of Ordinance No. 983 – Authorizing the Use of Eminent Domain for Acquisition of Certain Real Property for the 148 th Non-Motorized Bridge Project |
| DEPARTMENT: | Public Works |
| PRESENTED BY: | Tricia Juhnke, Public Works Director |
| 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 148th Street Non-Motorized Bridge Project has recently entered the right-of-way (ROW) phase. Property appraisals are underway, and settlement offers and negotiations with property owners will begin soon. The City will be purchasing ROW needed to construct improvements to the 148th Street Non-Motorized Project. This Capital Improvement Project (CIP) will support growth and promote safety for pedestrians and cyclists with a new pedestrian and bike crossing over I-5 at N 148th Street.

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 would like the Council to consider moving forward with a condemnation ordinance as a precautionary step to keep the project on schedule. City staff have included all the acquisition properties in the City of Shoreline required for the project as part of proposed Ordinance No. 983 (Attachment A). In the event a settlement agreement cannot be reached with a property owner, eminent domain is the next step. Passage of this Ordinance authorizes the City Manager or designee to proceed with eminent domain in the event the negotiations with any specific property owner reaches an impasse.

The City Council discussed proposed Ordinance No. 983 at their April 17, 2023, City Council meeting and directed staff to return the proposed Ordinance to Council for potential action. Tonight, Council is scheduled to take action on proposed Ordinance No. 983.

RESOURCE/FINANCIAL IMPACT:

The 148th Street Non-Motorized Bridge Project has sufficient funds for property acquisition. Proposed Ordinance No. 983 does not negatively impact the project funding or financial impact.

Proposed Ordinance No. 983 does not in itself affect the settlement amount. If use of eminent domain is authorized under this Ordinance, negotiations will continue as normal. Council passing these ordinances is the first step for moving forward with the use of eminent domain if negotiations come to an impasse. There are some associated costs for notices and correspondence. A notice of the final action, adoption of Ordinance No. 983, will have been published in the Seattle Times once a week for two successive weeks; and notice sent certified mail to every property owner impacted by the final action at least 15 days prior to final action; all at the City's expense.

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. 983 which would authorize the use of eminent domain for the 148th Non-Motorized Bridge Project.

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

BACKGROUND

In 2016 and 2017, the City conducted a study to evaluate and recommend options for linking the communities on the west side of I-5 to the future Sound Transit Shoreline South/148th Station via a non-motorized/pedestrian bridge. The City estimated the bridge location at N 148th Street would cost the least to construct, draw the most users, and of the routes possible, provide the shortest and most direct access to the Shoreline South/148th Station. The City also reviewed WSDOT and Sound Transit regulations to address safety needs around and across I-5. The City Council approved this bridge location at their [February 27, 2017](#), Council meeting.

The 148th Non-Motorized Bridge Project will support growth, provide a vital new pedestrian/bike connection over I-5, improve safety, reduce travel times, and improve access to regional transit at the future Shoreline South/148th Station. To acquire the right-of-way needed to construct the bridge, eminent domain made need to be used. 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 recommends the Council to move forward with a condemnation ordinance as a precautionary step to keep the project on schedule.

City staff have included all the acquisition properties in the City of Shoreline required for the project as part of proposed Ordinance No. 983 (Attachment A). In the event a settlement agreement cannot be reached with a property owner, eminent domain is the next step. Passage of this proposed Ordinance authorizes the City Manager or designee to proceed with eminent domain in the event the negotiations with any specific property owner reaches an impasse.

DISCUSSION

The City Council discussed proposed Ordinance No. 983 at their April 17, 2023, Council meeting. The staff report for this Council discussion can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2023/staffreport041723-9a.pdf>.

Following discussion of the proposed Ordinance, the Council provided direction to staff to bring proposed Ordinance No. 983 back for potential action at tonight's Council meeting.

A notice of final action regarding the adoption of proposed Ordinance No. 983 has been published in the Seattle Times once a week for two consecutive weeks, and the notice was sent by certified mail to every property owner impacted by the final action at least fifteen (15) days prior to final action, all at the City's expense. Publication in the Seattle Times was on April 12, 2023, and April 19, 2023, and the notice was sent by certified mail[®] on March 31, 2023. Property appraisals are currently being conducted and offers will be prepared over the coming months.

COUNCIL GOAL(S) ADDRESSED

The 148th Street Non-Motorized Bridge Project directly supports two of the City Council Goals:

- Goal #2 – Continue to deliver highly-valued public services through management of the City's infrastructure and stewardship of the natural environment.
- Goal #3 – Continue preparation for regional transit in Shoreline.

RESOURCE/FINANCIAL IMPACT

The 148th Street Non-Motorized Bridge Project has sufficient funds for property acquisition. Proposed Ordinance No. 983 does not negatively impact the project funding.

Proposed Ordinance No. 983 does not in itself affect the settlement amount. If use of eminent domain is authorized under this Ordinance, negotiations will continue as normal. Council passing these ordinances is the first step for moving forward with the use of eminent domain if negotiations come to an impasse. There are some associated costs for notices and correspondence. A notice of the final action, adoption of Ordinance No. 983, will have been published in the Seattle Times once a week for two successive weeks; and notice sent certified mail to every property owner impacted by the final action at least 15 days prior to final action; all at the City's expense.

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RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 983 which would authorize the use of eminent domain for the 148th Non-Motorized Bridge Project.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 983
Attachment A, Exhibit A: Acquisition Map

ORDINANCE NO. 983

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING ACQUISITION OF INTERESTS IN CERTAIN REAL PROPERTY LOCATED ON THE WESTERN SIDE OF INTERSTATE 5 IN THE VICINITY OF 1ST AVENUE NE AND NE 147TH STREET, BY NEGOTIATED VOLUNTARY PURCHASE, UNDER THREAT OF CONDEMNATION, BY CONDEMNATION, OR BY SETTLING CONDEMNATION LITIGATION, FOR THE PURPOSE OF SECURING PROPERTY RIGHTS FOR CONSTRUCTION AND OPERATION OF THE 148TH NON-MOTORIZED BRIDGE PROJECT; FINDING PUBLIC USE AND NECESSITY; AUTHORIZING JUST COMPENSATION FROM THE ROAD CAPITAL FUND AND A FEDERAL GRANT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City has an obligation to provide for a transportation system that serves its residents in a safe and efficient manner; and

WHEREAS, the 148th Non-Motorized Bridge will provide a pedestrian and bicycle pathway crossing over Interstate 5, thereby providing connection to Sound Transit's Shoreline South/148th Light Rail Station and the City's expanding pedestrian and bicycle network, including the future "Trail Along the Rail," without pedestrians and bicyclists interacting with motor vehicles; and

WHEREAS, the City Council finds that acquisition of permanent and temporary easements over the properties located within the City generally depicted and described in Exhibit A, attached hereto (the "Acquired Easements"), are necessary for the construction and future operation of the 148th Non-Motorized Bridge Property; and

WHEREAS, just compensation for the Acquired Easements can be funded with Road Capital Funds and the Transportation Alternatives Program, a federal grant; and

WHEREAS, there will be sustained efforts to negotiate with the owners of the Acquired Easements, 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 Easements is not fully successful, it is essential that the City be prepared to initiate condemnation proceedings; and

WHEREAS, the owners of the Acquired Easements were given notice according to state statute that this condemnation Ordinance was included for discussion by the City Council at its April 17, 2023 meeting and for final action at its May 1, 2023 meeting, 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, the City has the power to acquire lands through eminent domain for the purpose of providing for streets, approaches, and bridges; and

WHEREAS, acquisition of the Acquired Easement 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 Easements”) which is necessary for the public use of a pedestrian and bicyclist bridge over Interstate 5 to provide non-motorized connection, 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 interests for the Acquired Easements and bring proceedings in the manner provided for by law to condemn, take, damage, and appropriate the Acquired Easement 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 Easements.

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 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 Easements.

Section 2. Finding of Public Use and Necessity. The Shoreline City Council finds that the acquisition of the Acquired Easements is for a public use and purpose, to-wit: to provide for the construction and future operation of a non-motorized bridge over Interstate 5 so as to provide a pedestrian and bicyclist connection to transit and the City’s non-motorized trail network. The City Council further finds 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 Easements identified in Section 1, above, and costs and expenses of litigation authorized by this Ordinance, shall be paid from the City’s Roads Capital Fund and the Transportation Alternative Program.

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 MAY 1, 2023.

Mayor Keith Scully

ATTEST:

APPROVED AS TO FORM:

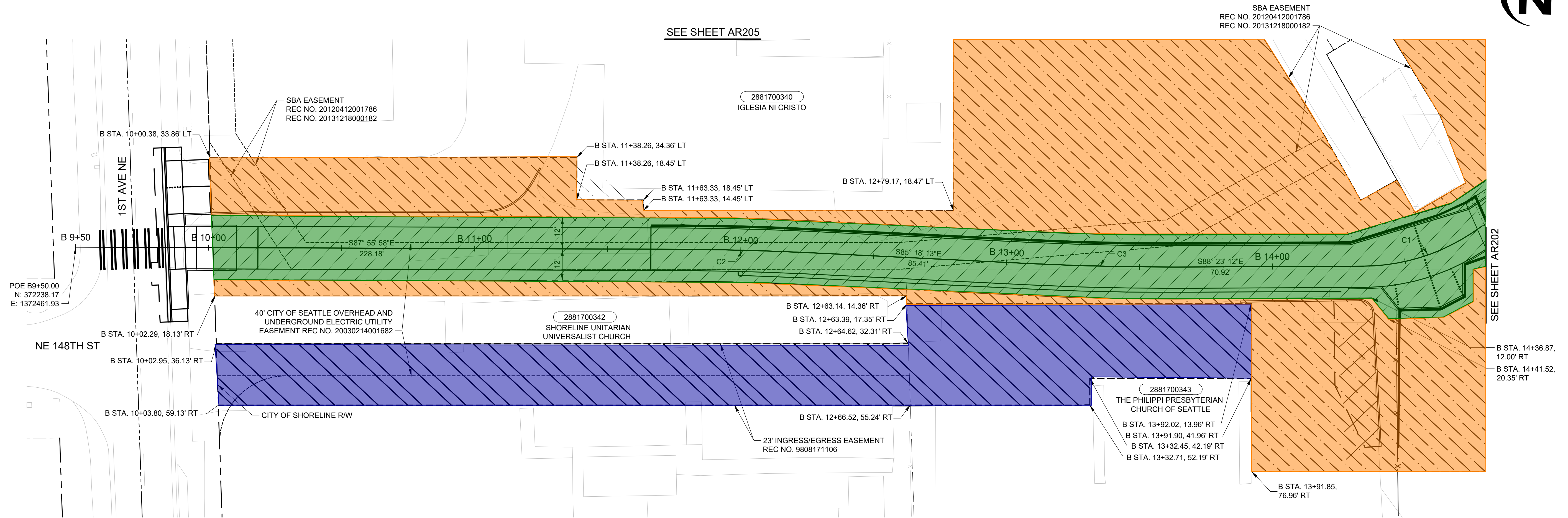
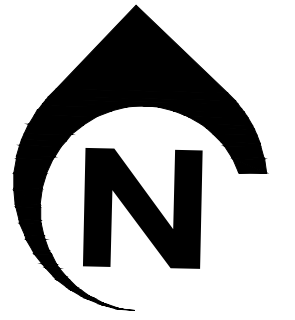
Jessica Simulcik Smith

Margaret J. King
City Attorney

Publication Date: _____, 2023

Effective Date: _____, 2023

ATTACHMENT A, EXHIBIT A



| ALIGNMENT B CURVE DATA | | | | | | | |
|------------------------|------------|------------------|-----------------|------------|----------|---------|--------|
| CURVE # | PI STATION | NORTHING AT P.C. | EASTING AT P.C. | DELTA | RADIUS | TANGENT | LENGTH |
| C1 | B 14+55.66 | 372215.28 | 1372945.51 | 033°12'53" | 74.00' | 22.07' | 42.90' |
| C2 | B 12+01.13 | 372229.94 | 1372689.97 | 002°37'45" | 1000.00' | 22.95' | 45.89' |
| C3 | B 13+36.38 | 372220.24 | 1372820.89 | 003°04'58" | 1000.00' | 26.91' | 53.81' |

LEGEND:

- TRAIL EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT (ACCESS)
- PROPOSED TRAIL EASEMENT LINE
- EXISTING RIGHT OF WAY LINE
- EXISTING ROW CENTERLINE
- EXISTING PROPERTY LINE
- EXISTING EASMENT
- EXISTING BUILDING OUTLINE
- TEMPORARY CONSTRUCTION EASMENT

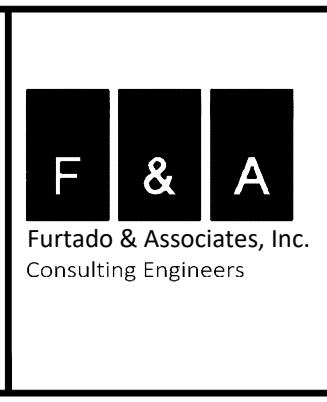
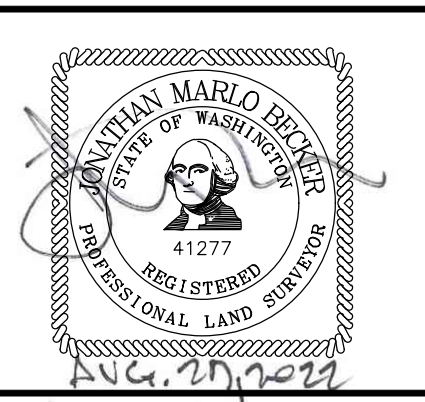
* PARCEL IS AREA TAKEN FROM COUNTY ASSESSOR RECORDS

| PARCEL NO. (TAX ACCOUNT NO.) | OWNERS | PARCEL AREA SQ. FT. | R/W | REMAINDER SQ. FT. | TRAIL EASEMENT SQ. FT. | TEMPORARY CONSTRUCTION SQ. FT. |
|------------------------------|---|---------------------|-----|-------------------|------------------------|--------------------------------|
| 2881700343 | THE PHILIPPI PRESBYTERIAN CHURCH OF SEATTLE | 79,704* | | 79,704 | 2,455 | 14,453 4,289 (ACCESS) |
| 2881700340 | IGLESIA NI CRISTO | 137,214* | | 137,214 | 10,176 | 27,497 8,097 (ACCESS) |
| 2881700342 | SHORELINE UNITARIAN UNIVERSALIST CHURCH | 69,103* | | 69,103 | 1,219 | 1,383 5,983 (ACCESS) |



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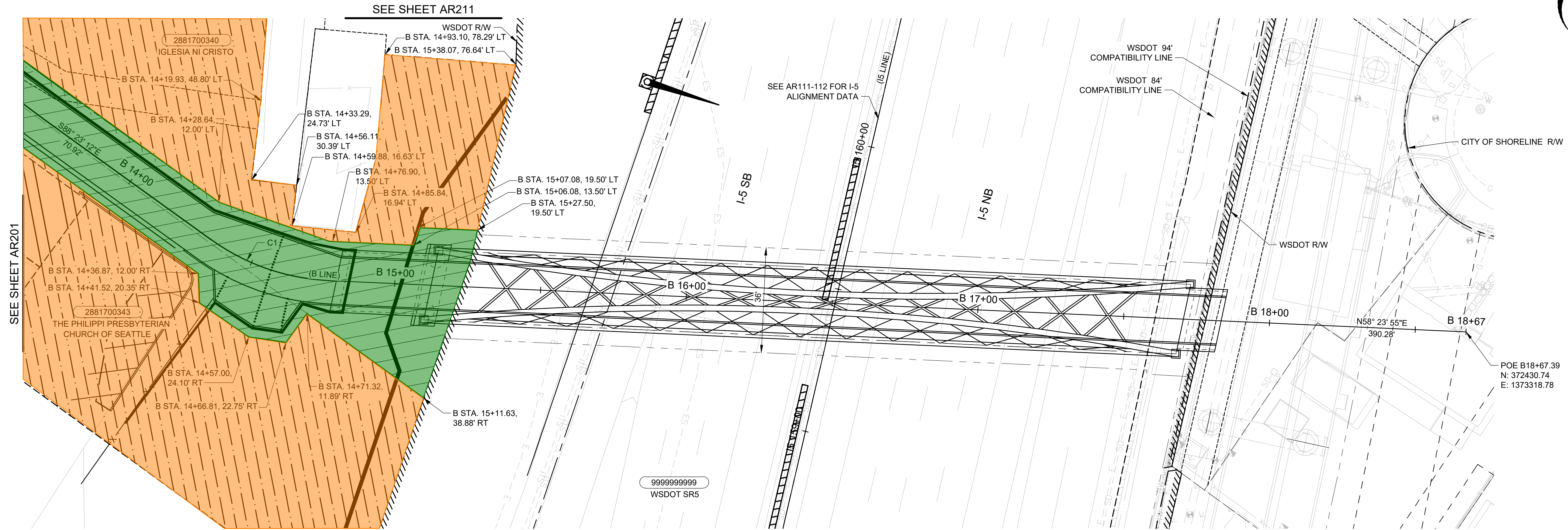
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| DESIGN BY | AL |
| CHECK BY | JB |
| PROJ MGR | JB |

CITY OF SHORELINE

148TH STREET NON-MOTORIZED BRIDGE

PHASE I
ALIGNMENT / RIGHT OF WAY PLAN

| | |
|-------------|------------|
| DRAWING NO. | AR201 |
| PROJECT NO. | 9263 |
| FED AID NO. | |
| DATE: | 09/20/2022 |
| SHEET NO. | OF |



SEE SHEET AR201

SEE SHEET AR211

SEE AR111-112 FOR I-5 ALIGNMENT DATA

* PARCEL IS AREA TAKEN FROM COUNTY ASSESSOR RECORDS

| PARCEL NO. (TAX ACCOUNT NO.) | OWNERS | PARCEL AREA SQ. FT. | R/W | REMAINDER SQ. FT. | TRAIL EASEMENT SQ. FT. | TEMPORARY CONSTRUCTION SQ. FT. |
|---------------------------------|---|------------------------|-----|----------------------|---------------------------|--------------------------------------|
| 2881700343 | THE PHILIPPI PRESBYTERIAN CHURCH OF SEATTLE | SEE SHEET AR201 | | | | |
| 2881700340 | IGLESIA NI CRISTO | SEE SHEET AR201 | | | | |

LEGEND:

- TRAIL EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT (ACCESS)
- PROPOSED TRAIL EASEMENT LINE
- EXISTING RIGHT OF WAY LINE
- EXISTING ROW CENTERLINE
- EXISTING PROPERTY LINE
- EXISTING EASMENT
- EXISTING BUILDING OUTLINE
- TEMPORARY CONSTRUCTION EASEMENT

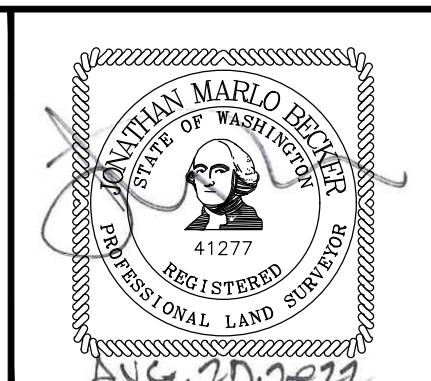
NOTE:
1. FOR B-LINE CURVE DATA SEE SHEET AR201.



Know what's below
Call before you dig

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Consulting Engineers

kpff

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206.622.5822
www.kpff.com

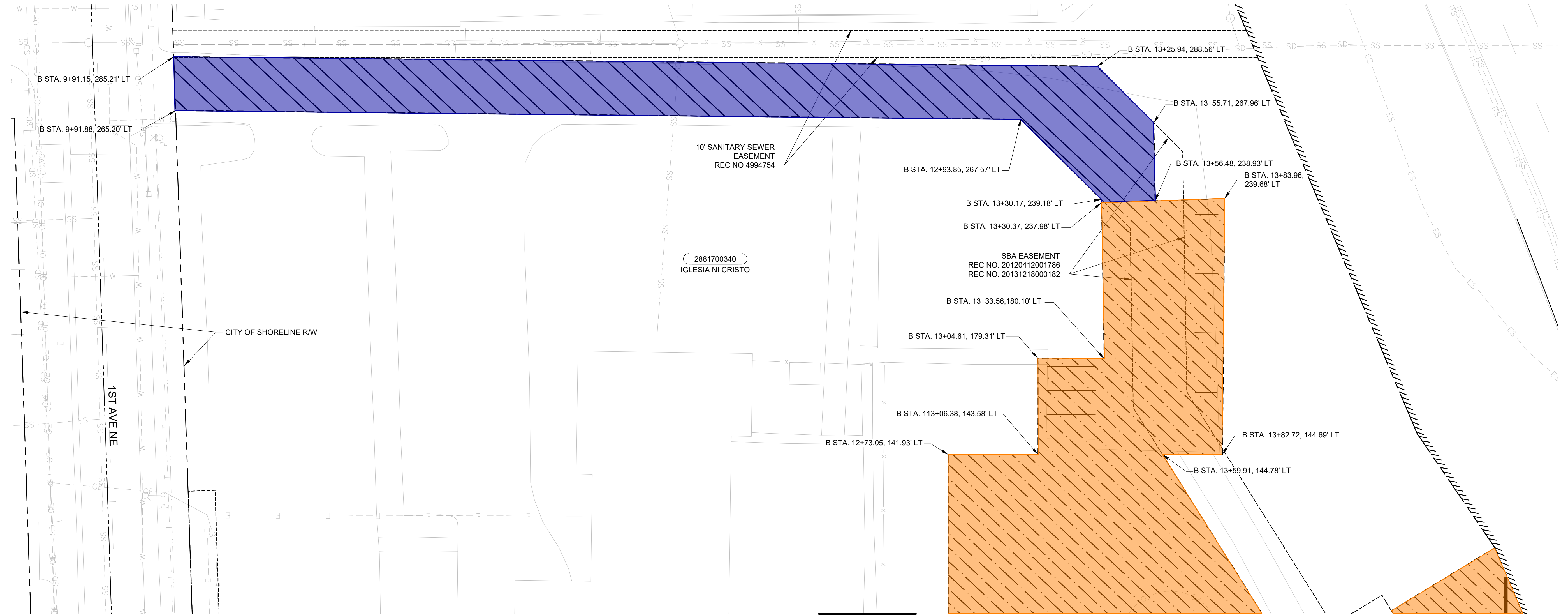
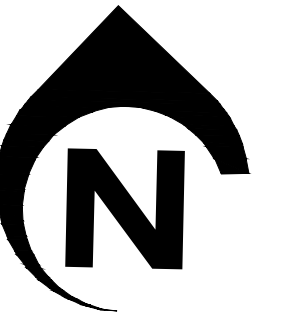
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CITY OF SHORELINE

148TH STREET NON-MOTORIZED BRIDGE

PHASE I
ALIGNMENT / RIGHT OF WAY PLAN

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| DRAWING NO. | AR202 |
| PROJECT NO. | 9263 |
| FED AID NO. | |
| DATE: | 09/20/2022 |
| SHEET NO. | ___ OF ___ |



NOTE:
1. FOR B-LINE CURVE DATA SEE SHEET AR201.

SEE SHEET AR201

LEGEND:

- TRAIL EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT (ACCESS)
- PROPOSED TRAIL EASEMENT LINE
- EXISTING RIGHT OF WAY LINE
- EXISTING ROW CENTERLINE
- EXISTING PROPERTY LINE
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- EXISTING BUILDING OUTLINE
- TEMPORARY CONSTRUCTION EASEMENT

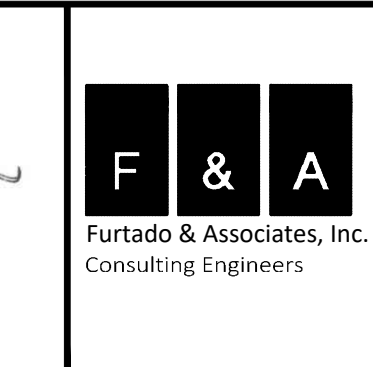
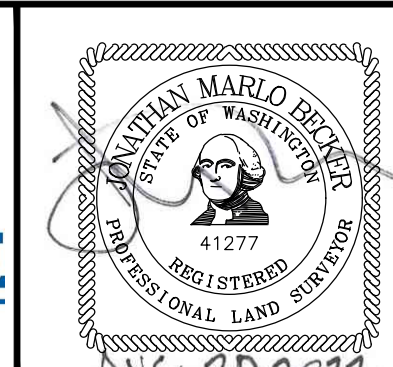
| PARCEL NO. (TAX ACCOUNT NO.) | OWNERS | PARCEL AREA SQ. FT. | R/W | REMAINDER SQ. FT. | TRAIL EASEMENT SQ. FT. | TEMPORARY CONSTRUCTION SQ. FT. |
|---------------------------------|-------------------|------------------------|-----|----------------------|---------------------------|--------------------------------------|
| 2881700340 | IGLESIA NI CRISTO | SEE SHEET AR201 | | | | |



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CITY OF SHORELINE
148TH STREET NON-MOTORIZED BRIDGE
PHASE I
ALIGNMENT / RIGHT OF WAY PLAN

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| DRAWING NO. | AR205 |
| PROJECT NO. | 9263 |
| FED AID NO. | |
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