



# City Council, Regular Meeting

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## **AGENDA REVISED**

May 19, 2009

6:30 pm – 9:30 pm  
Council chambers

### **Call to Order**

### **Roll Call/Pledge of Allegiance**

### **Public Comment**

*Note: This is an opportunity for the public to address the Council. Three-minutes limit per person or 5 minutes if representing the official position of a recognized community organization.*

### **Approval of Agenda**

### **Student Liaison Reports**

- Eastlake High School
- Skyline High School

### **Presentations/Proclamations**

- ✓ Freed House
- ✓ Quarterly Report: Public Works
- ✓ Quarterly Report: Parks and Recreation

### **Consent Agenda**

Payroll for pay period ending April 30, 2009 for pay date May 5, 2009 in the amount of \$258,092.94

1. Approval: Claims for period ending May 19, 2009 in the amount of \$1,252,424.21 for check No.23503 through 23619
2. Approval: Minutes of April 21, 2009 Regular Meeting/Joint Study Session with Planning Commission
3. Approval: Minutes of May 5, 2009 Regular Meeting
4. Ordinance: Second Reading Amending Ordinance No. 02008-243, The 2009-2010 City Budget, For The Purpose Of Revising The 2009 Budget For 2008 Unexpended

City Council meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone (425) 295-0500 at least 48 hours in advance.

Assisted Listening Devices are also available upon request.

6. Contract: Town Center Infrastructure Plan/DEA
7. Contract: East Lake Sammamish Parkway Phase IB/Perteet
8. Contract: On-Call Engineering/PACE
9. Interlocal: Flood Control Opportunity Fund Projects/King County

### **Public Hearings**

10. Ordinance: First Reading Accepting The 60% Annexation Petition For Rosemont At Timberline Subdivision

### **Unfinished Business**

11. Ordinance: Third Reading Amending Chapter 21a.45 (Development Standards – Signs), Of The Sammamish Municipal Code

### **New Business**

12. Ordinance: Granting Puget Sound Energy, Inc., A Washington Corporation, Its Successors And Assigns, The Right, Privilege, Authority And Franchise To Set, Erect, Lay, Construct, Extend, Support, Attach, Connect, Maintain, Repair, Replace, Enlarge, Operate And Use Facilities In, Upon, Over, Under, Along, Across And Through The Franchise Area To Provide For The Transmission, Distribution And Sale Of Gas And Energy For Power, Heat And Light, And Any Other Purposes For Which Gas And Energy May Be Used.
13. Ordinance: First Reading Amending Ordinance No. O2001-79, Adopting A System For The Issuance, Use And Control Of Credit Cards By City Officials And Employees, For The Purpose Of Increasing The Maximum Credit Limit And Adding A Section Covering Payment Of Bills
14. Ordinance: First Reading Amending The Sammamish Municipal Code Chapter 21a.55, To Adopt Temporary Interim Siting Hierachy For Wireless Communication Facilities (WCF); Declaring An Emergency; And Scheduling A Public Hearing
15. Interlocal: Consortium for Negotiation of Cable Television Franchising
16. Candidate Forum Policy

### **Council Reports – If Necessary**

### **City Manager Report – If Necessary**

### **Executive Session – If necessary**

### **Adjournment**

**AGENDA CALENDAR**

<b>May 2009</b>			
Mon 05/18	6:30 pm	Study Session	Briefing on TDR Program Pavement Management Program (Overlay Program Policies) Discussion: Non-motorized Project Selection Cable TV Citizen Survey Cascade Agenda Cities Membership Clock Discussion
Tues 05/19	6:30 pm	Regular Council Meeting	Presentation: Freed House Quarterly Reports: Parks/PW Public Hearing: First Reading Ordinance accepting Rosemont 60% Petition Ordinance Third Reading Amending Sign Code Ordinance: Second Reading 2008 Carry Forwards (consent) Ordinance: First Reading Puget Sound Energy Franchise Ordinance: First Reading Amending Credit Card Policy Ordinance: Emergency Wireless Amendment Resolution: Cascade Agenda Cities Membership Interlocal: Consortium for Negotiation of Cable Television Franchising Interlocal: Flood Control Opportunity Fund Projects/King County (consent) Contract: TC Infrastructure Plan/DEA (consent) Contract: On-Call Engineering/PACE (consent)
<b>June 2009</b>			
Tues 06/02	6:30 pm	Regular Council Meeting	Public Hearing: Second Reading Ordinance accepting Rosemont 60% Petition Public Hearing #2: Shoreline Master Plan Bid Award: Lower Sammamish Commons Improvement Project Bid Award: 244 <sup>th</sup> Avenue Improvement Project Ordinance: Second Reading Puget Sound Energy Franchise Ordinance: Second Reading Amending Credit Card Policy (consent) Resolution: Youth Board Appointments (consent) ARCH: Work Plan/Non-Profit Status Resolution: Master Fee Schedule Contract: Concurrency Management/DEA (consent)
Tues 06/09	6:30 pm	Joint Meeting/Parks & Recreation Commission	Update: SE 24 <sup>th</sup> Street Wetland Monitoring Discussion: Beaver Lake Park Master Plan Preferred Alternatives Discussion: Sammamish Landing Master Plan Preferred Alternatives Growth Targets Connectivity
Mon 06/15	6:30 pm	Study Session	Financial Sustainability Master Fee Schedule
Tues 06/16	6:30 pm	Regular Council Meeting	Public Hearing #3:Deliberation/Adoption Shoreline Master Plan Quarterly Reports: CDC/Admin/Police/Fire Resolution: Master Fee Schedule Bid Award: 2009 Pavement Overlay Contract
<b>July 2009</b>			
Tues 07/07	6:30 pm	Regular Council Meeting	Resolution: Adopting Evans Creek Preserve Master Plan Lease Agreement/Sween House Public Hearing #4:Deliberation/Adoption Shoreline Master Plan
Tues 07/14	6:30 pm	Study Session	Presentation: Thompson and Inglewood Basin Studies Neighborhood Traffic Management Plan

Mon 07/20	6:30 pm	Study Session	
Tues 07/21	6:30 pm	Regular Council Meeting	Bid Award: Sween House Remodel Bid Award: SE 20 <sup>th</sup> Street Project Presentation: Stormwater/NPDES GAP Analysis findings Quarterly Report: Finance
<b>August 2009</b>			
<b>Sat 08/29</b>			City's Tenth Birthday Celebration
<b>Sept 2009</b>			
Tues 09/01	6:30 pm	Regular Council Meeting	
Tues 09/08	6:30 pm	Study Session	Discussion: Beaver Lake Park Master Plan Preferred Alternative Updating Public Works Standards Sustainability Ordinance: ISD/LWSD Impact Fees
Mon 09/15	6:30 pm	Regular Council Meeting	
Tues 09/21	6:30 pm	Study Session	Discussion: District Court/Jail
<b>October 2009</b>			
Tues 10/6	6:30 pm	Regular Council Meeting	Quarterly Reports: DCD/Admin/Police/Fire Resolution: Adoption Thompson Basin Study Resolution: Adoption Inglewood Basin Study
Tues 10/13	6:30 pm	Study Session	Updating Public Works Standards
Mon 10/19	6:30 pm	Study Session	2009 Budget Adjustments
Tues 10/20	6:30 pm	Regular Council Meeting	Quarterly Reports: Parks/PW/Finance Resolution: Final Acceptance SE 20 <sup>th</sup> Street Project Bid Award: Maintenance & Operations Facility
<b>November 2009</b>			
Tues 11/03	6:30 pm	Regular Council Meeting	Ordinance: Public Hearing/First Reading 2009-2010 Budget Adjustments Ordinance: Public Hearing/First Reading 2010 Property Tax Levy Rate Resolution: 2010 Salary Schedule Resolution: ELSP Project Acceptance
Tues 11/10	6:30 pm	Study Session	Commission Interviews Updating Public Works Standards Six Year TIP Discussion: 2010-2015 Transportation Improvement Plan
Mon 11/16	6:30 pm	Study Session	Commission Interviews
Tues 11/17	6:30 pm	Regular Council Meeting	Ordinance: Second Reading 2009-2010 Budget Adjustments Ordinance: Second Reading 2010 Property Tax Levy Rate Ordinance: First Reading Updating Public Works Standards Resolution: Six Year TIP
<b>December 2009</b>			
Tues 12/01	6:30 pm	Regular Council Meeting	Commission Appointments Approval: Sammamish Landing Master Plan Ordinance: Second Reading Updating Public Works Standards Resolution: Pine Lake Water Quality Study
Tues 12/08	6:30 pm	Study Session	Planning Commission Handoff – Town Center Development Regulations
Mon 12/15	6:30 pm	Regular Meeting	SE 24 <sup>th</sup> Street Wetland Monitoring Report Neighborhood Traffic Management Plan
Tues 12/21	6:30 pm	Study Session	
<b>To Be Scheduled</b>		<b>To Be Scheduled</b>	<b>Parked Items</b>

<b>Approval:</b> Non-Motorized Project Priority List Street Lighting Standards Revision Code Enforcement Code Amendments Presentation: Draft Town Center Stormwater Master Plan	Code Blocks (second round) CAO Sunset Removal Interlocal: SE 20 <sup>th</sup> Street Construction/SPWS Amendment: Interlocal/LWSD Resolution: Pine Lake Water Quality Connectivity Discussion Ordinance: Amending Wireless Code	
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## Events

<< [April](#)**May 2009**[June >>](#)

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5 6:30 p.m. <b>City Council Meeting</b>	6	7 6 p.m. <b>Planning Commission Meeting</b>	8	9
10	11	12 6:30 p.m. <b>City Council Study Session</b>	13 6:30 p.m. <b>Parks and Recreation Commission Meeting</b>	14	15	16 9 a.m. <b>Volunteer Opportunity - City Planting Event at Illhahee Trail</b>
17	18 6:30 p.m. <b>Arts Commission Meeting</b> 6:30 p.m. <b>City Council Study Session</b>	19 6 p.m. <b>Anne Moon Artists Reception</b> 6:30 p.m. <b>City Council Meeting</b>	20 4 p.m. <b>Sammamish Farmers Market Opening Day</b> 6 p.m. <b>Sammamish Youth Board Meeting</b>	21 6 p.m. <b>Planning Commission Meeting</b>	22	23
24	25 8 a.m. <b>Memorial Day</b> <b>City offices closed</b>	26	27 4 p.m. <b>Sammamish Farmers Market</b>	28	29	30
31						

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City of Sammamish, M - F, 8:30 am - 5 pm  
801 228th Ave SE, Sammamish, WA 98075, Phone: (425) 295-0500, Fax: (425) 295-0600

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## Events

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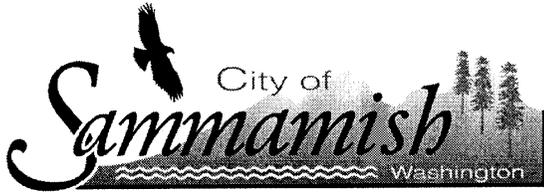
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 6:30 p.m. <b>City Council Meeting</b>	3 4 p.m. <b>Sammamish Farmers Market</b> 6:30 p.m. <b>Beaver Lake Master Plan Public Meeting #2</b>	4 6 p.m. <b>Planning Commission Meeting</b> <b>Canceled</b>	5	6
7	8	9 6:30 p.m. <b>City Council Study Session</b>	10 4 p.m. <b>Sammamish Farmers Market</b> 6:30 p.m. <b>Parks and Recreation Commission Meeting</b> <b>Canceled</b>	11 6 p.m. <b>Planning Commission Meeting</b>	12	13
14	15 6:30 p.m. <b>City Council Study Session</b> 6:30 p.m. <b>Arts Commission Meeting</b>	16 6:30 p.m. <b>City Council Meeting</b>	17 4 p.m. <b>Sammamish Farmers Market</b> 6 p.m. <b>Sammamish Youth Board Meeting</b>	18 6 p.m. <b>Planning Commission Meeting</b>	19 1 p.m. <b>Teen Event</b>	20 12 p.m. <b>Lifeguarding begins at Pine Lake Park</b>
21	22	23	24 4 p.m. <b>Sammamish Farmers Market</b>	25	26	27
28	29	30				

[List View](#)[To Top](#)

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Last updated May 13 2009



# MEMORANDUM

**TO:** Melonie Anderson/City Clerk  
**FROM:** Marlene/Finance Department  
**DATE:** May 14, 2009  
**RE:** Claims for May 19, 2009

		\$ 137,825.57
		144.07
		637,016.79
		477,437.78
137,825.57	+	
144.07	+	
637,016.79	+	
477,437.78	+	
004		
1,252,424.21	*	

**TOTAL \$ 1,252,424.21**

Check # 23503 through #23619

<u>Check</u>	<u>Date</u>	<u>Vendor No</u>	<u>Vendor Name</u>	<u>Amount</u>	<u>Voucher</u>
23503	05/05/2009	AMEX	American Express	37.13	000000
23504	05/05/2009	ANI	ANI Administrators NW Inc	1,661.61	000000
23505	05/05/2009	AWCMED	AWC Employee BenefitsTrust	79,749.16	000000
23506	05/05/2009	FELLINGE	Lee Felling	.733.61	000000
23507	05/05/2009	HUCK	Kathleen Huckabay	847.10	000000
23508	05/05/2009	ICMA401	ICMA 401	30,295.34	000000
23509	05/05/2009	ICMA401x	ICMA401	4,858.44	000000
23510	05/05/2009	ICMA457	ICMA	10,133.00	000000
23511	05/05/2009	PREPAIDL	Pre-Paid Legal Services, Inc	284.90	000000
23512	05/05/2009	US BANK	U. S. Bank Corp Payment System	9,225.28	000000
				-----	
<b>CHECK TOTAL:</b>				<b>\$137,825.57</b>	

Accounts Payable  
Computer Check Register



User: jodee

Printed: 05/08/2009 - 11:17

Bank Account:

Check	Vendor No	Vendor Name	Date	Invoice No	Amount
23513	BARONSR	Steve Baron	05/08/2009		144.07
			Check 23513 Total:		144.07
			Report Total:		144.07

<u>Check</u>	<u>Date</u>	<u>Vendor No</u>	<u>Vendor Name</u>	<u>Amount</u>	<u>Voucher</u>
23514	05/19/2009	ACCURINT	Accurint	50.00	000000
23515	05/19/2009	ADVANTAG	Advantage Building Services	13,584.82	000000
23516	05/19/2009	ANTIN	Aaron Antin	30.24	000000
23517	05/19/2009	BEAVER2	Beaver Dam 2 HOA	50,340.00	000000
23518	05/19/2009	BELZAK	Steve Belzak	12.20	000000
23519	05/19/2009	BUTKUS	Pete Butkus	39.60	000000
23520	05/19/2009	CARTRIDG	Cartridge World	373.41	000000
23521	05/19/2009	CHRISTIA	Christian Construction	4,002.62	000000
23522	05/19/2009	CODEPUB	Code Publishing Inc	4,969.33	000000
23523	05/19/2009	COLE	Cole Industrial Inc	554.70	000000
23524	05/19/2009	COMCAST2	COMCAST	99.95	000000
23525	05/19/2009	COSTCO	Costco Wholesale	330.76	000000
23526	05/19/2009	CRAN	Gordon Crandall	485.40	000000
23527	05/19/2009	DAILY	Daily Journal of Commerce	615.60	000000
23528	05/19/2009	DONOVAN	Darci Donovan	210.10	000000
23529	05/19/2009	EASTFIRE	Eastside Fire & Rescue	434,824.58	000000
23530	05/19/2009	ENGBUS	The Wide Format Company	87.05	000000
23531	05/19/2009	ESRI	ESRI, Inc.	4,578.00	000000
23532	05/19/2009	FISHTAIL	Fishtail Construction LLC	38,111.96	000000
23533	05/19/2009	FOUNDATI	Foundation Baptist Church	250.00	000000
23534	05/19/2009	FRYOUTH	Friends Of Youth	2,500.00	000000
23535	05/19/2009	GALT	John E. Galt	6,176.50	000000
23536	05/19/2009	GARWOOD	Rob Garwood	97.70	000000
23537	05/19/2009	GRAYOS	Gray & Osborne, Inc.	702.78	000000
23538	05/19/2009	GUROL	Kamuron Guroi	32.00	000000
23539	05/19/2009	HANSELL	Kirk Hansell	7,243.10	000000
23540	05/19/2009	HARTOFF	Hartman Office Equipment Inc	615.85	000000
23541	05/19/2009	HUISH	Scott & Amy Huish	655.16	000000
23542	05/19/2009	IKONNW	Ikon Office Solutions	193.53	000000
23543	05/19/2009	IRONMT	Iron Mountain	300.10	000000
23544	05/19/2009	ISSAQ1	Issaquah Press, Inc.	922.50	000000
23545	05/19/2009	JEFFERY	Amy Jeffery	55.00	000000
23546	05/19/2009	KEENEY	Keeney's Office Plus	649.44	000000
23547	05/19/2009	KENYON2	Kenyon Disend PLLC	21,897.74	000000
23548	05/19/2009	KINGFI	King County Finance A/R	982.00	000000
23549	05/19/2009	MAILPO	Mail Post	2,077.48	000000
23550	05/19/2009	MATTHEWS	Bruce N. Matthews	224.00	000000
23551	05/19/2009	MATTHIAS	Michael Matthias	20.57	000000
23552	05/19/2009	MINUTE	Minuteman Press	120.23	000000
23553	05/19/2009	MOBERLY	Lynn Moberly	15,000.00	000000
23554	05/19/2009	MORUP	Morup Signs Inc	2,107.88	000000
23555	05/19/2009	NELSONCO	Walter E. Nelson Company	244.86	000000
23556	05/19/2009	NEXTEL	Nextel Communications	2,801.13	000000
23557	05/19/2009	NWLSVC	NW Landscape Service	9,688.29	000000
23558	05/19/2009	OFFDEBSD	Office Depot BSD	302.61	000000
23559	05/19/2009	PERFORMA	Performance Journeys, Inc	10,171.00	000000
23560	05/19/2009	PSE	Puget Sound Energy	14,016.39	000000
23561	05/19/2009	REALCHEM	RealChem Northwest	251.85	000000
23562	05/19/2009	REALCOM	Realcom Associates	112.50	000000
23563	05/19/2009	ROTARSAM	Rotary Club of Sammamish	84.00	000000
23564	05/19/2009	ROTH	Roth Hill Engineering Partners	4,384.31	000000
23565	05/19/2009	RWSCOTT	R. W. Scott Construction Co	774.12	000000
23566	05/19/2009	RYAN	Ryan, Swanson & Cleveland PLLC	2,487.50	000000
23567	05/19/2009	SAM	Sammamish Plateau Water Sewer	30.60	000000
23568	05/19/2009	SAMCITIZ	Sammamish Citizen Corps Council	4,104.65	000000
23569	05/19/2009	SEATIM	Seattle Times	610.88	000000

<u>Check</u>	<u>Date</u>	<u>Vendor No</u>	<u>Vendor Name</u>	<u>Amount</u>	<u>Bill #1 Voucher</u>
23570	05/19/2009	SONITROL	Sonitrol Pacific	759.30	000000
23571	05/19/2009	STAPLES	Staples Business Advantage	1,254.12	000000
23572	05/19/2009	STOECKL	Jane C. Stoecklin	105.00	000000
23573	05/19/2009	UNITRENT	United Rentals NW, Inc	426.39	000000
23574	05/19/2009	USBANK	U S Bank	40.74	000000
23575	05/19/2009	VAN NOST	Maren Van Nostrand	1,864.80	000000
23576	05/19/2009	VERIZON	Verizon Wireless	81.62	000000
23577	05/19/2009	WAPAT	Wa State Patrol	20.00	000000
23578	05/19/2009	WATERSH	The Watershed Company	2,276.25	000000
				-----	
<b>CHECK TOTAL:</b>				<b>\$673,016.79</b>	

<u>Check</u>	<u>Date</u>	<u>Vendor No</u>	<u>Vendor Name</u>	<u>Amount</u>	<u>Voucher</u>
23579	05/19/2009	ALLSRVC	All Service Glass	200.11	000000
23580	05/19/2009	BEAVER2	Beaver Dam 2 HOA	750.00	000000
23581	05/19/2009	BRIM	Brim Tractor Co, Inc	1,861.92	000000
23582	05/19/2009	CADMAN	Cadman, Inc.	2,291.88	000000
23583	05/19/2009	CHANEY	Rebecca Chaney	1,080.00	000000
23584	05/19/2009	DEJONG	Cory de Jong & Son Inc	810.63	000000
23585	05/19/2009	EASTEQ	Eastside Equipment & Marine	128.15	000000
23586	05/19/2009	EWINGIRR	Ewing Irrigation	1,952.19	000000
23587	05/19/2009	HYDRO	Hydro Seeding & Bark Blowers	13,352.70	000000
23588	05/19/2009	INTEGRA	Integra Telecom	3,883.45	000000
23589	05/19/2009	J3 Mecum	J3 Mecum Engineering Inc	2,206.25	000000
23590	05/19/2009	JEFFERY	Amy Jeffery	17.78	000000
23591	05/19/2009	JOHNSTO	Johnston Architects PLLC	1,750.00	000000
23592	05/19/2009	KCRADIO	King Cty Radio Comm Svcs	206.49	000000
23593	05/19/2009	KINGPET	King County Pet Licenses	295.00	000000
23594	05/19/2009	LESSCHWA	Les Schwab Tire Center	98.55	000000
23595	05/19/2009	LOCK	Lockworks, Inc.	620.59	000000
23596	05/19/2009	MICRO	Microflex, Inc.	83.61	000000
23597	05/19/2009	NAPA	Napa Auto Parts Inc.	236.69	000000
23598	05/19/2009	NESAM	NE Sammamish Sewer & Water	86.90	000000
23599	05/19/2009	NEWPORTC	Newport Children's School	14,142.18	000000
23600	05/19/2009	NWCASC	Northwest Cascade, Inc.	312.42	000000
23601	05/19/2009	NWENVIRO	NW Environmental Consulting LL	3,129.00	000000
23602	05/19/2009	NWLSVC	NW Landscape Service	11,712.12	000000
23603	05/19/2009	PACSOIL	Pacific Topsoils, Inc	2,089.72	000000
23604	05/19/2009	PIEDMONT	Piedmont Directional Signs	875.00	000000
23605	05/19/2009	PLATT	Platt Electric	124.90	000000
23606	05/19/2009	PSE	Puget Sound Energy	6,845.13	000000
23607	05/19/2009	QWEST	QWEST	166.69	000000
23608	05/19/2009	RAINIER	Rainier Wood Recyclers Inc	10.00	000000
23609	05/19/2009	RED-E	Red-E Topsoil	599.51	000000
23610	05/19/2009	REDSIGNS	Redmond Signs	124.79	000000
23611	05/19/2009	REIDMID	Reid Middleton, Inc	110.79	000000
23612	05/19/2009	RENTME	Rent Me Storage, LLC	284.70	000000
23613	05/19/2009	SCI	SCI Infrastructures, LLC	383,885.43	000000
23614	05/19/2009	SEQUOYAH	Sequoyah Electric, LLC	694.10	000000
23615	05/19/2009	SITELINE	Sitelines Park & Playground	8,504.87	000000
23616	05/19/2009	SUTTER	Sutter Paving Inc	6,186.75	000000
23617	05/19/2009	UNITRENT	United Rentals NW, Inc	1,791.31	000000
23618	05/19/2009	VERIZNW	Verizon Northwest	33.29	000000
23619	05/19/2009	VOYAGER	Voyager	3,902.19	000000

**CHECK TOTAL: \$477,437.78**



# COUNCIL *Sammamish* MINUTES

## Regular Meeting/Joint Study Session with Planning Commission April 21, 2009

Mayor Don Gerend called the regular meeting of the Sammamish City Council to order at 6:30 pm.

**Councilmembers present:** Mayor Don Gerend, Deputy Mayor Jack Barry, Councilmembers Mark Cross, Lee Felling, Kathleen Huckabay (arrived 7:30 pm) Michele Petitti and Nancy Whitten.

**Staff present:** City Manager Ben Yazici, Deputy City Manager Pete Butkus, Public Works Director John Cunningham, Community Development Director Kamuron Gurol, Parks & Recreation Director Jessi Richardson, Administrative Services Director Mike Sauerwein, City Attorney Bruce Disend, Senior Planner Evan Maxim, Webmaster Jesse Rowe, and City Clerk Melonie Anderson.

### Roll Call/Pledge

Roll was called. City Attorney Kari Sand the pledge.

### Public Comment

Deb Sogge, Representing the Sammamish Chamber of Commerce, She gave an update on the Farmer's Market, which will begin on May 20, 2009 and continue every Wednesday throughout the summer. She also reported on the City's 10<sup>th</sup> Birthday celebration on August 29, 2009. There will be children's activities during the day and an adult gathering in the evening.

Mike Collins, 2841 East Lake Sammamish Parkway NE, He reported that the second Shoreline Master Plan Update round table meeting was very successful and productive.

John Galvin, 432 228<sup>th</sup> Avenue SE, He gave a PowerPoint presentation on the state of the city's economy. He hoped for an open honest debate during the next election season.

### Approval of Agenda

MOTION: Agenda was approved as presented.

### Student Liaison Report

**Eastlake Student Liaison** – ASB elections took place yesterday. Eastlake Drama Team will be presenting “You’re a Good Man Charlie Brown”. Last Weekend the Invisible Children’s Club had an overnight sleepover to spread the awareness of living conditions of the children in

Uganda. Participants slept on the floor, fasted and participated in games. They also collected school supplies which will be sent to Uganda.

### **Proclamations/Presentations**

- **East Lake Student Art Project**

Volunteer Coordinator Dawn Sanders introduced Alexandra Beattie. She is senior at Eastlake High School, working as a Peer Tutor. To help highlight the student's photographic work, she put together a program called "My Shots". She gave each of her students a disposable camera and had the students take pictures of those people and things that were important to them.

Mayor Gerend presented the following students with a Certificate of Achievement: Collin Schindler, Raphael Burnickel, Kaitlyn Bush, Aaron Witek, Emily Hammond, Sean Rostas, Kyle Dunn and Dylan Zeitlan.

### **Consent Calendar**

**Payroll for pay period ending April 15, 2009 for pay date April 20, 2009 in the amount of \$254,473.95.**

**Approval: Claims for period ending April 21, 2009 in the amount of \$870,149.00 for check No. 23306 through 23393.**

**Resolution: Adopting An Identity Theft Prevention Program Pursuant To The Fair And Accurate Credit Transaction Act Of 2003 (R2009-365)**

**Resolution: Final Acceptance Pine Lake Park Dock Project/Pacific Pile and Marine (R2009-366)**

**Amendment: Northwest Environmental/On-Call Engineering**

**Approval: Minutes for April 7, 2009 Regular Meeting**

MOTION: Motion to approve the Consent Calendar carried unanimously 6-0.

### **Public Hearing**

**Ordinance: First Reading Amending Chapter 21A.45 (Development Standards – Signs) Of The Sammamish Municipal Code**

Public Hearing opened at 7:10

Community Development Director Kamuron Gurol introduced Senior Planner, Evan Maxim who gave a quick overview of the code amendment. He explained that this amendment is being made to help residents advertise the homes for sale by allowing off-site real estate signs. The Planning

Commission has reviewed this amendment and they are generally supportive of it. This is the first reading of the ordinance. No action is recommended.

Gregg Allen, 530 254<sup>th</sup> Avenue SE, He feels there are hundreds of illegal signs in the right of way right now. He suggested modifying 21A.45.120.(4)(b)(i) to read parcel rather than residential unit. The current wording is a bit ambiguous.

Julie Bogdan, 21014 SE 14<sup>th</sup> Place, She feels these proposed amendments will help her to sell her property, which is located off of any main road. She thanked the Council for these proposed changes.

Public Hearing was continued to May 5, 2009.

Councilmember Whitten feels that the public right of way could be an alternative if the seller would not be able to get adjoining property owners to give approval. Staff will develop language to be presented at the next meeting.

### **New Business**

#### **Resolution: Calling for the evaluation of emergency medical and fire service delivery within the City and setting forth City Council policy and intent.**

Director of Administrative Services Mike Sauerwein gave the staff report. This resolution directs the City Manager and the Eastside Fire & Rescue Board members to review fire services to ensure that the city is receiving the most services for the least cost. The City does feel that Eastside Fire & Rescue is currently delivering an excellent level of service. To ensure this continues the following tasks will be done:

- Exploring an efficient and equitable funding model for Eastside Fire & Rescue.
- Establishing guaranteed caps on Eastside Fire & Rescue's annual cost increases.
- Evaluating whether adoption of a different emergency medical and fire services delivery model would benefit the residents and taxpayers of the City and the areas served by Eastside Fire & Rescue.

**MOTION: Councilmember Felling moved to adopt the resolution. Councilmember Barry seconded. Motion carried unanimously 6-0 (R2009-367)**

### **Council Reports**

King Conservation District is offering five free soil samplings for Sammamish residents. You can submit samples from your yard, garden or water.

Councilmember Felling reported on the Green Cities Conference. Four of the Councilmembers attended.

Councilmember Cross attended the Shoreline Master Plan Round Table meeting held last night. He reported that it went very well.

**City Manager Report**

Mr. Yazici reported the Community Development Director Kamuron Gurol is the staff lead on sustainability.

Meeting adjourned at 7:50 pm.

**OPEN JOINT STUDY SESSION WITH PLANNING COMMISSION**

- Sustainability
- Clock Presentation (postponed)

**CLOSE STUDY SESSION**

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Melonie Anderson, City Clerk

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Donald L. Gerend, Mayor

# COUNCIL MINUTES

## Regular Meeting May 5, 2009

Mayor Don Gerend called the regular meeting of the Sammamish City Council to order at 6:30 pm.

**Councilmembers present:** Mayor Don Gerend, Deputy Mayor Barry, Councilmembers Mark Cross, Lee Felling, Kathleen Huckabay, Michele Petitti and Nancy Whitten.

**Staff present:** City Manager Ben Yazici, Deputy City Manager Pete Butkus, Public Works Director John Cunningham, Community Development Director Kamuron Gurol, Parks & Recreation Director Jessi Richardson, Deputy Director of Finance Aaron Antin, City Attorney Bruce Disend, and City Clerk Melonie Anderson.

### Roll Call/Pledge

Roll was called. City Manager Ben Yazici led the pledge.

### Public Comment

Reid Brockway, 167 E. Lake Sammamish Shore Lane NE, He spoke regarding the Shoreline Master Plan Update. Specifically he asked the Council to request staff to provide specific state regulations that require buffers on salmon bearing lakes and to provide any relevant peer reviewed scientific reports on this issue. He does not believe there are any state regulations requiring 45 foot buffers.

Donald Barrett, 2920 East Lake Sammamish NE, His property has been listed as Urban Conservancy due to the large number of Black Cottonwood trees on his lot. He contends that these trees are nearly 100 years old and are approaching the end of their natural life span. He would like his property to be designated urban residential.

Stuart Carson 2426 216<sup>th</sup> Avenue, He does not feel that the proposed Shoreline Master Plan addresses existing residential units. He would like to see an amendment that would allow for rebuilding of a damaged home. He does not want any new buffer proposals be applicable to existing landscape.

Brian Adams, 8811 124<sup>th</sup> Avenue, Newcastle, He spoke regarding property his grandfather owns on Beaver Lake. He hopes that the SMP will allow them to remodel this property sometime in the future on its current footprint

### Approval of Agenda

MOTION: Agenda was approved as presented.

## **Proclamations/Presentations**

### ➤ **Proclamation: National Day of Prayer**

Mayor Gerend read the following proclamation:

*WHEREAS*, on April 17, 1952, the Congress of the United States approved the Joint Resolution to provide for setting aside an appropriate day as a National Day of Prayer (Public Law 82-324; 66 Stat. 64); and

*WHEREAS*, the history of our nation is indelibly marked with the role that prayer has played in the lives of individuals and the nation; and

*WHEREAS*, historically our greatest leaders have turned to prayer in times of crisis and thanksgiving; and

*WHEREAS*, the virtues of prayer reflect a common bond: hopes and aspirations, sorrows and fears, repentance and renewed resolve, thanks and joyful praise, and love;

*NOW, THEREFORE*, the Sammamish City Council does hereby proclaim May 7, 2009, as the

### *Day of Prayer*

in the city of Sammamish, in keeping with the wishes of the Congress of the United States and Governor of the state of Washington, and urge all citizens to join us in this special observance.

## **Consent Calendar**

**Approval: Claims for period ending May 5, 2009 in the amount of \$768,797.64 for check No. 23394 through 23502**

**Approval: Minutes for April 14, 2009 Regular Meeting/Study Session**

**Change Order: 2008 Sidewalk Repair/R.W. Scott**

**Resolution: Accepting The City Of Sammamish 2008 Sidewalk Repair Project As Complete (R2009-368).**

**MOTION: To approve consent calendar. Motion carried unanimously 7-0.**

## **Public Hearing**

**Ordinance: Second Reading Amending Chapter 21a.45 (Development Standards – Signs), Of The Sammamish Municipal Code**

Director of Community Development Kamuron Gurol gave the staff report. This is the second reading of the amendment. At Council direction, staff has developed some alternative language to allow for the placement of signs in the right of way. The new draft language was passed out. Mr. Gurol explained the proposed changes. The amendment would allow for signs in the right of

way, a permit would not be required and there would be some requirements for location of the signs. Due to requirements of the SEPA comment period, this ordinance cannot be passed tonight but will come back for a third reading at another meeting. No action is recommended tonight.

Public Hearing opened at 7:00 pm

### **Public Comment**

Todd Woosley 12001 NE 12<sup>th</sup> Street, Suite 44, Bellevue, He represented East King County Realtors. He thanked the Council for proposing this amendment. He feels it will help the real estate market. He is happy that there is no requirement for a permit. He suggested increasing the allowable sign size to 4 square feet as that is the more common size. He suggested the height of the frame be changed to 2 feet (21A.45.120(2)(g)). He recommended an automatic review of the ordinance at a future date rather than setting a sunset date. He also recommended that Section 21A.45.120(4)(a)(1)(iii) be changed from realtor to licensed real estate agent.

Julie Bogdan, 21014 SE 14<sup>th</sup> Place, She thanked Council and staff for making these proposed changes. She hopes it will help her sell her house.

Public Hearing was continued to May 19, 2009.

Council directed staff to leave the sunset clause in the ordinance but incorporate the other proposed changes

**Unfinished Business** - None

### **New Business**

**Ordinance: First Reading Amending Ordinance No. 02008-243, The 2009-2010 City Budget, For The Purpose Of Revising The 2009 Budget For 2008 Unexpended Appropriation Balances.**

Deputy Director of Finance, Aaron Antin gave the staff report along with a PowerPoint presentation (*PowerPoint presentation available on the city website at [www.ci.sammamish.wa.us](http://www.ci.sammamish.wa.us).*) This is the first reading of this ordinance. No action is recommended at this time.

### **Council Reports**

Councilmember Felling urged his fellow councilmembers to become familiar with the growing problem of funding government pensions. It is important to take steps now to avoid budget impacts in the future.

Councilmember Petitti is meeting with the Sammamish Historical Society and the Chamber of Commerce to help prepare a presentation regarding the significance of the Freed House. Council agreed they could make the presentation on May 19.

Councilmember Whitten expressed concerns about the size of the beach at Pine Lake Park. She is hoping for a staff report regarding this park.

Councilmember Huckabay remarked that the weeds are growing quickly along the path along SE 29<sup>th</sup> Street. She asked if we can increase the maintenance or ask for volunteers to weed the area.

Councilmember Cross would like to see a funding model in place to purchase the old library building to use as a teen center as well as a real plan to accommodate Youth Eastside Services and Friends of Youth to provide counseling services before renovating the Sween house and moving the Freed House.

Mayor Gerend reported that he has visited all the grade schools to publicize the city's 10<sup>th</sup> birthday celebration. He also reported that there will be an opportunity at the Wednesday Farmer's Market to make a video for the time capsule.

### **City Manager Report**

**244<sup>th</sup> Project Update:** This project is currently out to bid. The city has secured all the necessary permits, right of way use agreements and the Transportation Improvement Board grant has been received. This project will be brought to Council for bid award on June 2, 2009. Substantial completion should be in September 2010.

**Sustainability Funding:** The Puget Sound Energy Consortium has been formed and Mr. Yazici has signed a letter of intent have the City of Sammamish join this group. The group will work to seek funds, establish a national scale energy projects, etc.

**Shoreline Master Plan Update:** Mr. Gurol updated Council on this project. There will be an upcoming study session on May 12. At that meeting Council will receive a compilation of all of the comments received regarding the plan. The dialogue tables did identify some areas that the Council should consider for changes. The hope is to develop a red-line draft of the plan to be presented at the June 2, 2009 public hearing.

Meeting adjourned at 9:00 pm

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Melonie Anderson, City Clerk

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Donald L. Gerend, Mayor



## CITY COUNCIL AGENDA BILL

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**Subject:**

2nd Reading of an ordinance amending the 2009-2010 City Biennial Budget for the purpose of adjusting the 2009 expenditure budgets to account for unexpended appropriations made in 2008 that are to be carried forward from 2008 to 2009.

**Action Required:**

This is the second reading, the ordinance may be adopted, amending the 2009-2010 Biennial Budget.

**Exhibits:**

1. Budget Carry forward Summary
2. Ordinance
3. Ordinance TABLE A attachment

**Meeting Date:** May 19, 2009

**Date Submitted:** May 11, 2009

**Originating Department:** Finance

**Clearances:**

<input checked="" type="checkbox"/> <b>City Manager</b>	<input type="checkbox"/> <b>Police</b>
<input type="checkbox"/> <b>Public Works</b>	<input type="checkbox"/> <b>Fire</b>
<input type="checkbox"/> <b>Building/Planning</b>	<input checked="" type="checkbox"/> <b>Attorney</b>

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**Budgeted Amount:** \$6,857,500 of unexpended 2008 budget carried forward to the 2009 portion of the adopted 2009-2010 Biennial Budget.

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**Summary Statement:** This motion adjusts the 2009 budget to reflect an expenditure appropriation adjustment of an additional \$6.9 Million of 2008 to 2009 budget carry forwards. The \$6.9 Million is composed entirely of unexpended appropriation balances from the 2008 portion of the 2007-2008 biennial budget; which are requested to be added to the 2009 expense appropriation portion of the adopted 2009-2010 biennial budget. Of the \$6.9 Million, \$6 Million is related to capital improvement project funds. Details of these adjustments are attached in summary form to this agenda bill.

**Background:** The adjustments to the 2009 Budget outlined here will allow the 2009 portion of the 2009-2010 Biennial Budget to reflect updated information for project managers and budget and financial management reporting during 2009.

**Recommended Motion:**

Motion to adopt O2009- \_\_\_\_ amending the 2009-2010 City Budget for the purpose of carrying forward certain unexpended 2008 appropriations from 2008 to 2009.

## 2008 TO 2009 BUDGET CARRYFORWARD REQUEST SUMMARY

### Operating Fund Requests

\$18,400	City Manager Prof. Services budget (economic sustainability & energy savings)
\$140,000	Finance Dept: software purchase, Fleet Study, Economic Study and State Auditor delays
\$55,000	Parks Planning Prof. Services (interpretive signage design, engineering/architectural support, etc.)
\$1,700	Art Commission: projects continuing in 2009
\$87,000	Non-Departmental (emergency AM radio project to re-bid in 2009)
\$265,000	DCD: Prof Services related to Towncenter, Shoreline Plan, rate modeling projects
\$100,000	Affordable Housing Capital Project (thru ARCH - Kenmore Village)
\$5,200	Professional services related to energy conservation improvements
<u>\$672,300</u>	<b>Subtotal General Fund Requests</b>

\$93,500	Primarily King Co. contracted street repair work that will move from 2008 to 2009
<u>\$93,500</u>	<b>Subtotal Street Fund</b>

\$81,000	SWM Rate Study and Stormwater Manual update moved from 2008 to 2009
<u>\$81,000</u>	<b>Subtotal SWM-Operating Fund</b>

### Capital Fund Requests

\$175,000	Info. Tech. Fund (Primarily Disaster Recovery project expenses moving from 2008 to 2009)
\$524,000	General Fund Capital projects planned in 2008 moved to 2009
\$100,000	Sammamish Commons art (clock project) not installed in 2008, move to 2009
\$2,626,300	Parks Capital projects planned in 2008 moved to 2009
\$919,000	Transportation Capital projects planned in 2008 moved to 2009
\$317,000	Savings from Non-motorized project # 403 moved from 2008 to non-motorized project funding in 2009
\$1,000,000	Snake Hill Contingency Funding moving from 2008 to 2009
\$349,400	SWM Capital projects planned in 2008 moved to 2009
<u>\$6,010,700</u>	<b>Subtotal Capital Fund Requests</b>

### \$6,857,500 Grand Total Requested

\$12,198,992 TOTAL available (all funds)

**\$5,300,000 MOVE TO ECONOMIC STABILIZATION RESERVE ACCOUNT**

### \$5.3 Million is what percentage of 2009 Revenue Budgets?

19.6% of 2009 General Fund Revenue Budget

11.7% of 2009 All City Funds Revenue Budget



**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE No. O2009-XXX**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, AMENDING ORDINANCE NO. 02008-243,  
THE 2009-2010 CITY BUDGET, FOR THE PURPOSE OF  
REVISING THE 2009 BUDGET FOR 2008 UNEXPENDED  
APPROPRIATION BALANCES.**

**WHEREAS**, the City Council adopted Ordinance No. 02008-243, adopting the City's Biennial budget for the years 2009-2010; and

**WHEREAS**, the City budget set forth anticipated revenues and expenditures for the forthcoming years; and

**WHEREAS**, at year end 2008, there were certain unexpended appropriation balances and the City Council wishes to amend the 2009-2010 City Budget to carry forward some of the unexpended appropriation budget from 2008 into 2009; and

**WHEREAS**, the increase in appropriation expenditures in 2009 is less than the unexpended appropriation from year end 2008;

**WHEREAS**, the economy is experiencing uncertain economic conditions, and the City wishes to be remain prudent in its fiscal approach and management;

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

**Section 1.** Ordinance No. 2008-243, approved December 2, 2008, adopting the City of Sammamish's 2009-2010 budget, is hereby amended to adopt the revised budget for the 2009-2010 biennium in the amounts and for the purposes as shown on the attached Table A.

**Section 2.** A portion of the unexpended 2008/2009 biennial budget in the sum of \$5,300,000 shall be set aside in an "Economic Stabilization Reserve Account" for the 2009/2010 biennium.

**Section 3.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

**Section 4.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**PASSED BY THE CITY COUNCIL OF THE CITY OF SAMMAMISH,  
WASHINGTON AT A REGULAR MEETING ON THIS \_\_\_ DAY OF MAY 2009.**

CITY OF SAMMAMISH

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Mayor Donald J. Gerend

Attest:

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Melonie Anderson, City Clerk

Approved as to form:

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Bruce L. Disend, City Attorney

First Reading: May 5, 2009  
Second Reading: May 19, 2009  
Date Adopted:  
Date of Publication:  
Effective date:

# CITY OF SAMMAMISH

## ORDINANCE O2009-XXX

### 2009-2010 REVISED BIENNIAL BUDGET: TABLE A

<b>2009-2010 REVISED BIENNIAL BUDGET = \$147,949,011</b>								
FUND		REVISED	REVENUES		REVISED	ENDING		
		BEGINNING BALANCE	& OTHER SOURCES		EXPENSES	BALANCE		
		2009-2010	2009-2010		2009-2010	2009-2010		
001	General Fund	\$10,595,079	\$54,826,280		\$60,903,974	\$4,517,385		
101	Street Fund	\$2,951,324	\$3,360,000		\$5,790,059	\$521,265		
111	Development Impact Fees	\$117,609	\$2,730,449		\$2,605,000	\$243,058		
201	G.O. Debt Service Fund	\$0	\$1,871,653		\$1,871,653	\$0		
301	CIP General Fund	\$951,362	\$10,000		\$699,000	\$262,362		
302	CIP Parks Fund	\$8,360,761	\$5,355,000		\$12,592,420	\$1,123,341		
340	CIP Transportation	\$28,826,877	\$11,800,000		\$40,004,333	\$622,544		
408	Surface Water Management-Operating Fund	\$701,696	\$5,504,000		\$6,193,809	\$11,887		
438	Surface Water Management-CIP Fund	\$3,104,626	\$3,135,000		\$6,226,900	\$12,726		
501	Equipment Replacement Fund	\$815,466	\$200,000		\$140,000	\$875,466		
502	Information Services Replacement Fund	\$442,981	\$1,046,000		\$1,428,700	\$60,281		
503	Risk Management Fund	\$816,847	\$426,000		\$542,000	\$700,847		
<b>2009-2010 TOTAL BIENNIAL BUDGET</b>		<b>\$57,684,629</b>	<b>+</b>	<b>\$90,264,382</b>	<b>=</b>	<b>\$138,997,848</b>	<b>+</b>	<b>\$8,951,163</b>

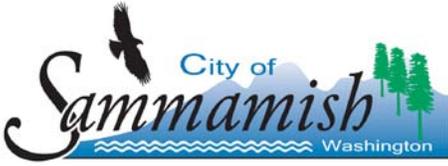
#### 2009 ANNUAL BUDGET FOR REFERENCE PURPOSES - REVISED FOR 2008 CARRYFORWARDS

		Original 2009	Carryforward	Revised 2009			FY 2009			Original 2009	Carryforward	Revised 2009			FY 2009
001	General Fund	\$9,922,779	\$672,300	\$10,595,079			\$27,035,640			\$31,451,231	\$672,300	\$32,123,531			\$5,507,188
101	Street Fund	\$2,857,824	\$93,500	\$2,951,324			\$1,730,000			\$2,638,367	\$93,500	\$2,731,867			\$1,949,457
111	Development Impact Fees	\$117,609	\$0	\$117,609			\$891,769			\$830,000	\$0	\$830,000			\$179,378
201	G.O. Debt Service Fund	\$0	\$0	\$0			\$937,260			\$937,260	\$0	\$937,260			\$0
301	CIP General Fund	\$327,362	\$624,000	\$951,362			\$5,000			\$75,000	\$624,000	\$699,000			\$257,362
302	CIP Parks Fund	\$5,734,461	\$2,626,300	\$8,360,761			\$2,030,000			\$6,047,060	\$2,626,300	\$8,673,360			\$1,717,401
340	CIP Transportation	\$26,590,877	\$2,236,000	\$28,826,877			\$7,900,000			\$34,103,000	\$2,236,000	\$36,339,000			\$387,877
408	Surface Water Management-Operating Fund	\$620,696	\$81,000	\$701,696			\$2,352,000			\$2,962,067	\$81,000	\$3,043,067			\$10,629
438	Surface Water Management-CIP Fund	\$2,755,226	\$349,400	\$3,104,626			\$1,405,000			\$4,124,000	\$349,400	\$4,473,400			\$36,226
501	Equipment Replacement Fund	\$815,466	\$0	\$815,466			\$100,000			\$70,000	\$0	\$70,000			\$845,466
502	Information Services Replacement Fund	\$267,981	\$175,000	\$442,981			\$523,000			\$700,950	\$175,000	\$875,950			\$90,031
503	Risk Management Fund	\$816,847	\$0	\$816,847			\$213,000			\$265,000	\$0	\$265,000			\$764,847
<b>TOTAL BUDGET</b>		<b>\$50,827,129</b>	<b>\$6,857,500</b>	<b>\$57,684,629</b>	<b>+</b>	<b>\$45,122,669</b>	<b>=</b>	<b>\$84,203,935</b>	<b>\$6,857,500</b>	<b>\$91,061,435</b>	<b>+</b>	<b>\$11,745,863</b>			

#### 2010 ANNUAL BUDGET FOR REFERENCE PURPOSES (NO CHANGE)

		BEGINNING BALANCE		REVENUES		EXPENSES		ENDING BALANCE	
		FY 2010		FY 2010		FY 2010		FY 2010	
001	General Fund	\$5,507,188		\$27,790,640		\$28,780,443		\$4,517,385	
101	Street Fund	\$1,949,457		\$1,630,000		\$3,058,192		\$521,265	
111	Development Impact Fees	\$179,378		\$1,838,680		\$1,775,000		\$243,058	
201	G.O. Debt Service Fund	\$0		\$934,393		\$934,393		\$0	
301	CIP General Fund	\$257,362		\$5,000		\$0		\$262,362	
302	CIP Parks Fund	\$1,717,401		\$3,325,000		\$3,919,060		\$1,123,341	
340	CIP Transportation	\$387,877		\$3,900,000		\$3,665,333		\$622,544	
408	Surface Water Management-Operating Fund	\$10,629		\$3,152,000		\$3,150,742		\$11,887	
438	Surface Water Management-CIP Fund	\$36,226		\$1,730,000		\$1,753,500		\$12,726	
501	Equipment Replacement Fund	\$845,466		\$100,000		\$70,000		\$875,466	
502	Information Services Replacement Fund	\$90,031		\$523,000		\$552,750		\$60,281	
503	Risk Management Fund	\$764,847		\$213,000		\$277,000		\$700,847	
<b>TOTAL BUDGET</b>		<b>\$11,745,863</b>		<b>+</b>	<b>\$45,141,713</b>	<b>=</b>	<b>\$47,936,413</b>	<b>\$8,951,163</b>	





## CITY COUNCIL AGENDA BILL

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**Subject: Cascade Agenda Cities Membership**

A proposed resolution to become a member city of the Cascade Agenda Cities Program.

**Meeting Date:** May 19, 2009

**Date Submitted:** May 13, 2009

**Originating Department:** Community Development

**Clearances:**

**Action Required:** Adopt resolution confirming membership in the Cascade Agenda.

**City Manager**                       **Police**

**Public Works**                               **Fire**

**Building/Planning**                       **Attorney**

**Exhibits:**

1. Draft Resolution
2. Cascade Agenda Cities Program brochure

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**Budgeted Amount:** N/A – Legislative Approval

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**Summary Statement:**

The proposed resolution will allow the City of Sammamish to become a member of the Cascade Agenda Cities Program.

**Background:**

The Cascade Agenda Cities Program helps local jurisdictions create complete, compact and connected communities to improve livability and be recognized as a regional leader in creating smart communities. Partnership with the Cascade Agenda provides for assessment of opportunities, education with city leaders and citizens on how to make smart choices about growth, policy development, and engaging local citizens in advocating for quality growth in their communities.

**Financial Impact:**

None

**Recommended Motion:**

Approve resolution



**CITY OF SAMMAMISH  
WASHINGTON**

**Resolution No. R2009-\_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SAMMAMISH,  
WASHINGTON, TO BECOME A MEMBER OF THE  
CASCADE AGENDA CITIES PROGRAM**

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WHEREAS, the population in the Puget Sound region is expected to double in the next 100 years on top of the already dramatic growth recently experienced, thereby significantly impacting the growth of cities and towns; and

WHEREAS, long-term ecosystem health, economic vitality and quality of life are of critical importance to citizens of the City; and

WHEREAS, in the face of such growth, the City can maintain and enhance the quality of life by guiding how and where this growth will occur; and

WHEREAS, *The Cascade Agenda* is a 100-year collective vision for the central Puget Sound region with the goals of conserving 1.3 million acres of working farms, forests, and natural areas and creating vibrant and livable communities, while sustaining a strong regional economy; and

WHEREAS, The Cascade Land Conservancy, recognizing the relationship between making our communities spectacular enough to attract growth and the conservation of this region's ecosystems and working lands, has launched the "Cascade Agenda Cities Program" to help local jurisdictions create complete, compact and connected communities; and

WHEREAS, the City's Comprehensive Plan states that Sammamish should participate in regional planning and coordination efforts, such as the Cascade Agenda Cities program.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY  
OF SAMMAMISH, WASHINGTON, DO RESOLVE AS FOLLOWS:**

Section 1. The City Council of the City of Sammamish, Washington, endorses the vision articulated in *The Cascade Agenda* as beneficial to the City and the region as a whole.

Section 2. The City Council finds it in the city's interest to join the Cascade Agenda Cities Program as a member city to further advance a positive and balanced vision for the Sammamish community.

Section 3. The City of Sammamish will continue to pursue policies and programs on community development, housing, transportation, parks, open space, and sustainability to make the City of Sammamish more complete, compact and connected. Such policies are consistent with the Cascade Agenda Cities Program.

Section 4. The City Manager will appoint appropriate staff to act as the City's primary link with respect to Cascade Agenda Cities related activities.

Section 5. Effective date. This resolution shall take effect immediately upon adoption.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING  
THEREOF ON THE \_\_\_\_ DAY OF MAY, 2009.**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Melonie Anderson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk: May 13, 2009  
Passed by the City Council:  
Resolution No.: R2009-\_\_\_\_\_

## CASCADE AGENDA CITIES PROGRAM

### GETTING INVOLVED

If your city is interested in becoming even more livable while conserving the region's great places, consider becoming a member of the Cascade Agenda Cities Program. The first step to become a member is to schedule an informational meeting with our staff. We are available to meet with city staff and begin the dialogue to help your city learn more about becoming a member of the Cascade Agenda Cities Program.

For additional information on how your city can join the program, including how to download our model resolution and to learn more about making your city more complete, compact and connected, please visit us online: [www.cascadeagenda.com/cities](http://www.cascadeagenda.com/cities)

Please contact Jeff Aken at [jeffa@cascadeland.org](mailto:jeffa@cascadeland.org) or 206.905.6928 for further details.



CASCADE LAND CONSERVANCY  
615 2nd Avenue, Suite 600  
Seattle, WA 98104

CONSERVING GREAT LANDS  
CREATING GREAT COMMUNITIES



## CASCADE AGENDA CITIES PROGRAM



The Puget Sound region has a spectacular natural environment with mountains, forests, streams and a strong legacy of working lands. It is a striking place to live with a strong job market, great neighborhoods and community assets, remarkable parks, libraries and museums.

The region is at a critical moment in its history. Population is expected to double in the next 100 years, adding enough people to populate six cities the size of Seattle. Globally, climate change threatens the natural environment, economy and standard of living. In response to these mounting pressures, Puget Sound residents must work together to protect their quality of life now and create a better future for those who come after them.

Careful planning of the region's cities will provide more choices for future generations. By building most new homes in walkable neighborhoods near transit, this new growth will not compromise natural areas, working farms and forests that make this region special. Locating homes near transportation, jobs and shopping will also make it easier to get around, helping to make the cities more affordable, attractive and safer places to live, work and raise families.

*The Cascade Agenda is a collective 100-year vision for conserving Washington's remarkable landscapes in the face of a growing population and a changing economic base.*



CASCADE AGENDA CITIES are Complete, Compact and Connected.



**COMPLETE**

Urban neighborhoods have a vibrant mix of people, public gathering spaces, civic and cultural anchors, and retail establishments.

**COMPACT**

New development is designed to make neighborhoods efficient, walkable and affordable.

**CONNECTED**

Residents can use transit, walk and bike safely to daily destinations. Communities have links between natural and urban areas, allowing residents access to waterfronts, parks and trails.

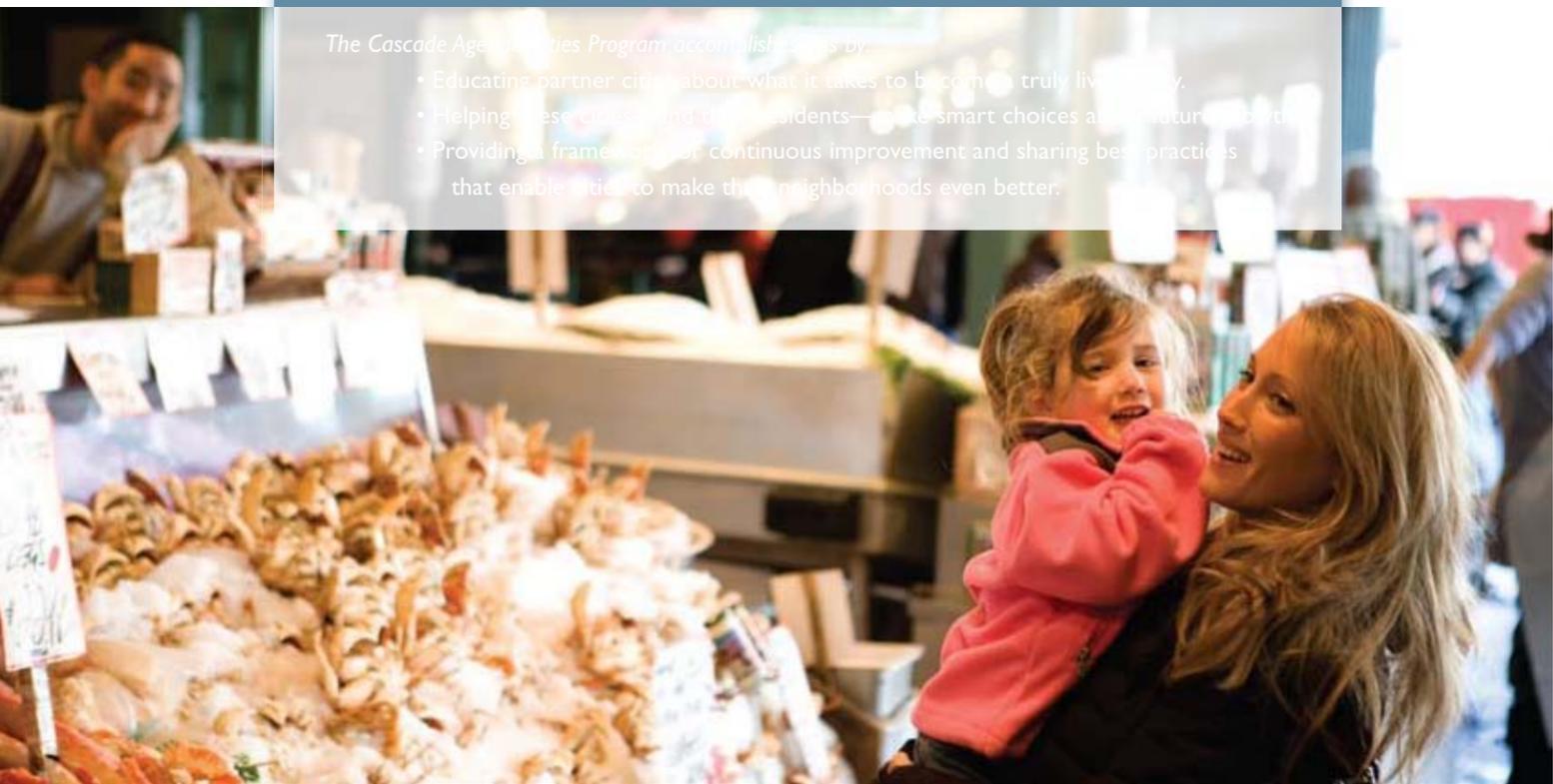


**ENLISTING THE REGION'S CITIES**

The Cascade Agenda Cities Program enlists the region's cities to improve the livability of neighborhoods—making them complete, compact and connected—and spectacular enough for people to choose to live there, saving the region's natural and working lands from poorly planned development.

*The Cascade Agenda Cities Program accomplishes this by:*

- Educating partner cities about what it takes to become a truly livable city.
- Helping these cities—and their residents—make smart choices about future growth.
- Providing a framework for continuous improvement and sharing best practices that enable cities to make their neighborhoods even better.



**BECOME A CASCADE AGENDA CITY**

**BENEFITS**

By becoming a member of the Cascade Agenda Cities Program, you are demonstrating initiative, taking action and gaining access to the following services:

- Recognition as a regional leader in creating smart communities
- Technical assistance on growth options
- Access to best practices through a region-wide learning network of peers
- Workshops with other innovative cities and regional experts
- Community outreach on how to create a better future for the region
- Membership in the Cascade Agenda Coalition—directed at influencing state level policy

**CITY RESPONSIBILITIES**

To facilitate a productive partnership the Cascade Agenda Cities program requests the following of participating cities:

**I. Member Cities**

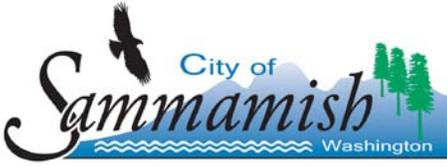
- Pass a resolution aligning city policies with the principles of the Cascade Agenda Cities program
- Designate a primary staff contact

**II. Leadership Cities**

- Apply to the Cascade Agenda Cities Leadership Program
- Pass a resolution aligning city policies with the principles of the Cascade Agenda Cities program
- Designate a staff contact and create an interdepartmental team
- Assist in an evaluation of city policies to advance compact growth
- Use policy review to identify opportunities and develop strategies for improvement
- Implement improvement strategies
- Participate in a learning network with cities across the region
- Agree to an annual membership fee



CAREFUL PLANNING OF THE REGION'S CITIES WILL PROVIDE MORE CHOICES FOR FUTURE GENERATIONS.



## CITY COUNCIL AGENDA BILL

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**Subject:**

Provide for contract agreement with David Evans and Associates, Inc. to perform consulting tasks associated with Town Center Infrastructure Plan.

**Meeting Date:** May 19, 2009

**Date Submitted:** May 13, 2009

**Originating Department:** Community Development

**Clearances:**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> <b>City Manager</b>      | <input type="checkbox"/> <b>Police</b>   |
| <input type="checkbox"/> <b>Public Works</b>                 | <input type="checkbox"/> <b>Fire</b>     |
| <input checked="" type="checkbox"/> <b>Building/Planning</b> | <input type="checkbox"/> <b>Attorney</b> |

**Action Required:**

Authorize the City Manager to sign the Contract Agreement

**Exhibits:**

1. Contract Agreement
2. Scope of Work

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**Budgeted Amount:** \$100,000 in Community Development Professional Services

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**Summary Statement:**

David Evans and Associates, Inc. has been selected to perform consulting services associated with the Town Center Infrastructure Plan. This is a planning element necessary in establishing Town Center Zoning and Development Regulations. The \$100,000 will be funded from the approved 2009 Community Development Professional Service Budget.

**Background:**

Sufficient budget authority was provided in the 2009/2010 budget for this contract amount.

**Recommended Motion:**

Authorize the City Manager to sign the contract agreement.



**CITY OF SAMMAMISH  
AGREEMENT FOR SERVICES**

Consultant: David Evans and Associates, Inc.

This Agreement is entered into by and between the City of Sammamish, Washington, a municipal corporation, hereinafter referred to as the "City," and David Evans and Associates, Inc., hereinafter referred to as the "Consultant."

WHEREAS, the City desires to have certain services performed for its citizens; and

WHEREAS, the City has selected the Consultant to perform such services pursuant to certain terms and conditions;

NOW, THEREFORE, in consideration of the mutual benefits and conditions set forth below, the parties hereto agree as follows:

1. **Scope of Services to be Performed by Consultant.** The Consultant shall perform those services described in Exhibit "A" of this agreement. In performing such services, the Consultant shall comply with all federal, state, and local laws and regulations applicable to the performance of such services. The Consultant shall perform services diligently and completely and in accordance with professional standards of conduct and performance.
2. **Compensation and Method of Payment.** The Consultant shall submit invoices for work performed using the form set forth in Exhibit "B".

The City shall pay Consultant:

[Check applicable method of payment]

According to the rates set forth in Exhibit " \_\_ "

A sum not to exceed \$100,000.00

Other (describe): \_\_\_\_\_  
\_\_\_\_\_

The Consultant shall complete and return to the City Exhibit "C," Taxpayer Identification Number, prior to or along with the first invoice submittal. The City shall pay the Consultant for services rendered within ten days after City Council approval.

3. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing upon execution and ending December 31, 2010, unless sooner terminated under the provisions of the Agreement. Time is of the essence of this Agreement in each and all of its provisions in which performance is required.
4. **Ownership and Use of Documents.** Any records, files, documents, drawings, specifications, data or information, regardless of form or format, and all other materials produced by the Consultant in connection with the services provided to the City, shall be the property of the City whether the project for which they were created is executed or not
5. **Independent Contractor.** The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. The Consultant will solely be responsible for its acts and for the acts of its agents, employees, subconsultants, or representatives during the performance of this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto.
6. **Indemnification.** The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the negligent acts, errors or omissions of the Consultant, in performance of this Agreement, except for injuries and damage caused by the sole negligence of the City.

## 7. Insurance.

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

### Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

### Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

### Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance shall not be cancelled by either party except after thirty (30) days prior written notice has been given to the City

### Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

## 8. Record Keeping and Reporting.

A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended

and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.

**B.** The foregoing records shall be maintained for a period of seven years after termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the City.

**9. Audits and Inspections.** The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by the City during the performance of this Agreement.

**10. Termination.**

**A.** This City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon seven days prior written notice. In the event of termination or suspension, all finished or unfinished documents, data, studies, worksheets, models, reports or other materials prepared by the Consultant pursuant to this Agreement shall promptly be submitted to the City

**B.** In the event this Agreement is terminated or suspended, the Consultant shall be entitled to payment for all services performed and reimbursable expenses incurred to the date of termination.

**C.** This Agreement may be cancelled immediately if the Consultant's insurance coverage is canceled for any reason, or if the Consultant is unable to perform the services called for by this Agreement.

**D.** The Consultant reserves the right to terminate this Agreement with not less than fourteen days written notice, or in the event that outstanding invoices are not paid within sixty days.

**E.** This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Agreement.

**11. Discrimination Prohibited.** The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement, on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

**12. Assignment and Subcontract.** The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

**13. Conflict of Interest.** The City insists on the highest level of professional ethics from its consultants. Consultant warrants that it has performed a due diligence conflicts check, and that there are no professional conflicts with the City. Consultant warrants that none of its officers, agents or employees is now working on a project for any entity engaged in litigation with the City. Consultant will not disclose any information obtained through the course of their work for the City to any third party, without written consent of the "City". It is the Consultant's duty and obligation to constantly update its due diligence with respect to conflicts, and not the City's obligation to inquire as to potential conflicts. This provision shall survive termination of this Agreement.

**14. Confidentiality.** All information regarding the City obtained by the Consultant in performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination.

**15. Non-appropriation of funds.** If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will so notify the Consultant and shall not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. This Agreement will terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the City in the event that the terms of the provision are effectuated.

**16. Entire Agreement.** This Agreement contains the entire agreement between the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either

of the parties. Either party may request changes to the Agreement. Changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

17. **Notices.** Notices to the City of Sammamish shall be sent to the following address:

City of Sammamish  
801 228<sup>th</sup> Avenue SE  
Sammamish, WA 98075  
Phone number: (425) 295-0500

Notices to the Consultant shall be sent to the following address:

Company Name David Evans and Associates, Inc.  
Contact Name Victor Saleman  
Street Address 415 – 118<sup>th</sup> Ave SE  
City, State Zip Bellevue, WA 98005-3518  
Phone Number 425-519-6500  
Email [vls@deainc.com](mailto:vls@deainc.com)

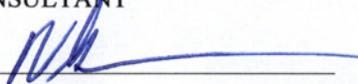
18. **Applicable Law; Venue; Attorneys' Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case and such fee, shall be included in the judgment.

19. **Severability.** Any provision or part of this 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 Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the stricken provision.

CITY OF SAMMAMISH, WASHINGTON

CONSULTANT

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

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

Title: City Manager

Title: Senior Associate

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

Date: 5/14/09

Attest/Authenticated:

Approved As To Form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

## **EXHIBIT A – SCOPE OF SERVICES**

**DAVID EVANS AND ASSOCIATES, INC.**

SPECIFIED SERVICES FOR:

### **CITY OF SAMMAMISH – TOWN CENTER INFRASTRUCTURE PLAN**

The following items describe the Scope of Services that DEA will perform for the City of Sammamish (City) under this Agreement.

#### **Task 1 - Project Management & Systems Integration**

Task 1 Scope:

DEA Team members will coordinate with related planning efforts, local authorities, and service providers. We will host a kick-off workshop to assure agreement of project goals and schedule. We will review pertinent existing data for consideration during the planning process. We propose that a highly-interactive workshop format be adopted for this project. Under this scenario, we will hold meetings with City staff, allied consultants, and other sources of input to quickly and interactively come to conclusions about the “armature” of the town center; the Green Spine and the primary roadway system; and to discuss the integration of leading edge sustainability concepts with the Town Center Plan, allowing for the incorporation of concepts into the plan prior to final zoning and establishment of development regulations. In addition, we will attend up to two (2) formal progress review meetings with the City and staff.

Task 1 Deliverables:

1. Kick-off Workshop
2. Existing Data Review
3. Project Goals, Opportunities, and Challenges Memo
4. 6 Coordination Meetings and Project Management
5. 4 Planning Commission/City Council meetings

#### **Task 2 - Roadways & Transportation**

Task 2 Scope:

The objective of this scope element is to refine the primary road network with respect to roadway alignment (horizontal and vertical considerations), vehicle mobility, pedestrian/bike mobility, and transit access. Roadway classifications and typical sections will be reviewed and evaluated for consistency with urban design and park objectives. Traffic operations analysis will be completed for SE 4<sup>th</sup> Street and arterial street connections to SE 4<sup>th</sup> Street to confirm lane and intersection requirements. Typical street sections will be refined to minimize impervious surfaces and right-of-way (ROW) requirements. DEA will prepare Complete Streets elements including location of enhanced pedestrian/bike elements which will be identified on the typical sections and plan views.

- Locate roadways (centerline) with reference to topography, land uses, connectivity, and other features.
- Identify runoff control measures by establishing appropriate street widths and capturing opportunities for pervious street/sidewalk elements and natural drainage practices.\*
- Provide design standards (typical sections) for Complete Streets.
- Identify ROW requirements for Complete Streets typical sections.

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\* Green text denotes sustainable work.

**Task 2 Deliverables:**

1. Roadway Plan (Incorporated into Concept Plan)
2. Roadway Design Matrix – Design Speed, Max Grades, Min Curve Radii, Design Vehicle for each Typical Roadway
3. Typical Sections (Incorporating “Complete Streets” Design Elements)
4. ROW Plan – Widths and Conceptual Alignments
5. Typical Intersection Layout Based on appropriate Vehicle
6. Submit one electronic copy of deliverables in AutoCAD 2009 or earlier version.

**Task 3 - Green Spine**

Building on the feasibility analysis of various integrated stormwater management techniques including low impact development (LID) approaches, DEA will develop conceptual drawings/graphics for pedestrian-oriented open spaces and parks in the Green Spine core area as well as non-motorized trail connections beyond. Depictions should include enough information to decipher between hardscape and planted areas in support of adjacent pedestrian, retail, office, and civic uses. DEA will incorporate feedback from reviews or alternatives and develop master plan level drawings and presentation materials of the preferred pedestrian-oriented open spaces and parks in the Green Spine core area.

**Task 3 Scope:**

- Develop the conceptual layout of the Green Spine, including connectors to Commons and other sectors of the Town center area.
- Identify non-motorized circulation routes as a priority in the plan.
- Identify transit, vehicular, and pedestrian connectivity to other Town Core sectors.
- Based on the Existing Conditions and Anticipated Stormwater Infrastructure Assessment, develop two (2) stormwater concepts for the Town Center with an emphasis on integrated design and Low Impact Stormwater Infrastructure. Coordinate concept development with the consultant preparing the Stormwater Master Plan.
- Review stormwater concepts with City staff for input.
- Recommend the stormwater concept that best integrates with the Town Center, best minimizes costs, and best aligns with the Stormwater Master Plan (prepared by others). Also, identify potential stormwater mitigation sites.

**Task 3 Deliverables:**

1. Graphic Site Analysis and Bubble Diagrams depicting proposed locations of various LID strategies
1. Colored Illustrative Town Center A-1 Area Plan
2. Open Space Diagram and Details
3. Proposed Development Imagery
4. Sections through Major Town Elements (Green Spine, SE 4th Street)

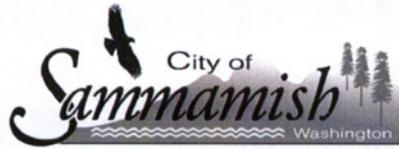
**Assumptions:**

The following identifies exclusions and assumptions to which DEA has relied in determining DEA's effort, fee, scope, and schedule for the project. DEA and the City agree to renegotiate these terms in the event an assumption or exclusion becomes invalid.

1. The City will provide digital 2' contours in ARCGIS format.
2. The City will provide a digital copy of the Town Center Master Plan report and graphics.
3. The City will coordinate all external meetings (public/commission/council).
4. The City will provide available drainage basin documentation.



EXHIBIT B



# REQUEST FOR CONSULTANT PAYMENT

To: City of Sammamish  
801 228<sup>th</sup> Avenue SE  
Sammamish, WA 98075  
Phone: (425) 295-0500  
FAX: (425) 295-0600

Invoice Number: \_\_\_\_\_ Date of Invoice: \_\_\_\_\_

Consultant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

Amount requested this invoice: \$ \_\_\_\_\_

Specific Program: \_\_\_\_\_

\_\_\_\_\_  
Authorized signature

**ATTACH ITEMIZED DESCRIPTION OF SERVICES PROVIDED**

**For Department Use Only**

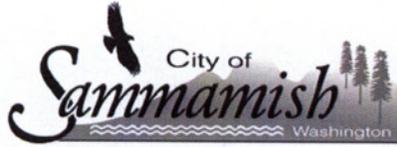
Total contract amount	
Previous payments	
Current request	
Balance remaining	

Authorization to Consultant: \$
Account Number:
Date:

Approved for Payment by: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Finance Dept.</b>	
Check # _____	Check Date: _____

EXHIBIT C



## TAX IDENTIFICATION NUMBER

In order for you to receive payment from the City of Sammamish, you must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Service Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires the City to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Sammamish prior to or along with the submittal of the first billing invoice.

Please check the appropriate category:

- Corporation                       Partnership                       Government Consultant
- Individual/Proprietor                       Other (explain)

TIN No.: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

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

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

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature (Required)





## CITY COUNCIL AGENDA BILL

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**Subject:**

East Lake Sammamish Parkway NE Phase 1B - NE  
18<sup>th</sup> Place to 2200 Block –Contract Document  
Revisions

**Meeting Date:** May 19, 2009

**Date Submitted:** May 15, 2009

**Originating Department:** Public Works

**Clearances:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> <b>City Manager</b> | <input type="checkbox"/> <b>Police</b>   |
| <input checked="" type="checkbox"/> <b>Public Works</b> | <input type="checkbox"/> <b>Fire</b>     |
| <input type="checkbox"/> <b>Building/Planning</b>       | <input type="checkbox"/> <b>Attorney</b> |

**Action Required:**

Authorize the City Manager to execute a Contract Agreement with Perteet Inc. to provide Professional Services for this project.

**Exhibits:**

1. Local Agency Standard Consultant Agreement and associated Exhibits

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**Budgeted Amount:** \$15,866,500 in the adopted 2009-2010 project budget (Transportation Capital Improvement Fund and and Surface Water Capital Fund)

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**Summary Statement:**

City-funded work is required prior to beginning the East Lake Sammamish Parkway NE (ELSP) Phase 1B construction phase. There are two elements of work that must be paid for using City funds. First there is some consultant work that is needed to get the contract documents ready for advertisement. Secondly, an abbreviated Value Engineering (VE) study is required as a condition of the Federal stimulus funds.

The Public Works Department recommends that the City Council authorize the City Manager to execute a contract agreement with Perteet to perform the necessary revisions to the Phase 1B construction documents.

## **Background:**

The City was successful in receiving \$3.5M in Federal stimulus funding for the ELSP project. This funding was granted through an intensely-competitive regional evaluation process. At the April 7 regular meeting, Council adopted Resolution, R2009-364, accepting these funds for use on the Phase 1B project.

Staff has previously indicated that no City funds would be used for the Phase 1B project. This statement was made thinking specifically about the construction phase. It remains correct that the construction work for Phase 1B is being structured such that it is funded entirely by Federal stimulus funding. However there is some work preceding the construction phase that must be paid using city funds. This required work consists of 1) revising the contract documents to get them ready for advertisement and 2) performing a value engineering (VE) study. The need to revise the contract documents is not new, however it is not consistent with the message you have been given. It was simply an oversight that staff didn't realize the conflict between the need to perform this work using City funds and the statement made to the Council and the public that no city funds would be used on Phase 1B. Staff has consulted the State to confirm that the federal funds cannot be used to finalize the contract documents or any other preparatory work associated with beginning construction.

The design for Phase 1B is essentially complete; however there are several minor revisions needed prior to advertising for bids. After shortening the project limits last December, the plans for the remainder portion of Phase 1 have remained untouched. Consequently these plans do not reflect the revisions and clarifications incorporated into the Phase 1A plans (including lessons learned as we construct Phase 1A). Furthermore, the plans need to be updated to reflect the revised project limits to avoid any City funds being spent on the construction of Phase 1B.– This creates not only a new beginning, but a new ending point for the construction limits. The original Phase 1 plans ended at the 2600 block. The Phase 1B project limits have been reduced to the 2200 block to shorten the project to a size that can be funded solely by the Federal stimulus funds. Other necessary revisions include adding the following:

- Stimulus Funding Requirements – Incorporate required items stipulated by the Federal stimulus funding.
- Drainage revisions – Revise the drainage plans to account for the reduced basin size. The reduced limits for Phase 1B allow us to reduce the size of the sand filter vault. The revised vault will not only be smaller but will also now allow standard dimensions to be used. Both of these changes are expected to yield significant construction savings.
- Retaining wall revisions – We are updating the retaining wall design in the Phase 1B plans to be consistent with the revised wall design being constructed in the Phase 1A project. Incorporating this revised design into the Phase 1B plans will result in better bids and also provides a wider work zone for the contractor.

In addition to the contract document revisions, City funds are necessary to fund a Value Engineering study for the Phase 1B project. This study is a requirement of the Federal

stimulus funds that was not known until recently. Since this is a new funding program, the rules and requirements were not completely defined until recently.

The Phase 1B improvements will continue the ELSP roadway widening approximately one-quarter mile further north to the 2200 block. Similar to the Phase 1A improvements, the roadway will be widened to three lanes with either a center turn lane or raised median, bike lanes, curb and gutter, and a sidewalk on the east side. Retaining walls, native landscaping and enhanced stormwater treatment facilities are integrated into the roadway improvements. No illumination is included in this phase.

Additional project background is included in the ELSP construction contract authorization agenda bill also that was included in the December 16, 2008 agenda packet (<http://www.ci.sammamish.wa.us/ViewImage.aspx?AttID=5409>)

**Financial Impact:**

The cost of this work is included in the adopted budget for this project and is an anticipated expense for this project. This work will occur in 2009. A total of \$15,866,500 is included in 2009 budget for the completion of this project. This work is considered design phase work and is therefore ineligible for Federal reimbursement as the Federal stimulus funds were granted only for construction phase work. The proposed design expenditures of \$98,361 is well within the appropriated budget. In addition to this expenditure we anticipate spending approximately \$10,000 to conduct the mandated VE study.

**Recommended Motion:**

Move to authorize the City Manager to execute a Contract Agreement with Perteet Inc. for an amount not to exceed \$98,361 for Professional Services for this project in association with the East Lake Sammamish Parkway NE Phase 1B - NE 18<sup>th</sup> Place to 2200 Block project.



<h2 style="margin: 0;">Local Agency Standard Consultant Agreement</h2>	Consultant/Address/Telephone  <b>Perteet, Inc.</b> <b>2707 Colby Avenue Suite 900</b> <b>Everett, WA 98201</b> <b>Tel. 425/252-7700 Fax. 425/339-6018</b>
<input checked="" type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement	
Agreement Number	Project Title And Work Description
Federal Aid Number	<b>East Lake Sammamish Parkway Phase 1B</b> <b>(Approximately NE 18<sup>th</sup> Place to</b> <b>Approximately 1000-Foot south of NE 28<sup>th</sup></b> <b>Place)</b>
Agreement Type (Choose one) <input type="checkbox"/> <b>Lump Sum</b> Lump Sum Amount \$ _____ <input type="checkbox"/> <b>Cost Plus Fixed Fee</b> Overhead Progress Payment Rate _____ % Overhead Cost Method <input type="checkbox"/> Actual Cost  <input type="checkbox"/> Actual Cost Not To Exceed _____ %  <input type="checkbox"/> Fixed Rate _____ % Fixed Fee \$ _____	DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %  Federal ID Number or Social Security Number <b>91-1505037</b>
<input checked="" type="checkbox"/> <b>Specific Rates Of Pay</b> <input checked="" type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate <input type="checkbox"/> <b>Cost Per Unit of Work</b>	Do you require a 1099 for IRS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Completion Date <b>September 30, 2009</b>
	Total Amount Authorized \$ <u><b>98,361</b></u>  Management Reserve Fund \$ <u>0</u>  Maximum Amount Payable \$ <u><b>98,361</b></u>

**Index of Exhibits (check all that apply):**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Exhibit A-1 – Scope of Work<br><input type="checkbox"/> Exhibit A-2 Task Order Agreement<br><input type="checkbox"/> Exhibit B-1 DBE Utilization Certification<br><input checked="" type="checkbox"/> Exhibit C Electronic Exchange of Data<br><input type="checkbox"/> Exhibit D-1 Payment – Lump Sum<br><input type="checkbox"/> Exhibit D-2 Payment – Cost Plus<br><input checked="" type="checkbox"/> Exhibit D-3 Payment – Hourly Rate<br><input type="checkbox"/> Exhibit D-4 Payment – Provisional<br><input checked="" type="checkbox"/> Exhibit E-1 Fee – Lump/Fixed/Unit<br><input checked="" type="checkbox"/> Exhibit E-2 Fee – Specific Rates<br><input checked="" type="checkbox"/> Exhibit F Overhead Cost<br><input checked="" type="checkbox"/> Exhibit G Subcontracted Work<br><input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <input checked="" type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates<br><input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost<br><input checked="" type="checkbox"/> Exhibit H Title VI Assurances<br><input checked="" type="checkbox"/> Exhibit I Payment Upon Termination of Agreement<br><input checked="" type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures<br><input checked="" type="checkbox"/> Exhibit K Consultant Claim Procedures<br><input checked="" type="checkbox"/> Exhibit L Liability Insurance Increase<br><input checked="" type="checkbox"/> Exhibit M -1a Consultant Certification<br><input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification<br><input checked="" type="checkbox"/> Exhibit M-2 Certification – Primary<br><input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification<br><input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification<br><input type="checkbox"/> App 31.910 Supplemental Signature Page |
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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, between the Local Agency of **City of Sammamish**, Washington, hereinafter called the “AGENCY”, and the above organization hereinafter called the “CONSULTANT”.

## Exhibit 1

### **WITNESSETH THAT:**

**WHEREAS**, the AGENCY desires to accomplish the above referenced project, and

**WHEREAS**, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistant of a CONSULTANT to provide the necessary services for the PROJECT; and

**WHEREAS**, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY.

**NOW THEREFORE**, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

### **I General Description of Work**

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

### **II Scope of Work**

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

### **III General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY and/or such Federal, State, Community, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meeting requiring CONSULTANT participation. The minimum required hours or days notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A".

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assigned contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C".

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

#### **IV Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY.

All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

#### **V Payment Provisions**

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, suppliers, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

#### **VI Sub-Contracting**

The AGENCY permits sub-contracts for those items of work shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown in Exhibit "G".

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner, as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

#### **VII Employment**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a

## Exhibit 1

third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of the contracts, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

### **VIII Nondiscrimination**

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964  
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973  
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973  
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975  
(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987  
(Public Law 100-259)

Americans with Disabilities Act of 1990  
(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

### **IX Termination of Agreement**

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "I" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

## Exhibit 1

In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth above.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT'S failure to perform is without the CONSULTANT'S or its employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, of disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. The subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

### **X Changes of Work**

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

### **XI Disputes**

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided, however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to de novo judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

### **XII Venue, Applicable Law, and Personal Jurisdiction**

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right to appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in the county in which the AGENCY is located.

### **XIII Legal Relations**

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) The AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

The CONSULTANT'S relation to the AGENCY shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

Unless otherwise specified in the AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the Stage Insurance Commissioner pursuant to Title 48 RCW.

#### **Insurance Coverage**

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to the AGENCY.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT'S professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

## Exhibit 1

The AGENCY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive, and the AGENCY and the STATE may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIV Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment”, hereafter referred to as “CLAIM”, under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XV Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XVI Federal and State Review**

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

### **XVII Certification of the Consultant and the Agency**

Attached hereto as Exhibit “M-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “M-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions, Exhibit “M-3” Certification Regarding the Restrictions and the Use of Federal Funds for Lobbying and Exhibit “m-4” Certificate of Current Cost or Pricing Data. Exhibit “M-3” is required only in AGREEMENTS over \$100,000 and Exhibit “M-4” is required only in AGREEMENTS over \$500,000.

### **XVIII Complete Agreement**

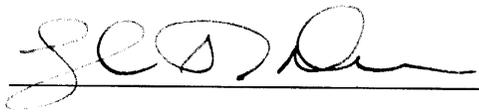
This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

### **XIX Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

Exhibit 1

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

By  By \_\_\_\_\_

Consultant PERTEET, INC. Agency CITY OF SAMMAMISH

## **EXHIBIT A-1 Scope of Services**

### **CITY OF SAMMAMISH EAST LAKE SAMMAMISH PARKWAY (Approximately NE 18<sup>th</sup> Place to approximately 1000-feet south of NE 28th Place)**

This supplement is to prepare construction contract documents for the City to take advantage of \$3.5 million that they were recently awarded as part of the American Recovery and Reinvestment Act (ARRA) of 2009. The construction contract documents will be a repackaging of elements of the East Lake Sammamish Parkway (ELSP) project that was deleted by Addendum in January 2009 out of the original construction package for ELSP. This repackaging will require redesign of the southern connection to Phase 1A, and a new design for the north end of the project to terminate it near Station 160+00 to tie into the existing conditions. It is assumed that no other significant changes to the contract documents will be made. Major submittals will consist of a “Proof” PS&E package that is close to ready for project advertisement, and will be used by WSDOT and the City for review of the repackaged set. The “Final” PS&E package will be the signed set of contract plans and specifications to be submitted to Builders Exchange for advertisement. It is assumed that all work under this scope will be completed by July 31, 2009, and that the construction services phase will cover any work that occurs after that date (this assumes that construction NTP is likely to be issued in August or September 2009). During the term of this Contract Perteeet Inc. (CONSULTANT) will perform professional services for the City of Sammamish (CITY), as detailed below:

#### **INTRODUCTION**

This phase of the project will prepare contract documents to construct a Phase 1B set of improvements to East Lake Sammamish Parkway NE (ELSP) between the end of Phase 1A (just north of NE 18<sup>th</sup> Place at about Station 148 and approximately 1000-feet south of NE 28th Place (approximate end Station 160).

#### **GENERAL SCOPE OF SERVICES**

This scope includes preparation of contract documents for the segment of ELSP cited above. Permits for this work were acquired as part of Phase 1A, and it is assumed that no additional permits will be necessary. At the option of the CITY, the CONSULTANT may be asked to provide final design and/or construction management services for other portions of the ELSP corridor.

Federal funds (ARRA) will be used in the planning, design, and/or construction of the project. Accordingly, the procedures outlined in the WSDOT Local Agency Guidelines (LAG manual) will be used during the development of the project.

The work includes the following tasks:

- Task 1 – Project Management

- *Task 2 – Deleted*
- *Task 3 – Deleted*
- Task 4 – Supplemental Surveying
- Task 5 – Hydraulic Analysis for Final Design
- Task 6 – Utility Coordination
- Task 7 – Plans, Specifications, and Estimates
- Task 8 – Management Reserve

## **OPTIONAL SERVICES**

Optional services that may be performed include:

- Additional public involvement
- Services during construction
- Assistance with right-of entries for construction.
- Construction Management and Observation

Provision of optional services will require a supplement to this agreement.

## **TIME FOR COMPLETION:**

All work under this supplement shall be completed within 6 months of notice to proceed, unless extended by mutual agreement. The majority of the work associated with preparation of plans, specifications, and estimate will be completed by early July, with a bid advertisement targeted for late July 2009 (assuming NTP is received by the end of the first week in May).

## **TASK 1.0 PROJECT MANAGEMENT**

- 1.1** Schedule and coordinate with CONSULTANT and subconsultant personnel and equipment.
- 1.2** Prepare, monitor, and update project schedule. Schedule will be developed using MS Project 2003. Monitor project budget. Schedule will be updated on a monthly basis. Base schedule is assumed to remain unchanged.
- 1.3** Prepare monthly billings, progress reports, and updated monthly project schedule.
- 1.4** Attend coordination/discussion meetings every other week with key City staff. Attendance will consist of up to three CONSULTANT team members, CONSULTANT project manager, and CITY project manager to review project status and coordinate activities for current work tasks. Meetings will be held at CONSULTANT offices. Prepare and distribute meeting minutes.
- 1.5** Maintain a web based (using SharePoint or equivalent) project management/coordination system that will allow all team members access to up-to-date project files.
- 1.6** Quality Assurance/Quality Control program

The CONSULTANT will conduct an internal quality assurance program prior to major submittals. Major submittals are defined as the Proof as well as Final Plans, Specifications and Estimate (PS&E) packages. This task will supplement the continuous quality assurance program by conducting a detailed review of each major submittal for compliance with project criteria and consistency with the project goals.

***Deliverables:***

- Meeting Minutes from monthly management coordination meetings, submitted via e-mail in MS Word format within three (3) working days of the meeting.
- MS Project Gantt Schedule submitted monthly in hard copy with project invoices via US Mail.
- Invoice and project reports submitted monthly in hard copy via US Mail.
- Meeting minutes from coordination/discussion meetings via e-mail in MS Word format.

**TASK 2.0 PROJECT AGENCY COORDINATION/PLANNING**

No work is anticipated for this task in Phase 1B.

**TASK 3.0 PUBLIC INVOLVEMENT PROGRAM**

No work is anticipated for this task in Phase 1B.

**TASK 4.0 SUPPLEMENTAL SURVEYING**

**4.1 Supplemental Survey for Miscellaneous Changed Conditions**

There have been a few revised sites along the corridor since the survey for the last phase was completed (primarily utility relocations). The CONSULTANT will spend up to 2 days in the field to pick up these changed conditions and incorporate them into the basemap prepared for the previous phase of the project. Phase 1A will not be completed yet, so the transition zone there will be identified in the basemaps based on the proposed work in Phase 1A. Supplemental survey will respond to mapping requests generated by the Project Engineer and could include, but is not limited to, new power pole or other utilities, both overhead or subsurface or changes in topographic features that have occurred since the date of the existing base mapping.

***Deliverables:***

- A continuous basemap file using AutoCAD with field survey data, orthophotography background, DTM surface, and support files suitable for external referencing into design files.

## **TASK 5.0 HYDRAULICS ANALYSIS FOR REPACKAGED FINAL DESIGN**

The results of this work will be summarized in a short Technical Memorandum identifying changes from the Technical Information Report (TIR) that was prepared for the original Phase 1 project. Sizing of facilities will be conducted for the Proof package PS&E submittal, and the Technical Memorandum submitted at that time.

### **5.1 Water Quality Treatment**

Refine the stormwater quality facility (sand filter vault) near Station 158+00 developed in the original Phase 1 project to serve the revised road improvements. The northern limit of the basin to be served by this sand filter vault will be adjusted to Station 168+25 (the crest vertical curve) and the southern limit will be adjusted to reflect the changes made in the Phase 1A project that is currently in construction developed in the preliminary design phase to serve the road improvements. Water quality treatment will meet the City of Sammamish's "sensitive lake water quality treatment area" standard.

#### ***Deliverables:***

- Revised stormwater quality calculations for the reconfigured sand filter vault with supporting Technical Memorandum . Two (2) copies submitted in hard copy form and delivered by US Mail. A copy will also be submitted in PDF format via e-mail.

## **TASK 6.0 UTILITY COORDINATION**

**6.1** The Consultant will coordinate with Puget Sound Energy (Natural Gas group) and NE Sammamish Water and Sewer utilities along the route. Items in this task shall include:

- Coordinate and attend up to (2) meetings with franchises (start of project and just prior to final construction advertisement) and prepare meeting minutes. These meetings will confirm with Puget Sound Energy their schedule and location for the Natural Gas line relocations, and with NE Sammamish Water and Sewer utilities their anticipated work. The meetings will be held at Perteet's offices in Everett.

Assumptions – It is assumed that the franchise utilities have completed their necessary relocations as part of the original Phase 1 work, with the exception of the NE Sammamish Water and Sewer District and Puget Sound Energy (Natural Gas group). It is also assumed that no further modifications to the plans will be necessary for the relocations of the franchise utility work, or field staking of proposed locations for those facilities.

#### ***Deliverables:***

- One (1) copy of the Utility coordination checklist for City review prior to each meeting with the franchise utilities, delivered by e-mail at least one day prior to each meeting.
- Meeting minutes in MS Word format within three (3) days of meeting.

## **TASK 7.0 PLANS, SPECIFICATIONS AND ESTIMATE**

Contract plans for a preferred design alternative will be prepared for this phase of the ELSP project based on the plans that were deleted from the original Phase 1 project by Addendum in January 2009. There will be no changes to the sheet numbers from the original Phase 1 project, nor will there be any other changes to the sheets other than to adjust the beginning and end points of the project. Sheet numbers will remain the same as in the original Phase 1 contract, with gaps for sheets included as either part of Phase 1A, or not incorporated into either contract. All sheets will get updated federal aid numbers. The adjustments at the beginning of this project will be to tie into the Phase 1a contract currently under construction, and at the end of the project to tie into the existing roadway. It is assumed that this phase of the contract plans will fit on three “base sheets”, utilizing 22” by 34” sheets at 1” = 20’ scale.

The final design phase (Proof and Final submittals) will consist of the following work elements:

### **7.1 Property Owner Meetings**

No work is anticipated for this task in Phase 1B.

### **7.2 Construction Schedule**

Develop a construction sequencing plan for the project to identify possible order of construction work, building upon what the Phase 1A Contractor submits in their schedule. Potential construction staging will be considered, and that staging used as a basis for development of staging plans for the Proof design submittal. Use the construction sequencing plan to develop a construction CPM schedule in Microsoft Project to serve as a basis for determining number of contract working days.

#### ***Deliverables:***

- Three (3) hard copies of Construction CPM schedule developed in Microsoft Project, and one electronic copy delivered by e-mail.
- Three (3) hard copies of any conceptual staging plans developed.

### **7.3 Proof set of Plans, Specifications and Estimate**

Prepare Proof set of plans, specifications and opinion of cost for the construction contract, based upon those plans that were deleted from the original Phase 1 project by Addendum in January, 2009. Plans will include details for the roadway widening, sidewalk, planter strip, retaining walls, storm drainage, water quality facilities, channelization, and signing. Specifications will include an appendix with WSDOT “K Plans” as a basis for traffic control not covered in the Construction Staging Plans. Submit the plans, specifications and opinion of cost to the City and WSDOT Local Programs for review and comment. It is intended that the Proof contract documents are a nearly “ad-ready” set of documents. Participate in the Proof plan review meeting at the Consultant offices. Proof plans will consist of the following sheets:

- Cover Sheet w/Vicinity Map and Index (1 sheet)

## Exhibit 1

- Legend and Abbreviation Sheet (1 sheet)
- Survey Control and Alignment Plan (1 sheet)
- Miscellaneous Details (2 sheets)
- Typical Roadway Sections (3 sheets)
- Site Preparation and Temporary Erosion/Sediment Control Plans (3 sheets)
- Site Preparation and T.E.S.C. Details (1 sheet)
- Plan and Profile Sheets (3 sheets)
- Plan and Profile Drainage Sheets (3 sheets)
- Utility Plans (5 sheets)
- Sand Filter Vault Plan and Grading (4 sheets)
- Drainage Details (5 sheets)
- Culvert Crossings and Details (2 sheets)
- Driveway Profiles (6 Sheets)
- Channelization and Signing Plans – (3 sheets)
- Construction Staging Plans (3 x 3 stages = 9 sheets)
- Construction Staging Details (2 sheets)
- Wall Profiles (7 sheets)
- Wall Sections and Details (2 sheets)
- Bridge Plans and Details (18 sheets)
  - Bridge Layout
  - Bridge Staging and Typical Section
  - Foundation Layout and Details
  - Pier Plan Elevation, and Sections
  - Pier and Miscellaneous Details
  - Wingwall and Curtain Wall Details
  - Girder Details (2 sheets)
  - End and Intermediate Diaphragm Details
  - Deck Reinforcement Details
  - Traffic Barrier and Bridge Railing Details (3 sheets)
  - Approach Slab Details
  - Expansion Joint and Miscellaneous Details
  - Utility Blockout Details
  - Utility Hanger Details
  - Barlist
- Landscaping Plans (3 sheets)
- Planting Schedule and Details (3 sheets)
- Irrigation Plans (3 Sheets)
- Irrigation Schedule and Details (3 Sheets)

The CONSULTANT will prepare the Contract Specifications based on the Phase 1B project. The Consultant will assemble the appropriate amendments to the WSDOT/APWA standard specifications, applicable WSDOT General Special Provisions, and write the necessary Special provisions for the contract specifications.

Because federal dollars will be included in the construction budget, the Proof set of contract documents will be sent to WSDOT Local Programs for their review and approval for construction advertisement.

#### **7.4 Final Plans, Specifications and Estimate**

Resolve what are anticipated to be minor changes to the Proof set submittal, and then submit final plans, specifications, and engineer's estimate for the construction contract. Minor adjustments to the final plan set will be made if required prior to printing of the PS&E package and advertisement for bids. The CONSULTANT will print an original of the contract documents and send to Builders Exchange for project advertisement. The CONSULTANT will have copies of the contract documents made for distribution to the City, WSDOT Local Programs, and the CONSULTANT.

#### **7.5 Assistance During Construction Advertisement**

Assist the CITY during the bidding period responding to minor Contractor inquiries related to design. The CITY will be the initial contact point for questions from Contractors during the bidding stage. The CITY will maintain a log of all questions received from Contractors.

It is assumed that only one minor addenda may be necessary during the bid period. If a minor addenda is necessary, it will not include any changes to the contract plans.

#### ***Deliverables:***

- Ten (10) copies of the Proof contract documents (plans at half-size, 11" x 17") for CITY and WSDOT Local Programs review and comment submitted in hard copy form and delivered by US Mail.
- Twenty (20) copies of the final contract documents (plans at half-size, 11" x 17") in hard copy form, delivered by US Mail. Five copies shall be for the CITY, three copies for WSDOT Local Programs, and the remainder for the CONSULTANT.
- Proof set and Final Opinion of Cost electronic files (including all linked files) submitted by e-mail in Excel format.
- Electronic AutoCAD 2009 copies of the final contract plans, delivered on CD-ROM by US Mail.
- One (1) Camera ready copy of the final contract plans (plans at half-size, 11" x 17") in hard copy form and PDF electronic form on CD-ROM, delivered by US Mail.

### **TASK 8.0 MANAGEMENT RESERVE**

No work is anticipated for this task in Phase 1B..

**ITEMS TO BE PREPARED AND/OR FURNISHED BY THE CONSULTANT:**

1. See deliverables under each task.

**ITEMS TO BE FURNISHED BY THE CITY:**

1. Copy of consolidated comments received from review of each contract documents submittal.
2. The CITY will be responsible for the printing, postage, and mailing of information to the community.
3. The CITY shall be responsible for the internal distribution of contract documents.

**DESIGN CRITERIA:**

The CITY will designate the basis premises and criteria for the design. Reports and plans, to the extent feasible, shall be developed in accordance with the latest edition and amendments of the following:

1. AASHTO 2001, "A Policy of Geometric Design of Highways and Streets".
2. WSDOT, "2008 Standard Specifications for Road and Bridge Construction".
3. WSDOT, "Design Manual".
4. WSDOT, "Materials Laboratory Outline".
5. WSDOT, "Construction Manual".
6. WSDOT, "Local Agency Guidelines".
7. Highway Research Board's Manual entitled "Highway Capacity".
8. FHWA and WSDOT, "Manual on Uniform Traffic Control Devices for Streets and Highways".
9. Standard drawings prepared by City of Sammamish and furnished to the Consultant shall be used as a guide in all cases where they fit design conditions.
10. AASHTO "Guide for the Development of Bicycle Facilities".
11. WSDOT Highway Runoff Manual (2006).
12. WSDOT Hydraulics Manual.
13. 2005 King County Surface Water Design Manual.
14. 2005 Department of Ecology Stormwater Management Manual for Western Washington.
15. City of Sammamish Municipal Code.
16. City of Sammamish Interim Public Works Standards.

**Exhibit C**  
**Electronic Exchange of Engineering and Other Data**

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

- I. Surveying, Roadway Design & Plans Preparation Section
  - A. Survey Data
  - B. Roadway Design Files
  - C. Computer Aided Drafting Files
  - D. Specify the Agency's Right to Review Product with the Consultant
  - E. Specify the Electronic Deliverables to be Provided to the Agency
  - F. Specify What Agency Furnished Services and Information Is to Be Provided
- II. Any Other Electronic Files to Be Provided
- III. Methods to Electronically Exchange Data
  - A. Agency Software Suite
  - B. Electronic Messaging System
  - C. File Transfers Format

### **Exhibit D-3 Payment (Negotiated Hourly Rate)**

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR 3 1.

1. **Hourly Rates:** The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "E" and "F" attached hereto and by this reference made part of this AGREEMENT. The rates listed shall be applicable for the first 12-month period and shall be subject to negotiation for the following 12-month period upon request of the CONSULTANT or the AGENCY. If negotiations are not conducted for the second or subsequent 12-month periods within ninety (90) days after completion of the previous period, the rates listed in this AGREEMENT or subsequent written authorization(s) from the AGENCY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.
  
2. **Direct Non-Salary Costs:** Direct Non-Salary costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to the following items: travel, printing, long distance telephone, supplies, computer charges, and sub-consultant costs.
  - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Par 31.205-46 "travel Costs."
  - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
  - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
  - d. All above charges must be necessary for the services provided under this AGREEMENT.
  
3. **Management Reserve Fund:** The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."

4. **Maximum Amount Payable:** The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
5. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly billing shall be supported by detailed statements for hours expended at the rates established in Exhibits "E", including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT'S employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the project at the time of the interview.
6. **Final Payment:** Final payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit; all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

7. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE, and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim, or audit arising out of , in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit 1

Exhibit E-1

**Pertect, Inc.**  
**Consultant Fee Determination - Summary Sheet**

**Project: East Lake Sammamish Parkway - Phase 1B PS&E**  
**Client: City of Sammamish**

HOURLY COST					
<u>Classification</u>	<u>Hours</u>		<u>Rate</u>	=	<u>Cost</u>
Principal	0	x	\$261.61	=	\$0
Senior Associate	0	x	\$216.75	=	\$0
Associate - P.M.	131	x	\$176.40	=	\$23,108
Senior Engineer/Manager	10	x	\$173.10	=	\$1,731
Lead Engineer/Manager	46	x	\$129.09	=	\$5,938
Engineer III	5	x	\$123.62	=	\$618
Engineer II	126	x	\$102.84	=	\$12,958
Engineer I	60	x	\$80.15	=	\$4,809
Lead Technician	132	x	\$102.84	=	\$13,575
Survey Manager	6	x	\$138.14	=	\$829
Proj. Surveyor II	6	x	\$99.82	=	\$599
Proj. Surveyor I	20	x	\$93.77	=	\$1,875
Survey Crew (2 Person)	20	x	\$165.00	=	\$3,300
Clerical	41	x	\$75.62	=	\$3,100
				TOTAL HOURLY COST	= \$72,440
				Salary Escalation*	= \$0

**REIMBURSABLES:**

Outside Reimbursables	\$ 3,250.00
Internal Rate Pay Items	\$ 1,950.00
TOTAL REIMBURSABLE COST = \$5,200	

**SUB-CONSULTANTS:**

AECOM (includes no Mark-Up)	\$15,134
Hough Beck & Baird (includes no Mark-Up)	\$5,587
TOTAL SUBCONSULTANTS COST = \$20,721	

**SUBTOTAL:** = **\$98,361**  
 Management Reserve = \$0

**GRAND TOTAL:** = **\$98,361**

Prepared By : Peter De Boldt; modified by Jeff Brauns

Date: May 15, 2009

Exhibit E-2  
 Consultant Fee Determination Summary Sheet  
 (Specific Rates of Pay)  
 Fee Schedule

<b>Discipline or Job Title</b>	<b>Hourly Rate</b>	<b>Overhead @ 172.47%</b>	<b>Profit @ 30%</b>	<b>Rate Per Hour</b>
Principal	86.49	149.17	25.95	261.61
Senior Associate	71.66	123.59	21.50	216.75
Associate - P.M.	58.32	100.58	17.50	176.40
Senior Engineer/Manager	57.23	98.70	17.17	173.10
Lead Engineer/Manager	42.68	73.61	12.80	129.09
Engineer III	40.87	70.49	12.26	123.62
Engineer II	34.00	58.64	10.20	102.84
Engineer I	26.50	45.70	7.95	80.15
Lead Technician	34.00	58.64	10.20	102.84
Technician III	32.00	55.19	9.60	96.79
Technician II	22.50	38.81	6.75	68.06
Sr. Construction Observer	42.00	72.44	12.60	127.04
Construction Observer	29.00	50.02	8.70	87.72
Sr. Planner/Manager	53.00	91.41	15.90	160.31
Lead Planner/Manager	41.02	70.75	12.31	124.07
Planner II	31.20	53.81	9.36	94.37
Planner I	24.04	41.46	7.21	72.71
Ecologist III	40.00	68.99	12.00	120.99
Principal Surveyor	61.78	106.55	18.53	186.87
Survey Manager	45.67	78.77	13.70	138.14
Sr. Professional Land Surveyor	42.50	73.30	12.75	128.55
Professional Land Surveyor	36.58	63.09	10.97	110.64
Proj. Surveyor II	33.00	56.92	9.90	99.82
Proj. Surveyor I	31.00	53.47	9.30	93.77
Survey Technician III	26.00	44.84	7.80	78.64
Survey Crew (2 Person)	54.55	94.08	16.37	165.00
Accountant	20.00	34.49	6.00	60.49
Clerical	25.00	43.12	7.50	75.62
Mktg Prop Manager	32.97	56.86	9.89	99.72

Exhibit F  
Overhead Costs



**Washington State  
Department of Transportation**  
**Paula J. Hammond, P.E.**  
Secretary of Transportation

**Transportation Building**  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300  
  
360-705-7000  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

March 11, 2008

Mr. Dwight Malott  
Perteet, Inc.  
2707 Colby Ave, Ste 900  
Everett, WA 98201-3565

Re: Perteet, Inc. Overhead Schedule  
FYE December 31, 2007  
**Corrected Letter**

Dear Dwight:

On March 11, 2008 as a WSDOT representative, Nicole Mitchell reviewed your proposed 2007 Overhead Schedule. Nicole also completed an analytical review of the schedule by comparing it to data that WSDOT had collected in our permanent files. Perteet provided a copy of the In-House compiled overhead and 2007 Income Statement and General Ledger details.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of Perteet's accounting system, basis of indirect costs, in addition to a review of the firm's internal control structure.

Based on our review, we are issuing this letter of concurrence establishing Perteet's overhead rate for 2007, at 172.47% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of Perteet have any questions, please contact Martha Roach at (360)705-7006.

Sincerely,

Martha S. Roach  
External Audit Manager

MR:ds  
Enclosures

cc: Steve McKerney  
Mike Kane, MS 47323  
Rick Griffith, MS 47323

**RECEIVED**  
**MAR 21 2008**  
Perteet, Inc.

**Perteet, Inc.**  
**Overhead Schedule**  
**Fiscal Year December 31, 2007**

Description	F/S Amount	Perteet Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
<b>Direct Labor Base</b>	\$4,782,503		(\$38,241)	R	\$4,744,262	99%
<b>Fringe Benefits</b>						
Payroll Taxes	\$739,937				\$739,937	15.60%
Insurance - Medical/Dental	\$493,285				493,285	10.40%
Vacation/Holiday/Sick Leave	\$912,390				912,390	19.23%
401k Employer Contribution	\$267,794				267,794	5.64%
Bonuses	\$957,174				957,174	20.18%
<b>Total Fringe Benefits</b>	<u>\$3,370,580</u>	<u>\$0</u>	<u>\$0</u>		<u>\$3,370,580</u>	<u>71.05%</u>
<b>General Overhead</b>						
G&A Wages	\$2,461,800		(\$8,014)	R	\$2,453,786	51.72%
Auto Expense	\$125,606	(\$10,484)		M	115,122	2.43%
Bank & Service Fees	\$18,181				18,181	0.38%
Communications	\$146,030				146,030	3.08%
Computer Expenses	\$149,390				149,390	3.15%
Conferences & Meetings	\$31,212				31,212	0.66%
Copier Expense	\$66,724				66,724	1.41%
Depreciation - Tax Basis	\$409,454				409,454	8.63%
Dues & Memberships	\$36,008	(\$5,009)		A	30,999	0.65%
Entertainment	\$18,164	(\$18,164)		F,P	0	0.00%
Insurance	\$109,823	(\$677)		E	109,146	2.30%
Licenses & Fees	\$4,428				4,428	0.09%
Meals	\$36,005	(\$31,291)		G	4,714	0.10%
Miscellaneous	\$1,535		(\$425)	Q,L	1,110	0.02%
Outside Services	\$96,553	(\$5,000)		O	91,553	1.93%
Postage & Delivery Services	\$13,775	(\$485)		N	13,290	0.28%
Professional Services	\$46,982	(\$500)		D	46,482	0.98%
Recruiting	\$78,675				78,675	1.66%
Rent	\$718,518				718,518	15.14%
Repairs & Maintenance	\$10,158				10,158	0.21%
Reproduction	\$25,524	(\$3,315)		N	22,209	0.47%
Seminars & Training	\$52,119				52,119	1.10%
				F,G,H,L,P,		
Staff Functions	\$44,168	(\$32,319)	(\$7,521)	S,T	4,328	0.09%
Subscriptions & Publications	\$630				630	0.01%
Supplies	\$137,174				137,174	2.89%
Travel & Lodging	\$57,447	(\$1,359)		C	56,088	1.18%
Advertising	\$10,355	(\$10,355)		H	0	0.00%
Bad Debt Expense	\$246	(\$246)		I	0	0.00%
Claims	\$98,189	(\$98,189)		B	0	0.00%
Contributions	\$40,207	(\$40,207)		J	0	0.00%
Gifts	\$220	(\$220)		L	0	0.00%

**Perteet, Inc.**  
**Overhead Schedule**  
**Fiscal Year December 31, 2007**

Description	F/S Amount	Perteet Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Interest	\$31,044	(\$31,044)		K	0	0.00%
Sponsorships	\$9,085	(\$9,085)		H,F	0	0.00%
Taxes - Business & Property	\$328,322				328,322	6.92%
Tax basis of assets deleted from Dep. Sch.	\$10,038				10,038	0.21%
Less: Offsets for Direct Costs	(\$297,843)				(297,843)	-6.28%
<b>Total General Overhead</b>	<b>\$5,125,946</b>	<b>(\$297,949)</b>	<b>(\$15,959)</b>		<b>\$4,812,038</b>	<b>101.41%</b>
<b>Total Overhead Expenses</b>	<b>\$8,496,526</b>	<b>(\$297,949)</b>	<b>(\$15,959)</b>		<b>\$8,182,618</b>	<b>172.47%</b>
<b>Overhead Rate</b>		<b><u>177.66%</u></b>			<b><u>172.47%</u></b>	

*Perteet, Inc.- Reviewed and Accepted on 3/11/08 NM  
Overhead Prepared In-House by Dwight Malott, CPA*

**References:****Adjustments by Perteet:**

- A Lobbying costs unallowable per 48 CFR 31.205-22.
- B Direct project costs unallowable in overhead per 48 CFR 31.202(a).
- C Lodging costs in excess of rates allowed by the Federal Travel Regulations unallowable per 48 CFR 31.205-46(a)(2)(i) and WSDOT Accounting Manual, M13-82, Chapter 10 Travel.
- D Accounting fees over \$250 related to federal tax return unallowable per 48 CFR 31.205-41(b)(2), 48 CFR 31.201-6(d), and WSDOT Overhead Policy.
- E Key Man Life insurance unallowable per 48 CFR 31.205-19 (e)(2)(v).
- F Entertainment costs unallowable per 48 CFR 31.205-14 and 48CFR 31.205-13(c).
- G Local meals while not in travel status unallowable per 48 CFR 31.205-46(a)(2)(i), WSDOT Accounting Manual, M13-82, Chapter 10 Travel, and 48 CFR 31.205-14.
- H Advertising and promotion unallowable per 48 CFR 31.205-1(f).
- I Bad Debts unallowable per 48 CFR 31.205-3.
- J Contributions unallowable per 48 CFR 31.205-8.
- K Interest expense unallowable per 48 CFR 31.205-20.
- L Gifts unallowable per 48 CFR 31.205-13(b).
- M Personal use of company vehicle unallowable per 48 CFR 31.205-6(m)(2).
- N Postage to mail valentines, valentines unallowable per 48 CFR 31.205-14.
- O Marketing survey unallowable per 48 CFR 31.205-1 & 31.201-4.
- P Holiday Party expenses over \$25 per employee unallowable per 48 CFR 31.205-14 and WSDOT Policy.

**Adjustments by WSDOT Audit:**

- R Overtime Premium unallowable per 48 CFR 22.103-1, 22.103-4(g) & WSDOT Policy.
- S Gifts unallowable per 48 CFR 31.205-13(b).
- T Entertainment costs unallowable per 48 CFR 31.205-14.



**Exhibit G1**

**AECOM**  
**Consultant Fee Determination - Summary Sheet**

**Project: East Lake Sammamish Parkway - Phase 1B PS&E**

**Client: City of Sammamish**

HOURLY COST						
<u>Classification</u>	<u>Hours</u>		<u>Rate</u>	=	<u>Cost</u>	
Project Manager III	4	x	\$228.56	=	\$914	
Project Manager II	42	x	\$188.22	=	\$7,905	
Engineer II	16	x	\$121.00	=	\$1,936	
CADD Drafter II	24	x	\$107.56	=	\$2,581	
Senior Specification Writer	4	x	\$107.56	=	\$430	
Project Support Administrator	9	x	\$107.56	=	\$968	
				TOTAL HOURLY COST	=	\$14,734
				Salary Escalation*	=	\$0

REIMBURSABLES:

Outside Reimbursables	\$	-	
Internal Rate Pay Items		\$400.00	
TOTAL REIMBURSABLE COST =			\$400
TOTAL SUBCONSULTANTS COST =			\$15,134
<b>Prime Markup</b>			<b>= \$0</b>
<b>GRAND TOTAL:</b>			<b>= \$15,134</b>

**Exhibit G-2**  
**AECOM**  
**Subconsultant Fee Determination - Summary Sheet**  
**(Specific Rates of Pay)**  
**Fee Schedule**

<b>Discipline or Job Title</b>	<b>Hourly Rate</b>	<b>Overhead @ 138.89%</b>	<b>Profit @ 30%</b>	<b>Rate Per Hour</b>
Officer in Charge	100.00	138.89	30.00	268.89
Project Manager III	85.00	118.06	25.50	228.56
Project Manager II	70.00	97.22	21.00	188.22
Project Engineer III	75.00	104.17	22.50	201.67
Project Engineer II	55.00	76.39	16.50	147.89
Project Engineer I	50.00	69.45	15.00	134.45
Engineer IV	55.00	76.39	16.50	147.89
Engineer II	45.00	62.50	13.50	121.00
Engineer I	40.00	55.56	12.00	107.56
CADD Drafter I	30.00	41.67	9.00	80.67
CADD Drafter II	40.00	55.56	12.00	107.56
CADD Drafter III	50.00	69.45	15.00	134.45
Senior Specification Writer	40.00	55.56	12.00	107.56
Administrative Assistant	35.00	48.61	10.50	94.11
Project Support Administrator	40.00	55.56	12.00	107.56

G-3

Breakdown of Subconsultants Overhead Cost – AECOM



Washington State  
Department of Transportation  
Paula J. Hammond, P.E.  
Secretary of Transportation  
April 7, 2008

DOCUMENT CONTROL RECEIVED	
APR 09 2008	
Project No. _____	
File No. _____	
Control No. _____	

Transportation Building  
319 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300  
360-705-7000  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

Mr. Dennis Cearns  
DMJM + Harris Inc.  
10900 NE 8<sup>th</sup> Street, Suite 750  
Bellevue, WA. 98004-4405

Re: DMJM + Harris Inc. Overhead Schedule  
FYE September 28, 2007

Dear Mr. Cearns:

On April 7, 2008 as a WSDOT representative, Nicole Mitchell reviewed Morgenstern Svoboda & Baer, CPA's, P.C. audit report which included a copy of the audited 2007 overhead schedule. Nicole also completed an analytical review of the schedule by comparing it to data that WSDOT had collected in our permanent files.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of DMJM's accounting system, basis of indirect costs, in addition to a review of the firm's internal control structure.

Based on our review, we are issuing this letter of concurrence establishing DMJM's overhead rates for the year ended September 28, 2007. The Company Wide Rate (Composite Rate) is 129.75% of direct labor. Included within this rate are the Home Rate of 138.89% direct labor and the Field Rate of 108.33% direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of DMJM + Harris Inc. have any questions, please contact Martha Roach at (360)705-7006.

Sincerely,

Martha S. Roach  
External Audit Manager

MR:ds  
Enclosures

cc: Steve McKerney  
Rick Griffith, MS 47323

Mike Kane, MS 47323  
Meg Blau, MS NB82-112

DMJM HARRIS, INC.  
 SCHEDULE OF BURDEN, FRINGE AND OVERHEAD COSTS  
 FY2007  
 FISCAL YEAR ENDED 9/28/2007  
 GOVERNMENT OVERHEAD RATES (EXCLUDING UNALLOWABLES)

	HOME	FIELD
DIRECT LABOR	90,074,263	38,389,555
<u>PAYROLL BURDEN AND FRINGE</u>		
COMPENSATED ABSENCES	14,316,936	6,101,863
PAYROLL TAXES	9,666,418	4,119,817
WORKERS COMPENSATION	401,102	170,949
INSURANCE AND OTHER	8,789,642	3,746,136
PERFORMANCE AWARDS [1]	3,004,626	1,280,526
PENSION EXPENSE	3,058,490	1,303,525
STOCK MATCH	2,180,838	929,471
OTHER EMPLOYEE BENEFITS	688,630	293,493
INSURANCE		
TOTAL	<u>42,106,553</u>	<u>17,945,781</u>
INDIRECT/OVERHEAD LABOR [1]	25,026,928	10,920,732
<u>INDIRECT/OVERHEAD NON LABOR</u>		
OFFICE RENT AND OCCUPANCY COSTS	17,080,094	2,514,706
EQUIPMENT RENTS & LEASES	4,373,209	733,891
INSURANCE	5,520,404	2,336,806
AUDIT AND PROFESSIONAL SERVICES	4,925,516	1,033,292
AECOM/ASG ALLOCATIONS [1]	7,613,731	3,244,964
TAX - STATE + LOCAL INCOME TAXEX	374,928	159,794
PROP., PLANT, & EQUIP-DEPRECIATION	1,616,369	323,591
OFFICE SUPPLIES / REPRODUCTION	2,840,486	603,462
COMMUNICATIONS	1,766,029	391,396
TRAVEL	6,439,544	1,560,363
EMPLOYEE RELOCATION	195,908	39,017
OTHER TAXES	1,099,543	172,744
DUES/LICENSES/PUBLICATIONS	523,509	135,142
EMPLOYMENT SERVICES	404,457	91,617
REPAIRS & MAINTENANCE	1,743,593	584,202
OTHER BENEFITS	3,105,236	676,016
RECOVERIES AND MISCELLANEOUS	(1,255,449)	(1,883,210)
TOTAL	<u>57,367,111</u>	<u>12,719,791</u>
TOTAL INDIRECT/OVERHEAD COSTS	<u>125,100,621</u>	<u>41,586,303</u>
INDIRECT/OVERHEAD COST RATE	<u>138.89%</u>	<u>108.33%</u>

[1] EXCLUDES COMPENSATION > 597,912

Composite Rate

Home - Total Overhead Costs \$125,100,621.00  
 Field - Total Overhead Costs + \$41,586,303.00

\$166,686,924.00

/

Direct Labor - \$128,463,818.00  
 Composite Rate - 129.75%

**Exhibit G1  
Hough, Beck & Baird, Inc.**

**HBB  
Consultant Fee Determination - Summary Sheet**

**Project: East Lake Sammamish Parkway - Phase 1B PS&E  
Client: City of Sammamish**

**HOURLY COST**

<u>Classification</u>	<u>Hours</u>		<u>Rate</u>	<u>Cost</u>
Principal	3	x	\$196.65	= \$590
Project Manager	9	x	\$125.26	= \$1,127
Design Staff	13	x	\$96.38	= \$1,253
Comp. Tech/Tech. Staff	28	x	\$74.64	= \$2,090
Business Management	1	x	\$98.97	= \$99
Admin./Clerical	2	x	\$71.39	= \$143
TOTAL HOURLY COST				= \$5,302
Salary Escalation*				= \$0

**REIMBURSABLES:**

Outside Reimbursables	\$ 285.00
Internal Rate Pay Items	\$0.00
TOTAL REIMBURSABLE COST = \$285	
TOTAL SUBCONSULTANTS COST = \$5,587	
<b>Prime Markup</b>	= <b>\$0</b>
<b>GRAND TOTAL:</b>	= <b>\$5,587</b>

**Exhibit G-2  
Houghbeck & Baird, Inc.**

**(Specific Rates of Pay)  
Fee Schedule**

<b>Discipline or Job Title</b>	<b>Hourly Rate</b>	<b>Overhead @ 194.50</b>	<b>Profit @ 30%</b>	<b>Rate Per Hour</b>
Principal	\$60.60	117.87	18.18	196.65
Project Manager	\$38.60	75.08	11.58	125.26
Design Staff	\$29.70	57.77	8.91	96.38
Comp. Tech/Tech. Staff	\$23.00	44.74	6.90	74.64
Business Management	\$30.50	59.32	9.15	98.97
Admin./Clerical	\$22.00	42.79	6.60	71.39

**G-3**  
**Breakdown of Subconsultants Overhead Cost - HBB**



**Washington State**  
**Department of Transportation**  
**Paula J. Hammond, P.E.**  
Secretary of Transportation

**Transportation Building**  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300

360-705-7000  
TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

March 4, 2009

Pam Neuman, Business Manager  
Hough Beck & Baird, Inc.  
215 Westlake Avenue North  
Seattle, WA 98109-5217

MAR 11 2009

Re: Hough Beck & Baird, Inc. Overhead Schedule  
Fiscal Year End December 31, 2007

Dear Ms. Pam Neuman:

On March 4, 2009, as a WSDOT representative, Kimberly Wilson, Audit Specialist, reviewed your proposed FYE December 31, 2007, Overhead Schedule. Kimberly also completed an analytical review of information provided to her by your firm.

The reviewed data included, but was not limited to; the schedule of the indirect cost rate, a description of the company, and their accounting system and the basis for Hough Beck & Baird, Inc., accounting and indirect costs.

Based on our review, we are issuing this letter of concurrence establishing Hough Beck & Baird, Inc.'s overhead rate for the fiscal year ending December 31, 2007, at 194.50% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of Hough Beck & Baird, Inc., have any questions, please contact Martha Roach at (360) 705-7006.

Sincerely,

Martha S. Roach  
Agreement Compliance Audit Manager

MR:ds  
Enclosure

cc: Steve McKerney  
File

Marilyn Bowman, MS 47323  
Rick Griffith, MS47323

Exhibit 1

Hough Beck & Baird Inc.  
Overhead Schedule  
Fiscal Year December 31, 2007

Description	Financial Statement Amount	HBB Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
<b>Total Direct Labor</b>	<u>\$353,049</u>				<u>\$353,049</u>	100.00%
<b>Fringe Benefits</b>						
Bonuses	\$47,589				\$47,589	13.48%
Holiday Pay	15,474				15,474	4.38%
Vacation	46,172				46,172	13.08%
Sick Leave	10,310				10,310	2.92%
Payroll Taxes	63,119				63,119	17.88%
Corporate Taxes (1120)	5,813	(5,813)		A	0	0.00%
Pension Contributions	16,505				16,505	4.68%
Health Care Insurance	20,479				20,479	5.80%
Key Man Life Insurance	327	(327)		B	0	0.00%
<b>Total Fringe Benefits</b>	<u>\$225,788</u>	<u>(\$6,140)</u>	<u>\$0</u>		<u>\$219,648</u>	62.21%
<b>General Overhead</b>						
Indirect Salaries - Principals	\$79,035				\$79,035	22.39%
Indirect Salaries - Other	106,968				106,968	30.30%
Indirect Sal-prop (Emp)	17,919				17,919	5.08%
Indirect Sal-Prop (Pm)	59,622				59,622	16.89%
Consultants-Reimbursable	197,468	(197,468)		J	\$0	0.00%
Professional Development	672				672	0.19%
Professional Registration & Dues	1,450				1,450	0.41%
Rent	77,000				77,000	21.81%
Office Supplies/Periodicals	15,590	(12)		J	15,578	4.41%
Telephone/Communications	10,380				10,380	2.94%
Postage & Shipping	3,584	(1,200)		J	2,384	0.68%
Repairs & Maintenance	2,832				2,832	0.80%
Other Office Expense	7,727	(2,973)	(1,265)	J,L	3,489	0.99%
Legal	1,995		(249)	M	1,746	0.49%
Interest Expense	3,492	(3,492)		C	0	0.00%
Accounting/Audit/Tax Prep.	1,500	(1,250)		D	250	0.07%
Professional Liability Insurance	10,562			N	10,562	2.99%
Computer Consultants	29,141	(12,484)	(5,058)	E,O	11,599	3.29%
Other Ins. Premiums	3,342				3,342	0.95%
Misc. Taxes & Licenses	24,737		(1,215)	P	23,522	6.66%
Rainier Club Dues	2,249	(2,249)		F	0	0.00%
Automobile Expense	1,867				1,867	0.53%
Automobile Licensing	145				145	0.04%
Travel & Lodging	8,602	(8,484)		J	118	0.03%
Meals: Staff Meeting	5,398		(3,925)	Q	1,473	0.42%
Meals: Staff Review Lunches/Business M	3,290	(203)	(2,701)	J,R	386	0.11%

Exhibit 1

**Hough Beck & Baird Inc.**  
**Overhead Schedule**  
**Fiscal Year December 31, 2007**

Description	Financial Statement Amount	HBB Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Mileage/Parking/Bus	6,869				6,869	1.95%
Reprints/Photos/Publications	6,635	(6,391)		J	244	0.07%
Public Relations/Contributions	250	(250)		G	0	0.00%
Office Functions/Events	1,480	(1,180)		H	300	0.08%
Advertising	739	(739)		I	0	0.00%
Depreciation	27,285				27,285	7.73%
<b>Total General Overhead</b>	<u>\$719,823</u>	<u>(\$40,907)</u>	<u>(\$14,413)</u>		<u>\$467,036</u>	<u>132.29%</u>
<b>Total Overhead Expenses</b>	<u>\$945,611</u>	<u>(\$47,046)</u>	<u>(\$14,413)</u>		<u>\$686,684</u>	<u>194.50%</u>
<b>Overhead Rate</b>	267.84%				<u><u>194.50%</u></u>	

*Hough Beck & Baird Inc. - Reviewed & Accepted 3/4/09 KW*  
*Overhead Rate still subject to WSDOT Audit*

**References**

**Hough Beck & Baird Adjustments:**

- A Federal Income Tax unallowable per 48 CFR 31.205-41(b)(1)
- B Key Man Life Insurance unallowable per 48 CFR 31.205-19(a)(2)(vi)
- C Interest Expense unallowable per 48 CFR 31.250-20
- D Federal tax return preparation fees over \$250 unallowable per 48 CFR 31.205-41(b)(1), 48 CFR 31.201-6(d),
- E Computer Consultant's Direct costs billed to clients per 48 CFR 31.202(a)
- F Costs of memberships in civic and community organizations and not a membership in trade,
- G Contributions or Donations unallowable per 48 CFR 31.205-8
- H Christmas party expenses in excess of \$25 per employee not allowed per 48 CFR 31.205-14
- I Advertising unallowable per 48 CFR 31.205-1(f).
- J 48 CFR 31.202 (a) Direct project costs, 48 CFR 31.201-6 cost directly associated to unallowable cost is also unallowable

**WSDOT Adjustments:**

- L Truffles, gifts to clients unallowable per 48 CFR 31.205-13 (b)
- M Agent fee for Alaska is not allocable per 48 CFR 31.201-4
- N Lobbying unallowable per 48 CFR 31.205-22 Lobbying
- O 48 CFR 31.201-6 cost directly associated to unallowable cost is also unallowable
- P Montana, Idaho, Alaska fees not allocable per 48 CFR 31.201-4
- Q Exceeded per diem 48 CFR 31.205-14 & WSDOT Accounting Manual M13-82, Chapter 10, Travel - Local meals
- R Office meeting lunches in excess, going away cake, flowers Per 48 CFR 31.201-3 Exceeds that which would be incurred by a prudent person in the conduct of competitive business.

*Note: Hough Beck & Baird states that they verbally provide all new employees information regarding the bonus policy. This is considered an oral contract.*

## **Exhibit H Title VI Assurances**

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONOSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

**Exhibit I**  
**Payment Upon Termination of Agreement**  
**By the Agency Other Than for**  
**Fault of the Consultant**

**(Refer to Agreement, Section IX)**

**Lump Sum Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Cost Plus Fixed Fee Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Specific Rates of Pay Contracts**

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

**Costs Per Unit of Work Contracts**

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

## **Exhibit J**

### **Alleged Consultant Design Error Procedures**

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

#### **Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

#### **Step 2 – Project Manager Documents the Alleged Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

#### **Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

#### **Step 4 – Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region Local Programs

Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

#### Step 5 – Forward Document to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will also request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

## **Exhibit K Consultant Claim Procedures**

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 – Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

- The consultant's claim must outline the following:
- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 – Preparation of Support Documentation Regarding Consultant’s Claim(s)

If the Agency does not agree with the consultant’s claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency’s summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency’s summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant’s claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 – Director of Public Works or Agency Engineer Reviews Consultant Claim Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, of portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 – Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant’s claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 – Preparation of Supplement or New Agreement for the Consultant’s Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

**Exhibit L**  
**(To Be Used Only If Insurance Requirements Are Increased)**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XIII, Legal Relations and Insurance of this Agreement is amended to \$ \_\_\_\_\_.

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ \_\_\_\_\_.

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ \_\_\_\_\_.

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

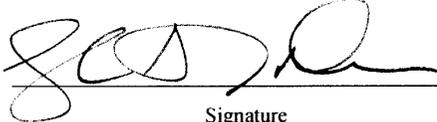
**Exhibit M-1(a)  
Certification of Consultant**

I hereby certify that I am Crystal L. Donner, P.E. and duly authorized representative of the firm of Perteet, Inc. whose address is 2707 Colby Avenue, Suite 900, Everett, WA 98201 and that neither I nor the above firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure the AGREEMENT;
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

05/08/09  
Date

  
Signature

**Exhibit M-1(b)**  
**Certification of Agency Official**

I hereby certify that I am the AGENCY Official of the Local Agency of the City of Sammamish, Washington, and that the consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Date

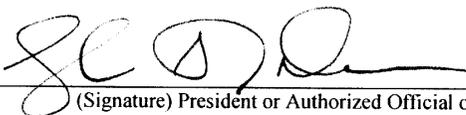
\_\_\_\_\_  
Signature

**Exhibit M-2**  
**Certification Regarding Debarment, Suspension, and Other Responsibility**  
**Matters-Primary Covered Transactions**

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I)(B) of this certification; and
  - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): Perteet, Inc.

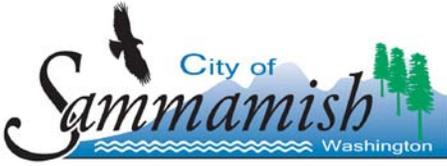
05/08/09  
(Date)

  
(Signature) President or Authorized Official of Consultant









## CITY COUNCIL AGENDA BILL

---

**Subject:**

On-Call consultant contract for survey work.

**Meeting Date:** May 19, 2009

**Date Submitted:** May 12, 2009

**Originating Department:** Public Works

**Clearances:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> <b>City Manager</b> | <input type="checkbox"/> <b>Police</b>              |
| <input checked="" type="checkbox"/> <b>Public Works</b> | <input type="checkbox"/> <b>Fire</b>                |
| <input type="checkbox"/> <b>Building/Planning</b>       | <input checked="" type="checkbox"/> <b>Attorney</b> |

**Action Required:**

Authorize the City Manager to execute a contract amendment to existing contract C2009-109 with PACE Engineering, Inc. to extend on-call survey work.

**Exhibits:**

1. Supplemental Agreement

---

**Budgeted Amount:** \$50,000 in the adopted 2009-2010 budget in various project line items.

---

**Summary Statement:**

The Public Works Department desires to supplement the existing on-call consultant services contract with PACE Engineers, Inc. for on-call survey work. The supplemental agreement will increase the contract amount by \$50,000 and extend the duration of the agreement until December 31, 2010. Additionally, the contract scope will be amended to include on-call survey services for any city project. This will allow continued use of the contract for other city projects, as the need arises.

**Background:**

In February 2009, the Public Works Director executed a consultant services contract in an amount not to exceed \$15,000 with PACE Engineering, Inc. for on-call survey work related the City of Sammamish Maintenance and Operations Facility. There are now numerous city projects that require survey work for completion.

**Financial Impact:**

The total amended contract amount is not to exceed \$65,000. This amount will be covered within the existing Council approved 2009-2010 budget amounts for the various city projects needing these survey services. As it is an on-call consultant agreement, there is no guarantee that the full contract amount will be needed or expended. Work tasks under this agreement will be assigned to the consultant on an as needed basis.

**Recommended Motion:**

Authorize the City Manager to execute a contract amendment in the amount of \$50,000 with PACE Engineering, Inc., modifying the scope of work to include survey services for the City of Sammamish M&O Facility and other city projects, and extending the duration of the agreement to December 31, 2010.







## CITY COUNCIL AGENDA BILL

---

**Subject:**

King County Flood Control District: Sub-Regional Opportunity Fund Grant Interlocal Cooperation Agreement (ILA)

**Meeting Date:** May 19, 2009

**Date Submitted:** May 12, 2009

**Originating Department:** Public Works

**Clearances:**

**Action Required:**

Authorize the City Manager to execute the ILA with the King County Flood Control District

**City Manager**                       **Police**

**Public Works**                       **Fire**

**Building/Planning**               **Attorney**

**Exhibits:**

1. Interlocal Cooperation Agreement (ILA)

---

**Budgeted Amount:** The city's 2009-2010 adopted budget includes \$350,000 in city stormwater funds for completion of the Thompson and Inglewood Drainage Basin plans. Acceptance of this King County Flood Control District "grant" money in the amount of \$189,343.00 will reduce the amount of city funding needed for this work to approximately \$161,000.00.

---

**Summary Statement:**

The City has been awarded a "grant" of approximately \$190,000 from the King County Flood Control District's Sub-Regional Opportunity Fund to help fund our current Thompson & Inglewood Storm Drainage Basin Planning efforts. Execution of the attached ILA is necessary in order for the City to receive this "grant" funding.

**Background:**

In April 2007, as authorized by RCW 86.15, the King County Council created the King County Flood Control District. The purpose of the District is to provide jurisdictions within King County with the financial resources needed to support local flood control, local stormwater control and cooperative watershed management projects and programs. The Flood Control District Board of Supervisors (King County Councilmembers act in

this role) created the Sub-Regional Opportunity Fund as the financial mechanism to provide “grants” to local jurisdictions for projects meeting the District’s flood control criteria. These “grants” are provided to local King County jurisdictions on the basis of assessed value.

The King County Flood Control District’s Board of Supervisors has determined that the City of Sammamish’s two current stormwater basin planning efforts, Thompson & Inglewood, meet the criteria for funding from the District’s Sub-Regional Opportunity Fund. As such, and based on the District’s funding formula, the District is providing the City with a “grant” of \$189,343 to assist us with the funding of these two basin planning efforts.

The attached ILA between the Flood Control District and the City is the mechanism by which the District and the City will administer these “grant” funds being provided to the City.

The agreement has been reviewed and approved by City Attorney Disend. This Agreement must be executed before the City can begin receiving these Opportunity Fund monies.

**Financial Impact:**

The effect of the Council’s action to authorize the City Manager to execute the attached ILA will be to provide the City with \$189,343 in unanticipated 2009-2010 revenues to help fund the City’s Inglewood and Thompson Drainage Basin planning efforts freeing up \$189,343 in city stormwater funds to be used for other stormwater related projects/programs.

**Recommended Motion:**

Move to authorize the City Manager to execute the Interlocal Cooperation Agreement with the King County Flood Control District for City of Sammamish projects to be funded with the use of the District’s Sub-Regional Opportunity Fund “grant” monies.



King County

**Water and Land Resources Division**

Department of Natural Resources and Parks

King Street Center

201 South Jackson Street, Suite 600

Seattle, WA 98104-3855

**206-296-6519** Fax 206-296-0192

TTY Relay: 711

Exhibit 1  
4.29.09  
APR 27 2009

April 23, 2009

John Cunningham  
City of Sammamish  
801 228th Ave SE  
Sammamsih, WA 98075

RE: Sub-Regional Opportunity Fund Interlocal Cooperation Agreement

Dear Mr. Cunningham:

Enclosed in this package is an Interlocal Cooperation Agreement between the City of Sammamish and the King County Flood Control District governing the administration of the Flood District's Sub-Regional Opportunity Fund (Opportunity Fund).

The Opportunity Fund was established by the Flood Control District Board of Supervisors to provide jurisdictions within King County financial resources to support local flood control, stormwater control, or cooperative watershed management projects or programs. Ten percent of the Flood District's annual levy revenues are allocated to this fund, and funds are distributed based on municipalities' proportional share of King County's total assessed valuation.

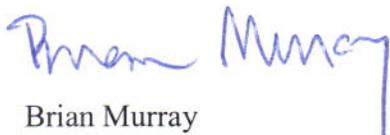
Your project proposal for 2008-9 funding is attached to the enclosed agreement as Attachment A. In subsequent years, eligible Opportunity Fund project applications will be attached to this agreement following project approval by the Flood District Board of Supervisors; thus, the agreement provides the terms for present and future Opportunity Fund projects.

The Interlocal Cooperation Agreement authorizes the disbursement of 2008 and 2009 opportunity funds to your jurisdiction. Upon execution of the agreement, the Flood District will distribute ten percent of your total 2008 and 2009 allocation, with the remainder of funds distributed on a reimbursement basis. Please note that signatures are required of *both parties* in order for the agreement to take effect, so we ask that you sign and return the agreement as soon as possible so that we may issue funds appropriately. If your jurisdiction chose to accrue 2008-9 funds until 2010, we ask that you return the signed ILA at this time.

John Cunningham  
April 23, 2009  
Page 2

Thank you for your quick attention to this matter. Should you have questions, please do not hesitate to call.

Kind regards,



Brian Murray  
Supervisor, Countywide Policy and Planning Unit  
River and Floodplain Management Section

Enclosure

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE KING  
COUNTY FLOOD CONTROL ZONE DISTRICT  
AND THE CITY OF SAMMAMISH FOR  
OPPORTUNITY FUND PROJECTS**

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between the CITY OF SAMMAMISH, a municipal corporation of the State of Washington ("City"), and the KING COUNTY FLOOD CONTROL ZONE DISTRICT, a quasi municipal corporation of the State of Washington ("District") ("Parties" or when singular "Party"), and shall be effective upon execution by the Municipality and the District.

**Article I. Recitals.**

In April 2007, the King County Council, as authorized by chapter 86.15 RCW, created the District as a quasi-municipal corporation. The King County Council members ex officio constitute the Board of Supervisors of the District, the governing body of the District.

In Resolution FCZD 2008-15.2, the Board of Supervisors approved the District's 2009 budget and annual work program, and allocated 10 percent of the District's annual property tax revenues for a sub-regional opportunity fund to be used by King County municipalities. The Board of Supervisors further determined that eligibility of projects for opportunity funds be based on consistency with chapter 86.15 RCW; provided that expenditures under RCW 86.15.035 and RCW 39.34.190 for salmonid habitat protection be linked to the construction of a flood or stormwater project. The Board of Supervisors also allocated the opportunity funds to a municipality based on that municipality's proportional contribution to the overall King County assessed valuation, as collected.

In Resolution FCZD 2009-01.1, the Board of Supervisors included the projects and activities described in Attachment A to this Agreement in an amendment to the District's annual budget and work program for the year 2009.

The Board of Supervisors desires to have the City implement its approved opportunity fund projects and activities for the years 2008 and 2009, as well as the projects and activities that are approved for the City in subsequent District annual budgets and work programs. The City desires to implement such projects and activities, and to receive opportunity funds to finance in whole or in part such projects and activities.

The City and the District are authorized to enter into this Agreement pursuant to Chapter 39.34 RCW (the Interlocal Cooperation Act), and agree as follows:

**Article II. Definitions.**

2.1 Eligibility Criteria. The term "Eligibility Criteria" means one of the two following criteria that Projects shall meet to qualify for Opportunity Funds:

2.1.1. Under RCW 86.15.110, Opportunity Funds may be expended for either flood control improvements or stormwater control improvements that are extended, enlarged, acquired or constructed, provided that the City has developed a comprehensive plan of development for flood control or for stormwater control, respectively, and the improvement contributes to the objectives of the plan. For flood control improvements, such plan shall be submitted to and approved by the Department of Ecology. In addition, for newly constructed improvements, the City shall develop preliminary engineering studies and plans, and such plans and studies shall be filed with the District's engineer. For all projects, the City shall provide cost estimates and underlying data and shall describe the benefit provided by the improvement.

2.1.2. Pursuant to the criteria in RCW 86.15.035 and RCW 39.34.190, as modified by Resolution FCZD 2008-15.2, District funds may be expended for cooperative watershed management actions, including watershed management partnerships and other intergovernmental agreements, for the purposes of water supply, water quality, and water resource and habitat protection and management, provided that Opportunity Funds expended for salmon habitat protection shall be linked to the construction of a flood or stormwater project, and provided further that all such funds shall be used for the implementation of watershed management plans, including but not limited to the following:

- a. Watershed plans developed under chapter 90.82 RCW;
- b. Salmon recovery plans developed under chapter 77.85 RCW;
- c. Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;
- d. Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;
- e. Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;
- f. Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;
- g. Coordinated water system plans under chapter 70.116 RCW and similar regional plans for water supply; and
- h. Any combination of the foregoing plans in an integrated watershed management plan.

The authority to use funds for implementation of these plans is broadly construed to include:

1. Coordination and oversight of watershed management plan implementation, including funding a watershed management partnership for this purpose;
2. Technical support, monitoring, and data collection and analysis;
3. Design, development, construction, and operation of projects included in the plan; and
4. Conducting activities and programs included as elements in the plan.

2.2 Project. The term "Project" or "Projects" means specific projects or activities that meet the Eligibility Criteria of this Agreement, are approved by the Board of Supervisors in a resolution approving the annual budget and work program, or amendment thereto, and are described in an attachment to this Agreement that is approved pursuant to this Agreement.

2.3 Opportunity Funds. The term "Opportunity Funds" means the funds made available by the Board of Supervisors to the municipalities within King County for implementation of Projects. For each of the years 2008 and 2009, these funds represent 10 percent of property tax revenues collected for each of those years, and are available to individual municipalities based on the proportional amount that municipality's assessed valuation as collected (as determined by the King County Assessor's office) bears to the entire amount of assessed valuation in all of King County (as determined by the King County Assessor's office). For the years after 2009, this term means District funds that are designated as "Opportunity Funds" by the Board of Supervisors in either a resolution approving the District's annual budget and work program or a separate resolution.

2.4 Service Provider. The term "Service Provider" means the Water and Land Resources Division of the King County Department of Natural Resources and Parks.

**Article III. Duration of Agreement--Survival of Agreement.**

This Agreement shall be effective upon execution by both Parties, and shall remain in effect until terminated by one or both of the Parties. Either Party may terminate this Agreement by providing written notice of termination to the other Party no less than sixty (60) days prior to the effective date of termination. This Agreement also may be terminated

upon mutual agreement of the Parties expressed in writing. Sections 4.2, 5.2, 5.3, 5.4, 5.5, 6.3, 6.4 and 6.5 and Article VII shall survive any termination of this Agreement.

**Article IV. Conditions of Agreement.**

4.1 Project Descriptions. The initial approved Projects are described in Attachment A, which is incorporated by reference. Subsequent approved Projects shall be described in new Attachments to this Agreement that are approved through the amendment process of Section 7.2.2, which Attachments shall be incorporated by reference into this Agreement.

4.2 Use of Funds. The City shall use Opportunity Funds distributed pursuant to this Agreement only for expenses related to the Projects.

**Article V. Responsibilities of City.**

5.1 Project Application and Description. The City may submit an application for distribution of Opportunity Funds within a period of time designated by the Service Provider and on a form approved by the Service Provider. As part of the application to receive Opportunity Funds, the City shall submit to the Service Provider the following information for each proposed Project:

5.1.1. Name of proposed project or activity;

5.1.2. Description of the flooding, stormwater, or watershed management problem to be addressed (one to two paragraphs);

5.1.3. Description of how the proposed project or activity will address the problem (one to two paragraphs);

5.1.4. Type of project or activity (e.g., feasibility study, design, construction, acquisition, programmatic activities, etc.);

5.1.5. Description of how the project or activity satisfies the “Eligibility Criteria,” as defined in this Agreement;

5.1.6. Identification of the plan (flood control, stormwater control, or watershed management) that includes the Project;

5.1.7. Product/deliverable and, for constructed Projects, design plans or studies; and

5.1.8. Schedule, milestones, costs and budget for each Project, consistent with the requirements of this Agreement.

The schedule for a Project shall provide for the expenditure of Opportunity Funds within two years after the commencement date of the Project. The City shall submit a request for distribution of Opportunity Funds after an actual expenditure is incurred for the Project, provided that the City may request distribution of up to 10 percent of Opportunity Funds for a Project upon approval of a Project by the Board of Supervisors. After approval of the Project by the Board of Supervisors, the application form, as approved by the Board of Supervisors, shall become an attachment to this Agreement through the amendment process in Section 7.2.2.

5.2 City Obligations for Projects. The City shall implement the Project as described and provided for in the approved attachment to this Agreement. Upon receipt, the City shall deposit Opportunity Funds in a separate account, which shall accrue interest at the rate earned by the City on its investments. To request a distribution of Opportunity Funds, the City shall submit to the Service Provider such information and proof of expenditure as requested by the Service Provider.

5.3. Projects Seeking Opportunity Funds Beyond Current Appropriation Year.

The City may request distribution of Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that District approval of such distribution of Opportunity Funds shall not be construed as nor constitute a District obligation or commitment to appropriate Opportunity Funds for the Project beyond the approved appropriation year. The District shall have no obligation to provide Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that the District shall distribute to the City after such appropriation year any Opportunity Funds that were allocated to the City in such appropriation year and in previous years and that have not been distributed to the City.

5.4 Reporting.

5.4.1. Until the Project is completed or all Opportunity Funds for a Project have been spent, the City shall provide semi-annually to the Service Provider brief written reports describing the progress on and status of the Project and any other relevant information that the Service Provider may request to determine compliance with this Agreement.

5.4.2. Upon completion of a Project, or upon expenditure of all of the Opportunity Funds for the Project, whichever occurs first, the City shall submit a final report to the Service Provider within 90 days of such completion or expenditure. The final report shall contain a summary of all Project expenditures, copies of invoices if requested by the Service Provider, a description of the Project status and accomplishments, and other relevant information requested by the Service Provider to verify compliance with this Agreement. The final report also shall contain a certification that all Opportunity Funds

provided to the City were expended solely on the Project in accordance with this Agreement and the Project approval. If a Project is not completed prior to termination of this Agreement, a report as described in this Section shall be provided to the Service Provider within 90 days of such termination. All records relating to a Project shall be retained by the City for a minimum of seven years, unless required by law to be retained for a longer period, in which case the longer period shall apply.

5.5 City obligations upon Project completion or termination. As consideration for receipt Opportunity Funds to implement the Project, the City agrees that:

5.5.1. If the Project involves developing a report or study, undertaking a study or collecting data, or producing written or electronic materials of any kind, copies of all such materials shall be provided upon request to the District or the Service Provider; and

5.5.2. If the Project involves the acquisition, extension, enlargement, or construction of a physical improvement, the City shall take ownership of, and shall be obligated to operate, maintain, and repair such improvement for the ordinary expected useful life of such improvement.

5.5.3 If the City terminates a Project, and the City has not expended all of the Opportunity Funds paid in advance pursuant to Section 6.3, the City shall return to the Service Provider the remaining Opportunity Funds within 60 days of the close of the calendar year in which the Project was terminated. Such returned Opportunity Funds shall be credited to the City's Opportunity Fund account, and may be used on future approved Projects, provided that if the Board of Supervisors has terminated the Opportunity Fund program at that time, the returned Opportunity Funds may be used by the District for District projects and activities.

**Article VI. Responsibilities of District.**

6.1 Upon timely submission of a Project application by the City, the Service Provider will review the application, provide reasonable and appropriate feedback, and consider including the Project as an element of the District's annual budget and work program.

6.2 If the Board of Supervisors approves the Project application by including the Project in the District's annual budget and work program, or an amendment thereto, the Service Provider shall attach a copy of the Project application as approved to this Agreement and it shall become a part hereof.

6.3 The District, through the Service Provider, shall distribute Opportunity Funds, up to the remaining amount of the City's total Opportunity Fund allocation, after City expenditure of funds for a Project as set forth in the approved schedule for the Project, provided that upon request of the City, the District shall pay up to 10 percent of the total Opportunity Funds allocated for a Project upon approval of an attachment to this Agreement. The Service Provider shall pay the Opportunity Funds after confirming that the expenditures have been made consistent with the Project approval and schedule.

6.4 The District assumes no obligation for future support of Projects meeting the Eligibility Criteria except as expressly set forth in this Agreement.

6.5 The District shall have no obligation to provide Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that the District shall distribute to the City after such appropriation year any Opportunity Funds that were allocated to the City in such appropriation year and in previous years and that have not been distributed to the City.

**Article VII. Other Provisions.**

**7.1 Hold Harmless and Indemnification.**

7.1.1. The District assumes no responsibility for the direct payment of any compensation, fees, wages, benefits or taxes to or on behalf of the City, its employees, contractors or others by reason of this Agreement. The City shall protect, indemnify and save harmless the District, its officers, agents, employees and the Service Provider from any and all claims, cost and whatsoever occurring or resulting from (1) the City's failure to pay any compensation, fees, wages, benefits or taxes, and (2) the supplying to the City of works services, materials or supplies by City employees or agents or other contractors or suppliers in connection with or in support of performance of this Agreement.

7.1.2. The City further agrees that it is financially responsible for and will repay the District all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts by the City, its officers, employees, agents or representatives.

7.1.3. The City shall protect, indemnify and save harmless the District from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees or agents in connection with the implementation of the terms of this Agreement and/or implementation of the Projects. For purpose of this Agreement only, the City agrees to waive the immunity granted it for industrial insurance claims pursuant to Washington Statute Chapter 51 to the extent necessary to extend its obligations under this paragraph to any claim, demand, or cause of action brought by or on behalf of any employee, including judgments, awards and costs arising therefrom including attorney's fees.

7.2 Amendment.

7.2.1. This Agreement may be modified by written instrument approved by the City Council and the District Board of Supervisors and signed by the Parties.

7.2.2. This Agreement also may be modified by additional attachment for Projects subsequently approved by the Board of Supervisors. After approval of a Project in the District's annual budget and work program, or amendment thereto, the Project application as approved shall become an attachment to this Agreement and shall constitute an amendment to this Agreement without further action by either Party.

7.3 Contract Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this Agreement. No waiver shall be effective unless made in writing.

7.4 No Third Party Rights. Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party.

7.5. Entirety. This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the projects and constitutes the entire agreement between the parties. The parties recognize that time is of the essence in the performance of the provisions of this Agreement.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have  
signed their names in the spaces put forth below:

\_\_\_\_\_  
By \_\_\_\_\_  
Mayor (or City Manager or Executive)  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Municipal Attorney

KING COUNTY FLOOD CONTROL  
ZONE DISTRICT

Kristen Lund  
Executive Director  
Date: 4/20/09

Acting under the authority of  
Resolution FCD 2008-16.1

ATTACHMENT A



King County Water and Land Resources Division  
River and Floodplain Management



King County

**Sub-Regional Opportunity Fund Project Application**

*Application Due Date: December 8, 2008*

Jurisdiction: City of Sammamish

- 1) Do you wish to forego the receipt of your Opportunity Fund allocation this year, allowing it to accrue for a future year?  Yes  No
- 2) Would you prefer to apply your Opportunity Funds toward an existing project on the District's 6-year CIP?  Yes  No If Yes, please provide the name of the project:

*If you said Yes to either (1) or (2) above, you do not need to complete the remainder of this form.*

- 3) Proposed project or activity name Planning for Thompson and Inglewood Drainage Basin Plans and location:
- 4) Description of the flooding, stormwater, or linked watershed management problem that this project or activity will address (1500 character maximum):  
The Thompson Basin is home to Ebright Creek, and the Inglewood Basin is home to George Davis Creek. Increased development in the basins has led to concerns about potential impacts that could lead to an increase in flooding or stormwater related problems, as well as cause problems for fish habitat.
- 5) Description of how the proposed activity will address the problem outlined in number 4 (1500 character maximum):  
Through a drainage basin planning effort focused on two streams, this project will directly address current and potential flooding and stormwater problems and will develop recommendations for how best to manage surface water resources in these basins.
- |                      |   |   |   |   |
|----------------------|---|---|---|---|
| 6) Type of Activity: | <input type="checkbox"/> Feasibility Study                                    | <input type="checkbox"/> Project Design | <input type="checkbox"/> Project Construction | <input type="checkbox"/> Property Acquisition |
|                      | <input checked="" type="checkbox"/> Programmatic – identify: Planning process |   |   |   |
|                      | <input type="checkbox"/> Other – identify:                                    |   |   |   |
- 7) Describe how the proposed project or activity satisfies the eligibility criteria for at least one of the three categories listed in Section III of the attached document (1500 character maximum):  
This activity will identify flood and stormwater control improvements to improve conditions in the two sub-basins and is consistent with the City of Sammamish Comprehensive Plan
- 8) Identify the management plan (i.e. flood control, stormwater control, or watershed management) within which implementation of the project or activity is an element or is recommended:  
This planning effort is consistent with both the City of Sammamish Comp Plan and the WRIA 8 Chinook Salmon Conservation Plan
- 9) Identify deliverables and any relevant design plans or studies (for construction projects):  
Basin plans, draft and final
- 10) Identify a timeline for this project from inception to completion. List any relevant milestones, and provide an estimate of project costs and budget:  
Planning effort to begin first quarter '09; initial draft plans presented to City Council in July '09 with final Council adoption scheduled for October '09.

*For Informational Purposes Only:* We wish to inform the Flood Control District Board of Supervisors on how Opportunity Funds leverage other resources, and we appreciate any information you are willing to provide in this regard. If you plan to partner with other jurisdictions to conduct a project or otherwise intend to use your Opportunity Fund allocation to leverage grant funds or other surface water management funds, please provide us with this information (1200 character limit):

*For Internal Use Only*

Authorized Signature	
<input type="checkbox"/> Project Eligible and Accepted	
<input type="checkbox"/> Project Ineligible	



## CITY COUNCIL AGENDA BILL

---

**Subject:**

Public Hearing and first reading of a proposed ordinance accepting the Rosemont at Timberline Subdivision 60% petition to the City of Sammamish.

**Meeting Date:** May 19, 2009

**Date Submitted:** May 14, 2009

**Originating Department:** Community Development

**Clearances:****Action Required:**

- Public Hearing
- Accept

City Manager

Police

Public Works

Fire

Building/Planning

Attorney

**Exhibits:**

1. Proposed ordinance w/ attachments

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**Budgeted Amount:**


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**Summary Statement:**

This ordinance accepts the Rosemont at Timberline subdivision 60% petition and authorizes City Manager, and/or his designees and directed to prepare and submit a Notice of Intention to annex to the King County Boundary Review Board.

**Background:**

Under state law, parties may initiate an annexation of property into the City by submitting a letter signed by the owners of 10% of the assessed value of property within the annexation area. The City previously received such a letter from owners of property within the Rosemont at Timberline subdivision.

The City Council considered this request at its April 7, 2009 regular meeting, and adopted Resolution No. R2009-363 accepting the annexation and authorizing the initiating parties to circulate an annexation petition seeking the signatures of the owners

of 60% of the assessed valuation of property within the proposed annexation area. Petition signers also consented to the pro-rata share of existing city indebtedness, if any.

The initiating parties submitted a petition on May 7, 2009, which the King County Assessor has determined contains the signatures of the owners of 60% of the assessed valuation of property located within the Rosemont at Timberline annexation area. State law calls for the City Council to hold a public hearing on a 60% accepting the petition and, if the annexation is approved, to thereafter adopt an ordinance annexing the area.

**Financial Impact:**

Financial effects associated with the proposed annexation were presented to the Council on March 10, 2009. The annexation is projected to have a slightly positive or neutral financial effect on the city (projected revenues would cover or exceed projected costs) and positive effect for landowners in the annexed area (property taxes are projected to be lower for the typical parcel).

**Recommended Motion:**

1. Open the public hearing; take testimony and close the public hearing.
2. Accept the 60% petition.

**CITY OF SAMMAMISH**  
**WASHINGTON**  
ORDINANCE NO. O2009-\_\_\_\_\_

---

AN ORDINANCE OF THE CITY OF SAMMAMISH ACCEPTING THE 60%  
ANNEXATION PETITION FOR ROSEMONT AT TIMBERLINE SUBDIVISION

WHEREAS, RCW 35A.14.120 provides that “proceedings for initiating annexation of unincorporated territory to a charter code city or non-charter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed,” but that “prior to the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings”; and

WHEREAS, on February 6, 2009, residents of the Rosemont at Timberline Subdivision notified the City of their intent to commence annexation proceedings, by submitting a letter with the signatures of the owners of not less than ten percent in value of the proposed annexation area; and

WHEREAS, this area is contiguous with the city limits; located in unincorporated King County just north of 205th Place NE in a Potential Annexation Area (PAA) adopted by the City Council in 2006 and 2007; and

WHEREAS, on April 21, 2008 the City Council adopted Ordinances O2008-228 and –229, which adopted contingent comprehensive plan land use and zoning designations for such PAA’s to be effective upon their annexation; and

WHEREAS, on April 7, 2009 the City Council met with the initiating parties as part of the regular City Council meeting and considered a resolution authorizing the initiating parties to circulate an annexation petition seeking the signatures of the owners of 60% of the assessed valuation of property within the annexation area; and

WHEREAS, on April 7, 2009 the Sammamish City Council adopted Resolution No. R2009-363, which accepted the proposed annexation and authorized the initiating parties to circulate an annexation petition seeking the signatures of the owners of 60% of the assessed valuation of property within the proposed annexation, on the condition that petition signers consent to the assumption of the modified annexation area’s pro-rate share of existing city indebtedness, if any; and

WHEREAS, on March 7, 2009, a petition, a copy of which is attached as Exhibit A hereto, was submitted to the City of Sammamish seeking annexation of the Rosemont at Timberline annexation area; and

WHEREAS, pursuant to RCW 35A.01.040 (9), the petition was forwarded to the King County Assessor for a determination as to the sufficiency of signatures thereon; and

WHEREAS, on May 12, 2009 the King County Assessor determined that the petition contains the signatures of the owners of 60% of the assessed valuation of property located within the proposed Rosemont at Timberline Annexation Area, and so notified the City of Sammamish of that determination in writing; and

WHEREAS, on May 19, 2009, the Sammamish City Council held a public hearing following publication of notice thereof as provided in RCW 35A.14.130; and

WHEREAS, the Sammamish City Council desires to annex the area described and shown in the petition;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Accept Sixty Percent Annexation Petition. The City of Sammamish hereby accepts the Rosemont at Timberline sixty percent petition for the annexation area, which is legally described in Exhibit B and depicted on the map in Exhibit C, which exhibits are attached hereto and incorporated herein by reference.

Section 2. Conditions Upon Annexation.

A. Comprehensive Plan and zoning designations. All properties within the Rosemont at Timberline Annexation Area shall be subject to the Comprehensive Plan and zoning designations set forth in City of Sammamish Ordinance Nos. O2008-228 and O2008-029.

B. Assumption of Existing Indebtedness. All property within the Rosemont at Timberline Annexation Area shall be assessed and taxed at the same rate and on the same basis as the property in the City of Sammamish is assessed and taxed to pay for the portion of outstanding city indebtedness, if any, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the effective date of the annexation in Section 1 of this Ordinance.

Section 3. Preparation of Notice of Intent to Annex. The City Manager, and/or his designees, are hereby authorized and directed to prepare and submit a Notice of Intention to Annex to the King County Boundary Review Board no later than one hundred eighty (180) days of the effective date of this Ordinance. The City Manager and/or his designees are hereby authorized and directed to take such other steps with respect to said Notice of Intention or otherwise as they deem necessary to implement the annexation in Section 1 of this Ordinance.

Section 4. Effective Date. This ordinance shall be effective within five (5) days after passage and publication

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE \_\_\_\_ DAY OF \_\_\_\_\_, 2009**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

\_\_\_\_\_  
Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney

Filed with the City Clerk: May 13, 2009  
Public Hearing: May 19, 2009  
First Reading: May 19, 2009  
Public Hearing  
Passed by the City Council:  
Date of Publication:  
Effective Date:



Mr. Kamuron Gurol  
Director – Community Development  
City of Sammamish  
801 228<sup>th</sup> Avenue SE  
Sammamish, WA 98075

May 7, 2009

**Re: Submission of 60% Annexation Petition On  
Behalf of Rosemont at Timberline**

Dear Mr. Gurol:

As you know at the City Council Meeting of April 7, 2009 the City Council passed resolution #R2009-363 accepting Rosemont at Timberline's 10% Annexation Petition and the Council indicated that we may present next our 60% Level Petition.

On behalf of the residents of Rosemont at Timberline I am pleased to enclose the 60% Annexation Petition materials. As you will note the petition has been signed by all 14 of the 14 homeowners, representing 100% voting in favor. Also enclosed is our updated community tax valuation summary.

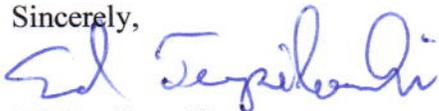
Since the presentation and passage of our Annexation Petition at the 10% level the Rosemont at Timberline Homeowners Association has been turned over from Wm. Buchan Homes Inc. to the residents. An all residents meeting then was held and afterwards the Board of Directors of Rosemont at Timberline, Todd Hubbard (Sec/Tres), Matt Kotler (VP/ACC Chair) and Ed Terpilowski (President) met with each home owner and reviewed the enclosed petition as well as our previous 10% level petition.

The petition instruction form clearly indicates the criteria by which the petition may be signed and so it should meet the verification by the Assessor's office. Hopefully this will be completed in a timely manner so the petition may be presented at the May 19th City Council Meeting.

In addition, I believe it is in both our interests to begin collaboration on the Notice of Intent (NOI) submission to the King County Boundary Review Board (BRB) for timely submission following City Council action.

On behalf of the homeowners of Rosemont at Timberline we look forward to the successful conclusion to this process and becoming citizens of the City of Sammamish.

Sincerely,



Ed Terpilowski  
President  
Rosemont at Timberline Homeowners Association



## PETITION FORM FOR PROPERTY OWNERS

**Annexation Name: Rosemont at Timberline**

### Instructions

1. All signatures on this petition must be the person's true name.
2. Do not sign more than one of these petitions.
3. Signatures must be in blue or black ink.
4. Only property owners (as shown by county records) may sign.
5. If a property is owned by a couple, only one spouse needs to sign but both may sign. Mortgage lenders do not need to sign. If the property is owned by more than one person who are not spouses, all co-owners should sign unless the owners have designated one person to sign for them. A copy of the written designation, permitting one owner to sign on behalf of multiple owners, should be attached to the petition.
6. Where real estate contracts are involved, only the purchaser needs to sign as long as the contract is recorded with the county; otherwise, only the contract seller is authorized to sign.
7. If a property is owned by a corporation, only a corporate officer who is explicitly authorized by the bylaws to execute deeds or encumbrances on behalf of the corporation can sign.
8. If you own multiple parcels of property within the proposed annexation area you only need to sign once.

### Declaration

I/We, the undersigned property owners, by our signatures do petition the City of Sammamish to annex an area of unincorporated King County, lying contiguous to the City of Sammamish, and referred to as the annexation of Rosemont at Timberline. This area is indicated on the map attached as Exhibit A and legally described on the attached Exhibit B. Pursuant to the motion passed by the Sammamish City Council on April 7, 2009, the annexation area shall, upon annexation, be subject to its proportionate share of the City's existing indebtedness. The annexation area shall also be subject Ordinances O2008-228 and O2008-229, which adopted contingent comprehensive plan land use and zoning designations for such PAAs to be effective upon their annexation.

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**EXCEPT FROM SAMMAMISH CITY COUNCIL MINUTES:** Pursuant to RCW 35A.14.120, the following quotation is from the minute entry from the April 7, 2009 Sammamish City Council meeting regarding the zoning and indebtedness requirements pertaining to the proposed annexation area:

After completion of the staff presentation of the annexation proposal, Councilmember Whitten moved and Councilmember Petitti seconded, that the proposed annexation areas boundaries be established as presented by staff, that the 60% petition for annexation , as set forth in RCW 35A.14.120, be authorized for circulation in the proposed annexation area and that the area, upon annexation, be subject to its proportionate share of the existing indebtedness of the City of Sammamish, and that the area be subject to the zoning requirements for newly annexed areas as set for in the Sammamish Municipal Code. Motion passed by unanimous vote of the Council, 6-0.

**WARNING**

Every person who signs this petition with any other than his/her true Name, or signs a petition when he/she is otherwise not qualified to sign, or who makes herein any false statement, may be guilty of misdemeanor

***NOTE TO SIGNORS:*** If you own more than one tax parcel within the annexation area, your signature on this petition will constitute your commitment for all property owned by you within the proposed annexation area.

1)  
NAME (Print): Todd R. Hubbard  
SIGNATURE: Todd R. Hubbard DATE: 5-6-09  
ADDRESS: 4531 205th Place NE TRH  
PROPERTY DESCRIPTION: 7430-200110  
(Ten-digit tax lot number or subdivision and lot number)

2)  
NAME (Print): Matthew Kotler  
SIGNATURE: Matthew Kotler DATE: 5-6-09  
ADDRESS: 4523 205th Pl. NE  
PROPERTY DESCRIPTION: 7430 200120  
(Ten-digit tax lot number or subdivision and lot number)

NAME (Print): Ed Terpilowski  
 SIGNATURE: *E. Terpilowski* DATE: 4/30/09  
 ADDRESS: 4566 205 PL NE Sumner WA 98074  
 PROPERTY DESCRIPTION: 7430 200 060  
 (Ten-digit tax lot number or subdivision and lot number)

4)  
 NAME (Print): CHRIS JEFFER  
 SIGNATURE: *Chris Jeffers* DATE: 5/2/09  
 ADDRESS: 4502 205th PL NE SAMMAMISH WA 98074  
 PROPERTY DESCRIPTION: 7430 200 040  
 (Ten-digit tax lot number or subdivision and lot number)

5)  
 NAME (Print): Andy Hargan  
 SIGNATURE: *Andy Hargan* DATE: 5/2/09  
 ADDRESS: 4510 205th PL NE  
 PROPERTY DESCRIPTION: 7430 000 030  
 (Ten-digit tax lot number or subdivision and lot number)

6)  
 NAME (Print): Kerrin Thomas  
 SIGNATURE: *Kerrin Thomas* DATE: 5/2/09  
 ADDRESS: 4515 205th PL NE  
 PROPERTY DESCRIPTION: 7430 200 130  
 (Ten-digit tax lot number or subdivision and lot number)

7)  
 NAME (Print): Jianbo Peng  
 SIGNATURE: *Jianbo Peng* DATE: 5/2/09  
 ADDRESS: 4547 205th PL NE  
 PROPERTY DESCRIPTION: 7430 200 090  
 (Ten-digit tax lot number or subdivision and lot number)

8)  
 NAME (Print): Songyong  
 SIGNATURE: *Songyong* DATE: 5/2/2009  
 ADDRESS: 4552 205th PL NE  
 PROPERTY DESCRIPTION: 7430 200 020  
 (Ten-digit tax lot number or subdivision and lot number)

9)  
 NAME (Print): PANKAS DHINGRA  
 SIGNATURE: *Pankas Dhingra* DATE: 5/2/2009  
 ADDRESS: 4560 205th Place NE  
 PROPERTY DESCRIPTION: 7430 200 050  
 (Ten-digit tax lot number or subdivision and lot number)

10)  
 NAME (Print): Dan Li  
 SIGNATURE: *Dan Li* DATE: 5/2/2009  
 ADDRESS: 4555 205th PL NE  
 PROPERTY DESCRIPTION: 7430 200 080  
 (Ten-digit tax lot number or subdivision and lot number)

11)

NAME (Print): MAURICIO PLASCHINSKI

SIGNATURE: 

DATE: 5/02/09

ADDRESS: 4563 205<sup>th</sup> PL NE Sammamish WA 98074

PROPERTY DESCRIPTION:

7430 200 070

(Ten-digit tax lot number or subdivision and lot number)

12)

NAME (Print): ABHISHEK ABHISHEK

SIGNATURE: 

DATE: 5/13/09

ADDRESS: 4507 205<sup>th</sup> PL NE SAMMAMISH WA 98074

PROPERTY DESCRIPTION:

7430 200 140

(Ten-digit tax lot number or subdivision and lot number)

13)

NAME (Print): DEVILLE PROEMER

SIGNATURE: 

DATE: 5/4/09

ADDRESS: 4539 205<sup>th</sup> PL NE SAMMAMISH WA 98074

PROPERTY DESCRIPTION:

7430 200 0100

(Ten-digit tax lot number or subdivision and lot number)

14)

NAME (Print): ASIR VEDAMATHU

SIGNATURE: 

DATE: 5/04/09

ADDRESS: 4544 205<sup>th</sup> PL NE SAMMAMISH WA 98074

PROPERTY DESCRIPTION:

(Ten-digit tax lot number or subdivision and lot number)



HOME OWNER'S ASSOCIATION

RECEIVED

MAY 15 2009

City of Sammamish

**Rosemont at Timberline  
205<sup>th</sup> PL NE, Sammamish WA 98074  
King County Tax Roll History  
(As of May 4, 2009)**

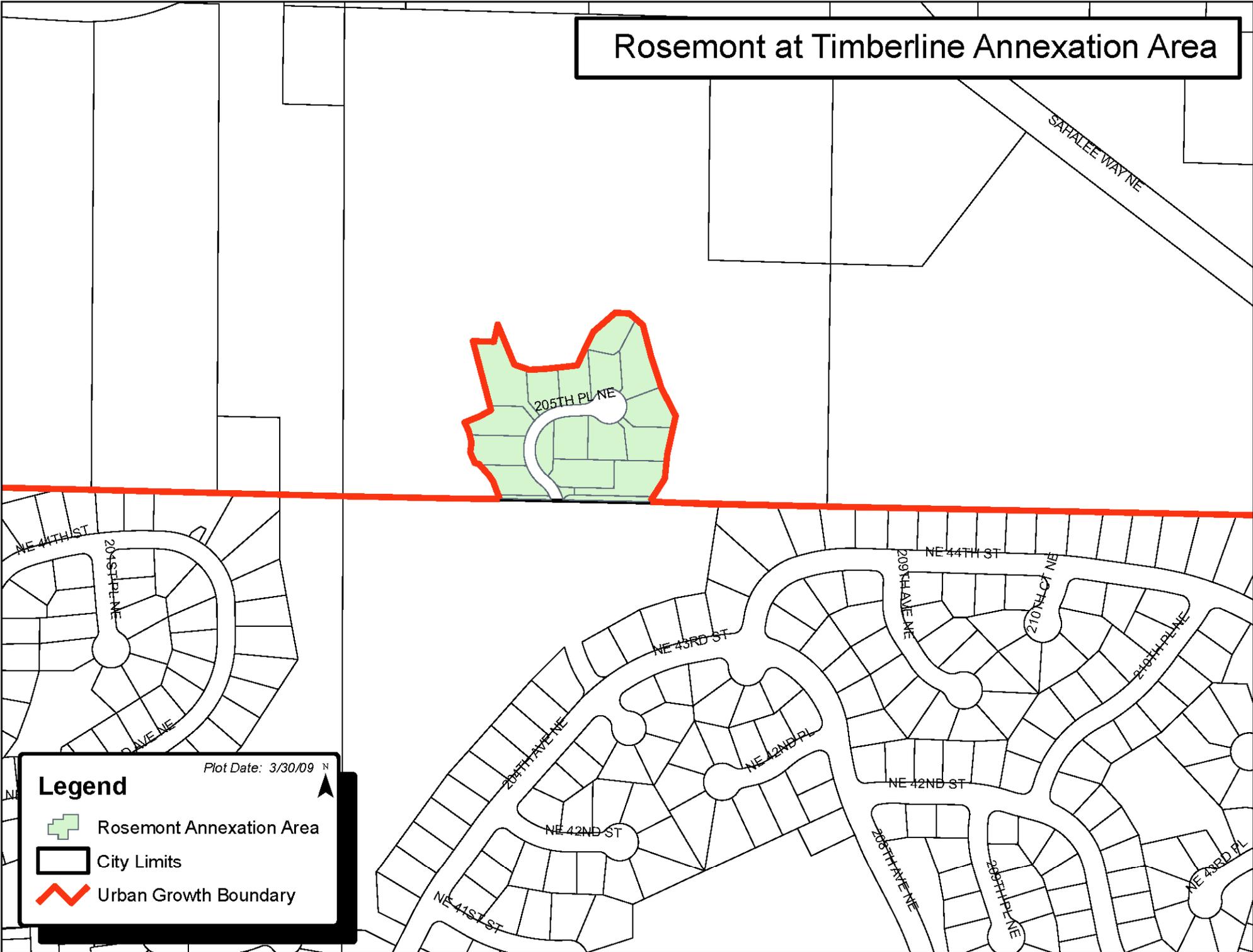
Address	Parcel ID#	Owner(s)	Taxable Valuation
4502	7430200040	Tector, Chris & Elizabeth	\$1,055,000
4507	7430200140	Abhishek & Choudhury	\$ 988,000
4510	7430200030	Harjanto, Andy & Venney	\$ 957,000
4515	7430200130	Thomas, John & Kerin	\$ 961,000
4523	7430200120	Kotler, Matthew & Julie	\$1,017,000
4531	7430200110	Hubbard, Todd & Bieratt	\$1,123,000
4544	7430200010	Vedumutha, Asir & Caroline	\$ 927,000
4547	7430200090	Peng, Jianbo & Xin Ge	\$1,061,000
4552	7430200020	Zhang, Songlin & Cunying	\$ 997,009
4555	7430200080	Li, Dan & Xiaoli Wang	\$1,088,000*
4560	7430200050	Dhingra, Pankaj	\$ 955,000
4566	7430200060	Terpilowski, Ed & Sally	\$1,130,000
4532	7430200100	Rademeyer, Neville	\$1,096,000
4563	7430200070	Plaschinski-Farca, Mauricio & Sal	\$1,308,000*

**Total Taxable Valuation \$14,563,000**

\*King County has now place this taxable value and will record it shortly.

This information is taken from King County Ereal property links and phone verification with King County Assessor and Recorder's Offices for \* values.

# Rosemont at Timberline Annexation Area



Plot Date: 3/30/09 <sup>TM</sup>

**Legend**

-  Rosemont Annexation Area
-  City Limits
-  Urban Growth Boundary

EXHIBIT 'B'  
ROSEMONT AT TIMBERLINE  
ANNEXATION LEGAL DESCRIPTION

Lots 1 through 14 and Tracts 'A', 'B', 'C', 'E', 'F', and 'H' of Rosemont At Timberline, as recorded in Volume 232 of Plats at Pages 73-78 and recorded under Auditor's Fee No. 20060118000015, records of King County, Washington and lying within that portion of the Northwest quarter, of the Southeast quarter, of Section 17, Township 25 North, Range 6 East, W.M., King County, Washington described as follows:

COMMENCING at the Southeast corner of said subdivision;  
THENCE North 88°48'06" West 480.87 feet, along the South line of said subdivision to the Southeast corner of said Tract 'A' and the POINT OF BEGINNING;  
THENCE along the common line between Tract 'D' of said Rosemont At Timberline and Lots 4 through 7, Tract 'C', Lots 9 through 14, and Tracts 'F', 'E', and 'A' of said Rosemont At Timberline along the following courses:

North 32°51'35" East 81.52 feet;  
North 03°51'01" East 55.17 feet;  
North 14°01'52" East 52.60 feet;  
North 10°15'31" East 60.28 feet;  
North 27°14'17" West 53.77 feet;  
North 23°52'46" West 45.20 feet;  
North 17°23'16" West 76.15 feet;  
North 16°50'20" West 87.88 feet;  
North 45°01'18" West 45.41 feet;  
South 89°34'19" West 36.01 feet;  
South 47°43'18" West 88.41 feet;  
South 25°52'45" West 96.09 feet;  
South 86°39'32" West 76.98 feet;  
South 83°52'10" West 44.38 feet;  
North 72°58'41" West 50.15 feet;  
North 24°04'33" West 51.54 feet;  
North 19°03'21" West 53.99 feet;  
North 58°15'38" West 11.08 feet;  
South 05°21'22" West 44.83 feet;  
North 88°47'18" West 57.16 feet;  
South 14°19'29" East 86.19 feet;  
South 17°20'29" East 42.72 feet;  
South 14°53'38" East 62.54 feet;  
South 62°19'39" West 50.92 feet;  
South 74°42'38" West 31.43 feet;  
South 34°56'43" East 18.95 feet;  
South 17°54'34" East 41.68 feet;  
South 19°43'06" West 22.95 feet;  
South 16°16'54" East 21.00 feet;  
South 29°52'33" East 14.66 feet;

South 63°44'08" East 20.80 feet;  
South 40°10'26" East 41.68 feet;  
South 10°27'07" East 21.77 feet;  
South 27°54'13" East 38.96 feet to the Southwest corner of said Tract 'F' and the South line of said subdivision;  
THENCE South 88°48'06" East 402.05 feet, along the South line of said Tracts 'F', 'E' and 'A' and the South line of said subdivision to the POINT OF BEGINNING and containing 4.718 acres, more or less.

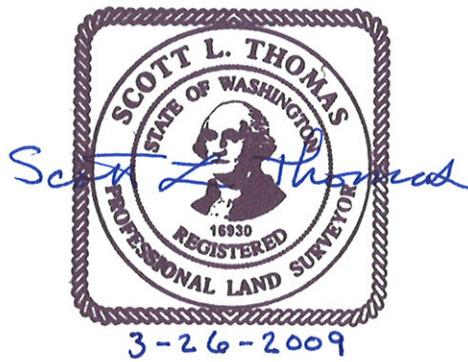
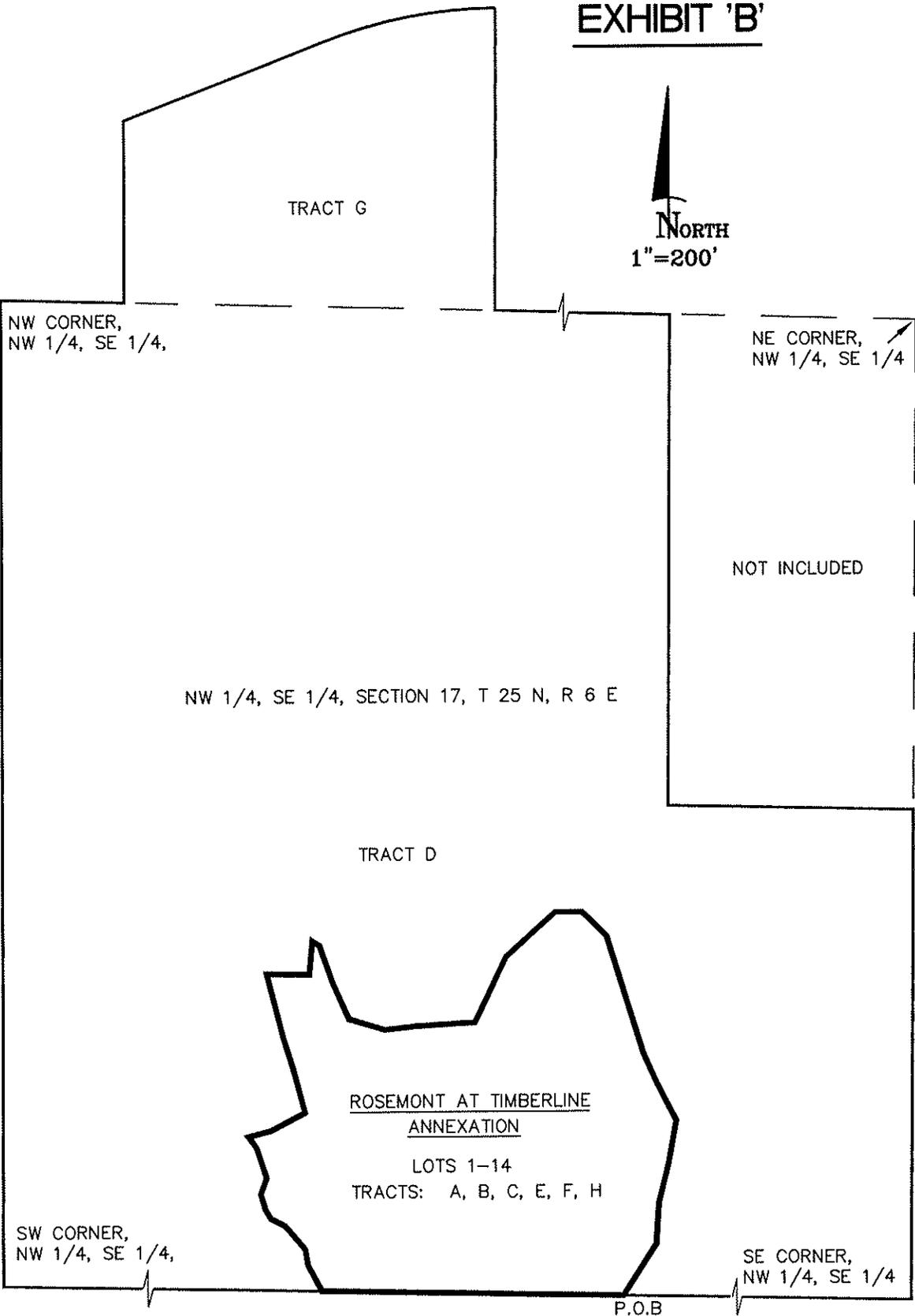


EXHIBIT 'B'





## CITY COUNCIL AGENDA BILL

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**Subject:** Third Reading and continued public hearing, "Off-Site Real Estate Sign" Amendments: Revisions to SMC 21A.45 (Signs or displays of limited duration)

**Meeting Date:** May 19, 2009

**Date Submitted:** May 11, 2009

**Originating Department:** Community Development

**Clearances:**

**Action Required:** Third Reading, Close public hearing, Motion to adopt ordinance

**City Manager**                       **Police**

**Public Works**                               **Fire**

**Building/Planning**                       **Attorney**

**Exhibits:**

1. Ordinance and Attached Code Revisions

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**Budgeted Amount:** N/A

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**Background:**

With the current economic crisis, the City is re-evaluating its regulations on real estate signs. In particular, in instances where the property for sale or lease does not front directly on a public street, the real estate sign may not be readily visible to passing traffic.

SMC 21A.45 governs the placement of real estate signs. The proposed code amendment will allow for the placement of "yard-arm" real estate signs off-site at the closest public road, subject to limitations on size, number of signs, and location. The Planning Commission reviewed the proposed code amendment and the sense of the commission was to allow for such signs, subject to a sunset clause and additional design provisions.

During the City Council review on April 21, 2009, the Council requested that staff investigate allowing for real estate signs in the public right of way. A revised version of the code amendment was the subject of the continued public hearing on May 5<sup>th</sup>.

The Washington Community, Trade, and Economic Development Department (CTED) has granted expedited review of the proposed code amendment; no comments were received from state agencies. The City has issued a SEPA Determination of Non Significance (DNS) on April 30, 2009. City Council action was delayed until after the 14 day comment period on the SEPA DNS, therefore, final review and adoption of the code amendment is scheduled for May 19, 2009.

**Financial Impact:** N/A

**Recommended Motion:** Motion to adopt the ordinance.

**DRAFT**  
**CITY OF SAMMAMISH**  
**WASHINGTON**  
**ORDINANCE NO. O2009 - \_\_\_\_**

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AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING CHAPTER 21A.45 (DEVELOPMENT STANDARDS – SIGNS), OF THE SAMMAMISH MUNICIPAL CODE

WHEREAS, the City Council adopted the City’s Comprehensive Plan on September 16, 2003, and the City has enacted zoning consistent with the comprehensive plan; and

WHEREAS, the City Council adopted the Sammamish Municipal Code on October 7, 2003 and subsequent revisions have been made since that time; and

WHEREAS, development applications are reviewed for compliance with these regulations; and

WHEREAS, the current global economic crisis has local effects, including on the ability of private property owners to sell real estate within the City of Sammamish;

WHEREAS, the Sammamish Municipal Code limits the placement of real estate signs on properties accessed from a private road or driveway in a manner that may prevent passing traffic from seeing the real estate sign;

WHEREAS, private property owners and members of the real estate community, in an effort to remain financially viable, are requesting additional temporary flexibility in the placement of real estate signs;

WHEREAS, the Planning Commission reviewed the proposed amendments and the sense of the commission was to allow for signs to be located off-site temporarily, subject to a sunset clause and additional design provisions incorporated into the amendment;

WHEREAS, the public process for the proposed amendments has provided for public participation opportunities and included presentation to the Planning Commission on April 2, 2009 and to the Sammamish City Council on April 21, 2009; and

WHEREAS, the City Council considered the proposed amendments at a City Council public hearing conducted on May 5, 2009.

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

**Section 1. Amendments to the Municipal Code.** The municipal code amendments set forth in Attachment "A" to this ordinance are hereby adopted.

**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 3. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 2009.**

CITY OF SAMMAMISH

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Donald J. Gerend, Mayor

ATTEST/AUTHENTICATED:

---

Melonie Anderson, City Clerk

Approved as to form:

---

Bruce L. Disend, City Attorney

Filed with the City Clerk: April 16, 2009  
Public Hearing: April 21, 2009  
First Reading: April 21, 2009

Public Hearing: May 5, 2009  
Second Reading: May 5, 2009  
Public Hearing: May 19, 2009  
Passed by the City Council:  
Date of Publication:  
Effective Date:

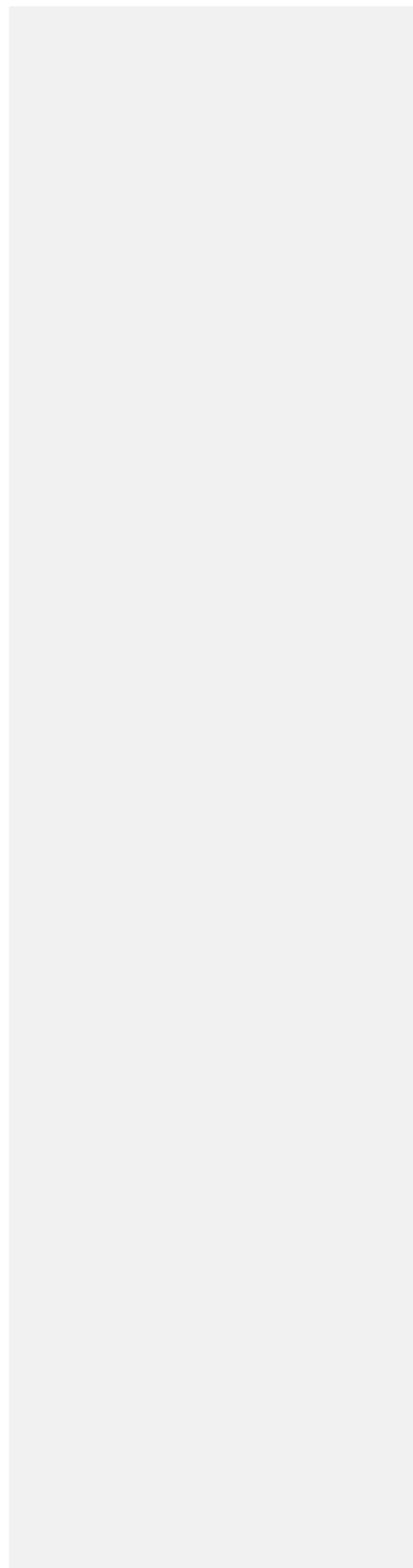


SMC 21A.45.120 - Signs or displays of limited duration

“Plain Text” is existing code language

“~~Strikethrough Text~~” is existing language that will be deleted

“Underline Text” is code language that will be added



**21A.45.120 Signs or displays of limited duration.**

The following temporary signs or displays are permitted, and except as required by the International Building Code, Chapter 16.20 SMC, Construction Administrative Code, or as otherwise required in this chapter, do not require building permits:

...

- (4) Real Estate Signs. All temporary real estate signs may be single or double-faced signs:
- (a) Signs advertising an individual residential unit for sale or rent ~~shall be limited to~~ are allowed without city permits, subject to the following:
1. Location.
    - a. ~~One on-site~~ sign per street frontage;
    - b. One off-site sign is allowed on private property or in city street right-of-way between the effective date of Ordinance O2009-XXX (adopting ordinance) and December 31, 2010, subject to the following:
      - i. The individual residential unit or property for sale or rent is not located adjacent to a public street;
      - ii. The off-site sign is located on private property or city street right-of-way, adjacent to the intersection of the primary vehicle entrance to the property and the closest public street;
      - iii. Properties When ~~with more than three (3) off-site real estate signs are proposed for a location, the fourth proposed sign owner shall install and make available to other realtors~~ licensed real estate agents a frame to accommodate multiple signs; and,
      - iv. Off-site real estate signage ~~shall be displayed on private property shall be with the consent of the property owner.~~
      - v. Signs located in the city street right-of-way shall be located outside of the improved portion of the right-of-way (behind the sidewalk, roadway shoulder, drainage ditch etc. whichever is furthest from the traveled roadway), and may be removed by the city if determined to be a hazard or if the placement is otherwise in conflict with the public use of the right-of-way.
    - c. All signs located on a street corner or driveway shall conform with Chapter 14.01 SMC, Public Works Standards Adopted and SMC 21A.25.220, Sight distance requirements.
  2. Specifications.
    - a. The On-site signs ~~may shall~~ not exceed eight square feet in area; and
    - b. On-site signs shall not exceed six feet in height;
    - c. Individual off-site signs shall not exceed an area of ~~three~~ four square feet;
    - d. Frames installed to hold multiple real estate signs shall not exceed a height of six feet;
    - e. Off-site signs located on a frame shall be designed to allow for a minimum of six (6) signs to be hung, in a stacked fashion;
    - f. Real estate offices or individual realtors that are advertising the sale or lease of more than one property at a corner shall be limited to one sign; and,

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g. Off-site signs located on a frame, shall individually not exceed a height of one and a half feet, a width of two three feet, and an area of three square feet.

h. shall not exceed six feet in height.

3. Removal.

a. The sSigns shall be removed within five days after closing of the sale, lease or rental of the property.

- (b) Portable off-premises residential directional signs announcing directions to an open house at a specified residence that is offered for sale or rent shall not exceed six square feet in area for each sign, and shall not exceed 42 inches in height. Such signs shall be permitted only when the agent or seller is in attendance at the property for sale or rent and may be located on the right-of-way outside of vehicular and bicycle lanes.
- (c) On-site commercial or industrial property for sale or rent signs shall be limited to one sign per street frontage, and shall not exceed 32 square feet in area. The sign shall not exceed 12 feet in height. The sign shall be removed within 30 days after closing of the sale, lease or rental of the property. A building permit is required and shall be issued for a one-year period. The permit is renewable for one year increments up to a maximum of three years.
- (d) On-site residential development for sale or rent signs shall be limited to one sign per development. The sign shall not exceed 32 square feet in area, and shall not exceed 12 feet in height. A building permit is required and shall be issued for a one-year period. The permit is renewable annually for up to a maximum of three years.
- (e) Off-site directional signs for residential developments shall be limited to six signs. Each sign shall not exceed 16 square feet in area, and shall include only the name of and directions to the residential development. The sign(s) shall be placed a maximum of two road miles from the nearest residential development entrance. No two signs for one residential development shall be located closer than 500 feet from one another on the same street. A single building permit is required for all signs and shall be issued for a one-year period. The permit number and the permit expiration date must be clearly displayed on the face of each sign. The permit is renewable for one-year increments up to a maximum of three years, provided that extensions will only be granted if the sign permit applicant has complied with the applicable regulations.
- (f) Residential on-premises informational signs shall be limited to one sign per feature, including but not limited to signs for information centers, model homes, parking areas or announcing features such as parks, playgrounds, or trails. Each sign shall not exceed 16 square feet in area, and shall not exceed six feet in height;

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## CITY COUNCIL AGENDA BILL

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**Subject:** An Ordinance granting Puget Sound Energy, Inc. a Franchise for the transmission and distribution of gas and energy

**Meeting Date:** May 19, 2009

And

**Date Submitted:** May 13, 2009

An Ordinance adopting a Memorandum of Understanding for Facilities Relocation Procedures with Puget Sound Energy

**Originating Department:** Administrative Services

**Clearances:**

**Action Required:** First Reading of both Ordinances. No action is recommended.

**City Manager**

**Police**

**Public Works**

**Fire**

**Building/Planning**

**Attorney**

**Exhibits:**

1. Draft Ordinance Franchise Agreement

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**Budgeted Amount:** NA

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**Summary Statement:**

This is an Ordinance granting Puget Sound Energy a Franchise for the transmission and distribution of gas and energy and an Ordinance adopting a Memorandum of Understanding for Facilities Relocation Procedures with Puget Sound Energy

**Background:**

**Franchise Agreement** – This Agreement provides a framework for the relationship between the City and Puget Sound Energy.

Highlights of the Agreement are detailed on the table below:

Term of the Agreement (Section 18)	10 Years Through December 13, 2019. Unless either party requests that the Franchise be renegotiated 1-year prior to the expiration, the Agreement will renew for 3 additional 5-year terms. Total of 25 years.
Basis of Rates (Section 21.3)	Tariff established by the WA State Utilities and Transportation Commission
Relocation of PSE facilities for a Public Improvement (Section 7)	If a City Public Improvement Project requires relocation of PSE facilities, PSE will relocate those facilities at no cost to the City. If the same facilities need to be relocated for a subsequent City Public Improvement Project within 5 years, the City is responsible for the cost of relocating the facilities.
Franchise Fee (Section 15)	WA State law prohibits the City from imposing a Franchise Fee on gas or electricity. (RCW 35.21.860)
Nonexclusive Franchise Agreement (Section 17)	This is a Nonexclusive Franchise Agreement

**Memorandum of Understanding** – This Memorandum of Understanding outlines the procedures for relocation of Puget Sound Energy facilities as part of a City Public Improvement Project.

**Financial Impact:**

NA

**Recommended Motion:**

This is the first reading of an ordinance granting Puget Sound Energy a Franchise for the transmission and distribution of gas and energy and the first reading of an ordinance adopting a Memorandum of Understanding for Facilities Relocation Procedures with Puget Sound Energy. No action is recommended at this time.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2009-\_\_\_**

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AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, GRANTING PUGET SOUND ENERGY, INC., A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO PROVIDE FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF GAS AND ENERGY FOR POWER, HEAT AND LIGHT, AND ANY OTHER PURPOSES FOR WHICH GAS AND ENERGY MAY BE USED.

WHEREAS, the City Council of the City of Sammamish finds that the general public health, safety, welfare, necessity and convenience require that Facilities to provide for transmission, distribution and sale of gas and energy for power, heat and light, and other purposes for which gas and energy may be used, be constructed, maintained and repaired in an orderly manner when such Facilities are located in, under, on or along City rights-of-way;

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

Section 1. That the attached Franchise Agreement between the City of Sammamish and Puget Sound Energy, Inc. shall be adopted and by reference incorporated herein; and

Section 2. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall be in full force and effect 5 days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_ DAY OF \_\_\_\_\_, 2009.

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

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Melonie Anderson, City Clerk

Approved as to form:

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Bruce L. Disend, City Attorney

Filed with the City Clerk: May 13, 2009

First Reading: May 19, 2009

Passed by the City Council:

Date of Publication:

Effective Date:

**ENERGY AND GAS FRANCHISE AGREEMENT**

**City of Sammamish**

**and**

**Puget Sound Energy**

**July 1, 2009 – December 31, 2034**

## **Section 1. Definitions.**

1.1 Where used in this franchise (the “Franchise”) the following terms shall mean:

1.1.1 “PSE” means Puget Sound Energy, Inc., a Washington Corporation, and its successors and assigns.

1.1.2 “City” means the City of Sammamish, a code city of the State of Washington, and its successors and assigns.

1.1.3 “Franchise Area” means any, every and all of the roads, streets, avenues, alleys, highways and public rights-of-way under control of the City as now laid out, platted, dedicated or improved; and any, every and all roads, streets, avenues, alleys, highways and public rights-of-way that may hereafter be laid out, platted, dedicated or improved within the present limits of the City and as such limits may be hereafter extended.

1.1.4 "Facilities" means, collectively, any and all (i) natural gas distribution systems, including but not limited to, gas pipes, pipelines, mains, laterals, conduits, feeders, regulators, valves, meters, meter-reading devices, fixtures, and communication systems; (ii) electric transmission and distribution systems, including but not limited to, poles (with or without crossarms), wires, lines, conduits, cables, braces, guys, anchors and vaults, meter-reading devices, fixtures, and communication systems; and (iii) any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or under ground.

1.1.5 “Ordinance” means the City adopted Ordinance No. which sets forth the terms and conditions of this Franchise.

1.1.6 “Public Improvement” means any capital improvement, repair or maintenance project within the Franchise Area that is undertaken by or on behalf of the City and is funded by the City (either directly with its own funds or with other public or private monies obtained by the City) and is identified in either the City's Transportation, Parks or General Government Capital Improvement Plans or the city's currently adopted biennial budget. For the avoidance of doubt, the term “Public Improvement” shall include any such capital improvement, repair or maintenance project undertaken by the City which requires the relocation of PSE's Facilities within the Franchise Area, even if the capital improvement, repair or maintenance entails, in part, related work performed for a third party county or municipality under a valid interlocal agreement between the City and such county or municipality (except to the extent the relocation of PSE's Facilities is caused by

the work done for such third party), but shall not include, without limitation, any other improvements or repairs undertaken by or for the benefit of third party private entities.

1.1.7 “Traffic” means and shall include all forms of travel, both motorized and non-motorized, to include, but not be limited to: vehicles, pedestrian, bicycle, equestrian, etc.

## **Section 2. Facilities Within Franchise Area.**

2.1 The City does hereby grant to PSE the right, privilege, authority and franchise to set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, across and through the Franchise Area to provide for the transmission, distribution and sale of gas and energy for power, heat, light and such other purposes for which gas and energy may be used.

2.2 This Franchise shall not convey any right to PSE to install its Facilities on or to otherwise use City-owned or City-leased properties outside the Franchise Area; provided, however, that PSE shall retain the right to maintain, repair and operate Facilities installed pursuant to prior franchise agreements with the City regardless of whether said Facilities are outside the Franchise Area, but such right shall be subject to the provisions of Section 2.3.

2.3 Existing Facilities installed or maintained by PSE on public grounds and places within the City in accordance with prior franchise agreements (but which such Facilities are not within the Franchise Area as defined in this Franchise) may continue to be maintained, repaired and operated by PSE at the location such Facilities exist as of the effective date of this Franchise for the term of this Franchise; provided, however, that no such Facilities may be enlarged, improved or expanded without the prior review and approval of the City pursuant to applicable ordinances, codes, resolutions, standards and procedures.

## **Section 3. Noninterference and Maintenance of Facilities.**

3.1 PSE’s Facilities shall be constructed, installed, maintained and repaired within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with the laws of the State of Washington, and the ordinances, rules and regulations of the City which are not inconsistent with the terms of this Franchise. PSE shall exercise its rights within the Franchise Area in accordance with applicable City codes and ordinances governing use and occupancy of the Franchise Area; provided, however, that in the event of any conflict or inconsistency of such codes and ordinances with the terms of this Franchise, the terms of this Franchise shall govern and control; provided further

that nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded PSE by such City codes and ordinances.

3.2 Any repair of PSE's Facilities within the Franchise Area shall be made within the time and in a manner which conforms with generally accepted customs, practices and standards in the industry. In the event of any emergency in which PSE's Facilities located in or under the Franchise Area break or are damaged, or if PSE's Facilities within the Franchise Area are otherwise in a condition as to immediately endanger the property, life, health or safety of any individual, PSE shall, upon receipt of notification from the City of the existence of such condition, take all reasonable actions to correct the dangerous condition.

3.3 Whenever PSE permanently discontinues use of any above ground or at grade Facilities within the Franchise Area, such as poles (with or without crossarms), braces, guys, anchors and vaults, due to modifications or upgrades to PSE's Facilities within the Franchise Area, the discontinued Facilities shall be removed promptly after all utility attachments have been disconnected and removed from such Facilities and in a manner consistent with any contractual obligations to third party users of such Facilities.

#### **Section 4. Permits; Restoration.**

4.1 Whenever it shall be necessary for PSE to engage in any work within the Franchise Area, PSE shall apply for all necessary City permits to do such work, and shall, except to the extent inconsistent with the terms and conditions of this Franchise or where expressly provided otherwise herein, comply with all requirements and conditions of such permits, including but not limited to location restrictions, traffic control, and restoration, repair or other work to restore the surface of the Franchise Area, as nearly as practicable, to its condition immediately prior to the work, or as otherwise specified in the permit issued by the City in connection with the work. Such restoration responsibility shall continue for a period of time to correspond to the remaining life of the existing structure, pavement and/or surface in which the work was accomplished, but shall not apply to any subsequent repair or restoration made necessary by the acts or omissions of the City or any third party. It is further provided that in the event that PSE has any work in the Franchise Area completed by any of its authorized agents or subcontractors, PSE shall remain fully responsible for the permit, permitted work and any other permit requirements, notwithstanding any provisions of this Franchise to the contrary.

4.2 In the event of an emergency situation in which PSE's Facilities within the Franchise Area are in such a condition so as to immediately endanger the property, life, health or safety of any individual, PSE may take immediate action to correct the dangerous condition without first obtaining any required

permit, provided that PSE shall notify the City telephonically, by e-mail or in person within twenty-four (24) hours of the event, and provided that PSE applies for any necessary permit(s) from the City for such work as soon as reasonably practicable thereafter. For the purposes hereof, “as soon as reasonably practicable” means that the permit application shall be submitted to the City not later than ten (10) business days after the date of the commencement of the action that requires such permit.

4.3 Nothing in this Franchise is intended, nor shall it be construed, as a hindrance to PSE’s ability to take such actions as it deems necessary to discharge its public service obligations in accordance with the laws of the State of Washington.

## **Section 5. Maps and Drawings.**

5.1 PSE shall provide the City, upon the City’s reasonable request, copies of available drawings in use by PSE showing the location of its Facilities within the Franchise Area, provided the request is limited to Facilities at specific locations in the Franchise Area and is made in connection with the City’s planning of capital improvement projects. Further, PSE shall, upon the City’s reasonable request, discuss and explore ways in which PSE and the City may cooperate and coordinate activities with respect to the development of drawing file layers compatible with the City’s Geographic Information System (“GIS”) which show PSE’s Facilities at specific locations in the Franchise Area.

5.2 As to any such drawings and drawing file layers so provided, PSE does not warrant the accuracy thereof and, to the extent the location of Facilities are shown, such Facilities are shown in their approximate location. With respect to any excavations within the Franchise Area undertaken by or on behalf of PSE or the City, nothing herein is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining the location of utility facilities.

5.3 Upon the City’s reasonable request in connection with the City’s design of new streets and intersections and renovations of existing streets and intersections, and any other Public Improvement, undertaken by the City, PSE shall further provide to the City (a) the location and grade of PSE’s underground Facilities at those specific locations within the Franchise Area affected by the project by either field markings or by locating the Facilities in the City’s design drawings, and (b) other reasonable cooperation and assistance; provided, however, that nothing in this Section 5.3 or any other provision of this Franchise is intended to (or shall) relieve any person or entity of its obligations under applicable law with respect to determining the location of underground facilities.

**Section 6. Right to Complete Work.**

6.1 In the event that PSE fails to perform any work to restore the surface of the Franchise Area to enable the free passage of traffic by the traveling public as required by this Franchise or any permit issued by the City relating to such work, and such failure continues for a period of ten (10) days after PSE receives written notice from the City regarding such failure (or, in the event of an emergency situation, such shorter period of time after receipt of notice from the City as is reasonably required in the circumstances), the City may, but in no event is obligated to, perform or contract for such work and, thereafter, PSE shall, upon the City's written request, reimburse the City for the reasonable costs incurred by the City in having such work performed.

**Section 7. Relocation of Facilities.**

7.1 Whenever the City causes a Public Improvement to be undertaken within the Franchise Area, and such Public Improvement requires the relocation of PSE's then existing Facilities within the Franchise Area (for purposes other than those described in paragraph 7.2 below), the City shall:

7.1.1 provide PSE, within a reasonable time prior to the commencement of such Public Improvement, written notice requesting such relocation; and

7.1.2 provide PSE with reasonable plans and specifications for such Public Improvement.

After receipt of such notice and such plans and specifications, PSE shall relocate such Facilities within the Franchise Area at no charge to the City. If the City requires the subsequent relocation of any Facilities within five (5) years from the date of relocation of such Facilities pursuant to this Section 7.1, the City shall bear the entire cost of such subsequent relocation.

7.2 Whenever (i) any public or private development within the Franchises Area, other than a Public Improvement, requires the relocation of PSE's Facilities within the Franchise Area to accommodate such development; or (ii) the City requires the relocation of PSE's Facilities within the Franchise Area for the benefit of any person or entity other than the City (including, without limitation, any condition or requirement imposed by the City pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development), then in such event, PSE shall have the right as a condition of such relocation, to require such developer, person or entity to make payment to PSE, at a time and upon terms acceptable to PSE, for any and all costs and expenses incurred by PSE in the relocation of PSE's Facilities.

7.3 Any condition or requirement imposed by the City upon any person or entity, other than PSE, that requires the relocation of PSE's Facilities shall be a required relocation for purposes of paragraph 7.2 above (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development).

7.4 Nothing in this Section 7 "Relocation of Facilities" shall require PSE to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from this Franchise.

### **Section 8. Undergrounding of Facilities.**

8.1 PSE acknowledges the City desires to encourage the undergrounding of overhead electrical Facilities within the Franchise Area. The City acknowledges that PSE utilizes such overhead Facilities to provide electrical service on a non-preferential basis subject to and in accordance with tariffs on file with the Washington Utilities and Transportation Commission. Subject to and in accordance with such tariffs, PSE will cooperate with the City in the formulation of policy and regulations concerning the undergrounding of PSE's overhead electrical Facilities within the Franchise Area. If, during the term of this Franchise, the City shall direct PSE to underground overhead electrical Facilities within the Franchise Area, such undergrounding shall be arranged and accomplished subject to and in accordance with tariffs on file with the Washington Utilities and Transportation Commission. This Section 8 shall govern all matters related to the undergrounding of PSE's overhead electrical Facilities within the Franchise Area.

### **Section 9. Indemnification.**

9.1 PSE shall indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, engineers, and consultants from any and all claims, costs, judgments, awards, or liability to any person arising from injury or death of any person or damage to property to the extent the same is caused by the negligent acts or omissions of PSE, its agents, servants, officers, or employees in performing under this Franchise. This covenant of indemnification shall include, but not be limited by this reference, to claims against the City arising as a result of the negligent acts or omissions of PSE, its agents, servants, officers, or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work in the Franchise Area or in any other public place in performance of work or services permitted under this Franchise.

9.2 Inspection or acceptance by the City of any work performed by PSE at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

9.3 In the event any claim or demand for which indemnification is provided under Section 9.1 is presented to, or suit or action is commenced against, the City based upon any such claim or demand, the City shall promptly notify PSE thereof, and PSE may elect, at its sole cost and expense, to settle and compromise such suit or action, or defend the same with attorneys of its choice. In the event that PSE refuses the tender of defense in any suit or any claim for which indemnification is provided under Section 9.1, said tender having been made pursuant to this indemnification clause, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal on the part of PSE, then PSE shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fees of recovering under this indemnification clause.

9.4 In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of PSE and the City, its officers, employees and agents, PSE's liability hereunder shall be only to the extent of PSE's negligence. It is further specifically and expressly understood that, solely to the extent required to enforce the indemnification provided herein, PSE waives its immunity under RCW Title 51; provided, however, the foregoing waiver shall not in any way preclude PSE from raising such immunity as a defense against any claim brought against PSE by any of its employees. This waiver has been mutually negotiated by the parties.

9.5 In the event it is determined that RCW 4.24.115 applies to this Franchise, PSE's indemnification obligations under Section 9.1 shall apply to the maximum extent permitted thereunder, to the full extent of PSE's negligence. Further, in any such action, the City shall have the right to participate, at its sole cost and expense, through its own attorney in any suit or action which arises pursuant to this Franchise when the City determines that such participation is in the City's best interest.

9.6 The provisions in this Section 9 shall survive the expiration or termination of this Franchise with respect to any claim, demand, suit or action for which indemnification is provided under Section 9.1 and which is based on an act or omission that occurred during the term of this Franchise.

**Section 10. Reservation of Rights.**

10.1 In the event the City vacates any portion of the Franchise Area during the term of this Franchise, the City shall, in its vacation procedure, reserve and grant an easement to PSE for PSE's existing Facilities unless the City reasonably determines that to do so would be impracticable in light of the nature of the vacation. In cases where the City determines that reserving and granting an easement to PSE is impracticable, the City will notify PSE thirty (30) business days prior to any final vacation action.

10.2 The existence of this Franchise shall not preclude the City from acquiring by condemnation, in accordance with applicable law, all or any portions of PSE's Facilities within the Franchise Area.

**Section 11. Moving Buildings within the Franchise Area.**

11.1 If any person or entity obtains permission from the City to use the Franchise Area for the movement or removal of any building or other object, the City shall, prior to granting such permission, require such person or entity to arrange with PSE for the temporary adjustment of PSE's overhead wires necessary to accommodate the movement or removal of such building or other object, where the movement or removal of such building or other object will pass under PSE's overhead wires or where the movement or removal of such building or other object will otherwise require the temporary adjustment of PSE's overhead wires. The City shall require such person or entity to complete such arrangements, upon terms and conditions acceptable to PSE, not less than thirty (30) calendar days prior to the movement or removal of such building or other object. In such event, PSE shall, at the sole cost and expense of the person or entity desiring to move or remove such building or other object, adjust any of its overhead wires which may obstruct the movement or removal of such building or object.

**Section 12. Use of Facilities by City.**

12.1 During the term of this Franchise, the City may, subject to PSE's prior written consent, which shall not be unreasonably withheld, install and maintain City-owned overhead wires for traffic signalization and police and fire communications upon PSE's poles which are Facilities located within the Franchise Area. The foregoing rights of the City to install and maintain such wires are further subject to the following:

12.1.1 The City shall perform such installation and maintenance at its sole risk and expense in accordance with all applicable laws and in accordance with such reasonable terms and conditions as PSE may specify from time to time (including, without limitation, requirements

accommodating Facilities or the facilities of other parties having the right to use the Facilities); and

12.1.2 PSE shall have no obligation under Section 9 in connection with any City-owned wires installed or maintained on PSE's poles.

### **Section 13. Vegetation Management.**

13.1 PSE shall not apply any pesticide or herbicide within the Franchise Area without prior approval of the City, which approval shall not be unreasonably withheld. If PSE first obtains such approval from the City to apply a specific product in accordance with the defined procedure on an ongoing basis throughout the Franchise Area, PSE shall not thereafter be required to obtain the City's approval on each occasion such product is so applied unless changes occur in State or federal law or regulation that would require or necessitate such subsequent approval. Trees which may interfere with ungrounded supply conductors should be trimmed or removed. PSE shall coordinate its routine vegetation management activities with the City and shall trim vegetation in close proximity to its Facilities within the Franchise Area in compliance with all City ordinances, regulations, resolutions and rules. PSE shall, upon the City's reasonable request, provide advance notice to the owners of property adjacent to conductors where major vegetation removal is planned. However, such obligation to coordinate and comply shall not limit PSE's right under this Franchise to cut, trim or otherwise remove vegetation at any time within the Franchise Area which, due to proximity to PSE's Facilities, poses an imminent threat to property, public safety or continuity of electrical service.

### **Section 14. Street Lighting.**

14.1 PSE shall install, operate and maintain street lighting as requested by the City in accordance with applicable schedules and tariffs on file with the Washington Utilities and Transportation Commission (or such other regulatory agency having jurisdiction). Subject to the terms and conditions of the aforementioned schedules or tariffs, PSE shall apply its best efforts to replace individual street lamps (which PSE is otherwise required to replace in accordance with such schedules and tariffs) promptly after receipt of notice from the City.

### **Section 15. Recovery of Costs; Permit Fees.**

15.1 As specifically provided by RCW 35.21.860, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon PSE as a result of this Franchise. However, as provided in RCW 35.21.860, the City may recover from PSE the actual administrative expenses incurred by the City that are directly related to: (i) receiving and approving a permit, license or

this Franchise, (ii) inspecting plans and construction, or (iii) preparing a detailed statement pursuant to Chapter 43.21C RCW. With respect to its payment of such administrative expenses, the City shall submit to PSE statements/billings which specify the amounts due. PSE shall make payment to the City in reimbursement of such expenses within thirty (30) days of the receipt of such statements/billings. Failure by PSE to pay such amount within such thirty (30) day time period shall constitute a failure to comply with the Franchise for the purposes of Section 16, Default, hereof. Additionally, the failure by PSE to timely pay said amounts shall be grounds for the City to preclude the processing of any applications and/or issuing permits until payment has been fully made. Furthermore, any late payment shall also accrue interest computed at the rate of twelve percent (12%) per annum from the thirtieth day.

15.2 With respect to the payment of permit fees, PSE shall comply with all applicable payment terms set forth in applicable codes, ordinances or permits of the City, including, without limitation, any such terms relating to the schedule for payment and the City's right to withhold permits or charge interest in connection with any payment default by PSE; provided, however, the City shall accept payment of such permit fees directly from contractors of PSE that perform work in the Franchise Area on behalf of PSE so long as PSE has notified the City in writing that the contractor is authorized to do so on PSE's behalf and PSE remains responsible for compliance with the terms of the permit.

#### **Section 16. Default.**

16.1 If PSE shall fail to comply with the provisions of this Franchise, the City may serve upon PSE a written order to so comply within thirty (30) days from the date such order is received by PSE. If PSE is not in compliance with this Franchise after the expiration of said thirty (30) day period, the City may, by ordinance, declare an immediate forfeiture of this Franchise. The parties expressly acknowledge and agree, however, that the forgoing rights and obligations of the parties are subject in all respects to excused performance based on a Force Majeure Event (as defined in Section 21.14).

#### **Section 17. Nonexclusive Franchise.**

17.1 This Franchise is not, and shall not be deemed to be, an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area that do not interfere with PSE's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

**Section 18. Franchise Term.**

18.1 This Franchise is and shall remain in full force and effect through December 31, 2019 (10 years); provided, however, PSE shall have no rights under this Franchise nor shall PSE be bound by the terms and conditions of this Franchise unless PSE shall, within sixty (60) days after the effective date of the Ordinance, file with the City its written acceptance of the Ordinance. This Franchise will automatically renew for three additional five-year periods (total of 25 years) unless either party requests in writing to renegotiate the Franchise at least one year prior to the expiration date of each term. In any such extension, the terms and conditions of this Franchise shall remain in full force and effect, except as may be otherwise mutually agreed by the parties hereto.

**Section 19. Insurance; Bond.**

19.1 PSE shall maintain the following liability insurance coverages, insuring both PSE and the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insured's against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted to PSE:

19.1.1 General liability insurance with limits not less than:

- (a) Five million dollars for bodily injury or death to each person; and
- (b) Five million dollars for property damage resulting from any one accident.

19.1.2 Automobile liability for owned, non-owned and hired vehicles with a limit of \$3,000,000 for each person and \$3,000,000 for each accident.

19.1.3 Worker's compensation with statutory limits and employer's liability insurance with limits of not less than \$1,000,000.

19.1.4 Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than \$3,000,000.

19.2 The liability insurance described herein shall be maintained by PSE throughout the term of this Franchise, and such other period of time during which PSE is operating its Facilities within the Franchise Area without a franchise, or is engaged in the removal of its Facilities from the Franchise Area. Payment of

deductibles and self-insured retentions shall be the sole responsibility of PSE. Coverage under this policy shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The City shall be named as an additional insured under PSE's Commercial General Liability insurance policy. PSE shall be the primary insured as respects the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance maintained by the City, its officers, officials, employees, consultants, agents, and volunteers shall be in excess of PSE's insurance and shall not contribute with it.

19.3 The liability insurance described herein, and any subsequent replacement policies, shall provide that insurance shall not be cancelled or materially changed so as to be out of compliance with these requirements without first providing thirty (30) days written notice to the City. If the insurance is cancelled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, PSE shall provide a replacement policy. PSE agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required for the duration of this Franchise and, in the case of the Commercial General Liability, for at least three (3) years after expiration of the term of this Franchise. Any lapse in the required insurance coverage shall be cause for termination of this Franchise.

19.4 In lieu of the insurance requirements set forth in this Section 19, PSE may self-insure against such risks in such amounts as are consistent with good utility practice. Upon the City's request, PSE shall provide the City with reasonable written evidence that PSE is maintaining such self-insurance.

## **Section 20. Assignment.**

20.1 PSE shall not assign or transfer its rights, benefits and privileges in and under this Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. Prior to any assignment, the intended assignee shall, within thirty (30) days of the proposed date of any assignment, file written notice of the intended assignment with the City together with its written acceptance of all terms and conditions of this Franchise. Notwithstanding the foregoing, PSE shall have the right, without such notice or such written acceptance, to mortgage its rights, benefits and privileges in and under this Franchise for the benefit of bondholders.

## **Section 21. Miscellaneous.**

21.1 If any term, provision, condition or portion of this Franchise shall be held to be invalid, or is held to be inapplicable to any person or circumstance, such invalidity shall not affect the validity of the remaining portions of this Franchise

which shall continue in full force and effect, and its application to other persons and circumstances shall not be affected. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

21.2 This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 9 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by PSE of any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

21.2.1 references this Franchise; and

21.2.2 states that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

21.3 This Franchise is subject to the provisions of any applicable tariff on file with the Washington Utilities and Transportation Commission or its successor. In the event of any conflict or inconsistency between the provisions of this franchise and such tariff, the provisions of such tariff shall control.

21.4 In connection with its performance of work under this Franchise, PSE shall, during the term of this Franchise, fully comply with all applicable equal employment or non-discrimination provisions and requirements of federal, state and local laws.

21.5 During the term of this Franchise, each party shall notify and keep the other party apprised of its local address for the service of notices by mail. All notices and other communications given or required to be given under this Franchise shall be sent postage prepaid to such respective address and such notices shall be effective upon receipt. The City and PSE may change their respective addresses by written notice to the other party at any time.

21.6 During the term of this Franchise, PSE shall also provide the City (and maintain current) a written list showing the names and telephone numbers of the specific departments and (if applicable) individuals within PSE that may be contacted by the City to identify and address problems and issues that arise under this Franchise. PSE shall ensure that the list includes contact information for addressing emergency support and technical support issues (with emergency support being available 24 hours per day), and shall ensure that the names and telephone numbers appearing on the list in those areas have the expertise and authority (or access to the same) needed to address the problem or issue promptly and effectively. PSE shall use all reasonable efforts to respond to requests from the City promptly, to work diligently with the City in resolving any problems or issues identified by the City, and to actively communicate with the City regarding each problem or issue from the time it is first identified by the City until the time it is resolved. PSE shall update the list to ensure that it remains current and shall give written notice of the change to the City.

21.7 PSE and the City shall, as reasonably requested by the other party from time to time, discuss and coordinate their activities with respect to construction which may affect the public ways in any manner in an effort to minimize public inconvenience, disruption or damages.

21.8 This Franchise shall be binding upon the parties hereto and their permitted successors and assigns.

21.9 Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party, act toward third persons or the public in any manner that would indicate any such relationship with the other.

21.10 The failure of either party at any time to require performance by the other party of any provision hereof shall in no way affect the right of such party thereafter to enforce the same. Nor shall the waiver by a party of any breach of any provision hereof by the other party be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

21.11 This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. The venue and jurisdiction over any dispute related to this Franchise shall be with the King County Superior Court, Regional Justice Center, Kent, Washington (or, if the Regional Justice Center is no longer in operation, such other local facility as is then operated by the King County Superior Court).

21.12 If either party shall be required to bring any action to enforce any provision of this Franchise, or shall be required to defend any action brought by the other party with respect to this Franchise, and in the further event that one party shall prevail in such action, the other party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

21.13 This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral negotiations between the parties.

21.14 In the event that either party is prevented or delayed in the performance of any of its obligations under this Franchise by any event or circumstance beyond its reasonable control (a "Force Majeure Event"), then that party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm or other condition which necessitates the mobilization of the personnel of a party or its contractors to restore utility service; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a third party; or any failure or delay in the performance by the other party, or a third party who is not an employee, agent or contractor of the party claiming a Force Majeure Event, in connection with this Franchise. Upon removal or termination of the Force Majeure Event, the party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation. The parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.

## **Section 22. Dispute Resolution.**

22.1 The parties recognize that cooperation and communication are essential to resolving issues quickly and efficiently. If any dispute arises in regard to the terms or conditions of this Franchise, then the parties shall meet and engage in good faith discussions with the objective of settling the dispute within ten (10) days after either party requests such a meeting. If the parties cannot resolve the dispute within such ten (10) day period, the parties will, upon the written request of either party, seek to resolve the dispute in accordance with the following dispute resolution process:

Level One – A representative from PSE and the City's Public Works Director shall meet to discuss and attempt to resolve the dispute in a timely manner. If these representatives cannot resolve the dispute within fourteen (14)

calendar days after referral of the dispute to Level One, either party may by written notice to the other party refer the dispute to Level Two.

Level Two – In the event either party properly refers the dispute to Level Two, a new PSE representative and the City Manager shall meet to discuss and attempt to resolve the dispute in a timely manner. If these representatives cannot resolve the dispute within fourteen (14) calendar days after referral of the dispute to Level Two, either party may by written notice to the other party refer the dispute to Level Three.

Level Three – In the event either party properly refers the dispute to Level Three, the parties shall refer the dispute to mediation using a mediator mutually agreeable to the parties. If these representatives cannot resolve the dispute within fourteen (14) calendar days after referral of the dispute to Level Three, either party may by written notice to the other party refer the dispute to Level Four.

Level Four – In the event either party properly refers the dispute to Level Four or the dispute is not resolved at Level Three within fourteen (14) calendar days after referral of that dispute to Level Three, either party may seek resolution of the dispute through litigation or other judicial proceedings in the court specified in Section 21.11.

22.2 Notwithstanding Section 22.1 or any other provision of this Franchise to the contrary, with respect to any dispute arising under this Franchise, either party may commence litigation or other judicial proceedings within thirty (30) days prior to the date after which the commencement of litigation could be barred by any applicable statute of limitations or other law, rule, regulation, or order of similar import or in order to request injunctive or other equitable relief necessary to prevent irreparable harm. In such event, the parties will (except as may be prohibited by judicial order) nevertheless continue to follow the procedures set forth in this Section 22.

### **Section 23. Severability.**

23.1 If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

### **Section 24. Ratification.**

24.1 Any act of the City consistent with the authority granted by the City prior to the effective date of this Ordinance is hereby ratified and affirmed by the City.

**Section 25. Effective Date.**

25.1 This Ordinance shall be effective on July 1, 2009.



## CITY COUNCIL AGENDA BILL

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**Subject:** An Ordinance granting Puget Sound Energy, Inc. a Franchise for the transmission and distribution of gas and energy

**Meeting Date:** May 19, 2009

**Date Submitted:** May 13, 2009

And

**Originating Department:** Administrative Services

An Ordinance adopting a Memorandum of Understanding for Facilities Relocation Procedures with Puget Sound Energy

**Clearances:**

**Action Required:** First Reading of both Ordinances. No action is recommended.

**City Manager**

**Police**

**Public Works**

**Fire**

**Building/Planning**

**Attorney**

**Exhibits:**

1. Draft Ordinance Memorandum of Understanding

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**Budgeted Amount:** NA

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**Summary Statement:**

This is an Ordinance granting Puget Sound Energy a Franchise for the transmission and distribution of gas and energy and an Ordinance adopting a Memorandum of Understanding for Facilities Relocation Procedures with Puget Sound Energy

**Background:**

**Franchise Agreement** – This Agreement provides a framework for the relationship between the City and Puget Sound Energy.

Highlights of the Agreement are detailed on the table below:

Term of the Agreement (Section 18)	10 Years Through December 13, 2019. Unless either party requests that the Franchise be renegotiated 1-year prior to the expiration, the Agreement will renew for 3 additional 5-year terms. Total of 25 years.
Basis of Rates (Section 21.3)	Tariff established by the WA State Utilities and Transportation Commission
Relocation of PSE facilities for a Public Improvement (Section 7)	If a City Public Improvement Project requires relocation of PSE facilities, PSE will relocate those facilities at no cost to the City. If the same facilities need to be relocated for a subsequent City Public Improvement Project within 5 years, the City is responsible for the cost of relocating the facilities.
Franchise Fee (Section 15)	WA State law prohibits the City from imposing a Franchise Fee on gas or electricity. (RCW 35.21.860)
Nonexclusive Franchise Agreement (Section 17)	This is a Nonexclusive Franchise Agreement

**Memorandum of Understanding** – This Memorandum of Understanding outlines the procedures for relocation of Puget Sound Energy facilities as part of a City Public Improvement Project.

**Financial Impact:**

NA

**Recommended Motion:**

This is the first reading of an ordinance granting Puget Sound Energy a Franchise for the transmission and distribution of gas and energy and the first reading of an ordinance adopting a Memorandum of Understanding for Facilities Relocation Procedures with Puget Sound Energy. No action is recommended at this time.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2009-\_\_\_\_**

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AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, ADOPTING A MEMORANDUM OF  
UNDERSTANDING FOR FACILITIES RELOCATION  
PROCEDURES WITH PUGET SOUND ENERGY, INC., A  
WASHINGTON CORPORATION,

WHEREAS, the City and PSE have entered into a Franchise Agreement, Ordinance No. \_\_\_\_ (“the Franchise”), and

WHEREAS, the City and PSE recognize the value of defining and developing their working relationship through cooperation, planning, communication and coordination, and

WHEREAS, the City and PSE desire to establish a mutually agreed procedure for relocation of PSE’s Facilities that are subject to the Franchise,

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

Section 1. That the attached Memorandum of Understanding between the City of Sammamish and Puget Sound Energy, Inc. shall be adopted and by reference incorporated herein; and

Section 2. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall be in full force and effect 5 days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2009.**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

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Melonie Anderson, City Clerk

Approved as to form:

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Bruce L. Disend, City Attorney

Filed with the City Clerk:	May 13, 2009
First Reading:	May 19, 2009
Passed by the City Council:	
Date of Publication:	
Effective Date:	

# Memorandum of Understanding Facilities Relocation Procedure

This Memorandum of Understanding is entered into between the City of Sammamish (the “City”) and Puget Sound Energy (“PSE”), also referred to herein together as the "Parties"

This Memorandum of Understanding is intended by the Parties to be supplemental to the Franchise to the extent it contains procedures for the relocation of PSE’s Facilities which are subject to the Franchise. The Facilities Relocations Procedures provided herein have been agreed to by the Parties for the purpose of implementing the respective obligations of the Parties contained in Section 7 of the Franchise with respect to capital and/or maintenance projects identified in the City’s Transportation, Parks or General Government CIPs, and/or identified for funding in the City’s current biennial budget.

Unless specifically defined otherwise in this Memorandum of Understanding, all defined terms herein will have the same meaning as when used in the Franchise.

This Memorandum of Understanding may be amended by mutual agreement of the Parties. Any amendment must be set forth in writing, signed by the Parties, and specifically state that it is an amendment to this Memorandum of Understanding.

The Parties intend that, notwithstanding circumstances beyond the control of the Parties, required relocations of PSE's Facilities subject to the Franchise will be performed by the Parties in accordance with the Facilities Relocation Procedures provided herein. The Parties acknowledge that the Facilities Relocation Procedures, including specifically the time requirements provided therein, may, from time to time, require amendment, or as mutually agreed by the Parties, deviation therefrom, to reasonably accommodate circumstances beyond the control of either Party. In such event, the Parties will make their respective best efforts to reasonably amend this Memorandum of Understanding, or to reasonably deviate from the procedures contained herein, as the Parties may mutually agree upon.

This Memorandum of Understanding, as from time to time amended, will remain in full force and effect for the term of the Franchise, unless sooner terminated by mutual agreement of the Parties.

### **Facilities Relocation Procedure**

1. Reasonably well in advance of, but in no case less than 130 calendar days before (unless otherwise mutually agreed by the Parties or otherwise necessitated by circumstances beyond the control of the Parties) the City desires PSE to commence construction of a required relocation of PSE's Facilities which are subject to the Franchise, the City will provide PSE and all other utilities collocated on/with PSE's Facilities (hereafter "Other Utilities") with a written scope of work for the City's related Public Improvement Project which includes, among other things, (a) a reasonably detailed description of the scope of the work required for the Public Improvement Project, (b) a list of the key milestone dates for the Public Improvement Project including the projected dates by which construction of the required relocation should be commenced and completed by PSE and Other Utilities, and (c) two (2) copies of reasonably detailed drawings showing the planned improvements for the Public Improvement Project (collectively the "Scope of Work"). The City will also provide PSE and Other Utilities with a copy of the relevant electronic file(s) for the Scope of Work in a mutually agreed electronic format.

After receipt by PSE of the City's Scope of Work, in the event PSE believes it will be unable to comply with the time frames provided for in this Facilities Relocation Procedures, PSE will, within fifteen (15) calendar days so notify the City. In such event and as soon thereafter as practicable, the Parties shall meet to discuss the circumstances precluding performance consistent with the Facilities Relocation Procedures and to mutually agree to alternative time frames for performance that are otherwise consistent with the Facilities Relocation Procedures. The Parties anticipate and intend that relocation of certain PSE Facilities, including but not limited to, high pressure gas mains (operating above sixty (60) psi) and associated equipment, district regulating stations, gas mains attached to bridges, overpasses or crossing under water features and some electric transmission lines and support structures, will require alternative (longer) time frames to

produce and agree to the Relocation Plan described in paragraph 3 below and/or to acquire materials and/or permits necessary to construct the required relocation.

2. Within a reasonable time, but in no case later than seventy (70) calendar days (unless otherwise mutually agreed by the Parties) after receipt by PSE of the City's Scope of Work, PSE will prepare and provide to the City: (a) a proposed design for the relocation of PSE's Facilities that accommodates the planned improvements for the Public Improvement Project, and (b) a proposed schedule for completion of the relocation which, to the extent reasonably practicable, reflects the applicable key milestone dates specified in the Scope of Work and provides for completion of the required relocation by PSE and Other Utilities by the projected relocation completion date provided by the City in the Scope of Work. The proposed relocation design and proposed relocation schedule will be based upon the then current Scope of Work provided to PSE and Other Utilities by the City.

3. Within fifteen (15) calendar days after the City's receipt of the proposed relocation design and the proposed relocation schedule from the PSE, the City, PSE and Other Utilities will begin meeting, as necessary, in order to (a) review the Scope of Work, (b) review the proposed relocation design, (c) review the proposed relocation schedule, and (d) make any changes thereto necessary to create a final Scope of Work, final relocation design, and final relocation schedule (collectively the "Relocation Plan") reasonably acceptable to the City, PSE and Other Utilities.

4. The Relocation Plan will be accepted in writing by authorized representatives of both Parties not less than (30) calendar days prior to the date PSE is to commence relocation construction contained therein. Once accepted by the Parties, the Relocation Plan may thereafter be changed or amended only in accordance with the change procedures set forth below.

5. The City will promptly notify PSE and Other Utilities of any revision(s) and/or addition(s) to the planned improvements for the City's Public Improvement Project which may impact the design of or location for PSE's Facilities contained in the Relocation Plan.

6. The City will, not less than ten (10) days prior to the date contained in the Relocation Plan that PSE is to commence relocation construction, provide a written notice to

PSE and Other Utilities to proceed with construction of the required relocation as provided in the Relocation Plan.

7. After receipt of the City's notice to proceed, PSE will relocate such Facilities within the Franchise Area at no cost to the City as provided in the Relocation Plan.

8. The City will be responsible for coordinating the PSE relocation work with all other work to be performed in connection with the Public Improvement Project and any associated planned improvements. It is recognized that PSE's relocation work may have an impact to other utilities' facilities and therefore will be an active participant in the coordination of its work with all parties. The Parties will work together in an effort to mitigate the costs of the relocation, including, without limitation, identifying ways to accommodate PSE's Facilities within the Franchise Area.

9. Upon request of the City, and in any event as specified in the Relocation Plan, PSE will provide periodic progress reports to the City.

10. Any actual reasonable costs incurred by the City or by any contractor working for the City, caused by construction delays reasonably attributable to a failure by PSE to adhere to the Relocation Plan, including the date contained therein by which PSE is to complete the required relocation, will be the sole responsibility of PSE unless such failure is excused as provided for in Section 21.14, Force Majeure, of the Franchise or is otherwise attributable to the actions or inactions of Other Utilities having facilities attached to PSE's Facilities.

11. Unless mutually agreed by the parties, in the event the City terminates or abandons the Public Improvement Project, and does not proceed with the project within two (2) years of the date in which such decision is made such that relocation of PSE Facilities will not be or would not have been necessary, the City will pay PSE for all actual reasonable costs incurred by PSE in performance of the relocation including any necessary design and/or construction work, plus any costs incurred by PSE for materials and other items ordered or procured by PSE (with the prior authorization of the City) in order to meet the final relocation schedule in the Relocation Plan. The parties will determine payment terms on such reimbursement costs on a case by case basis.

12. Either Party may, at any time, by written request to the other Party, request changes to the Relocation Plan. No request for change will be unreasonably denied by either Party. A Request for Change will be effective and binding upon the Parties only when signed by an authorized representative of each Party. The Parties will meet and work in good faith with the objective of reaching written agreement on mutually acceptable adjustments to the Relocation Plan. Notwithstanding resolution of any dispute and/or mutual agreement concerning requested changes to the Relocation Plan, each Party will, if requested by the other Party and to the extent reasonably practicable, proceed with their respective work in accordance with the Relocation Plan, subject to any mutually agreed change(s), to accommodate the Public Improvement Project and avoid delays related thereto. In the event the Parties so proceed, the Parties will thereafter make their respective best efforts to resolve any dispute and/or to reach mutual agreement on any requested change(s) and/or the results of such proceeding notwithstanding such prior agreement.

13. Any dispute, disagreement or claim arising out a required relocation of PSE's Facilities must first be presented to and considered by the Parties. A Party who wishes to present such dispute, disagreement or claim will notify the other Party and pursue resolution of the dispute, disagreement or claim consistent with Section 22 of the Franchise. All negotiations pursuant to these procedures for the resolution of disputes will be confidential and will be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.

**Agreed and Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2009**

**PUGET SOUND ENERGY, INC.**

**CITY OF SAMMAMISH**

\_\_\_\_\_

\_\_\_\_\_

**(Title)**

**City Manager**

**Approved as to form:**

\_\_\_\_\_ **City Attorney**





## CITY COUNCIL AGENDA BILL

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**Subject:** Ordinance First Reading: Amending Ordinance No. O2001-79 adopting a system for the issuance, use and control of credit cards by city officials and employees, for the purpose of increasing the maximum credit limit and adding a section covering payment of bills.

**Meeting Date:** May 19, 2009

**Date Submitted:** May 4, 2009

**Originating Department:** Financial Services

**Clearances:**

**Action Required:**

First reading of the ordinance.

City Manager

Police

Public Works

Fire

Building/Planning

Attorney

**Exhibits:**

1. Draft Ordinance.

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**Budgeted Amount:** N/A

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**Summary Statement:** The current credit card limit of \$2,500 established in 2001 is no longer adequate to meet the City's credit card purchasing needs. The Revised Code of Washington requires the City Council to adopt policies governing payment of credit card bills. This ordinance update is a housekeeping item.

**Background:** In 2001 the City Council passed Ordinance 2001-79 adopting a system for issuance, use, and control of credit cards by City officials and employees. RCW 43.09.2855 requires the Council to adopt policies governing the distribution, authorization, credit limits, payment, and control of credit cards. The credit limit set in 2001 has not been revised for inflation or growth of the City and is now too low to adequately meet the City's goals of improved cash management, cost reduction, and increased efficiency through the use of credit cards. In addition, the payment of bills language in the current ordinance does not fully address bill payment. The proposed changes to the Ordinance O2001-79 address the credit limit and add bill payment language to meet the RCW requirements.

**Financial Impact:** None

**Recommended Motion:** First reading of the Ordinance. No Council action required.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE No. O2009-\_\_\_**

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**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING ORDINANCE NO. O2001-79, ADOPTING A SYSTEM FOR THE ISSUANCE, USE AND CONTROL OF CREDIT CARDS BY CITY OFFICIALS AND EMPLOYEES, FOR THE PURPOSE OF INCREASING THE MAXIMUM CREDIT LIMIT AND ADDING A SECTION COVERING PAYMENT OF BILLS.**

**WHEREAS**, the City Council adopted Ordinance No. O2001-79, adopting a system for the issuance, use and control of credit cards by City officials and employees; and

**WHEREAS**, the credit limit of \$2,500 per card adopted in 2001 is no longer adequate to meet the City's credit card use needs; and

**WHEREAS**, RCW 43.09.2855 requires the legislative body to adopt policies governing payment of credit cards in addition to the previously adopted policies governing credit cards;

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

**Section 1A4.** Credit Limits. The City Manager or his/her designee shall set credit limits on each card issued subject to the approval of the City Council. The credit card limit shall not exceed \$10,000 for any individual credit card. The limit may be temporarily revised by the City Manager or the Finance Director to accommodate purchases made under special circumstances such as emergency repairs, disaster responses, extended business travel, and other infrequent or unusual situations.

**Section 1A8.** Payment of Bills. The Finance Department will pay the credit card bills after receiving the necessary documentation and authorized signatures from the credit card holders.

**Section 3.** This Ordinance shall take effect and be in full force five (5) days after the date of its publication, as required by law.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THIS \_\_\_\_ DAY OF \_\_\_\_, 2009.**

CITY OF SAMMAMISH

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Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

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Melonie Anderson, City Clerk

Approved as to form:

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Bruce L. Disend, City Attorney

Filed with City Clerk:            May 4, 2009  
First Reading:                    May 19, 2009  
Second Reading:  
Date Adopted:  
Date of Publication:  
Effective Date:



## CITY COUNCIL AGENDA BILL

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**Subject:** Temporary Interim Siting Hierarchy For  
Wireless Communication Facilities

**Meeting Date:** May 19<sup>th</sup> 2009

**Date Submitted:** May 13, 2009

**Originating Department:** Community Development

**Clearances:**

**Action Required:** Move to suspend the rules and  
adopt the emergency ordinance on the first reading.

**City Manager**

**Police**

**Public Works**

**Fire**

**Building/Planning**

**Attorney**

**Exhibits:**

1. Draft Ordinance
2. Code

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**Budgeted Amount:**

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**Summary Statement:** The previous wireless emergency ordinance 02007-223 placed collocation higher on the hierarchy than the city classified right-of-way arterial. Collocation and the city classified right-of-way arterial should have been equal on the city siting hierarchy. The emergency ordinance would place both as first on the siting hierarchy. The city is working on revising the wireless ordinance to permanently modify the siting hierarchy and other provisions of the wireless ordinance.

**Background:** The City Technology Committee recommended that the City Council give a higher priority in the siting hierarchy to collocation on existing poles or structures as set forth in Section 21A.55.060, SMC. During the time the ordinance was in effect wireless carriers no longer could use the city classified ROW arterials as a first choice. This has presented challenges for the wireless carriers, and this ordinance will correct the hierarchy.

**Financial Impact:** None.

**Recommended Motion:** Motion to suspend the rules and adopt the ordinance on the first reading.

**CITY OF SAMMAMISH  
WASHINGTON  
ORDINANCE NO. O2009-\_\_\_\_**

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AN ORDINANCE OF THE CITY OF SAMMAMISH,  
WASHINGTON, AMENDING THE SAMMAMISH  
MUNICIPAL CODE CHAPTER 21A.55, TO ADOPT  
TEMPORARY INTERIM SITING HIERACHY FOR  
WIRELESS COMMUNICATION FACILITIES  
(WCF); DECLARING AN EMERGENCY; AND  
SCHEDULING A PUBLIC HEARING

WHEREAS, the purpose of Chapter 21A.55 of the Sammamish Municipal Code (SMC), entitled Wireless Communication Facilities (WCF), is to provide general requirements, siting hierarchy, design standards and evaluations in exchange for public benefits to help achieve reasonable location of wireless communication facilities; and

WHEREAS, the City Technology Committee had recommended that the City Council give a priority in the siting hierarchy to collocation on existing poles or structures as set forth in Section 21A.55.060, SMC; and

WHEREAS, the existing city ordinance places concealed WCF's that is either an attached WCF or attached to an existing concealed or non-concealed antenna support structure with the city classified arterial right-of-way at the top of the siting hierarchy; and

WHEREAS, the City Council has discussed in open public meetings their desire to consider changes to the existing siting hierarchy standards as set forth in Section 21A.55.060, SMC, to give priority to collocation on existing poles or structures; and

WHEREAS, the City Council also desires to reduce potential for appeals of WCF siting standards to federal agencies by clarifying the conditions under which a WCF may be permitted when no reasonable alternative exists in higher-level siting hierarchies; and

WHEREAS, the City Council previously adopted emergency Ordinance 02007-223, on December 11, 2007 to implement the above, and

WHEREAS, Ordinance 02007 expired on June 7, 2008; and

WHEREAS, the City Council has concluded that it is in the interest of the public health, safety and welfare to adopt this emergency ordinance to re-prioritize siting hierarchy standards;

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

Section 1. Sammamish Municipal Code Chapter 21A.55 is hereby amended to read as follows:

21A.55.060 Siting Hierarchy.

Siting of antennas or support structures shall adhere to the siting hierarchy of this section. The order of ranking for antenna or antenna support structures, from highest to lowest, shall be 1a, 1b, 2a, 2b, 2c, 2d, 2e, 3a, 3b, 3c, 3d, 4a, 4b, 4c, 4d, 4e and 5. Where a lower ranking alternative is proposed, the applicant must file relevant information including but not limited to an affidavit by a licensed radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranking options are not technically feasible or justified given the location of the proposed wireless communications facility and network need.

**Example:**

A new WCF is proposed; the applicant demonstrates that the new facility cannot be sited under hierarchy 1a through 1b. The applicant then demonstrates the new facility cannot be sited under hierarchy 2a through 2d. The applicant then moves to hierarchy 3 and is able to propose a site.

(1) Concealed WCF that is an attached WCF; provided that it is attached to an existing antenna support structure within City-classified arterial rights-of-way, or collocation of WCF with existing WCF provided that the collocation either:

- (a) requires no increase in pole or structure height; or
- (b) requires an increase in pole or structure height which increase complies with Section 21.55.080, SMC

(2) New Concealed WCF:

- (a) Within City-classified arterial rights-of-way.
- (b) Within public parks, public open spaces, and on other publicly owned land.
- (c) Within other City street rights-of-way.
- (d) In any nonresidential zoning district.
- (e) In residential zoning districts on lots not used for single-family residential purposes.

(3) ~~New Non-Concealed~~ consolidation that is a consolidation of antenna support structures:

- (a) Within City-classified arterial rights-of-way.
- (b) Within public parks, public open spaces, and on other publicly owned land.
- (c) In any nonresidential zoning district.
- (d) In residential zoning districts on lots not used for single-family residential purposes.

- (4) New concealed antenna support structure:
  - (a) Within City-classified arterial rights-of-way.
  - (b) Within public parks, public open spaces, and on other publicly owned land.
  - (c) Within other City street rights-of-way.
  - (d) In any nonresidential zoning district.
  - (e) In residential zoning districts on lots not used for single-family residential purposes.
  
- (5) Any location not falling within categories 1 through 4 when no reasonable alternative exists.

Section 2. The Council does hereby find that an emergency exists and that immediate action is necessary. This ordinance shall be effective immediately upon passage by five (5) or more votes.

Section 3. The City Clerk is directed to schedule a public hearing within sixty days of the date of adoption of this ordinance in accordance with RCW 35A.63.220.

Section 4. This Ordinance shall be effective for a period of six months from the date of enactment unless: sooner terminated by action of the Council; or, renewed for one or more additional six-month periods as provided by state law.

Section 5. The above "Whereas" clauses of this ordinance constitute specific findings by the Council in support of passage of this ordinance. If any part or portion of this ordinance is declared invalid for any reason, such declaration of invalidity shall not affect any remaining part or portion.

**ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING  
THEREOF ON THE \_\_\_\_ DAY OF MAY, 2009.**

CITY OF SAMMAMISH

\_\_\_\_\_  
Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Melonie Anderson, City Clerk

Approved as to form:

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Bruce L. Disend, City Attorney

Filed with the City Clerk: May 13, 2009

First Reading: May 19, 2009

Passed by the City Council:

Date of Publication:

Effective Date:



## CITY COUNCIL AGENDA BILL

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**Subject:** An Interlocal Agreement to join the consortium for negotiation of Cable TV Franchising

**Meeting Date:** May 19, 2009

**Date Submitted:** May 13, 2009

**Originating Department:** Administrative Services

**Clearances:**

**Action Required:** Approve Interlocal Agreement and authorize the City Manager to sign the agreement

**City Manager**

**Police**

**Public Works**

**Fire**

**Building/Planning**

**Attorney**

**Exhibits:**

1. Interlocal Agreement to join the consortium for negotiation of Cable TV Franchising

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**Budgeted Amount:** \$20,000

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**Summary Statement:**

This is an Interlocal Agreement for Sammamish to join a consortium of Cities and Snohomish County to jointly negotiate a Cable TV Franchise Agreement with Comcast Cable Systems.

**Background:**

Earlier this year Chris Bacha from the Kenyon Disend Law Firm discussed Cable TV Franchises with the City Council. Mr. Bacha recommended that the City conduct a cable TV customer satisfaction survey of City residents and that the City work with other jurisdictions to jointly negotiate a Cable TV Franchise Agreement that addresses the concerns identified in the survey.

At the May 18, 2009 City Council Study Session we reviewed the results of the customer satisfaction survey.

A consortium of Cities and Snohomish County was recently formed to jointly negotiate a Cable TV Franchise Agreement with Comcast. The members of the consortium have invited Sammamish to join them.

**Financial Impact:**

\$18,122.01

**Recommended Motion:**

Move to approve the Interlocal Agreement to join the consortium for negotiation of Cable TV Franchising.

## INTERLOCAL AGREEMENT

### CONSORTIUM FOR NEGOTIATION OF CABLE TELEVISION FRANCHISING

This Agreement is made and entered into by and between the undersigned Parties pursuant to the provisions of the Interlocal Cooperation Act of 1967, RCW Chapter 39.34.

WHEREAS, Snohomish County and some cities of South Snohomish and King County (collectively the "Parties") are or will soon be in the process of negotiating competitive cable franchises with Comcast of California/Colorado/Texas/Washington, Inc. and its affiliates (all hereinafter collectively "Comcast"); and

WHEREAS, while each governmental entity may negotiate on its own behalf, the Parties to this agreement wish to coordinate their efforts in a lawful manner in order: a) to ensure that the public receives the maximum rights and benefits from their respective franchise agreements; b) to better coordinate their negotiations with Comcast; (c) to share the costs of negotiations including hiring a national consultant and attorneys to assure the citizens of each jurisdiction that their franchise is competitive, both locally and nationally; and (d) to create a common template and negotiation strategy through the assistance of a national consultant and attorneys to maximize leverage during the negotiations; and

WHEREAS, the Interlocal Cooperation Act provides a mechanism to both jointly contract with a consultant for common services as well as a mechanism for each Party to utilize the consultant's services, as that Party sees fit, for additional support in negotiation as well as the tailoring of the template to the specific needs of each participating entity;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed that:

1. **Purpose.** This Agreement shall have the following purposes:

1.1 Create a Consortium, entitled the "Cable Franchise Consortium" ("Consortium"), to assist the Parties in joint and individual negotiations with Comcast for cable franchises.

1.2 Provide a vehicle for the Parties to designate a representative to organize the Consortium and lead negotiations, and compensate Snohomish County for the services of a lead negotiator. Peter Camp of the Snohomish County executive office is hereby designated as the lead negotiator.

1.3 Provide a vehicle for the Parties to contract with River Oaks Communications Corporation ("Consultant"), for the development of an initial negotiating template for a cable television franchise for the use of each Party in its individual negotiations with Comcast.

1.4 Engage Consultant to perform the following functions in preparation for negotiations between the Parties and Comcast:

1.4.1 Review existing franchise agreements between the Parties and Comcast.

1.4.2 Review existing Cable/Telecommunications Ordinances within the respective Parties and the impact of these ordinances on Comcast.

1.4.3 Assist the Parties in preparing for negotiations with Comcast including identifying goals and objectives for the negotiations.

1.4.4 Provide information regarding applicable FCC orders and the impact those orders have on video entrants/incumbents such as Verizon or Comcast.

1.4.5 Review cable franchise agreements with cities and counties nationally.

1.4.6 Participate in negotiations between Comcast and the Parties.

1.4.7 Draft and negotiate Customer Service Standards with Comcast on behalf of the Parties.

1.4.8 Attend meetings at the request of the Parties.

1.5 Engage the law firm of Ogden Murphy Wallace, P.L.L.C. ("OMW") to provide an administrator and assistant negotiator for the Consortium.

1.6 This Agreement shall also serve as a vehicle to contract with the Consultant for additional individualized services to be provided as needed to each individual Party. By so doing, the Parties hope to secure a lower cost for the Consultant's services through a joint contracting framework as well as minimize associated travel costs and other expenses by coordinating their efforts.

1.7 The Consortium shall also serve as a vehicle for the Parties to share information now and in the future regarding telecommunications and cable issues, including but not limited to issues such as educational and governmental channel usage, access fees and capital fees, negotiation strategies for franchises, the negotiation of cell tower and other telecommunication leases, right-of-way use requirements, and other similar issues. This information sharing is intended to provide a vehicle for sharing information regarding issues of common public interest.

## 2. Duration.

2.1 The Effective Date of this Agreement is the date on which the second Party signs the Agreement and the date this Agreement is posted on the City of Woodinville website, whichever later occurs.

2.2 The Consortium, as an information-sharing group, may remain in effect for an indefinite term for the mutual benefit and cooperation of the Parties for so long as they individually choose to participate.

2.3 The Consortium, as a joint negotiation team, may remain in effect for one (1) year and will terminate at the anniversary of the Effective Date unless otherwise extended by the action of the Parties.

2.4 Any Party may withdraw from this agreement upon the provision of ten (10) days written notice subject to the limitations of Section 3.4.

3. Organization. The Consortium may consist of Snohomish County and the cities of Bothell, Carnation, Edmonds, Kenmore, Lake Forest Park, Mercer Island, Shoreline, Woodinville and the Town of Woodway, upon their authorization. The City of Woodinville shall serve as the contracting entity with the Consultant. In addition, other entities authorized to participate in interlocal agreements by statute may join during the term of this Agreement, pursuant to Section 3.3.

3.1 In accordance with RCW 39.34.030 financing of the Consortium and all costs associated with consulting, negotiating and attorney services provided to the Consortium shall be determined based on a Party's population. The cost of consulting, negotiating and attorney services incurred in the preparation of a template for a Comcast franchise and joint negotiation support shall be shared by the Parties on a pro-rata basis based upon the population of the city or county.

3.1.1 The population of all Parties is based on the April 2006 Washington State Office of Financial Management Annual Population Estimate and is described in Exhibit A, attached hereto and incorporated herein by this reference.

3.1.2 Pro-rata share estimates and associated predicted costs as described in Exhibit A are for illustrative purposes only. The pro-rata share apportioned to each city and Snohomish County is dependent on the number of cities who agree to join the Consortium.

3.2 The Parties shall attempt to reach a consensus regarding the direction of the Consultant and negotiators and the preparation of the template. In the event that the Parties cannot reach substantial agreement, voting shall be on a weighted basis, with each Party having as many votes as its pro-rata percentage of the costs to be shared. A quorum shall consist of at least Snohomish County and a majority of the member cities.

3.3 Additional cities may join the Consortium upon satisfaction of the following requirements:

3.3.1 Approval of entry of the city applying ("Applicant City") by consensus of the current Parties to the Consortium;

3.3.2 Request to join the Consortium is received no later than December 1, 2008;

3.3.3 The Applicant City may join by paying a fee equal to the amount of its pro-rata share of the total cost incurred and billed through its date of entry. The pro-rata share of the Applicant City shall be determined in accordance with Section 3.1; and

3.3.4 Following admittance into the Consortium, the Applicant City will pay its pro-rata share of costs incurred and billed after its date of entry consistent with all other Parties to this Agreement pursuant to Section 3.1.

3.4 A withdrawing Party shall be liable for its pro-rata share of Consortium costs incurred through the date of its departure. Each Party shall be individually liable for all costs associated with individual work requested from the Consultant. Each Party agrees to indemnify and hold the other Parties harmless for the costs which that Party individually incurs.

3.5 All costs of the Consortium incurred under Section 1 shall be billed directly to the individual Consortium members by the Consultant, OMW and Snohomish County. The Parties agree to promptly pay all invoices within forty-five (45) days of the mailing of an invoice for the Parties' share of undisputed joint costs. Late payments (more than forty-five (45) days after mailing) shall bear interest at twelve percent (12%) per annum with a minimum late payment fee of fifty dollars (\$50.00), provided, however, that if a cost is adjusted through the dispute resolution procedure outlined in Section 10, no late fee shall attach.

3.6 In the event that any portion of the Consortium's negotiation costs are reimbursed by Comcast as a part of the resolution of these joint negotiations, such reimbursement shall first be applied to any unpaid costs of the Consortium. Any excess monies shall be returned to the Consortium members, pro-rata, in the same percentages established by Section 3.1. This Section 3.6 shall be applied and interpreted to ensure that any recovery on behalf of the Consortium is applied to the costs of the Consortium in the same pro-rata manner as costs are assessed. No member shall be entitled to receive an amount in excess of its actual contribution unless all members receive a pro-rata excess distribution. A party which withdraws pursuant to Section 2.4 or who declines to approve a jointly-negotiated franchise shall forfeit its pro-rata share of a reimbursement, if any such reimbursement exists.

3.7 Nothing herein shall be interpreted to contract away or limit the legislative authority of the governing legislative body of any Party. No Party is or shall be required to formally approve a finally negotiated franchise agreement.

4. **Individually Contracting with the Consultant.**

4.1 The Consulting contract may also provide for each Party to utilize consultant services at a Party's own cost. These services shall only be incurred following the creation of the template. Individually contracted consulting services may include:

4.1.1 Individualization and revision of the franchise template to accommodate the personalized needs of a Party;

4.1.2 Negotiation support during each entity's individualized negotiations with Comcast;

4.1.3 Presentation of the franchise agreement to City Councils and at a public hearing; and

4.1.4 Additional consulting services related to cable franchising.

4.2 Bills from the Consultant related to services performed at the request of an individual Party pursuant to Section 4 shall be billed by the Consultant directly to the requesting Party. Parties requesting individual services shall indemnify and hold harmless all other Parties from any cost, claim or liability associated with such individual service by the Consultant.

5. **Additional Provisions Required by RCW 39.34.030.** In addition to the provisions previously stated regarding duration, organization and purpose, the following provisions are included pursuant to the requirements of RCW 39.34.030.

5.1 No joint personal or real property ownership is contemplated under the terms of this Agreement. All rights to the franchise template shall be jointly shared by the Parties, with each having the right to use it at its sole discretion as it deems appropriate. Any individualized work done at the direction of a Party, at the Party's own cost, shall be and remain the property of that Party.

5.2 As referenced in Section 1.3, the Parties intend to participate cooperatively in the preparation of a template. The development of the template shall be through the Consortium consisting of a designated representative from each body, and at the Parties' discretion, legal counsel as appropriate. Decision-making shall be by consensus, provided however, that if significant consensus cannot be reached regarding the joint preparation of a template, voting shall be by weighted vote based upon each Party's pro-rata share of the costs.

5.3 This Agreement shall be posted on the City of Woodinville's website. Parties not listed in the original web-site posting may be joined when the signature page indicating their agreement has been posted on either the City of Woodinville's website or the website of the joining city, whichever first occurs.

6. **Monetary Cap on Consulting Services.** The cost of the joint Consulting services under this Agreement shall not exceed a total of \$155,000 (this amount does not include

any monies paid to OMW or Snohomish County). This monetary cap on fees associated with Consulting services includes all Consulting fees and related expenses. This monetary cap on fees associated with Consulting services does not include additional Consulting services requested by an individual Party as described in Section 4.

6.1 The Parties may expand the monetary cap on joint Consulting services only upon a consensus agreement of the Parties. If a consensus cannot be reached then voting shall be by weighted vote based upon each Party's pro-rata share of the costs.

6.2 Following a vote to expand the cap pursuant to Section 6.1, Parties not desiring to expand the joint consulting services monetary cap may withdraw from this Agreement pursuant to Section 2.4. The withdrawing Party will only be required to pay its share of the pro-rata cost incurred up through the time of withdrawal and in no event shall exceed its pro-rata share of the cap established by Section 6 or previously amended with the approval of the withdrawing Party, (excluding any individually authorized consulting services).

7. **Monetary Cap on OMW Services.** OMW will facilitate, organize, report and communicate with the Consortium, Consultant, Comcast, and any other interested party on behalf of the Consortium. Additionally, OMW will provide the services of an assistant negotiator on behalf of the Consortium. The assistant negotiator will attend all meetings. Services to the Consortium will be provided by Elana Zana at a billing rate of \$180 per hour. The cost of OMW services attributed to the Consortium under this Agreement shall not exceed a total of \$30,000. This monetary cap on fees associated with OMW services includes all legal and administrative services and costs.

7.1 The Parties may expand the monetary cap on OMW services only upon a consensus agreement of the Parties. If a consensus cannot be reached then voting shall be by weighted vote based upon each Party's pro-rata share of the costs.

7.2 Following a vote to expand the cap pursuant to Section 7, Parties not desiring to expand the OMW services monetary cap may withdraw from this Agreement pursuant to Section 2.4. The withdrawing Party will only be required to pay its share of the pro-rata cost incurred up through the time of withdrawal and in no event shall exceed its pro-rata share of the cap established by Section 7 or previously amended with the approval of the withdrawing Party (excluding any individually authorized legal services).

8. **Monetary Cap on Lead Negotiator Services.** Peter Camp, of the Snohomish County executive's office, shall serve as lead negotiator (hereinafter "Lead Negotiator"). The Lead Negotiator will direct negotiation and will, through the administrative services of the assistant negotiator, provide reports to the Consortium and receive negotiating direction from the Consortium. Snohomish County shall be reimbursed at the rate of \$93.25 per hour to compensate it for its direct employee and reasonable administrative costs. The cost of Lead Negotiator services attributed to the Consortium under this agreement shall not exceed a total of \$10,000. This monetary cap on fees associated with Lead Negotiator services includes all legal, administrative services and costs. The rate and the monetary cap include Snohomish County's own proportionate share for which Snohomish County is responsible under this Agreement.

8.1 The Parties may expand the monetary cap on Lead Negotiator services only upon a consensus agreement of the Parties. If a consensus cannot be reached, then voting shall be by weighted vote based upon each Party's pro-rate share of the costs.

8.2 Following a vote to expand the cap pursuant to Section 8.1, Parties not desiring to expand the Lead Negotiator's services monetary cap may withdraw from this Agreement pursuant to Section 2.4. The withdrawing Party will only be required to pay its share of pro-rata costs incurred up to the time of withdrawal and in no event shall its payment exceed the pro-rata share of the cap established by Section 8 or previously amended with the approval of the withdrawing party.

9. **Designated Representatives.** The County Executive, City Manager or Mayor of each entity shall designate a representative ("Designated Representative"). Notice to the Designated Representative shall be undertaken through e-mail contacts, provided, however, that any decision to terminate the participation of any Party shall be given in writing and shall be effective when provided to the City of Woodinville, Washington at:

City of Woodinville  
17301 - 133rd Avenue NE  
Woodinville WA 98072  
425-489-2700

with a copy to:

Elana Zana  
Ogden Murphy Wallace, P.L.L.C.  
1601 Fifth Avenue  
Suite 2100  
Seattle, WA 98101  
206-447-7000

10. **Dispute Resolution.**

10.1 Any disputes or questions of interpretation of this Agreement that may arise between Parties shall be governed under the Dispute Resolution provisions in this Section 10. The Parties agree that cooperation and communication are essential to resolving issues efficiently. The Parties agree to exercise their best efforts to resolve any disputes that may arise through this dispute resolution process, rather than in the media or through other external means.

10.2 The Parties agree to use their best efforts to prevent and resolve potential sources of conflict through discussion among the Consortium's members.

10.3 The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations. If unsuccessful, the Parties may but are not obligated to utilize mediation. The costs of mediation shall be shared equally between the Parties to the dispute and the remaining members of the Consortium. As an illustration, if

two Parties, A & B, dispute a billing procedure and cost, they shall share the costs of mediation with the remaining members of the Consortium. Party A, 25%, Party B, 25%, and the Consortium, 50% (divided pro-rata among the other Parties as a cost pursuant to Section 3.1).

10.4 Except as otherwise specified in this Agreement, in the event the dispute is not resolved in mediation or the Parties do not agree to mediation, the Parties are free to file suit. At all times prior to resolution of the dispute, the Parties shall continue to perform and make any required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

11. **Confidentiality.** The Parties agree to adhere to the Confidentiality Agreement attached hereto as Exhibit B.

12. **No Indemnity.** Except as specifically provided in Sections 3.4 and 4.2, no indemnity is imposed by this Agreement. The Parties agree to bear their respective liability to the extent and in the percentage determined under the laws of the State of Washington.

13. **General Provisions.**

13.1 The Parties shall not unreasonably withhold requests for information, approvals or consents provided for in this Agreement. The Parties agree to take further actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement. The Parties agree to work cooperatively with each other to achieve the mutually agreeable goals as set forth in this Agreement.

13.2 This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action under this Agreement shall be King County, Washington.

13.3 This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person shall have any right of action based upon any provision of this Agreement.

13.4 This Agreement has been reviewed and revised by legal counsel for all Parties and no presumption or rule that ambiguity shall be construed against the Party drafting the document shall apply to the interpretation or enforcement of this Agreement.

13.5 Each Party shall be responsible for its own costs, including legal fees, incurred in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties.

13.6 The Parties shall not be deemed in default with provisions of this Agreement where performance was rendered impossible by war or riots, civil disturbances, floods or other natural catastrophes beyond their control; the unforeseeable unavailability of labor or materials; or labor stoppages or slow downs, or power outages exceeding back-up power supplies. This Agreement shall not be revoked or a Party penalized for such

noncompliance, provided that such Party takes immediate and diligent steps to bring itself back into compliance and to comply as soon as practicable under the circumstances without unduly endangering the health, safety, and integrity of both Parties' employees or property, or the health, safety, and integrity of the public, Public Right-of-Way, public property, or private property.

13.7 This Agreement may be amended only by a written instrument executed by each of the Parties hereto. No failure to exercise and no delay in exercising, on the part of any Party hereto, any rights, power or privilege hereunder shall operate as a waiver hereof, except as expressly provided herein.

13.8 This Agreement constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations (oral and written), understandings and agreements with respect hereto.

13.9 Section headings are intended as information only, and shall not be construed with the substance of the section they caption.

13.10 In construction of this Agreement, words used in the singular shall include the plural and the plural the singular, and "or" is used in the inclusive sense, in all cases where such meanings would be appropriate.

13.11 This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all counterparts together shall constitute but one and the same instrument.

13.12 In case any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement shall in any way be affected thereby.

13.13 The provisions of Sections 3.1, 4.2, and 11 shall survive termination of this Agreement or the withdrawal of any Party.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement by having its authorized representative affix his/her name in the appropriate space below:

**SNOHOMISH COUNTY:**

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

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

**CITY OF BOTHELL:**

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

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

**CITY OF CARNATION:**

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

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

**CITY OF EDMONDS:**

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

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

**CITY OF KENMORE:**

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

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

**CITY OF LAKE FOREST PARK:**

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

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

**CITY OF MERCER ISLAND:**

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

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

**CITY OF SHORELINE:**

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

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

**CITY OF WOODINVILLE:**

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

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

**TOWN OF WOODWAY:**

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

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

**EXHIBIT A****APRIL 2006 POPULATION ESTIMATES &  
BREAK DOWN OF THE ESTIMATED PRO RATA SHARE****SEE FOLLOWING PAGE FOR REVISED PRO RATA SHARE ESTIMATES**

Population information from the Washington State Office of Financial Management and Puget Sound Regional Council (PSRC) census tract population estimates.

The data provided below is for informational purposes only. The total pro-rata share per Party will depend on the number of Parties agreeing to join this Consortium.

County/City	Population (2008) OFM	Percentage of Total Consortium Population	Consultant Costs \$155,000	OMW Costs \$30,000	Snohomish County Lead Negotiator \$10,000	Total
Snohomish County	228,488	53.78%	\$ 83,355.83	\$ 16,133.39	\$ 5,377.80	\$ 104,867.01
City of Shoreline	53,440	12.58%	\$ 19,495.71	\$ 3,773.36	\$ 1,257.79	\$ 24,526.86
City of Edmonds	40,760	9.59%	\$ 14,869.86	\$ 2,878.04	\$ 959.35	\$ 18,707.24
City of Bothell	32,860	7.73%	\$ 11,987.82	\$ 2,320.22	\$ 773.41	\$ 15,081.45
City of Mercer Island	22,650	5.33%	\$ 8,263.06	\$ 1,599.30	\$ 533.10	\$ 10,395.46
City of Kenmore	20,220	4.76%	\$ 7,376.56	\$ 1,427.72	\$ 475.91	\$ 9,280.18
City of Lake Forest Park	12,810	3.02%	\$ 4,673.28	\$ 904.51	\$ 301.50	\$ 5,879.29
City of Woodinville	10,560	2.49%	\$ 3,852.45	\$ 745.63	\$ 248.54	\$ 4,846.62
City of Carnation	1,905	0.45%	\$ 694.97	\$ 134.51	\$ 44.84	\$ 874.32
Town of Woodway	1,180	0.28%	\$ 430.48	\$ 83.32	\$ 27.77	\$ 541.57
Total	424,873	100.00%	\$ 155,000.00	\$ 30,000.00	\$ 10,000.00	\$ 195,000.00

## EXHIBIT A-1

**APRIL 2008 POPULATION ESTIMATES &  
BREAK DOWN OF THE ESTIMATED PRO RATA SHARE**

Population information from the Washington State Office of Financial Management and Puget Sound Regional Council (PSRC) census tract population estimates.

The data provided below is for informational purposes only.

<b>County/City</b>	<b>Population (2008) OFM</b>	<b>Percentage of Total Consortium Population</b>	<b>Consultant Costs \$165,000</b>	<b>OMW Costs \$33,000</b>	<b>Snohomish County Lead Negotiator \$10,000</b>	<b>Total</b>
Snohomish County	228,488	49.09%	\$ 81,002.70	\$ 16,200.54	\$ 4,909.25	\$ 102,112.50
City of Shoreline	53,440	11.48%	\$ 18,945.35	\$ 3,789.07	\$ 1,148.20	\$ 23,882.62
City of Edmonds	40,760	8.76%	\$ 14,450.08	\$ 2,890.02	\$ 875.76	\$ 18,215.86
City of Sammamish	40,550	8.71%	\$ 14,375.63	\$ 2,875.13	\$ 871.25	\$ 18,122.01
City of Bothell	32,860	7.06%	\$ 11,649.40	\$ 2,329.88	\$ 706.02	\$ 14,685.31
City of Mercer Island	22,650	4.87%	\$ 8,029.79	\$ 1,605.96	\$ 486.65	\$ 10,122.40
City of Kenmore	20,220	4.34%	\$ 7,168.32	\$ 1,433.66	\$ 434.44	\$ 9,036.42
City of Lake Forest Park	12,810	2.75%	\$ 4,541.35	\$ 908.27	\$ 275.23	\$ 5,724.86
City of Woodinville	10,560	2.27%	\$ 3,743.69	\$ 748.74	\$ 226.89	\$ 4,719.32
City of Carnation	1,905	0.41%	\$ 675.35	\$ 135.07	\$ 40.93	\$ 851.35
Town of Woodway	1,180	0.25%	\$ 418.33	\$ 83.67	\$ 25.35	\$ 527.35
<b>Total</b>	<b>465,423</b>	<b>100.00%</b>	<b>\$ 165,000.00</b>	<b>\$ 33,000.00</b>	<b>\$ 10,000.00</b>	<b>\$ 208,000.00</b>

*Snohomish County population is based on the projected number of Comcast customers located in unincorporated Snohomish County*

**EXHIBIT B****CONSORTIUM CONFIDENTIALITY AGREEMENT**

1. The Parties agree that, while they shall be under no obligation to do so, they may from time to time choose, in their respective individual discretion, to exchange among themselves during the pendency of the Consortium any joint materials that are relevant and appropriate to the Consortium. The term "Consortium Materials" shall also include any materials developed for negotiation purposes at the expense of the parties.
2. Each Party agrees that any documents or materials (hereinafter termed "Consortium Materials") it receives from the other Parties or their Counsel, or created at their joint expense under the Agreement, shall be treated and maintained as privileged and confidential communications between Counsel and Parties. It is further understood and agreed that information that is (a) obtained by any of the Parties from any of the other Parties or (b) developed on behalf of any or all of the Parties, will remain confidential and shall be protected from disclosure to any third party except as provided herein.
3. The Parties further agree that they will not disclose these Consortium Materials or the contents thereof, or information regarding the discussions and preparations for negotiations with Comcast, to any person or entity other than the Parties, the Consultant, OMW, their Counsel, consultants, employees or agents, without first obtaining the consent of all Parties who may be entitled to claim any privilege with respect to such materials.
4. If any person or entity requests or demands, by subpoena, public disclosure request, or otherwise, all or any portion of the designated Consortium Materials, the Party receiving such request or demand will immediately notify Counsel for each of the Parties of such request or demand. Counsel for each of the Parties, as applicable, will take all steps necessary to permit the assertion of all applicable rights and privileges with respect to said Consortium Materials and shall cooperate fully in any judicial proceeding relating in any manner to the Consortium Materials. However, this Agreement is not voided if released via a court order by a court or administrative agency of competent jurisdiction.
5. Pending the completion of the negotiation process, all Consortium Materials will remain confidential until the last Consortium member approves or denies a franchise. Upon approval of a franchise agreement by any member the final agreement shall become a public document to the full extent required by law.
6. Consortium Materials shall be used only for purposes of this Consortium and any subsequent related action and shall not be disclosed in any way that is inconsistent with the maintenance of the attorney-client privilege, work product privilege, or any other privilege of any Party or any Counsel in connection with the Consortium.
7. This Agreement shall apply to any and all joint conferences or communications, whether written or oral, conducted by or between the Parties, and to all communications, whether written or oral, made between the Parties, arising from or in connection with the Consortium.

8. This Agreement memorializes prior oral understandings among the Parties and their Counsel with respect to Consortium Materials and negotiations and communications.

9. Each Party shall be obligated to maintain the confidentiality and privileged nature of the Consortium Materials to the extent defined herein. This obligation shall survive the withdrawal of any and all of the Parties from this Agreement or the termination of this Agreement.

10. Each Party agrees that the attorney–client, work product, joint defense, and other privileges applicable to the Consortium Materials may not be waived by any Party or its Counsel without the prior written consent of the Party or Parties that produced, generated or otherwise communicated that privileged information sought to be disclosed.

**INTERLOCAL AGREEMENT**

**CONSORTIUM FOR NEGOTIATION OF CABLE TELEVISION FRANCHISING**

**COUNTERPART SIGNATURE PAGE**

1. **Execution of Interlocal Agreement.** The undersigned, an authorized representative of the City of Sammamish, by executing this Counterpart Signature Page, hereby becomes a signatory to that certain Interlocal Agreement for a Consortium for Negotiation of Cable Television Franchising, and any and all amendments thereto (collectively, the "Agreement").

2. **Agreement to Terms.** The undersigned agrees to all terms of the Agreement, and agrees to be bound by the terms and provisions thereof as they may be amended from time to time.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2009.

**CITY OF SAMMAMISH:**

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

ATTEST/AUTHENTICATED:

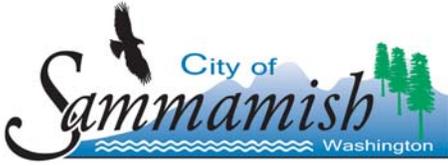
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_  
CITY ATTORNEY

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. \_\_\_\_\_





## CITY COUNCIL AGENDA BILL

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**Subject:** Political Candidate Forum Policy

**Meeting Date:** May 19, 2009

**Date Submitted:** May 15, 2009

**Originating Department:** City Manager

**Clearances:**

**Action Required:** Council to approve policy

**City Manager**

**Police**

**Public Works**

**Fire**

**Building/Planning**

**Attorney**

**Exhibits:**

1. Draft Policy

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**Budgeted Amount:** None

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**Summary Statement:**

The attached policy governs the manner in which the city will allow political candidate forums to be recorded in the City Council Chamber for later playback on the city cable channel, Sammamish 21 TV.

**Background:**

In recent years, there has been some discussion about whether the city's council chamber and its associated television equipment should be use to record and replay political candidate forums. After reviewing research from city staff and discussing the subject at a Study Session on May 12, 2009, the City Council asked staff to provide an appropriate policy.

**Financial Impact: None.**

The forums can be recorded and played back without additional staff pay.

**Recommended Motion:**

It's recommended that the City Council approve the attached policy.

<b>CITY OF SAMMAMISH</b> <b><u>ADMINISTRATIVE POLICY AND PROCEDURE</u></b>	
<b>Subject: Political Candidate Forums</b>	<b>Number:</b>
<b>Group:</b>	<b>Page: 1 of 2</b>
<b>Effective Date:</b>	<b>Approved:</b>

**PURPOSE:**

To establish a policy and procedure for the recording and playback of Political Candidate Forums at Sammamish City Hall.

**Policy:**

1. Televised forums must strive to provide all candidates with a fair and equal opportunity to participate.
2. The forums will be organized and sponsored by non-partisan organizations.
3. The sponsoring organization will provide substantial advance notice and at least two possible dates for the candidate forum so that as many of the candidates as possible can attend.
4. The questions will be selected by the sponsoring organization after appropriate discussions with members of the community and city staff.
5. The moderator asking the questions will be non-partisan.
6. The moderator will be selected by the sponsoring organization.
7. Organizations applying for the sponsorship role will be subject to the approval of the Sammamish City Manager.
8. The sponsoring organization's plan for the candidate forum will be subject to the approval of the Sammamish City Manager.
9. An organization may sponsor only one candidate forum per election cycle.
10. No more than two candidate forums will be allowed per election cycle.
11. A candidate forum will be recorded no sooner than 45 days before the election date and no later than 14 days before the election date.
12. The forums will be held in the Sammamish City Council chamber, recorded and replayed with existing city equipment.
13. A candidate forum will air on Sammamish 21 Television at least three times per week after post-production work is completed on the recording.
14. The city will provide the council chamber, television equipment and minimal logistical assistance to the sponsoring organization on the day of the forum. There will be no charge to the sponsoring organization.

<b>CITY OF SAMMAMISH</b> <b><u>ADMINISTRATIVE POLICY AND PROCEDURE</u></b>	
<b>Subject: Political Candidate Forums</b>	<b>Number:</b>
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14. The city will provide the council chamber, television equipment and minimal logistical assistance to the sponsoring organization on the day of the forum. There will be no charge to the sponsoring organization.

15. All other tasks and costs associated with a candidate forum will be borne by the sponsoring organization.
16. The City of Sammamish will record and replay only those forums featuring candidates for Sammamish City Council.
17. Only candidates who filed with the King County Elections Office (including write-in candidates who filed a Declaration of Write-in Candidacy with the County Auditor and paid a filing fee, if any) will be eligible to participate in the forums.
18. Organizations must submit their request to sponsor a candidate forum to the Sammamish City Clerk at least 30 days before the proposed date of the forum.
19. Candidate forums recorded at locations other than the Sammamish City Council chamber will not be aired on Sammamish 21 Television.

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