



City of Kenmore
City Council Regular Meeting with Study Session

6:00 p.m., Monday, December 9, 2013

Kenmore City Hall, Council Chambers
18120 68th Ave. NE, Kenmore, WA 98028

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call the City Clerk at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. City Council agendas are also available on our website at www.kenmorewa.gov.

I. 6:00 p.m. - CALL MEETING TO ORDER

II. ROLL CALL

III. FLAG SALUTE

IV. AGENDA APPROVAL

V. STUDY SESSION

- A. Proposed Boathouse, Boardwalk and Dock at Rhododendron Park - Rob Karlinsey, City Manager

VI. 7:00 p.m. - REGULAR SESSION

CITIZEN COMMENTS

- A. This is an opportunity to express your views on issues that are important to you and to the community. Please limit your comments to three (3) minutes.

VII. CONSENT AGENDA

- A. Adopt Minutes for November 12, 2013 and November 18, 2013 Special & Regular Meetings
- B. Approve Amendment No. 1 to Contract No. 12-C1057 with Joyce Ziker Parkinson for Environmental Legal Services
- C. Approve Amendment No. 1 to Contract No. 12-C1081 with Osborn Consulting for Surface Water Services
- D. Approve Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting for Business Incubator
- E. Approve Amendment No. 2 to Contract No. 12-C1014, City Manager's Employment Contract

VII. CONSENT AGENDA

- F. Cancel Regular Council Meetings for December 16, 2013 and December 23, 2013

VIII. PUBLIC HEARING

- A. Public Hearing to Receive Public Testimony Regarding Ordinance No. 13-0371 - Kenmore Village Residential Development Agreement - Rob Karlinsey, City Manager

IX. BUSINESS AGENDA

- A. Adopt Ordinance No. 13-0371 Approving Contract No. 13-C1198, Kenmore Village Residential Development Agreement with Main Street Property Group, LLC - Rob Karlinsey, City Manager
- B. Adopt Resolution No. 12-229 Approving Amendment No. 3 to Contract No. 13-C1170, Purchase & Sale Agreement with Main Street Property Group, LLC
- C. Economic Development Strategy Implementation Update - Nancy Ousley, Assistant City Manager
- D. Approve City of Kenmore 2014 Proposed State Legislative Agenda - Nancy Ousley, Assistant City Manager

X. STAFF REPORT

- A. Employee Benefit Review Team Report - Joanne Gregory, Finance & Administration Director

XI. COUNCILMEMBER REPORTS & COMMENTS

XII. COUNCILMEMBER INITIATIVES

XIII. ADJOURNMENT

Upcoming Meetings:

Tues., December 17, 2013 - Planning Commission Regular Meeting - 7 p.m.

Fri. & Sat., January 10 & 11, 2014 - City Council Retreat in LaConner, WA

Mon., January 13, 2014 - City Council Regular & Joint Planning Commission Special Meeting - 7 p.m.

**City of Kenmore, Washington
City Council Special & Regular Meeting
Minutes
November 12, 2013**

CALL TO ORDER – The special meeting of the Kenmore City Council was called to order by Deputy Mayor Hensel at 6:30 p.m.

EXECUTIVE SESSION

Deputy Mayor Hensel recessed the special meeting at 6:30 p.m. to an executive session to discuss Litigation and Potential Litigation, pursuant to RCW 42.30.110(1)(i). He stated that the executive session will last for approximately 20 minutes and that action is anticipated when the meeting is reconvened. Deputy Mayor Hensel extended the executive session for five minutes at 6:45 p.m., and again at 6:55 p.m.

POSSIBLE ACTION RESULTING FROM EXECUTIVE SESSION

Deputy Mayor Hensel added Ordinance No. 13-0369, Emergency Interim Zoning Regulations, to the regular meeting agenda as Business Agenda Item A, moving the 2014 Fee Schedule to Business Agenda Item B. There were no objections.

ADJOURNMENT – Deputy Mayor Hensel adjourned the special meeting at 7:00 p.m.

CALL TO ORDER – Deputy Mayor Hensel called the regular meeting to order at 7:01 p.m.

Councilmembers present: Mayor David Baker (arriving 7:35 p.m.), Deputy Mayor Bob Hensel, and Councilmembers Brent Smith, Laurie Sperry, Allan Van Ness and Milton Curtis

Councilmembers excused: Councilmember Glenn Rogers

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance & Administration Director; Debbie Bent, Director of Community Development; Lauri Anderson, Senior Planner; Rod Kaseguma, City Attorney; and Patty Safrin, City Clerk

FLAG SALUTE

Deputy Mayor Hensel led the flag salute.

AGENDA APPROVAL

It was Council consensus to approve the agenda as revised following the Executive Session.

CITIZEN COMMENTS

Carl Michelman, 18023 62nd Avenue NE, Kenmore, was present to state his concerns regarding the Kenmore Village residential development and business licensing.

John Hendrickson, 5919 NE 202nd Lane, Kenmore, was present to apologize for a misstatement he made during Citizen Comments at a recent Council meeting.

Deputy Mayor Hensel thanked the citizens for their comments.

CONSENT AGENDA

Deputy Mayor Hensel moved to approve the consent agenda as submitted. Councilmember Sperry seconded the motion to Approve Check Nos. 28843 - 28935 in the Amount of \$420,795.00 and Electronically Transferred Payroll Funds Totaling \$65,468.16 for the Period Ending October 25, 2013. The motion passed unanimously.

PUBLIC HEARING

Public Hearing to Receive Public Testimony on Revenue Sources and Proposed Tax Levy for 2014, Ordinance No. 13-0365 – Joanne Gregory, Finance & Administration Director, was present to provide a PowerPoint presentation. She was also available to answer any questions.

She provided information on property tax rates and assessed valuation and noted that the City must set the tax levy every year by State law. She stated that the City has not taken a property tax increase since 2005, and that a 1% increase in 2014 would generate over \$40,000 for the General Fund. She also reviewed a few other key revenue sources for the General Fund, including sales tax, criminal justice tax, utility taxes, State liquor revenues, development revenues and franchise fees.

Mayor Baker opened the public hearing to receive public testimony on this issue at 7:34 p.m.

The following citizen spoke:

Carl Michelman, 18023 62nd Avenue NE, Kenmore, was present to ask the Council to take into consideration what other taxes and fees are being imposed, such as utility taxes and business license fees.

As there was no further testimony, Mayor Baker closed the public hearing at 7:37 p.m.

BUSINESS AGENDA

Adopt Ordinance No. 13-0369 Approving Emergency Interim Zoning Regulations Prohibiting Marijuana Businesses under State Initiative 502 for Six Months – Lauri Anderson, Senior Planner, was present to give a brief staff report. She was also available to answer any questions.

She stated that staff believes this ordinance will support the City's policies regarding protection of single-family residential neighborhoods in terms of possible adverse impacts of marijuana businesses under Initiative 502. If adopted, Ordinance No. 13-0369 would go into effect immediately and expire on May 12, 2014. A public hearing will be held on November 25th.

Councilmember Curtis moved to Adopt Ordinance No. 13-0369 Approving Emergency Interim Zoning Regulations Prohibiting Marijuana Businesses under State Initiative 502 for Six Months. Councilmember Van Ness seconded the motion. Mayor Baker abstained from voting, as he was not present for the staff briefing. The motion passed 5-0.

Adopt 2014 Fee Schedule, Resolution No. 13-227 – Bryan Hampson, Development Services Director, was present to give a brief staff report in which he stated that the proposed changes to the fee schedule are to business license fees and to clear up confusion due to typographical errors. Director Hampson, Assistant City Manager Ousley and City Manager Karlinsey were available to answer any questions.

Councilmember Smith moved to Adopt the 2014 Fee Schedule, Resolution No. 13-227. Councilmember Curtis seconded the motion.

Mayor Baker moved to amend the main motion to approve all fees except the business license fee, and to wait on the business license fee until more information on alternative licensing options can be obtained. Councilmember Van Ness seconded the amendment. The amendment to the main motion failed 2-4, with Councilmembers Sperry, Curtis and Smith and Deputy Mayor Hensel voting no.

The unamended main motion, to Adopt the 2014 Fee Schedule, Resolution No. 13-227, passed 4-2, with Councilmember Van Ness and Mayor Baker voting no.

STAFF REPORT

Lean Project Update – Bryan Hampson, Development Services Director, was present to give a brief update. He stated that the Development Services staff has looked at the overall short plat process, from preapplication through construction, to try to create even more efficiencies in the process. He was also available to answer any questions.

Traffic Calming Update – Rob Karlinsey, City Manager, was present to give a brief update. He stated that a traffic fatality on 62nd Avenue a couple of weeks ago triggered a reaction from the neighbors. He, some Councilmembers, and some State delegates followed up by doing a walking tour of the area. They believe they are seeing a lot of diversion of traffic from other routes and have asked King County to do a traffic and speed study. The City will consider signage, speed bumps, and other devices once the results of the study are available. In the meantime, the City will work with neighbors to cut back vegetation in the right of way. He was also available to answer any questions.

City Manager Karlinsey announced that on November 19th the City will provide a mobile workshop for approximately 50 National League of Cities (NLC) Conference delegates from across the country, showcasing Kenmore and how we are taking advantage of our assets to promote economic development.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmember Van Ness reported on a recent Eastside Transportation Partnership (ETP) meeting.

Councilmember Sperry stated that Council needs to discuss whether or not to take the 1% property tax increase this year, especially given the long-range forecast for the City's General Fund. She noted that the Kenmore library is working on being more connected with the community. They plan to participate with the City at some of our business seminars to show businesses how the library can serve them.

Brent Smith noted that the business incubator is giving the City positive public exposure.

Mayor Baker would like to see business incubator information available at the upcoming business seminar. He stated that the Sound Cities group would like to see a business incubator presentation. He noted that business incubator participant Peter Hauser, of CooKoo Watch, donated four watches to give as prizes during the City's NLC mobile tour. The Mayor also reported on an NLC session he attended today.

ADJOURNMENT

Deputy Mayor Hensel adjourned the regular meeting at 8:38 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Special & Regular Meeting
Minutes
November 18, 2013**

CALL TO ORDER – The special meeting of the Kenmore City Council was called to order by Mayor David Baker at 5:30 p.m.

EXECUTIVE SESSION

Mayor Baker recessed the special meeting at 5:30 p.m. to an executive session to discuss Personnel, pursuant to RCW 42.30.110(1)(g), and Property Disposition, pursuant to RCW 42.30.110(1)(c). He stated that the executive session will last for approximately 90 minutes and that no action is anticipated when the meeting is reconvened.

ADJOURNMENT – Mayor Baker adjourned the special meeting at 7:00 p.m.

CALL TO ORDER – Mayor Baker called the regular meeting to order at 7:01 p.m.

Councilmembers present: Mayor David Baker, Deputy Mayor Bob Hensel, and Councilmembers Brent Smith, Laurie Sperry, Allan Van Ness, Milton Curtis, and Glenn Rogers

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance & Administration Director; Kris Overleese, Engineering & Environmental Services Director; Jennifer Gordon, Public Works Operations Manager; Leslie Harris, Management Analyst; Angelo Bonomi, Code Compliance Officer; Richard Sawyer, Surface Water Program Manager; Andrew Symons, City Attorney; and Patty Safrin, City Clerk

FLAG SALUTE

Nigel Herbig, Councilmember Elect, led the flag salute.

AGENDA APPROVAL

It was Council consensus to approve the agenda as submitted.

PRESENTATIONS

Let's Move Cities, Towns & Counties Award - Mayor Baker spoke about the award and detailed the five goals of "Let's Move Cities, Towns & Counties," including healthy nutrition and promoting children's activity. He stated that the National League of Cities recently recognized 18 cities in U.S. for making progress in dealing with childhood obesity, and Kenmore was one of them.

2013 City of Kenmore Inaugural Beautification Awards – Bryan Hampson, Development Services Director, gave some background on the awards and presented them to the nine property and business owners who were selected for taking pride in maintaining and improving their properties. Winners were Christopher Breen and Susan Blake for Best in City, Cathy

Cottingham for Residential Curb Appeal, Tom and Karen Hyde for Transformation, Ana Vazquez for Art, Rudy Madayag for Residential Sense of Community, Jan Troxell of Passport Travel for Business Curb Appeal, Kyla McAdams of Dolce Vita Espresso for Business Sense of Community, Jocelyn Nadir of Northshore Apartments for Multifamily Sense of Community, and Kerri Berlin of Northlake Grove Townhomes for Environmental Sustainability.

PROCLAMATION

Pancreatic Cancer Awareness Month - November 2013.

Mayor Baker read the proclamation into the record.

CITIZEN COMMENTS

There were no citizens wishing to comment during the Citizen Comment period.

CONSENT AGENDA

Councilmember Sperry moved to approve the consent agenda as submitted. Councilmember Van Ness seconded the motion to Approve the Minutes for the October 21, 2013 City Council Regular Meeting & Joint Planning Commission Special Meeting; Approve Check Nos. 28936 - 28996 in the Amount of \$224,847.03 and Electronically Transferred Payroll Funds Totaling \$65,184.57 for the Period Ending November 8, 2013; and Approve Amendment No. 1 to Contract No. 13-C1103 with H.W. Lochner. The motion passed unanimously.

BUSINESS AGENDA

Approve Contract No. 13-C1232 for 68th Avenue Sidewalks - Kris Overleese, Engineering and Environmental Services Director, was present to give a brief report on the bids and award process for the 68th Avenue sidewalks construction contract, CIP Project No. T 27-182. The project will improve pedestrian safety by adding an 8-foot wide sidewalk along the east side of 68th Avenue NE between NE 182nd Street and NE 185th Street. She was also available to answer any questions.

Councilmember Van Ness moved to Approve Contract No. 13-C1232 for 68th Avenue Sidewalks in an amount not to exceed \$145,000. Councilmember Curtis seconded the motion. Deputy Mayor Hensel recused himself from the vote. The motion passed 6-0.

Approve City Acceptance of Department of Ecology Grant – Richard Sawyer, Surface Water Program Manager, was present to give a brief report in which he gave some background on the grant and provided information regarding allowable uses for the grant money. This grant is a noncompetitive municipal stormwater capacity grant which does not require any matching funds by the City. He was also available to answer any questions.

Councilmember Van Ness moved to Approve City Acceptance of Department of Ecology Grant for municipal stormwater capacity. Councilmember Sperry seconded the motion. The motion passed 7-0.

September 2013 Financial Report – Joanne Gregory, Finance & Administration Director, was present to provide a brief report in which she gave a general overview of the regional context which affects the City budget and spoke briefly about the status of expenses and revenues. She gave a PowerPoint presentation showing a long-range forecast for the City. She noted that this is new for the City and will be presented to Council quarterly. She was also available to answer any questions.

It was Council consensus to receive and file the September 2013 Financial Report.

Approve Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting for Business Incubator Services – Nancy Ousley, Assistant City Manager, and Barry Weisband, Consultant, were present to give a brief report. They were also available to answer any questions.

Assistant City Manager Ousley stated that the term of the initial contract is through 2014, although work and budget items were only authorized through 2013 so that items could be added later as the needs became more clear. She noted that it may make sense for Council to delay action on this amendment until the December 9, 2013 meeting, in order to view it more broadly in the context of the City's overall economic development strategy. City Manager Karlinsey stated that getting funding partners for the Business Incubator is a top priority for 2014.

It was Council consensus for staff to provide more specific data on the business incubator program and to bring this item back to the December 9, 2013 meeting.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmember Smith reported on a Puget Sound Regional Council (PSRC) board meeting he attended last week. He noted that the Northshore Senior Center in Bothell is now of an age where its physical structure needs some attention, and a plan for continuing maintenance of the facility is also needed.

Councilmember Sperry reported on the NLC conference. She attended sessions on priority-based budgeting and active transportation, which refers to bikes and pedestrians. She stated that she was very proud of the job staff did on the mobile workshop highlighting Kenmore.

Councilmember Van Ness reported on the NLC conference as well, in particular a session he attended on health care reform.

Deputy Mayor Hensel reported on a Coffee with Council that he attended on Saturday. He also recently presented a service award to Inglemoor High School for adopting Log Boom Park to maintain it as a volunteer service to the City.

Mayor Baker also reported on the NLC conference, noting that the mobile tour of Kenmore went very well. He stated that he has finished his term on the NLC board of directors, and has now been appointed to the NLC university board of directors. He noted that one of the opening speakers, from the Brookings Institute, spoke about how things are changing and that cities are going to be providing more leadership as federal and state governments cut funding.

EXECUTIVE SESSION

Mayor Baker recessed the regular meeting to an executive session at 9:00 p.m. to discuss Personnel, pursuant to RCW 42.30.110(1)(g), and Property Disposition, pursuant to RCW 42.30.110(1)(c). He stated that the executive session will last for approximately 15 minutes and that action is anticipated when the meeting is reconvened.

Mayor Baker reconvened the regular meeting at 9:16 p.m.

POSSIBLE ACTION RESULTING FROM EXECUTIVE SESSION

Councilmember Smith moved to approve a salary merit increase of 2% for the City Manager effective January 1, 2014. Councilmember Curtis seconded the motion. The motion passed unanimously.

Councilmember Van Ness moved to amend the City Manager's contract to change the yearly evaluation effective date from April to January. Councilmember Sperry seconded the motion. The motion passed unanimously.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 9:22 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk



City Of Kenmore, Washington

Memorandum

Date: December 4, 2013

To: Mayor and City Council

From: Rob Karlinsey

Re: Proposed Boathouse, Boardwalk, and Dock at Rhododendron Park

As directed by the City Council, we have moved forward on preliminary design and costs for the proposed boathouse and boardwalk trail at Rhododendron Park. The boardwalk will connect the main playfield area at Rhododendron Park with the water. The boathouse will provide a public venue for hand-powered watercraft activities along the shoreline.

Work on design and permitting for the hand-powered watercraft dock at Rhododendron Park has also been proceeding. Unfortunately, we received news this week that the local Tribe is unlikely to approve our proposed dock. Under the tribal treaty with the US Government and confirmed by the Bolt decision in the 1990s, local tribes have say on whether projects like our proposed dock are approved. We have not given up and will continue working with the Tribe, but it will take longer than we originally had hoped, and at the end of it all we still may not obtain approval.

Can a boathouse operate without a dock? I asked that question today (12/40), and the indication from the crew community is “no,” and I tend to agree.

Boathouse and Boardwalk

Speaking of the boathouse, now that design of the boardwalk and boathouse (including structural soil testing and site investigation) has reached the 30% design milestone, we have a much better understanding of the costs. Unfortunately, given the soil conditions of the site, the “getting out of the ground” costs are much higher than we had estimated at the pre-design stage.

In addition, we are seeing support from the crew community for a larger boathouse building than the 40x40 dimension we had originally anticipated. Crew boats known as “quads” require a 50-foot long building, and “eights” need a building that is about 70 feet in length.

The preliminary estimate assumed \$172,000 in Real Estate Excise Tax and \$310,000 in Park Impact Fee revenue to fund the project totaling \$482,000. The cost estimate assumed \$115.62 per square foot for a one-story 40x40 shed building (no interior finishes and no utilities other than lighting) and \$255,000 for the boardwalk and trail, assuming similar construction methods used in other jurisdictions. Unfortunately, the civil earthwork and pin pile technology needed for

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028
Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

unstable soils on the site have driven the costs up significantly higher for both the boathouse and the boardwalk.

Below are costs of the components and options for the boathouse and boardwalk:

Options	Boardwalk & Trail	Building Pad	Single Story 40x50	Two Story 40x50	Single Story 40x70	Two Story 40x70	Total
Boardwalk and Trail Only	362,000						362,000
Building Pad Only		360,000					360,000
Building Pad + Boardwalk and Trail	362,000	360,000					722,000
Single Story 40x50 Building Only		360,000	501,000				861,000
Single Story 40x50 Building + Boardwalk	362,000	360,000	501,000				1,223,000
Two Story 40x50 Building Only		360,000		700,000			1,060,000
Two Story 40x50 Building + Boardwalk	362,000	360,000		700,000			1,422,000
Single Story 40x70 Building Only		360,000			640,000		1,000,000
Single Story 40x70 Building + Boardwalk	362,000	360,000			640,000		1,362,000
Two Story 40x70 Building Only		360,000				920,000	1,280,000
Two Story 40x70 Building + Boardwalk	362,000	360,000				920,000	1,642,000

City Manager's Recommendation

The news from the Tribe regarding the dock combined with the higher than budgeted costs on the boathouse and boardwalk represents a significant setback to this project. However, given the City Council's priority and the community's enthusiasm on improving water access opportunities in the City, and given the significant benefits that will come from a new boathouse, dock, and boardwalk, I recommend that we not give up on the vision of having these amenities.

I recommend that we make the following course corrections based on what we now know about costs and permitting prospects:

1. Continue to work with the Muckleshoot Tribe to obtain approval for the dock as proposed. This process could take a while, and we should not assume approval in 2014.
2. Move forward on the boardwalk and trail (\$362,000). Regardless of whether a boathouse and dock are installed, creating the connection between the Rhododendron Park main play field and the water will be of great value to the community. (Note, however, that this boardwalk project likely qualifies as a *candidate* for a water access competitive grant through the State. We could apply for a 50% match which would not materialize until mid 2015.)
3. Put a hold on the boathouse project until we know whether the dock will move forward. Under this scenario, the *soonest* we would see an operational boathouse at Rhododendron Park, if at all, would be 2016. My opinion is that if the City is going to expend the resources needed for a boathouse, it should have a dock to go with it. I don't know of any boathouses that are dockless.

4. Create a backup plan for the boathouse in case the dock at Rhododendron Park is not approved. A backup plan would mean identifying another property on the River that already has an existing “grandfathered” dock.

While the news reported in this memo is not the rosier, we still need to hold on to our vision and enthusiasm for more public water access in Kenmore. We need to be both assertive and creative as we seek solutions that will get our citizens a public dock and boathouse on the Sammamish River.



City Of Kenmore, Washington

Kenmore Boathouse

DRAFT Business Plan

Impetus

The City of Kenmore enjoys over seven miles of beautiful shoreline along Lake Washington and the Sammamish River. The majority of Kenmore's shoreline is privately owned, and most of the publicly owned portions will likely remain in their natural state (e.g., St. Edward State Park and Squires Landing). There are, however, portions of City-owned waterfront that have significant potential for improving public access to Kenmore's aquatic environment.

Furthermore, surveys have found that Kenmore's citizens place a high priority on accessing the water and that the City could do more to create water recreation facilities and opportunities for its citizens (See 2006 and 2013 surveys conducted by Herbert Research). The City Council shares this vision and has officially added "Advance the public's access and connection to the waterfront" as one of its top five goals.

Lastly, members of the public have expressed strong interest in advancing this goal. They have held numerous meetings, written emails, provided public testimony at City Council meetings, and have even formed a non-profit organization, currently called the Kenmore Crew and Kayak Club (KCKC), to bring hand-powered watercraft activities and programs to Kenmore.

A waterfront location and facility are needed to harness this energy and house these activities. As part of a larger strategy to connect Kenmore's public with the water, a boathouse and associated programs will advance Kenmore forward and make it even more known as a place to recreate on the water.

Mission

The Mission of the Kenmore Boathouse will be to house a variety of types of hand powered watercraft and associated programs in order to facilitate public use of Kenmore's waterways.

Location

It is proposed that the Kenmore Boathouse will be located at Rhododendron Park near the south bank of the Sammamish River, adjacent to and east of 68th Avenue NE.

Client Focus

The client focus of the Kenmore Boathouse will be on Northshore area residents who wish to access and connect with the water through the use of various types of hand-powered watercraft. Types of watercraft will include varieties of kayaks, canoes, crew boats, and stand-up paddle boards.

Basic Business Model and Potential Programs

The proposed business model of the Kenmore Boathouse will be to partner with a local non-profit, public club to provide a facility, boats, and programming for the public. Under this model, the City of Kenmore, through a lease agreement with the club, will provide the facility, including the real estate, boathouse, and dock; and the public club will provide the boats, boat racks, equipment, and the programming.

In return for using the facility, the public club will provide a minimum number of instructional classes and practice sessions per week during the spring and summer months, as well as a minimum number of regatta(s) hosted by the club in Kenmore. The club will also be required to perform an off-season restoration project in the vicinity of the boathouse, where club members (and the public) would remove invasive plant species and install native plants (provided by the City) in the Park.

The public club may charge club membership fees but would be required to provide a minimum number of no-fee and/or discounted memberships for low-income youth. For specific classes and camps, club membership would not be required, and a minimum number of no-fee/discounted class/camp registrations for low income youth would be required. Club and registrations fees would be comparable to fees charged by other clubs/programs in the region. Examples of programming include the following:

Learn to row/paddle: 2-3 hour sessions, three times per week for several weeks. This class would be offered several times during the spring/summer.

Summer Camp: Several full-day, week-long (Monday – Friday) summer camp sessions for youth. These summer camps would include use of the boathouse facilities as well as the Park's play field and picnic facilities. Currently, the City Manager's Office is in discussions with the YMCA to provide these proposed summer camps.

Crew Team: Provide coaching, practice sessions, and racing opportunities for a competitive crew team.

Canoe/Kayak Team: Provide coaching, practice sessions, and racing opportunities for a competitive canoe and kayak team.

Public Paddle. In the summer, provide a weekly opportunity for the public to paddle together. As an example, the Seattle Canoe and Kayak Club provides a “Duck Island Race” on Green Lake every Friday evening, followed by a potluck. This event is open to all types of hand-powered boats and is free to the public.

Regattas: Host annual regattas; invite other rowing/paddling clubs in the region to participate.

Open Houses. Hold open houses for the public to learn more about hand-powered watercraft opportunities in Kenmore.

Boathouse Space

Users of the boathouse will make room for a balanced variety of hand-powered watercraft—no one type of watercraft will crowd out other types of hand-powered watercraft. The City will contract with the public club to provide programming in return for being able to occupy the boathouse, and the club will manage the interior use of the space. If there is remaining boathouse space not being used by the club, the club may lease boat space to private individuals at rates comparable to rates charged by other boathouses in the region. Revenue from leased boat space will be used by the club to offset the costs of low-income, no-fee memberships as well as the costs of regattas and equipment.

The Boathouse itself will be a “bare bones” building with no utilities except for electric power for lighting. No plumbing or heating will be provided in the building. Restrooms will be available in Rhododendron Park and the adjacent WDFW public boat launch.

The club will provide interior storage racks, boats, and equipment.

The City will pay the utility bills (electric and garbage) for the building and will be responsible for building maintenance and repair.

The club will be responsible for keeping the interior of the boathouse clean and tidy (the City will not provide janitorial service), and the club will also keep the surrounding area free of litter. The City will provide routine grounds maintenance and trash disposal as needed.

Club Structure and Management

The club that will occupy the boathouse and provide programming will be established as a non-profit, 501(c)(3) organization. The club will be “public,” meaning that membership and programming is open to the public. Any teams run by the club will not be exclusive and will not require “try outs” in order to be accepted on the team. However, the club may make its focus on youth teams and programs.

The details of governance and organizational structure will be up to its members, but at a minimum, the club will have general officers including a president, treasurer, and secretary to handle financial and administrative functions.

The club will have a bank account and mailing address, and the club will perform its fiduciary functions with internal controls and according to 501(c)(3) rules.

Under the lease agreement with the City, the club will be required to have liability insurance in minimum amounts required by the City Manager, and the club will establish rules and procedures for safety and general operations, in keeping with best practices and/or commonly accepted practices of similar organizations in the region.

Memberships and registrations will be managed and handled by the club.

Recruitment, Marketing, and Support from the City

The club may operate and maintain its own website and social media tools to promote the boathouse and recruit members and class attendees. The club may also use signs and banners, in keeping with the sign code, as well as other tools to get word out.

In addition to providing the facility, the City will serve in a support role to club, including marketing and advertising as determined by the City. In addition, the club may use a City Hall meeting room approximately once per month for business/board meetings, and the club may use Council Chambers (including the Community Room) up to three times per year for club open houses and/or general membership meetings.

Budget

The City will fund the boathouse with “capital restricted” funds, meaning that the source of funding can only be used for constructing public infrastructure and not for general operations. Examples of capital restricted funding sources include Park Impact Fees and Real Estate Excise Tax (REET). The City’s Strategic Opportunities fund is the primary source of funding for the dock and may also be a supplemental source for the construction of the Boathouse. The Strategic Opportunities fund is also intended for one-time uses and no for ongoing operations.

Using the business model described earlier, it is the City's intent to utilize one-time capital funding sources to construct the facility. To minimize the facility's impact on the City's operating budget, the proposed model leverages the resources of the private sector and the community to operate the boathouse—i.e., to run the programs and events.

Cost to Design and Construct the Boathouse: [TBD]

Design and Permitting

Excavation

Foundations

Structure

Total

Proposed Funding Sources:

Operating Costs

Funding Sources for Operating Costs

Project Schedule and Implementation

If the City Council approves the budget for the proposed boathouse, design and permitting can continue. If permits from state and federal agencies are obtained in a timely manner, construction on the boathouse and dock may begin this summer.

Depending on the success of its fundraising efforts the club that will run programs out of the boathouse may have enough boats and equipment soon after the boathouse is constructed.

While it would be ideal to have the boathouse and programs operating some time in summer 2014, a go live date in the first half of 2015 is also likely, given state/federal permit timelines.

Evaluation Criteria and Performance Measures



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Amendment No. 1 to Contract 12-C1057, Contract for environmental legal services with Joyce Ziker Parkinson		For Council Meeting Agenda of: December 9, 2013	
Proposed Council Action/Motion: Motion to ratify Contract 12-C1057 and approve Amendment No. 1 to Contract 12-C1057, Contract for environmental legal services with Joyce Ziker Parkinson.		Department: City Manager Prepared by: Nancy Ousley, Assistant City Manager	
		Initial & Date Approved by Department Head: _____ Approved by City Attorney: <u>U/A email</u> Approved by Finance Director: _____ Approved by City Manager: <u>Rok</u>	
		Exhibits/Attachments: Attachment 1: Amendment No. 1 to Contract 12-C1057 Attachment 2: Contract 12-C1057	
Expenditure Required \$20,000 - \$40,000 estimated in 2014	Amount Budgeted \$400,000 for legal services in the General Fund; \$35,000 for environmental legal services in the Kenmore Village Fund.	Appropriation Required \$0	
<u>INFORMATION/BACKGROUND:</u> In 2012, Contract 12-C1057 was executed with the legal firm of Joyce Ziker Parkinson for environmental legal services (see Attachment 2). This firm has provided guidance to the City on a variety of legal issues, including property acquisition and disposition as well as lake sediment testing. Additional ongoing environmental law services are anticipated for City-owned properties and for other environmental issues that require legal assistance. Proposed Amendment No. 1 (Attachment 1) to the contract confirms the existing contract term and allows the term of the duration of agreement to renew for one-year terms after the initial term ends 12/31/14.			
<u>FISCAL CONSIDERATION:</u> See above.			
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> The adopted budget under the Legal Services Cost Center states that specialized legal counsel from other firms (other than City Attorney Services) are used as needed. The Kenmore Village Fund also has funds allocated for environmental law services.			

VIIB. Approve Amendment No. 1 to Contract No. 12-C1057 with
Joyce Ziker Parkinson for Environmental Legal Services

ATTACHMENT 1

Contract No. 12-C1057 Amendment No. 1

The following sections of the Contract for Consultant Services, which commence on July 1, 2012, between the City of Kenmore and Joyce Ziker Parkinson, PLLC are amended in their entirety as set forth below. All other terms and conditions of the underlying contract shall remain in full force and effect.

Section 2 Compensation and Method of Payment: The Consultant shall request payment for work performed using the billing invoice form at Exhibit "C", according to the rates set forth in Exhibit "B" for the year 2014. The City shall pay the Consultant for services rendered within ten (10) days after City Council voucher approval.

Section 3 Duration of Agreement: This agreement shall be in full force and effect for a period commencing on July 1 2012, and ending on December 31, 2014, and shall renew automatically for additional one-year terms, unless sooner terminated under the provisions of this Agreement. Time is of the essence of this Agreement in each and all its provisions in which performance is required.

DATED this 9th day of December, 2013

CITY OF KENMORE:

BY: _____
Rob Karlinsey
Title: City Manager

CONSULTANT:

By: _____
William F. Joyce
Title: Member, Joyce Ziker Parkinson, PLLC

Address: 1601 Fifth Avenue, Suite 2040
Seattle, WA 98101

Attest/Authenticated:

Patty Safrin, City Clerk

Approved as to Form:

Rod Kaseguma, City Attorney

CONTRACT FOR CONSULTANT SERVICES

Contract No. 12-C1057

This Agreement is entered into by and between the City of Kenmore, Washington, a municipal corporation ("City") and Joyce Ziker Parkinson, whose principal office is located at 1601 Fifth Avenue, Suite 2040, Seattle, WA ("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 agree as follows:

1. Scope of Services to be Performed by Consultant. The Consultant shall perform the services described in Exhibit "A" of this Agreement. In performing the services, the Consultant shall comply with all federal, state and local laws and regulations applicable to the services. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance.

2. Compensation and Method of Payment. The Consultant shall request payment for work performed using the billing invoice form at Exhibit "C."

The City shall pay Consultant:

[Check applicable method of payment]

X According to the rates set forth in Exhibit "B".

___ A sum not to exceed \$ _____

___ Other (describe): _____

The Consultant shall complete and return to the City Exhibit "D," Tax Identification Number," prior to or along with the first billing invoice. The City shall pay the Consultant for services rendered within ten (10) days after City Council voucher approval.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing on July 1, 2012, and ending on December 31, 2014, unless sooner terminated under the provisions of this 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 be solely 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.

6. Indemnification.

A. The Consultant shall protect, defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, suits, losses or liabilities of any nature, including attorneys' fees, arising out of or in connection with the negligent acts or omissions of the Consultant, its officers, employees and agents in performing this Agreement.

B. The City shall protect, defend, indemnify and save harmless the Consultant, its officers, employees and agents from any and all costs, claims, suits, losses or liabilities of any nature, including attorneys' fees, arising out of or in connection with the negligent acts or omissions of the City, its officers, employees and agents in performing this Agreement.

7. Insurance.

The Consultant shall procure and maintain for the duration of this 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.

A. Minimum Scope of Insurance.

Consultant shall obtain insurance of the types described below:

1. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance.

Consultant shall maintain the following insurance limits during the term of this contract:

1. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Verification of Coverage.

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, if any, 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 which sufficiently and properly reflect all 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 (7) years after termination of this Agreement, unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW 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. The City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon seven (7) 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 canceled 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 (14) days written notice, or in the event that outstanding invoices are not paid within sixty (60) 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, sexual orientation, age, national origin, marital status, or presence of any sensory, mental or physical disability.

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 Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in Exhibit "A." In the event that the Consultant is asked to perform services for a project with which it may have a conflict, Consultant will immediately disclose such conflict to the City.

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 Kenmore shall be sent to the following address:
City Clerk
City of Kenmore
P.O. Box 82607
Kenmore, Washington 98028-0607

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

William F. Joyce
Joyce Ziker Parkinson, PLLC
1601 Fifth Avenue, Suite 2040
Seattle, WA 98101
wjoyce@jzplaw.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 KENMORE, WASHINGTON

By: 
Rob Karlinsey
Title: City Manager
Date: 7/20/2012

CONSULTANT

By: 
Title: Member
Date: 8/22/12

ATTEST AS TO FORM:


Rod Kaseguma, City Attorney

EXHIBIT A

Scope of Services to be Provided by Consultant. The Consultant shall furnish services including, but not limited to, the following:

Environmental legal services

EXHIBIT B

Rates for Services to be Provided by Consultant. The Consultant shall furnish the services in accordance with the following rates:

Partners \$375/hour

Associate Attorneys: \$275/hour

Paralegals: \$120/hour

EXHIBIT C

City of Kenmore
Billing Invoice

To: City of Kenmore
PO Box 82607
Kenmore, Washington 98028
Phone: (425) 398-8900
Fax: (425) 481-3236

Invoice Number: _____ Date of Invoice: _____

Consultant: _____

Mailing Address: _____

Telephone: () _____

Contract Period: _____ Reporting Period: _____

Amount requested this invoice: \$ _____

Attach itemized description of services provided.

Specific Program: _____

Authorized signature

For Department Use Only

BUDGET SUMMARY

Total contract amount	\$ _____
Previous payments	\$ _____
Current request	\$ _____
Balance remaining	\$ _____

Approved for Payment by: _____ Date: _____

EXHIBIT D

CITY OF KENMORE
P.O. Box 82607
Kenmore, WA 98028
Phone: (425) 398-8900
Fax: (425) 481-3236

TAX IDENTIFICATION NUMBER

In order for you to receive payment from the City of Kenmore, the 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 Kenmore 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)
Professional Legal
Liability Corporation

TIN No.: 20-0635822

Social Security No.: _____

Print Name: William F. Joyce

Title: Member

Business Name: Joyce Ziker Parkinson, PLLC

Business Address: 1601 Fifth Avenue, Suite 2040, Seattle, WA 98101

Business Phone: 206.957.5951

8/22/12
Date

W F J
Authorized Signature (Required)



**City Council Business Agenda Item
City of Kenmore, WA**

Subject/Topic: Osborn Consulting 12-C1081: Supplement No. 1 Proposed Council Action/Motion: Authorize the City Manager to execute Supplement No. 1 to Osborn Consulting Agreement 12-C1081 for a new Contract total of \$806,000 (plus a 10% contingency).	For Council Meeting Agenda of: 12/09/2013 Department: <u>Engineering & Environmental Services</u> Prepared by: <u>Kris Overleese, PE</u> <table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">Approved by Department Head:</td> <td style="width: 30%; text-align: center;"><u>Initial & Date</u> <u>KMO 12/9/13</u></td> </tr> <tr> <td>Approved by City Attorney:</td> <td style="text-align: center;"><u>NA</u></td> </tr> <tr> <td>Approved by Finance Director:</td> <td style="text-align: center;"><u>[Signature] 12/11/13</u></td> </tr> <tr> <td>Approved by City Manager:</td> <td style="text-align: center;"><u>[Signature]</u></td> </tr> </table> Exhibits/Attachments: Attachment A: Osborn Consulting Council 2013 Award Attachment B: Summary of Tasks	Approved by Department Head:	<u>Initial & Date</u> <u>KMO 12/9/13</u>	Approved by City Attorney:	<u>NA</u>	Approved by Finance Director:	<u>[Signature] 12/11/13</u>	Approved by City Manager:	<u>[Signature]</u>
Approved by Department Head:	<u>Initial & Date</u> <u>KMO 12/9/13</u>								
Approved by City Attorney:	<u>NA</u>								
Approved by Finance Director:	<u>[Signature] 12/11/13</u>								
Approved by City Manager:	<u>[Signature]</u>								
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Expenditure Required NA</td> <td style="width: 33%;">Amount Budgeted NA</td> <td style="width: 33%;">Appropriation Required NA</td> </tr> <tr> <td colspan="3" style="text-align: center;">See 'Fiscal Consideration' Below</td> </tr> </table>		Expenditure Required NA	Amount Budgeted NA	Appropriation Required NA	See 'Fiscal Consideration' Below				
Expenditure Required NA	Amount Budgeted NA	Appropriation Required NA							
See 'Fiscal Consideration' Below									
<u>INFORMATION/BACKGROUND:</u> The City executed Agreement 12-C1081 with Osborn Consulting in January 2013 for an amount not to exceed <u>\$425,000</u> to complete design of surface water and park capital projects, update the Surface Water Master Plan, evaluate Swamp Creek issues, and to provide technical assistance as needed (geotechnical engineering, survey, landscape design). The contract amount of \$425,000 was an estimate based on the projects adopted within the City's Capital Improvement Program in 2012 and operating budgets. See Attachment A for the January 14, 2013 Council Agenda item. The City currently has three on-call consulting contracts: Osborn Consulting for surface water/parks, Perteet for transportation issues, and Gray & Osborne will continue to complete the 0057 culvert project (no additional or new projects will be assigned). Staff recommends that Council authorize the City Manager to execute a supplement to Osborn Consulting's agreement to complete additional work. This supplement would be Supplement No. 1 to Agreement 12-C1081 and would increase the agreement from <u>\$425,000 to \$806,000 (plus a 10% contingency)</u>. To date, approximately \$403,727 has been encumbered of the original contract which is set to expire at the end of 2014 (but may be extended at the City's discretion). There are projects that weren't anticipated during development of Osborn's original contract including Rhododendron Park and the Swamp Creek Subbasin Project (Ecology grant). For other projects, the scale was reduced/increased: the 74th Avenue Culvert Project was removed, Northshore Summit Park scope was expanded, and the Surface Water Master Plan fee was higher. See Attachment B for a current list of Tasks (1-12) that have been executed to date and a list of anticipated future needs. There are no retainers with this contract and tasks are created within Osborn's contract for each City as needed.									
<u>FISCAL CONSIDERATION:</u> Staff recommends an increase to Osborn Consulting's contract to complete design work for parks and surface water capital improvement projects as well as providing technical assistance for geotechnical and surface water program issues. A task will not be given to Osborn unless budget resources exist within the Capital Improvement Program or parks and surface water programs.									

VIIC. Approve Amendment No. 1 to Contract No. 12-C1081 with
Osborn Consulting for Surface Water Services

Listing a task/project within Attachment B does not commit the City to utilize Osborn Consulting for this work. Attachment B is Staff's method of tracking the work, tasks that have been authorized, and summarizing future work to identify the needed Osborn contract amount. The City reserves the right to award projects to Osborn as convenient for the City and as long as tasks fit within budget and the overall contract amount.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

City Council Goal #2 : To continue to seek transportation funding and mitigation for State impacts on the city's transportation system, air-water quality, and noise to include but not limited to SR 522, Sammamish River Bridge, local roads and Lake Washington sediment depths.

City Council Goal #5: To advance the public's access and connection to the waterfront.

City Council Goal #11: To move the City Council's Interconnectivity Vision forward toward a parks improvement and financing plan implementation (parks, trails, open space, etc.).

City Council Goal #12: To address watershed issues affecting the City.



Subject/Topic: Surface Water and Park Project Assistance: Consultant Selection Proposed Council Action/Motion: Authorize the City Manager to execute Contract No. 12-C1081 for \$425,000 (plus a 10% contingency) with Osborne Consulting, Inc.	For Council Meeting Agenda of: January 14, 2013 Department: Engineering & Environmental Services Prepared by: Kris Overleese, PE <table><tr><td>Approved by Department Head:</td><td><u>KMO</u></td></tr><tr><td>Approved by City Attorney:</td><td><u>NA</u></td></tr><tr><td>Approved by Finance Director:</td><td><u>Jag 1/21/13</u></td></tr><tr><td>Approved by City Manager:</td><td><u>[Signature]</u></td></tr></table> Exhibits/Attachments: Attachment A: Daily Journal of Commerce Ad	Approved by Department Head:	<u>KMO</u>	Approved by City Attorney:	<u>NA</u>	Approved by Finance Director:	<u>Jag 1/21/13</u>	Approved by City Manager:	<u>[Signature]</u>
Approved by Department Head:	<u>KMO</u>								
Approved by City Attorney:	<u>NA</u>								
Approved by Finance Director:	<u>Jag 1/21/13</u>								
Approved by City Manager:	<u>[Signature]</u>								
Expenditure Required \$ 425,000	Amount Budgeted \$ 425,000	Appropriation Required \$0							

FISCAL CONSIDERATION:

The agreement with Osborne Consulting, Inc. will expire December 31, 2014 with the option to extend. The contract value will be \$425,000. No retainer is paid for on-call consultants. A "task order" is formally written and executed for any work given under this agreement.

The City Engineer will manage the overall agreement for compliance and parks, operations, surface water, and engineering staff will manage "task orders" as needed. The City Engineering will approve all task order assignments and task order amendments. The funds to pay for the work in the agreement are within individual projects budgets and line items. The significant tasks to be completed with this agreement may include:

- SW1 Tributary 0057 Channel Relocation: engineering services during construction and construction management
- SW3 Juanita Ditch Grading
- SW9 Swamp Creek Regional Basin Study
- SW12 74th Avenue NE Culvert Replacement
- NPDES Phase II Permit evaluation and compliance support
- Update of the Surface Water Master Plan
- P11 Log Boom Park Bridge Replacement
- SW19 192nd Street Culvert
- surface water investigation support
- Grant Writing

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

The consultant team will work on Parks projects, Surface Water projects, and Transportation projects. The work they do will support:

Council Goal 8: move the City's interconnectivity vision forward toward implementation.
Council Goal 10: Address watershed issues affecting the City.



DAILY JOURNAL OF COMMERCE

"Helping business do business since 1893"

83 Columbia St., Seattle, WA 98104 • P.O. Box 11050, Seattle, WA 98111 • www.djc.com

City of Kenmore Surface Water Project Design Submittal Date: Nov. 20

CITY OF KENMORE REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ENGINEERING SERVICES No. 12-C1081

Title: On-Call services for Surface Water Project Design, Environmental Evaluation/Permitting, Parks Project Assistance and Surface Water Master Plan Update

Due Date: Submittals must be received no later than 5:00 p.m., Tuesday, November 20, 2012. Submittals received after this time and date will not be considered.

Scope: The City of Kenmore is requesting Statements of Qualifications (SOQ) from interested and qualified engineering firms to provide professional services to 1) design and assist with construction of surface water and parks projects, including culvert replacements; 2) update of the Surface Water Master Plan; 3) general surface water program and park project evaluation assistance (municipal permit programs, low impact development, sampling, inspections, education, training, wetland delineation, modeling) including landslide evaluation and design; 4) assistance with site evaluation and parks project site review for stormwater, wetlands, permitting; and 5) surface water and parks grant writing.

The projects may include, but are not limited to: Tributary 0057 relocation, NE 187th Street bypass, Swamp Creek regional basin study assistance, 74th Avenue NE culvert replacement, NE 192nd Street culvert replacement, update to the Surface Water Master Plan, and parks projects.

The project assistance need includes, but is not limited to: design, survey, modeling, SEPA/NEPA document creation, permitting (Ecology, WDFW, etc.) geotechnical evaluation, wetland delineation and site evaluation, right-of-way acquisition, engineering services during construction, construction inspection, and community education.

The Consultant (or team) shall be experienced with public involvement, surface water sys-

tem and stream design, surface water system modeling, environmental permitting process, water quality and stormwater sampling, erosion control, and Surface Water Management Plan creation and updates. The Consultant must have experience planning and evaluating projects utilizing the King County 2009 Surface Water Design Manual and relevant codes and standards.

The City encourages disadvantaged, minority, and women-owned consultant firms (or teams) to respond.

Telephone calls or any other inquiries seeking additional information about the work included in this request will **NOT** be accepted or returned.

The on-call contract will be for 2 years with the option to extend at the City's discretion. The approximate dollar value of the contract is \$350,000.

Submittal: Interested parties shall submit four (4) copies of their SOQ. Submittals shall not exceed 20 single-sided pages in 12 point font. Submittals shall be addressed to:

Kris Overleese, City Engineer
City of Kenmore
P.O. Box 82607
Kenmore, WA 98028

Selection Process: Submittals will be evaluated and ranked based on the following criteria (total of 100 points):

1) Key personnel for surface water design, Surface Water Master Plan update, Low Impact Design (LID), and environmental permitting (35 points); 2) Firm/team experience with similar type municipal projects (20 points); 3) Team experience with environmental and permitting process (15 points); 4) Experience with surface Low Impact Development (15 points); and 5) Familiarity with relevant codes and standards (15 points).

The City intends to review and evaluate the SOQs, then select and interview up to four firms. While the City intends the interview to be less formal, firms will be evaluated based on 1) ability to communicate (30 points); 2) demonstrated ability provide the requested technical assistance (30 points); 3) demonstrated ability to manage projects and meet commitments; 4) demonstrated ability to provide quality control

(20 points); and 5) ability to work together as a team (20 points).

The City will check references for up to two firms and reserves the right to select the firm that the City believes best meets its needs.

The Recipient (the City), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

Dates of publication in the Seattle Daily Journal of Commerce, November 6 and 8, 2012.

11/8(290160)

Phone (206) 622-8272 • Fax (206)-622-8416 • legals@dj.com

Contract Administration - Task Order Tracking

Osborn Consulting

On-Call Surface Water Services

Contract No. 12-C1081 Expires December 31, 2014

Total Contract Amount \$425,000

Task Order No.	Description	TO Subtotal	TO Total Amount	Comments
Contract 12-C1081	Consultant Services	\$425,000.00	\$425,000.00	

Task Order 01	Contract Administration	\$5,000.00	\$10,000.00	ongoing
TO 01 Amend. 1	Contract Administration	\$5,000.00		
Task Order 02	Rapid Response	\$16,000.00	\$21,000.00	ongoing: SW -3 Juanita Ditch review, review of SW-8 61st embankment project, review of SW-12 74th Ave culvert replacement
TO 02 Amend. 1	Rapid Response	\$5,000.00		
Task Order 03	Swamp Creek Sedimentation	\$3,000.00	\$3,000.00	complete: eval Swamp Creek Sediment pond
Task Order 04	Log Boom Park	\$5,000.00	\$0.00	not executed: planting plan
Task Order 05	Landslide Area Geotechnical	\$3,000.00	\$3,800.00	complete
TO 05 Amend. 1	Landslide Area Geotechnical	\$800.00		
Task Order 06	Northshore Summit Park	\$84,901.00	\$101,167.00	ongoing
TO 06 Amend. 1	Northshore Summit Park	\$16,266.00		
Task Order 07	Rhododendron Park	\$15,000.00	\$76,240.00	ongoing
TO 07 Amend. 1	Rhododendron Park	\$2,300.00		
TO 07 Amend. 2	Rhododendron Park	\$49,330.00		
TO 07 Amend. 3	Rhododendron Park	\$9,610.00		
Task Order 08	not utilized			
Task Order 09	Surface Water Master Plan	\$137,970.00	\$173,170.00	ongoing complete: swamp creek sediment survey Amend #2 not executed
TO 09 Amend. 1	Surface Water Master Plan	\$3,200.00		
TO 09 Amend. 2	Surface Water Master Plan	\$32,000.00		
Task Order 10	Update Prototype Cost Est.	\$3,400.00	\$3,750.00	ongoing
TO 10 Amend. 1	Update Prototype Cost Est.	\$350.00		
Task Order 11	73rd Street Planting Plan	\$4,500.00	\$4,500.00	completed (did not use entire budget)
Task Order 12	Arrowhead Site Soil Conditions	\$2,100.00	\$2,100.00	complete

Total Amount Obligated \$403,727.00 \$398,727.00

Total Amount Remaining \$21,273.00

Future Tasks	Swamp Creek Subbasin Ecology LID	\$120,000.00	100% Ecology Grant Funded SWM and Operations Budget
	Citywide Geotechnical Assistance	\$15,000.00	
	SW 19 - 192nd Culvert	\$40,000.00	
	SW 7 - NE 187th Street bypass	\$40,000.00	
	Rhododendron Park 2014 work	\$106,000.00	
	P 6 - Moorlands Park	\$60,000.00	
		\$381,000.00	

New Contract Total = \$806,000.00

10% contingency = \$80,600



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Approve Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting Proposed Council Action/Motion: Approve Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting	For Council Meeting Agenda of: 9 December 2013 Department: Executive Prepared by: Nancy Ousley <table><tr><td>Approved by Department Head:</td><td><u>Initial & Date</u></td></tr><tr><td>Approved by City Attorney:</td><td></td></tr><tr><td>Approved by Finance Director:</td><td><u>pmg 11/26/13</u></td></tr><tr><td>Approved by City Manager:</td><td><u>RJK</u></td></tr></table> Exhibits/Attachments: Agenda Bill for November 18, 2013 for Amendment No. 1 to Contract No. 12-C1062	Approved by Department Head:	<u>Initial & Date</u>	Approved by City Attorney:		Approved by Finance Director:	<u>pmg 11/26/13</u>	Approved by City Manager:	<u>RJK</u>
Approved by Department Head:	<u>Initial & Date</u>								
Approved by City Attorney:									
Approved by Finance Director:	<u>pmg 11/26/13</u>								
Approved by City Manager:	<u>RJK</u>								
Expenditure Required \$36,000	Amount Budgeted \$36,000 in 2014 for Incubator Consulting	Appropriation Required \$0							
<u>INFORMATION/BACKGROUND:</u> The proposed amendment was presented and discussed at the November 18, 2013 Council meeting, with the intent to present it for action at the December 9, 2013 meeting. A full report on Economic Development Strategy implementation, including an update on the Kenmore Business Incubator, is on the agenda for December 9.									
<u>FISCAL CONSIDERATION:</u> The 2013-2014 Budget includes consultant funding at the proposed level of \$36,000 for 2014. The Kenmore Business Incubator total budget for 2013-2014 is \$238,000 in the Strategic Opportunities Fund.									
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Continue to Implement the Economic Development Strategy									

VIID. Approve Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting for Business Incubator



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting	For Council Meeting Agenda of: 18 November 2013 Department: Executive Prepared by: Nancy Ousley Approved by Department Head: <u>NKO 8 Nov 2013</u> Approved by City Attorney: Approved by Finance Director: <u>[Signature] 11/6/13</u> Approved by City Manager: <u>[Signature]</u>
Proposed Council Action/Motion: Approve Amendment No. 1 to Contract No.12-1062	Exhibits/Attachments: 1. Proposed Amendment No. 1 2. 5 November 2013 Agenda Bill for Contract No. 12-C1062 with Weisband Consulting
Expenditure Required \$36,000 Amount Budgeted \$36,000 for 2014 incubator consulting Appropriation Required \$0	
<u>INFORMATION/BACKGROUND:</u> Barry Weisband is Program Consultant for the Kenmore Business Incubator, and the proposed contract amendment extends the contract term to December 31, 2014 and amends the scope of services for 2014, as anticipated in the original contract. The scope continues program operation duties in 2014 in addition to finalizing the business incubator plan, actively seeking funding partners/investors for a potential ongoing incubator program and monthly reporting of hours, activities and progress.	
<u>FISCAL CONSIDERATION:</u> The 2013-2014 City of Kenmore Budget includes consultant funding at the proposed level of \$36,000 through 2014. The Kenmore Business Incubator total budget for 2013-2014 is \$238,000 in the Strategic Opportunities Fund.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Continue to Implement the Economic Development Strategy	

I:\ACMACM NK0\Agenda Bill Drafts\AB Nov 2013 Weisband Contract Amendment 1.docx

VIID. Approve Amendment No. 1 to Contract No. 12-C1062 with Weisband Consulting for Business Incubator

**CITY OF KENMORE CONTRACT NO. 12-C1062
AMENDMENT NO. 1**

The following section of the Professional Services contract dated December 17, 2012, between the City of Kenmore and Barry Weisband/Weisband Consulting is amended to read in its entirety as set forth (i.e. below or in attachment). All other terms and conditions of the underlying contract shall remain in full force and effect.

Section 1. Scope of Services to be Performed by Consultant. The Consultant shall perform the services described in Exhibit "A" of this Agreement. In performing the services, the Consultant shall comply with all federal, state and local laws and regulations applicable to the services. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance.

Section 2. Compensation and Method of Payment. The Consultant shall request payment for work performed using the billing invoice form at Exhibit "C."

The City shall pay Consultant:

[Check applicable method of payment]

X According to the rates set forth in Exhibit "A".

X A sum not to exceed \$ 83,000 through December 31, 2014

Other (describe)

The Consultant shall complete and return to the City Exhibit "D," Tax Identification Number," prior to or along with the first billing invoice. The City shall pay the Consultant for services rendered within ten (10) days after City Council voucher approval.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing on September 1, 2012 and ending December 31, 2014 unless sooner terminated under the provisions of this Agreement. Time is of the essence of this Agreement in each and all of its provisions in which performance is required.

DATED this ____ day of _____, 20__.

CONSULTANT:

CITY OF KENMORE:

BY: _____

BY: _____

Rob Karlinsey

Title: _____

Title: City Manager

Address: _____

EXHIBIT A

Scope of Services to be Provided by Consultant. The Consultant shall furnish services including, but not limited to, the following:

Business incubators accelerate the successful development of entrepreneurial companies through an array of business support resources and services. A business incubator's main goal is to produce successful firms that graduate from the incubation program as financially viable growth oriented companies. In a nutshell, it is commonly accepted known though tried and proven incubator models that graduates commercialize technologies, create jobs, and strengthen local economies.

Critical to the definition of an incubator is the provision of business assistance that comes in the form of management guidance, technical assistance, and consulting tailored to young, growing companies. Incubators may also involve facilities and facilitybased services that provide clients with appropriate rental space and flexible leases, shared business services and equipment, technology support services, and assistance in obtaining financing necessary for company growth.

The City of Kenmore sees a distinct benefit and advantage to plan for and ultimately sponsor a business incubator with potential partners who may be but not limited to private sector firms, public agencies, individual business people, higher educational institutions and charitable foundations.

*Monthly cost estimates for Tasks 1-3 assume a minimum of 16-20 hours per month spent on the project

I. PILOT INCUBATOR STARTUP

- a. Period September 2012 through December 2012
- b. Cost @ \$2,500 per month
- c. Total cost \$ 10,000

- Research different models of incubators: including meeting with Surf, other research, and recommend practical alternatives for pilot program in a memo
- Council presentation Sept 10 and subsequent reports to Council as necessary
- Propose/develop client application process and criteria for selection, evaluation and graduation
- Participate in client selection
- Assist in developing incubator client agreement and client fee structure
- Consult on physical space set up and equipment
- Consult with City on pilot program operating and facility budget

II. PILOT INCUBATOR OPERATION

- a. Period —January 2013 through December 2013
- b. Cost \$3,000 per month
- c. Total Cost \$36,000

- Continue client selection and meeting with potential applicants

- Assess mentoring needs of client companies and provide regular check-in's, direct support and/or access to business support expertise or networking opportunities
- Advise City on graduation potential timelines of businesses
- Provide monthly reports to City
- With City staff, finalize the pilot program business plan and assessment points for potential longer term program by December 31, 2013 for presentation to Council in Q1 2014

III. OPERATION, EVALUATION AND LONGER TERM PROGRAM DEVELOPMENT

- a. Period January 2014 through December 2014
 - b. Cost \$3000 per month
 - c. Total Cost \$36,000
- Continue Operation tasks from II.
 - Work with City, Bastyr University and other entities to propose structure for potential post pilot program
 - Evaluate pilot program at agreed upon intervals and recommend program elements for future program
 - Develop projected capital and operating budgets for long term program
 - Actively seek funding partners/investors for an ongoing incubator program
 - Prepare grant applications and make contacts with potential funders
 - Update the business plan quarterly as the program progresses and evolves
 - Provide monthly written reports to the City Manager's Office on business incubator activities, including business plan implementation, contacts and progress with potential funding partners/investors, services provided to program participants, contacts with potential participants and recruitment efforts. The monthly written report will include hours devoted to tasks.
 - With City staff, present quarterly report to Council on business incubator activities and progress

IV. TRAINING SESSIONS FOR LOCAL BUSINESSES

Conduct 2 sessions per year for local business people/Bastyr students and graduates on business planning or other relevant topics. City will provide meeting space, publicity and other logistics for these sessions.

- a. Period —January 2013 through December 2014
- b. Cost—\$0
- c. Total Cost--\$0

Reasonable expenses and mileage to be reimbursed by the City, subject to Consultant estimate and agreement. \$1000 is allocated for expenses through December 2014.

Subject/Topic: Authorize the City Manager to execute Contract No. 12-C1062 with Barry Weisband for consulting services for the Pilot Business Incubator Program	For Council Meeting Agenda of: 5 November 2012 Department: Executive Prepared by: Nancy Ousley	
Proposed Council Action/Motion: Authorize the City Manager to execute Contract No. 12-C1062 with Barry Weisband for consulting services for the Pilot Business Incubator Program	Initial & Date Approved by Department Head: <u>NKO 2604 2012</u> Approved by City Attorney: <u>✓ RK</u> Approved by Finance Director: <u>✓ 10/26/12</u> Approved by City Manager: <u>✓</u>	
Exhibits/Attachments: Proposed Contract No. 12-C1062	Exhibits/Attachments: Proposed Contract No. 12-C1062	
Expenditure Required \$47,000 maximum through 2013	Amount Budgeted \$0 in 2012	Appropriation Required \$7500 for 2012
<u>INFORMATION/BACKGROUND:</u> In September 2012 the City Council approved moving forward with a Pilot Business Incubator Program, that is designed to provide low cost work space and business assistance for start - up ventures. The proposed contract with Barry Weisband will provide for program start up, operation and business consultation for participating businesses. The contract authorization is for work through December 2013. As the program gets underway in 2013, staff will assess the needs for 2014 and will propose a contract amendment as necessary.		
<u>FISCAL CONSIDERATION:</u> The opportunity for establishing a pilot Business Incubator program presented itself in 3rd Quarter of 2012 and Council approved moving forward with the pilot in September 2012. The 2011-2012 Budget did not anticipate this program, but the 2013-2014 Proposed Budget includes funding for the Pilot Incubator Program.		
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Support Economic Development		

CONTRACT FOR CONSULTANT SERVICES
Contract No. 12-C1062

This Agreement is entered into by and between the City of Kenmore, Washington, a municipal corporation ("City") and Barry Weisband, whose principal office is located at 4039 NE 178th Street, Lake Forest Park, WA 98155.

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 agree as follows:

1. Scope of Services to be Performed by Consultant. The Consultant shall perform the services described in Exhibit "A" of this Agreement. In performing the services, the Consultant shall comply with all federal, state and local laws and regulations applicable to the services. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance.

2. Compensation and Method of Payment. The Consultant shall request payment for work performed using the billing invoice form at Exhibit "C."

The City shall pay Consultant:

[Check applicable method of payment]

☒ According to the rates set forth in Exhibit "A".

☒ A sum not to exceed \$ 47,000 through December 31, 2013

☐ Other (describe): _____

The Consultant shall complete and return to the City Exhibit "D," Tax Identification Number," prior to or along with the first billing invoice. The City shall pay the Consultant for services rendered within ten (10) days after City Council voucher approval.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing on September 1, 2012 and ending June 30, 2014 unless sooner

terminated under the provisions of this 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 be solely 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.

6. Indemnification.

A. The Consultant shall protect, defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, suits, losses or liabilities of any nature, including attorneys' fees, arising out of or in connection with the negligent acts or omissions of the Consultant, its officers, employees and agents in performing this Agreement.

B. The City shall protect, defend, indemnify and save harmless the Consultant, its officers, employees and agents from any and all costs, claims, suits, losses or liabilities of any nature, including attorneys' fees, arising out of or in connection with the negligent acts or omissions of the City, its officers, employees and agents in performing this Agreement.

7. Insurance.

The Consultant shall procure and maintain for the duration of this 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.

A. 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 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.

B. 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, \$1,000,000 general aggregate.

C. Other Insurance Provisions.

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

1. The Consultant's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contribute with it.

2. The Consultant's insurance shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. 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 (7) years after termination of this Agreement, unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW 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. The City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon thirty (30) 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 canceled 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 thirty (30) days written notice, or in the event that outstanding invoices are not paid within sixty (60) 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, sexual orientation, age, national origin, marital status, or presence of any sensory, mental or physical disability.

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 Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in Exhibit "A." In the event that the Consultant is asked to perform services for a project with which it may have a conflict, Consultant will immediately disclose such conflict to the City.

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 Kenmore shall be sent to the following address:

City Clerk
City of Kenmore
P.O. Box 82607
Kenmore, Washington 98028-0607

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

4039 NE 178th Street
Lake Forest Park, WA 98155

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 KENMORE, WASHINGTON

CONSULTANT

By: _____

Rob Karlinsey

Title: City Manager

Date: _____

By: _____

Barry Weisband

Title: Owner/Consultant

Date: _____

ATTEST AS TO FORM:

Rod Kaseguma, City Attorney

EXHIBIT A

Scope of Services to be Provided by Consultant. The Consultant shall furnish services including, but not limited to, the following:

Business incubators accelerate the successful development of entrepreneurial companies through an array of business support resources and services. A business incubator's main goal is to produce successful firms that graduate from the incubation program as financially viable growth oriented companies. In a nutshell, it is commonly accepted known though tried and proven incubator models that graduates commercialize technologies, create jobs, and strengthen local economies.

Critical to the definition of an incubator is the provision of business assistance that comes in the form of management guidance, technical assistance, and consulting tailored to young, growing companies. Incubators may also involve facilities and facility-based services that provide clients with appropriate rental space and flexible leases, shared business services and equipment, technology support services, and assistance in obtaining financing necessary for company growth.

The City of Kenmore sees a distinct benefit and advantage to plan for and ultimately sponsor a business incubator with potential partners who may be but not limited to private sector firms, public agencies, individual business people, higher educational institutions and charitable foundations.

*Monthly cost estimates for Tasks 1 and 2 assume a minimum of 16-20 hours per month spent on the project

I. PILOT INCUBATOR START UP

- a. Period – September 2012 through December 2012
- b. Cost – @ \$2,500 per month
- c. Total cost \$ 10,000

Research different models of incubators: including meeting with Surf, other research, and recommend practical alternatives for pilot program in a memo Council presentation Sept 10 and subsequent reports to Council as necessary
Propose/develop client application process and criteria for selection, evaluation and graduation
Participate in client selection
Assist in developing incubator client agreement and client fee structure
Consult on physical space set up and equipment
Consult with City on pilot program operating and facility budget

II. PILOT INCUBATOR OPERATION

- a. Period – January 2013 through December 2013
- b. Cost – \$3,000 per month
- c. Total Cost – \$36,000

Assess mentoring needs of client companies and offer regular check-in's, direct support and/or access to business support expertise or networking opportunities
Advise City on graduation potential timelines of businesses
Reports to City

III. EVALUATION AND LONGER TERM PROGRAM DEVELOPMENT (final scope and costs to be determined)

- a. Period – January 2014 through June 2014
- b. Cost – \$1,000 per month
- c. Total Cost – \$6,000

Work with City, Bastyr University and other entities to develop structure for potential post pilot program
Evaluate pilot program at agreed upon intervals and recommend program elements for future program
Develop projected capital and operating budgets for long term program
Participate in preparing grant applications and make contacts with potential funders

IV. TRAINING SESSIONS FOR LOCAL BUSINESSES

Conduct 2 sessions per year for local business people/graduates on business planning or other relevant topics. City will provide meeting space, publicity and other logistics for these sessions.

- a. Period – January 2013 through June 2014
- b. Cost – \$0
- c. Total Cost – \$0

Reasonable expenses and mileage to be reimbursed by the City, subject to Consultant estimate and agreement. \$1000 is allocated for expenses through December 2013.

EXHIBIT B

Rates for Services to be Provided by Consultant. The Consultant shall furnish the services in accordance with the following rates:

See Exhibit A



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: City Manager Employment Agreement Proposed Council Action/Motion: Amend the City Manager's employment agreement as shown in Exhibit A. Grant a 2% merit increase effective January 1, 2014.	For Council Meeting Agenda of: December 9, 2013 Department: Finance & Administration Prepared by: Finance & Administration and City Attorney <table border="0"><tr><td></td><td><u>Initial & Date</u></td></tr><tr><td>Approved by Department Head:</td><td>-</td></tr><tr><td>Approved by City Attorney:</td><td>RK email</td></tr><tr><td>Approved by Finance Director:</td><td>11/20/13</td></tr><tr><td>Approved by City Manager:</td><td>N/A</td></tr></table> Exhibits/Attachments: Second Amendment to Employment Agreement for City Manager Employment Agreement No. 12-C1014 for City Manager		<u>Initial & Date</u>	Approved by Department Head:	-	Approved by City Attorney:	RK email	Approved by Finance Director:	11/20/13	Approved by City Manager:	N/A
	<u>Initial & Date</u>										
Approved by Department Head:	-										
Approved by City Attorney:	RK email										
Approved by Finance Director:	11/20/13										
Approved by City Manager:	N/A										
Expenditure Required: See Fiscal Consideration below Amount Budgeted: Appropriation Required: \$0											
<u>INFORMATION/BACKGROUND:</u> The City Manager's employment agreement provides for annual performance-based merit increases at the City Council's discretion. The City Council recently evaluated the performance of the City Manager. Based on completion of work plan items and progress toward City Council goals, members of the City Council propose to increase the City Manager's base salary by 2% per month to \$12,636 effective January 1, 2014. It is also proposed that the attached City Manager Employment Agreement be amended to change the effective date of annual merit increases from April 23 to January 1.											
<u>FISCAL CONSIDERATION:</u> Employee salaries, including estimated merit increases, are included in the City's adopted budget.											
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> All 12 City Council Goals.											

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT FOR CITY MANAGER

THIS SECOND AMENDMENT TO EMPLOYMENT AGREEMENT FOR CITY MANAGER is entered into as of the 18th day of November, 2013, by and between the **CITY OF KENMORE**, King County, Washington ("City") and **ROBERT G. KARLINSEY** ("Manager").

RECITALS

A. The parties entered into an Employment Agreement for City Manager effective April 23, 2012 through April 30, 2017 ("Agreement"). The parties amended paragraphs 4 and 5B of the Agreement by Amendment to Employment Agreement for City Manager dated May 14, 2013.

B. The parties desire to modify the Manager's salary and charge the effective date of any increases in salary pursuant to the Agreement.

AMENDMENT

1. Effective January 1, 2014, paragraph 4 of the Agreement is amended to read as follows:

4. Salary. The City shall pay the Manager a salary of \$151,633 per year, payable in equal installments in accordance with the City's normal payroll schedule. The salary shall be increased each January 1 by a cost of living adjustment equal to the cost of living increase for other full-time City employees, if any, or a merit increase in accordance with paragraph 5 of this Agreement, whichever is greater. This Agreement shall be deemed to be automatically amended to reflect any cost of living adjustments or salary increases based on merit.

2. Except as expressly set forth in this Amendment, the Agreement shall continue in full force and effect as written.

MANAGER

CITY OF KENMORE

Robert G. Karlinsey

By

Mayor

EMPLOYMENT AGREEMENT FOR CITY MANAGER

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into between the **CITY OF KENMORE**, King County, Washington ("City") and **ROBERT G. KARLINSEY** ("Manager") to describe the terms and conditions of the Manager's employment by the City.

1. Term and Effective Date.

This Agreement shall be effective on April 23, 2012, and shall continue in effect through April 30, 2017, absent prior termination in accordance with this Agreement. However, pursuant to RCW 35A.13.130, the Manager is appointed to his position for an indefinite term, to be removed in accordance with RCW 35A.13.130 and 35A.13.140. The parties agree that expiration of this Agreement shall not be deemed a "removal" from employment pursuant to RCW 35A.13.130 and 35A.13.140.

2. Employment Status.

The Manager shall serve at the pleasure of the City Council. The Manager shall be an "at will" employee of the City and shall be an exempt employee under the Fair Labor Standards Act, receiving no overtime payments and compensatory time.

3. Powers, Duties and Status--Personnel Policies.

- A. The Manager shall serve as the City's chief administrative employee, and shall manage, administer and direct the City's overall functions and operations in accordance with Chapter 35A.13 RCW. Subject to the general supervision and direction of the City Council consistent with Chapter 35A.13 RCW, the Manager shall perform such legally permissible and proper duties and responsibilities as provided for by State of Washington laws, City ordinances and resolutions and City Council directives.
- B. Except as otherwise provided in this Agreement, the Manager shall be subject to the City's personnel policies and procedures.
- C. The Manager shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations of the State of Washington and the City and the Code of Ethics of the International City/County Management Association ("ICMA").
- D. The Manager shall not engage in any activity or enter into a contract that is, or may become, a conflict of interest as defined by State of Washington laws and City ordinances, or that is, or may become, incompatible with the position of Manager.

- E. The Manager shall remain in the exclusive employ of the City and shall neither accept other employment nor become employed by any other employer without the prior written approval of the City Council. The term "employed" and derivations of that term as used in the preceding sentence shall include employment by another legal entity or self employment, but shall not be construed to prohibit occasional teaching, writing, consulting or military reserve service performed on the Manager's own time, and with the advance approval of the City Council.

4. Salary.

The City shall pay the Manager a salary of \$141,500 per year, payable in equal installments in accordance with the City's normal payroll schedule. The salary shall be increased each January 1 by a cost of living adjustment equal to the cost of living increase for other full-time City employees, if any, or a merit increase in accordance with paragraph 5 of this Agreement, whichever is greater. This Agreement shall be deemed to be automatically amended to reflect any salary increases.

5. Priority Setting and Performance Reviews.

- A. The City Council and the Manager shall participate in a City goal, priority and objective setting workshop in January or February each year. At this workshop, the City Council shall determine preliminarily the City goals, priorities and objectives for the remainder of the year. Also at this workshop, the City Council, with input from the Manager, shall determine preliminarily the Manager's attainable performance measures for the remainder of the year, taking into account such goals, priorities and objectives and the City's operating and capital budgets. At the next or subsequent City Council meeting, the City Council shall establish formally the City goals, priorities and objectives and the Manager's performance measures for the remainder of the year.
- B. With the assistance of a facilitator selected by the City Council, the City Council shall evaluate the performance of the Manager annually in October or November each year. The evaluation shall take into account the Manager's performance measures as established by the City Council, and any other relevant criteria determined by the City Council. The City Council shall conduct an initial evaluation of the Manager in October or November of 2012, using relevant criteria determined by the City Council.
- C. Within 5 days after the City Council's evaluation, the Mayor shall provide to the Manager a written evaluation, and shall discuss the evaluation with the Manager. If requested by the Manager within 5 days, the Mayor shall provide for an opportunity to discuss the evaluation with the City Council at the next or subsequent City Council meeting. After completion of the discussions, the evaluation shall become final.

- D. After completion of the evaluation, and beginning January 1, 2013, the City Council may grant to the Manager a salary increase based upon merit of up to five percent of the Manager's salary at that time.

6. Residence.

The Manager shall reside within the City; however, the Manager shall have one year from the effective date of this Agreement to become a resident of the City. Upon City Council approval of receipts and invoices, the City shall reimburse the Manager for up to \$12,000 of the Manager's costs and expenses of relocating to the City, including but not limited to moving, temporary housing and real estate transaction costs and expenses.

7. Benefits.

- A. Except as otherwise provided in this Agreement, the City shall provide vacation, sick leave, holidays, leaves, medical, dental, insurance and retirement benefits and payments in the same manner and to the same extent as for other full-time City employees.
- B. The amount of life insurance shall not exceed the Manager's annual salary.
- C. The Manager shall commence employment with 40 hours of sick leave. The termination or expiration of this Agreement and of the Manager's employment shall be deemed a "layoff" or "resignation" for purposes of payment of unused sick leave.
- D. The Manager shall commence employment with 5 days of vacation, and shall receive 15 days of vacation per year, acknowledging a prior service credit of 5 years for vacation accrual purposes.
- E. The City shall enroll the Manager in the Public Employee Retirement System of Washington ("PERS") and make all legally required City contributions for the Manager's participation in PERS. The Manager shall be responsible for paying all legally required employee contributions for the Manager's participation in PERS.
- F. If the Manager participates in an IRS Section 457 plan, or similar deferred compensation plan, the City shall match the Manager's contribution to the plan up to a maximum of five percent of the Manager's current annual base salary.
- G. The Manager is aware that the City participates in a 401A Program that is in lieu of the Social Security program.

8. Professional Development.

- A. In accordance with City policies and procedures, the City shall pay for travel, lodging, meals and registration at conferences of the Washington City/County

Managers Association ("WCMA"), and as the City budget allows, at the conferences of the ICMA.

- B. The City shall pay for membership dues for the ICMA and WCMA.
- C. The City shall pay for membership dues in up to four civic clubs or organizations that hold their meetings in or serve the area of the City. The Manager shall report to the City on each membership that he has taken out at City expense.

9. Reimbursable Expenses.

- A. In lieu of expense reimbursement for City-related travel, and except as provided in sub-paragraph b below, the Manager shall receive \$450 per month to defray the expense of using a personal automobile for such travel.
- B. For City business trips over 50 miles (one-way), the Manager may use City vehicles, subject to availability, or the Manager may use his personal automobile and be reimbursed at the then-current IRS car mileage reimbursement rate.
- C. The City shall reimburse the Manager for other reasonable and actual expenses incurred in the course of City business, pursuant to City policies and procedures.

10. Termination and Resignation.

- A. The City Council may terminate the Manager "without cause" at any time pursuant to the general procedures of RCW 35A.13.130 and 35A.13.140. For such a termination "without cause," the parties agree that the reasons for termination under RCW 35A.13.130 shall be "mutual agreement of the parties pursuant to employment agreement," and that the Manager shall not reply in writing to the notice of termination pursuant to RCW 35A.13.140.
- B. The City Council may terminate the Manager "for cause" at any time pursuant to the general procedures of RCW 35A.13.130 and 35A.13.140. The term "cause" shall mean:
 - 1. Conviction of, plea of guilty to, or no contest of a felony;
 - 2. Conviction of, plea of guilty to, or no contest of a criminal act relating to employment with the City or otherwise involving dishonesty, fraud or physical violence;
 - 3. Repeated neglect of duties and responsibilities under this Agreement;
 - 4. Loss of legal capacity;

5. Long-term disability that prevents the Manager from performing the essential duties of the position, with or without reasonable accommodation;
 6. Repeated refusal to follow one or more reasonable instructions or requests of the City Council consistent with Chapter 35A.13 RCW;
 7. Conduct, relating to City employment, which, while not criminal in nature, violates the City's personnel policies or other reasonable standards of professional and personal conduct in some substantial manner injurious to the business or reputation of the City; or
 8. Material breach of this Agreement.
- C. The City's personnel policies and procedures regarding discipline and termination shall not apply to the Manager's termination under this paragraph.
- D. The Manager may resign voluntarily following at least 30 days prior written notice. In the event of the Manager's resignation, the City reserves the right, in its discretion, to earlier terminate the Manager's employment and to pay the Manager his regular base salary through the effective resignation date, in lieu of his working the entire notice period.

11. Severance Pay.

- A. If the City Council terminates the Manager's employment under paragraph 10 this Agreement "without cause," the City shall pay the Manager severance pay in the amount of the Manager's regular base salary for six months. The severance payments shall be paid in installments over a six-month period in accordance with the City's normal payroll schedule, starting after the termination date or after the effective date of the legal release of sub-paragraph b below, whichever occurs last. During the severance payment period, and if requested by the Manager, the City shall provide at the Manager's expense COBRA health insurance coverage for each health plan that applied to the Manager and any covered dependants as of the termination date, at the level of coverage in effect for City employees during the severance payment period.
- B. As a condition to receive severance pay under this paragraph, the Manager shall sign, concurrent with his separation and in a form provided by the City, a legal release of any and all claims of any kind against the City (except for earned and unpaid wages and benefits under this Agreement and COBRA benefits), agreeing neither to bring any litigation or claims against the City and its officers, employees and agents, nor to make any written or oral communications that are harmful to the reputation of the City or any elected or unelected City official or employee.

12. Addresses for Notices and Deliverable Materials.

All notices and other material to be delivered under this Agreement shall be in writing and shall be delivered or mailed to the following addresses:

City
Attention: City Council
P.O. Box 82607
Kenmore, WA 98028

Manager
(Address as shown on the most
current City roster at the
time of mailing)

or such other addresses as either party may, from time to time, designate in writing.

13. Bond.

As required by RCW 35A.13.070, the Manager shall file with the City Clerk a bond in favor of the City in the amount of \$50,000. The City shall pay for the premium of the bond.

14. Entire Agreement—Amendment.

This Agreement constitutes the entire agreement between the parties, and shall supersede, modify, and/or rescind all prior written or oral understandings and agreements between the parties. This Agreement may be amended only by written agreement signed by the parties.

15. Rights and Remedies.

The rights and remedies provided in this Agreement are cumulative, and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

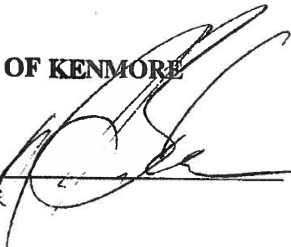
MANAGER


Robert G. Karlinsey

2/23/12
Date

CITY OF KENMORE

By
Mayor



2-23-12
Date

AMENDMENT TO EMPLOYMENT AGREEMENT FOR CITY MANAGER

THIS AMENDMENT TO EMPLOYMENT AGREEMENT FOR CITY MANAGER is entered into as of the 14 day of MAY, 2013, by and between the **CITY OF KENMORE**, King County, Washington ("City") and **ROBERT G. KARLINSEY** ("Manager").

RECITALS

- A. The parties entered into an Employment Agreement for City Manager effective April 23, 2012 through April 30, 2017 ("Agreement").
- B. The parties desire to modify the Manager's salary, as stated in paragraph 4 of the Agreement and the period of evaluation, as stated in paragraph 5 B of the Agreement.

AGREEMENT

- 1. Effective April 23, 2013, paragraph 4 of the Agreement is amended to read as follows:
 - 4. **Salary.** The City shall pay the Manager a salary of \$148,660 per year, payable in equal installments in accordance with the City's normal payroll schedule. The salary shall be increased each April 23 by a cost of living adjustment equal to the cost of living increase for other full-time City employees, if any, or a merit increase in accordance with paragraph 5 of this Agreement, whichever is greater. This Agreement shall be deemed to be automatically amended to reflect any cost of living adjustments or salary increases based on merit.
- 2. Effective April 23, 2013, paragraph 5 B. of the Agreement is amended to read as follows:
 - 5 B. With the assistance of a facilitator selected by the City Council, the City Council shall evaluate the performance of the Manager annually in the fourth quarter of each year. The evaluation shall take into account the Manager's performance measures as established by the City Council. The City Council shall conduct an initial evaluation of the Manager in October or November of 2012, using relevant criteria determined by the City Council.
- 3. Except as expressly set forth in this Amendment, the Agreement shall continue in full force and effect as written.

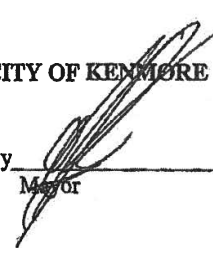
City of Kenmore Contract No. 12-C1014

Amendment No. 1

MANAGER


Robert G. Karlinsky

CITY OF KENMORE

By 
Mayor



VIIIA. Public Hearing to Receive Public Testimony Regarding Ordinance No. 13-0371 - Kenmore Village Residential Development

The Development Agreement sets forth the development standards and other provisions that apply to and govern and vest the development, use and mitigation of the development. The Development Agreement may allow for deviations from development standards that are different from those standards imposed under code in order to provide flexibility to achieve public benefits, respond to community needs or authorize modifications which provide the functional equivalency or adequately achieve the purposes of otherwise applicable development standards. On November 25, 2013 the City Manager issued a recommendation on the Development Agreement (see Attachment #1). The Development Agreement and exhibits are attached to the ordinance (see Attachment #2).

FISCAL CONSIDERATION: See above.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED: Goal #1: Economic Development and Goal #4, Downtown Development

I:\City Clerk\AGENDA ITEMS\Development Services\2013 Council Meetings\12.09.13\Agenda Bill for ordinance to execute Main Street Development Agreement.docx



City Of Kenmore, Washington

Memorandum

TO: Mayor and City Council

FROM: Rob Karlinsey, City Manager 

DATE: November 25, 2013

SUBJECT: Recommendation of Approval of Development Agreement between City of Kenmore and MSPT VI, LLC for the Kenmore Village Residential Development

Recommendation: The City Manager recommends that the City Council authorize approval of the Development Agreement between the City and MSPT VI, LLC for the Kenmore Village residential development. Council approval of Ordinance 13-0371 at the December 9, 2013 Council meeting would give the City Manager the authority to execute the Development Agreement. The Development Agreement is attached to Ordinance 13-0371. Kenmore Municipal Code (KMC) Chapter 18.110 outlines Development Agreement requirements including the authority, general provisions, standards, and processing procedures. The proposed Development Agreement is in conformance with KMC 18.110. The Development Agreement sets forth the development standards and other provisions that apply and govern and vest the development, use, and mitigation of the development of the property for the duration specified in the agreement.

The Development Agreement, Agreement for Purchase and Sale, and the approved Site Plan provide the requirements for project development (Section 1 of the Development Agreement). The duration of the agreement outlined in Section 6 of the Development Agreement is for 10 years with potential for a 5 year extension. The Development Agreement includes development requirements and procedures with respect to: development standards including design standards and other land use regulations and permit processing (Sections 1 through 4, Sections 8 through 11 and Section 15); affordable housing and multifamily housing property tax exemption (Sections 12 and 13), impact fees (Section 8.2), phasing (Section 8.3), and vesting (Section 7).

On July 10, 2013, City Council approved and authorized a purchase and sale agreement with the MSPT VI LLC for the former King County Park and Ride parcel. The purchase and sale agreement included authorization for the City to execute a Development Agreement with the MSPT VI LLC for the Kenmore Village Residential project. On October 15, 2013, the City received a proposed

Development Agreement and associated Site Plan application for Phase 1 of the development. Both applications were reviewed concurrently. The approved Site Plan is an attachment to the Development Agreement.

Development Standard Departures: Per KMC 18.110, a development agreement shall be consistent with applicable development regulations to the fullest extent possible. Provided, a development agreement may allow for development standards that are different from those standards otherwise imposed in order to provide flexibility to achieve public benefits, respond to changing community needs, or authorize modifications which provide the functional equivalency or adequately achieve the purposes of otherwise applicable development standards.

The applicant, MSPT VI LLC, has requested departures from several development regulations which are offset by public benefits. The approved Site Plan application reflects the requested departures. However, the development standard departures are subject to Council approval as part of the Development Agreement. Viewing the project as a whole, one of the more significant public benefits to be provided by the applicant in return for these departures is a higher level of architectural quality—the proposed buildings exceed the requirements of the City's design standards. Another significant public benefit is the applicant's provision of affordable housing units, as outlined in the development agreement, as well as the applicant's construction schedule, bringing many millions of dollars of new investment to the City's downtown in a timely manner. The applicant is also providing various public improvements, including but not limited to a new stairway on the adjacent commercial property to the south, an upgraded pedestrian crossing on 68th Avenue NE, and full-width overlays on 68th Avenue NE and NE 182nd Street. Below are the departures requested followed by a discussion of the associated offsetting public benefit.

1. **Building setbacks.** Building setbacks are the required distance between the property lines of a site and the structure. The Downtown Residential (DR) zone allows a minimum setback of 6 feet and a maximum setback of 10 feet from property lines adjacent to a street. The minimum average street setback is required to be 8 feet (KMC 18.24.040). Furthermore, the Downtown Design Standards reinforce these setbacks by requiring that buildings be located close to sidewalks to promote a pedestrian-oriented environment (KMC 18.52.160). The applicant has proposed a departure from the street setback requirements on both the 68th Avenue NE and NE 182nd Street frontages. Building C will be located on the 68th Avenue NE street frontage and will provide a setback of approximately 9 feet between the street property line and the primary face of the building, exceeding the minimum average 8 foot setback. Meanwhile, the NE 182nd Street building setback is being measured from a potential future property line assuming the dedication of the roadway to the public (see NE 182nd Street right-of-way discussion below) and will vary from approximately 2 ½ to 5 feet, which does not meet

the minimum 6 foot setback. The departures in street setbacks will be offset by the “activation” of the 68th Avenue NE and NE 182nd Street streetscapes with ground floor units having outdoor patio/porch space adjacent to the sidewalks, landscaping, and high quality building designs which exceed minimum design standards. The developer will also underground existing utilities along 68th Avenue NE and the utility lines running east-west on the adjacent property to the south.

2. Parking stall ratio. The required number of parking stalls required to serve a multifamily development are based on the number of units and type of units (i.e. studio, one bedroom, etc). Standard parking stall ratios per unit and type are identified in the City’s parking regulations (KMC 18.40). However, an applicant may request a modification of the minimum required number of parking stalls by providing a parking demand analysis demonstrating that parking demand can be met with a reduced parking requirement. In such cases, the City may approve a reduction of up to 50 percent of the minimum required number of spaces (KMC 18.40.030.B). A parking demand study was conducted by the applicant utilizing King County Metro Transit’s “Right Size Parking” model, a tool developed to assess parking use in the context of a specific site based on a model using current local data based on factors such as anticipated building occupants, transit, population, and job concentrations. The development proposes 148 parking stalls, resulting in an overall reduction of 36 stalls from the minimum requirement (or 20 percent). Of the reduced number of parking stalls, 26 of them will be fully enclosed within a structure and 15 of them will be “tuck under” stalls located partially enclosed, thereby minimizing the development footprint necessary for surface parking areas and allowing more of the development to site buildings adjacent to sidewalks creating a pedestrian-oriented streetscape.

3. Bicycle parking/storage. Bicycle parking and storage areas are required within the development at a rate of 1 indoor storage space per 2 units (KMC 18.40.030.E), typically placed in a locked area or personal garages accessible to a limited number of users. The development proposes to install indoor or covered storage at a rate of 1 storage rack per 10 units and bike rack storage (indoor and outdoor) at a rate of 1 rack per 5 units. While this departure represents an overall decrease in the bicycle parking requirement, it will result in more shared bicycle parking spaces available to all residents resulting in a benefit for the general user which would typically only be provided at a ratio of 1 bicycle stall per 12 car parking spaces. The development also proposes an indoor bicycle maintenance area as an amenity for residents living within the development.

4. Landscaping buffer. New developments are subject to landscape requirements outlined in KMC 18.35 (Landscaping) and KMC 18.52 (Downtown Design Standards). Two landscape areas on the perimeter of the development will depart from standard requirements: 1) The area directly south of Building C on the south property line will not meet the minimum required

5 foot landscape width. Instead, this location will provide a 5 foot pedestrian pathway providing pedestrian access onto the site and the adjacent building. The building façade adjacent to the landscape departure will be provided with high quality design exceeding minimum building design standards. 2) The surface parking area abutting NE 182nd Street between Buildings A1 and B1 will be less than the minimum required 10 foot landscape width. The remaining 3+ foot landscape strip will be designed with densely planted vegetation to meet the intent to screen the surface parking area from the adjacent NE 182nd Street sidewalk in addition to providing high quality architectural design exceeding design standards along the NE 182nd Street frontage. The development will also install drip irrigation to maintain the hanging flower baskets in the 68th Avenue NE right-of-way abutting the project, reducing City maintenance responsibilities.

5. “Stacked” Parking / Dead Parking Alley. The applicant has requested a deviation to allow for stacked parking, which is a mechanical system which will physically stack cars vertically within a structured parking garage space. This system is not specifically addressed by current code and is not currently shown on the Phase 1 site plan. However, the City supports this design concept if the project is revised to include such parking as it will allow for the most efficient use of the site area and will place more parking within screened areas not visible to the general public (such as in a parking structure), leaving more room for more beneficial or high quality improvements around the site. The applicant has also requested deviation from KMC 18.40.110.M which prohibits no more than 8 parking spaces located on a dead end alley or drive aisle. The applicant will provide sufficient area on dead end areas throughout the site to allow vehicle maneuvering.

6. Internal pedestrian walkway widths. Kenmore’s Downtown Design Standards require pedestrian walkways be provided within development sites. Buildings greater than 3 stories in height require a minimum walkway width of 8 feet, while the minimum average walkway width is 12 feet (KMC 18.52.100.B.2.b). The development is proposing 5 foot walkways throughout the entire site. The proposed walkways will provide pedestrian circulation throughout the site. The deviation is offset by high quality building designs and on site recreation space that exceed City requirements.

7. Open space/on site recreation space. On site recreation space is required at a rate of 45 square feet per dwelling unit and is required to provide amenities for use by residents such as play equipment, outdoor picnic areas, etc. (KMC 18.30.130). The applicant is proposing 5,966 square feet of areas designated on site as recreation space. These areas include a fitness and clubhouse space and an outdoor pool with recreation deck. The recreation space will provide high quality amenities serving residents of the site and will exceed typical on site recreation space requirements. The proposed recreation space is intended to serve the current Phase 1 development of 138 dwelling units in addition to the future Phase 2 development which will consist of a minimum of 50 dwelling units and a maximum of 187 dwelling units. 187 dwelling

units would require 8,460 square feet of on site recreation space. Developments are exempt from providing on site recreation space when existing nearby public facilities are developed as a park, located within one-quarter mile walking distance, and are accessible without crossing any arterial street (KMC 18.30.130.A). The existing Jack V. Crawford Skate Park on site is proposed to be relocated to the Kenmore City Hall property on the east side of 68th Avenue NE. In addition, the development will assess potential enhancements to the existing pedestrian crossing at the intersection of 68th Avenue NE and NE 182nd Street, improving pedestrian access from the proposed development to the relocated skate park. The development will also provide a pedestrian stairway connection for the residents living within the development to the neighboring property to the south leading to the future planned public open space associated with the Kenmore Village commercial site.

8. Mid-block pedestrian connections. The northwest quadrant circulation plan (KMC 18.52.110) provides the framework for developing improved pedestrian circulation and through-block connectors in the northwest quadrant of the downtown subarea. The development will provide pedestrian circulation throughout the site and will provide a new pedestrian stairway connection to the adjacent property to the south intended for future residents living within the development. The development will also assess potential enhancements to the existing pedestrian crossing on 68th Avenue NE.

9. NE 182nd Street pavement and right-of-way width. NE 182nd Street adjacent to the property is a private road, but may be dedicated to the City as a public road within right-of-way or a permanent public easement. NE 182nd Street is classified as a "downtown multi-dwelling access street" requiring 36 foot pavement width, vertical curb and gutter, 10 foot sidewalk utilizing a 2 foot by 2 foot scoring pattern, irrigated tree wells at the back of curb at 40 feet on center, specialized street lighting, specialized pedestrian lighting, and undergrounded utilities within a minimum 58 foot wide right-of-way. The development will build the required improvements on the south side adjacent the project, with a reduced roadway pavement width of 28 feet. The right-of-way/permanent easement will be reduced to between 39-52 feet, the minimum necessary to include all improvements (i.e. sidewalks, roadway, etc). The development will provide high quality architectural design exceeding design standards on NE 182nd Street creating a walkable, pedestrian-friendly streetscape.

10. Off site sign. The applicant will be permitted to install a sign on the northwest corner of the intersection of 68th Avenue NE and NE 182nd Street, which may become public right-of-way or a public easement before, during, or after completion of the development. It is proposed that this sign be co-located with the existing condominium sign on this corner as long as neither sign blocks the other and as long the applicant's new sign is aesthetically and proportionately complimentary to the existing condominium sign. This off site sign will be a code deviation in that the City will be allowing right-of-way or public easement to be used for use of a private

sign. However, limited use of right-of-way for sign purposes is not uncommon in other areas within the City, most notably along the SR-522 corridor. Additionally, the sign placement will help improve driver visibility when trying to locate the site, resulting in less lost or confused drivers which can significantly impact the safety of the roadway.

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 13-0371

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, APPROVING A DEVELOPMENT
AGREEMENT WITH MSPT VI, LLC, FOR RESIDENTIAL
DEVELOPMENT OF PROPERTY.**

WHEREAS, The City of Kenmore's adopted Comprehensive Plan, 2003 Downtown Plan and 2009 Economic Development Strategy contain guiding goals and principles that support the stimulation of economic revitalization of the City's Downtown area; and

WHEREAS, The City owns certain real property in the City's Downtown area, which consists of land developed with structures and other improvements, commonly known as the former King County Northshore Park & Ride parcel, located at 18149 68th Avenue NE, Kenmore, Washington (the "Property"); and

WHEREAS on June 14, 2012 the City affirmed the objective to bring the Property to market in a way that advances the City's downtown goals, promoting high density residential development including housing opportunities meeting the housing needs of a variety of income levels and which also supports transit; and

WHEREAS on September 9, 2012 the City affirmed a positioning statement for the Property; and

WHEREAS on November 27, 2012 the City executed a contract with Colliers International, a brokerage firm, to list the Property for sale and solicit offers from potential buyers; and

WHEREAS on February 25, 2013 the City reviewed the top four proposals from potential buyers and began direct negotiations with MSPT VI, LLC (the "Developer") for the purchase of the Property based on price offered, financial wherewithal, experience, reputation, ability to deliver in a timely manner, and alignment with the goals and position statement; and

WHEREAS on July 8, 2013 the City passed Resolution 13-222 confirming the surplus property declaration and sale authorization of Ordinance 07-0262, by declaring again that the Property which was included in the Downtown Site, is surplus and no longer needed for City purposes and authorizing again the sale of the Property, which is in the best interests of the City; and

WHEREAS, on July 8, 2013 the City passed Resolution 13-222 which authorized the City Manager to execute on behalf of the City the Agreement for Purchase, Sale and Redevelopment of the Property for Residential purposes and one or more written amendments to the Agreement with

the Developer; and

WHEREAS on October 24, 2013 the City determined that a Site Plan application for residential development of the Property, submitted by the Developer, was a complete application; and

WHEREAS on October 31, 2013 the City issued a Notice of Application for the Site Plan submitted by the Developer including an Optional SEPA Notice providing for a 21 day comment period; and

WHEREAS, on November 25, 2013 the City Manager issued a final decision approving the Site Plan and Design Standard review (Project Number: CSP2013-073) for residential development of the Property by the Developer, which decision becomes effective December 9, 2013 on the date the City Council passes Ordinance 13-0371; and

WHEREAS, on November 25, 2013 the City Manager prepared a recommendation to the City Council on the proposed Development Agreement with the Developer; and

WHEREAS, on December 9, 2013 in conformance with the State Environmental Policy Act, the City issued a Determination of Nonsignificance for the development of the Property; and

WHEREAS, a development agreement for the Property is authorized by RCW 36.70B.170 and Chapter 18.110 of the Kenmore Municipal Code; and

WHEREAS, as required by RCW 36.70B.200 and KMC 18.110.050, and pursuant to notice published in the Seattle Times on November 27, 2013, the City Council held a public hearing on December 9th, 2013 regarding the development of the Property pursuant to the Development Agreement; and

WHEREAS, having considered the testimony and comments made at the public hearing, having considered the documents introduced at the hearing and having reviewed the Development Agreement and its exhibits, and the City Council having determined that the Development Agreement as proposed is consistent with applicable development regulations to the fullest extent possible, while allowing for development standards that are different from those standards otherwise imposed under the City Code in order to provide flexibility to achieve public benefits, respond to changing community needs or which provide the functional equivalent or adequately achieve the purposes of otherwise applicable development standards, and is in compliance with the requirements of RCW 36.70B.200 and KMC 18.110, and that its approval is in the best interests of the City and its residents as a whole and should be approved;

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

Section 1. Approval of Development Agreement. The Development Agreement as proposed and substantially in the form attached to this Ordinance is approved. This decision of the City

Council approving the Development Agreement in the form attached to this Ordinance is effective as of the date stated below, which is the date of the meeting of the City Council approving the actions herein stated.

Section 2. Execution of Agreement. The City Manager is authorized and directed to execute a Development Agreement with MSPT VI, LLC, substantially in the form of the Development Agreement between the City of Kenmore and MSPT VI, LLC attached to this Ordinance.

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.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 9th
DAY OF DECEMBER, 2013.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Patty Safrin, City Clerk

Approved as to form:

Rod P. Kaseguma, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No. 13-0371
Date of Publication:
Effective Date:

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF KENMORE
AND MSPT VI LLC, FOR THE
KENMORE VILLAGE RESIDENTIAL DEVELOPMENT**

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into this 9th day of December, 2013, by and between the CITY OF KENMORE, a Washington municipal corporation, hereinafter the "**City**," and MSPT VI LLC, a limited liability company organized under the laws of the State of Washington, hereinafter the "**Developer**."

RECITALS

WHEREAS, RCW 36.70B.170 authorizes the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction; and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement; and

WHEREAS, this Agreement relates to the residential development referred to in this Agreement for identification purposes as Kenmore Village Residential (the "**Project**") to be constructed by Developer on the Property described in Section 2 of this Agreement; and

WHEREAS, the Project is further described in Site Plan Application No. CSP2013-073 filed by the Developer with the City (the "**Application**"); and

WHEREAS, the Developer and the City envision the Project as being an integral part of the overall "Kenmore Village" development of real property formerly owned by the City, with the Project forming the multi-family residential component consisting of a mix of high quality residential units which may (but shall not be required to) include a mix of townhome, apartment-style, senior citizen assisted living or independent retirement housing units, further including affordable housing consistent with the City's affordable housing policies; and

WHEREAS, it is anticipated that the Project will be developed in accordance with certain timelines established in the purchase and sale agreement between the City and the Developer pursuant to which the Real Property has been sold by the City to the Developer; and

WHEREAS, the following events have occurred as of the date of this Agreement with respect to the processing of the Application:

a) City Manager final decision dated November 25, 2013 approving the Site Plan (Project Number: CSP2013-073) has been issued, and, if the City Council passes the ordinance for this Agreement, on the date such ordinance passes: (i) the City Manager final decision shall become effective, and (ii) the period for appeal of such City Manager final decision shall commence; and

b) SEPA decision issued December 9, 2013; and

c) After a public hearing, by Ordinance No. 13-0371, the City Council authorized the City Manager to sign this Agreement with the Developer;

NOW, THEREFORE, the City and the Developer hereby agree as follows:

GENERAL PROVISIONS

Section 1. The Project. “The Project” is the development and use of the Property contemplated in this Agreement and the Site Plan. The Site Plan, consistent with Addendum No. 1 to the Agreement for Purchase, Sale and Development of Property for Residential Purposes dated July 13, 2013, between the City, as seller, and Developer, as buyer (Contract No. 13-C-1170) (the “**Purchase and Sale Agreement**”), describes the Project as a residential project comprised of high quality residential units (e.g., multifamily, townhome, senior citizen assisted living or independent retirement center) units not less than 25% of which are dedicated to affordable housing as set forth in KMC Chapter 18.77.

Section 2. The Property. The Property consists of approximately 4.7 acres of real property located at 18149 68th Ave NE, Kenmore, Washington, legally described on Exhibit A hereto (the “**Real Property**”).

Section 3. Definitions. In addition to such other terms as are defined throughout this Agreement, as used in this Agreement, the following terms, phrases and words shall have the following meanings:

3.1 “Adopting Ordinance” means the ordinance which approves this Agreement as required by RCW 36.70B.200.

3.2 “Certificate of Occupancy” means either a certificate issued after inspections by the City authorizing a person(s) in possession of property to dwell or otherwise use a specified building or dwelling unit, or the final inspection if a formal certificate is not issued. Temporary or phased occupancy of the Project may be authorized before the completion of the entire work covered by the Project pursuant to KMC 15.30.510. “Certificate of Occupancy” as used herein does not include a temporary or phased certificate of occupancy.

3.3 "Certificate of Satisfaction" has the meaning stated in Section 8.3 of this Agreement.

3.4 "City Manager" means the City Manager or, to the extent within the City Manager's authority, his or her designee.

3.5 "Development Requirements" has the meaning stated in Section 8.1 hereof.

3.6 "Development Standards" includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3) and, except as specifically deviated from as shown on the Approved Site Plan and Phasing Plan, Exhibit B hereto, all applicable standards in KMC Chapters 12 through Chapter 21, the terms and conditions of which, as in effect on the Effective Date, are hereby incorporated into and made a part of the terms and conditions of this Agreement.

3.7 "Effective Date" means the effective date of the Adopting Ordinance.

3.8 "Existing Land Use Regulations" means the ordinances adopted by the City Council of Kenmore in effect on the Effective Date, the terms and conditions of which are hereby incorporated into and made a part of this Agreement, and which include the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Property, including, but not limited to: the Comprehensive Plan; the City's Official Zoning Map; applicable standards in KMC Chapters 12 through 21 including development standards, street standards, surface water and utility requirements; SEPA; and all ordinances, KMCs, rules and regulations of the City establishing subdivision and other development standards. Existing Land Use Regulation does not include taxes or permit review fees or any fees or other amounts required by or payable to any governmental entity other than the City.

3.9 "Force Majeure" means "acts of God" or the public enemy; civil war; insurrection or riots; fires; explosions or serious accidents; strikes or labor disputes; inability to obtain necessary materials, accessories, equipment, or parts from the manufacturers thereof not caused or contributed to by the party claiming delay for such reason; abnormal weather or unforeseen, abnormal soils conditions which necessitate delays; or other abnormal and unforeseen event or condition not caused by or contributed to and beyond the reasonable control of the party claiming excused delay for such reason.

3.10 "Impact Fee" has the meaning stated in KMC 20.47.020(0), hereby incorporated into and made a part of this Agreement.

3.11 "Kenmore Village" means the integrated development of real property formerly owned by the City, comprised of commercial, retail and residential components.

3.12 "Kenmore Village Commercial Property" means the commercial development proposed to occur on the property adjoining the Real Property to the south of the Property, and that will constitute the commercial and retail component of Kenmore Village.

3.13 "Kenmore Village Residential Property" means the residential development that is the subject of this Agreement. The Project will constitute the residential component of Kenmore Village.

3.14 "KMC" means the Kenmore Municipal Code.

3.15 "Landowner" is the party who has acquired any portion of the Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement including, without limitation, the terms, provisions and requirements of Section 8.3 (Phase 2 Requirements).

3.16 "Post-Termination Obligations" means the respective obligations of either or both of the parties hereto expressly stated in Section 16 hereof.

3.17 "SEPA" means the Washington State Environmental Policy Act of 1971, RCW Ch. 43.21C.

3.18 "Temporary or Phased Certificate of Occupancy" means a certificate of occupancy authorizing occupancy of a portion of the Project issued pursuant to KMC 15.30.510.

Section 4. Exhibits. The following Exhibits to this Agreement (the "**Exhibits**") are attached hereto and by this reference incorporated into and made a part of this Agreement:

- Exhibit A – Legal description of the Property
- Exhibit B – Approved Site Plan and Phasing Plan
- Exhibit C – Expedited Permit Review and Submittal Time Periods
- Exhibit D – Certificate of Satisfaction Form
- Exhibit E – Notice of Termination
- Exhibit F – Project Renderings
- Exhibit G – Declaration of Covenants
- Exhibit H – City Letter re Affordable Housing Property Tax Exemption

Section 5. Project is a Private Undertaking. It is agreed between the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions.

Section 6. Term of Agreement. This Agreement shall commence on the Effective Date and, subject to Section 16.1 hereof, shall continue in force for a period of ten (10) years from the Effective Date unless sooner terminated or extended for a period of up to five (5) years as provided herein. Any extension must be request by Developer at least 90 days prior to the expiration of the term of this Agreement. Because this Agreement is associated with land use decisions, the City Manager may grant such an extension of up to five years if, at the end of the 10-year period referred to above, those actions described in this Agreement to be completed by Developer during those first 10 years have been completed and the Developer demonstrates to the reasonable satisfaction of the City Manager that the residential units to be constructed under Phase 1 of the Project, as shown on the Approved Site Plan and Phasing Plan and any approved amendments thereto, comprise at least fifty percent (50%) of the Project's total residential units and have been constructed. All other requests for extensions shall be reviewed by the city council. Following the termination hereof, this Agreement shall have no force and effect, subject to the Post-Termination Obligations of the parties. Phasing and approval of the Site Plan are valid for the term of this Agreement. Any modification to the terms of KMC 18.110.060(C)(3) after the Effective Date shall not alter the terms of this Section.

Section 7. Vested Rights of Developer. Except as otherwise expressly stated in this Agreement, during the term of this Agreement, in developing the Property consistent with Development Standards and Existing Land Use Regulations specified in this Agreement, the development rights, obligations, terms and conditions expressly stated in this Agreement are fully vested in the Developer and may not be changed or modified by the City, except (1) by mutual consent of all the parties hereto and in accordance with the process established by law for the adoption of a development agreement; or (2) to the extent required by a serious threat to public health and safety. For avoidance of doubt, the City hereby reserves, and shall at all times have, authority to impose new or different regulations, conditions or requirements for development of the Property (including regulations, conditions or requirements that may be inconsistent with the Development Standards and Existing Land Use Regulations specified in this Agreement) to the extent required by a serious threat to public health and safety. Building permits and other permits subject to KMC Titles 15 (Buildings and Construction) and 20 (Development Permits) (excluding 20.47 and 20.50, which are covered by this Agreement) shall be considered under the provisions of KMC Titles 15 and 20 (excluding 20.47 and 20.50) in effect at the time of submittal of a valid and fully complete application, which requirements shall apply in place of, and not be subject to, Section 7 (Vesting) of this Agreement. Notwithstanding the foregoing, no changes to either of the International Building Code or International Fire Code or state adoption

thereof, taking effect after the date of this Agreement, shall require redesign or modification of any Project utilities, facilities or other infrastructure permitted, approved (including any of the foregoing approved in the Approved Site Plan and Phasing Plan) or installed previous to or in accordance with this Agreement unless, and except to the extent redesign or modification is required to avoid a serious threat to the public health or safety.

Section 8. Development Standards.

8.1 Permitted Uses and Code Deviations. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land or payment of fees in lieu of dedication for public purposes, the construction, installation and extension of public improvements, development guidelines and standards for development of the Property shall be, to the extent expressly stated herein or therein, those set forth in this Agreement, the permits and approvals identified herein, and all exhibits incorporated herein (collectively, the “**Development Requirements**”), including, but not limited to, Exhibit B – Approved Site Plan and Phasing Plan, and the Development Standards and Existing Land Use Regulations. The Development Requirements set forth in this Agreement are hereby adopted and, to the fullest extent allowed by applicable law and, subject to the qualifications and provisions stated in Sections 7 and 8.3 hereof, shall govern and control all development in the Project. For purposes of construction and interpretation, the City and Developer acknowledge and agree that the Development Requirements are intended to be compatible with the Kenmore Downtown Plan, dated April 2003, which provides the City’s vision for the Downtown area in which this development is located.

8.2 Land Use Fees, Impact Fees, and Offsets.

(a) **Development Agreement Application Fee.** In consideration of the covenants and agreements of Developer in this Agreement and in the Purchase and Sale Agreement, the Development Agreement application fee is waived.

(b) **Land Use Permit Review Fees.** Notwithstanding the terms of Section 7 hereof, land use permit review fees adopted by the City by ordinance as of the Effective Date are not waived and may be increased by the City from time to time and are applicable to permits and approvals for the Property as long as such fees apply to similar applications and projects in the City.

(c) **Road Impact Fees.** Road Impact Fees shall be collected and paid according to the timing and process provisions set forth in KMC Chapter 20.47 as in effect at the time the complete application for a building permit or occupancy permit is submitted

for each unit in the Project. For the Project, Road Impact Fees shall be assessed and charged at a rate not greater than the maximum of the Road Impact Fee rate for multi-family residential developments in effect as of the Effective Date, which is \$5,462.31 per unit. All Road Impact Fees shall be subject to the following credits, as to which City and Developer hereby agree the requirements of KMC 20.47.050 have been satisfied:

- (i) Credit in the amount of \$7,667.29 per trip for the existing 24 PM peak trips as calculated by Developer's Transportation Engineer with the concurrence of the City's Transportation Engineer.
- (ii) For each 50% Unit (as defined in Section 12 hereof) to be constructed pursuant to the building permit for which application is then being submitted (or, if applicable, for which an occupancy permit is then being applied for), a credit equal to the full amount of the per-unit Road Impact Fee then in effect.

(d) **Park Impact Fees.** Park Impact Fees shall be collected and paid according to the timing and process provisions set forth in KMC Chapter 20.47 as in effect at the time the complete application for a building permit or occupancy permit is submitted for each unit in the Project. For the Project, Park Impact Fees shall be assessed and charged at a rate not greater than the maximum of the Park Impact Fee rate for multi-family residential developments in effect as of the Effective Date, which is \$1,658.82 per unit. The amount shall be offset by the value of the following developer contributions (which offsets, however, may not in total exceed the total of Park Impact Fees, i.e., Developer shall not have a "credit" to be applied against any other amount payable by Developer):

- (i) The amount of any and all funds contributed by Developer for purposes of the Town Green project in the Project vicinity;
- (ii) For each 50% Unit (as defined in Section 12) to be constructed pursuant to the building permit for which application is then being submitted (or, if applicable, for which an occupancy permit is then being applied for), a credit equal to the full amount of the per-unit Park Impact Fee then in effect.

(e) **School Impact Fees.** School Impact Fees collected by the City for the benefit of Northshore School District No. 407 (the "School District") shall be assessed collected, and paid on a per-

unit basis in accordance with KMC Chapter 20.50. For the Project, school Impact Fees shall be charged at no greater than the maximum of the rate in effect as of the Effective Date for multifamily residential units within the boundaries of Northshore School District No. 407. The Project may include units that are also wholly or partially exempt from school impact fees as low-income or age-restricted housing.

8.3 Phasing of Project Development and Permitting.

(a) **Completion in Phases.** Subject to the terms and conditions of this Agreement, in consideration of various factors which may impact the ability to develop the Project in the most efficient and economically feasible manner, the Project may be developed in phases, as partially shown on Exhibit B (Approved Site Plan and Phasing Plan) with Temporary Certificate of Occupancy available at the completion of each phase (subject to all other requirements then in effect for issuance of a certificate of occupancy under the KMC and other governing requirements, further subject to the vesting provisions of this Agreement). All phases shall be similar in design, materials and appearance and when completed shall function as a single, integrated project, as described more specifically in Subsection 8.3(b) below. Upon issuance of a certificate of occupancy for any phase of the Project, the City shall issue and Developer shall record a Certificate of Satisfaction, in a form substantially similar to that notice attached as Exhibit D for that phase.

(b) **Site Plan Approval for Phase 2.** Consistent with the foregoing, City and Developer acknowledge the Approved Site Plan and Phasing Plan attached as Exhibit B hereto does not include details for development of the improvements to be included in Phase 2 of the Project (the "Phase 2 Elements"). Developer acknowledges, as a condition to permits to be issued for construction or installation of buildings and improvements in Phase 2 of the Project, the proposed Phase 2 Elements are subject to Site Plan and design review processes as described in KMC 18.105. Developer further acknowledges the City's willingness to enter into this Development Agreement is based in part on the expectation that the entire Project will be developed per this Section 8.3(b). Consequently, as a condition to any Site Plan approval for Phase 2, Phase 2 must be developed as a high quality multifamily residential project of not less than fifty (50) residential units and shall be similar in design, materials and appearance to Phase 1 and when completed shall function together with the buildings and improvements in Phase 1 as a single, integrated project. The City

hereby agrees that the criteria used for such review shall be consistent with the criteria used for review of the Site Plan for Phase 1 set forth on Exhibit B hereto, subject only to any changes as may be necessitated for purposes of public health and safety, and the provisions of this Agreement pertaining to traffic capacity, parking ratios, stormwater discharge (Section 11.2 hereof), impact fees (Section 8.2), permitting standards (Section 8.4), minor modifications (Section 9), and discretionary decisions (Section 10) shall be deemed vested and applicable to Phase 2. If Phase 2 should be divided into additional separate phases (i.e., "Phase 2," "Phase 3," etc., or other similar designation), all references in this Agreement to "Phase 2" shall mean and be applicable to all such additional phases.

(c) Subdivision or Boundary Line Adjustment Applications. The City shall be the permitting agency to review all subdivision or boundary line adjustment applications, as applicable, which will be subject to requirements in effect at the time of any such applications (and are not subject to Section 7 of this Agreement). However, in the event of a subdivision or boundary line adjustment affecting the Property, the terms and conditions of this Development Agreement shall continue to apply to all properties of which any portion of the Property is a part, and the provisions of Section 2 of the Declaration of Covenants in the form of Exhibit G hereto shall continue to apply to and run with the Property and all parcels of which any portion of the Property is a part.

(d) The Project phasing shall be consistent with Developer's obligation under the Declaration of Covenants, which will be recorded in connection with the closing of the Purchase and Sale Agreement, to commence construction of the first phase of the Project not later than twenty-four (24) months after closing of the Purchase and Sale Agreement, unless commencement of construction is delayed by reason of Force Majeure.

8.4 Permitting Standards. Applications for permits and/or approvals made pursuant to this Agreement shall be made on such terms and under such conditions as are consistent with Development Requirements. Developer acknowledges, pursuant to KMC Section 18.110.020.C, any material deviation from applicable permitting requirements (except to the extent already provided for in this Agreement) must be matched with a provision of a benefit to the City or to the public of equal or greater value relative to the deviation requested, as determined by the City Manager.

Section 9. Minor Modifications. Minor modifications from the approved permits or the Exhibits may be approved in accordance with the provisions of the KMC as in effect at the time of any such minor modification and shall not require an amendment to Approved Site Plan and Phasing Plan or this Agreement. For the purposes of this Agreement, "minor modifications" means any change which does not deviate materially from the scope or intention of the Approved Site Plan and Phasing Plan such as changes to paint color, substitution of landscaping materials with comparable materials, and "field changes" necessitated by site inspections and further includes any of the following: (i) rearrangement of existing lot lines or creation of lots (e.g., through short plat or boundary line adjustment) consistent with the Approved Site Plan; or (ii) changes involving the location or dimensions of buildings or landscaping, provided no such rearrangement or changes: (a) decrease the amount of perimeter landscaping, (b) decrease residential parking ratios; (c) locate structures closer to any boundary line of the Real Property; or (d) change the locations of any points of ingress and egress to the Real Property. For avoidance of doubt, and without limitation, modifications that will cause any of the following results are not considered minor: (a) an increase in traffic circulation problems (i.e., reduction in LOS for applicable roads or intersections); or (b) a reduction in the amount of total approved landscaping, off-street parking, loading zones, right-of-way or pavement width. Any modification to a permit or Exhibit that is not a minor modification shall require express consent of the City Manager and Developer, and any modification to an Exhibit that is deemed a modification to this Agreement shall require approval in the same manner as approval of any amendment to this Agreement (presently KMC 18.110.060 and any amendment or successor to that Section).

Section 10. Further Discretionary Actions (Including SEPA Review). Developer acknowledges the Development Requirements contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, SEPA review of additional permit applications. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying Existing Land Use Regulations. The parties agree SEPA applies to permits that will be issued during the term of this Agreement. Development conditions recommended in the City's Determination of Nonsignificance or, as applicable, Mitigated Determination of Nonsignificance issued in connection with the City's action to review and approve this Agreement are incorporated in the approval of the Approved Site Plan. The City shall not exercise its substantive SEPA authority to impose conditions on Project approvals issued during the Agreement term in a manner that is inconsistent with this Agreement and the Existing Land Use Regulations.

Section 11. Improvements Required for Issuance of Certificates of Occupancy. Notwithstanding the phased approach to development of the Project, Developer acknowledges and agrees, to the extent that certain amenities

associated with the Project are required by the KMC to be available to all phases of the Project for reasons including health, safety and welfare of residents, occupants and others using or visiting the Project, such amenities shall be constructed and completed prior to issuance of any certificate of occupancy for any phase of the Project. To the extent that certain amenities associated with the Project are not required by the KMC to be available to all phases of the Project, such amenities shall be constructed and completed for each phase individually prior to issuance of any certificate of occupancy for such phase. The fact that any such amenity has not been provided shall not preclude the issuance of a Temporary Certificate of Occupancy so long as all amenities required for the phase for which a Temporary Certificate of Occupancy is sought have been completed in accordance with the Development Requirements. In accordance with KMC Section 21.20.050, no temporary certificate of occupancy for a completed phase may be issued until: (i) drainage facility improvements are functional and (ii) required parking for such phase is provided, and (iii) safe access for such phase is provided. The following amenities, as shown on the Site Plan and Phasing Plan, shall be constructed in accordance with the following schedule:

11.1 Enhanced Landscaping and Increased Setbacks. In exchange for flexibility to increase setbacks along 68th Avenue N.E., Developer shall provide enhanced landscaping along such street frontage. Design of sidewalks and other street frontage improvements on that portion of the Real Property adjoining 68th Ave. N.E., shall be consistent with the design of sidewalks and other street frontage improvements along that portion of 68th Ave. N.E. adjoining the Kenmore Village Commercial Property.

11.2 Drainage Standards; Surface Water Runoff Policies; Surface Water Drainage Facilities. In accordance with KMC Section 21.20.050, no temporary certificate of occupancy for a completed phase may be issued until: (i) drainage facility improvements are functional and (ii) required parking is provided, and (iii) safe access to the finished portions of the Project is provided to all residents, occupants, emergency responders and others requiring access. KMC Section 13.35.025 as written and in effect as of the Effective Date; *provided*, the City will permit a reduction in flow control standards to "Reduced Basic Flow Control Standards" as permitted in KCSWDM 1.2.3.B and 1.2.3.A, in lieu of the standard stated in KMC 13.35.025.B.4, provided Developer shows, to City's satisfaction, that flooding as a result of the Project will not be worsened along the downstream corridor and that the Project can meet all conditions of the exception allowed by KCSWDM 1.2.3.B and 1.2.3.A. Allowed discharge rates from the Project will be established based on the discharge rates from the existing onsite detention facility. King County Runoff Time Series hydrologic model will be used to calculate the flows. The existing ground cover conditions as existing today will be used to

generate the flows tributary to the existing detention facility. The flow control BMP (LID) requirement per KCSWDM 1.2.3.3 (and Section 5.2) will still be applicable for the Project.

Section 12. Affordable Housing.

12.1 Standards. Not less than twenty-five percent (25%) of the residential units in the Project shall be dedicated to Affordable Housing use (the "Affordable Units"), meaning those Affordable Units so dedicated shall meet the City's Affordable Housing Criteria for the Property as set forth in KMC Chapter 18.77 and as required by the conditions of the Deed from King County, Washington, to Seller dated January 6, 2005, recorded January 1, 2005, under King County Recording No. 20050110001850, and shall be offered exclusively to residential applicants, for owner-occupied units, whose total household income, adjusted for family size, is not greater than eighty-five percent (85%) of the King County median household income as published by King County, Washington, from time to time and, for renter-occupied units, (i) whose total household income, adjusted for family size is not greater than eighty-five percent (85%) of the King County median household income and (ii) whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent (30%) of the households monthly income (the "85% Units"). As part of the foregoing, at least five (5) of the Affordable Units shall be offered and rented exclusively to residents whose total household income does not exceed fifty percent (50%) of the King County median household income, adjusted for family size as published by King County, Washington, from time to time and whose monthly housing costs including utilities other than telephone do not exceed thirty percent (30%) of the households monthly income (the "50% Units"). Developer shall adopt and follow reasonable measures to verify the household income of the occupants of the Affordable Units prior to the initial occupancy of such units.

12.2 Design and Covenants. The requirements under KMC 18.77.030.B as to unit size mix shall be deemed satisfied if the Affordable Units are spread throughout the Project, located in not less than three (3) of the Project buildings, and are of not less than three (3) unit types (i.e., numbers of bedrooms). At least one of the five, 50% Units shall be a two-bedroom unit and at least two shall be one-bedroom units. At least three (3) of the five, 50% Units shall be provided in Phase 1 of the Project. Subject to the foregoing, the location, building, phase of the Project, and unit type of the Affordable Units shall be selected by Developer at Developer's sole discretion. Covenants which establish the tenure and affordability obligations and other criteria of the Affordable Units as stated in this Section 12 shall be in the form of Exhibit G hereto and recorded on the title to the Property prior to (and as a condition to) issuance of the a

certificate of occupancy for any Project Phase in which Affordable Units are constructed.

Section 13. Multi-Family Housing Property Tax Exemption. Upon completion of and receipt of Certificates of Occupancy for all of the Affordable Units, subject to compliance with the procedural (application) and tenant income requirements under KMC Chapter 3.65, the Project shall qualify for the Multi-Family Housing Property Tax Exemption under KMC Chapter 3.65, and the City shall issue and submit to Developer a letter in the form of Exhibit H hereto stating the Project complies with requirements of and is eligible for the Multi-Family Housing Property Tax Exemption, subject to the requirements of KMC Chapter 3.65. Such determination of eligibility applies to the Project in developing residential units for rent. If any of the units within the Project are converted to owner-occupied units, eligibility for and certification of the tax exemption for such owner-occupied units shall be subject to KMC 3.65.110.E. If Developer causes the Property to be subdivided into separate tax parcels, the exemption shall apply for each tax parcel, subject to each parcel satisfying the requirements of KMC Chapter 3.65.

Section 14. Coordination with Adjacent Property Owners. Developer acknowledges the Project is part of the "Kenmore Village" properties and that the real property adjoining the Property to the south is planned to be developed as a commercial and retail center ("**Kenmore Village Commercial Property**") on an essentially contemporaneous basis with the Project; *provided*, neither the foregoing nor any other statement in this Section is intended as a representation, warranty or guarantee, express or implied, of any particular development and is stated solely for background purposes. City acknowledges the Project is also located adjacent to City-owned properties, including City Hall and a proposed relocated Skate Park. Developer, City and the owner of the Kenmore Village Commercial Property have agreed to work cooperatively in the development of their respective properties. Such coordination shall include (i) consistent development and common area standards; and (ii) site plan designs which take into account and seek to minimize adverse impacts of improvements (e.g., loading docks) on their respective adjacent properties.

Section 15. Conditions for "Fast Track" or "Expedited" Permit Review and Approval. The City agrees to the SEPA and permit review times for each phased submittal as described attached Exhibit C. Review time will be calculated from the date of Developer submittal (provided that all submissions by Developer are substantially complete and in accordance with applicable submittal requirements). The City's failure to comply with the permit review and approval schedule set forth herein shall be deemed to constitute an event of Force Majeure (provided that all submissions by Developer are substantially complete and in accordance with applicable submittal requirements).

Section 16. Termination.

16.1 This Agreement shall expire and be of no further force and effect if the development contemplated in this Agreement and all of the permits and/or approvals issued by the City for such development are not substantially underway prior to expiration of such permits and/or approvals.

16.2 Nothing in this Agreement shall extend the expiration date of any permit or approval issued by the City for the Project or any portion thereof. The Site Plan approval and phasing plan shall be in full force and effect during the term of this Agreement, provided that Developer meets the conditions and time schedules specified in the approved phasing plan, as such time schedules may be extended in accordance with KMC section 18.105.060.

16.3 Covenants of each of City and Developer expressed in this Agreement shall run with the land and shall be binding on each of Developer and City and their respective successors and assigns. Any covenant expressed in this Agreement which, by its terms states that it shall survive termination of this Agreement shall remain in effect beyond and shall not be deemed terminated by termination of this Agreement. This Agreement shall terminate upon the expiration of the term identified in Section 6 or upon issuance of the certificate of occupancy for the final phase of the Project, whichever first occurs. Upon the occurrence of either event identified in the immediately preceding sentence, the City shall record a notice of termination in a form substantially similar to that notice attached as Exhibit E.

Section 17. Effect of Termination on Developer Covenants and Obligations. Termination of this Agreement shall not affect, cancel or result in termination of (i) any of the Developer's obligations under applicable law to comply with the City Comprehensive Plan and the terms and conditions of any applicable zoning or land use regulation or other land use entitlements approved with respect to the Property, (ii) any other conditions or covenants of Developer in this Agreement stated in Section 8.3 (Phased Development), Section 12 (Affordable Housing) and the Declaration of Covenants set forth in Exhibit G, or (iii) obligations to pay assessments, liens, fees or taxes (all of the foregoing, collectively, "Post Termination Obligations"). The Post Termination Obligations shall continue to run with the land comprising the Property and shall be binding on Developer and successors and assignees of Developer and all others acquiring any interest in the Property or any portion thereof by or through Developer.

Section 18. Default

18.1 Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement to perform any legal requirement of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than thirty (30) days' notice in writing, specifying the nature of the alleged default, the manner of cure, and a reasonable cure period in which said default may be cured. During this reasonable cure period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

18.2 After notice and expiration of the reasonable cure period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the KMC, and to obtain penalties and costs as provided in the KMC for violations of this Agreement and the KMC.

Section 19. Annual Review. The Developer shall provide a report to the City Manager regarding the status of the Project implemented under this Agreement at least every twelve (12) months during the term of this Agreement.

Section 20. Effects upon Termination on City. Upon any termination of this Agreement as to the Developer of the Property or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to then existing planning and zoning laws).

Section 21. Assignment and Assumption. Developer shall not sell, assign, convey or otherwise transfer a controlling interest in any Phase of the Property (or controlling interest in Developer) to any person or entity other than Developer and Developer's principals as of the closing of the Purchase and Sale Agreement until all site development conditions of this Agreement as to such Phase have been satisfied, a certificate of occupancy has been issued for all residential units to be constructed as part of that Phase, and such Phase has been made a separate legal lot and separate tax parcel. As used herein, "Phase" means any of the following (i) Phase 1 of the Project as shown on the Approved Site Plan and Phasing Plan, or (ii) any other portion of the Project designated as a "phase" in any subsequent site plan of the Project submitted by Developer or Landowner as part of a future application for Site Plan Approval as referred to in Section 8.3(b) hereof. The restrictions and prohibitions stated in this

Section shall not apply to (i) any residential lease of any unit in the Project (but shall apply to a ground lease of all or substantially all of the Property or any substantial portion thereof to any person or entity not a resident of the Property); (ii) any mortgage, deed of trust, security agreement or security instrument granted or entered by Developer to provide financing for Developer's purchase of the Property or performance of its obligations to the City with regards to the Project; or (iii) a Transfer, or series of Transfers which in the aggregate, does not or do not result in a change of control of the Developer's interests in the Property or in Developer. The foregoing is intended to allow the Developer to add debt-and/or equity-related investment partners to the ownership of the Property or a phase thereof, within the limits expressed in this Section 21. These provisions can be reasonably modified or waived by the City Manager from time to time upon request of the Developer.

Section 22. Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits, including, but not limited to the Post-Termination Obligations, shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties, their respective heirs, successors and assigns. The Developer and its successors and assigns and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof (whether such purchase, assignment or transfer is voluntary or involuntary, by foreclosure, judicial sale, operation of law or otherwise), shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of the Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned or transferred to it.

Section 23. Amendment to Agreement; Effect of Agreement on Future Actions. This Agreement may be amended by mutual consent of all of the parties, provided that any such amendment shall follow the process established by law for the adoption of a development agreement (see, RCW 36.70B.200). Nothing in this Agreement shall prevent the City Council from amending its Comprehensive Plan, Zoning KMC, Official Zoning Map or development regulations affecting the Property during the term of this Agreement, to the extent such amendment is required by a serious threat to public health and safety. Nothing in this Agreement shall prevent the City Council from making any amendments of any type to the Comprehensive Plan, Zoning KMC, Official Zoning Map or development regulations relating to the Property after termination of this Agreement.

Section 24. Notices. Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid certified mail, commercial courier or package delivery service, or by hand delivery to the party being notified, at its address as follows:

If to the Developer: MSPT VI LLC Attn: Kelly Price 11415 Slater Ave. E #100 Kirkland, WA 98033	If to the City: City of Kenmore Attn: Rob Karlinsey, City Manager 18120 68 th Ave. N.E. Kenmore, WA 98028
---	---

Notice shall be deemed received on the date of delivery to the recipient's address stated in this Section or, if sent via certified mail, on the second business day after mailed; or if by commercial courier or package delivery service, on the first business day after placed therewith; or on the date of actual delivery if hand delivered. Notice to any successor of either party shall be required to be given to such successor only after such successor has provided notice to the other party of its name and address for notice. Either party may from time to time advise the other of a new address for such notices, demands or correspondence by giving notice of such new address in the same manner as providing other notice.

Section 25. Reimbursement for Agreement Expenses of the City. Developer agrees to reimburse the City for certain actual expenses incurred by City directly relating to this Agreement, including reasonable recording fees, publishing fees and any additional staffing employees and third-party consultant expenses necessary for expedited review. Such payment of all fees shall be made, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to the Developer, which such statement (and supporting documentation) shall provide, in reasonable detail, an accounting of all actual expenses incurred by the City in the performance of its obligations within the above-noted cost categories.

Section 26. Relationship of Parties. Developer and the City shall not be construed as joint venturers or general partners, and neither shall have the power to bind or obligate the other party except as set forth in this Agreement. Developer shall have no right or authority, express or implied, to commit or otherwise obligate the City in any manner whatever except to the extent specifically provided herein or specifically authorized in writing by the City. The City shall have no right or authority, express or implied, to commit or otherwise obligate Developer in any manner whatever except to the extent specifically provided herein or specifically authorized in writing by Developer.

Section 27. No Third Party Rights. The provisions of this Agreement are intended for the benefit of, and may only be enforced by, the parties hereto

-17-

78782-0016/LEGAL28498417.1

and their respective successors and permitted assigns. None of the rights or obligations of the parties herein set forth (or implied) is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right, whatsoever upon or otherwise inure to the benefit of any contractor, architect, consultant, subcontractor, worker, supplier, mechanic, insurer, surety, guest, member of the public, or other third parties having dealing with either of the parties hereto or involved, in any manner, in the Property or the Project.

Section 28. Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. If litigation is initiated by any party to this Agreement to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Venue for any action shall lie in King County Superior Court or the U.S. District Court for the Western District of Washington. The parties hereto consent to the personal jurisdiction of each of such courts and waive the right to file suit elsewhere.

Section 29. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Agreement or any provision herein, each party shall be responsible for payment of legal fees of its counsel and related expenses to defend this Agreement or any provision hereof.

Section 30. Force Majeure.

30.1 Each party shall notify the other promptly of the occurrence of any Force Majeure event, occurrence or condition, as a condition to claiming such event, occurrence or condition constitutes Force Majeure and shall act promptly to proceed with its performance as soon as practicable after such cause for delay ceases or is terminated.

30.2 This Agreement relates to project permit applications and approvals, such as building permits, right-of-way construction, and encroachment permits. In the event of an appeal, if this Agreement is upheld by final judicial decision, the term established in this Agreement shall commence on the date of entry of a final order upholding this Agreement.

Section 31. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of this Agreement by any party in default hereof. All terms and provisions of this Development Agreement are material.

Section 32. Severability. If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or

unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the Adopting Resolution, such invalidity shall not affect the validity of the remainder of this Agreement.

Section 33. Complete Agreement. This Agreement together with the exhibits annexed hereto or referred to herein is intended to be the entire agreement of the parties with regard to the subject matter hereof and may only be amended with the written consent of both parties.

Section 34. Exhibits. The Exhibits hereto are made a part of and incorporated into this Agreement.

Section 35. Captions and Headings. Captions and headings used in this Agreement are for convenience of reference only and are not part of the terms of this Agreement or to be used to construe, interpret, modify, qualify, vary or supplement any term, condition, covenant or provision of this Agreement.

Section 36. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Facsimile or .pdf signatures on this Agreement shall constitute original signatures of the parties.

Section 37. Recording Required. This Agreement shall be recorded with King County at Landowner's expense. Upon termination of the Agreement, a notice of termination, in a form substantially similar to that notice attached as Exhibit E, shall also be executed by City in accordance with Section 16 above and provided to Landowner or recording at Landowner's expense.

[Signatures Next Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth below:

DEVELOPER:
MSPT VI LLC

By: _____
Name: _____
Its: _____
Date: _____

CITY:
CITY OF KENMORE

By: _____
Name: _____
Its: City Manager
Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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

DATED: _____

Printed: _____
NOTARY PUBLIC in and for
Washington
Residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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

DATED: _____

Printed: _____
NOTARY PUBLIC in and for
Washington
Residing at: _____
My appointment expires: _____

EXHIBIT A

Legal Description [The Real Property]

That portion of the east 720 feet of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, lying north of the Plat of Northlake Terrace Addition, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington, lying south of the follow description line:

Beginning at a point that is 300.00 feet south of the northeast corner of said Government Lot 1 as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" (for reference purposes);
thence continue north 87°44'38" west along said line, a distance of 529.67 feet to the west line of said east 720 feet of Government Lot 1 and the terminus of said line;

EXCEPT the east 30 feet thereof conveyed to King County for road by deed recorded under Recording Number 2963377;

TOGETHER WITH an easement for ingress and egress over the following described tract of land:

Beginning at a point that is 300.00 feet south the northeast corner of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" and the TRUE POINT OF BEGINNING of this tract;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 446.01 feet to a point on a curve, from which the radial point of said curve bears north 84°37'32" west, a distance of 488 feet;
thence along said curve to the left, with a central angle of 07°36'03", an arc distance of 64.74 feet;
thence north 02°13'38" west, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right of a central angle of 04°45'55", an arc distance 42.58 feet;
thence north 02°32'19" east, a distance of 89.14 feet, to the south right-of-way line of N.E. 185th Street as recorded under Recording Number 4791700, said point is 10.00 feet south of, when measured at right angles from, said north line of Government Lot 1;
thence south 02°32'19" west, a distance of 89.26 feet;
thence on a 488 foot radius tangent curve to the left, with a central angle of 04°45'55", an arc distance of 40.59 feet;
thence south 02°13'36" east, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right, with a central angle of 03°22'02", an arc distance of 30.09 feet to a point of reverse curvature;
thence on a 25 foot radius curve to the left, with a central angle of 88°53'04", an arc distance 38.78 feet;
thence south 87°44'38" east parallel with said north line, a distance of 287.18 feet;
thence on a 502.90 foot radius tangent curve to the right, with a central angle of 12°32'32", an arc distance of 110.09 feet to Point "A" and the TRUE POINT OF BEGINNING of this description.



WEISMANDESIGNGROUP

LANDSCAPE
ARCHITECTURE

2329 E MADISON ST
SEATTLE WA 98112

206-322-1732
WWW.WD-GROUP.COM



MAINSTREET
PROPERTY GROUP LLC

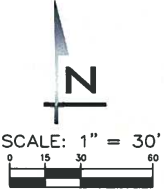
KENMORE VILLAGE
68TH AVE NE & NE 182ND ST KENMORE, WASHINGTON

SCALE	1"=20'-0"
DATE	11/20/13
DRAWN	TJC
CHECKED	NPH
REVISIONS:	

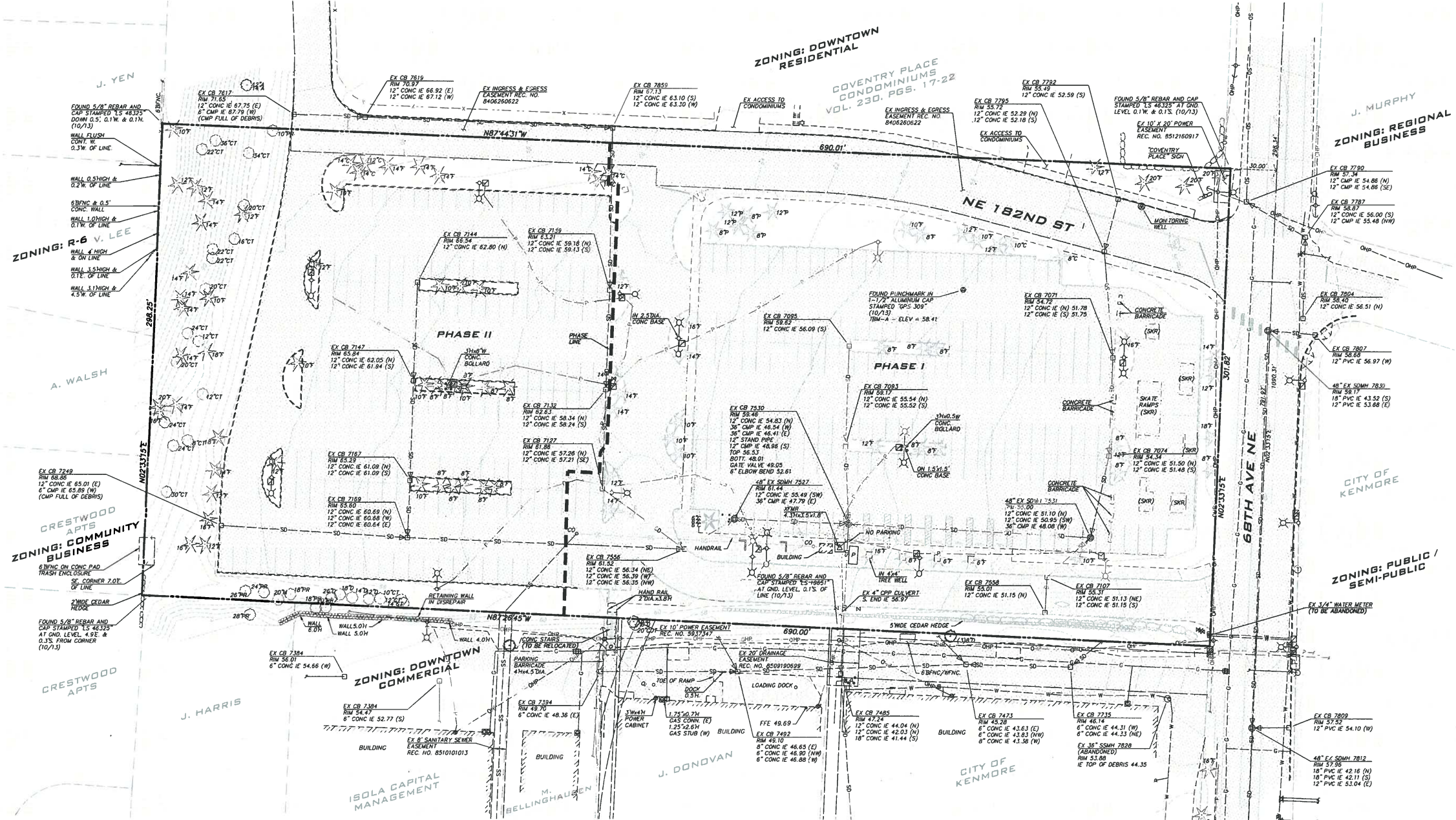
L-100

SHT 1 OF 3

N/E 1/4, SEC 11, TWP 26N, RGE 4E, W.M.



SCALE:
AS NOTED
PROJECT MANAGER:
TODD A. OBERG, PE
PROJECT ENGINEER:
GWA & BROOKS, PE
DESIGNER:
ADAM KAY
ISSUE DATE:
11/20/2013



REVISIONS	
NO	DATE

EXISTING CONDITIONS
KENMORE VILLAGE
CONCEPTUAL CIVIL PLANS
PARCEL# 1126049152
CITY OF KENMORE



11/20/13
JOB NUMBER:
13-160
SHEET NAME:
EC-01

SHT 3 OF 3

NOTE
ALL EXISTING FEATURES AND
STRUCTURES WITHIN THE PHASE I
LIMITS ARE TO BE REMOVED
UNLESS OTHERWISE NOTED.

UNDERGROUND UTILITY NOTE
UNDERGROUND UTILITIES ARE SHOWN IN THE APPROXIMATE LOCATION. THERE IS
NO GUARANTEE THAT ALL UTILITY LINES ARE SHOWN, OR THAT THE LOCATION,
SIZE AND MATERIAL IS ACCURATE. THE CONTRACTOR SHALL UNCOVER ALL
INDICATED PIPING WHERE CROSSING, INTERFERENCES, OR CONNECTIONS OCCUR
PRIOR TO TRENCHING OR EXCAVATION FOR ANY PIPE OR STRUCTURES, TO
DETERMINE ACTUAL LOCATIONS, SIZE AND MATERIAL. THE CONTRACTOR SHALL
MAKE THE APPROPRIATE PROVISION FOR PROTECTION OF SAID FACILITIES. THE
CONTRACTOR SHALL NOTIFY ONE CALL AT 8-1-1 (WASHINGTON811.COM) AND
ARRANGE FOR FIELD LOCATION OF EXISTING FACILITIES BEFORE CONSTRUCTION.



City of Kenmore Development Services
Findings, Conclusions, and Conditions of Approval
November 25, 2013

Kenmore Village Residential Phase 1 Site Plan Approval – File CSP2013-073

I. SUMMARY OF PROPOSAL:

This Site Plan Approval and associated Development Agreement (Ordinance #13-0371) is for Phase 1 of a proposed multifamily development consisting of 138 dwelling units on an existing 4.75 acre site zoned Downtown Residential (DR). The site is currently developed as a surface parking lot formerly used as a park-and-ride. Phase 1 will consist of 4 separate buildings on the eastern half of the site. The buildings will range in size from 3-5 stories. Access to the site will be from NE 182nd Street. Site improvements will include roadway and frontage improvements (curb, gutter, and sidewalk) on 68th Avenue NE and NE 182nd Street. Phase 2 will be permitted under a future Site Plan application and will include build out of the remaining dwelling units (up to 187).

II. PROJECT INFORMATION:

Applicant/Owner	MainStreet Property Group 11415 Slater Ave NE, Ste 100 Kirkland, WA 98033
Site Address	18149 68 th Avenue NE
Parcel ID Number	112604-9152
Site Area	4.75 acres (207,023 square feet) – Total 2.76 acres (120,099 square feet) – Phase 1
Zoning	Downtown Residential (DR)
Environmentally Critical Areas	None
Proposed Uses	Multifamily
Surrounding Uses	Multifamily (north/west) Retail (south) Public Agency Office (east) Single-Family (west)
Number of Dwelling Units	138 (phase 1) 325 (maximum reviewed under SEPA)
Number of Buildings	4
School District	Northshore School District
Water/Sewer	Northshore Utility District
Fire District	Northshore – King County Fire District #16

III. REVIEW PROCESS:

The Site Plan application has been processed as a Type 2 administrative decision pursuant to Kenmore Municipal Code (KMC) 19.25. An associated Development Agreement authorized under KMC 18.110 has been reviewed concurrently with the Site Plan application. Pursuant to KMC

18.110.050.F, an application for a Type 2 land use decision shall be reviewed and processed concurrently with the Development Agreement. The 11/25/13 final decision on the Site Plan shall become effective on the date that the City Council passes an ordinance for the Development Agreement. A final SEPA determination will be issued upon the effective date of the Site Plan. The Development Agreement, City Manager recommendation on the Development Agreement, and Ordinance #13-0371 is scheduled for City Council consideration on 12/9/13.

The key milestones on the Site Plan application to date are as follows:

- 10/15/13: Application filed (exhibits 1-8, 11-14, 16).
- 10/24/13: Application determined complete pursuant to KMC 19.25.050 (exhibit 17).
- 10/31/13: Notice of Application and Optional SEPA Notice with 21 day comment period issued pursuant to KMC 19.25.060 (exhibit 18).
- 11/1/13: City's first review comments sent to applicant (exhibit 21).
- 11/6/13: Applicant's response to City's first review comments received (exhibit 24).
- 11/13/13: City's second review comments sent to applicant (exhibit 25).
- 11/20/13: Applicant's response to City's second review comments received.
- 11/21/13: Notice of Application and SEPA comment period ended.
- 11/22/13: Revised design review submittal received (exhibit 9).
- 11/25/13: Final decision on the site plan issued.

IV. FINDINGS AND CONCLUSIONS:

In accordance with KMC 18.105.050, the City may approve, deny, or approve with conditions an application for a Site Plan. The decision shall be based on the approval criteria stated therein and are intended to be satisfied by the findings, conclusions, and conditions within this report.

The Site Plan application has been reviewed for compliance with the Kenmore Zoning Code (KMC Title 18), the 2009 King County Surface Water Design Manual (KCSWDM) as adopted in KMC 13.35, the 1993 King County Road Standards (KCRS) as adopted in KMC 12.50, and other applicable City regulations.

Departures from Development Standards: Departures from development standards may be requested and approved for properties in the DR zone through the development agreement process provided they are offset by the provision of a benefit to the City of equal or greater value relative to the departure requested. The applicant requested departures from several development regulations (exhibit 30) which are offset by public benefits related to those identified in both the Development Agreement and the City Manager recommendation to the City Council on the Development Agreement. The Site Plan findings and conclusions reflect the requested departures. However, the development standard departures are subject to Council approval of the Development Agreement. The 11/25/13 Site Plan report and all exhibits are also included as Exhibit C to the Development Agreement.

The following are findings and conclusions:

1. Property Description

The site is a rectangular-shaped parcel located at the southwest corner at the intersection of 68th Avenue NE and NE 182nd Street. The site is relatively flat with an average slope of 3 percent across the majority of the site and a limited area with slopes up to 50 percent on the western-most portion of the site. Adjacent to the site is a multifamily condominium development to the north, Kenmore City Hall to the east, commercial retail uses to the south, multifamily development to the southwest, and

single-family residential development to the west. The site was formerly used as a park-and-ride lot and is improved as a surface parking lot with vehicle access onto both 68th Avenue NE and NE 182nd Street. The current use on the site consists of a public skate park, proposed to be relocated across the street to the current Kenmore City Hall property. A pedestrian stairway connection to the adjacent property to the south is located at the approximate midpoint of the southern property line. NE 182nd Street as it relates to the site is a private road which currently provides access to the multifamily condominium development to the north (Coventry Place) in addition to the subject site (exhibit 4).

2. Kenmore Comprehensive Plan

- a. The Site Plan application has been reviewed for compliance with the adopted policies of the Kenmore Comprehensive Plan. KMC Title 18 "Zoning," and other applicable City development regulations have been adopted to ensure consistency with and implement the Kenmore Comprehensive Plan. The application is consistent with the following objectives and policies of the Comprehensive Plan, among others not listed:
 - i. Policy LU-5.1.3 of the Downtown Sub-Element of the Comprehensive Plan is to "provide routes for pedestrian, auto, bicycle, transit and truck travel with convenient access to each major destination. Buildings should be close to sidewalks to promote walking and browsing, with parking areas located on the side or rear of buildings." The development will promote walking by locating buildings close to the new 10 foot wide sidewalks along 68th Avenue NE and NE 182nd Street. The parking areas will be located on the interior of the site behind, to the sides of, and under the buildings.
 - ii. Policy LU-5.2.6 of the Downtown Sub-Element of the Comprehensive Plan is to "promote pedestrian-friendly streets with street furniture and trees. Develop street trees and vegetation standards that unify the Downtown, define Downtown streets, and allow for appropriate business visibility. Incorporate street furniture and art into Downtown street standards, including benches, trash and recycling receptacles, tree grates, street lamps, and other amenities." The development will provide new 10 foot wide sidewalks on 68th Avenue NE and NE 182nd Street. Other street improvements will include street trees, pedestrian lighting, utility undergrounding, electrical receptacles for street trees, light pole brackets for banners and flower baskets, as well as drip irrigation for street trees and hanging flower baskets.
 - iii. Objective LU-5.4 of the Downtown Sub-Element of the Comprehensive Plan is to "provide housing and commercial development that supports transit." The residential density of Phase 1 of the development will be 50 dwelling units per acre (total of 138 dwelling units) and is within less than one-quarter mile of multiple regional bus transit routes on NE Bothell Way providing service to future residents of the development.

CONCLUSION: The application has been reviewed for compliance with the Kenmore Comprehensive Plan as well as applicable development regulations which implement the policies of the Comprehensive Plan. The application meets the objectives and policies of the Comprehensive Plan.

3. Public Notification & SEPA (KMC 19.25, RCW 43.21C, KMC 19.35)

- a. The application exceeds the categorical exemptions from the State Environmental Policy Act (SEPA) pursuant to KMC 19.35.060 and WAC 197-11-800. A SEPA Environmental Checklist was completed by the applicant and filed with the application (exhibit 16).

- b. The Optional Determination of Non-Significance (DNS) process was used to combine the 21 day Notice of Application comment period for the Site Plan application and SEPA comment period pursuant to WAC 197-11-355 (exhibit 18). The comment period ended 11/21/13. Two comments were received during the comment period (see discussion of public comments in Section 4 below).
- c. A final Notice of Decision and SEPA DNS will be issued upon the effective date of the Site Plan, following approval of the Development Agreement by the City Council in accordance with KMC 18.110.050.F. The SEPA Environmental Checklist will be attached to the SEPA DNS and mailed to SEPA agencies in conjunction with Notice of Decision requirements in KMC 19.25.090.

CONCLUSION: The application exceeds the SEPA exemption thresholds. A SEPA Environmental Checklist has been completed and reviewed by the City. A SEPA DNS will be issued in accordance with KMC 19.35 and WAC 197-11. In addition, public notification requirements in KMC 19.25 have been implemented.

4. Public Comments

- a. Two comments (exhibit 19) were received during the Notice of Application/SEPA public comment period. The comments related to a number matters including the number of proposed dwelling units, open space requirements, the existing public skate park on the site, and traffic.
- b. City staff responded to the comments and noted the matters have been addressed either as part of the existing development regulations or other City plans or requirements and are addressed within this report. For instance, one of the comments expressed concern for elimination of the public skate park, while the current plan is to relocate the skate park across the street from its current location to the Kenmore City Hall property.

CONCLUSION: The City received two comments during the Notice of Application/SEPA comment period. The comments are addressed by existing City development code requirements, Site Plan approval conditions, or as part of other existing City plans.

5. Downtown Residential Zone (KMC 18.24)

- a. The site is zoned Downtown Residential (DR). Multifamily development is permitted outright in the DR zone in accordance with KMC 18.24.020.
- b. Pursuant to KMC 18.24.020, Table A Footnote #3, townhouses shall have a minimum of four units in a cluster with enclosed under building parking required. Building B1 is the only proposed townhouse building within Phase 1 and is proposed to contain five dwelling units with enclosed under building parking accessible from the interior of the site (exhibits 5, 24). The site plan complies.
- c. The DR zone allows a maximum residential density of 72 dwelling units per acre and a minimum residential density of 36 dwelling units per acre in accordance with KMC 18.24.040. Phase 1 proposes a total of 138 dwelling units on 2.76 acres for a net density of 50 dwelling units per acre. Future Phase 2 improvements (to be permitted under a separate Site Plan application) will consist of up to 187 dwelling units. The overall density for the entire site (Phase 1 and future Phase 2) will not exceed the maximum 72 dwelling units per acre.
- d. Pursuant to KMC 18.24.040, the minimum allowable street setback is 6 feet, with minimum

average setback of 8 feet, while the maximum allowable street setback is 10 feet. As authorized by the Development Agreement, deviations from the street setback on both 68th Avenue NE and NE 182nd Street as depicted on the site plan (exhibit 5) are allowed, subject to final approval of the Development Agreement.

- e. Pursuant to KMC 18.24.040, the minimum interior setback is 5 feet and increases to 20 feet when the site is adjoining a property zoned R-1 to R-6. All interior property line setbacks depicted on the Site Plan comply (exhibit 5).
- f. The maximum allowable building height is 80 feet in accordance with KMC 18.24.040. Pursuant to KMC 18.30.050.A, building height is measured from the “average finished grade” to the highest point of the roof. The plans indicate the average finished grade and building height for each of the four proposed buildings (exhibit 9). The proposed building heights comply.
- g. The maximum allowable impervious surface coverage in the DR zone is 90 percent of the lot area. The proposed impervious surface coverage for Phase 1 is 91,762 square feet. The total Phase 1 site area is 120,099 square feet. The net impervious surface coverage for Phase 1 is 76 percent (exhibit 5). The impervious surface coverage complies.

CONCLUSION: The application has been reviewed for compliance with the DR zone development standards and will comply with the applicable development standards. Departures from the DR zone development standards have been identified as part of the associated Development Agreement and approval of such departures are subject to final approval of the Development Agreement.

6. Recreation Space (KMC 18.30)

- a. On site recreation space is required pursuant to KMC 18.30.130. The recreation space is required to be provided at a rate of 45 square feet per dwelling unit and shall include permanent amenities such as seating, picnic tables, play equipment, etc. The site plan identifies an interior clubhouse amenity as well as potential outdoor amenities such as pool, hot tub, barbeque with dining area, play area, and outdoor seating. The on site recreation space will total 5,966 square feet and is intended to serve Phase 1 as well as the future Phase 2 development (exhibits 5, 24). The on site recreation space with minimum size of 5,966 square feet is allowed as authorized by the Development Agreement. A final recreation space plan providing a minimum of 5,966 square feet will be conditioned to be submitted for approval prior to issuance of an engineering permit pursuant to KMC 18.30.130.E.
- b. The development will pay park impact fees in accordance with KMC 20.47.130 as identified in the Development Agreement.

CONCLUSION: The application has been reviewed for compliance with recreation space requirements. Departures from the on site recreation space requirements have been identified as part of the associated Development Agreement and approval of the departure is subject to final approval of the Development Agreement.

7. Landscaping (KMC 18.35)

- a. The multifamily development is defined as a “residential development” for landscape screening purposes in KMC 18.35.030. Residential developments require an average minimum width of 5 feet of type 2 landscaping on interior property lines and 20 square feet of landscaping per exterior parking stall within parking areas, in accordance with KMC 18.35.045. A conceptual landscape

plan (exhibit 5) was submitted and reviewed for consistency with requirements.

- b. The minimum interior landscape width of 5 feet is not satisfied along portions of the southern property line. KMC 18.35.100.B.2 allows the average width of perimeter landscaping to be reduced up to 25 percent when the landscape materials are incorporated elsewhere on site. The portions of interior landscape width south of the Clubhouse and Building D1 comply with the allowable 25 percent reduction pursuant to KMC 18.35.100.B.2. The landscape width directly south of Building C does not meet the minimum required width or the allowable width reduction (exhibit 5). The landscape width reductions are allowed as authorized by the Development Agreement.
- c. The application will be conditioned such that a final landscape plan will be required for approval prior to issuance of an engineering and/or building permit.

CONCLUSION: The application has been reviewed for compliance with landscape requirements outlined in KMC 18.35 and will comply with applicable standards. Departures from the landscape requirements have been identified as part of the associated Development Agreement and approval of the departure is subject to final approval of the Development Agreement.

8. Downtown Design Standards (KMC 18.52)

- a. The site is subject design review under the Downtown Design Standards pursuant to KMC 18.52.070. Applications subject to design review shall be reviewed and processed following the permit procedures for the primary permit application consistent with KMC 19.25, as stated in KMC 18.52.075.A. Design review was conducted concurrently with the Site Plan application.
- b. The site is located within the “northwest quadrant” of the downtown subarea. As required in KMC 18.52.100.B.1, through block connections are required in the northwest quadrant. The development will provide pedestrian walkways throughout the site intended for use and circulation of residents living within the development (exhibit 5). As noted below, a new pedestrian connection to the property to the south will also be provided for the residents. The proposed pedestrian circulation is allowed, as authorized by the Development Agreement.
- c. Minimum pedestrian walkway (not including sidewalks on the perimeters of the site) widths for buildings greater than 3 stories in height is 8 feet, while the minimum average width is 12 feet in accordance with KMC 18.52.100.B.2.b. As shown on the site plan (exhibit 5), the proposed pedestrian walkways throughout the site are 5 feet wide. The walkway width deviation is allowed as authorized by the Development Agreement.
- d. The development will provide a new stairway connection to the property to the south, while removing the existing stairway connection near the southwest corner of the Phase 1 project limits (exhibits 4, 5). The new stairway will provide a pedestrian connection at the approximate mid-point of the Phase 1 project limits and will tie into a new pedestrian pathway currently under construction as part of the Kenmore Camera improvement project immediately to the south. Future improvements to the pedestrian pathway will occur as the remaining portions of the property to the south are re-developed. The stairway connection will be required to comply with applicable pedestrian walkway standards in KMC 18.52.100. Final stairway connection standards will be reviewed during building/engineering permit review.
- e. A conceptual level of detail has been submitted for lighting elements to demonstrate compliance with the lighting standards in KMC 18.52.140. Conceptual details include a preliminary

photometric plan depicting street lights and pedestrian lights (exhibits 7-8), as well as a landscape plan depicting bollard lighting throughout the site (exhibit 5, 26). A final comprehensive lighting plan for all of Phase 1 improvements will be required during building/engineering permit review and will be required to comply with minimum lighting standards in KMC 18.52.140.

- f. In accordance with KMC 18.52.180.B.1, where surface parking lots are adjacent to a public right-of-way, a minimum 10 foot wide planting strip between the parking lot and right-of-way shall be provided. While NE 182nd Street is currently a private road, the roadway provides the primary access to the site and may be dedicated to the City for public right-of-way purposes in the future. As such, the surface parking area on the north side of the site abutting NE 182nd Street between Buildings A1 and B1 is subject to the parking lot screening standards (exhibit 5). Portions of the planting strip in this location have been reduced to less than 10 feet, as authorized by the Development Agreement. The final screening elements and/or plant types provided to screen the parking area will require approval during building/engineering permit review.
- g. Outdoor service and storage areas, mechanical equipment, and trash enclosures are required to comply with the screening requirements in KMC 18.52.200. Additional detail to verify compliance with applicable screening requirements will be required on subsequent architectural and civil plans. Final review for compliance with the screening requirements will occur during building/engineering permit review.
- h. The conceptual civil plans (exhibit 5) identify a retaining wall near the southeast portion of the site. Additional detail regarding the final height and design of the retaining wall will be required to address the blank wall and side wall screening requirements in KMC 18.52.240. Final review for compliance with the blank wall and side wall screening requirements for all retaining walls will occur during building/engineering permit review.
- i. The design elevations and renderings (exhibit 9) provide detail to address the "Primary Residential Entrance" standards in KMC 18.52.320. The final building and engineering plans will be reviewed for compliance with these standards.
- j. Pursuant to KMC 18.52.075.B, a design departure may be granted provided the applicant demonstrate: 1) The proposal results in superior design and fulfills the policy basis for the applicable design regulations and design guidelines; and 2) The departure will not have any substantial detrimental effect on nearby properties and the City or the neighborhood.
- k. In accordance with KMC 18.52.340.B.2.b, panel siding materials incorporated into the project design shall not exceed a maximum of 9 square feet. Based on the building designs (exhibit 9), the use of proposed panel materials throughout the project will exceed 9 square feet. The applicant submitted a design departure request (exhibit 27) to address this matter. As noted in the applicant's request, the proposed panel material will be used on various facades of the buildings in conjunction with differing sizes and use of other materials. The use of all of the materials and colors combined will meet the intent of breaking up the mass of the proposed buildings. Furthermore, the use of panels exceeding the allowable size will not cause a detrimental effect on nearby properties, the City, or neighborhood. The use of differing materials and colors will result in a high quality design. The design departure to allow use of panel materials larger than 9 square feet in size is approved.
- l. Two-light horizontal sliding windows are not permitted on buildings subject to the Downtown Design Standards pursuant to KMC 18.52.350.C. The applicant submitted a design departure request (exhibit 27) to allow use of these types of windows. As noted in the applicant's request,

two-light horizontal sliding windows have the same appearance as casement windows and can be a part of a high quality building design when combined with trim, color treatments, and varied window sizes and configurations (exhibit 9). The proposal to incorporate two-light horizontal sliding windows, in conjunction with other design features, will result in a superior design which meets the intent of the City's window design standards. Use of these types of windows will not cause a detrimental effect on nearby properties or the neighborhood. The design departure to allow use of two-light horizontal sliding windows, in conjunction with other window treatments and architectural details, is approved.

- m. Windows are required to comply with the standards in KMC 18.52.350. Final review for compliance with applicable window standards, including transparency and trim, will occur during building/engineering permit review.
- n. The buildings proposed as part of the Phase 1 development have been reviewed for compliance with the site and building design standards. The site plan, building elevation drawings, design renderings, and materials details (exhibits 5, 7, 9, 10) comply (or will be conditioned accordingly for compliance) with the site and building design standards. The application will be conditioned for the project design to be incorporated into all subsequent building and engineering permit plans.

CONCLUSION: The application was reviewed for compliance with KMC 18.52. The application complies with the applicable standards provided in the Downtown Design Standards, KMC 18.52. Departures from the Downtown Design Standards (other than those administrative design departures approved administratively) have been identified and are authorized subject to final approval of the associated Development Agreement.

9. Affordable Housing (KMC 18.77)

- a. The proposed development is subject to the affordable housing requirements in KMC 18.77. Compliance with the requirements of KMC 18.77, in addition to the affordable housing covenant recorded on the subject property (recording #20050110001850) (exhibit 2), are addressed as part of the Development Agreement. The development complies with affordable housing requirements, pending approval of the Development Agreement.

CONCLUSION: The affordable housing provisions of KMC 18.77 are addressed as part of the Development Agreement.

10. Road Standards, Traffic, & Parking (KMC 12.50, 1993 KCRS, & KMC 18.40)

- a. The portion of 68th Avenue NE fronting the site is classified as a downtown collector arterial (urban) street which requires a minimum 44 foot pavement width, vertical curb and gutter, 10 foot sidewalk utilizing a 2 foot by 2 foot scoring pattern, irrigated tree wells at the back of curb at 40 foot on center with above ground electrical receptacles, specialized street lighting with banner brackets, specialized pedestrian lighting with hanging flower pot brackets, undergrounded utilities, and a full-width 2 inch overlay for the entire length of the project frontage.
- b. The portion of 68th Avenue NE fronting the site shall be improved to current City standards in addition to including drip irrigation for the hanging flower baskets as authorized in the Development Agreement.
- c. A right-of-way dedication along 68th Avenue NE will be required for the development in order to

meet the minimum width necessary to comply with downtown collector arterial (urban) standards. The new right-of-way line shall be drawn at the back of the proposed street frontage improvements.

- d. The 68th Avenue NE improvements shall generally be consistent with the improvements for the Kenmore City Hall project on the east side of 68th Avenue NE.
- e. As authorized by the Development Agreement, the applicant shall provide a study pertaining to pedestrian safety on 68th Avenue NE and shall, upon City approval of the study, install and construct necessary improvements to the existing pedestrian crossing of 68th Avenue NE near the vicinity of the intersection with NE 182nd Street as may be recommended by the study.
- f. NE 182nd Street is a private road with pavement widths between 24 feet and 36 feet, vertical curb and gutter on both sides, and 5-6 foot sidewalk on both sides.
- g. NE 182nd Street may be dedicated to the City as a public road within right-of-way or a permanent public easement. The dedicated right-of-way or easement lines shall follow along the back of the existing frontage improvements on the north side and along the back of the new sidewalk on the south side.
- h. Since a portion of the NE 182nd Street private road is currently on the adjacent property to the north, the roadway dedication will need to be coordinated with the adjacent property owner in order to provide the full width of the roadway dedication at one time.
- i. The portion of NE 182nd Street fronting the site is classified as a downtown multi-dwelling access street requiring 36 foot pavement width, vertical curb and gutter, 10 foot sidewalk utilizing a 2 foot by 2 foot scoring pattern, irrigated tree wells at the back of curb at 40 feet on center, specialized street lighting, specialized pedestrian lighting, undergrounded utilities, a full-width 2 inch overlay for the entire length of the project frontage, and construction of an ADA compliant curb ramp at the northwest corner of the intersection of 68th Avenue NE and NE 182nd Street. The current Site Plan (exhibit 5) will be conditioned to be revised to include a 10 foot sidewalk on NE 182nd Street prior to engineering permit issuance.
- j. As authorized by the Development Agreement, the south side of NE 182nd Street will be improved to provide a minimum 28 foot pavement width, vertical curb and gutter, 10 foot sidewalk utilizing a 2 foot by 2 foot scoring pattern, irrigated tree wells at the back of curb at 40 feet on center, specialized street lighting, specialized pedestrian lighting, undergrounded utilities, a full-width 2 inch overlay for the entire length of the project frontage, and construction of an ADA compliant curb ramp at the northwest corner of the intersection of 68th Avenue NE and NE 182nd Street. A portion of the roadway must be 36 feet in width to provide a 3 lane section near the intersection of NE 182nd Street and 68th Avenue NE.
- k. Per KMC 18.40.030, assuming 61 studio units, 41 one bedroom units, and 36 two bedroom units, 184 parking stalls would be required for Phase 1 of the development. The applicant has prepared a parking demand study utilizing the King County Metro "Right Size Parking" model which indicates the parking demand for Phase 1 is 148 parking stalls, resulting in an overall parking of reduction of 20 percent, or 36 stalls (exhibits 14, 29).
- l. In accordance with the information provided in the approved Traffic Impact Analysis, the Right Size parking model (exhibit 14), and the associated Development Agreement a parking reduction

of 20 percent, or 36 stalls, has been allowed resulting in the final parking requirement of 148 stalls. Should the Phase 1 scope be revised so the inputs of the Right Size parking model are no longer applicable, including but not limited to changes in the number and types of units proposed, the parking calculation shall be updated and the number of required parking stalls be updated accordingly. Additionally, a separate parking study will be required with the Phase 2 site plan submittal in which all variables and observations shall be updated to reflect any impacts of Phase 1, as appropriate.

- m. All parking stalls and access aisles shall comply with KMC 18.40.110. Compliance with these regulations will be verified during engineering permit review.
- n. KMC 18.40.110.M requires that dead-end alleys and drive aisles may not provide access to more than 8 off street parking stalls. This standard does not apply to the parking areas within development, as authorized by the Development Agreement, provided that sufficient space is provided for vehicle back-out and turning movements.
- o. Phase 1 parking (exhibit 5) meets the minimum parking requirements of 148 stalls. Currently, 14 parking stalls for Phase 1 have been provided on a portion of the Phase 2 site. These 14 required Phase 1 parking stalls will need to be accounted for in addition to the future Phase 2 parking demand at the time an application is filed for development of Phase 2.
- p. The portion of the Phase 2 site which is being used to satisfy Phase 1 parking requirements will need to be modified and/or re-striped to comply with parking and access circulation requirements per KMC 18.40.110. Compliance with these regulations shall be verified during Phase 1 engineering permit review.
- q. Based on the proposed number of parking stalls, 5 ADA compliant stalls are required. Of the required ADA compliant stalls, one of them is required to be van accessible. The proposed site plan (exhibit 5) satisfies this requirement.
- r. Per KMC 18.40.030.E, 1 bicycle parking space per every 12 vehicle parking spaces and 1 indoor bicycle parking space per 2 apartment units is required for a multifamily development project. As authorized by the Development Agreement, the bicycle parking ratio has been reduced to provide for 1 bicycle space per every 5 dwelling units, with 1 bicycle parking space per 10 dwelling units being provided indoors or within covered areas.
- s. The development will pay traffic impact fees in accordance with KMC 20.47.120 as identified in the Development Agreement. The project Traffic Impact Analysis (exhibit 14) has identified 24 peak hour trips in the current site condition which may be deducted from the required traffic impact fees charged for the first building permit submittal, and as also identified in the Development Agreement.
- t. As authorized by the associated Development Agreement, the applicant shall relocate the existing overhead lines running east/west on the adjacent property to the south to an underground trench; details for compliance with this requirement shall be review during the engineering permit submittal.

CONCLUSION: The application was reviewed for compliance with the road standards and parking requirements as outlined in the 1993 KCRS, KMC 12.50, and KMC 18.40. The application complies with applicable standards. Departures from the standards have been identified as part of the associated Development Agreement and are authorized subject to final approval of the development agreement.

11. Surface Water (KMC 13.35 & 2009 KCSWDM)

- a. Based on the project scope the project will require Full Drainage Review per KMC 13.35 and 2009 *King County Surface Water Design Manual* (KCSWDM). The project has submitted conceptual civil plans (exhibit 5) and Preliminary Technical information report (TIR) (exhibit 13) to demonstrate that the project can comply with the drainage requirements.
- b. The project has proposed to meet the Level 2 flow control standard utilizing an exception within the KCSWDM which permits for a Level 1 flow control standard for the project site. Within the Level 1 flow control standard, the site qualifies for a further exception within the Level 1 flow control standard to provide a Reduced Level 1 Flow Standard. The applicant must still demonstrate that flooding conditions have not been worsened in the downstream system and the preliminary TIR suggests that this requirement will be accomplished by matching the existing 100-year peak flow in the developed condition.
- c. The conceptual civil plans and preliminary TIR (exhibits 5, 13) demonstrate that the proposed flow control facility will be adequately sized for the proposed Phase 1 and future Phase 2 improvements up to the maximum impervious limit of 90 percent of the site area permitted pursuant to the DR zone in KMC 18.24.040. Provided that impervious surfaces do not exceed the maximum allowed within the DR zone, no further flow control analysis will be needed for Phase 2.
- d. Infiltration has not yet been evaluated and will be required prior to the issuance of an engineering permit.
- e. The conceptual civil plans and preliminary TIR (exhibits 5, 13) demonstrate that the proposed water quality facility is adequately sized for the proposed Phase 1 improvements only. New calculations and a separate water quality facility will be required for Phase 2.
- f. The project will provide adequate flow control best management practices (BMPs), or low impact development (LID), to comply with KCSWDM 5.2.1 requirements by using "flow through planter beds" per the *Low Impact Development Approaches Handbook*, which the City has preliminarily accepted for use on this project. Additional sizing details and construction standards will be evaluated during the engineering permit review.
- g. The project storm drainage system will outlet through the adjacent property to the south and will require an easement for this to occur. A recorded copy of all easements required for off site work will be required prior to beginning construction.

CONCLUSION: The application was reviewed for compliance with KMC 13.35 and the 2009 KCSWDM. The application will be conditioned to be reviewed for final compliance during construction permit review.

12. Fire Protection & Emergency Access (KMC Title 15 & KMC 18.45)

- a. Fire protection and emergency access requirements are outlined in KMC 18.45.080 and KMC Title 15. The Northshore Fire District Fire Marshal reviewed the application for compliance with applicable requirements and determined the application complies (exhibit 23).

- b. Fire sprinkler systems designed and installed in accordance with the International Fire Code (IFC) and the applicable NFPA standard will be required to be installed throughout the buildings. The fire sprinkler systems in townhome buildings shall be installed in accordance with NFPA 13D, minimum; multifamily buildings up to four stories in height shall meet the requirements of NFPA 13R, minimum; buildings more than four stories shall be equipped with fire sprinkler systems installed in accordance with NFPA 13:
 - a. Exterior access to the sprinkler riser rooms is required;
 - b. The fire department connections for the sprinkler systems (NFPA 13 & 13R) shall be installed at locations determined during the building/engineering permit review.
 - c. The parking garage option will require a sprinkler system designed in accordance with NFPA 13 in the garage.
- c. A fire alarm system designed and installed in accordance with the IFC, NFPA 72 and the Northshore Fire Department standards will be required to be installed in each building exceeding 3,000 square feet (except townhomes).
- d. Fire apparatus access shall be provided to within 150 feet of all exterior portions of the first floor of the buildings. Emergency vehicle access roads shall be designed in accordance with the International Fire Code Section 503 and the Kenmore Road Standards.
- e. The number and locations for new fire hydrants required for the development will be determined during the building/engineering permit review.
- f. If any floor level is more than 30 feet above the lowest level of fire department access, a Class I standpipe will be required in each stairwell.
- g. The proposed vehicle access meets the requirements of KMC 15.10.045 and Section 503 of the 2012 International Fire Code.

CONCLUSION: The application meets the requirements for emergency access and applicable fire protection requirements. The application will be conditioned so that applicable fire protection and emergency access standards are incorporated into necessary plans and verified prior to project completion.

13. Water & Sewer (KMC Title 13 & KMC 18.45)

- a. The Northshore Utility District will serve the site with water and sewer. The application was reviewed for compliance with KMC 18.45.030 and 18.45.040 for adequate water and sewer services. Certificates of water and sewer availability (exhibit 3) were completed by the Northshore Utility District for the development and note that adequate water and sewer is available to serve the development.
- b. The site currently has a ¾ inch water meter which will need to be abandoned. Individually owned townhomes are required to have individual water meters. Apartment buildings are allowed to use a single meter per building. If irrigation is required, a dedicated irrigation meter will be required with a double-check valve assembly. The water system will be conditioned to incorporate a “looped” system through the future Phase 2 portion of the development (exhibit 22).
- c. The site is currently connected to sewer which will need to be abandoned. Individually owned townhomes are required to have individual side sewers. Apartment buildings are allowed to use a

single side sewer per building. The sewer connection to the existing manhole in NE 181st Street south of the project site as shown on the preliminary utility plan will require off site sewer installation and an off site easement. Sewer and water easements are required if not installed in public right-of-ways. Easements are required to be 15 feet wide. The application will be conditioned for appropriate easements to be obtained (exhibit 22).

CONCLUSION: The application meets the water and sewer requirements in KMC Title 13 and KMC 18.45. The application will be conditioned to ensure all requirements related to water and sewer are met prior to completion of the project.

14. Schools

- a. The development will be served by the Northshore School District. The site plan was sent to the school district for review and completion of a Request for School Information form (exhibit 20). According to the school district, all school-aged children will be expected to walk to the school bus stop located at the intersection of 65th Avenue NE and NE 181st Street.
- b. The Northshore School District notes that safe walking pathways to schools and bus stops are essential. Walking pathways will be provided from the site to the school bus stop location through a combination of internal pedestrian walkways, new frontage improvements abutting the project site on NE 182nd Street and 68th Avenue NE, and existing public sidewalks on 68th Avenue NE 181st Street leading to the school bus stop location. The proposed improvements in conjunction with existing off site walking conditions to the school bus stop location provide acceptable walking paths for school-aged children.
- c. The development will pay school impact fees in accordance with KMC 20.50.010 as identified in the Development Agreement.

CONCLUSION: The development will be served by the Northshore School District. A combination of new internal pedestrian walkways, new frontage improvements abutting the project site, and existing public sidewalks in the project vicinity will provide adequate walking paths for school-aged children walking to the school bus stop at the intersection of 65th Avenue NE and NE 181st Street.

V. CONDITIONS OF APPROVAL:

Based upon the above Findings and Conclusions, the above referenced Site Plan application complies with KMC Title 18, as well as other adopted City regulations. The Site Plan application is hereby **approved**, subject to the following conditions:

A. General Conditions

1. The Site Plan approval shall not become effective until the City Council passes an ordinance authorizing the associated Development Agreement to be executed.
2. Departures from development regulations are subject to approval of the associated development agreement.
3. Separate City permits are required prior to beginning any construction activity and shall include, but not be limited to, engineering permit for all Phase 1 site work and a building permit for each proposed structure on the site. All construction permit plans shall comply with the approved site plan (exhibit 5), conditions of approval, and the Development Agreement. Revisions and/or modifications to the site plan or construction permits shall be consistent with KMC 18.105, KMC

19.25.080, and as otherwise may be authorized by the Development Agreement.

4. Unless otherwise authorized by the Development Agreement, all engineering and building permit plans shall comply with the minimum required development standards of the DR zone including, but not limited to, building height, impervious surface limits, setbacks, and on site recreation space.
5. Site Plan approval does not limit the applicant's responsibility to obtain any required permit or license from the State or other regulatory body.

B. Conditions of Approval Required for Engineering and/or Building Permit Issuance

1. The project shall comply with all provisions of Full Drainage Review per KMC 13.35 and the 2009 King County Surface Water Design Manual as adopted by the City.
2. Prior to engineering permit approval, at least one soils investigation and infiltration test shall be provided to assess the feasibility of infiltration on the site. If infiltration is feasible, it must be utilized.
3. Recorded copies of all easements required for all off site work shall be submitted to the City prior to beginning any construction activity on the site.
4. 68th Avenue NE is classified as a downtown collector arterial (urban) and shall be improved to the full City standard which requires a minimum 44 foot pavement width, vertical curb and gutter, 10 foot sidewalk utilizing a 2 foot by 2 foot scoring pattern, irrigated tree wells at the back of curb at 40 foot on center with above ground electrical receptacles, specialized street lighting with banner brackets, specialized pedestrian lighting with hanging flower pot brackets and drip irrigation, undergrounded utilities, a full-width 2 inch overlay for the entire length of the project frontage, and a right-of-way dedication to the back of the required improvements.
5. The applicant shall provide a study pertaining to pedestrian safety on 68th Avenue NE and shall, upon City approval of the study, install and construct necessary improvements to the existing pedestrian crossing of 68th Avenue NE near the vicinity of the intersection with NE 182nd Street as may be recommended by the study prior to final construction approval.
6. NE 182nd Street fronting the site is classified as a downtown multi-dwelling access street and shall be improved to provide a minimum 28 foot pavement width, vertical curb and gutter, 10 foot sidewalk utilizing a 2 foot by 2 foot scoring pattern, irrigated tree wells at the back of curb at 40 foot on center, specialized street lighting, specialized pedestrian lighting, undergrounded utilities, a full-width 2 inch overlay for the entire length of the Phase 1 frontage, construction of an ADA compliant curb ramp at the northwest corner of the intersection of 68th Avenue NE and NE 182nd Street, and a right-of-way dedication to the back of the required improvements. As shown on the site plan (exhibit 5), a portion of the roadway must be 36 feet in width to provide a three lane section near the intersection of NE 182nd Street and 68th Avenue NE, as depicted on the site plan (exhibit 5). All construction plans shall revise the current site plan (exhibit 5) to include a 10 foot sidewalk on NE 182nd Street.
7. The City shall not accept NE 182nd Street as a public road until the full width of improvements, including portions on the adjacent property to the north, can be dedicated at once or included in a permanent easement to the City of Kenmore. If the full width of improvements cannot be within a

dedicated public right-of-way or a permanent easement granted to the City, the road will remain privately maintained until the condition is satisfied.

8. No projections or obstructions with a vertical clearance less than 7 feet will be permitted within public walkways.
9. The project shall provide a minimum of 148 parking stalls as determined from information included with the approved King County Metro Right Size Parking model and TIA (exhibit 14). If the project scope changes so that the inputs of the current model are no longer appropriate, an updated study shall be provided by the applicant prior to approval of the engineering permit.
10. All parking stalls and access aisles, including the Phase 2 portions of the site, shall comply with KMC 18.40.110 with the exception that, subsection 'M' shall not apply, as authorized as part of the Development Agreement.
11. All parking stalls required to meet Phase 1 parking demand located on the Phase 2 portion of the site shall be re-established as part of Phase 2 in addition to the minimum required parking for Phase 2 improvements. Use and access to these Phase 1 stalls on Phase 2 shall be maintained during Phase 2 development.
12. The applicant shall provide bicycle parking at a ratio for 1 stall per 5 units, with 1 stall per 10 units being indoors or within covered areas.
13. The applicant shall underground the existing overhead lines running east/west on the adjacent property to the south to an underground trench.
14. All construction details and/or specifications of design elements shall be provided during engineering and/or building permit review as necessary to demonstrate compliance with required Downtown Design Standards in KMC 18.52 and to ensure construction of such elements.
15. All building plans shall comply with the approved building elevations and project renderings (exhibits 9, 10) and shall incorporate all required features and elements required for compliance with the Downtown Design Standards in KMC 18.52. Any modifications to design features shall require City approval.
16. The final southern stairway connection design shall comply with applicable pedestrian pathway requirements in KMC 18.52.100 and shall be reviewed for compliance with other applicable City standards prior to permit issuance. The stairway shall connect to the property to the south (Kenmore Village Commercial) and shall be constructed prior to final Phase 1 certificate of occupancy.
17. A final lighting plan in compliance with the minimum lighting standards in KMC 18.52.140 for all of Phase 1 improvements shall be approved prior to engineering/building permit issuance.
18. Final screening of outdoor service and storage areas, mechanical equipment, and trash enclosures shall be identified on all applicable plans and meet the screening requirements in KMC 18.52.200.
19. The retaining wall near the southeast portion of the site shall be provided with blank wall/side wall screening treatments as required in KMC 18.52.240. A final screening and retaining wall

design shall be approved by the City.

20. All use of two-light horizontal sliding windows shall be complimented with trim, color treatments, varied window sizes and configurations, and other treatments, as depicted, or similar, to those depicted in the building design elevations and renderings (exhibit 9).
21. A final landscape plan for all of Phase 1 improvements in compliance with KMC 18.35 and the approved Site Plan, including deviations authorized by the associated Development Agreement, shall be filed for review as part of engineering/building permit review.
22. The final screening elements and/or plant types provided to screen surface parking areas shall be approved as part of the final landscape plan approval.
23. The applicant is responsible for payment of park impact and traffic impact fees as identified and authorized by the Development Agreement.
24. Engineering and building plans shall be reviewed for compliance with emergency access, fire alarm, and fire sprinkler requirements.
25. Fire sprinkler systems designed and installed in accordance with the International Fire Code (IFC) and the applicable NFPA standard shall be installed throughout the buildings. The fire sprinkler systems in townhome buildings shall be installed in accordance with NFPA 13D; multifamily buildings up to four stories in height shall meet the requirements of NFPA 13R; buildings more than four stories shall be equipped with fire sprinkler systems installed in accordance with NFPA 13:
 - a. Exterior access to the sprinkler riser rooms is required;
 - b. The fire department connections for the sprinkler systems (NFPA 13 & 13R) shall be installed at locations determined during the building/engineering permit review.
 - c. The parking garage option shall require a sprinkler system designed in accordance with NFPA 13 in the garage.
26. A fire alarm system designed and installed in accordance with the IFC, NFPA 72 and the Northshore Fire Department standards shall be installed in each building exceeding 3,000 square feet (except townhomes).
27. Fire apparatus access shall be provided to within 150 feet of all exterior portions of the first floor of the buildings. Emergency vehicle access roads shall be designed in accordance with the International Fire Code Section 503 and the Kenmore Road Standards.
28. The number and locations for new fire hydrants required for the development shall be determined during the building/engineering permit review.
29. If any floor level is more than 30 feet above the lowest level of fire department access, a Class I standpipe will be required in each stairwell.
30. The existing ¾ inch water meter serving the site shall be abandoned. Individually owned townhomes shall have individual water meters. Apartment buildings are allowed to use a single meter per building. If irrigation is required, a dedicated irrigation meter shall require a double-check valve assembly. The water system shall incorporate a "looped" system through the future Phase 2 portion of the development.

31. The existing sewer currently serving the site shall be abandoned. Individually owned townhomes shall have individual side sewers. Apartment buildings are allowed to use a single side sewer per building. The sewer connection to the existing manhole in NE 181st Street south of the project site as shown on the preliminary utility plan shall provide an off site sewer installation and an off site easement. Sewer and water easements are required if improvements are not installed in public right-of-ways. Easements shall be 15 feet wide. Any necessary easements shall be provided prior to issuance of construction permits.

C. Conditions of Approval Required Prior to Phase 1 Final Certificate of Occupancy

1. Minimum required improvements, as identified by the City, associated with each building shall be installed and approved by the City prior to issuance of a certificate of occupancy or temporary certificate of occupancy on each building.
2. The required right-of-way dedication on the 68th Avenue NE property frontage shall be completed and recorded prior to issuance of a final certificate of occupancy issued for Phase 1.
3. All required landscaping and elements required as part of the compliance with KMC 18.52, Downtown Design Standards, shall be completed and approved by the City prior to final certificate of occupancy for Phase 1.
4. The new stairway connecting to the property to the south (Kenmore Village Commercial) shall be constructed prior to final Phase 1 certificate of occupancy.
5. Compliance with the bicycle parking requirements as identified and authorized by the associated Development Agreement shall be verified prior to final certificate of occupancy for Phase 1.
6. All fire department conditions related to emergency access, fire sprinklers, and fire alarms shall be satisfied for each certificate of occupancy issued for each building within Phase 1. All final fire department conditions shall be satisfied prior to final certificate of occupancy for Phase 1.
7. Final approval from the Northshore Utility District (NUD) shall be provided for all required Phase 1 water/sewer improvements prior to final certificate of occupancy for Phase 1.

VI. APPEALS:

Pursuant to KMC 18.110.050.F, the final decision of the Development Services Director on the Site Plan and SEPA Determination shall become effective on the date that the City Council passes the ordinance for the Development Agreement. The period for appealing such final decision, as provided in KMC 19.25.020, shall commence on the date that the City Council passes such ordinance.

In accordance with KMC 19.25.020, the Site Plan decision and/or SEPA Determination may be appealed to the City of Kenmore Hearing Examiner. A Notice and Statement of appeal must be filed with the Kenmore City Clerk within 21 days from the effective date of this decision. The Notice and Statement of appeal shall state: 1) Specific reasons why the decision should be reversed or modified; and 2) The harm suffered or anticipated by the appellant and the relief sought. The scope of an appeal shall be based on matters or issues raised in the Statement of Appeal. Failure to file a Notice and Statement of appeal deprives the Hearing Examiner jurisdiction to consider the appeal.

The Notice and Statement of appeal must be submitted to the City Clerk at Kenmore City Hall no later than 21 days from the effective date (noted below), and be accompanied with a filing fee of \$125

payable to the City of Kenmore.

Date of Site Plan Administrative Decision: November 25, 2013

Decision issued by:


Bryan Hampson
Development Services Director

Development Agreement Ordinance: #13-0371

Effective Date of Site Plan Approval and SEPA Determination: _____

Site Plan and SEPA Determination Appeal Deadline (21 days after effective date): _____



City Of Kenmore, Washington

EXHIBIT LIST TO STAFF REPORT

Kenmore Village Residential Phase 1 File No. CSP2013-073

1. Permit application dated received 10/15/13
2. Title report and attachments dated received 10/15/13
3. Certificate of water and sewer availability dated received 10/15/13
4. Site survey prepared by Axis Survey & Mapping dated received 10/15/13
5. Conceptual civil plan prepared by Blueline, and conceptual landscape plan prepared by Weisman dated received 11/20/13 (previous versions dated received 10/15/13, 10/25/13, 11/6/13)
6. Site development shadow study prepared by Dahlin dated received 10/15/13
7. Preliminary lighting plan prepared by PSE Intolight dated received 10/15/13
8. Lighting specifications sheets dated received 10/15/13
9. Design review submittal plans prepared by Dahlin dated received 11/22/13 (previous versions dated received 11/20/13, 10/25/13, 10/29/13, 11/6/13)
10. Color and materials details prepared by Dahlin dated received 11/6/13
11. Site plan project narrative dated received 10/15/13
12. Phase I environmental site assessment dated received 10/15/13
13. Preliminary technical information report prepared by Blueline dated received 11/6/13 (previous version dated received 10/15/13)
14. Transportation impact analysis prepared by Transpo dated received 11/6/13 (previous version dated received 10/15/13)
15. Design standards review checklist dated received 10/25/13
16. SEPA environmental checklist dated received 10/15/13, reviewed by City dated 10/23/13 & 11/25/13
17. Letter of complete application from City dated 10/24/13
18. Notice of Application and Optional SEPA Notice issued 10/31/13 with attached mailing list, affidavit of publication, affidavit of posting, and affidavit of mailing
19. Public comments received during the Notice of Application/SEPA comment period
20. Request for school information completed by Northshore School District
21. City's first review comments (combined planning, drainage, traffic/street standards) dated 11/1/13
22. Northshore Utility District first comments dated 11/5/13
23. Northshore Fire District comments/conditions dated 8/13/13
24. Applicant response letter to City's first review comments dated received 11/6/13
25. City second review comments (combined planning, drainage, traffic/street standards) dated 11/13/13
26. Design reference images prepared by Weisman dated received 10/25/13
27. Applicant response letter to City's second review comments dated received 11/20/13
28. Window photo examples dated received 11/20/13
29. Updated parking demand analysis prepared by Transpo dated received 11/20/13
30. Site plan exhibit Kenmore Municipal Code deviations for all project phases

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

Expedited Permit Review and Submittal Time Periods
Kenmore Village Residential
Permitting Schedule- MainStreet and City of Kenmore

Purchase & Sale Agreement Timeline:

Feasibility Waiver Date	10/9/2013
Required Site Plan Submittal	1/7/2014
Development Agreement Approval	1/6/2014
Closing Date	6/30/15 Or Building Permit Issuance

Milestones	Submittal Date	Total Review(s) Timing to Recommendation (includes subsequent revisions and reviews)	1st Review (includes completeness & portion of 21 day comment period)	MSPG Response Time and Resubmittal	2nd Review	MSPG Response Time and Resubmittal	City 3rd Review	City Recommendation on Dev Agrmnt (min. 10 days prior to Council mtg)*	Expected Decision/Issuance	Comments	Appeal Period (21 days)
Development Agreement	10/11/13	6+ Weeks	3 Weeks	1 Week	1 Week	3 days	2 Days	11/27/13	12/9/13		
Site Plan	10/11/13	6+ Weeks	3 Weeks	1 Week	1 Week	3 days	2 Days	11/27/13	12/9/13	Site plan, SEPA, design review all reviewed concurrently. Effective after Dev Agrmnt approved by Council	12/30/13
SEPA	10/11/13	6+ Weeks						11/27/13	12/9/13		12/30/13
Design Review	10/23/13	5 Weeks	2 Weeks	1 Week	2 days	3 days	2 days	11/27/13	12/9/13		12/30/13
Engineering Permit (clearing, grading, site improvements)	1/20/14	12 Weeks	6 Weeks	2 Weeks	2 Weeks	1 Week	1 Week		4/14/14	Includes review and MSPG response(s) prior to issuance	
ROW and Utility Permits	1/20/14	12 Weeks	6 Weeks	2 Weeks	2 Weeks	1 Week	1 Week		4/14/14	Includes review and MSPG response(s) prior to issuance	
Foundation Permit	2/15/14	12 Weeks	6 Weeks	2 Weeks	2 Weeks	1 Week	1 Week		5/10/14		
Building Permit Submittal	3/30/14	11 Weeks	5 Weeks	2 Weeks	2 Weeks	1 Week	1 Week		6/15/14		

*Assumes 1 public hearing required, and hearing occurs same meeting as proposed action on Dev Agrmnt

EXHIBIT D

AFTER RECORDING, PLEASE RETURN TO:

City of Kenmore
Attn: City Manager
P.O. Box 82607
Kenmore, WA 98028

CERTIFICATE OF SATISFACTION

Grantor: City of Kenmore, a Washington municipal corporation

Grantee: _____ [Developer]

Short Legal Description: [insert short legal]
[Complete legal description on Exhibit A]

Assessor's Property Tax
Parcel/Account Number(s): [insert parcel number(s)]

Reference Number(s) of
Documents Assigned
or Released: [reference Memorandum of Development Agreement rec. no.]

CERTIFICATE OF SATISFACTION

This CERTIFICATE OF SATISFACTION ("Certificate") is issued as of the ____ day of _____, 20__, pursuant to the Development Agreement referred to below, by the CITY OF KENMORE, a Washington municipal corporation ("City"), to MSPT VI LLC, a Washington limited liability party, and/or its successors and assigns ("Developer").

RECITALS

A. Reference is made to that certain Memorandum of Agreement of Development Agreement By and Between the City of Kenmore and MSPT VI LLC, for the Kenmore Village Residential Development entered as of [date], recorded [date] (the "Development Agreement"), under Recording No. [#####] (the "Memorandum"). Capitalized terms used and not defined herein shall have the meanings assigned thereto in the Development Agreement.

78782-0016/LEGAL28541162.1

B. Simultaneously with its execution of the Development Agreement, the City approved the Site Plan Application for the Project in the form of Exhibit C to the Development Agreement. Phase __ of the Project encompasses the property legally described in attached Exhibit 1 hereto (the "Property") and depicted in the drawing attached as Exhibit 2 hereto.

C. This Certificate is being delivered by City in accordance with, and as required by, Section 8.3(a) of the Development Agreement.

NOW THEREFORE, City hereby acknowledges that, as of the date hereof, the City has issued a certificate of occupancy for Phase __ of the Project and that the City is satisfied that each condition set forth in the Development Agreement relating to the design and construction of such phase has been satisfied. This Certificate of Satisfaction is issued solely for the purposes stated in Section 8.3(a) of the Development Agreement, is issued solely to Developer and not to or for the benefit of any other person, and does not constitute a representation or warranty by the City for any other purpose.

Notwithstanding this Certificate of Satisfaction, Section 16 of the Development Agreement provides for survival of certain covenants as between City and Developer, and nothing in this Certificate of Satisfaction affects such survival.

[Signature Page Follows]

EXHIBIT E

AFTER RECORDING RETURN TO:

City of Kenmore
Attn: City Manager
P.O. Box 82607
Kenmore, WA 98028

TERMINATION OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF KENMORE AND MSPT VI LLC, FOR THE KENMORE VILLAGE RESIDENTIAL DEVELOPMENT

Grantor(s): City of Kenmore, a Washington municipal corporation
Grantee(s): MSPT VII, LLC, a Washington limited liability company
Short Legal Description: Ptn Sec. 11, Tp 26 N, R 4E
[Complete legal description on Ex. A]
Assessor's Property Tax Parcel/Account Number(s): 112604-9151-00
Reference Number(s) of Document(s) Released: [insert after recording of Memorandum of Development Agreement]

By Memorandum of Agreement of Development Agreement entered as of [date], recorded [date], under Recording No. [#####] (the "Memorandum"), Grantor and Grantee gave notice of their entry into that certain Development Agreement By and Between the City of Kenmore and MSPT VI LLC, for the Kenmore Village Residential Development, dated as of the ____ day of _____, 2014 (the "Development Agreement"), affecting the real property described on Exhibit A hereto (the "Property").

Pursuant to Section 16.3 of the Development Agreement, "[t]his Agreement shall terminate upon the expiration of the term identified in Section 6 or upon issuance of the certificate of occupancy for the final phase of the Project, whichever first occurs. Upon the occurrence of either event identified in the immediately preceding sentence, the City shall record a notice of termination in a form substantially similar to that notice attached as Exhibit F." Grantor and Grantee [or, if and as appropriate, successor/assign] agree that [describe the first occurring event] occurred as of [date]. Accordingly, this

Memorandum of Agreement provides notice of record that the Development Agreement has been fully terminated as of the date hereof. Notwithstanding this notice of termination, Section 16 of the Development Agreement provides for survival of certain covenants as between City and Developer, and nothing in this notice affects such survival. Except as to such surviving terms, the Development Agreement is of no force or effect as to the Property, and no longer encumbers or otherwise affects the Property.

Dated: _____

CITY OF KENMORE,
a Washington municipal corporation

[form only; not for execution]

By: _____
Its: City Manager

[illegible]

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the CITY MANAGER of CITY OF KENMORE, a Washington municipal corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

Print Name: _____

Notary Public in and for the State of
Washington, residing at _____
My commission expires: _____



KENMORE VILLAGE APARTMENT HOMES

DESIGN REVIEW SUBMITTAL 11.22.2013



JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.1



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

PHASE 1 - ELEVATION CONCEPT
SOUTHWEST AERIAL

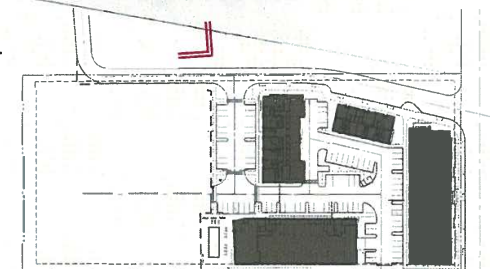


JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.2



NORTHWEST AERIAL



KEYMAP

KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

PHASE 1 - ELEVATION CONCEPT
NORTHWEST AERIAL

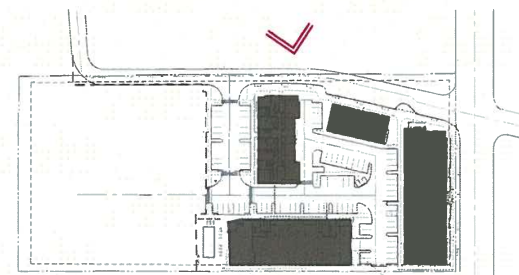


JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.3



NORTH PERSPECTIVE



KEYMAP

KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

PHASE 1 - ELEVATION CONCEPT
NORTH PERSPECTIVE



JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94586
925-251-7200

A.4



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING A1 - ELEVATIONS

DAHLIN group

SCALE 1"=10'

JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.5



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING A1 - ELEVATION CONCEPT

DAHLIN group	JOB NO. 1130.005	A.6
	DATE 11-22-2013	
	5865 Owens Drive	
	Pleasanton, CA 94588	
	925-251-7200	



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING A1 - ELEVATION CONCEPT

DAHLIN group	JOB NO.	1130.005
	DATE	11-22-2013
	5865 Owens Drive	
	Pleasanton, CA 94588	
	925-251-7200	
		A.7



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING B1 - ELEVATIONS

DAHLIN group

JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.8



ENLARGED VIEW OF TYPICAL RECESSED ENTRIES

NORTHWEST CORNER

KEYMAP

KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING B1 - ELEVATION CONCEPT



JOB NO.	1130.005
DATE	11-22-2013
5865 Owens Drive Pleasanton, CA 94588 925-251-7200	

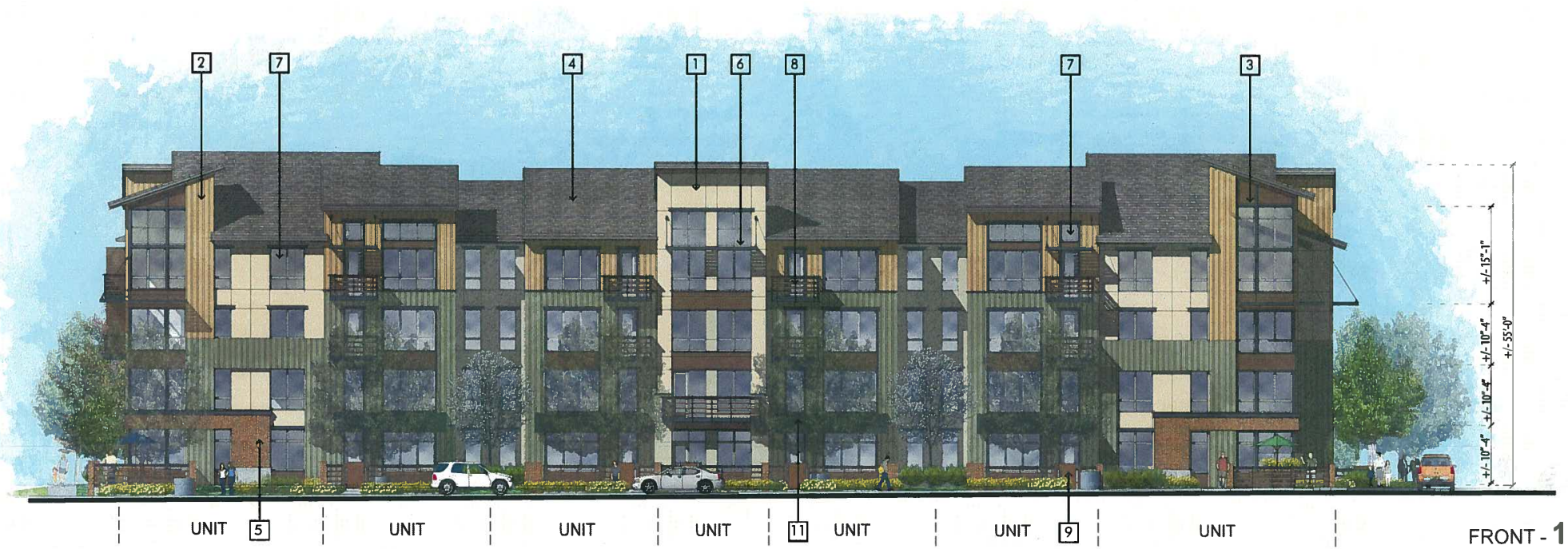
A.9



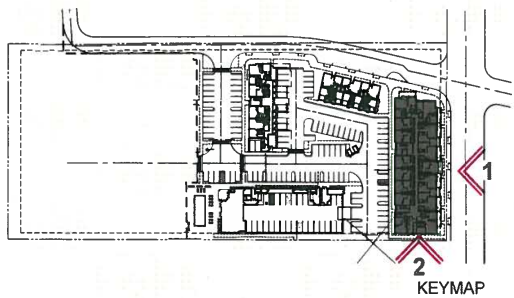
KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING B1 - ELEVATION CONCEPT

DAHLIN group	JOB NO. 1130.005	A.10
	DATE 11-22-2013	
	5865 Owens Drive	
	Pleasanton, CA 94588	
	925-251-7200	



- 1 SMOOTH WALLBOARD W/ REVEALS
- 2 BOARD AND BATT SIDING
- 3 HORIZONTAL LAP SIDING
- 4 COMPOSITE SHINGLE ROOF
- 5 BRICK ELEMENT/ PLANTER
- 6 METAL AWNING
- 7 COMPOSITE WINDOWS/ DOORS
- 8 METAL BALCONY
- 9 METAL GATE
- 10 ARCHITECTURAL SCREEN
- 11 CANVAS AWNING
- 12 SECTIONAL GARAGE DOOR
- 13 STANDING SEAM METAL ROOF
- 14 METAL TRELLIS



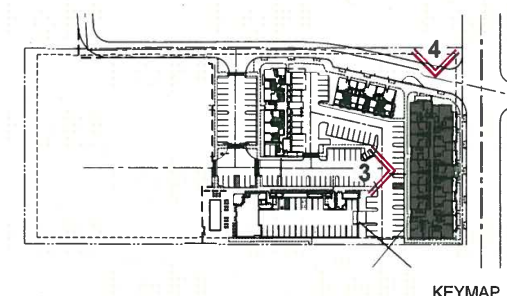
KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING C1 - ELEVATIONS



JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.11

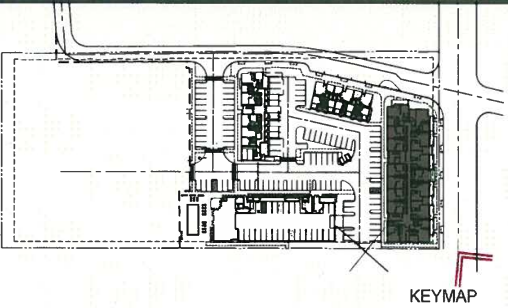
DAHLIN
group

JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.12



SOUTHEAST CORNER



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING C1 - ELEVATION CONCEPT

DAHLIN

group

JOB NO. 1130.005

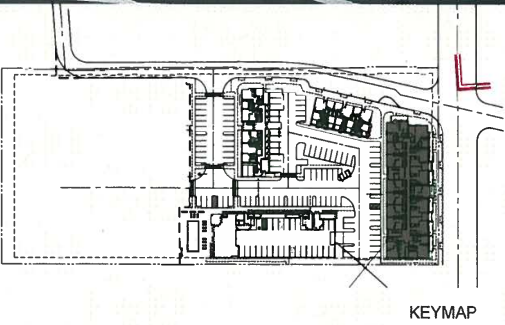
DATE 11-22-2013

5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.13



NORTHEAST CORNER



KEYMAP

KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING C1 - ELEVATION CONCEPT



JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.14



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING D1 - ELEVATIONS



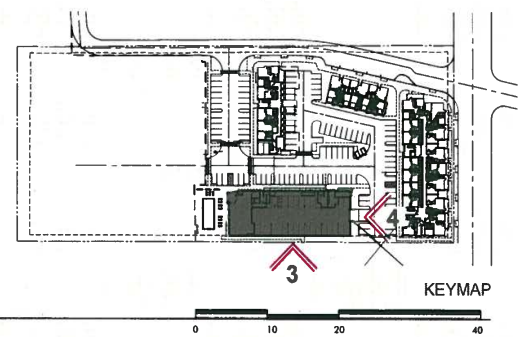
DAHLIN
group

JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.15



REAR - 3



BUILDING D1 - ELEVATIONS



SCALE 1"=10'

JOB NO. 1130.005

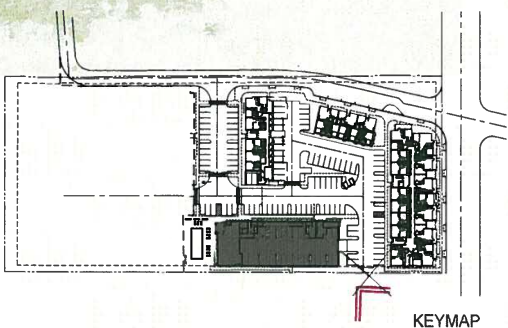
DATE 11-22-2013

5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.16



SOUTHEAST CORNER



KEYMAP

KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING D1 - ELEVATION CONCEPT



JOB NO. 1130.005
DATE 11-22-2013
5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

A.17



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

BUILDING D1 - ELEVATION CONCEPT

DAHLIN group	JOB NO.	1130.005
	DATE	11-22-2013
	5865 Owens Drive	
	Pleasanton, CA 94588	
	925-251-7200	
		A.18



KENMORE VILLAGE APARTMENT HOMES, WASHINGTON
MAIN STREET PROPERTY GROUP, LLC

ELEVATION CONCEPT

DAHLIN group	JOB NO.	1130.005
	DATE	11-22-2013
	5865 Owens Drive Pleasanton, CA 94588 925-251-7200	
	A.19	

EXHIBIT G

AFTER RECORDING RETURN TO:

Inslee, Best, Doezie & Ryder, P.S.
Atten: Andrew L. Symons
777 - 108th Avenue N.E., Ste. 1900
P.O. Box 90016
Bellevue, WA 98009-9016

DECLARATION OF COVENANTS REGARDING TRANSFER

Grantor:	MSPT VII, LLC, a Washington limited liability company
Grantee:	City of Kenmore, a Washington municipal corporation
Short Legal Description:	Ptn Gov. Lot 1, 11-26-04 [Complete legal description on Exhibit. A]
Assessor's Property Tax Parcel/Account Number(s):	112604-9151-00
Reference Number(s) of Documents Assigned or Released:	N/A

DECLARATION OF COVENANTS REGARDING COMPLETION AND TRANSFER

This Declaration of Covenants Regarding Completion and Transfer is hereby made, declared and granted as of the ____ day of _____, 20____, by the Declarant, MSPT VII, LLC, a Washington limited liability company, with respect to the real property legally described on **Exhibit A** hereto (the "**Real Property**"), as follows:

WHEREAS, Declarant is the owner in fee title of the Real Property; and

WHEREAS, Declarant has received fee title to and ownership of the Real Property by way of statutory warranty deed to Declarant from its immediate predecessor in ownership of the Real Property, the City of Kenmore, a Washington municipal corporation ("**City**"), pursuant to that certain Agreement for Purchase, Sale and Development of Property for Residential Purposes dated as of the 10th day of July, 2013 (the "**Purchase Agreement**"), which Purchase Agreement expressly made the declaration and recording of the covenants stated herein as a condition to the transaction described therein; and

WHEREAS, Declarant has entered into a separate Development Agreement with the City dated [_____, 20___], recorded on the ____ day of _____, 20___, under Recording No. _____ King County, Washington, regarding Declarant's development of the Real Property (the "**Development Agreement**"); and

WHEREAS, in addition to the covenants and agreements of Declarant and the City as memorialized in the Development Agreement, Declarant has agreed to and hereby makes the covenants declared herein;

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which are acknowledged by Declarant, Declarant hereby makes, grants and declares the following covenants with respect to the Real Property:

1. Completion of Specified Residential Units. Declarant shall commence and proceed with construction of and complete those residential units described in the Development Agreement as fronting 68th Avenue N.E., in the City of Kenmore, Washington. Such construction shall commence not later than the "**Commencement Date**," meaning the date that is twenty-four (24) months after the date of recording of this Declaration, subject to extension as provided in Paragraph 5 of this Declaration. As used in this Declaration, "commence construction" means the following has occurred: _____

2. Repurchase Option. If Declarant fails to commence construction by the Commencement Date, then the City shall have the option to repurchase the Real Property ("**Repurchase Option**") for an amount equal to the Purchase Price paid by Declarant for the Real Property under the Purchase and Sale Agreement. As used herein, Purchase Price means the amount stated in Section 2 of the Purchase Agreement. If Declarant fails to commence construction by the Commencement Date and the City has not exercised the Repurchase Option in writing by the 180th day after the Commencement Date, then the City shall be deemed to have waived its right to exercise the Repurchase Option as of such 180th day.

3. Closing of Repurchase. If the City timely exercises the Repurchase Option, then the closing of the repurchase shall be not later than sixty (60) days following the City's exercise of the Repurchase Option, on a business day selected by the City on not less than fifteen (15) days written notice to the Declarant.

4. Commencement Date Extended. The Commencement Date shall be extended, on a day-for-day basis, for all delays caused by *Force Majeure*, defined as “acts of God” or the public enemy; civil war, insurrection or riots; fires, explosions or serious accidents; strikes or labor disputes; inability to obtain necessary materials, accessories, equipment or parts from the manufacturers thereof not caused or contributed to by Declarant; weather or soils conditions which necessitate delays; acts or failure to act or delay in acting of any public or governmental entity, including to issue permits or approvals for the construction of the residential units referred to in Paragraph 1 of this Declaration (provided that all submissions by Declarant are timely, substantially complete and in accordance with applicable submittal requirements); or other cause beyond the reasonable control of Declarant. Declarant shall notify the City of the occurrence of any such event, occurrence or condition, as a condition to claiming such event, occurrence or condition constitutes *Force Majeure*, and shall act promptly to proceed with its performance as promptly as practicable after such cause for delay ceases or is terminated.

5. No Transfer of Property Prior to Completion. Declarant acknowledges the City agreed to and entered into the Purchase Agreement with Declarant in part based on the qualifications of the individuals owning and exercising management control of Declarant. In entering the Purchase Agreement, the City has relied on the agreement of Declarant’s principals that such ownership and management control will not change during the period of development of the Real Property and satisfaction of all conditions of the Development Agreement. Accordingly, Declarant agrees that Declarant shall not sell, assign, convey or otherwise transfer a controlling interest in any Phase of the Property (or controlling interest in Declarant) to any person or entity other than Declarant and Declarant’s principals as of the closing of the Purchase and Sale Agreement until all site development conditions of the Development Agreement as to such Phase have been satisfied, a certificate of occupancy has been issued for all residential units to be constructed as part of that Phase, and such Phase has been made a separate legal lot and separate tax parcel. As used herein, “Phase” means any of the following (i) Phase 1 of the Project as shown on the Approved Site Plan and Phasing Plan, or (ii) any other portion of the Project designated as a “phase” in any subsequent site plan of the Project submitted by Declarant or Landowner as part of a future application for Site Plan Approval as referred to in Section 8.3(b) of the Development Agreement. The restrictions and prohibitions stated in this Section shall not apply to (i) any residential lease of any unit in the Project (but shall apply to a ground lease of all or substantially all of the Property or any substantial portion thereof to any person or entity not a resident of the Property); (ii) any mortgage, deed of trust, security agreement or security instrument granted or entered by Declarant to provide financing for Declarant’s purchase of the Property or performance of its obligations to the City with regards to the Project; or (iii) a Transfer, or series of Transfers which in the aggregate, does not or do not result in a change of control of the Declarant’s interests in the Property or in Declarant. The foregoing is intended to allow the Declarant to add debt- and/or equity-related investment partners to the ownership of the Property or a phase thereof, within the limits expressed in this Section 5. These provisions can be reasonably modified or waived by the city manager of the City from time to time upon request of the Declarant.

6. Savings Clause as to Transfers. In the event a court of competent jurisdiction determines the prohibition on Transfer stated in this Declaration is unenforceable in whole or in part, then City shall have a right-of-first-refusal to acquire the Property, or portion thereof to be Transferred, exercisable within ninety (90) days after such determination is made and memorialized by court order or judgment. The right-of-first refusal shall be exercisable as follows:

- a. If, at any time after termination of the Current Retail Contract, Declarant desires to sell the Property or any partial or beneficial interest in the Property, and Declarant receives or makes a bona fide offer (“**Third Party Offer**”), which is acceptable to Declarant for the purchase and sale of the Property, Declarant shall, by written notice (accompanied by a true, correct and

complete copy of the Third Party Offer), promptly give to City, or any authorized successor or assignee of City, a first right and opportunity to purchase the Property. Except as hereinafter set forth, such offer shall be at the price and upon the other terms and conditions embodied in the Third Party Offer and as set forth in this Section. If the Third Party Offer is for an exchange of property or for other non-cash consideration, then the price for purposes of City's right to purchase shall be equivalent cash value of the Third Party Offer. City shall have thirty (30) days after receipt by City of said written notice from Declarant in which to deliver to Declarant, a notice of its election to purchase the offered interest upon the price, terms and conditions set forth in said notice to City.

b. If City elects to purchase, Declarant, or such other offeree, shall sell its entire interest in the Property as offered to City, and City shall purchase the same, and City's notice of election shall be accompanied by a payment in the amount, if any, specified as a down payment in the Third Party Offer as communicated to City. The closing of such purchase shall occur at the time and place set forth in the Third Party Offer, and each party shall deliver such documents and take such action in connection with the closing as is required by the offer, except as otherwise required herein.

c. If City shall fail to give notice of election to purchase the offered interest or, after giving notice of election to purchase the offered interest, shall fail to perform its obligations pursuant thereto, Declarant, or such other offeree, may sell and convey the offered interest to the third-person offeror upon the terms and conditions contained in the Third Party Offer provided the transaction closes within one year after the date on which the notice was first given to City.

d. If City's right to purchase is exercised, the following closing procedure shall apply:

- i. The closing date for the sale of the Property to City shall be no less than thirty (30) days and not more than sixty (60) days after the final determination of the purchase price of the Property or interest being purchased. Payment of the purchase price and closing shall be handled according to customary practices for the sale of commercial real estate in Kenmore, Washington. At the request of either party, the closing shall be effected through escrow, the cost of which shall be borne equally by Declarant and City. The purchase price shall be payable to Declarant on the closing date in cash.
- ii. The conveyance of the Property or other interest shall be made by recordable statutory warranty deed to City or its authorized successor or assignee sufficient to transfer good and marketable fee simple title subject only to (i) the lien of current general real estate taxes and special assessments not then due and payable; (ii) any acts or doings caused or suffered by the purchaser, and (iii) such other title exceptions as the purchaser may then agree in writing to accept ("**Permitted Title Exceptions**").
- iii. Declarant shall deliver or cause to be delivered to the purchaser, not later than twenty (20) days prior to the closing, as evidence of Declarant's title to the Property or interest, a commitment for an ALTA owner's standard coverage title insurance policy in the aggregate amount of the purchase price as provided hereunder. The commitment shall be issued by Chicago Title Insurance Company, shall name the purchaser as the proposed insured, and shall show title to the Property or interest in Declarant, subject only to (y) the Permitted Title

Exceptions, and (z) other title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed at closing by the payment of money, but not to exceed the cash portion of the purchase price otherwise payable to Declarant at closing, and which Declarant shall so remove or cause to be removed concurrently with the closing. In addition to the foregoing, Declarant shall remove or cause to be removed, concurrently with the closing, any mortgage and any other related security instrument. Declarant shall pay all premiums, charges and costs incurred in delivering such commitment, and shall pay the real estate excise taxes owed in connection with the conveyance of title to the Property.

7. No Third Party Rights. The provisions of this Declaration are intended for the benefit of, and may only be enforced by, the parties hereto and their respective successors and permitted assigns. None of the rights or obligations of the parties herein set forth (or implied) is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right, whatsoever upon or otherwise inure to the benefit of any contractor, architect, consultant, subcontractor, worker, supplier, mechanic, insurer, surety, guest, member of the public, or other third parties having dealing with either of the parties hereto or involved, in any manner, in the Property or the Project.

8. Captions and Headings. Captions and headings used in this Declaration are for convenience of reference only and are not part of the terms of this Agreement or to be used to construe, interpret, modify, qualify, vary or supplement any term, condition, covenant or provision of this Declaration.

9. Defined Terms. Initially-capitalized terms used by not defined herein shall have the meanings stated in the Development Agreement.

DATED the day and year first written above.

[Signature/Acknowledgment]

EXHIBIT A

That portion of the east 720 feet of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, lying north of the Plat of Northlake Terrace Addition, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington, lying south of the follow description line:

Beginning at a point that is 300.00 feet south of the northeast corner of said Government Lot 1 as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" (for reference purposes);
thence continue north 87°44'38" west along said line, a distance of 529.67 feet to the west line of said east 720 feet of Government Lot 1 and the terminus of said line;

EXCEPT the east 30 feet thereof conveyed to King County for road by deed recorded under Recording Number 2963377;

TOGETHER WITH an easement for ingress and egress over the following described tract of land:

Beginning at a point that is 300.00 feet south the northeast corner of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" and the TRUE POINT OF BEGINNING of this tract;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 446.01 feet to a point on a curve, from which the radial point of said curve bears north 84°37'32" west, a distance of 488 feet;
thence along said curve to the left, with a central angle of 07°36'03", an arc distance of 64.74 feet;
thence north 02°13'38" west, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right of a central angle of 04°45'55", an arc distance 42.58 feet;
thence north 02°32'19" east, a distance of 89.14 feet, to the south right-of-way line of N.E. 185th Street as recorded under Recording Number 4791700, said point is 10.00 feet south of, when measured at right angles from, said north line of Government Lot 1;
thence south 02°32'19" west, a distance of 89.26 feet;
thence on a 488 foot radius tangent curve to the left, with a central angle of 04°45'55", an arc distance of 40.59 feet;
thence south 02°13'36" east, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right, with a central angle of 03°22'02", an arc distance of 30.09 feet to a point of reverse curvature;
thence on a 25 foot radius curve to the left, with a central angle of 88°53'04", an arc distance 38.78 feet;
thence south 87°44'38" east parallel with said north line, a distance of 287.18 feet;
thence on a 502.90 foot radius tangent curve to the right, with a central angle of 12°32'32", an arc distance of 110.09 feet to Point "A" and the TRUE POINT OF BEGINNING of this description.

EXHIBIT H

[City of Kenmore Letterhead]

[Date]

**VIA FAX
AND FIRST CLASS MAIL**

MSPT VI, LLC
Atten: Kelly Price/Kim Faust
11415 Slater Avenue NE, Suite 100
Kirkland, WA 98033

Fax: (425)968-5887

Perkins Coie LLP
Atten: Kristine R. Wilson
10885 NE 4th Street, Suite 700
Bellevue, WA 98004

Fax: (425)635-2400

***Re: Multi-Family Residential Development at 68th Ave. N.E.
and N.E. 182nd Street, Kenmore, Washington
Notice regarding Affordable Housing***

Ladies and Gentlemen:

This letter is delivered to you pursuant to Section 13 of that certain Development Agreement dated _____, 201____, between the City of Kenmore and MSPT VII, LLC, with respect to the above.¹ All initially-capitalized terms used in this letter, unless specifically defined herein, have the meanings stated in the Development Agreement.

This confirms that the Project qualifies for the 12-year Multifamily Housing Property Tax Exemption pursuant to Kenmore Municipal Code Chapter 3.65 based on the facts recited in this letter.

1. All Affordable Units have been completed and have received Certificates of Occupancy. Prior to issuance of the Certificates of Occupancy, an agreement in the form of **Exhibit A** hereto (the "Contract"), approved by the City's attorneys and addressing eligible household qualifications and other applicable topics of the Affordable Units, and approved by the City Council pursuant to KCM 3.65.060, has been executed by the City and Developer and recorded with the King County Department of Records and Elections, and constitutes a covenant running with the land, binding on Developer's assigns and successors.

¹ This letter also constitutes Seller's notice required by Section 2(b) of Addendum No. 1 to the Purchase and Sale Agreement dated July 9, 2013, between the City, as seller, and MSPT VII, LLC, as buyer.

446427.2 | 359830 | 0015

Symetra Financial Center, Suite 1900
777 - 108th Avenue Northeast

P.O. Box 90016
Bellevue, WA 98009-9016

Tel + 425.455.1234
Fax + 425.635.7720

www.insleebest.com

2. The Developer, as owner of the Project, has submitted a verified application for the multifamily real estate tax exemption under KCM 3.65.050, a true and complete copy of which application is attached as **Exhibit B** hereto, and has paid the necessary application fees.
3. The Project satisfies each of the requirements for Project eligibility under KCM 3.65.040, specifically:
 - A. The Project is located in a residential targeted area.
 - B. A building or buildings in the Project have in total at least four dwelling units.
 - C. The Project is new construction in which a minimum of four new dwelling units have been created.
 - D. N/A
 - E. The Project does not result in a net loss of existing affordable housing which receives housing assistance through federal low or moderate income housing programs (e.g., HUD Section 8).
 - F. The letter required by KCM 3.65.040.F has been executed and recorded in the form of the Contract.
 - G. The Project complies with all applicable zoning, land use, building and housing requirements in effect as of the date hereof under the KMC.
 - H. The new construction of the Affordable Units has been completed.
4. The City's Director of Community Development has approved the application for the exemption by decision issued _____, a true and complete copy of which is attached as **Exhibit C** hereto, based on which, pursuant to KCM 3.65.060 the City and Developer entered into the Contract, subject to approval by resolution of the City Council regarding the terms and conditions of the Project's eligibility for the exemption under KCM Chapter 3.65, which approval was given and resolution adopted on _____, _____.
5. Based on the Council's approval and resolution, the Director of Community Development or City Manager executed the Contract, which has been recorded as stated above.

6. Based on the foregoing, the Director of Community Development has issued a final certificate of tax exemption pursuant to KCM 3.65.090, which the City has filed with the King County Assessor.

The value of the new housing construction comprising the improvements in the Project shall be exempt from ad valorem property taxation for twelve (12) successive years beginning January 1, of the year immediately following the issuance of this letter, if (a) Developer and any successor owner of the Project commits to renting or selling at least twenty-five percent (25%) of the multifamily housing units in the Project as affordable housing units, and (b) the owners and renters of the affordable housing units so offered and rented or owned meet the income and eligibility requirements of KCM 3.65. The exemption referred to in this letter does not apply to the value of the land, to increases in assessed valuation of the land, or to increases made by lawful order of the King County Board of Equalization, the Washington State Department of Revenue, the State Board of Tax Appeals, or King County, to a class of property throughout King County or to a specific area of King County to achieve uniformity of assessment or appraisal as required by law.

The qualification for the tax exemption is subject to continued compliance with the requirements of the Contract, and the requirements of KCM Chapters 3.65 and 18.77 that include the following:

- Continued compliance with each of the requirements of KMC 18.77.030, which requirements are by this reference incorporated into and made a part of this letter;
- Ongoing annual verified certification filed by Developer with the City filed in accordance with KCM 3.65.110 including, pursuant to KCM 3.65.110.B.6, a verified certification by Developer that the multifamily housing units contemplated by the Project meet the affordability requirements of KMC, including the following:
 - 25% of the units will be rented to, or sold to and occupied by residents whose household income is not greater than 85% of the median income of King County, adjusted for household size;
 - At least five (5) of the above units shall at all times be rented to, sold to and occupied by, or available for rental to residents whose household income is not greater than 50% of the median income of King County, adjusted for family size; and

MSPT VI, LLC

_____, 201____
Page 4

- the monthly housing cost of each household renting one of the units described above does not exceed 30% of the household's monthly income;
- All of the Affordable Units must comply with applicable zoning, land use, and building code requirements.

If, at any time, the Project no longer complies with the terms and conditions of the contract or applicable legal requirements, the Director will cancel the Tax Exemption. If the Director cancels Buyer's Tax Exemption, Buyer will have the right to appeal this decision to the City Council by filing a written appeal with the city clerk within 30 days of cancellation. Such cancellation may occur in total or by a percentage which is proportionate to the ratio of the number of Affordable Units that no longer qualify as affordable housing to the total of all Affordable Units. If the tax exemption is cancelled in whole or in part prior to the end of the 12-year period of exemption, or is canceled at the end of that 12 year period, in either case, the housing comprising the Project will then at the time of such termination be treated as new construction for property tax purposes.

[Closing]

Signature
Name/Title



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: 3 rd Amendment to Purchase and Sale Agreement – former King County Park & Ride Property	For Council Meeting Agenda of: December 9, 2013 Department: City Manager's Office Prepared by: Rob Karlinsey, City Manager	
Proposed Council Action/Motion: Adopt a resolution No. 13-229 amending Resolution Nos. 13-222 and 13-226 by approving Amendment No. 3 to Contract No. 13-C1170, Purchase & Sale Agreement with Main Street Property Group, LLC	Initial & Date Approved by Department Head: _____ Approved by City Attorney: <u>AS VIA EMAIL</u> Approved by Finance Director: _____ Approved by City Manager: <u>RJK 11/27/13</u> Exhibits/Attachments: Resolution No. 13-229 Attachment 1 Purchase and Sale Agreement (PSA) Attachment 2 First Amendment to the PSA Attachment 3 Second Amendment to the PSA	
Expenditure Required \$0	Amount Budgeted \$N/A	Appropriation Required \$0
INFORMATION/BACKGROUND: In the first half of 2012, the City began an extensive community involvement process to 1) review goals for the downtown, 2) develop a position statement for the Kenmore Village properties, and 3) establish strategic next steps to take the properties to market and thereby sell the properties to buyer(s) who would further the City's goals and bring new investment to downtown Kenmore. The community involvement process included multiple meetings, forums, and open houses to obtain public input on the Kenmore Village properties. Late last year, the City retained two brokerage firms to list the Kenmore Village properties for sale. Jones Lang LaSalle (JLL) listed the upper lot (former park & ride), and Colliers International listed the lower lots (the shopping center). The two firms listed the properties with the downtown goals and position statement in mind, and they emphasized key points from the goals and position statement. Soon after the properties were listed, about 16 offers/proposals were received, about half of which were for the lower commercial lots. The other proposals were for the upper lot (former park & ride) or both upper and lower lots. Colliers, JLL, the City Manager, Assistant City Manager, and Spinnaker Strategies interviewed all potential buyers for the properties. Based on the goals for the properties and the principles outlined in the Position Statement, four potential buyers for each of the properties were recommended to move forward in the process. These potential buyers (eight total) were presented to the City Council and the public at the February 25, 2013 City Council meeting. At that meeting, public comment was invited during the discussion of this agenda item.		

After the February 25, 2013 City Council meeting, the city manager, assistant city manager and the brokerage firms continued follow up meetings and conversations with the finalists for each property. Based on price offered for the properties, financial wherewithal, experience, reputation, ability to deliver in a timely manner, and alignment with the goals and position statement, the team began direct negotiations with RPI/Benaroya for the lower commercial lots and with Main Street Property Group LLC (MainStreet) for the upper lot (former park & ride).

At the June 10, 2013 City Council meeting, Main Street Property Group LLC was announced as the likely buyer for the upper lot (former King County Park & Ride).

At the July 8, 2013 City Council meeting, the City Council adopted a resolution approving a purchase and sale agreement (PSA) with Main Street Property Group LLC (MSPT VI LLC in the agreement) for the upper lot—the former King County Park and Ride.

The purchase and sale agreement with MainStreet (Buyer) established certain timelines and milestones, including a 60-day feasibility contingency period for the Buyer to review and inspect the property, a deadline for the buyer to submit a site development permit application, and a deadline by which a development agreement must be approved by both parties.

We are pleased to report that the Buyer is making substantial, affirmative progress on the property. The Buyer has already submitted, ahead of schedule, a site development application for the property. The site development application will move forward as an exhibit to a development agreement for City Council consideration on December 9, 2013.

MainStreet continues to strive for its goal of breaking ground in summer of 2014, and City development services staff are supporting that goal.

At the time of the second amendment to the PSA (approved by the City Council on October 28, 2012), the Buyer had identified several issues that were important enough to resolve before the Buyer was willing to waive feasibility. The feasibility period was, as a result, extended to December 11, 2013. The remaining issues at the time of the second amendment were:

1) 182nd Street access. This street is currently a private easement, not public right of way. The easement is approximately half owned by the City (as the owner of the former park and ride) and approximately half owned by Coventry Place apartments. Because of the shared ownership of the easement, the Buyer needs additional time to achieve certainty on access, ability to improve the road, etc.

2) The Buyer needs a sewer easement from the shopping center (Kenmore Village) property. Additional time is needed to develop and memorialize this easement to the mutual satisfaction of the City, MainStreet, and the buyer for the Kenmore Village property.

3) The Buyer needs agreement from the Kenmore Village property owner (City, with concurrence from Kenmore Village Buyer) to allow for utility undergrounding running east-west adjacent to the property line between the two properties. Additional time is needed to develop this easement language, get it approved by the three parties, and get it recorded.

All but the first item have since been resolved, and the Buyer and the City Manager find it necessary to extend the feasibility period for this one remaining item—the easement and its defined access needs to be redefined and clarified, allowing for clear access and use by the properties that own the easement.

In addition, site plan, development agreement, and PSA negotiations have resulted in the Buyer agreeing to install certain off-site improvements and amenities that will benefit the public, including a substantial crosswalk upgrade on 68th Avenue; full-width asphalt overlays on 68th Avenue and 182nd Street; utility undergrounding on 68th Avenue; an access stairway on the adjacent commercial property; light pole hangers and drip irrigation for flower

baskets on 68th Avenue; and electric power to street trees (for holiday lighting). In exchange for the Buyer installing these improvements and amenities for the public, the City is agreeing, in the proposed 3rd amendment to the PSA, to lower the purchase price by \$210,000 to \$3,390,000.

Staff continues to observe MainStreet moving forward in good faith—they appear to be expending substantial resources on the project, and are ahead of schedule on key milestones, chief among which is the submittal of a site plan application and pending City Council approval at the December 9, 2013 City Council meeting. As additional good faith gestures, MainStreet is agreeing to 1) limit its feasibility contingency review to this last remaining easement issue (all other matters are satisfied and waived) and 2) convert the Earnest Money from a note to cash (as previously accomplished in the second amendment to the PSA).

More About Main Street Property Group, LLC

MainStreet is a real estate development firm dedicated to the vision, construction and operation of landmark mixed-use properties. MainStreet's team of experienced professionals strives to acquire, develop, construct and operate properties in vibrant locations, complimenting and respecting each property's natural and developed surroundings. With experience in market and site analysis, acquisitions, development, land-use planning, financing, construction and the architectural process, MainStreet designs and builds each property to reflect its commitment to sustainability and walkability, focusing always on each property's enduring investment. Current examples of MainStreet's projects include two new buildings in downtown Bothell (Six Oaks, a mixed use project consisting of 203 apartments and 6500 square feet of commercial space and The 104, a 115 unit apartment building) and one mixed-use building, Slater 116 in Kirkland consisting of 108 apartments and 10,000 square feet of commercial space including a coffee shop.

MainStreet currently plans to develop and construct approximately 220 quality apartment units over two phases on the former park & ride site. A portion of the units will be affordable under King County definitions and in keeping with the current deed restriction for the site. At least five of the affordable units will be set as affordable at 50% of median household income.

MainStreet's goal is to be under construction in summer of 2014 and leasing its first units in 2015.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Goal #1: Economic Development and Goal #4, Downtown Development

CITY OF KENMORE

WASHINGTON

RESOLUTION NO. 13-229

AMENDING RESOLUTION NO. 13-222 APPROVING A PURCHASE AND SALE AGREEMENT WITH MSPT VI, LLC.

WHEREAS, the City of Kenmore 2003 Downtown Plan and 2009 Economic Development Strategy contain guiding goals and principles that support the stimulation of economic revitalization of the City's Downtown area in a manner that supports and retains independent and community-scale businesses and other development; and

WHEREAS, the City owns certain commercially-zoned real property in the City's Downtown area, which consists of approximately 4.5 acres commonly known as the former King County Park & Ride parcel (the "Property"); and

WHEREAS, the City Council has determined that the Property is surplus to the City's needs, and that it would be in the best interests of the City and the general public to sell the Property; and

WHEREAS, MSPT VI, LLC ("Buyer") desires to acquire the Property, with the intent to redevelop the Property as a multi-family housing project, in keeping with the City's adopted goals for the Downtown area and the Position Statement for the Property; and

WHEREAS, the MSPT VI, LLC negotiated a purchase and sale agreement for the transfer of the Property from the City to MSPT VI, LLC; and

WHEREAS, on July 8, 2013, the City Council adopted Resolution 13-222 approving the Purchase and Sale Agreement, and both the City and the Buyer have subsequently signed and executed the Purchase and Sale Agreement; and

WHEREAS, Sections 1(b) and 7(a) of the Purchase and Sale Agreement set forth a 60-day feasibility contingency period for the Buyer to review and inspect the property and to determine, to Buyer's satisfaction, whether the property is satisfactory for Buyer's intended uses and whether Buyer has the ability to fulfill all of the terms of the Purchase and Sale Agreement; and

WHEREAS, the City Council adopted Resolution 13-226 ratifying Amendment No. 1 and approving Amendment No. 2 to the Purchase and Sale Agreement with MSPT VI, LLC, extending the Feasibility Period of the Purchase and Sale Agreement to December 11, 2013; and

WHEREAS, due to the Buyer needing additional time to resolve potential concerns regarding a private easement, the City Manager and the Buyer recommend extending the Feasibility Period of the Purchase and Sale Agreement to March 10, 2013 for the sole purpose of resolving this particular easement issue; and

WHEREAS, all other issues pertaining to Feasibility Period of the Purchase and Sale

Agreement are considered resolved; and

WHEREAS, Buyer has requested to extend the feasibility contingency period as set forth in Sections 1(b) and 7(a) of the Purchase and Sale Agreement; and

WHEREAS, Buyer is willing to install off-site public infrastructure improvements that benefit the public and the City is willing to adjust the purchase price to at least partially compensate the Buyer for making these improvements; and

WHEREAS, the adjusted purchase price in exchange for public improvements is acceptable to the Buyer and the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Approval of Amendment No. 3 to Purchase and Sale Agreement. The City Council hereby amends resolutions 13-222 and 13-226 by approving Amendment No. 3 to the Purchase and Sale Agreement with MSPT VI, LLC, a Washington limited liability company. The City Council approves and authorizes the City Manager to execute on behalf of the City Amendment No. 3 to the Purchase and Sale Agreement between the City of Kenmore and MSPT VI, LLC. Amendment No. 3 is substantially and materially in the form attached to this Resolution as **Exhibit A** and incorporated herein by this reference.

Section 2. Additional Extension of Feasibility Contingency Period. The City Council hereby authorizes the City Manager, at his discretion, to extend the Feasibility Contingency Period for an additional thirty (30) days beyond the extension in Amendment No. 3.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON,
AT A REGULAR MEETING THEREOF THIS NINTH DAY OF DECEMBER, 2013.

CITY OF KENMORE

Mayor David Baker

ATTEST/AUTHENTICATED:

Patty Safrin, City Clerk

Approved as to form:

Rod Kaseguma, City Attorney

EXHIBIT A

THIRD AMENDMENT TO AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF REAL PROPERTY FOR RESIDENTIAL PURPOSES

THIS THIRD AMENDMENT TO AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF REAL PROPERTY FOR RESIDENTIAL PURPOSES (this "Amendment") is dated as of December __, 2013 (the "Effective Date") and is by and between the CITY OF KENMORE, a Washington municipal corporation ("Seller"), and MSPT VI LLC, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following recitals:

RECITALS

A. Seller and Buyer entered into that certain Agreement for Purchase, Sale and Development of Real Property dated July 10, 2013, as amended by that certain First Amendment to Agreement for Purchase, Sale and Development of Real Property for Residential Purposes dated September 6, 2013 ("First Amendment") and that certain Second Amendment Agreement for Purchase, Sale and Development of Real Property for Residential Purposes dated October 9, 2013 ("Second Amendment") (as so amended, the "Agreement").

B. Except as stated in Recital A, the Agreement has not been modified or amended, orally, in writing, expressly, impliedly, or otherwise and remains in full force and effect.

C. Buyer and Seller desire to amend the Agreement solely as stated in this Amendment.

TERMS

NOW, THEREFORE, in consideration of the parties' mutual promises, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

Section 1. Defined Terms. Capitalized terms used, but not defined, herein shall have the meanings given to them in the Agreement.

Section 2. Purchase Price. Section 2 of the Agreement is amended to provide: "The Purchase Price is \$3,390,000, payable in cash at closing, with credit for the Earnest Money."

Section 3. Feasibility Period. This Amendment constitutes Buyer's notice given pursuant to Section 7(b) of the Agreement, as modified by the Second Amendment, that, with the sole exception of the condition of completion of the Street Conversion described in Section 4 of this Amendment, the Feasibility Contingency is hereby satisfied or waived by Buyer as to all matters. The Feasibility Period is extended, solely for the purpose of providing additional time for the parties to seek completion of the Street Conversion, to March 10, 2014.

Section 4. Buyer's Possession. The following paragraph is added as an additional paragraph in Section 6 of the Agreement:

"In addition, during the period ending March 10, 2014, Seller and Buyer shall jointly undertake, at the direction of Seller, all reasonably available steps to cause that portion running easterly and westerly of the private road commonly referred to as 182nd Street which lies on each side of the boundary between the Property and the adjacent property to the north owned by Coventry Place Condominium Association and which exists pursuant to the Mutual Access Agreement described more particularly below (referred to for purposes of this Section as "182nd Street") to be converted into a public right of way for street purposes, or the functional equivalent thereof such as a permanent easement providing Buyer with rights equivalent to the rights Buyer would have therein if converted to a public right of way for street purposes (in either case, the "Street Conversion"). All costs incurred in seeking the Street Conversion, including attorney's fees (but excluding fees and costs incurred by Buyer for its attorneys, professionals or in-house staff), shall be paid by Seller. If prior to Closing a third party (*i.e.*, not Buyer or Seller) commences an administrative or judicial challenge to the right of Buyer to use 182nd Street for the purposes described in the Development Agreement, including development of the Property in accordance with the Site Plan approved in conjunction with the Development Agreement, Buyer shall have the right (but not the obligation) to extend Closing to a date thirty (30) days following a definitive resolution of such challenge to Buyer's satisfaction (including, if applicable, passing of applicable appeal period). Prior to the Street Conversion, Seller shall continue to have all of the responsibilities of the owner of Parcel 2 under the Mutual Access Agreement; *provided*, Buyer shall be responsible for any claim, loss or damage caused by or resulting from actions of Buyer or its contractors or agents as part of construction activities relating to the Property whether occurring before or after Street Conversion. As used herein, "Mutual Access Agreement" means the document by that name, dated May 25, 1984, recorded June 26, 1984, under King County Recording No. 8406260622.

Section 5. Additional Conditions to Closing. The following is added as new Subsection (o) to Section 7 of the Agreement:

o. Street Conversion and Easements. Street Conversion shall have been accomplished as provided in Section 6 of this Agreement, Seller shall have granted or shall be prepared to grant at or prior to Closing the easements described in Subsections 8(a)(i)(6)-(8), and Puget Sound Energy shall have executed the new easement or amendment to existing easements by instrument in the form of Exhibit # referred to in Section 8(a)(i)(9).

Section 6. Seller's Deliveries. Section 8(a)(i) of the Agreement is amended and restated as follows:

- (1) the Deed;
- (2) Real Estate Excise Tax Affidavit, executed by Seller;

- (3) Title Company Affidavit(s) or Indemnity(ies) as required under Section 9 below;
- (4) two executed counterparts of the Development Agreement (unless previously executed by the parties);
- (5) closing or settlement statement prepared by Escrow Agent with amounts and adjustments in accordance with this Agreement;
- (6) a non-exclusive easement substantially in the form attached as Exhibit G, affecting the real property described therein, granted by Seller to the owner of the Property and its successors and assigns, for construction and installation of sanitary sewer improvements therein described, to be subsequently dedicated to Seller;
- (7) a non-exclusive easement substantially in the form attached as Exhibit H, affecting the real property described therein, granted by Seller to the owner of the Property and its successors and assigns, for construction and installation of storm improvements therein described, to be subsequently dedicated to Seller;
- (8) a non-exclusive temporary construction easement substantially in the form attached as Exhibit I, affecting the real property described therein, granted by Seller to the owner of the Property and its successors and assigns, for construction and installation of a staircase as therein described;
- (9) an easement granted by Seller to Puget Sound Energy, Inc., relocating that portion of the easement areas established by the the instruments recorded October 6, 1965, under King County, Washington, Recording Nos. 5937346; 5937347; 5937348, affecting real property owned by Seller, to the new easement area(s) depicted on attached Exhibit J.”
- (10) such other documents, instruments and instructions as may be required by Escrow Agent in accordance with standard escrow closing practices in the county in which the Real Property is located for closing of the transaction in accordance with this Agreement.

Section 7. Ratification by the Kenmore City Council. This Amendment is expressly contingent upon ratification by the Kenmore City Council (the “Council”). In the event that the Council fails to ratify this Amendment, the Agreement shall immediately terminate, and this Amendment shall have no further force or effect, on the earlier of (1) the date upon which the Council votes not to ratify the Agreement, or (2) 11:59 P.M. on December 12, 2013. The parties acknowledge this Amendment will not be in effect or enforceable until ratified by the Council, but upon such ratification, this Amendment shall be deemed effective retroactively to the Effective Date first stated above.

Section 8. Recitals Incorporated. The Recitals are incorporated into and made part of the terms of this Amendment.

Section 9. Counterparts. This Amendment may be executed in any number of counterparts and by facsimile or electronic (pdf) transmission, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 10. Remaining Provisions. Except as expressly set forth herein, the Agreement remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first written above.

SELLER:

CITY OF KENMORE, a Washington
municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

MSPT VI LLC, a Washington limited liability
company

By: Main Street Property Group LLC, a
Washington limited liability company

By: _____
Name: _____
Its: _____

EXHIBIT G

AFTER RECORDING, PLEASE RETURN TO:

City of Kenmore
Attn: City Manager
P.O. Box 82607
Kenmore, WA 98028

SEWER EASEMENT AND AGREEMENT

Grantor: City of Kenmore, a municipal corporation

Grantee: City of Kenmore, a municipal corporation, its successors and assigns

Short Legal Description: Pcl B, BLA 2012-048, Rec 2012100390001; Vac Lts 8&9, Blk 12, Northlake Ter, Vol 33/20
[Complete legal description on Exhibit A]

Assessor's Property Tax
Parcel/Account Number(s): 618170-0410-07; 618170-0350-09

Reference Number(s) of
Documents Assigned
or Released: N/A

THIS SEWER EASEMENT AND AGREEMENT (this "Easement and Agreement") is made this ____ day of _____, 201__ (the "Effective Date"), by and between the CITY OF KENMORE, Washington, a municipal corporation ("Grantor") and the CITY OF KENMORE, Washington, a municipal corporation, and its successors and assigns ("Grantee"). Grantor and Grantee agree as follows.

1. Burdened Property. Grantor is the fee owner of the real property legally described on **Exhibit A**, attached hereto and incorporated herein (the "Burdened Property").

2. Benefitted Property. Grantor is also the fee owner of the real property legally described on **Exhibit B**, attached hereto and incorporated herein (the "Benefitted Property").

3. Grant of Perpetual Sewer Easement. Grantor, for purposes of facilitating development and sale of the Benefitted Property, hereby conveys and warrants to Grantee, its successors and assigns, a perpetual, nonexclusive easement (the "Sewer Easement") under, over, through, and across that portion of the Burdened Property legally described on **Exhibit C**, attached hereto and incorporated herein (the "Sewer Easement Area"), along with a non-exclusive easement for ingress and egress across the parking lot and driveway areas of the Burdened Property for purposes of providing to Grantee and its contractors access to the Sewer Easement Area as necessary for excavation, construction, installation, inspection, maintenance, repair and replacement of the pipes, equipment, and all appurtenances thereto (the "Facilities") comprising the sewer lines to be installed and maintained within the Sewer Easement Area.

4. Intent to Create Separate Real Property Interest. It is Grantor's express intent by this Easement and Agreement to create a separate property interest in the easement rights hereby granted, for the benefit of Grantee and its successors and assigns, and not to have such easement rights merge into Grantor's fee title to the Burdened Property.

5. Purpose. The easement rights hereunder granted are for the purpose of allowing Grantee, its successors and assigns, to construct, install, operate, inspect, maintain, repair, replace and remove sanitary sewer lines, and the Facilities comprising the same, within the Sewer Easement Area.

6. Access and Notice. Grantee shall have the right at all times, without prior institution of any suit or proceeding at law, to enter upon the Burdened Property for the purposes described in Paragraph 4 above. Grantor intends to improve the Burdened Property with buildings, structures, parking facilities and other structures and improvements for purposes of owning and operating a commercial shopping center comprised of retail and office business tenants. To the extent reasonably possible, Grantee shall exercise the easement rights hereunder granted in such manner and at such times as to avoid or minimize interruption to the businesses operating on the Burdened Property, which exercise shall include the conduct of non-emergency maintenance, inspections, repairs and replacement of the Facilities at times which avoid peak hours of use of the businesses located on the Burdened Property and minimizing the amount of parking lot space used for Grantee's equipment and vehicles during such operations. Except where immediate action is required in response to, or to avoid, an emergency endangering persons, property or the Facilities, and further excepting routine inspections not involving heavy equipment or excavations, Grantee shall provide reasonable prior written notice to Grantor at least one business day before entering onto the Burdened Property for purposes of conducting any work on the Facilities. Grantee shall further assure before undertaking any work within the Sewer Easement Area that all reasonable and necessary precautions are taken, including, as necessary, barriers, signs, safety personnel and other measures, to avoid or minimize the risk of injury to persons or property in connection with such work. The provisions of Paragraph 9 (Indemnity) of this Easement and Agreement shall apply in the case of any claim for loss or injury caused by Grantee's activities or obligations under this Paragraph.

7. Restoration. If the Sewer Easement Area or any other portion of the Burdened Property is disturbed by or as a result of the construction, installation, operation, maintenance, removal, repair, replacement or use of the Facilities, or vehicle traffic related thereto, Grantee shall promptly restore the surface of same as nearly as possible to the condition in which it existed at the commencement of the construction, installation, operation, maintenance, removal, repair, replacement or use. Grantee shall coordinate all such repair and restoration work with Grantor, which work shall be subject to Grantor's inspection and approval. Without limitation on the foregoing, if the repair and restoration requires re-striping of a portion of a parking lot, Grantee shall, at Grantee's expense, cause such re-striping to be completed so as to restore the parking lot striping as nearly as possible to the that which existed immediately prior to Grantee's work within the Sewer Easement Area.

8. Reservation of Rights. All right, title and interest in the Burdened Property which may be used and enjoyed without interfering with the Sewer Easement or the easement rights herein granted are reserved to Grantor. The construction, installation, maintenance or repair, after the date of this Easement and Agreement, of structures of a permanent nature, which interfere with the operation of the Facilities, shall be deemed an encroachment upon Grantee's easement rights, and Grantor shall be obligated to remove the encroachments at Grantor's expense.

9. Protection of Facilities. Grantor covenants and all successors and assigns of Grantor are deemed to covenant, by taking title to the Burdened Property, that no excavation, boring, drilling, pile driving, tunneling or other form of construction activity that would disturb, damage, unearth, or undermine the Facilities, or endanger the lateral support to the Facilities, shall be done within the Sewer Easement Area.

10. Indemnity. By accepting and recording this Easement and Agreement, Grantee agrees to defend, indemnify and hold harmless Grantor from any and all claims for injuries or damages suffered by any person or property which may be caused by the Grantee's exercise of the rights granted herein, solely for purposes of this Paragraph 9 and solely as to any claim by an employee of Grantee against Grantor for which Grantee has a duty to defend, indemnify and hold harmless Grantor, Grantee waives its immunity under Title 51, Revised Code of Washington (which waiver is solely for Grantor's benefit and solely for purposes of this Paragraph 9 and may not be invoked by any third person, including any such employee of Grantee or the heir, assign, successor, trustee, administrator or personal representative of such employee); *provided*, Grantee shall have no duty to Grantor for any loss, injury or damages caused by or resulting from the active negligence or willful misconduct of Grantor or Grantor's agents.

11. Binding Effect. This Easement and Agreement and the rights, benefits, duties and obligations hereunder are intended to and shall run with the land and shall benefit and bind Grantor and Grantee and all heirs, assigns and successors thereto.

12. Complete Easement and Agreement. This Easement and Agreement represents the complete understanding and agreement of Grantor and Grantee regarding the matters described herein. There are no other verbal or written agreements or understandings regarding the easement

rights and obligations set forth herein, except as contained in this Easement and Agreement. This Easement and Agreement may only be modified by a written document signed by each of Grantor and Grantee or, if applicable, the successor and/or assignee thereof in title to either the Benefitted Property or Burdened Property at the time of such amendment.

13. Attorneys' Fees. In the event of a lawsuit or arbitration arising out of or relating to this Easement and Agreement, the prevailing party (as determined by the court or other authority before which such suit or proceeding is commenced) shall, in addition to such other relief as may be awarded, be entitled to recover its reasonable attorneys' fees and costs.

IN WITNESS WHEREOF the undersigned have executed this Easement and Agreement on and as of the Effective Date.

GRANTOR:

GRANTEE:

CITY OF KENMORE

CITY OF KENMORE

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

GRANTOR'S ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington

Commission Expires: _____

GRANTEE'S ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington

Commission Expires: _____

EXHIBIT H

AFTER RECORDING, PLEASE RETURN TO:

City of Kenmore
Attn: City Manager
P.O. Box 82607
Kenmore, WA 98028

STORM EASEMENT AND AGREEMENT

Grantor: City of Kenmore, a municipal corporation

Grantee: City of Kenmore, a municipal corporation, its successors and assigns

Short Legal Description: Pcl B, BLA 2012-048, Rec 2012100390001; Vac Lts 8&9, Blk 12, Northlake Ter, Vol 33/20
[Complete legal description on Exhibit A]

Assessor's Property Tax
Parcel/Account Number(s): 618170-0410-07; 618170-0350-09

Reference Number(s) of
Documents Assigned
or Released: N/A

THIS STORM EASEMENT AND AGREEMENT (this "Easement and Agreement") is made this ____ day of _____, 201__ (the "Effective Date"), by and between the CITY OF KENMORE, Washington, a municipal corporation ("Grantor") and the CITY OF KENMORE, Washington, a municipal corporation, and its successors and assigns ("Grantee"). Grantor and Grantee agree as follows.

1. Burdened Property. Grantor is the fee owner of the real property legally described on **Exhibit A**, attached hereto and incorporated herein (the "Burdened Property").

2. Benefitted Property. Grantor is also the fee owner of the real property legally described on **Exhibit B**, attached hereto and incorporated herein (the "Benefitted Property").

3. Grant of Perpetual Storm Easement. Grantor, for purposes of facilitating development and sale of the Benefitted Property, hereby conveys and warrants to Grantee, its successors and assigns, a perpetual, nonexclusive easement (the "Storm Easement") under, over, through, and across that portion of the Burdened Property legally described on **Exhibit C**, attached hereto and incorporated herein (the "Storm Easement Area"), along with a non-exclusive easement for ingress and egress across the parking lot and driveway areas of the Burdened Property for purposes of providing to Grantee and its contractors access to the Storm Easement Area as necessary for excavation, construction, installation, inspection, maintenance, repair and replacement of the pipes, equipment, and all appurtenances thereto (the "Facilities") comprising the storm lines to be installed and maintained within the Storm Easement Area.

4. Intent to Create Separate Real Property Interest. It is Grantor's express intent by this Easement and Agreement to create a separate property interest in the easement rights hereby granted, for the benefit of Grantee and its successors and assigns, and not to have such easement rights merge into Grantor's fee title to the Burdened Property.

5. Purpose. The easement rights hereunder granted are for the purpose of allowing Grantee, its successors and assigns, to construct, install, operate, inspect, maintain, repair, replace and remove storm drainage lines, and the Facilities comprising the same, within the Storm Easement Area.

6. Access and Notice. Grantee shall have the right at all times, without prior institution of any suit or proceeding at law, to enter upon the Burdened Property for the purposes described in Paragraph 4 above. Grantor intends to improve the Burdened Property with buildings, structures, parking facilities and other structures and improvements for purposes of owning and operating a commercial shopping center comprised of retail and office business tenants. To the extent reasonably possible, Grantee shall exercise the easement rights hereunder granted in such manner and at such times as to avoid or minimize interruption to the businesses operating on the Burdened Property, which exercise shall include the conduct of non-emergency maintenance, inspections, repairs and replacement of the Facilities at times which avoid peak hours of use of the businesses located on the Burdened Property and minimizing the amount of parking lot space used for Grantee's equipment and vehicles during such operations. Except where immediate action is required in response to, or to avoid, an emergency endangering persons, property or the Facilities, and further excepting routine inspections not involving heavy equipment or excavations, Grantee shall provide reasonable prior written notice to Grantor at least one business day before entering onto the Burdened Property for purposes of conducting any work on the Facilities. Grantee shall further assure before undertaking any work within the Storm Easement Area that all reasonable and necessary precautions are taken, including, as necessary, barriers, signs, safety personnel and other measures, to avoid or minimize the risk of injury to persons or property in connection with such work. The provisions of Paragraph 9

(Indemnity) of this Easement and Agreement shall apply in the case of any claim for loss or injury caused by Grantee's activities or obligations under this Paragraph.

7. Restoration. If the Storm Easement Area or any other portion of the Burdened Property is disturbed by or as a result of the construction, installation, operation, maintenance, removal, repair, replacement or use of the Facilities, or vehicle traffic related thereto, Grantee shall promptly restore the surface of same as nearly as possible to the condition in which it existed at the commencement of the construction, installation, operation, maintenance, removal, repair, replacement or use. Grantee shall coordinate all such repair and restoration work with Grantor, which work shall be subject to Grantor's inspection and approval. Without limitation on the foregoing, if the repair and restoration requires re-striping of a portion of a parking lot, Grantee shall, at Grantee's expense, cause such re-striping to be completed so as to restore the parking lot striping as nearly as possible to the that which existed immediately prior to Grantee's work within the Storm Easement Area.

8. Reservation of Rights. All right, title and interest in the Burdened Property which may be used and enjoyed without interfering with the Storm Easement or the easement rights herein granted are reserved to Grantor. The construction, installation, maintenance or repair, after the date of this Easement and Agreement, of structures of a permanent nature, which interfere with the operation of the Facilities, shall be deemed an encroachment upon Grantee's easement rights, and Grantor shall be obligated to remove the encroachments at Grantor's expense.

9. Protection of Facilities. Grantor covenants and all successors and assigns of Grantor are deemed to covenant, by taking title to the Burdened Property, that no excavation, boring, drilling, pile driving, tunneling or other form of construction activity that would disturb, damage, unearth, or undermine the Facilities, or endanger the lateral support to the Facilities, shall be done within the Storm Easement Area.

10. Indemnity. By accepting and recording this Easement and Agreement, Grantee agrees to defend, indemnify and hold harmless Grantor from any and all claims for injuries or damages suffered by any person or property which may be caused by the Grantee's exercise of the rights granted herein, solely for purposes of this Paragraph 9 and solely as to any claim by an employee of Grantee against Grantor for which Grantee has a duty to defend, indemnify and hold harmless Grantor, Grantee waives its immunity under Title 51, Revised Code of Washington (which waiver is solely for Grantor's benefit and solely for purposes of this Paragraph 9 and may not be invoked by any third person, including any such employee of Grantee or the heir, assign, successor, trustee, administrator or personal representative of such employee); *provided*, Grantee shall have no duty to Grantor for any loss, injury or damages caused by or resulting from the active negligence or willful misconduct of Grantor or Grantor's agents.

11. Binding Effect. This Easement and Agreement and the rights, benefits, duties and obligations hereunder are intended to and shall run with the land and shall benefit and bind Grantor and Grantee and all heirs, assigns and successors thereto.

STATE OF WASHINGTON)
) ss
COUNTY OF)

DATED: _____

GRANTEE'S ACKNOWLEDGMENT

STATE OF WASHINGTON)
)
) ss
COUNTY OF)

DATED: _____

NAME: _____
(Print Name)
Notary Public in and for the State of Washington
Commission Expires: _____

EXHIBIT I

AFTER RECORDING, PLEASE RETURN TO:

City of Kenmore
Attn: City Manager
P.O. Box 82607
Kenmore, WA 98028

TEMPORARY CONSTRUCTION EASEMENT

Grantor: City of Kenmore, a municipal corporation

Grantee: City of Kenmore, a municipal corporation, its successors and assigns

Short Legal Description: Pcl B, BLA 2012-048, Rec 2012100390001; Vac Lts 8&9, Blk 12, Northlake Ter, Vol 33/20
[Complete legal description on Exhibit A]

Assessor's Property Tax
Parcel/Account Number(s): 618170-0410-07; 618170-0350-09

Reference Number(s) of
Documents Assigned
or Released: N/A

THIS TEMPORARY CONSTRUCTION EASEMENT (this "Easement") is made this ____ day of _____, 201__ (the "Effective Date"), by and between the CITY OF KENMORE, Washington, a municipal corporation ("Grantor") and the CITY OF KENMORE, Washington, a municipal corporation, and its successors and assigns ("Grantee"). Grantor and Grantee agree as follows.

1. **Burdened Property.** Grantor is the fee owner of the real property legally described on **Exhibit A**, attached hereto and incorporated herein (the "Burdened Property").

2. **Benefitted Property.** Grantor is also the fee owner of the real property legally described on **Exhibit B**, attached hereto and incorporated herein (the "Benefitted Property").

448043.1 | 359830 | 0015

-1-

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington

Commission Expires: _____

GRANTEE'S ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington

Commission Expires: _____

EXHIBIT J
[AGREEMENT FOR RELOCATION OF EASEMENTS (PSE)]

TO BE PROVIDED BY BUYER

ATTACHMENT

1

13-C1170

CONTRACT NO. ~~C1170~~

**AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT
OF PROPERTY FOR RESIDENTIAL PURPOSES**

THIS AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF REAL PROPERTY FOR RESIDENTIAL PURPOSES (this "Agreement") is entered and made effective as of the 10th day of July, 2013 (the "Effective Date"), by and between MSPT VI LLC, a Washington limited liability company ("Buyer"), and the City of Kenmore, a Washington municipal corporation ("Seller").

WHEREAS, Seller owns the real property located in the City of Kenmore, King County, Washington, legally described on Exhibit A hereto (the "Real Property"), which, along with all of the structures and improvements located thereon or thereunder and all rights and interests of Seller appurtenant thereto are collectively referred to herein as the "Property"; and

WHEREAS, Seller desires to sell and Buyer desires to purchase the Property on the terms and subject to the conditions set forth in this Agreement, which terms and conditions include, as a condition to Closing, that Seller and Buyer shall agree upon terms of a Development Agreement setting forth the standards for Buyer's development and use of the Property following Closing;

NOW, THEREFORE, in consideration of the promises made in this Agreement, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Seller hereby agrees to sell and convey the Property to Buyer, and Buyer hereby agrees to purchase and accept the Property from Seller, on the terms and conditions expressly set forth in this Agreement.

1. Key Dates.

a. Effective Date. As stated in the opening paragraph hereof.

b. Feasibility Period. Period ending September 9, 2013 [Section 7(a)]. *[60 days after Effective Date – to be filled in at execution]*

c. Code Amendment. Amendment to the Kenmore Municipal Code described in Section 7(l) shall be accomplished not later than end of Feasibility Period, as provided in Section 7(l).

d. Seller Notice of Termination to King County Metro. Seller to deliver 6-month notice of termination of right to occupy the Property to King County Metro upon Buyer's waiver of Feasibility Contingency or September 30, 2013, whichever first occurs. Seller acknowledges in any event that King County Metro's right of occupancy must terminate and King County Metro must vacate the Property on or before March 31, 2014 as provided in Section 6 hereof.

e. Site Development Permit Application. Buyer to submit within ninety (90) days after end of Feasibility Period, as provided in Section 7(k).

f. Development Agreement Deadline. January 6, 2014, *[180 days after Effective Date]* subject to up to sixty (60) days extension as provided in Section 7(h).

g. Seller Notice to North Shore Utility District. To cause NSUD to vacate not later than March 31, 2014 [Section 6].

h. Closing Date. Five (5) business days after Buyer notified in writing by City of Kenmore that the Building Permit is available for issuance; Outside Closing Date is June 30, 2015, subject to extension as stated in Section 5.

i. Post-Closing Construction Commencement Date. Buyer shall proceed with construction and shall complete those residential units described in the Development Agreement, fronting 68th Avenue N.E. Such construction shall commence not later than twenty-four (24) months after Closing [Ex. D – Declaration, Paragraph 1].

2. Purchase Price. The Purchase Price is Three Million Six Hundred Thousand Dollars (\$3,600,000), payable in cash at closing, with credit for the Earnest Money.

3. Escrow Agent and Title Insurance Company. The parties hereby appoint Scott Smouse ("Escrow Agent") of Chicago Title Company ("Title Company"), located at 701 Fifth Avenue, Suite 3400, Seattle, Washington 98104 to serve as Escrow Agent for this transaction. Buyer and Seller shall execute and deliver to Escrow Agent such instructions as may be necessary or convenient to implement the terms of this Agreement and close the transaction contemplated by this Agreement, provided that they are not inconsistent with the terms of this Agreement.

4. Earnest Money.

a. Upon execution of this Agreement, Buyer shall execute and deliver to Escrow Agent a promissory note in the amount of One Hundred Eighty Thousand Dollars (\$180,000) (the "Earnest Money") in the form attached as Exhibit B (the "Earnest Money Note"). The Earnest Money shall be applicable to the Purchase Price at closing.

b. If Buyer delivers written notice of waiver of the Feasibility Contingency, Buyer shall within one (1) business day of delivering such notice replace the Earnest Money Note with cash in the amount of the full sum of the Earnest Money; failure to timely deliver such cash in place of the Earnest Money Note shall cause Buyer's notice of waiver of the Feasibility Contingency to be null and void, and this Agreement shall terminate and Buyer shall have no further right or interest in or to the Property or this Agreement. Upon Buyer's notice of waiver of the Feasibility Contingency and delivery of cash in replacement of the Earnest Money Note, Ninety Thousand Dollars (\$90,000) of the Earnest Money shall be deemed fully earned in consideration of the agreements of Seller under this Agreement and shall be released by Escrow Agent to Seller without requirement of further instruction. Thereafter, Escrow Agent shall release (and is hereby instructed by Buyer and Seller to do so) an additional Thirty Thousand Dollars (\$30,000) of said Earnest Money to Seller at the end of each successive period of thirty (30) days following the date of Buyer's delivery to Seller of Buyer's notice of waiver of the Feasibility Contingency, to a maximum of three (3) of such thirty day periods.

c. If the Earnest Money has not been fully disbursed to Seller at such time as Buyer and Seller have signed a written agreement approving the Development Agreement (as described in Section 7(g)), the remainder of the Earnest Money shall at that time be disbursed by Escrow Agent to Seller.

d. All Earnest Money when disbursed to Seller as described herein shall be deemed fully earned and wholly non-refundable to Buyer, but applicable to the Purchase Price.

e. If Escrow Agent requires written consent or confirmation from Buyer to disburse said funds to Seller, Buyer hereby agrees promptly to provide such consent or confirmation as is reasonably required by Escrow Agent for such disbursement.

f. If for any reason the Earnest Money or portions thereof should not be disbursed to Seller at the times here indicated, upon each of the times so stated here, those portions of the Earnest Money here designated shall nonetheless be deemed fully earned by Seller and fully non-refundable to Buyer and shall be disbursed to Seller in any event not later than the termination of this Agreement or at Closing, whichever first occurs.

g. Within one (1) business day after the following have occurred: (i) the parties' mutual execution of the Development Agreement, (ii) City approval of the Site Plan necessary for Buyer's development of the Property as defined in the Development Agreement, and (iii) written notice to Buyer of SEPA approval for Buyer's proposed project to be constructed on the Property, Buyer shall deposit cash in the amount of an additional Two Hundred Thousand Dollars (\$200,000) with Escrow Agent as additional earnest money (the "Additional Earnest Money"), which funds shall be deemed fully earned by Seller and wholly non-refundable to Buyer once deposited with Escrow Agent. Once the Additional Earnest Money is so deposited, all references in this Agreement to the "Earnest Money" shall thereafter be read to mean the Earnest Money and the Additional Earnest Money combined, along with any and all interest earned thereon.

h. Escrow Agent shall deposit the Earnest Money into an interest-bearing account, and Buyer shall deliver to Escrow a W-9 and/or such other documents as Escrow Agent may require for purposes of making such deposit. All interest earned thereon shall be credited to Buyer and shall be deemed the property of the party otherwise entitled to the Earnest Money at closing or other termination of this Agreement.

i. Notwithstanding any other term or provision of this **Section 4** (or of this Agreement), if a Seller Default shall exist as defined in this Agreement and if Buyer exercises the right to terminate this Agreement due to such Seller Default, or due to a failure of a Buyer Condition to Closing, then, without limitation on any other remedy that may be available to Buyer if such termination is due to a Seller Default, upon such termination Seller shall promptly refund to Buyer all of the Earnest Money previously disbursed to Seller, and Escrow Agent shall disburse to Buyer any Earnest Money then still held by Escrow Agent.

5. **Closing.** Closing shall take place on or before the Closing Date stated in **Section 1(h)**. If for any reason any of the Conditions to Closing have not been satisfied and Closing does not occur by the Outside Closing Date stated in **Section 1(h)**, then either Seller or Buyer shall have the right, but not the obligation, to terminate this Agreement by giving written notice to the other stating unequivocally that this Agreement is terminated due to failure to complete Closing by the Outside Closing Date. *Provided*, a party may not terminate this Agreement under this Section if the failure to close by the Outside Closing Date is due to that party's failure to perform its obligations under this Agreement; *provided further*, if receipt of the Building Permit is delayed due to appeal of or other legal challenge to SEPA Approval, City adoption of the Development Agreement or other action related to issuance of the Building Permit (any or all of the foregoing, "**Legal Challenge**"), the Outside Closing Date shall be extended to the date that is sixty (60) days following the final conclusion by final judgment, settlement or otherwise, beyond any applicable appeal period, of all such Legal Challenge.

6. **Buyer's Possession.** Buyer acknowledges King County Metro currently uses and has the right to occupy the Property which use and right of occupancy are subject to termination on six (6) months notice from Seller. Seller agrees to provide such notice at the time specified in **Section 1(d)** hereof. In addition, Buyer acknowledges North Shore Utility District ("NSUD") currently has a right to use the Property for construction staging, which right Buyer agrees may continue following Closing but not beyond the dated specified in **Section 1(g)**. Seller agrees to give such notice and take such action as necessary to cause NSUD to have fully vacated and removed all of its equipment and property from the Property by said date. Without

consent of Buyer, which consent shall not be unreasonably withheld, Seller shall not make or allow any material changes to the physical condition of the Property except as contemplated by this Agreement or as required by applicable law. Subject to the rights of King County Metro and NSUD, which Seller shall cause to terminate on or before the date specified in Sections 1(d) and 1(g), Buyer shall be entitled to possession of all of the Property following Closing.

7. Conditions to Closing.

a. Feasibility Contingency. Buyer's obligation to purchase the Property is contingent on and subject to Buyer's determination, in Buyer's sole discretion, that Buyer is satisfied with the Property and the terms of this Agreement in all respects, that Buyer has determined it has the financial ability to fulfill all of the terms and conditions of this Agreement, that the Property is satisfactory for Buyer's intended uses and that any and all conditions, restrictions and limitations on such use based on this Agreement, the Development Agreement and the Declaration (each as defined *infra* in this Agreement), matters of title or public record affecting the Property, zoning, location, demographics, traffic, environmental and geophysical and all other factors of any kind are acceptable to Buyer and that Buyer is prepared to complete the transaction described herein pursuant to the terms of this Agreement (the "**Feasibility Contingency**"). Buyer and its authorized contractors, engineers, surveyor, appraiser, consultants, employees, lenders and agents shall have full opportunity during the Feasibility Period specified in Section 1(b) hereof to enter and inspect the Real Property and to review the Property Reports and to study all other aspects of the Property, including, but not limited to its physical condition, location, environmental condition, traffic patterns, demographics, marketing potential, surrounding area, and all other conditions or characteristics of the Property as Buyer deems pertinent to Buyer's decision to acquire the Property. For this purpose, "**Property Reports**" means all reports, documents and other materials pertaining to the Property as listed or described on **Exhibit C** hereto, to the extent in the possession of Seller or Seller's contractor(s), attorney(s) or agent(s). Buyer acknowledges that the Property Reports include materials provided to Seller by third parties as well as materials Seller has prepared or maintained for its own purposes, which are not necessarily current, complete or accurate, and that Buyer will review the same with the knowledge that Seller makes no representation or warranty of any kind, express or implied, as to the Property Reports, including as to the completeness, accuracy, currentness, or other characteristic thereof and that the Property Reports consist solely of one form of information provided to Buyer for its convenience in its investigation of the Property subject to the above disclaimer of warranties and representations.

b. This Agreement shall automatically terminate without requirement of notice, and the Earnest Money shall be returned to Buyer without requirement of demand by Buyer or approval by Seller, unless, on or before the end of the Feasibility Period, Buyer gives written notice to Seller stating that the Feasibility Contingency is either satisfied or waived by Buyer. If Buyer provides such notice prior to the end of the Feasibility Period, the Earnest Money shall become non-refundable as described in Section 4 above, and the parties shall proceed in accordance with this Agreement. If Buyer does not provide such notice, this Agreement shall terminate, Buyer shall return the Property Reports to Seller, and Escrow Agent shall deliver the Earnest Money to Buyer.

c. Title. Buyer shall have accepted the condition of title to the Property and Title Company shall be prepared to issue the Title Policy to the Buyer as of the Closing Date in accordance with Section 9 below.

d. Deliveries. Each party shall have delivered all documents, funds and materials required to be delivered by it in accordance with Section 8 below.

e. No Seller Default. Seller shall not be in default of any of Seller's obligations under this Agreement.

f. Representations and Warranties. On the Closing Date, the respective representations and warranties of the parties contained in Sections 10 and 11 are true and correct, as if made as of the Closing Date, except as provided in Section 12.

g. No Damage or Destruction. There shall have been no casualty, condemnation or other event affecting the Property as described in Section 13 hereof (entitled "Damage/Destruction").

h. Development Agreement Contingency. The parties shall have reached agreement to the form, content, terms and conditions of a Development Agreement pursuant to RCW Ch. 36.70 setting forth the standards for Buyer's development and use of the Property consistent with the terms set forth in Addendum No. 1 to this Agreement, which Addendum is hereby incorporated into and made a part of this Agreement. If Buyer and Seller have not agreed in writing on the precise form, content, terms and conditions of the Development Agreement (which agreement in writing may be by a separate document attaching the agreed-upon form of the Development Agreement to be executed at Closing, or by execution of a Development Agreement which is by its terms contingent on Closing) by the Development Agreement Deadline specified in Section 1(f), then Buyer shall have the right either to extend the Development Agreement Deadline for an additional thirty (30) days or terminate this Agreement; Buyer shall be deemed to have elected to terminate this Agreement unless it provides written notice to Seller prior to the end of the Development Agreement Deadline stated above of Buyer's exercise of the right to extend the Deadline by thirty days as herein provided. If Buyer elects so to extend the Development Agreement Deadline and at the end of such extension Buyer and Seller still have not reached agreement on the form, content, terms and conditions of the Development Agreement, then *either* (i) the Development Agreement Deadline may be extended by mutual agreement in writing signed by both Buyer and Seller, *or* (ii) in the absence of such mutual agreement, *either* of Buyer or Seller shall have the right, but not the obligation, to terminate this Agreement by giving written notice of termination pursuant to this Section to the other party. *Provided*, if agreement upon or execution of the Development Agreement is delayed beyond the Development Agreement Deadline due to Legal Challenge, as defined in Section 5 hereof, the Development Agreement Deadline shall be extended to the date that is sixty (60) days following the final conclusion by final judgment, settlement or otherwise, beyond any applicable appeal period, of all such Legal Challenge.

i. If this Agreement is terminated by either Buyer or Seller under any of the provisions of this Section permitting termination due to failure of the parties to reach agreement on the Development Agreement, then in any such event one-half (1/2) of the Earnest Money shall be returned to Buyer and one-half (1/2) of the Earnest Money shall be retained by Seller, and Buyer shall have no further rights or interests with respect to the Property or under this Agreement.

j. Property Covenants Contingency. Buyer shall have agreed to execute and permit recording of a Declaration of Covenants incorporating the terms listed on Exhibit D to this Agreement (the "Declaration"). Buyer and Seller shall agree on the form of the Declaration prior to the end of the Feasibility Period. If Buyer waives the Feasibility Contingency, Buyer shall be deemed to have approved the then most recent version of the Declaration exchanged between the parties.

k. SEPA and Site Plan Approval and Issuance of the Building Permit. Buyer's proposed development of the Property shall have received SEPA and Site Plan approval (which may, but need not necessarily be included as part of the Development Agreement) and the Building Permit

for Buyer's development of the Property in accordance with the Development Agreement shall be ready for issuance. Buyer agrees to, and shall, submit a complete site development permit application within the time period stated in Section 1(e). If Buyer fails to do so, Seller shall provide notice to Buyer of such failure, upon receipt of which Buyer shall have ten (10) Business Days to complete its application and submit additional information specified by the City's Department of Development Services in accordance with Kenmore Municipal Code 19.25.050. Completeness of the application for these purposes shall be assessed in accordance with state and local standards for issuance of a "determination of completeness." If Buyer fails to make such submission within such ten (10) Business Day period following its receipt of Seller's notice, then Seller shall have the right, but not the obligation, to terminate this Agreement by notice to Buyer, upon Buyer's receipt of which, this Agreement shall terminate, one-half of the Deposit shall be returned to Buyer and the other half of the Deposit shall be retained by Seller, and Buyer shall have no further right or interest in the Property or this Agreement.

l. City Code Amendments. The City of Kenmore, acting in its governmental capacity, shall have modified its City Code Chapters 18.77 (Affordable Housing) and 3.65 (Multi-Family Tax Abatement) applicable to the Property so that:

i) the low-income housing requirements applicable to the Property shall be read to mean twenty-five percent (25%) of the residential units shall be made available for rental or leasing residents with household income not greater than eighty-five percent (85%) of the King County median household income as published by King County from time to time, of which at least five (5) of the residential units shall be made available for rental or leasing to residents with incomes at or below fifty percent (50%) of the King County median household income level; and

ii) the conditions to qualify for property tax abatement based on providing affordable housing shall be amended so that the standard for affordable housing shall be revised from eighty percent (80%) of King County median household income to eighty-five percent (85%) of King County median household income.

If the City Code is not amended as provided in both parts of this Subsection by the end of the Feasibility Period, Buyer shall have the option, in its sole discretion, to extend the Feasibility Period for a period of up to thirty (30) days. If the City Code is not amended within the extended Feasibility Period, this Agreement shall terminate and the entire Earnest Money shall be returned to the Buyer.

m. Surplus Declaration. Prior to the commencement of the Feasibility Period, the City Council of Seller shall declare by resolution recorded in the public records of the Seller that the sale of the Property is duly authorized by all applicable law including Chapter 3.55 of the Kenmore Municipal Code, the requirements of which (including public hearing pursuant to Section 3.55.020) shall have been satisfied.

n. Waiver of Seller Disclosure Statement. Buyer and Seller agree and acknowledge that the Property constitutes "Commercial Real Estate" as defined in RCW 64.06.005. Buyer has been advised of its right to receive a completed seller disclosure statement ("Seller Disclosure Statement") regarding the Property pursuant to RCW Chapter 64.06. Buyer hereby waives (a) the right to receive the Seller Disclosure Statement from Seller pursuant to RCW Chapter 64.06, and (b) the right to rescind this Agreement based on Buyer's lack of receipt of such a Seller Disclosure Statement. Except as otherwise disclosed in the diligence materials delivered by Seller to Buyer, Seller represents that it would not have answered "Yes" to any of the disclosure questions in the "Environmental" section of the statutory form of the Seller Disclosure Statement." The provisions of

this Section 7(m) shall survive the Closing or termination of this Agreement.

8. Closing Procedures, Costs and Pro-rations.

a. Deliveries. Each of the parties shall deliver the following to Escrow Agent not later than 12:00 Noon, Pacific Time, on the business day immediately preceding the Closing Date (except as to the Funds, which may be delivered by wire transfer on the morning of the Closing Date), with all documents or instruments to be signed by a party, duly executed and acknowledged if required:

i) Seller's Deliveries:

- (1) the Deed;
- (2) Real Estate Excise Tax Affidavit, executed by Seller;
- (3) Title Company Affidavit(s) or Indemnity(ies) as required under Section 9 below;
- (4) two executed counterparts of an affidavit by Seller to the effect that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (if required);
- (5) two executed counterparts of the Development Agreement (unless previously executed by the parties);
- (6) closing or settlement statement prepared by Escrow Agent with amounts and adjustments in accordance with this Agreement;
- (7) such other documents, instruments and instructions as may be required by Escrow Agent in accordance with standard escrow closing practices in the county in which the Real Property is located for closing of the transaction in accordance with this Agreement.

ii) Buyer's Deliveries:

- (1) Funds in an amount sufficient to complete Buyer's purchase of the Property in accordance with this Agreement (the "Funds");
- (2) Real Estate Excise Tax Affidavit, executed by Buyer;
- (3) Two executed counterparts of the Development Agreement (unless previously executed by the parties);
- (4) closing or settlement statement prepared by Escrow Agent with amounts and adjustments in accordance with this Agreement;
- (5) such other documents, instruments and instructions as may be required by Escrow Agent in accordance with standard escrow closing practices in the county in which the Real Property is located for closing of the transaction in accordance with this Agreement.

b. Closing Costs. Closing costs shall be allocated and pro-rated between the parties as follows:

i) Seller and Buyer hereby expressly waive any requirement for escrow to ascertain, pro-rate and/or pay any utility charges relating to the Property, which Seller and Buyer agree they will take care of outside of escrow.

ii) The cost of an ALTA Standard Owner's Policy of Title Insurance as described below shall be paid by Seller. The cost of any extended coverage, endorsements, or coverage in addition to that provided on the Standard form shall be borne by Buyer.

iii) Seller shall pay all real estate excise taxes for transfer of title of the Real Property to Buyer.

iv) Seller shall pay one-half of the escrow fees, and Buyer shall pay one-half of the escrow fees.

v) Seller shall pay the real estate commission owing to Jones Lang LaSalle as provided in **Section 21** of this Agreement;

vi) If Buyer obtains financing for this transaction, Buyer shall pay all costs of financing, including, but not limited to, loan fees, lender attorney's fees, and the premium for the lender's policy of title insurance.

vii) Each party shall bear its own legal and consulting fees incurred in connection with this transaction.

9. Title.

a. Deed. At closing, Seller shall convey title to the Real Property to Buyer by Statutory Warranty Deed subject only to the Permitted Exceptions (as defined below), substantially in the form of **Exhibit D** hereto (the "**Deed**").

b. Title Review. Seller shall order, not later than the Effective Date, and request the Title Company to deliver to Buyer a preliminary commitment for title insurance relating to the Property (the "**Title Commitment**") together with the underlying documents forming the basis for the exceptions. Buyer may also obtain an ALTA/ACSM survey of the Real Property during the Feasibility Period. Buyer shall have the right to object to any matter affecting the condition of title to the Real Property as disclosed in the Title Commitment by giving written notice of such objection to Seller, except Buyer acknowledges Seller acquired the Property by statutory warranty deed from King County, Washington, dated January 6, 2005, recorded January 10, 2005 under King County Recording No. 20050110001850, which deed includes a covenant requiring the Property to include "high density housing with at least twenty-five percent of the units satisfying the affordability criteria of K.C.C. 4.56.070(E) as it may be amended from time to time", which deed and requirements constitute a Permitted Exception which Seller does not agree to remove. Buyer and Seller shall coordinate with each other and, as applicable, with the Title Company to cause any title matters to which Buyer objects to be resolved during the Feasibility Period. If Buyer gives notice that the Feasibility Contingency is satisfied or waived, such notice shall be deemed approval of the condition of title to the Real Property as disclosed in the Title Commitment. All matters disclosed on the Title Commitment, except those matters the Title Company or Seller (or both of them) has agreed to cause

to be removed prior to closing, shall constitute "**Permitted Exceptions.**" *Provided*, if as part of the above process or pursuant to Subsection (c) below Seller gives written notice to Buyer stating Seller will cause any title-related matter to which Buyer has objected to be removed, cured or corrected prior to Closing, Seller shall be obligated to do so and failure by Seller to cause such action to be completed prior to Closing in accordance with such notice given to Buyer shall constitute a Seller Default hereunder.

c. **Supplemental Title Matters.** If any lien, encumbrance, title defect, or other matter affecting title to the Property is first disclosed to Buyer after Buyer has given notice of satisfaction or waiver of the Feasibility Contingency, Buyer shall have the right to give written notice to Seller objecting to such new matter, provided such notice must be given within five (5) business days after Buyer has been given notice by Seller or the Title Company (in the case of the latter, by supplement to the Title Commitment), or the business day immediately preceding the Closing Date, whichever is sooner. If Seller fails to notify Buyer within three (3) business days after Seller's receipt of such notice from Buyer, or by the business day immediately preceding the Closing Date, whichever first occurs, Buyer shall have the right, but not the obligation, to terminate this Agreement and receive return of the Earnest Money. If Buyer gives no notice objecting to such new matter within the time stated above, or if Buyer elects to accept title to the Real Property subject to such newly disclosed matter, such matter shall be deemed a Permitted Exception.

d. **Title Policy.** If Buyer or Seller has ordered title insurance as provided above, following the Closing, the Title Company shall issue in Buyer's favor an ALTA Standard Form Owner's Policy of Title Insurance (the "**Title Policy**"), in an amount not less than the Purchase Price, insuring Buyer's ownership of fee title to the Property, subject only to the Permitted Exceptions, standard printed exceptions appearing in the Title Policy form, and general and special property taxes and assessment installments payable after the Closing Date. If Buyer desires or is required by its lender to obtain extended title insurance coverage, specific endorsements or other coverage beyond ALTA standard owner's coverage, Buyer shall be responsible, at its cost, for taking all actions necessary to obtaining such additional or extended coverage or endorsements, the availability or obtaining of which shall not be a condition to Closing or to Buyer's obligations under this Agreement; *provided*, Seller shall be obligated reasonably to cooperate with Buyer in obtaining such additional coverage, and, without limitation on such obligation to cooperate, Seller hereby agrees to sign and deliver to the Title Company the Title Company's standard affidavit or indemnity as may be required for purposes of insuring Buyer's title against claims for liens for labor, materials, equipment, or professional services provided to or for the benefit of the Property prior to closing or the claim of any person claiming to be entitled to possession or occupancy of the Property other than as disclosed by Seller on a certified rent roll pertaining to the Property and given to Buyer as of the Effective Date.

10. Representations and Warranties of Seller. Seller represents and warrants to Buyer the following:

a. Title. Seller is the holder of fee title to the Real Property subject only to the Permitted Exceptions.

b. Authority to Perform. Seller has full authority to perform all of Seller's obligations under this Agreement, including, but not limited to all necessary right, title and authorization to sell, assign, convey, transfer and deliver to Buyer, according to the terms of this Agreement, all documents, instruments, materials, rights, entitlements and interests comprising the Property.

c. No Conflict. Neither the execution of this Agreement nor the performance by Seller of its obligations hereunder or consummation by Seller of the transactions described herein will (i) conflict with or result in a breach of the terms, conditions or provisions of or constitute a default, or result in a termination of any contract, lease, or agreement (written or oral) with respect to the ownership, operation, maintenance, use or occupancy of the Property or to which Seller is a party; (ii) violate any restriction to which either the Property or Seller is subject; or (iii) constitute a violation of any applicable law or legal requirement of which Seller or any of its principals, members, partners, officers, managers or owners is aware.

d. No Prior Rights. No person or entity is the holder of or entitled to exercise any option, right of first refusal, right of first option or similar right to acquire the Property or any portion thereof.

e. Condemnation and Litigation. There is no threatened, pending or planned condemnation proceeding or other litigation, claim or proceeding, in law or in equity, relating to or otherwise affecting the Property.

f. Violations. Seller has not received any notice, suit, order, or judgment, by or on behalf of any federal, state, county or municipal authority, claiming or finding any violation by the Property of any code, ordinance, statute, regulation, court ruling or other law pertaining to real property use, zoning, building, fire, air pollution, water pollution, hazardous substances, or public health or safety, or any notice, suit, order, or judgment seeking or requiring any improvement, alteration, correction or other work on the Property.

g. Hazardous Materials. Seller has no actual knowledge of the presence on or in or the release from the Property of any Hazardous Materials except in minimal quantities which do not exceed any limitation under applicable environmental laws or as is disclosed in or by the environmental reports and documents provided to Buyer as part of the Property Information. As used herein, "Hazardous Material" means any hazardous waste or other substances listed, defined or classified as hazardous, dangerous, radioactive, toxic, solid waste or a pollutant or contaminant in any Environmental Law. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions or hazardous substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the federal Clean Water Act (33 U.S.C. Section 1251 et seq.), or the Washington Model Toxics Control Act, RCW chapter 70.105B et seq.

h. No Liens or Unpaid Amounts. All amounts due or owing for labor, materials, equipment or lienable services furnished with respect to the Property have been paid in full or will be paid in full and discharged by the Closing Date.

i. Survival. All of the representations and warranties of Seller contained in this Section 10 will survive the Closing Date.

11. Representations and Warranties of Buyer. Buyer represents and warrants to Seller the following:

a. Buyer's Existence. Buyer is a validly formed limited liability company and has paid all fees and met all licensing and registration requirements due the State of Washington.

b. Authority to Perform. Buyer has full right, title, authority and capacity to execute and perform this Agreement and to consummate all of the transactions contemplated herein, and the individual(s) who on Buyer's behalf execute and deliver the Agreement and all documents to be delivered to Seller hereunder are and will be duly authorized to do so and have the full authority to bind Buyer to this Agreement.

c. Litigation. There is no litigation, claim or proceeding pending or, to Buyer's knowledge, threatened, against Buyer or any of Buyer's members or principals before any court or administrative agency which might result in Buyer being unable to consummate this transaction.

d. No Conflict. Neither the execution of this Agreement nor the performance by Buyer of its obligations hereunder or consummation by Buyer of the transactions described herein will (i) conflict with or result in a breach of the terms, conditions or provisions of or constitute a default, or result in a termination of any contract, lease, or agreement (written or oral) to which Buyer is a party; (ii) violate any restriction to which Buyer is subject; or (iii) constitute a violation of any applicable law or legal requirement of which Buyer or any of its principals, members, partners, officers, managers or owners is aware.

e. Survival. All of the representations and warranties of Buyer contained in this Section 11 will survive the Closing Date.

12. Changes in Representations and Warranties. The foregoing representations and warranties are to be made by the parties as of the Effective Date. As a condition to closing, each of such representations and warranties shall also be true without material exception as of the Closing Date. If after the Effective Date a party making a representation and warranty (the "Representing Party") becomes aware of facts that would cause such representation and warranty to be untrue in any material way or containing a material omission, the Representing Party shall notify the other party (the "Nonrepresenting Party") in writing within five (5) Business Days after the Representing Party's discovery of such facts, and shall include copies of documents or materials, if any in the Representing Party's possession or reasonably within its access, related to such facts. If a representation and warranty can no longer be accurately made by the Representing Party and this is (i) due to a state of facts first arising or first discovered or brought to the attention of the Representing Party after the Effective Date and (ii) not intentionally caused by the Representing Party, and if (iii) such new state of facts materially and adversely affects a right, remedy or obligation of the Nonrepresenting Party under

this Agreement, or will prevent a party from performing as required herein, or, in the case of Buyer, materially increases the costs associated with Buyer's intended use of the Property or materially decreases value of the Property, then the Nonrepresenting Party may by written notice to the Representing Party elect to terminate this Agreement. In such event, Buyer shall return the Property Reports to Seller, and Escrow Agent shall deliver the Earnest Money to Buyer. Such election to terminate must be exercised within ten (5) Business Days after the Nonrepresenting Party receives the written notice from the Representing Party as provided above, which notice must specify each representation and warranty which is not or is no longer true in some or all respects and the facts causing such representation and warranty not to be entirely true without material exception. During such 5-day period, however, the parties shall negotiate in good faith about possible solutions to address the change in facts, which may include proposals for courses of actions to cure the issue or price adjustments or such other solution as may be mutually agreed upon by the parties; however, neither party shall be required or compelled to accept or agree upon a resolution which diminishes such party's rights or the value of its interests under this Agreement.

13. Indemnification. In addition to and not in place of any other agreement, express or implied, to indemnify or hold the other harmless, Seller and Buyer each agrees to indemnify and hold the other harmless as follows:

a. Seller's Indemnities. Seller agrees to indemnify and hold Buyer harmless from any and all costs, damages, losses, claims, judgments, and other amounts, including attorney's fees and costs relating thereto, only to the extent resulting or arising from or proximately caused by the material falsity of any of Seller's representations expressly stated in this Agreement.

b. Buyer's Indemnities. Buyer agrees to indemnify and hold Seller harmless from any and all costs, damages, losses, claims, judgments, and other amounts, including attorney's fees and costs relating thereto, resulting or arising from or proximately caused by the material falsity of any of Buyer's representations expressly stated in this Agreement.

14. Damage/Condemnation. If on or before the Closing Date the Property is materially damaged due to casualty or catastrophe, or condemnation proceedings are commenced with respect to all or a portion of the Property, and such damage or condemnation materially affects Buyer's intended use thereof, then Buyer shall have the right, at its sole election, by giving notice to Seller, either to terminate this Agreement or to proceed with the purchase in accordance with this Agreement.

15. Default and Remedies.

a. Seller's Remedies: Liquidated Damages. IF BUYER DEFAULTS IN ITS OBLIGATION TO PURCHASE THE PROPERTY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING THE TERMS AND CONDITIONS AS TO THE TIME OF ITS PERFORMANCE OF ITS OBLIGATIONS HEREUNDER, THE PARTIES HAVE DETERMINED AND AGREED THAT SELLER WILL SUSTAIN ACTUAL LOSS AND DAMAGES, THE AMOUNT OF WHICH IS NOT SUSCEPTIBLE TO PRECISE ASCERTAINMENT AND THAT ACCORDINGLY, IN THE EVENT OF SUCH BREACH BY BUYER, SELLER, AS ITS SOLE AND EXCLUSIVE REMEDY, SHALL HAVE THE RIGHT TO TERMINATE ITS OBLIGATION TO COMPLETE THE TRANSACTION (PROVIDED SELLER IS NOT THEN IN A

MATERIAL DEFAULT UNDER THIS AGREEMENT) AND, UPON SO DOING, WILL BE ENTITLED TO RECEIVE THE EARNEST MONEY AS LIQUIDATED DAMAGES. BY PLACING THEIR INITIALS BELOW, BUYER AND SELLER ACKNOWLEDGE THEIR AGREEMENT TO THIS LIQUIDATED DAMAGES PROVISION. IT IS AGREED THAT THE SOLE AND EXCLUSIVE REMEDY FOR SELLER IN THE EVENT BUYER FAILS, IN BREACH OF THIS AGREEMENT, TO PURCHASE THE PROPERTY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, SHALL BE SELLER'S RECEIPT AND RETENTION OF THE ABOVE REFERENCED SUM AS LIQUIDATED DAMAGES. PAYMENT OF THE ABOVE REFERENCED SUM TO SELLER IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES FOR BUYER'S BREACH OF ITS OBLIGATION TO PURCHASE THE PROPERTY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT. PROVIDED, THE FOREGOING SHALL NOT LIMIT OR RESTRICT ANY RIGHT OR REMEDY OF SELLER FOR BUYER'S BREACH OF ANY OF ITS OBLIGATIONS TO BE PERFORMED POST-CLOSING OR BREACH OF ANY DUTY OF BUYER EXPRESSED HEREIN TO INDEMNIFY, DEFEND OR HOLD HARMLESS SELLER OR SELLER-RELATED PARTIES.

INITIALS OF PARTIES' REPRESENTATIVES:

BUYER: ES SELLER: POK

b. Buyer's Remedy. If Seller fails in any material way to perform any of its obligations under this Agreement and if such failure results in a failure to satisfy a condition to Closing or materially interferes with the ability of Buyer to conduct its investigation of the Property or to obtain SEPA approval or Site Plan approval or to perform its obligations or receive the intended benefits to Buyer under this Agreement, then Buyer (provided that Buyer is not then in a material default under this Agreement), as its sole and exclusive remedy, may either (a) terminate its obligation to complete the Transaction, in which case Buyer may recover the Earnest Money plus all Buyer's actual, documented out-of-pocket expenses paid to third parties in connection with Buyer's due diligence investigation of the Property plus an amount equal to ten percent (10%) of such expenses, or (b) enforce specific performance of the obligation Seller to sell the Property pursuant to this Agreement, provided that any action seeking specific performance must be commenced within sixty (60) days after the date then scheduled for Closing, or if no Closing date has then been scheduled or can be ascertained, then within sixty (60) days after the date on which Buyer has first given Seller notice of Seller's failure in a material way to perform any of its obligations under this Agreement. Buyer hereby knowingly and intentionally waives all remedies for Seller's failure in performance (including any right to obtain damages from Seller), except those specifically provided for in this Section.

c. Buyer and Seller each agree that neither of them shall seek or be entitled to receive an award of consequential, incidental damages, punitive or exemplary damages in the event of a breach by the other, prior to closing, of the terms, obligations, covenants or conditions of this Agreement. The remedies provided to each party in this Section 15 shall, however, apply solely in the event of a breach, default or failure to perform which causes or results in termination of this Agreement prior to closing. In the event of any breach, default, violation, or failure to perform any other term or covenant of this Agreement relating to

matters which do not affect or relate to the Closing or which occur after the closing of this Agreement, or involving a right to indemnification as to claims brought by third parties, Seller and Buyer shall each retain all rights and remedies available in law or in equity, including, in such event, the right to attorney's fees as set forth in this Agreement.

16. Disclaimer of Warranties. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES STATED IN SECTION 10 ABOVE, SELLER SPECIFICALLY DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE (INCLUDING WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR USE OR ACCEPTABILITY FOR THE PURPOSE INTENDED BY BUYER) WITH RESPECT TO THE PROPERTY OR ITS CONDITION OR THE CONSTRUCTION, PROSPECTS, OPERATIONS OR RESULTS OF OPERATIONS OF THE PROPERTY. THE DISCLAIMERS IN THIS SECTION SPECIFICALLY, BUT WITHOUT LIMITATION, EXTEND TO: (1) MATTERS RELATING TO HAZARDOUS MATERIALS AND COMPLIANCE WITH ENVIRONMENTAL LAWS, (2) GEOLOGICAL CONDITIONS, INCLUDING SUBSIDENCE, SUBSURFACE CONDITIONS, WATER TABLE, UNDERGROUND STREAMS AND RESERVOIRS AND OTHER UNDERGROUND WATER CONDITIONS, LIMITATIONS REGARDING THE WITHDRAWAL OF WATER, EARTHQUAKE FAULTS, AND MATTERS RELATING TO FLOOD PRONE AREAS, FLOOD PLAIN, FLOODWAY OR SPECIAL FLOOD HAZARDS, (3) DRAINAGE, (4) SOIL CONDITIONS, INCLUDING THE EXISTENCE OF INSTABILITY, CONDITIONS OF SOIL FILL, SUSCEPTIBILITY TO LANDSLIDES, AND THE SUFFICIENCY OF ANY UNDERSHORE, (5) ZONING AND SUBDIVISION AND COMPLIANCE WITH ZONING AND SUBDIVISION LAWS, (6) THE VALUE AND PROFIT POTENTIAL OF THE PROPERTY AND (7) DESIGN, QUALITY, SUITABILITY, STRUCTURAL INTEGRITY AND PHYSICAL CONDITION OF THE PROPERTY AND COMPLIANCE OF THE PROPERTY WITH ANY LAWS (INCLUDING BUILDING CODES AND SIMILAR LAWS, THE AMERICANS WITH DISABILITIES ACT OF 1990 AND THE FAIR HOUSING AMENDMENTS ACT OF 1988). BUYER REPRESENTS AND WARRANTS TO SELLER THAT BUYER IS A KNOWLEDGEABLE, EXPERIENCED AND SOPHISTICATED BUYER OF REAL ESTATE. BUYER ACKNOWLEDGES THAT, EXCEPT FOR THE SELLER REPRESENTATIONS AND WARRANTIES STATED IN SECTION 10 OF THIS AGREEMENT, BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY STATEMENT OF SELLER OR ANY OFFICER, DIRECTOR, TRUSTEE, AGENT, EMPLOYEE OR OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER OR ANY AFFILIATE OF SELLER. BUYER ACKNOWLEDGES THAT IT HAS CONDUCTED OR WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS AS TO THE CONDITION OF THE PROPERTY AND ALL MATTERS BEARING UPON THE PROPERTY AND THE CONSTRUCTION, PROSPECTS, OPERATIONS AND RESULTS OF OPERATIONS OF THE PROPERTY AS IT DEEMS NECESSARY TO PROTECT ITS INTERESTS. BUYER IS ACQUIRING THE PROPERTY "AS IS" AND "WHERE IS" AND WITH ALL FAULTS, DEFECTS, ENVIRONMENTAL CONDITIONS OR OTHER ADVERSE MATTERS. EXCEPT WITH RESPECT TO A BREACH OF ANY OF SELLER REPRESENTATIONS AND WARRANTIES CONTAINED IN SECTION 10 HEREOF, BUYER, EFFECTIVE ON THE DATE OF CLOSING, RELEASES EACH OF SELLER, ALL AFFILIATES THEREOF AND ALL PRINCIPALS, AGENTS, MEMBERS, MANAGERS, SPECIAL MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES AND REPRESENTATIVES OF EACH OF THE FOREGOING (ALL OF THE FOREGOING COLLECTIVELY, THE "SELLER-RELATED PARTIES") FROM ANY STATUTORY, COMMON LAW, AND/OR OTHER CLAIMS, LIABILITIES, OBLIGATIONS,

CAUSES OF ACTION, COSTS, LOSSES OR DAMAGES OF ANY AND ALL KINDS AND NATURE, KNOWN OR UNKNOWN, THAT BUYER MAY HAVE AGAINST ANY OF THE SELLER-RELATED PARTIES ARISING FROM IN WHOLE OR IN PART, OR RELATING IN ANY WAY TO THE CONDITION OF THE PROPERTY OR ITS SUITABILITY FOR BUYER'S PURPOSES, INCLUDING ANY CLAIM, OBLIGATION OR LIABILITY ARISING WITH RESPECT TO ANY APPLICABLE OR ENVIRONMENTAL LAWS OR DUE TO THE PRESENCE, STORAGE, DISPOSAL, RELEASE OR THREATENED RELEASE OF A HAZARDOUS MATERIAL OR OTHER ENVIRONMENTAL CONTAMINATION ON, WITHIN, OR FROM THE PROPERTY BEFORE, AS OF, OR AFTER THE CLOSING DATE OR WITH RESPECT TO ANY LAWS GOVERNING THE CONDITION OF THE PROPERTY INCLUDING THE AMERICANS WITH DISABILITIES ACT AND SIMILAR LAWS AT THE LOCAL, STATE OR FEDERAL LEVEL.

Each of Buyer and Seller has separately initialed this provision to indicate its agreement to the foregoing statements and waivers.

SELLER: RK BUYER: G

17. Survival and Time Limitation for Bringing Claims. The representations and warranties in Sections 10 and 11 hereof will survive Closing, but only for a period of two years, and no claim shall be allowed on any such representation or warranty unless notice of the claim and a detailed statement of the basis for the claim is delivered by the claimant to the other party by the second anniversary of the Closing Date (the "Claims Deadline"), and, if such notice of claim is timely given, a lawsuit or, if applicable, arbitration proceeding in accordance with this Agreement is commenced within ninety (90) days after such notice and detailed statement of the basis for the claim has been provided to the party against whom such claim is made. Time is of the essence hereof. Each of Buyer and Seller acknowledges that, by this Section, the parties have modified the statute of limitations for any claims to be brought arising from or otherwise based on the breach of any representation or warranty of the other as expressly stated in this Agreement and that such modification has been specifically bargained for and is intentionally adopted, approved and made a part of this Agreement and a condition to the bringing of any such claim. Any statute of limitations otherwise applicable to any such claims shall be deemed modified and amended by this Section. Nothing in this Section limits the disclaimers, waivers and releases in Section 16, all of which have also been specifically bargained for and will survive Closing without limit as to time.

18. As Is Purchase and Release of Claims.

a. Except as expressly represented or warranted herein, Seller is selling and Buyer is acquiring the Property AS IS, WHERE IS, with all faults and defects, whether patent or latent. Except as otherwise expressly stated in this Agreement, Seller has not made and Buyer has not received or relied on any other representations, express or implied, regarding the Property. Buyer acknowledges that any and all information, feasibility or marketing reports, environmental or physical condition reports, or other information of any type that Buyer has received or may receive from Seller or any representative, agent, employee or broker of any of Seller is furnished on the express condition that Buyer shall or would make an independent verification of the accuracy of any and all such information, all such information being furnished without any representation or warranty whatsoever, express or implied, by Seller or by any employee, agent or representative action on behalf of Seller. Buyer shall rely upon its own inspection and its own professional advisors in its examination of the Property and all

improvements thereon. Buyer hereby represents, warrants, and covenants to Seller that Buyer has conducted Buyer's own investigation of the Property and the physical condition thereof, including, without limitation, accessibility and location of utilities, use of hazardous materials on, from, or under the Property, earthquake preparedness of the Property, all matters concerning the Property with respect to taxes, assessments, income and expense data, bonds, permissible uses, zoning, covenants, conditions and restrictions, and other matters which in Buyer's judgment are necessary or advisable or might affect or influence Buyer's use of the Property, or bear upon the value and suitability of the Property for Buyer's intended purposes, or Buyer's willingness to enter into this Agreement. Buyer recognizes that Seller would not agree to sell the Property except on an "AS IS, WHERE IS" basis, and acknowledges that neither Seller nor any principal, agent, manager, member, employee, broker or representative of Seller has made any representations or warranties of any kind in connection with the Property except those expressly stated in Section 10 of this Agreement.

b. Except for any claim that may arise from a breach of the Seller Representations and Warranties stated Section 10 of this Agreement, if Closing occurs, Buyer shall be deemed to have expressly waived all claims it may have against Seller and against any or all of the Seller-Related Parties (defined above) in any way relating to the Property or its condition, with the sole exception of any claim Buyer may have under the Deed or any document or instrument delivered by Seller to Buyer (directly or through Escrow Agent) at Closing. Except as to any claim arising under the Deed or any document or instrument delivered by Seller at Closing, Buyer's release hereunder includes any claim which may be brought by, through or under Buyer for any costs, losses, demands, penalties, fines, liens, judgments, injuries, liabilities, damages, expenses, demands, claims, actions or causes of action, whether direct or indirect, known or unknown, foreseen or unforeseen, arising from or related to the Property, or any portion thereof, and/or any construction defects, errors, omissions, or other conditions, latent or otherwise, geotechnical and seismic, affecting the Property, or any portion thereof, including the environmental condition of the Property or any law applicable thereto. By its initials below, Buyer expressly acknowledges and confirms that this Subsection (b) and immediately-preceding Subsection (a) have been specifically negotiated and bargained for, form an essential term of this Agreement, and have been voluntarily and knowingly accepted and approved by Buyer.


Buyer's Initials

19. Assignment. Buyer acknowledges Seller has specifically elected to enter this Agreement with Buyer based in material part on Seller's assessment of Buyer's qualifications and suitability for the project described herein and accordingly, Buyer agrees it may not and shall not assign its rights in or to this Agreement without the prior written consent of the Seller, which consent may be granted, withheld or conditioned on such terms as Seller determines in its sole and absolute discretion. *Provided*, Buyer may assign Buyer's interests in this Agreement to a limited liability company, limited partnership, limited liability partnership or other business entity in which Buyer or Buyer's principals control more than fifty percent (50%) of the ownership interests, which assignment shall not require Seller's consent but will be effective only on Seller's receipt of notice thereof.

20. Brokers/Agents. The brokerage firm of Jones Lang LaSalle ("Broker") has been retained by Seller as Seller's broker for this transaction, and, upon completion of Closing (and conditioned thereon), Seller shall pay a real estate commission to Broker in accordance with a separate

commission agreement between Seller and Broker (the terms of which govern Seller's obligations to Broker and are not modified or amended by this Agreement). Seller and Buyer each represents to the other that, except as to Broker, neither has retained or employed the services of a real estate agent or broker in connection with this transaction and each agrees to indemnify and hold the other harmless from any claim by any person asserting the right to a real estate commission from this transaction on the basis of any contract, agreement or other understanding such agent or broker claims to have entered with the party making the representation at the beginning of this sentence.

21. **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed given and received (i) on the date of personal delivery, (ii) two business days following the date of deposit in the United States first class mail, postage prepaid, and addressed as set forth below, or (iii) on the date of electronic transmission, either by electronic mail or facsimile (confirmation received) to the e-mail address or facsimile number listed below if so sent by 5:00 p.m., Pacific Time, provided such e-mail or facsimile is sent on a Business Day (and if not, then on the first business day after the sending of such electronic mail or facsimile). Said addresses and numbers may be changed by written notice sent in the same manner.

To Seller:	To Buyer:
City of Kenmore Attn: Rob Karlinsey, City Manager 18120 68th Ave NE Kenmore, WA 98028 Fax: 425-481-3236 Email: rkalinsey@kenmorewa.gov <u>With a copy to:</u> Inslee Best Doezie & Ryder, P.S. Attn: Andrew L. Symons 777 108th Ave. N.E., Suite 1900 Bellevue, WA 98004 Fax: (425) 635-7720 Email: asymons@insleebest.com	MSPT VI, LLC Attn: Kelly Price/Kim Faust 11415 Slater Avenue NE, Suite 100 Kirkland, WA 98033 Fax: (425) 968-5887 Email: kellyjohnprice@gmail.com kfaust@mspgroupllc.com <u>With a copy to:</u> Perkins Coie LLP Attn: Kristine R. Wilson 10885 NE 4th Street, Suite 700 Bellevue, WA 98004 Fax: (425) 635-2400 Email: KRWilson@perkinscoie.com

22. **Miscellaneous.**

a. **Confidentiality.** If for any reason this Agreement is terminated or canceled and does not close, then all records, documents and materials of any kind provided between Seller and Buyer shall promptly be returned to the provider, and neither party shall publish or disclose to third parties or use for its own benefit any financial, business, proprietary or other information provided or disclosed by the other party in connection with this Agreement. The parties agree that any all media communications (e.g., press releases) or public announcements (e.g., website updates) distributed by the parties regarding this Agreement and its execution or

implementation shall be mutually reviewed and agreed upon. The agreement stated in this Section shall survive closing or termination of this Agreement.

b. Entire Agreement; No Oral Modifications. This Agreement, including its Recitals, Addendum No. 1, and the Exhibits referred to herein and attached hereto, all of which Recitals, Addendum No. 1 and Exhibits are incorporated into and made a part of this Agreement, along with the original of all documents hereafter signed by the parties in the form of the Exhibits hereto or in such form as is otherwise agreed upon by the parties in accordance with this Agreement, constitute the entire contract, agreement, understanding and arrangement by and between the parties with respect to the subject matter hereof. This Agreement cannot be changed or modified other than by a written agreement executed by both parties. All references herein to "this Agreement" or "the Agreement" shall mean this Agreement and all of its recitals and Exhibits and Addendum No. 1 as well as any and all amendments and addenda hereafter mutually executed by the parties which state they are included in or part of this Agreement.

c. Survival of Covenants. Those covenants and undertakings expressly specified in this Agreement as surviving termination of this Agreement or surviving closing shall not terminate by transfer of title or be merged within the covenants of the Deed or any other document executed or delivered at closing.

d. Binding Nature; No Third Party Beneficiaries. All rights and obligations arising out of this Agreement shall inure to the benefit of and be binding upon the respective successors, heirs, assigns, administrators, executors and marital communities, if any, of the parties hereto. *Provided*, this Agreement is entered solely for the benefit of the parties and their respective heirs, assigns or successors. No other parties are intended as beneficiaries hereof and no person not referred to in the first sentence of this subsection shall have a right to enforce or bring an action on this Agreement.

e. Attorney's Fees. In the event a lawsuit, arbitration proceeding or other proceeding in litigation should be commenced by or against any party hereto to enforce, interpret, construe or apply any of the terms and conditions of this Agreement, or to terminate this Agreement (whether the same shall proceed to judgment or otherwise), the predominantly prevailing party shall receive from the other a reasonable sum as attorney's fees together with costs, and the arbitrator shall have authority to award such fees. A party required to seek judicial enforcement of an arbitration award or an order compelling arbitration or any appeal from any arbitration decision or court decision hereunder shall be entitled to receive an award of the attorney's fees and costs (including fees paid to arbitrators) reasonably incurred by such party upon prevailing in such proceeding.

f. Time. Time is of the essence hereof.

g. Computation of Time; Business Days; Time for Notices. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which the period of time runs shall be excluded, and the last day of such period shall be included, unless it is not a Business Day, in which case the period shall be deemed to run until the end of the next Business Day. The term "Business Day" as used here means any day on which banks in Kenmore, Washington are required to be open for business, excluding

Saturdays and Sundays. All periods of time referred to in this Agreement in terms of a number of days shall mean calendar days unless expressly stated otherwise.

h. Invalidity. If any provisions of this Agreement shall be invalid, void or illegal, it shall in no way affect, impair or invalidate any of the other provisions hereof.

i. No Partnership. Nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between Seller and Buyer or between Buyer and any other party, or cause Seller or Buyer to be responsible in any way for the debts or obligations of the other arising from any act, contract, event or transaction undertaken pursuant to or in any other way related to this Agreement.

j. Commonly Used Terms. As used herein, "including" has the same meaning as "including, but not limited to".

k. No Personal Liability of Officers or Directors. Buyer acknowledges that this Agreement is entered into by Seller as a municipal corporation and Buyer agrees that no individual officer, council member, employee or representative of Seller shall have any personal liability under this Agreement or any document executed in connection with the transactions contemplated by this Agreement. Likewise, Seller acknowledges that this Agreement is entered into by Buyer as a limited liability company and Seller agrees that no individual officer, director, member, employee or representative of Buyer shall have any personal liability under this Agreement.

l. Captions. The captions of this Agreement are inserted solely for the convenience of reference only and do not define, describe or limit the scope or intent of this Agreement or its terms.

m. Further Assurances. If at any time either of the parties reasonably determines that any further assignments, conveyances, assurances or instruments are reasonably necessary or desirable to carry out the provisions of this Agreement, the appropriate Party shall execute and deliver, or cause to be executed and delivered, any and all property assignments, conveyances, assurances, or instruments and to do, or cause to be done, all things reasonably necessary or property to carry out fully the provisions of this Agreement, provided that such things shall be at no additional material cost, expense or liability to such party beyond those costs, expenses and liabilities set forth in or contemplated by this Agreement.

n. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original thereof, and such counterparts shall together constitute but one and the same agreement.

o. Tax Deferred Exchange. Seller agrees to cooperate with Buyer in all ways reasonable in consummating this transaction as part of a simultaneous or non-simultaneous tax-deferred exchange pursuant to 1031 of the Internal Revenue Code of 1986, as amended, providing that (i) Seller shall not be required to take title to any property other than the Property, and (ii) the Closing Date shall not be delayed or extended thereby. Buyer has the right to assign its rights hereunder to an accommodation entity ("Intermediary") who will cause the closing to occur on Buyer's behalf. In the event of such assignment, all of Buyer's liabilities, representations and warranties under this Agreement shall remain those of Buyer,

and Seller shall not seek recourse against the Intermediary with respect to such liabilities or for the breach of any such representations or warranties. Seller shall execute all documentation reasonably required by the Intermediary to memorialize said relief from liability as to the Intermediary. Seller agrees that performance by the Intermediary in effectuating an exchange will be treated as if such performance were made by Buyer, and Buyer shall remain the primary obligor for the full and timely performance by such Intermediary of all obligations of the Buyer under this Agreement. In the event of any breach of any such obligations of Buyer, Seller shall proceed directly against Buyer. Seller shall not be required to assume any liabilities as a result of the exchange transaction that are in addition to those which would exist if the transaction were effectuated as a sale and not an exchange.

[Signatures on following page]

CONTRACT NO. 13-C1170

DATED the day and year first written above.

SELLER: CITY OF KENMORE By: <u></u> Name: <u>Rob Karlinsey</u> Title: <u>CITY MANAGER</u>	BUYER: MSPT VI, LLC By: <u>Main Street Property, LLC, Its Manager</u> By: <u></u> Name: <u>ERIC CAMPBELL</u> Title: <u>CEO</u>
---	--

EXHIBIT A
[LEGAL DESCRIPTION]

That portion of the east 720 feet of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, lying north of the Plat of Northlake Terrace Addition, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington, lying south of the follow description line:

Beginning at a point that is 300.00 feet south of the northeast corner of said Government Lot 1 as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" (for reference purposes);
thence continue north 87°44'38" west along said line, a distance of 529.67 feet to the west line of said east 720 feet of Government Lot 1 and the terminus of said line;

EXCEPT the east 30 feet thereof conveyed to King County for road by deed recorded under Recording Number 2963377;

TOGETHER WITH an easement for ingress and egress over the following described tract of land:

Beginning at a point that is 300.00 feet south the northeast corner of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" and the TRUE POINT OF BEGINNING of this tract;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 446.01 feet to a point on a curve, from which the radial point of said curve bears north 84°37'32" west, a distance of 488 feet;
thence along said curve to the left, with a central angle of 07°36'03", an arc distance of 64.74 feet;
thence north 02°13'38" west, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right of a central angle of 04°45'55", an arc distance 42.58 feet;
thence north 02°32'19" east, a distance of 89.14 feet, to the south right-of-way line of N.E. 185th Street as recorded under Recording Number 4791700, said point is 10.00 feet south of, when measured at right angles from, said north line of Government Lot 1;
thence south 02°32'19" west, a distance of 89.26 feet;
thence on a 488 foot radius tangent curve to the left, with a central angle of 04°45'55", an arc distance of 40.59 feet;
thence south 02°13'36" east, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right, with a central angle of 03°22'02", an arc distance of 30.09 feet to a point of reverse curvature;
thence on a 25 foot radius curve to the left, with a central angle of 88°53'04", an arc distance 38.78 feet;
thence south 87°44'38" east parallel with said north line, a distance of 287.18 feet;
thence on a 502.90 foot radius tangent curve to the right, with a central angle of 12°32'32", an arc distance of 110.09 feet to Point "A" and the TRUE POINT OF BEGINNING of this description.

13-C1170

EARNEST MONEY NOTE

\$180,000.00

Place: Kenmore, Washington

Date: July __, 2013

FOR GOOD AND VALUABLE CONSIDERATION, receipt and sufficiency of which are acknowledged by the undersigned, MSPT VI LLC, a Washington limited liability company ("Maker"), agrees to pay to the order of Chicago Title Insurance Company ("Payee"), the sum of One Hundred Eighty Thousand Dollars (\$180,000.00)(U.S.), payable upon Maker's delivery of Maker's waiver of the Feasibility Contingency as described in Section 4(b) of that certain Agreement for Purchase, Sale and Development of Property for Residential Purposes, of even date herewith, in which Maker is the Buyer and the City of Kenmore, a Washington municipal corporation, is the Seller (the "Agreement").

This Note is evidence of Maker's obligation to pay the Earnest Money pursuant to the Agreement and is the Earnest Money Note referred to in the Agreement.

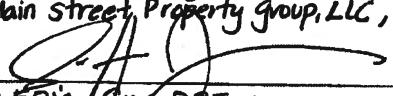
If this Note is placed in the hands of an attorney for collection, or if suit is brought hereon, Maker shall pay to Payee the amount of attorney's fees and costs reasonably incurred by Payee for the enforcement and collection of this Note.

All amounts due under this Note shall bear interest at twelve percent (12%) per annum from and after a default hereunder.

DATED the day and year first stated above.

MSPT VI LLC, a Washington limited liability company

By: *Main Street Property Group, LLC, Manager*

By: 

Name: ERIC CAMPBELL

Title: CEO

EXHIBIT C
[PROPERTY REPORTS]

As promptly as possible following execution of this Agreement, Seller shall provide or make available to Buyer for inspection and/or copying as requested by Buyer or Buyer's agents or consultants, each of the following, to the extent in Seller's possession, which consist of the Property Reports described in the Agreement:

1. All environmental reports and studies reporting on the environmental condition of the Real Property, including, but not limited to all Phase I and Phase II environmental reports, and all documents of any nature reporting on the presence of any "Hazardous Substances" (as defined in the Agreement) on, in, under or above the Property;
2. All documents, materials or written information reporting on the presence, release, run-off or other condition of any Hazardous Substances on any real property adjacent to the Property;
3. All soils reports, geotechnical reports and other reports, correspondence and documents reporting on or describing the geotechnical, structural or other condition of the soils and subsurface materials in, under or comprising the Real Property or any portion thereof;
4. All documents pertaining to applications for or issuance of governmental approvals for construction on or development of the Real Property, including, but not limited to building or land use permits, conditional use permits, development permits and applications for the foregoing, all applications and approvals relating to the Shoreline Management Act, and all similar materials;
5. Plans, specifications, blue-prints, design documents and construction documents pertaining to any existing or proposed construction or development of improvements on the Real Property or on adjacent real property owned by the City;
6. As-built documents for all improvements presently existing on or under the Real Property or on or under the adjacent "Kenmore Village" real property owned by Seller, including, but not limited to such documents for underground utilities, docks, wharves, piers and sub-surface structures;
7. All surveys of the Real Property or any portion thereof;
8. All leases, licenses and rental agreements pertaining to or affecting the Property or any portion thereof;
9. Tax statements for the Property for each of the last two tax years;
10. All service contracts affecting the Property;
11. Billings for the past twelve (12) months for utilities, services and other expenses pertaining to the Property;
12. All correspondence of any nature between Seller and any government agency pertaining to the Property, including, but not limited to notices, citations, orders, and correspondence relating thereto;

CONTRACT NO. 13-C1170

13. All City and franchise utility agreements applicable to the Real Property or the adjacent "Kenmore Village" real property owned by Seller;
14. A complete list of City of Kenmore and other governing jurisdiction fee schedules for permits or approvals and any available information regarding anticipated or pending fee increases.

EXHIBIT D
[DEED]

WHEN RECORDED RETURN TO:

STATUTORY WARRANTY DEED

THE GRANTOR, _____, for and in consideration of
_____, in hand paid, conveys and warrants to _____, THE
GRANTEE, the following described real estate (the "Property"), situated in the County of
_____, State of Washington:

See Exhibit A attached hereto and by this reference incorporated herein.

SUBJECT TO all matters of record and those matters identified on Exhibit B hereto (the
"Permitted Exceptions").

Abbreviated Legal Description:

Tax Account No.:

By: _____

Name: _____

CONTRACT NO. 13-C1170

Title: _____

Accepted and Acknowledged:

_____ (Grantee)

By: _____

Name: _____

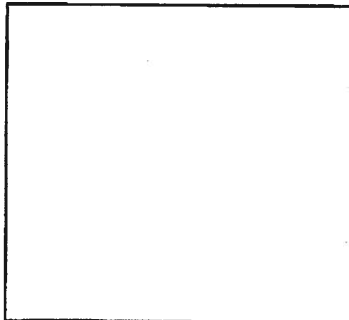
Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that the persons appearing before me and making this acknowledgment are the persons whose true signatures appear on this document.

On this _____ day of _____, 2013, before me personally appeared _____ and _____, to me known to be the _____ and _____, respectively, of _____, the _____ that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said _____, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Notary Public in and for the State of Washington,
residing at _____
My commission expires: _____

[Type or Print Notary Name]

(Use This Space for Notarial Seal Stamp)

CONTRACT NO. 13-C1170

EXHIBIT B TO DEED

Permitted Exceptions

EXHIBIT E
[DECLARATION OF COVENANTS]

At Closing, Buyer shall execute and agree to recording of a Declaration of Covenants with respect to the Property (with legal description attached as Exhibit 1 to the Declaration) containing the following essential terms in addition to all other terms and provisions necessary to the completeness and enforceability of the instrument and for its recording, which Declaration shall be recorded immediately after recording of the Deed and prior to recording of any deed of trust, security instrument or other document affecting Buyer's title to the Property. The following essential terms shall be included as part of the Declaration:

1. Following Closing, Buyer shall proceed with construction and shall complete those residential units described in the Development Agreement, fronting 68th Avenue N.E. Such construction shall commence not later than twenty-four (24) months after Closing (the "Commencement Date"). If Buyer fails to commence construction by the Commencement Date, then the City shall have the option to repurchase the Real Property ("Repurchase Option") for the purchase price paid by Buyer for the Real Property under the Purchase and Sale Agreement. If Buyer fails to commence construction by the Commencement Date and the City has not exercised the Repurchase Option in writing by the 180th day after the Commencement Date, then the Seller shall be deemed to have waived its right to exercise the Repurchase Option as of such 180th day. The closing of the repurchase shall be not later than sixty (60) days following the City's exercise of the Repurchase Option on a business day selected by the City on not less than fifteen (15) days written notice to the Buyer. The Declaration shall define "commencement of construction" and shall further provide that the Commencement Date shall be extended, on a day-for-day basis, for all delays caused by *Force Majeure*, defined as "acts of God" or the public enemy; civil war, insurrection or riots; fires, explosions or serious accidents; strikes or labor disputes; inability to obtain necessary materials, accessories, equipment or parts from the manufacturers thereof not caused or contributed to by the party claiming delay for such reason; weather or soils conditions which necessitate delays; acts or failure to act or delay in acting of any public or governmental entity, including to issue permits or approvals for the construction of the residential units described in the Development Agreement (provided that all submissions by Buyer are timely, substantially complete and in accordance with applicable submittal requirements); or other cause beyond the reasonable control of the party claiming excused delay for such reason. Each party shall notify the other promptly of the occurrence of any such event, occurrence or condition, as a condition to claiming such event, occurrence or condition constitutes *Force Majeure* and shall act promptly to proceed with its performance as promptly as practicable after such cause for delay ceases or is terminated.

2. No Transfer of Property Prior to Completion. Buyer acknowledges Seller has agreed to enter into this Agreement with Buyer in part based on the qualifications of the individuals owning and exercising management control of Buyer. In entering this Agreement, Seller has relied on the agreement that such ownership and management control will not change during the period of development of the Property and satisfaction of all conditions of the Development Agreement. Accordingly, Buyer agrees that, until all site development conditions under the Development Agreement have been satisfied and certificate(s) of occupancy have been issued for all residential units to be constructed on the Property as set forth in the Development Agreement, Buyer shall not sell, assign, convey or otherwise transfer (all of the foregoing, "Transfer") the Property (or a majority or controlling interest in Buyer) to any person or entity other than Buyer and Buyer's principals as of Closing. Such restrictions or prohibitions shall not apply to (i) any residential lease of any unit in the Project (but shall apply to a ground lease of all or substantially all of the Property or any substantial portion thereof to any person or entity not a resident of the Property); (ii) any mortgage, deed of trust, security agreement or security instrument granted or entered by Buyer to provide financing for Buyer's purchase of the Property or performance of its obligations under this Declaration; or (iii) a Transfer, or series of Transfers which in the aggregate, does not or do not result in a change in more than forty-nine percent (49%) of the ownership interests in the Property or in Buyer and does not or do not change or resulting in a change of management control of the Property or Buyer.

3. In the event a court of competent jurisdiction determines the prohibition on Transfer stated in this Declaration is unenforceable in whole or in part, then Seller shall have a right-of-first-refusal to acquire

the Property, or portion thereof to be Transferred, exercisable within ninety (90) days after such determination is made and memorialized by court order or judgment. [The specific terms of this right-of-first refusal shall be stated and agreed upon prior to the end of the Feasibility Period in such detail as is necessary to its enforceability as part of the terms of the Declaration].

4. Remaining necessary terms to implement the covenants described above.

Date, signatures and acknowledgements

CONTRACT NO. 13-C1170

EXHIBIT 1 TO DECLARATION OF COVENANTS

[LEGAL DESCRIPTION]

**ADDENDUM NO. 1 TO
AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT
OF PROPERTY FOR RESIDENTIAL PURPOSES**

This Addendum No. 1 (this "Addendum") is made a part of and incorporated into that certain Agreement for Purchase, Sale and Development of Property for Residential Purposes of even date herewith (the "Agreement") entered by and between the City of Kenmore, a Washington municipal corporation ("Seller"), and MSPT VI, LLC, a Washington limited liability company ("Buyer"), with respect to the real property legally described on Exhibit A hereto ("Property"). As used herein, "City" means the City of Kenmore acting in its governmental and regulatory capacity. All other initially-capitalized terms used herein, unless otherwise specifically defined herein, have the definitions given to such terms in the Agreement.

1. **Development Agreement.** In addition to (and not in lieu of) all other terms and conditions of the Agreement, as a condition precedent to Closing, not later than the Development Agreement Deadline, Buyer and the City shall have agreed in writing to the form, content, terms and agreement of a Development Agreement to be entered pursuant to RCW 36.70B.170, *et. seq.* (the "Statute"), setting forth the applicable development standards for Buyer's development of the Property (the "Development Agreement"). Such written agreement between Buyer and City approving the Development Agreement may be in the form of a writing attaching the agreed-upon form of the Development Agreement, stating a document in such form shall be executed at Closing, or by the Development Agreement itself stating that its effectiveness is conditioned on completion of Closing.

2. **Terms Included.** The Development Agreement shall include the following terms and conditions, along with all other terms and conditions in the Agreement and as necessary to comply with the Statute:

a. Buyer shall develop the Property as a residential project comprised of high quality residential rental units which may (but shall not be required to) include a mix of town home and apartment style units (the "Project") and may be converted to a condominium at some later date at the option of the Buyer. During the period of negotiation and formation of the Development Agreement, Buyer shall hold at least two (2) meetings with City staff to review Buyer's proposed exterior designs.

b. Not less than twenty-five percent (25%) of the residential units in the Project shall be dedicated to Affordable Housing use, meaning those units shall meet the City's Affordable Housing Criteria for the Property as set forth in City Code Chapter 18.77 and as required by the conditions of the Deed from King County, Washington, to Seller dated January 6, 2005, recorded January 1, 2005, under King County Recording No. 20050110001850 and shall be offered exclusively to residential applicants whose total household income is not greater than eighty-five percent (85%) of the King County median household income as published by King County, Washington from time to time, and at least five (5) of the above-referenced units shall be offered and rented exclusively to residents whose total household income does not exceed fifty percent (50%) of the King County median household income as published by King County, Washington from time to time the King County median household income as published by King County, Washington from time to time. It is the parties' intent that the 12-year real estate tax abatement period per Kenmore Municipal Code Chapter 3.65 shall apply and that, accordingly, during the Feasibility Period, the City will issue a letter to Buyer stating if the Project, as then designed according to documents and information provided by Buyer to the City, qualifies for such treatment.

c. The Development Agreement shall include terms addressing the following:

- Vesting and term of the agreement.

- As to street frontage, utility undergrounding and code-maintained frontage improvements required and such costs to Developer may offset mitigation fees, if applicable.
- Coordination with owners of Kenmore Village and Kenmore Camera properties as to matters including circulation, parking, pedestrian connections, sight lines, view corridors, and exterior design standards.
- Affordability details, including but not limited to the 12-year property tax abatement (as referenced in Paragraph (b) above).
- Permit applications to be processed and subject to approval on a phased basis to include (among others):
 - Foundation
 - Site
 - Building
- Completion of the project to proceed on a phased basis with Certificates of Occupancy ("CO") to be available at completion of each phase. At completion of each phase and issuance of the CO for that phase, the restriction on Buyer's transfer of the property and related rights shall be lifted as to that phase (subject to subdivision and other legal requirements for any sale or transfer). City to work as permitting agency to review all subdivision or boundary line adjustments as applicable subject to all then-applicable requirements. This provision does not affect the Buyer's commitment to timely complete construction of the Project as a whole.
- Appropriate density standards that provide reasonable assurances to Buyer that density will not be artificially limited.
- Parking ratio/bike storage standards that recognize the urban, transit-friendly location and provide greater maximum density potential and increased flexibility to Buyer (D.A. to take into account biking element).
- Quality exterior design and materials
- Possible green buffer and/or interface along 68th Avenue including expanding or reducing setback requirements
- Drainage standards and surface water runoff policies
- Recreation/Open Space; Location of "Town Green" on the retail property
- Flexibility related to existing landscaping requirements consistent with overall design of Project.
- Traffic mitigation and park fees to be addressed as applicable (dependent on traffic study).
- Impact fee credits, as applicable, for affordable housing component.
- Timing, or extension, of existing trip reservations (taking into account Metro's current use)
- Language and conditions (including Buyer payment of additional fees to offset any added personnel review costs) for possible "fast track" or "expedited" (to be defined as part of Agreement) permit review and approval process.
- Appropriate language acknowledging intent of Buyer and City to work cooperatively in good faith to address or respond to other issues that may arise during Feasibility Period.
- Establishment of a "Certificate of Performance" or "Certificate of Completion" to be issued by the City upon completion of Buyer covenants on completion of each phase, terminating obligations of the Development Agreement and its provisions as to that phase except for provisions expressly surviving termination of the Development Agreement, i.e., "milestones" language.

EXHIBIT A TO ADDENDUM NO. 1

That portion of the east 720 feet of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, lying north of the Plat of Northlake Terrace Addition, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington, lying south of the follow description line:

Beginning at a point that is 300.00 feet south of the northeast corner of said Government Lot 1 as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" (for reference purposes);
thence continue north 87°44'38" west along said line, a distance of 529.67 feet to the west line of said east 720 feet of Government Lot 1 and the terminus of said line;

EXCEPT the east 30 feet thereof conveyed to King County for road by deed recorded under Recording Number 2963377;

TOGETHER WITH an easement for ingress and egress over the following described tract of land:

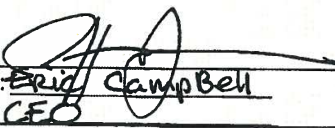
Beginning at a point that is 300.00 feet south the northeast corner of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" and the TRUE POINT OF BEGINNING of this tract;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 446.01 feet to a point on a curve, from which the radial point of said curve bears north 84°37'32" west, a distance of 488 feet;
thence along said curve to the left, with a central angle of 07°36'03", an arc distance of 64.74 feet;
thence north 02°13'38" west, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right of a central angle of 04°45'55", an arc distance 42.58 feet;
thence north 02°32'19" east, a distance of 89.14 feet, to the south right-of-way line of N.E. 185th Street as recorded under Recording Number 4791700, said point is 10.00 feet south of, when measured at right angles from, said north line of Government Lot 1;
thence south 02°32'19" west, a distance of 89.26 feet;
thence on a 488 foot radius tangent curve to the left, with a central angle of 04°45'55", an arc distance of 40.59 feet;
thence south 02°13'36" east, a distance of 93.92 feet;
thence on a 512 foot radius tangent curve to the right, with a central angle of 03°22'02", an arc distance of 30.09 feet to a point of reverse curvature;
thence on a 25 foot radius curve to the left, with a central angle of 88°53'04", an arc distance 38.78 feet;
thence south 87°44'38" east parallel with said north line, a distance of 287.18 feet;
thence on a 502.90 foot radius tangent curve to the right, with a central angle of 12°32'32", an arc distance of 110.09 feet to Point "A" and the TRUE POINT OF BEGINNING of this description.

CONTRACT NO. 13-C1170

- Other deal points either already outlined in the PSA (utility undergrounding, schedule, etc.) or yet to be introduced.

d. City to waive the development agreement application fee.

DATED as of July 9, 2013.

SELLER: CITY OF KENMORE By:  Name: <u>Ron Farinetti</u> Title: <u>City Manager</u>	BUYER: MSPT VI, LLC <i>By: Main Street Property Group, LLC, It's Manager</i> By:  Name: <u>Eric Campbell</u> Title: <u>CEO</u>
--	--

**FIRST AMENDMENT TO
AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT
OF REAL PROPERTY FOR RESIDENTIAL PURPOSES**

THIS FIRST AMENDMENT TO AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF REAL PROPERTY FOR RESIDENTIAL PURPOSES (this "Amendment") is dated as of September 6, 2013 (the "Effective Date") and is by and between the CITY OF KENMORE, a Washington municipal corporation ("Seller"), and MSPT VI LLC, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following recitals:

RECITALS

A. Seller and Buyer entered into that certain Agreement for Purchase, Sale and Development of Real Property dated July 1, 2013 (the "Agreement").

B. Buyer has determined, despite its best efforts, it will need additional time for its "due diligence" evaluation of the Property and desires an extension of thirty (30) days to the Feasibility Period, which extension is acceptable to Seller..

C. Seller and Buyer desire now to amend the Agreement to extend the Feasibility Period, as provided herein.

AMENDMENT

NOW, THEREFORE, in consideration of the foregoing promises, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

Section 1. Defined Terms. Capitalized terms used, but not defined, herein shall have the meanings given to them in the Agreement.

Section 2. Feasibility Period. The last day of the Feasibility Period set forth in Section 7(a) is changed to October 9, 2013, providing an additional 30 days to the initial review period.

Section 3. Counterparts. This Amendment may be executed in any number of counterparts and by facsimile or electronic (pdf) transmission, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 4. Remaining Provisions. Except as expressly set forth herein, the Agreement remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first written above.

SELLER:

CITY OF KENMORE, a Washington
municipal corporation

By: [Signature]
Name: BO KARLINSKY
Title: CITY MANAGER

BUYER:

MSPT VI LLC, a Washington limited liability
company

By: Main Street Property Group LLC, a
Washington limited liability company
By: [Signature]
Name: Kelly Price
Its: President

78782 0016/LEGAL27755015.1

2

Kelly Price
MainStreet Property Group LLC I President

2

IXB. Adopt Resolution No. 12-229 Approving Amendment No. 3 to
Contract No. 13-C1170, Purchase & Sale Agreement with Main

ATTACHMENT

3

**SECOND AMENDMENT TO
AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT
OF REAL PROPERTY FOR RESIDENTIAL PURPOSES**

THIS SECOND AMENDMENT TO AGREEMENT FOR PURCHASE, SALE AND DEVELOPMENT OF REAL PROPERTY FOR RESIDENTIAL PURPOSES (this "Amendment") is dated as of October 9, 2013 (the "Effective Date") and is by and between the CITY OF KENMORE, a Washington municipal corporation ("Seller"), and MSPT VI LLC, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following recitals:

RECITALS

A. Seller and Buyer entered into that certain Agreement for Purchase, Sale and Development of Real Property dated July 1, 2013, as amended by that certain First Amendment to Agreement for Purchase, Sale and Development of Real Property for Residential Purposes dated September 6, 2013 (the "Agreement").

B. Buyer desires additional to complete its determination of feasibility of its purchase of the Property, to which Seller is willing to agree, subject to the terms and conditions of this Amendment.

AMENDMENT

NOW, THEREFORE, in consideration of the foregoing promises, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

Section 1. Defined Terms. Capitalized terms used, but not defined, herein shall have the meanings given to them in the Agreement.

Section 2. Feasibility Period. This Amendment constitutes Buyer's notice given pursuant to Section 7(b) of the Agreement that the Feasibility Contingency is hereby satisfied or waived by Buyer as to all matters excepting only the following (the "Sole Remaining Feasibility Conditions"): (a) public vehicle access to and from the Property from 182nd Street, and (b) an agreement acceptable to Buyer with either of the City or the purchaser of the "Kenmore Village" property immediately to the south of the Property (the "Adjacent Property") as to (i) an easement across the Adjacent Property for a sanitary sewer serving the Property and extending under the Adjacent Property and (ii) undergrounding of power lines extending approximately along the boundary between the Property and the Adjoining Property. Buyer hereby gives notice of its satisfaction with or waiver of all other matters subject to or deemed by Buyer to be pertinent to the Feasibility Contingency. Section 1(b) of the Agreement is hereby amended to provide that, solely as to the Sole Remaining Feasibility Conditions, the Feasibility Period is amended to mean that period ending December 11, 2013.

Section 3. Earnest Money. The first two sentences of Section 4(b) are deleted in their entirety and replaced with the following:

78782-0016/LEGAL28060939.1

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first written above.

SELLER:

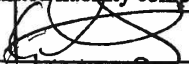
CITY OF KENMORE, a Washington
municipal corporation

By: 
Name: ROB KARLWHITE
Title: CITY MANAGER

BUYER:

MSPT VI LLC, a Washington limited liability
company

By: Main Street Property Group LLC, a
Washington limited liability company

By: 
Name: Kelly Price
Its: President



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Progress Report: Economic Development Strategy Implementation Proposed Council Action/Motion: Presentation and Discussion	For Council Meeting Agenda of: 9 December 2013 Department: Executive Prepared by: Nancy Ousley Initial & Date Approved by Department Head: _____ Approved by City Attorney: _____ Approved by Finance Director: <u>mg/11/25/13</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: 1. Staff Memo 2. June 18, 2012 Agenda Package
Expenditure Required \$n/a Amount Budgeted \$144,900 Appropriation Required \$0 2013-2014 General Fund; \$238,000 2013-2014 Strategic Opportunities Fund	
<u>INFORMATION/BACKGROUND:</u> Staff will report on activities undertaken in late 2012 and in 2013 to implement the Economic Development Strategy, which was adopted by the Council in 2009. Included in the report will be a focused discussion on the Kenmore Business Incubator pilot project.	
<u>FISCAL CONSIDERATION:</u> The City's Economic Development budget reflects an investment that is in keeping with the Council's #1 priority to implement the actions outlined in the 2009 Plan. The 2011-2012 Biennial Budget devoted a total of \$29,800 for Economic Development.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Continue to Implement the Economic Development Plan	



City Of Kenmore, Washington

November 25, 2013

TO: Rob Karlinsey, City Manager
FR: Nancy Ousley, Assistant City Manager
RE: Economic Development Strategy Implementation: Progress Report

The 2009 Economic Development Strategy outlined a five-year action plan, and our most recent full report to the Council was in June of 2012. This current report comes near the mid-point of the 2013-2014 Biennial Budget and it should be noted that the Council substantially increased the investment in Economic Development in the current budget. This is fitting since the Council #1 priority for 2013-2014 is Continue to Implement the Economic Development Plan.

The 2013-2014 Budget for Economic Development is \$144,900 in the General Fund, along with \$238,000 for the Pilot Business Incubator Program in the Strategic Opportunities Fund, for a total investment of \$382,900. In contrast, the 2011-2012 Biennial Budget, which was developed during the Great Recession, allocated \$24,800 to Economic Development.

The City Administration is proceeding with coherent leadership to improve the economic vitality of the City. We look forward to discussing the progress with the Council on December 9.

Priority Actions and Progress to Date:

The actions are arranged by the four major headings in the Economic Development Strategy and an additional section on the Kenmore Business Incubator.

Marketing and Promoting the Image of Kenmore:

Building from the foundation of identifying key messages in 2012, the City has embarked on a strategic media relations program with Frause Full Spectrum Communications. In addition to producing a media kit outlining demographics and priority initiatives of the City, our message has gotten out to a wider audience, particularly in regional business publications. The Wayfinding and Banner program continues to be implemented, and the design themes from that project are reflected in the media kit pieces.

The City website upgrade will debut in 2014, with user-friendly enhancements and a new look. We have connected on social media.

The City is taking opportunities to tell our Economic Development Story -- one example is the recent presentation and tour provided to elected officials from across the US who attended the National League of Cities annual conference.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028
Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov
www.kenmorewa.gov

Stepping up on streetscape and park appearance also promotes Kenmore's image, and thanks to volunteer efforts, there is much progress to report. The recent Beautification Awards engages and recognizes local businesses and residents for doing their part to make their City more attractive.

Support Existing Businesses and Pursue Opportunities to Expand Employment:

The Council approved an Ordinance establishing a local Business Registration Program in 2013; this is a major step forward in connecting with local businesses and in turn informing the community of the opportunities to do business with their neighbors, as we will establish a Business Directory for businesses who are interested in being listed.

The Kenmore Business Alliance was formed this past year, a subcommittee of the Greater Bothell Chamber. The group is providing a vital connection and checking point to the local business community, even in its early stages. Recognizing Small Businesses in King County, we were proud that Kenmore Camera was named a finalist in the King County Executive Small Business Awards in late 2012. Their new expanded store will open soon in the heart of downtown Kenmore. The Planning Commission and City staff are working through the Regional Business Zone review, with the goal of increasing capacity for job growth in compatible areas.

Economic Gardening, providing helpful information for local businesses, began in a development stage in 2013 and will be launched after the City's new website is complete.

Our interest in pursuing business expansion in the natural health sciences area is strong, with Bastyr University as our largest employer. In partnership with the Economic Development Council of Seattle-King County (EDC) and Bastyr, we are executing the business plan that was developed for the Washington State Innovation Partnership Zone proposal in 2013. See page 6 of the attached EDC's "2014 Proposed Organization and Business Development Initiatives" report.

The City's Development Services process and streamlined development regulations continue to receive high marks for customer service and promoting a business-friendly approach for potential investors in the community. Worth noting is the Lean project recently undertaken by the City's Development Services Department, identifying numerous ways to further streamline and already well-performing permit processing operation.

The City continues to sponsor Business After Hours events and free educational seminars to local businesses.

Downtown Development:

Marketing the City-owned parcels in Kenmore Village was a major undertaking in 2012-2013. The strong response and number of credible offers for the two properties is a testament to the strengths of Kenmore as an exceptional development opportunity. We are now poised for substantial new residential and commercial development in downtown. The State Capital Budget has provided funding for the Town Green at Kenmore Village. The City also acquired a strategic parcel at 67th Avenue NE and SR 522 that is an important gateway to the Kenmore Village commercial area.

The streetscape improvements on NE 181st, such as banners and seasonal lighting on street trees, help define this area as a walkable and attractive business hub. This will continue to be enhanced as more development occurs. The recently installed "Support Local Business" banners were the brainchild of the KBA and add a strong message for our downtown.

Advancing the Community's connection to the waterfront:

This tremendous asset is getting more attention this year than it has perhaps since Cityhood. The City's work with Ecology and other agencies provided current data on the condition of lake sediments not only in the Kenmore Navigation Channel and other areas near the Lakepointe property, but at public access points such as Log Boom Park and the WA Department of Fish and Wildlife Boat Launch. The City is working closely with Kenmore Air, Northlake Marina and other water-dependent businesses on operational issues caused by sediment buildup, and continues to work actively at the federal level to get maintenance dredging of the Channel included in the US Army Corps of Engineers work program and budget.

The Administration has set the goal of seeing Lakepointe redevelopment proceed in the next few years and we are encouraged by the progress on this front, now that the economic conditions have improved.

Water-based recreation came to Log Boom Park this summer with businesses operating stand up paddleboard and kayak rentals and the new "sky boarding" phenomenon. The City is proceeding with plans to install floats at Log Boom pier and at Rhododendron Park for hand carried boat access (state/federal permit dependent). Other infrastructure improvements on the drawing board include a boardwalk and boat shed at Rhododendron Park and improvements to the WA Department of Fish and Wildlife Boat Launch, which the City is aiding by funding new restrooms.

The community is embracing this march to the lake and Sammamish River with proposed youth kayak programs and other activities that would be sponsored by local nonprofits. Amberly Gaul Culley's tremendous event celebrating the heritage of boat races on the Sammamish River has ignited interest and excitement from a variety of organizations around Puget Sound, and promises to be an annual attraction.

We are underscoring the excitement about new waterfront activities through our work with Frause to get stories in the media about these recreational opportunities.

Kenmore Business Incubator:

Though this project was not specifically mentioned in the 2009 Strategy, it is an important initiative in promoting new business development, marketing the City's image, and reaching out to existing businesses. We have seen media coverage on the companies and Incubator at the national and regional level, and through our media relations strategy, we are generating additional coverage—all of this introduces and reinforces the idea of Kenmore as a hub for innovation and startup companies.

There are currently three high tech businesses operating at the Incubator with a current census of 15 employees. Our Program Consultant Barry Weisband meets regularly with the businesses on business development issues and we have a roster of volunteer mentors who are providing their expertise in accounting, legal, and marketing to the companies. Volunteer mentors are also assisting with application review and program development.

As of November 8, 2013, the Incubator project had expenditures totaling \$98,265 in 2013, so is on track to come in under the 2013 budget of \$123,000. So far, lease revenue has offset those costs by nearly \$12,000 as of November 8, 2013. At the December 9 briefing, we will provide updated budget information along with available data on the metrics that were identified in our July 2013 report to the Council.

In first quarter of 2014 staff will begin discussing considerations for a longer term program with the Council, in preparation for budget discussions for the 2015-2016 biennium.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov
www.kenmorewa.gov



ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT December 9, 2013

GOAL I: ESTABLISH KENMORE'S IMAGE BY PROMOTING ITS GOAL I HIGH QUALITY OF LIFE AND MANY ASSETS

Strategies

A. Engage Kenmore residents through ongoing community outreach around economic development goals and key initiatives, such as the redevelopment of Downtown (S-T)

B. Launch a community marketing campaign to raise Kenmore's profile in the region (S-T) *

B1. Develop interim print materials to promote Kenmore generally and specific development opportunities and update the City's website with economic development material

B2. Engage a community marketing expert to develop Kenmore's brand and a supporting campaign *

B3. Once a brand is established, review and revise existing City materials and website to ensure consistency with the brand

B4. Ensure City and community partners communicate similar messages that build on this core identity

B5. Be engaged in regional conversations and partnerships

Status

(* This was identified as a Recommended Short-Term Priority)

- Downtown/Kenmore Village redevelopment community meetings in 2012; project specific community outreach throughout 2012-2013. Volunteer Program established in 2013.

- Marketing and media relations program with Frause began in 2012 and ramped up in 2013 with strategic information and story placement. Staff resources redirected to website, social media and strategic communications.
- Other City initiatives contribute to positive profile, such as parks/street improvements and maintenance levels, banners/wayfinding and Historic Preservation program

- Following interim material production in 2010, City staff and Frause developed a Media Kit highlighting demographics and key initiatives (2013); more products are planned for 2014

- Frause developed key messages that are incorporated into all City communications

- Key messages and images from the wayfinding and banner designs are being incorporated into marketing materials and City publications

- “

- Active Council and staff engagement at the regional, state and federal levels that promote Kenmore

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT December 2013

C. Strengthen and promote Kenmore's community events, such as summer concerts at Saint Edward State Park S-T)

C1. Use activities and events to highlight the river, trail, and waterfront.

D. Support efforts to improve, maintain, and expand parks and open spaces, recognizing them as important economic vitality asset (Ongoing)

- Community activities continue, including Summer Concerts. Additional staff resources devoted to event management and volunteer engagement
- Volunteer projects, expanded recreation choices, events, infrastructure improvement celebrate the trail, river and lakefront
- Parks, Recreation and Open Space Plan updated; Northshore Summit Park improvements; Rhododendron and Log Boom Park/water access improvements planned.,

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

A. Maintain a culture supportive of economic development among all members of the City organization (Ongoing)

A1. Establish annual conversations with elected officials about the importance of economic development and the City's short- and long-term plans and aspirations

A2. Engage in annual conversations with all City staff about economic development, highlighting the contributions each can make in his or her position. Emphasize the importance of customer service and communicating that the City welcomes desirable investment and seeks to play a facilitative role

A3. Appoint a single point of contact for businesses wishing to interact with the City

- Enterprise-wide effort in place
- Economic Development is #1 Council Goal for 2013-2014; regular progress reports to Council
- Underway—examples include revamped development review process, streamlined development regulations, review of downtown commercial zones. Permit staff notify City Manager's office of inquiries, potential investor interest.
- Completed

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

B. Focus the City's economic development efforts on independent, community scale retailers and employers, with a particular emphasis on the outdoor recreation, clean-tech, and health care sectors (Ongoing)

B1. Pursue training or other opportunities for staff to learn more about these sectors' needs and preferences for facilities, adjacencies, and location

B2. Use community marketing efforts and the City's website to project a community image that attracts entrepreneurs and businesses in the City's targeted sectors *

B3. Target related professional organizations for membership and participation, including the Washington Clean Tech Alliance, Green Business Forums, and health care groups

B4. Engage school leadership in dialogue and identify ways to leverage the area's educational institutions, including Bastyr, UW Bothell, Cascadia Community College, and the Northshore School District *

B5. Explore opportunities to attract businesses that would benefit from the presence of Kenmore Air's maintenance facility and passenger base

- Reexamining the sectors, but focusing on health/wellness related businesses that desire adjacency to Bastyr and associated services such as hotel, restaurants, specialty grocer

- Partnership with Economic Development Council of Seattle King County provides market research and recruitment assistance on these topics

- Media relations, marketing and website geared to emphasize Kenmore's strengths. Kenmore Business Incubator established in 2013 to capitalize on opportunity for startup business growth.

- In addition to EDC of Seattle-King County WA Biotech and Biomedical Association, City is involved with National Business Incubator Association and real estate development organizations

- Bastyr University Master Plan adopted Dec 2009, signals new era of partnership and joint initiatives
- Commercialization prospects/enterpriseSeattle
- Presence downtown for Bastyr, possible business incubator tied to UWB and Bastyr

- City support for Bond financing
- Made contacts for potential investment connections
- Advocated at Federal level for reducing Temporary Flight

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

B6. Consider recruiting a micro-brewery or wine maker that would benefit from proximity to similar operations in Woodinville, the Burke-Gilman trail, and the annual Brewers Festival in Saint Edward State Park	Restrictions associated with Presidential visits to Seattle • Ongoing contact with Washington Beer Commission and members to promote Kenmore. (Brewfest is now at Marymoor Park) • 192 LakeTrail Taproom opens in downtown Kenmore 2012
C. Promote a business and development climate that supports desired economic growth (S-T)*	
C1. Audit regulations, zoning, fees, and processes to ensure that they are consistent with the Comprehensive Plan and Downtown Plan, supportive of investment in the City's target sectors according to current business practices, and competitive relative to neighboring communities	• Completed, 2010-2011. Further process improvements to the permit process have been identified in the LEAN project 2013.
C2. Explore opportunities to promote development in areas targeted for investment by using tools and incentives, such as a planned action environmental review or transfer of development rights	• Considering incentives as part of Regional Business zoning review
C3. Consider additional incentives to encourage private investment in streetscape and open space amenities and a built environment in line with the community vision	• Beautification Awards established in 2013
C4. When considering policies or processes that could affect the business/development community or climate, solicit input from the private sector and communicate changes once made	• Example: Residential sprinkler ordinance development included industry consultation
C5. Provide early and frequent opportunities for developers and	• Development Review Team and development review

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

business and property owners to discuss potential development projects with City staff *	process overhaul features early opportunities for discussing projects with entire City team
C5a. Communicate the community's support for development that is aligned with the Comprehensive Plan and current development regulations	Leadership is proactive in meeting and encouraging potential investors in Kenmore.
C5b. Provide predictable and consistent information about the City's development regulations	Streamlined Development Regulations approved 2011
C5c. Answer questions and facilitate development in a collaborative fashion	Collaborative, problem-solving approach is featured in Development Review Team discussions
C6. Establish a survey to solicit feedback on the City's permitting process, using the results to make improvements and capture positive comments for use in promotional materials	Completed, 2010-2011, with positive responses. This feedback is used in marketing messages.
C7. Enhance the City's website with additional economic development content	Economic Gardening project completed 2013; data and information will be incorporated into the enhanced website.
D. Work to retain the City's existing independent businesses by understanding and responding to their issues (S-T/M-T)	Kenmore Camera is one example of the City working to keep an established business in the city.
D1. Better understand and track the makeup of the City's commercial sectors by establishing a business registration requirement with a modest fee	Council adopted an Ordinance creating a local Business Registration Program in April 2013
D2. Meet regularly with the City's larger employers through direct outreach or collective and interactive forums such as a regular	Business Open Houses hosted twice a year beginning in 2011

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

business breakfast

- Informal ongoing direct contacts with businesses
- Partner in King County Executive Small Business Awards Program ; submitted nominations each year. Kenmore Camera named finalist for Small Business of the Year in 2012.

D3. Explore the needs of Kenmore's home-based businesses and determine what the City can do to support them

- Outreach to home-based businesses at Business Open Houses; focus meetings planned for 2014

D4. Explore opportunities to support local small businesses in partnership with the UW Bothell Business Development Center *

- Free Seminars for local businesses and Bastyr students/alumni have been presented twice a year since February 2012

D5. Following the completion of Kenmore Village, assess business owner interest in a Downtown business association that the City could support with meeting space and technical assistance

- City championed establishing the Kenmore Business Alliance, in partnership with Greater Bothell Chamber 2013

E. Support the growth of a health-related cluster (M-T)

E1. Strengthen the connection between the City and Bastyr University through event co-sponsorship and other opportunities for partnership*

- Unanimous approval of Bastyr Master Plan Dec 2009; partnerships on recreational fields, incubator project, business attraction and marketing.
- International Town & Gown Association National Conference presentation 2010.
- Partnered with Bastyr, Economic Development Council of Seattle-King County and Choice Organic Tea on Innovation

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

E2. Recruit health-related businesses that would benefit from the presence of Bastyr, nursing programs at UW Bothell and Cascadia Community College, local medical/dental practitioners, and proximity to one another *

Partnership Zone Proposal in 2013; proceeding with Business Plan developed for that proposal.

- Ongoing effort, which is also part of the Business Plan noted above.
- Worked to encourage a new Evergreen Medical Center facility, which is now a potential tenant at Kenmore Village

E3. Target health and fitness businesses such as outdoor gear rental shops that would benefit from the waterfront, the Burke-Gilman Trail, and vehicular traffic along SR 522

- Landed kayak/standup paddleboard rental at Log Boom Park in 2013, discussions with additional prospects underway.

F. Maintain the opportunity for longer-term office based employment (Ongoing)

F1. Track capacity for office development and be prepared to market opportunities as they arise

- Development Capacity Report, 2010
- Kenmore Business Incubator highlights office capacity needs, Kenmore Village office prospects

GOAL III: CREATE A MULTI-USE, VIBRANT, AND WALKABLE DOWNTOWN

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

A. Prepare for and build off of Kenmore Village, City Hall, the library, and other existing or planned Downtown projects and improvements (S-T) *

A1. Create folios describing the projects with photos or renderings that can be passed out at regional events to promote and generate interest in the City *

B. Develop NE 181st Street as a unifying feature of a pedestrian-oriented Downtown (M-T)

B1. Consider renaming 181st to help establish an identity for the Downtown

B2. Invest in streetscape and sidewalk improvements and amenities*

B3. Create a multi-use “gathering place” at the new City Hall

B4. Create strong walking connections to adjacent neighborhood and the waterfront

C. Encourage additional residential development in the Downtown to increase activity and attract daily goods shops, services, and restaurants (M-T/L-T)

- Bringing potential investors and developers to see Kenmore’s downtown improvements helped to increase the interest in the Kenmore Village property. Hosting regional events at City Hall also boosts the City’s image.

- Kenmore Village, Town Green and other promotional materials were produced in 2012-2013

-

- Completed sidewalk and streetscape improvements on NE 181st and 68th NE. Banners, seasonal tree lights and hanging flower baskets are installed in the area. Wayfinding signage to be installed starting 2014.

- City Hall Plaza Completed 2010; Town Green at Kenmore Village is planned.

- Sidewalk improvements completed and planned; bicycle strategy developed in 2013.

GOAL III: CREATE A MULTI-USE, VIBRANT, AND WALKABLE DOWNTOWN

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

C1. Promote residential development opportunities in Kenmore

- Main Street's proposed project on former Park and Ride property will add hundreds of multifamily units in the heart of downtown

C2. Use design standards to ensure high quality and attractive development in line with the community vision for Downtown

- Downtown Design Standards provide guidance and flexibility for development projects

D. Capture pass-through traffic on SR 522 and the Burke-Gilman Trail by creating strong connections to the Downtown (M-T/L-T)

-

D1. Create a landmark gateway to Kenmore at the intersection of SR 522 and 68th Avenue *

- Kenmore Village signage will enhance commercial presence;

D2. Improve signage and wayfinding to capture pass-through vehicular and bicycle traffic *

- Designs for banners and wayfinding approved in 2011.
- Banners installed in 2012 on SR 522, 68th Ave NE and NE 181st in 2012; seasonal and "Support Local Business" banners added in 2013; wayfinding and gateway signs to be installed starting in 2014

GOAL IV: ADVANCE THE COMMUNITY'S CONNECTION TO THE WATERFRONT

Strategies	Status (* This was identified as a Recommended Short-Term Priority)
A. Continue to pursue designation as the first King County ferry district demonstration route (S-T)	King County shifted Ferry District funding to other programs; City is actively pursuing federal funding for Kenmore Navigation Channel maintenance dredging
B. Provide leadership in opening up the waterfront (Ongoing)	Engaged various boating, historical and recreational organizations in growing water-based recreation activities.
B1. Explore opportunities to open up the waterfront and connect the Downtown to the lake by pursuing grants or financing to fund infrastructure improvement or the purchase of key properties	The Parks, Recreation and Open Space Plan update will make the City eligible for Recreation Conservation Office grant funding .
B2. Continue to promote the available development site at LakePointe and work with the owner to encourage attractive redevelopment of the site	- Worked with property owner on entitlement extension - Promoting redevelopment with the goal of going vertical within the next few years - Permitted site improvements related to SR 520 Project Support and affirmed long term goals for the property
B2a. Identify key infrastructure improvements that the City could undertake to make the site more attractive for development	Planned for next biennium
C. Establish improved linkages to the waterfront (Ongoing)	Improvements at Boat Launch, Rhododendron Park, Log Boom Park help connect Downtown and the Sammamish River and Lake Washington
C1. Develop pedestrian connections between Downtown and the waterfront	Next phase of SR 522 project will improve pedestrian connections, in addition to those already completed
C2. Explore options to purchase parcels that are close to but not on the waterfront that could serve to improve linkages	City purchased vacant commercial property at 67th Ave NE and SR 522 in 2013

Recommended Short-Term Priorities

Image

Pursue opportunities to update and energize Kenmore's image among residents and non-residents

- Community marketing
- Landmark gateway and additional signage

Business Climate

Focus on how the City of Kenmore engages with businesses

- City culture and practices supportive of the economic development goals articulated in this document, including a strong customer service orientation
- New tools and incentives to encourage investment

Leverage Existing Assets

Build upon existing businesses, institutions, and strengths and focus on connections to the waterfront

- Independent Kenmore businesses
- Educational institutions, such as Bastyr University, UW Bothell, and Cascadia Community College
- King County Ferry District demonstration route
- Burke-Gilman Trail

Built Environment

Continue to play an active role in guiding the redevelopment of Downtown

- New development should be appropriately scaled and well designed
- Pedestrian orientation and new residents will bolster Downtown commercial vitality
- Build off of City Hall, the Library, and the Northshore Fire District
- Incentives and public investment may continue to be necessary to realize the desired character



Economic Development Council *of Seattle and King County*

Economic Development Council of Seattle and King County 2014 Proposed Organization and Business Development Initiatives

California-Bay Area Recruitment Trip

The EDC will coordinate a Board of Directors-led business recruitment trip to the Bay Area in the second or third quarter of 2014. The target attendance will be 12 Board members who will meet in teams of two with four companies in two days. The companies will be in four categories: life science, information technology (including travel technology), financial services, and foreign direct investment opportunities from Asia. Additionally we will hold an evening reception during the trip and invite businesses that have a general interest in our region.

It is important to understand the purpose and goals for this and future recruitment trips so that expectations are met and outcomes can be accurately evaluated.

The purpose of this trip is not to convince key company leaders to relocate their existing operations. If that type of opportunity surfaces it will be positive but very unusual. These companies are in California for good reason—the access to research, capital, and talent the industry clusters offer are solid reasons for keeping and growing operations there. Relocation of current operations should not be the expectation.

The purpose of the meetings is to establish a dialogue between a company and our team, building a relationship. We want them to understand what our market offers to a spin-off or new operation, and we want to learn their growth plans. We want the individuals in the meeting to get excited about what is happening in our community and become allies in our mission to build our industry clusters. Once we have created a relationship we then have the opportunity to influence their future growth plans.

Flow of the meeting and selling points to be covered

These meetings should be kept as informal as possible to encourage discussion, remaining flexible and open. Opportunities to discover planned projects and new initiatives of the company will surface when we get the company representatives talking. We are not giving a formal presentation on the benefits of the King County market for their industry. We will cover some new and interesting points about our market and answer questions they may have about our market.

Asking about their projections for their industry, their customers and suppliers, and their growth plans will elicit discussions regarding expansion opportunities for King County. We should not dominate the meeting with a community sales pitch because it will limit our ability to listen for opportunities.

1

It is important to look for "second touch" opportunities e.g. if a company representative is coming to the area, if there is a customized piece of information that we could provide them, if there is an introduction to an individual or company in our market that we could make. These will provide follow up opportunities that will build the relationship.

King County Sub-regional Partnerships, EDC Committees, and Communications Strategy

There are many sub-regional economic development efforts in existence or being formed throughout the county without the engagement or participation of the EDC. The work and role of the EDC is still not as widely known or understood as it should be to these groups or to other key leaders in the region. The EDC has worked to generate recognition through large events like the Annual Economic Forecast Conference, industry cluster analysis work and subsequent media attention, and the organization's Pacific Northwest Economic Insights Newsletter. However, there is not a formal countywide or sub-regional set of economic development strategies or communications plans. In 2014 the EDC proposes to work with our public and private sector partners to create such strategies and utilize Board Leadership to execute on them.

This effort will include:

- Convene sub-regional partnerships in King County for the EDC. Our goal is to establish two new committees of EDC leaders (elected and business) that represent different sections of the county. We will invite them and other leaders (not EDC members) within those sub-regions to participate in two or three meetings per year to discuss coordination of economic development efforts and educate those leaders about the EDC and or mission.
- Potential sub-regions would include the greater-Eastside and South King County.
- We will ask EDC Board Members to select a sub-regional committee to serve/participate on (could be more than one) and to share a list of leaders and economic development organizations/efforts in each region that should be invited, including potential topics to be discussed.
- The EDC will also work closely with the Sound Cities Association to ensure we are informing cities throughout the region about the organization and being a resource for their economic development ambitions.
- The EDC will identify and submit articles and editorial content in sub-regional media publications. The EDC has well-known leaders involved with the organization as well as vast expertise in specific industries that lead our regional economy and in the field of economic development. The organization will tap into this unique asset and deliver content to local media. These outlets will include television, radio, city newspapers and chamber of commerce newsletters.
- The EDC has relationships with leading public relations/marketing organizations and media outlets in the region. We will tap into that network to ask for their input and support in the goal of building greater name recognition and support for the organization. We will meet individually with these marketing and media expert to gain their input and then convene the group to identify next steps and coordinate efforts.

Proposed New and Expanded EDC Industry Cluster Work for 2014

EDC Aerospace Business Development Program

②

Goal

The EDC will take on specific, tangible actions necessary to support, maintain and grow a thriving and globally-competitive aerospace industry in King County.

Actions

The EDC will achieve this goal by managing and administering the King County Aerospace Alliance. This will include executing on several tasks:

Task 1: Know the value proposition King County offers to the commercial aerospace industry.

The EDC will meet with 25 King County-based aerospace companies annually to identify potential expansion opportunities and to understand their specific challenges. This will build on the work that has been done to understand the aerospace ecosystem in our region and what key benefits we offer to the industry.

Task 2: Identify targeted companies and fill remaining gaps in the industry cluster.

The data gathered through the projects above will aid in the identification of gaps in our local aerospace industry cluster. Identifying these gaps will allow us to direct our efforts in targeting specific types of companies that do not yet have a presence in the community.

The KCAA will reach out to area aerospace experts to help identify specific companies to target that are not currently part of our aerospace cluster. We will begin a dialog with them and provide information about opportunities to become a valued member of this business community.

Task 3: Develop aerospace-specific marketing material and outreach.

The KCAA has and will continue to develop focused messages and marketing material including:

- Internet visibility including content with links to KCAA partners
- Tradeshow booths
- General marketing material including maps, available properties, and economic and demographic data

Task 4: Coordinate recruitment efforts with the Washington State Aerospace Partnership.

Several KCAA members are supporters of the Washington State Aerospace Partnership (WAP), including the EDC. In fact, the first action the KCAA took as an organization was to support the efforts of the WAP. Clearly both groups have a strong connection and a similar goal of building the most productive and successful aerospace cluster in the world.

The KCAA will partner with the WAP on recruitment initiatives and work together to identify and communicate with prospective aerospace companies.

Task 5: Direct company outreach and promotion of the community to the aerospace industry.

The KCAA will have representation at industry-specific trade shows, including the following local aerospace trade shows:

- Aircraft Interiors EXPO
- BCI Aerospace and Defense Suppliers Summit

3

KCAA members will work collaboratively to ensure representation at the leading international aerospace conferences such as:

- Farnborough International Airshow
- International Paris Air Show

Meetings will be set with targeted companies prior to these conferences to maximize the effort.

Task 6: Quantify and track prospects identified and engagements made.

Quantify the number of potential expansion and recruitment prospects that are in contact with KCAA partners.

Travel Technology

From large companies to visionary start-ups, some of the most significant players in the travel technology space call King County home. Yet this is a cluster that has had very little focus placed upon it, especially when it comes to economic development. We are proposing to change that.

We've laid out the following five-point plan to focus attention on this growing sector within the larger technology industry:

- Draft a technical briefing paper including available quantitative and qualitative data to understand more fully the strengths, challenges, and opportunities for this section within our region.
- Hold an invitation-only luncheon specifically for the industry to share the technical briefing document and launch industry task force initiative
- Facilitate an industry-led task force charged with the goal of developing a strategic plan and fostering industry buy-in to establishing long-term initiatives
- Include the travel technology industry on the EDC's upcoming recruitment trip to the Bay Area
- Develop a marketing/outreach strategy around the industry to include a one-page brochure, web presence, and other efforts where appropriate

We plan to target other local companies with a stake in the travel technology space, including Expedia, Booking.com, Concur Technologies, Hainan Airlines, Arrow, Emirates, Alaska Air, Holland America Line, Worldmark by Wyndham Travel, Princess Cruises, and others, as additional partners in these efforts.

Financial Services Industry Cluster Economic Development Initiative

Mission and Goal

The Washington State Financial Services Collaborative is an initiative of the EDC with the mission to foster the economic vitality, long-term growth, and global competitiveness of the Financial Services Industry in Washington State.

The goal of the Collaborative is to grow the industry through proactive efforts of marketing and promoting the Washington State Financial Services Industry Cluster to major Financial Services capitals throughout the world; driving a targeted campaign of business expansion and recruitment activity specifically for the Financial Services Industry.

4

Actions

This initiative will target three major areas:

1. **Branding the State as an emerging center for the Financial Services Industry.** This will include activities such as:
 - a. Media relations
 - b. Public awareness campaign
 - c. Talent attraction and recruitment
 - d. Financial Services conferences and forums
2. **Recruiting and expanding financial services firms in the State of Washington.** This will include activities such as:
 - a. Aggressively targeting Financial Services firms located outside of the State and presenting options and opportunities to expand into Washington
 - b. Working with local Financial Services firms and connecting them to potential customers. Implementing a sophisticated "buy local" program to utilize the services of local financial services firms and connecting local firms to resources that will help them grow
3. **Building a cohesive Financial Services Industry within the State of Washington.** This will include activities such as:
 - a. Holding one large-scale annual event for the industry
 - b. Creating opportunities for the Industry to partner on a more regular basis, including networking events and facilitating new partnerships

The Maritime Industry Cluster

The EDC has led a recent effort to conduct a statewide analysis of the economic impact of the Maritime industry. The Maritime Cluster includes core sectors such as Passenger Water Transportation, Ship and Boat Building, Maintenance and Repair, Maritime Logistics and Shipping, Fishing and Seafood Processing, and Military and Federal Operations. The analysis confirmed that the Maritime Industry is a significant contributor to our regional and statewide economy generating billions of dollars in revenue and directly employing almost 57,000 Washingtonians. This industry clearly holds great promise for the region and the EDC proposes developing an industry cluster program focused on it.

We would move forward on an industry cluster plan in the same way we have approached other industry programs to include:

1. Know the value proposition King County offers to the maritime industry by doing the following:
 - a. The EDC will meet with a set number of King County based maritime companies annually to identify potential expansion opportunities and to understand their specific challenges building on the work that has been done to understand the maritime ecosystem in our region and the benefits we offer to the industry.
2. Identify targeted companies and fill remaining gaps in the industry cluster by reaching out to area maritime experts to help identify specific companies to target that are not currently part of our cluster. We will begin a dialog with them and provide information about opportunities to become a valued member of this community.
3. Develop Maritime-specific marketing material and outreach including:
 - a. Internet visibility including content with links to Maritime partner organizations and efforts

5

- b. General marketing material including maps, available properties, and economic and demographic data
- 4. Coordinate recruitment efforts with the State of Washington and other regional efforts to target and grow the industry.
- 5. Promotion of the community to the Maritime industry.
 - a. The EDC will have representation at industry-specific trade shows, including local maritime trade shows

North King County Natural Health Sciences Collaborative Proposed Action Plan

Phase I: November 2013 – March 2014

1. Census of product and service providers
 Objective: determine the number, type, and extent of natural health product and service providers in North King County
 Rationale: establish a baseline against which to measure progress
 Responsibility: EDC
 Timetable: November – March
2. Begin public relations and branding effort
 Objective: identify the University and the region as a center for natural health products and services
 Rationale: begin to develop the identity that will draw in new activity to the area
 Responsibility: City of Kenmore through contract with Frause
 Timetable: November – March
3. Form advisory committee
 Objective: identify and involve a small group from the industry and the public sector to act as a sounding board
 Rationale: bring in more expertise
 Responsibility: EDC, Kenmore
 Timetable: November – January
4. Hold discussions with potential partners
 Objective: involve institutions identified in the work plan
 Rationale: bring additional strengths to the program
 Responsibility: EDC, Kenmore, Bastyr
 Timetable: November – March
5. Identify and meet with major product and service providers outside King County
 Objective: determine the larger network of the natural products industry and identify strengths and weaknesses of King County
 Rationale: add valuable expertise and insights
 Responsibility: EDC, Kenmore, Bastyr
 Timetable: November – March
6. Background information on Bastyr alumni and research agenda
 Objective: identify what information is available and where gaps exist
 Rationale: needed to develop research program
 Responsibility: Bastyr
 Timetable: November – December

6

Innovation Partnership Zone for Biomedical Manufacturing (Bothell, Washington)

2014 Business Plan

Introduction: The Innovation Partnership Zone for Biomedical Manufacturing (IPZ) has established five primary objectives for 2014.

The objectives are as follows:

- Complete and begin operating the Mercury Medical Technology machine shop for rapid prototyping of medical devices at Lake Washington Institute of Technology by January 1, 2014.
- Incubation of up to eight start-up medical device companies, four in-residence, four virtual by December 31, 2014.
- Host four C-Level lunches for senior medical device executives @ one per quarter.
- Plan and execute the 6th Annual Medical Device Summit by September 2014.
- Complete early-stage conceptualization study for the proposed Discovery Center.

The EDC of Seattle and King County will support each of these objectives in the following manner:

- Serve on the IPZ board, including but not limited to hosting C-level lunches, participating in the governance of the IPZ and planning the annual summit.
- Co-Chair the Mercury Medical Technologies Advisory Board.
- Serve as business development resource to companies enrolled in Mercury Medical Technologies.

Cascadia MedTech Accelerator (Federal Way, Washington)

2014 Business Plan

- Increase company prospects from current two to 20-30 by December 31, 2014
- Increase active client companies from two to 6-10 by December 31, 2014
- Revisit business plan in Q1-2014 and open discussion to broader scope (e.g. Healthcare IT)

The EDC of Seattle and King County will support each of these objectives in the following manner:

- Provision of one-on-one case management to client companies of the incubator, including but not limited to technical advising and networking.
- Serve on the Cascadia MedTech Board.
- Participation with Cascadia Leadership in related recruitment, expansion and retention activities in Federal Way.

7



City Council Business Agenda Items
City of Kenmore, WA

Subject/Topic: Progress Report on Economic Development Strategy Implementation	For Council Meeting Agenda of: 18 June 2012 Department: Executive Prepared by: Nancy Ousley Initial & Date Approved by Department Head: <u>NKO 6 June 2012</u> Approved by City Attorney: _____ Approved by Finance Director: _____ Approved by City Manager: <u>RLK 6/11/2012</u>	
Proposed Council Action/Motion:	Exhibits/Attachments: Staff Memo and Progress Report Chart	
Expenditure Required \$	Amount Budgeted 2011-2012 Original Budget \$24,800; with 2012 revision \$29,800	Appropriation Required \$
<u>INFORMATION/BACKGROUND:</u> The Council adopted the Economic Development Strategy in June 2009. This presentation and discussion will cover implementation activities undertaken since adoption and planned initiatives.		
<u>FISCAL CONSIDERATION:</u>		
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Implement the Economic Development Strategy to include metrics to gauge progress is in the top five Council Goals for 2012.		

I:\ACMACM NK0\Agenda Bill Drafts\AB 18 June 2012 ED Progress Report.doc



City Of Kenmore, Washington

MEMO

Date: June 7, 2012

To: Mayor & City Council

From: Rob Karlinsey, City Manager

Re: Preface to the E.D. Strategy Status Report

We look forward to the Economic Development Strategy status update at the June 18 Study Session. Economic Development is a top priority of the City Council and a strong passion of mine as well.

Nancy Ousley's attached report provides a status update on how the Strategy has progressed since 2009. I am pleased with the leadership and work that Nancy has shown and completed to further Economic Development in the City. The City Council and staff should be commended for their leadership and the progress made in this area.

As you know, I have many thoughts and ideas when it comes to Economic Development, many of which are already discussed in either Nancy's attached report, the Strategy, or both. There is so much economic potential here, and I am excited to be a part of turning that potential into reality. The job for Nancy and me is to lead, focus, and deliver on the various ideas and initiatives as directed by the City Council.

Nancy and I have had some productive discussions on the topic of Economic Development, and we believe now is a great time to bring Economic Development to the next level and make significant progress in advancing the Strategy. Here are some of our thoughts along those lines:

Doing What We Do Best. More than anything, the City can advance Economic Development simply by doing what we do best, which is:

- 1) Building public infrastructure (roads, parks, and utilities);
- 2) Providing high quality basic municipal services; and
- 3) Keeping our financial house in order (and thereby doing our part to keep costs down for taxpayers and businesses).

High quality maintenance of our roads and landscaping ranks high among basic municipal services, as do a well-run police department, customer-oriented permit services, and user-friendly land use codes.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028
Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov
www.kenmorewa.gov

Strategic Investment Area (SIA). Focus on the Downtown Strategic Investment Area as identified in the 2003 Downtown Plan. Kenmore Village is located in one of the four downtown quadrants of the SIA. As the City's work and investment for the Kenmore Village property comes to fruition, we need to direct our attention and resources to the other three quadrants as well.

All of the quadrants have great potential, but the two southern quadrants in particular have significant possibilities given that they contain two of our biggest assets—1) Lake Washington waterfront and 2) the Burke Gilman Trail. Our economic development ideas for these quadrants can be summed up as "Setting the Table" which includes the following:

- Regional Business Zone Amendments and Other Land Use Actions (e.g., Planned Action Ordinance, Development Agreements, etc.) that provide incentives for desired development
- Waterfront and Burke Gilman amenities and complimentary uses/businesses
- Infrastructure—new and/or improved roads in particular
- Public Landscaping and Maintenance Improvements
- Waterfront and Trailfront Parks and Public Access to the Water
- Protection and Promotion of the Shoreline and Wetlands/Critical Areas

In addition to the focus on the SIA, our City-wide Economic Development Efforts should zero in on helping existing local businesses succeed and attracting new businesses where it makes sense. Ideas along these lines include the following:

Image Improvement Campaign. Telling Kenmore's Story and thereby improving our image is one of the main components of our economic development efforts. There are several key pillars to improving our image, chief among which are our marketing materials; web page and social media; wayfinding/banners; beautification and landscape maintenance; public safety; and customer service at the City Hall counter (see "Doing What We Do Best" discussion above). Nancy has the lead on a comprehensive marketing strategy that we will discuss with you on June 18 and will tie into the 2013 budget discussions. Creating a web page that sets the City apart will also be part of the 2013-2014 budget dialogue this fall.

Technology & Access to Information. Part of making ourselves attractive to the business community is making information about the City easily accessible to local businesses, brokers, realtors, developers, potential employers, etc. The City's web page was mentioned in the previous paragraph regarding improving the City's image; the web page also needs to be a powerful and user-friendly tool for accessing information about land use, properties, demographics, incentives for development, local schools, and much more. This information piece of the puzzle is a main pillar of what is often referred to as "Economic Gardening."

Environmental Stewardship. Our beautiful shoreline, rivers, and wetlands should be viewed as assets in our economic tool belt, not barriers. We can further protect and promote our shoreline and critical areas by enlisting volunteers and groups to help restore and provide educational opportunities for our amazing natural resources right here in the City.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov
www.kenmorewa.gov

Environmental stewardship and breath-taking natural resources in an urban setting could be something Kenmore could become known for (or even more so).

For example, Kenmore is known for its herons. We could work to further protect heron habitat and facilitate the creation of a heron observation and education facility. Developing such a program would provide another reason for people to come to Kenmore, creating a win-win for the environment and the economy.

Filling the Chamber Void. From what I can tell, the City is in virtual no-man's land when it comes to having a functioning Chamber of Commerce or a local business association. In a limited fashion, the City can help fill this void by continuing the open houses that it started in 2011, facilitating educational/business improvement classes and workshops as begun a few months ago; providing a business newsletter (electronic, hard copy, or both); producing a business directory, and offering ribbon-cutting events for new businesses.

While it has been tried before, we should also explore the possibility of a local business association forming here in the City. We have recently learned that a Kenmore business group within the Bothell Chamber membership has formed, and we will meet with them and support their formation and efforts.

Primary Employer Attraction & Retention. Identifying and growing existing business clusters and local home-grown talent are key to keeping and attracting primary jobs in Kenmore. Nancy's report and the Strategy talk about facilitating clusters in the City, including a natural health cluster. We should zero in on one or two clusters (or potential clusters). We should meet with business owners in these clusters and ask them what their needs are, what's giving them heartburn; what added businesses (suppliers, for example) would be complimentary to their success, etc.

Accessing economic development tools at the State are also worth pursuing, including the Innovation Partnership Zone (IPZ) and Tax Increment Financing (TIF, aka "LIFT") programs. The next opportunity to apply for IPZ designation is September 2013. We can discuss the benefits of the IPZ and TIF programs, as well as how they will be used in Kenmore, at a later date.

Recruitment of Targeted Businesses. As Nancy mentions in her report, we will target the recruitment of key businesses, including a small specialty grocer and selected restaurant chains. Connecting with specialized commercial brokers and contacting wholesalers will be important in our recruitment efforts. The City is also in need of a hotel, and we will work to recruit one.

In summary, we have a bright economic future ahead of us. The City's current Economic Development Strategy, financial position, excellent staff, visionary and supportive City Council, engaged community, natural resources, existing businesses, and our strategic location position us well for economic success. We are excited to move the Economic Development Strategy forward, and we all have the ideas, leadership, and energy to do so.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028
 Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov
 www.kenmorewa.gov



City Of Kenmore, Washington

MEMORANDUM

6 June 2012

TO: Rob Karlinsey, City Manager

FR: Nancy Ousley, Assistant City Manager

RE: Economic Development Strategy Implementation Status

Background

The Council unanimously adopted the Economic Development Strategy in June, 2009. This five-year action plan emphasized specific tasks to implement the strategy and identified short-term, high impact priorities, in order to focus limited resources. The Strategy and background analysis was prepared by Berk and Associates, working with City staff and an Advisory Group that was chaired by (current) Deputy Mayor Bob Hensel. There was substantial community interest in the project, which featured a well-attended Community Open House.

The Council's 2012 Goals lists Implementing the Economic Development Plan as the top priority, now that a new City Manager has been hired. This is an opportune time to review the progress toward implementing the Strategy, recognizing that it was approved in the early months of what is known as the Great Recession, which had broad effects on business and residential development, employment, and public budgets. With new City leadership, new opportunities for pursuing downtown development and an upcoming biennial budget discussion, we have the chance to focus our effort and invest resources. Even though the plan horizon was five years, we submit that the direction remains very sound and requires long term, organization-wide attention.

We look forward to providing twice yearly progress reports, and will take time between reports for brief updates and consultations with the Council. The attached progress chart provides detailed information on implementation progress, along with the following summary.

Identified Priority Actions and Activities to Date

Marketing and Promoting Image: Establishing Kenmore's image and marketing is the priority out of the gate, and we recommend committing resources to support a proper level of effort for this foundational and necessarily long term activity. We share the Council's interest in retooling the

18120 68th Ave NE · PO Box 82807 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

City's website and understand the importance of a highly functioning website and social media in marketing the City. The Wayfinding and Banner project is being implemented over the next several years, and will make a distinctive statement to people traveling to or through Kenmore. Following on an interim informational folio that was produced in 2010, we are moving forward with an updated piece and coherent messaging that will be consistently communicated. Staff will propose a comprehensive marketing strategy for the biennial budget.

Other activities contribute to the City's marketability, such the appearance of City streets and parks as well as promoting Historic Preservation, particularly for Mid-Century development. Staff worked with King County and the State Department of Archaeology and Historic Preservation to complete a survey of historic resources which focused on Mid Century resources, a growing area of historic interest and investment.

Supporting Existing Businesses and Pursue Opportunities to Expand Employment: The 2009 Strategy noted that only 3% of Kenmore workers are employed in Kenmore. Increasing the number of jobs in Kenmore will create more opportunity for retail businesses and activate downtown areas. In supporting existing businesses, we are hampered in our ability to know who's here or to contact businesses because there is no business registration. In 2011, we hosted two Business Open Houses and gauged the interest in a Kenmore Business Registration. Most respondents were interested, particularly if the City produced a Kenmore Business Directory. The Administration is prepared to bring a Business Registration proposal to the Council later this year. The proposal will include a discussion on how the businesses will directly and indirectly benefit from a registration program.

Very important progress was made in 2010 and 2011 in the City's interface with businesses and people interested in development investment in the City. Revamping the development review process and streamlining the development regulations represent major advances in making the development process more user-friendly. The upcoming review of the City's Commercial Zones will be key in enhancing the development capacity for employment and will set the stage for completing Transit Oriented Development areas.

We will continue to pursue business development that builds on Kenmore's assets, such as a health/wellness related cluster, outdoor recreation, and seaplane/marine services. The Administration also prioritizes attracting hotel, restaurant, specialty food store, and more professional office capacity.

Downtown Development: The City has opportunity and flexibility in pursuing development of the Kenmore Village property, and discussions with the Council begin this month on the next steps. It's important to note that since the 2009 Strategy adoption, the public investment on NE 181st Street is striking and functional. The City also stepped up to retain the US Post Office in downtown Kenmore.

Advancing the Community's Connection to the Waterfront: The City's most emphatic asset is hard to access. That being said, we believe it is important to keep our attention on and work toward this important goal. The Parks Plan update and a proposed urban design and planning initiative to

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

connect downtown to Lake Washington will be discussed in the next biennial budget. The City's efforts to get federal funding for the Kenmore Navigation Channel will benefit future development.

Metrics for Measuring Progress

The 2009 Strategy outlines some potential performance indicators, such as trends in residential and commercial property values, positive media stories, employment per capita, and customer satisfaction related to the permit process. Regular reports on development activity statistics will be provided, and the Executive will propose specific metrics that reflect general Economic Health of the community.

Attachment



**ECONOMIC DEVELOPMENT STRATEGY
PROGRESS REPORT
June 18, 2012**

GOAL I: ESTABLISH KENMORE'S IMAGE BY PROMOTING ITS GOAL I HIGH QUALITY OF LIFE AND MANY ASSETS

Strategies

- A. Engage Kenmore residents through ongoing community outreach around economic development goals and key initiatives, such as the redevelopment of Downtown (S-T)**
- B. Launch a community marketing campaign to raise Kenmore's profile in the region (S-T) ***
 - B1. Develop interim print materials to promote Kenmore generally and specific development opportunities and update the City's website with economic development material
 - B2. Engage a community marketing expert to develop Kenmore's brand and a supporting campaign *
 - B3. Once a brand is established, review and revise existing City materials and website to ensure consistency with the brand
 - B4. Ensure City and community partners communicate similar messages that build on this core identity
 - B5. Be engaged in regional conversations and partnerships
- C. Strengthen and promote Kenmore's community events, such as summer concerts at Saint Edward State Park S-T)**
 - C1. Use activities and events to highlight the river, trail, and waterfront.

Status

(* This was identified as a Recommended Short-Term Priority)

- Proposals being developed for 2012
- Major features depend on available funding
- Other City initiatives contribute to positive profile, such as parks/street maintenance levels and Historic Preservation program
- Published Economic Development Folio, Q1 2010
- Contract in place with Frause for follow up marketing material and message development (proposed)
- Website enhancements planned
- enterpriseSeattle; Prosperity Partnership
- Community activities continue, including Summer Concerts

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

- D. Support efforts to improve, maintain, and expand parks and open spaces, recognizing them as important economic vitality asset (Ongoing)**

Parks, Recreation and Open Space Plan scheduled for update; park improvements made to Rhododendron Park,

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

- A. Maintain a culture supportive of economic development among all members of the City organization (Ongoing)**

- A1. Establish annual conversations with elected officials about the importance of economic development and the City's short- and long-term plans and aspirations**

- Instituting regular reports to Council
- Need to restate/remind about adopted strategy

- A2. Engage in annual conversations with all City staff about economic development, highlighting the contributions each can make in his or her position. Emphasize the importance of customer service and communicating that the City welcomes desirable investment and seeks to play a facilitative role**

- Underway—examples include revamped development review process, streamlined development regulations, upcoming review of downtown commercial zones

- A3. Appoint a single point of contact for businesses wishing to interact with the City**

- Completed

- B. Focus the City's economic development efforts on independent, community scale retailers and employers, with a particular emphasis on the outdoor recreation, clean-tech, and health care sectors (Ongoing)**

- Reconsidering this mix, but focusing on health/wellness related businesses that desire adjacency to Bastyr and associated services such as hotel, restaurants, specialty grocer

- B1. Pursue training or other opportunities for staff to learn more about these sectors' needs and preferences for facilities, adjacencies, and location**

- Consulting with enterpriseSeattle, attending Washington Biotech and Biomedical Association events (Bastyr has joined WBBA)

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

B2. Use community marketing efforts and the City's website to project a community image that attracts entrepreneurs and businesses in the City's targeted sectors *	Planned for 2012 launch
B3. Target related professional organizations for membership and participation, including the Washington Clean Tech Alliance, Green Business Forums, and health care groups	See B1
B4. Engage school leadership in dialogue and identify ways to leverage the area's educational institutions, including Bastyr, UW Bothell, Cascadia Community College, and the Northshore School District *	- Bastyr University Master Plan adopted Dec 2009, signals new era of partnership and joint initiatives - Commercialization prospects/enterpriseSeattle - Presence downtown for Bastyr, possible business incubator tied to UWB and Bastyr
B5. Explore opportunities to attract businesses that would benefit from the presence of Kenmore Air's maintenance facility and passenger base	- City support for Bond financing - Made contacts for potential investment connections
B6. Consider recruiting a micro-brewery or wine maker that would benefit from proximity to similar operations in Woodinville, the Burke-Gilman trail, and the annual Brewers Festival in Saint Edward State Park	- Ongoing contact with Washington Beer Commission and their members to promote Kenmore; City participation at Brewfest opening ceremonies 2010, 2011 192 Brewhouse opens in downtown Kenmore 2012
C. Promote a business and development climate that supports desired economic growth (S-T)*	
C1. Audit regulations, zoning, fees, and processes to ensure that they are consistent with the Comprehensive Plan and Downtown Plan, supportive of investment in the City's target sectors	Completed, 2010-2011

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

according to current business practices, and competitive relative to neighboring communities

C2. Explore opportunities to promote development in areas targeted for investment by using tools and incentives, such as a planned action environmental review or transfer of development rights

- Considering incentives as part of commercial zoning review

C3. Consider additional incentives to encourage private investment in streetscape and open space amenities and a built environment in line with the community vision

C4. When considering policies or processes that could affect the business/development community or climate, solicit input from the private sector and communicate changes once made

- Example: Residential sprinkler ordinance development included industry consultation

C5. Provide early and frequent opportunities for developers and business and property owners to discuss potential development projects with City staff *

- Development Review Team and development review process overhaul features early opportunities for discussing projects with entire City team

C5a. Communicate the community's support for development that is aligned with the Comprehensive Plan and current development regulations

C5b. Provide predictable and consistent information about the City's development regulations

- Streamlined Development Regulations approved 2011

C5c. Answer questions and facilitate development in a collaborative fashion

- Collaborative, problem-solving approach is featured in Development Review Team discussions

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies	Status
	(* This was identified as a Recommended Short-Term Priority)
C6. Establish a survey to solicit feedback on the City's permitting process, using the results to make improvements and capture positive comments for use in promotional materials	Completed, 2010-2011, with positive responses
C7. Enhance the City's website with additional economic development content	More effort needed, is an immediate priority
D. Work to retain the City's existing independent businesses by understanding and responding to their issues (S-T/M-T)	
D1. Better understand and track the makeup of the City's commercial sectors by establishing a business registration requirement with a modest fee	- Staff asked opinions of business owners on business registration proposal - Proposal planned for Council consideration 2012
D2. Meet regularly with the City's larger employers through direct outreach or collective and interactive forums such as a regular business breakfast	- Business-Open Houses, 2011 - Informal Contacts ongoing - Partner in King County Executive Small Business Awards Program
D3. Explore the needs of Kenmore's home-based businesses and determine what the City can do to support them	Outreach to home-based businesses at Business Open Houses
D4. Explore opportunities to support local small businesses in partnership with the UW Bothell Business Development Center *	Free Business Planning Seminar provided by UWB Entrepreneurship Center February 2012
D5. Following the completion of Kenmore Village, assess business owner interest in a Downtown business association that the City	

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

GOAL II: SUPPORT EXISTING BUSINESSES AND PURSUE OPPORTUNITIES TO EXPAND EMPLOYMENT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

could support with meeting space and technical assistance

E. Support the growth of a health-related cluster (M-T)

E1. Strengthen the connection between the City and Bastyr University through event co-sponsorship and other opportunities for partnership*

E2. Recruit health-related businesses that would benefit from the presence of Bastyr, nursing programs at UW Bothell and Cascadia Community College, local medical/dental practitioners, and proximity to one another *

E3. Target health and fitness businesses such as outdoor gear rental shops that would benefit from the waterfront, the Burke-Gilman Trail, and vehicular traffic along SR 522

F. Maintain the opportunity for longer-term office based employment (Ongoing)

F1. Track capacity for office development and be prepared to market opportunities as they arise

- Unanimous approval of Bastyr Master Plan Dec 2009; partnerships on recreational fields, incubator project, business attraction and marketing. International Town & Gown Association National Conference presentation 2010

- Ongoing effort

- Development Capacity Report, 2010
- Informal meetings with office developers continue

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

GOAL III: CREATE A MULTI-USE, VIBRANT, AND WALKABLE DOWNTOWN

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

A. Prepare for and build off of Kenmore Village, City Hall, the library, and other existing or planned Downtown projects and improvements (S-T) *	
A1. Create folios describing the projects with photos or renderings that can be passed out at regional events to promote and generate interest in the City *	• Interim folio completed, 2010 • Development Capacity information sheets will be produced in 2012, and updated as needed following Commercial Zone Review
B. Develop NE 181st Street as a unifying feature of a pedestrian-oriented Downtown (M-T)	
B1. Consider renaming 181st to help establish an identity for the Downtown	
B2. Invest in streetscape and sidewalk improvements and amenities*	• Completed sidewalk and streetscape improvements on NE 181st and 68th NE. Banners and wayfinding signs will be located in the vicinity.
B3. Create a multi-use "gathering place" at the new City Hall	• Completed, City Hall Plaza furniture under review
B4. Create strong walking connections to adjacent neighborhood and the waterfront	
C. Encourage additional residential development in the Downtown to increase activity and attract daily goods shops, services, and restaurants (M-T/L-T)	
C1. Promote residential development opportunities in Kenmore	• Ongoing Meetings with residential developers

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

GOAL III: CREATE A MULTI-USE, VIBRANT, AND WALKABLE DOWNTOWN

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

C2. Use design standards to ensure high quality and attractive development in line with the community vision for Downtown	Downtown Design Standards provide guidance and flexibility for development projects
D. Capture pass-through traffic on SR 522 and the Burke-Gilman Trail by creating strong connections to the Downtown (M-T/L-T)	
D1. Create a landmark gateway to Kenmore at the intersection of SR 522 and 68th Avenue *	
D2. Improve signage and wayfinding to capture pass-through vehicular and bicycle traffic *	- Design approved 2011 - Banners to be installed 2012; wayfinding signs

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

GOAL IV: ADVANCE THE COMMUNITY'S CONNECTION TO THE WATERFRONT

Strategies

Status

(* This was identified as a Recommended Short-Term Priority)

- A. Continue to pursue designation as the first King County ferry district demonstration route (S-T)**
- B. Provide leadership in opening up the waterfront (Ongoing)**
 - B1. Explore opportunities to open up the waterfront and connect the Downtown to the lake by pursuing grants or financing to fund infrastructure improvement or the purchase of key properties
 - B2. Continue to promote the available development site at LakePointe and work with the owner to encourage attractive redevelopment of the site
 - B2a. Identify key infrastructure improvements that the City could undertake to make the site more attractive for development
- C. Establish improved linkages to the waterfront (Ongoing)**
 - C1. Develop pedestrian connections between Downtown and the waterfront
 - C2. Explore options to purchase parcels that are close to but not on the waterfront that could serve to improve linkages

King County shifted Ferry District funding to other programs; City is actively pursuing federal funding for Kenmore Navigation Channel maintenance dredging

- Potential to form committee focused on waterfront

- Worked with property owner on entitlement extension
- Permitted site improvements related to SR 520 Project Support and affirmed long term goals for the property

- Planned for next biennium

- Permit conditions include owner participation in funding an urban design for linking downtown to lakefront—to be considered in 2013-2014 Budget discussions

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT JUNE 2012

Recommended Short-Term Priorities

Image

Pursue opportunities to update and energize Kenmore's image among residents and non-residents.

- Community marketing
- Landmark gateway and additional signage

Business Climate

Focus on how the City of Kenmore engages with businesses

- City culture and practices supportive of the economic development goals articulated in this document, including a strong customer service orientation
- New tools and incentives to encourage investment

Leverage Existing Assets

Build upon existing businesses, institutions, and strengths and focus on connections to the waterfront

- Independent Kenmore businesses
- Educational institutions, such as Bastyr University, UW Bothell, and Cascadia Community College
- King County Ferry District demonstration route
- Burke-Gilman Trail

Built Environment

Continue to play an active role in guiding the redevelopment of Downtown

- New development should be appropriately scaled and well designed
- Pedestrian orientation and new residents will bolster Downtown commercial vitality
- Build off of City Hall, the Library, and the Northshore Fire District
- Incentives and public investment may continue to be necessary to realize the desired character

Economic Development Strategy Progress Report

June 18, 2012

City of Kenmore, Washington



Organization -Wide Priority

- Raise Leadership Profile
- Business – Friendly Development Process
- Communications
- Maintenance Standards



I. Promote Kenmore's Image

- Marketing
- Website Upgrade, Social Media, Communications
- Banners and Wayfinding Signage
- Historic Resources
- Potential Bastyr/City Initiative on Health & Wellness



II. Support Existing Businesses and Pursue Expanded Employment

- Business Registration—convenient, low fee, business directory
- Business Open Houses, Seminars with UWB
- Business Organization: Kenmore Committee of Bothell Chamber
- Regional Business/Commercial Zoning Review
- Direct Business Recruitment



III. Vibrant, Walkable Downtown

- Kenmore Village Reset
- Kenmore Camera Expansion
- Pedestrian Connections
- Activate Downtown: Farmer's Market, City Hall Plaza, Events



IV. Advance Connection to the Waterfront

- Parks Plan Update
- Urban Design Plan for Connecting Downtown to the Lake-funding participation from Lakepointe
- Potential City Actions



Partnerships

- enterpriseSeattle: potential Bastyr initiative
- UW Bothell Entrepreneurship Center: seminars, incubator
- King County: Financing, Small Business Awards
- State Government
- Economic Development District/Prosperity Partnership



Reporting Progress & Metrics

- Semi-Annual Briefings to Council and Annual Report with Metrics
- Sales Tax, Jobs per Capita
- Positive Press Stories
- Survey Results of Permit Customers
- Growth in Property Values



Potential Budget Discussions

- Marketing
- Kenmore Village City Role
- Incubator Investment
- Wayfinding / Banner Acceleration
- Capital Improvements





Business of the City Council
City of Kenmore, WA

Subject/Topic: Social Media Policy	For Council Meeting Agenda of: Monday, June 18, 2012
	Department: City Manager's Office
	Prepared by: Leslie Harris, Public Information Officer
Proposed Council Action/Motion: Review Proposed Social Media Policy	Initial & Date Approved by Department Head: <u>NKO 11 Jun 2012</u> Approved by City Attorney: <u>6/11/12-UM emf</u> Approved by Finance Director: <u></u> Approved by City Manager: <u>ROK</u>
	Exhibits/Attachments: Social Media Administrative Policy Social Media External Policy
Expenditure Required \$60/year	Amount Budgeted \$0
Appropriation Required N/A	
<u>INFORMATION/BACKGROUND:</u> Social media sites such as Facebook, Twitter and others have created channels for anyone or any organization, including government, to share information, network, and report on life as it happens. Government agencies now have efficient, cost-effective means to reach citizens directly and encourage instant feedback. The attached proposed City of Kenmore Social Media Administrative Policy and External Policy are provided for your review. The policies were drafted to ensure compliance with other city policies, the Kenmore Municipal Code, and state and federal law. The administrative policy applies to city employees, City Council members, and City Board/Commission members. The external policy applies to visitors of the City's social media sites. The policies have been reviewed by the City Attorney and approved by the City Manager. Next steps: • Review the policy with City Council • City Manager to approve policy • Inform employees about social media policy • Launch the Facebook and Twitter sites on or before June 28 • Refine Facebook/Twitter standards for consistency, formatting, content, frequency of updates, etc.	
<u>FISCAL CONSIDERATION:</u> A minimal amount of funding is needed on a monthly basis for an online service that creates daily backups of the online data for the City's social media sites. The backups will support record retention requirements.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Use social media as an additional avenue to communicate with the public.	

- 1.1.6 The City Manager may make future amendments to or modifications of these Social Media Policies, as she/he deems necessary or appropriate.

1.2 Definitions

- 1.2.1 "Social media sites" – content created by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the internet. Examples of social media include, but are not limited to, Facebook, Twitter, Blogs, RSS, YouTube, LinkedIn, and Flickr.
- 1.2.2 "City social media sites" – social media sites which the City of Kenmore establishes and maintains, and over which it has control over all postings, except for advertisements or hyperlinks by the social media site's owners, vendors, or partners. City social media sites shall supplement, and not replace, the City's required notices and standard methods of communication.
- 1.2.3 "Posts" or "a posting" – information, articles, pictures, videos or any other form of communication posted on a City social media site.

CHAPTER 2: MANAGEMENT OF SOCIAL MEDIA PLATFORMS

2.1 Site Management

- 2.1.1 The City of Kenmore website, www.kenmorewa.gov (or any domain owned by the City), will remain the City's primary means of internet communication.
- 2.1.2 All City social media sites shall clearly indicate they are maintained by the City of Kenmore and shall have City of Kenmore information prominently displayed.
- 2.1.3 A Comment Policy Notice must be displayed on City social media sites that allow comments and if the profile settings can accommodate the Notice, indicating the discussion is moderated and inappropriate content will be removed.
- 2.1.4 City social media sites proposed for use must be approved by the City Manager prior to activation.
- 2.1.5 City of Kenmore authorized City social media sites are an extension of the City's information networks and are governed by applicable City policies regarding employee conduct and technology use.
- 2.1.6 The Public Information Officer, as authorized by the City Manager, shall manage the City social media sites to ensure compliance with the City's business needs, policies and procedures as well as local, state and federal laws.

including a list of subscribers and posted communication, is a public record. Content related to City business shall be maintained in an accessible format so that it can be produced in response to a request. Wherever possible, such sites shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure. Users shall be notified that public disclosure requests must be directed to the Records Officer.

- 2.3.2 Washington state law and records retention schedules apply to City social media formats and City social media content. Unless otherwise addressed in a specific social media standards document, the department maintaining a site shall preserve records required to be maintained pursuant to a relevant records retention schedule for the required retention period on a City server in a format that preserves the integrity of the original record and is easily accessible.
- 2.3.3 When feasible and practical, content on City social media sites should not be unique to its social media site and will also be available on the City's primary website(s). Whenever possible and reasonable, content posted on City social media sites should contain links directing users to the City of Kenmore's official website(s) and wherever possible and reasonable, all information posted on City social media sites should be first provided on the City's official website and/or in another readily available format, such as a public notice or press release posted at City buildings and/or the newspaper. According to Washington State public records retention requirements, the City is not required to maintain secondary copies of records.
- 2.3.4 Original records may be created when unique information related to City businesses is provided via City social media platforms which is not provided via the City's official website or in another format, and are, therefore, subject to the Public Records Act and records retention requirements. Examples of original records that may be created through use of social media tools include, but are not limited to:
 - a. Account information (user names, passwords, etc.);
 - b. Listings of City social media site 'friends,' 'followers,' 'fans,' etc.;
 - c. Information posted to City social media sites that was not first provided via the City's official website, press release, or other format;
 - d. Comments posted by visitors/users of the City social media site; and/or comments removed from the City social media site by City staff.
- 2.3.5 All City social media content with public records value must be maintained for the minimum required retention period in an easily accessible format that preserves the integrity of the original record to the extent possible. City staff should refer to the most recent versions of the Washington State approved records

- a. Comments not topically related to the particular post being commented upon;
- b. Posts and comments that promote or advertise commercial services, entities or products except as stipulated in the City marketing plans and determined by the City to be essential to economic development;
- c. Political statements, including comments that endorse or oppose political candidates or ballot propositions, are prohibited under state law (RCW 42.52.180);
- d. Post and comments that promote, foster or perpetuate discrimination on the basis of creed, color, age religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
- e. Posts and comments that include vulgar, offensive, threatening or harassing language, personal attacks, incorrect information or unsupported accusations;
- f. Obscene or sexual content or links to obscene or sexual content;
- g. Illegal activity or encouragement of illegal activity;
- h. Information that may tend to compromise the safety or security of the public or public systems;
- i. Comments from children under 13 cannot be posted in order to comply with the Children's Online Privacy Protection Act. By posting on a City social media site, users acknowledged that they are at least 13 years old. Those 12 years old or younger may email the City instead;
- j. Content that violates a legal ownership interest of any other party; or
- k. Anonymous posts.

3.3.4 All information and materials generated by the City of Kenmore and provided on City of Kenmore Social Media sites are the property of the City of Kenmore. The City retains copyright on all text, graphic images and other content that was produced by the City of Kenmore and found on the page. You may print copies of information and material for your own non-commercial use, provided that you retain the copyright symbol or other such proprietary notice intact on any copyrighted materials you copy. Please include a credit line reading: "credit: City of Kenmore Facebook (or Twitter) Page" or "Courtesy of City of Kenmore."

3.3.5 Commercial use of text, City logos, photos and other graphics is prohibited without the express written permission of the City of Kenmore. Use of the City logo is prohibited for any non-governmental purpose. Any person reproducing or



City of Kenmore, Washington Social Media External Policy

A. Privacy Policy and Disclaimer

Any individual accessing, browsing and using a City of Kenmore Social Media site accepts without limitation or qualification, the City's Social Media Policies (hereafter "Policies"). These terms and conditions apply only to the Social Media sites (defined here as third party hosted online technologies that facilitate social interaction and dialogue, such as Facebook and Twitter) that are managed by the City of Kenmore. The City of Kenmore maintains the right to modify these Policies without notice. Any modification is effective immediately upon posting the modification on the Social Media Policy page unless otherwise stated. Continued use of a City of Kenmore Social Media site following the posting of any modification signifies acceptance of such modification.

All users of a City of Kenmore Social Media site are also subject to the site's own Privacy Policy. The City of Kenmore has no control over a site's privacy policy or their modifications to it. The City of Kenmore also has no control over content, commercial advertisements, or other postings produced by the Social Media site that appear on the City of Kenmore Social Media site as part of the site's environment.

The City of Kenmore operates and maintains its Social Media sites as a public service to provide information about City programs, services, projects, issues, events and activities. The City of Kenmore assumes no liability for any inaccuracies these Social Media sites may contain and does not guarantee that the Social Media sites will be uninterrupted, permanent, or error-free.

B. Posts Policy

Although we encourage posts and comments on City of Kenmore Social Media sites that allow posts, these sites are limited public forums and are moderated by City staff. All posted content (comments, photos, links, etc.) must be related to the topic at hand. The following are prohibited on City of Kenmore Social Media sites:

- Comments not topically related to the particular post being commented upon;
- Posts and comments that promote or advertise commercial services, entities or products except as stipulated in City marketing plans and determined by the City to be essential to economic development;
- Political statements, including comments that endorse or oppose political candidates or ballot propositions, are prohibited under state law (RCW 42.52.180);

Links to City of Kenmore Social Media sites should not in any way suggest that the City of Kenmore has any relationship or affiliation with that organization or that the City endorses, sponsors or recommends the information, products or services of that site.

D. Copyright Policy

All information and materials generated by the City of Kenmore and provided on City of Kenmore Social Media sites are the property of the City of Kenmore. The City retains copyright on all text, graphic images and other content that was produced by the City of Kenmore and found on the page. You may print copies of information and material for your own non-commercial use, provided that you retain the copyright symbol or other such proprietary notice intact on any copyrighted materials you copy. Please include a credit line reading: "credit: City of Kenmore Facebook (or Twitter) Page" or "Courtesy of City of Kenmore."

Commercial use of text, City logos, photos and other graphics is prohibited without the express written permission of the City of Kenmore. Use of the City logo is prohibited for any non-governmental purpose. Any person reproducing or redistributing a third party copyright must adhere to the terms and conditions of the third party copyright holder. If you are a copyright holder and you feel that the City of Kenmore did not use an appropriate credit line please notify the Public Information Officer at cityhall@kenmorewa.gov with detailed information about the circumstances, so that the copyright information can be added or the material in question can be removed.

E. Contact Us

If you have any questions or concerns about the City of Kenmore Social Media Policy or its implementation, or if you find incorrect information or are interested in seeking permissions that fall outside of the guidelines above, please contact the City's Public Information Officer.



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: City of Kenmore 2014 State Legislative Agenda	For Council Meeting Agenda of: 9 December 2013 Department: Executive Prepared by: Nancy Ousley Approved by Department Head: <u>Initial & Date</u> <u>NKO 4 DEC 2013</u> Approved by City Attorney: Approved by Finance Director: <u>Jan 12/13</u> Approved by City Manager: <u>POK</u>	
Proposed Council Action/Motion: Approve City of Kenmore 2014 Proposed State Legislative Agenda	Exhibits/Attachments: 1. Information Sheet on the proposed addition to the Legislative Agenda; 2004 adopted Legislation 2. December 2, 2013 Agenda package	
Expenditure Required \$0	Amount Budgeted \$	Appropriation Required \$n/a
<u>INFORMATION/BACKGROUND:</u> The Council discussed the proposed 2014 State Legislative Agenda on December 2, 2013 and postponed action pending further review of an addition proposed by Mayor Baker. The additional language in the Policy Section of the Agenda would read: “The City of Kenmore supports legislation increasing the property tax exemption thresholds for disabled individuals who are either retired or are veterans of the armed forces. The statute was last updated for inflation in 2004, and should be adjusted to reflect inflation over the last decade.” The attachment prepared by Gordon Thomas Honeywell provides additional detail on the current exemption. The most recent amendment to the exemption levels was made in 2004, and the adopted legislation is also attached.		
<u>FISCAL CONSIDERATION:</u> There would be a fiscal impact to the State Budget if the threshold was adjusted.		
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Multiple Council Goals are addressed in the State Legislative Agenda		

Article VII, section 10 of the state constitution states that, "The legislature shall have the power, by appropriate legislation, to grant to retired property owners relief from the property tax on the real property occupied as a residence by those owners. The legislature may place such restrictions and conditions upon the granting of such relief as it shall deem proper. Such restrictions and conditions may include, but are not limited to, the limiting of the relief to those property owners below a specific level of income and those fulfilling certain minimum residential requirements."

The Legislature has utilized this constitutional authority by enacted RCW 84.36.381. Under this statute a number of limited exemptions are outlined:

- Individual must be **61 years or older** on December 31st of the year in which the exemption claim is filed, and **be retired** from regular gainful employment **by reason of disability**. OR
- Individual must be a **veteran of the armed forces** who is entitled to and **receiving compensation** from the US Department of veterans affairs at a **total disability rating** for a **service-connected disability**.
- Individual may be a **surviving spouse** of either of the above two, if they are **57 years or older**.

If one of these three categories are met, the amount of the exemption is based on combined disposable income.

- **\$35,000 or less** - exempt from all excess property taxes.
- **\$25,000-\$30,000** - exempt from all regular property taxes over \$50,000 OR 35% of the valuation of his or her residence, but not to exceed \$70,000 of the valuation of his or her residence.
- **\$25,000 or less** – exempt from all regular property taxes on the greater of \$60,000 or 60% of the valuation of his or her residence.

There are additional limitations on whether the residence is occupied, ownership of the residence, improvements made to the residence, etc.

CERTIFICATION OF ENROLLMENT

SENATE BILL 5034

Chapter 270, Laws of 2004

58th Legislature
2004 Regular Session

PROPERTY TAX RELIEF--SENIOR CITIZENS, DISABLED PERSONS

EFFECTIVE DATE: 6/10/04

Passed by the Senate March 11, 2004
YEAS 46 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House March 11, 2004
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 31, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SENATE BILL 5034 as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

March 31, 2004 - 3:21 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5034

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington

58th Legislature

2003 Regular Session

By Senators Zarelli, Winsley, McCaslin, T. Sheldon, Hale, Benton, West, Esser, Sheahan, Oke and Kohl-Welles

Read first time 01/13/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to property tax relief for senior citizens and
2 persons retired because of physical disability; and amending RCW
3 84.36.381, 84.36.383, and 84.38.030.

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

5 **Sec. 1.** RCW 84.36.381 and 1998 c 333 s 1 are each amended to read
6 as follows:

7 A person shall be exempt from any legal obligation to pay all or a
8 portion of the amount of excess and regular real property taxes due and
9 payable in the year following the year in which a claim is filed, and
10 thereafter, in accordance with the following:

11 (1) The property taxes must have been imposed upon a residence
12 which was occupied by the person claiming the exemption as a principal
13 place of residence as of the time of filing: PROVIDED, That any person
14 who sells, transfers, or is displaced from his or her residence may
15 transfer his or her exemption status to a replacement residence, but no
16 claimant shall receive an exemption on more than one residence in any
17 year: PROVIDED FURTHER, That confinement of the person to a hospital
18 ~~((or))~~, nursing home, boarding home, or adult family home shall not
19 disqualify the claim of exemption if:

1 (a) The residence is temporarily unoccupied;
2 (b) The residence is occupied by a spouse and/or a person
3 financially dependent on the claimant for support; or
4 (c) The residence is rented for the purpose of paying nursing home
5 ~~((or))~~, hospital, boarding home, or adult family home costs;
6 (2) The person claiming the exemption must have owned, at the time
7 of filing, in fee, as a life estate, or by contract purchase, the
8 residence on which the property taxes have been imposed or if the
9 person claiming the exemption lives in a cooperative housing
10 association, corporation, or partnership, such person must own a share
11 therein representing the unit or portion of the structure in which he
12 or she resides. For purposes of this subsection, a residence owned by
13 a marital community or owned by cotenants shall be deemed to be owned
14 by each spouse or cotenant, and any lease for life shall be deemed a
15 life estate;
16 (3) The person claiming the exemption must be sixty-one years of
17 age or older on December 31st of the year in which the exemption claim
18 is filed, or must have been, at the time of filing, retired from
19 regular gainful employment by reason of ~~((physical))~~ disability:
20 PROVIDED, That any surviving spouse of a person who was receiving an
21 exemption at the time of the person's death shall qualify if the
22 surviving spouse is fifty-seven years of age or older and otherwise
23 meets the requirements of this section;
24 (4) The amount that the person shall be exempt from an obligation
25 to pay shall be calculated on the basis of combined disposable income,
26 as defined in RCW 84.36.383. If the person claiming the exemption was
27 retired for two months or more of the assessment year, the combined
28 disposable income of such person shall be calculated by multiplying the
29 average monthly combined disposable income of such person during the
30 months such person was retired by twelve. If the income of the person
31 claiming exemption is reduced for two or more months of the assessment
32 year by reason of the death of the person's spouse, or when other
33 substantial changes occur in disposable income that are likely to
34 continue for an indefinite period of time, the combined disposable
35 income of such person shall be calculated by multiplying the average
36 monthly combined disposable income of such person after such
37 occurrences by twelve. If it is necessary to estimate income to comply

1 with this subsection, the assessor may require confirming documentation
2 of such income prior to May 31 of the year following application;

3 (5)(a) A person who otherwise qualifies under this section and has
4 a combined disposable income of thirty-five thousand dollars or less
5 shall be exempt from all excess property taxes; and

6 (b)(i) A person who otherwise qualifies under this section and has
7 a combined disposable income of (~~twenty-four~~) thirty thousand dollars
8 or less but greater than (~~eighteen~~) twenty-five thousand dollars
9 shall be exempt from all regular property taxes on the greater of
10 (~~forty~~) fifty thousand dollars or thirty-five percent of the
11 valuation of his or her residence, but not to exceed (~~sixty~~) seventy
12 thousand dollars of the valuation of his or her residence; or

13 (ii) A person who otherwise qualifies under this section and has a
14 combined disposable income of (~~eighteen~~) twenty-five thousand dollars
15 or less shall be exempt from all regular property taxes on the greater
16 of (~~fifty~~) sixty thousand dollars or sixty percent of the valuation
17 of his or her residence; (~~and~~)

18 (6) For a person who otherwise qualifies under this section and has
19 a combined disposable income of thirty-five thousand dollars or less,
20 the valuation of the residence shall be the assessed value of the
21 residence on the later of January 1, 1995, or January 1st of the
22 assessment year the person first qualifies under this section. If the
23 person subsequently fails to qualify under this section only for one
24 year because of high income, this same valuation shall be used upon
25 requalification. If the person fails to qualify for more than one year
26 in succession because of high income or fails to qualify for any other
27 reason, the valuation upon requalification shall be the assessed value
28 on January 1st of the assessment year in which the person requalifies.
29 If the person transfers the exemption under this section to a different
30 residence, the valuation of the different residence shall be the
31 assessed value of the different residence on January 1st of the
32 assessment year in which the person transfers the exemption.

33 In no event may the valuation under this subsection be greater than
34 the true and fair value of the residence on January 1st of the
35 assessment year.

36 This subsection does not apply to subsequent improvements to the
37 property in the year in which the improvements are made. Subsequent

1 improvements to the property shall be added to the value otherwise
2 determined under this subsection at their true and fair value in the
3 year in which they are made.

4 **Sec. 2.** RCW 84.36.383 and 1999 c 358 s 18 are each amended to read
5 as follows:

6 As used in RCW 84.36.381 through 84.36.389, except where the
7 context clearly indicates a different meaning:

8 (1) The term "residence" means a single family dwelling unit
9 whether such unit be separate or part of a multiunit dwelling,
10 including the land on which such dwelling stands not to exceed one
11 acre. The term shall also include a share ownership in a cooperative
12 housing association, corporation, or partnership if the person claiming
13 exemption can establish that his or her share represents the specific
14 unit or portion of such structure in which he or she resides. The term
15 shall also include a single family dwelling situated upon lands the fee
16 of which is vested in the United States or any instrumentality thereof
17 including an Indian tribe or in the state of Washington, and
18 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a
19 residence shall be deemed real property.

20 (2) The term "real property" shall also include a mobile home which
21 has substantially lost its identity as a mobile unit by virtue of its
22 being fixed in location upon land owned or leased by the owner of the
23 mobile home and placed on a foundation (posts or blocks) with fixed
24 pipe, connections with sewer, water, or other utilities. A mobile home
25 located on land leased by the owner of the mobile home is subject, for
26 tax billing, payment, and collection purposes, only to the personal
27 property provisions of chapter 84.56 RCW and RCW 84.60.040.

28 (3) "Department" means the state department of revenue.

29 (4) "Combined disposable income" means the disposable income of the
30 person claiming the exemption, plus the disposable income of his or her
31 spouse, and the disposable income of each cotenant occupying the
32 residence for the assessment year, less amounts paid by the person
33 claiming the exemption or his or her spouse during the assessment year
34 for:

35 (a) Drugs supplied by prescription of a medical practitioner
36 authorized by the laws of this state or another jurisdiction to issue
37 prescriptions; (~~and~~)

1 (b) The treatment or care of either person received in the home or
2 in a nursing home, boarding home, or adult family home; and

3 (c) Health care insurance premiums for medicare under Title XVIII
4 of the social security act.

5 (5) "Disposable income" means adjusted gross income as defined in
6 the federal internal revenue code, as amended prior to January 1, 1989,
7 or such subsequent date as the director may provide by rule consistent
8 with the purpose of this section, plus all of the following items to
9 the extent they are not included in or have been deducted from adjusted
10 gross income:

11 (a) Capital gains, other than gain excluded from income under
12 section 121 of the federal internal revenue code to the extent it is
13 reinvested in a new principal residence;

14 (b) Amounts deducted for loss;

15 (c) Amounts deducted for depreciation;

16 (d) Pension and annuity receipts;

17 (e) Military pay and benefits other than attendant-care and
18 medical-aid payments;

19 (f) Veterans benefits other than attendant-care and medical-aid
20 payments;

21 (g) Federal social security act and railroad retirement benefits;

22 (h) Dividend receipts; and

23 (i) Interest received on state and municipal bonds.

24 (6) "Cotenant" means a person who resides with the person claiming
25 the exemption and who has an ownership interest in the residence.

26 (7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.
27 423(d)(1)(A) as amended prior to January 1, 2004, or such subsequent
28 date as the director may provide by rule consistent with the purpose of
29 this section.

30 **Sec. 3.** RCW 84.38.030 and 1995 c 329 s 2 are each amended to read
31 as follows:

32 A claimant may defer payment of special assessments and/or real
33 property taxes on up to eighty percent of the amount of the claimant's
34 equity value in the claimant's residence if the following conditions
35 are met:

36 (1) The claimant must meet all requirements for an exemption for

1 the residence under RCW 84.36.381, other than the age and income limits
2 under RCW 84.36.381 and the parcel size limit under RCW 84.36.383.

3 (2) The claimant must be sixty years of age or older on December
4 31st of the year in which the deferral claim is filed, or must have
5 been, at the time of filing, retired from regular gainful employment by
6 reason of physical disability: PROVIDED, That any surviving spouse of
7 a person who was receiving a deferral at the time of the person's death
8 shall qualify if the surviving spouse is fifty-seven years of age or
9 older and otherwise meets the requirements of this section.

10 (3) The claimant must have a combined disposable income, as defined
11 in RCW 84.36.383, of ((~~thirty-four~~)) forty thousand dollars or less.

12 (4) The claimant must have owned, at the time of filing, the
13 residence on which the special assessment and/or real property taxes
14 have been imposed. For purposes of this subsection, a residence owned
15 by a marital community or owned by cotenants shall be deemed to be
16 owned by each spouse or cotenant. A claimant who has only a share
17 ownership in cooperative housing, a life estate, a lease for life, or
18 a revocable trust does not satisfy the ownership requirement.

19 (5) The claimant must have and keep in force fire and casualty
20 insurance in sufficient amount to protect the interest of the state in
21 the claimant's equity value: PROVIDED, That if the claimant fails to
22 keep fire and casualty insurance in force to the extent of the state's
23 interest in the claimant's equity value, the amount deferred shall not
24 exceed one hundred percent of the claimant's equity value in the land
25 or lot only.

26 (6) In the case of special assessment deferral, the claimant must
27 have opted for payment of such special assessments on the installment
28 method if such method was available.

Passed by the Senate March 11, 2004.

Passed by the House March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.

Subject/Topic: City of Kenmore 2014 State Legislative Agenda	For Council Meeting Agenda of: 2 December 2013 Department: Executive Prepared by: Nancy Ousley Approved by Department Head: Approved by City Attorney: Approved by Finance Director: Approved by City Manager: <u>Initial & Date</u> <u>NKO 10 NOV 2013</u> <u>[Signature] 11/18/13</u> <u>[Signature]</u>	
Proposed Council Action/Motion: Approve City of Kenmore 2014 State Legislative Agenda	Exhibits/Attachments: 1. Proposed 2013-2015 Legislative Agenda with Updates for 2014 2. City of Kenmore State Legislative Agenda for 2013 as approved February 2013 3. Association of Washington Cities (AWC) 2014 Legislative Priorities	
Expenditure Required \$n/a	Amount Budgeted \$	Appropriation Required \$
<u>INFORMATION/BACKGROUND:</u> The proposed State Legislative Agenda updates the Agenda approved before the 2013 Legislative Session to reflect actions taken on Kenmore priorities in the 2013 Session. The final Transportation budget included provisions for freeway signage on I-5 and I-405 directing travelers to Kenmore and the Town Green proposal was awarded \$300,000 in the Capital Budget . Transportation priorities are updated to include the Sammamish River Bridge project and information on the Transportation Revenue Package status, which appears favorable for funding to complete the SR 522 Corridor Project. The Capital Budget request includes support for the King County Housing Authority funding request to renovate the Kenmore Family Shelter, which is operated by Hopelink. The City continues to work with Gordon Thomas Honeywell Government Affairs for representation on State Legislative and Budget issues.		
<u>FISCAL CONSIDERATION:</u> n/a		
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> • To continue to implement the Economic Development Plan. • To continue to seek transportation funding and mitigation for State impacts on the city's transportation system, air-water quality, and noise to include but not limited to SR 522, Sammamish River Bridge.		

local roads and Lake Washington sediment depths.

- To continue to pursue downtown development, with an emphasis on Kenmore Village.
- To advance the public's access and connection to the waterfront.
- To continue to seek opportunities to complete a successful Lakepointe development.
- To establish a 20 to 30 Year Sidewalk Plan.
- To implement a Parks Improvement and Financial Plan.
- To address watershed issues affecting the City.

City of Kenmore
Legislative Agenda for 2013-2015 Legislative Biennia
Revised for 2014

Transportation Revenue Package

The City respectfully requests the approval of a Washington State transportation revenue package including funding for State Route 522 in Kenmore as well as the authority for King County to impose a local 1.5% Motor Vehicle Excise Tax for transit and local roads.

- The City's top legislative priority is funding for State Route 522. State Route 522 is a highway of statewide significance that runs through the City of Kenmore and as an east-west corridor, connecting I-5 to I-405. Tolling on the SR 520 Bridge has already shown noticeable and measurable traffic and congestion increases on SR 522 in Kenmore. Proposed I-90 Bridge tolling will only exacerbate traffic problems on SR 522 and add to the need for capacity and safety improvements.
- Local option funding for transit and road improvements is an important tool to maintain our roads and transit service. The authority for King County to levy a 1.5% Motor Vehicle Excise Tax would ensure stable and predictable funding for local transportation projects and services.

Sammamish River Bridge Funding Sources

The City respectfully requests state programs like BRAC and TIB that could serve as future funding sources for the southbound bridge on 68th Avenue over the Sammamish River. The City is currently studying whether the bridge should be replaced or rehabilitated. This 80-year-old bridge is of regional significance—Juanita Drive/68th Avenue, fed by other arterials, is on a well-used route around the Lake. In fact, Juanita/68th has increasingly become a prime alternate route for drivers avoiding tolls on State Route 520. The bridge was constructed in the 1930's and has been closely monitored for decades. It has shown sudden structural deterioration since traffic volumes increased coinciding with SR 520 tolling.

Capital Funding for Renovating the Kenmore Family Shelter

The City supports the King County Housing Authority's funding request for the Kenmore Family Shelter. The Kenmore Family Shelter is owned by the King County Housing Authority and has been operated by Hopelink as a family shelter since 1986. Additional funds will renovate the shelter, adding 2 additional units for a total of 11. Families temporarily housed at the Kenmore Family Shelter have access to a full menu of services designed to help them build the skills necessary to access permanent housing, increase their income and ensure they are never homeless again.

Policy Statements

The items below are legislative items that the City of Kenmore supports; however, they are not a top legislative priority.

State Grant Programs

The City of Kenmore encourages the state to continue funding grant programs that assist the city in providing local services. In particular, the City supports continued grant funding to the Recreation and Conservation Office (RCO) for parks, to the Department of Commerce for small business incubators and innovation partnership zones (IPZs), the Public Works Trust Fund (PWTF) for local infrastructure and the Model Toxics Control Act (MTCA) for toxin clean up and stormwater funding.

Stormwater

The City of Kenmore supports policy changes that address stormwater management regionally, including addressing regional stormwater impacts in project SEPA analysis.

Public Records Reform

The City of Kenmore supports reform to statutes governing public records requests. In approaching this reform, the City recognizes the importance of transparency and accountability in government; however, the current system is frequently abused. The City of Kenmore looks forward to working with other stakeholders to develop some reform ideas.

Product Stewardship

The City of Kenmore supports legislation creating a statewide product stewardship program, including paint, medicine, and mercury-containing fluorescent light take-back programs. This legislation would require manufacturers that sell products in Washington to develop, fund, and implement a take-back system for unwanted, unused, or left over products across these categories. King County has developed a local medicine program and the State of Washington is in the process of developing a mercury-containing fluorescent light program.

Local Government Finance Considerations

The City of Kenmore supports consideration short-term strategies to recognize the financial conditions affecting local government in this economy. This could include postponing state-mandated deadlines for Growth Management Comprehensive Plans, adjusting Transportation Benefit District revenue options, providing incentives for fuel-efficient fleet vehicle replacement, or other actions.

**City of Kenmore
Legislative Agenda for the 2013 State Legislative Session**

Funding Requests

Completing SR 522

The City respectfully requests \$8.5 million in state funding to complete improvements to State Route 522 in Kenmore. SR 522 is a highway of statewide significance that runs through the City of Kenmore and as an east-west corridor, connects I-5 to I-405. SR 522 is one of the four east-east corridors on Lake Washington. Tolling on the SR 520 bridge has already shown noticeable and measurable traffic and congestion increases on SR 522 in Kenmore. Proposed I-90 bridge tolling will only exacerbate traffic problems on SR 522 and add to the need for capacity and safety improvements.

Kenmore Village Town Green

The City of Kenmore respectfully requests that \$300,000 be allocated in the Capital Budget toward Kenmore Town Square. Kenmore Town Square will cover just under an acre on the Kenmore Village shopping center property, and will be a location for city programming to foster a greater sense of community, and provide an important amenity for downtown redevelopment. The City is prepared to provide a strong local match for State Capital Budget funding.

Sammamish River Bridge Funding

The City respectfully requests state funding to replace the southbound bridge on 68th Avenue over the Sammamish River. This 80-year-old bridge is of regional significance—Juanita Drive/68th Avenue, fed by other arterials, is on a well-used route around the Lake. In fact, *Juanita/68th has increasingly become a prime alternate route for drivers avoiding tolls on State Route 520.* The bridge was constructed in the 1930's and has been closely monitored for decades. It has shown sudden structural deterioration since traffic volumes increased coinciding with SR 520 tolling.

Mitigating Impacts of 520 Bridge Construction

SR 520 bridge construction activity is located at the Lake Pointe site in the City of Kenmore. Since construction began, water depths have noticeably declined. This change in depth has negatively impacted neighboring water dependent business operations that are important to the Kenmore community. Further lake sediment testing and **maintenance dredging** is needed to prevent negative impacts to the Kenmore's water-dependent businesses. The City encourages the state to fund this ongoing monitoring and maintenance dredging as a component cost of the SR 520 bridge construction project.

Policy Requests

I-5 and I-405 Signage Directing Drivers to Kenmore

As the home of Bastyr University and the Kenmore International Air Harbor, the City of Kenmore respectfully requests additional directional signage leading to the City. The City will work with its legislative delegation and the Washington State Department of Transportation (WSDOT) to have directional signs on I-5 and I-405 directing drivers to Kenmore.

State Grant Programs

The City of Kenmore encourages the state to continue funding grant programs that assist the city in providing local services. In particular, the City supports continued grant funding to the Recreation and Conservation Office (RCO) for parks, to the Department of Commerce for small business incubators and innovation partnership zones (IPZs), and Department of Ecology for the local model toxics funding and stormwater funding to meet NPDES requirements

Stormwater

The City of Kenmore supports policy changes that address stormwater management regionally, including addressing regional stormwater impacts in project SEPA analysis.

Public Records Reform

The City of Kenmore supports reform to statutes governing public records requests. In approaching this reform, the City recognizes the importance of transparency and accountability in government; however, the current system is frequently abused. The City of Kenmore looks forward to working with other stakeholders to develop some reform ideas.

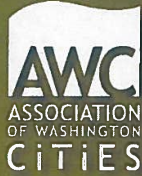
Medicine Take-Back Program

The City of Kenmore supports legislation creating a statewide medicine take-back program. This legislation would require drug manufacturers that sell products in Washington to develop, fund, and implement a take-back system for unwanted, unused, or left over medicines. King County is in process of implementing a local take-back program.

Local Government Finance Considerations

The City of Kenmore supports consideration short-term strategies to recognize the financial conditions affecting local government in this economy. This could include postponing state-mandated deadlines for Growth Management Comprehensive Plans, adjusting Transportation Benefit District revenue options, providing incentives for fuel-efficient fleet vehicle replacement, or other actions.

October 2013



2014

legislative priorities



What do cities need from our Legislature in 2014?

Washington's cities are home to most of our state's citizens and business activity. Many cities continue to grow and all face challenges on how best to provide valuable services to enhance the quality of life within our state.

Our cities partner with counties, special districts and the state to provide services that help make Washington a great state within which to conduct business and live.

As the state retreats from sharing revenue to help cities provide services, our historic partnership is being seriously tested. Legislators are not providing cities the tools needed to maintain services. Neither are they adjusting mandates to help reduce costs. These trends are unsustainable.

During the 2014 legislative session, cities ask the Legislature and Governor to support cities in the following four ways:

Restore local liquor revenue sharing to the historic revenue sharing formulas so we can better fund public safety and other local impacts of liquor consumption.

- The enhanced public safety funding promised in the 2011 liquor privatization initiative hasn't been kept – in fact funding has been cut by legislative action and diverted to other uses.

Fund transportation needs now, including providing new local transportation options - Transportation is critical for our economic health so we must have the resources at both the state and local levels to maintain and improve our vital transportation systems.

- Needs vary by region and, so too, must the array of options.

Halt and refrain from raiding infrastructure funds like the Public Works Trust Fund and Model Toxics Control Accounts and build them back to health – Our infrastructure is aging and we can't keep up with demands and regulatory requirements.

- Great cities don't just happen – we need planned and sustained investments in order for Washington to thrive.

Share new marijuana revenue – The new recreational marijuana industry is subject to up to a 75% state excise tax, but none of this potential funding is directed to locals to address public safety needs and other local impacts.

- Cities and counties must enforce marijuana laws and need shared revenue to do this.

For more information, contact:

Dave Williams
Director of Government Relations
davew@awcnet.org • 360-753-4137

Or contact one of our lobbyists:

Candice Bock
Law & justice, personnel, pensions, public records, social services
candiceb@awcnet.org

Victoria Lincoln
Energy, general government operations, municipal finance, state budget, telecommunications
victorial@awcnet.org

Carl Schroeder
Environment, housing, land use
carls@awcnet.org

Alison Hellberg
Economic development, infrastructure, transportation
alisonh@awcnet.org



City Of Kenmore, Washington

Memorandum

Date: November 26, 2013

To: City Council
Rob Karlinsey, City Manager

From: Joanne Gregory, Director of Finance and Administration *JG*

Subject: Employee Benefit Review

This staff report provides a status check on the activities and progress of the Employee Benefit Review team established earlier this year.

In late 2012 the City Council asked staff to creatively examine ways to reduce and/or contain health care insurance premiums and costs. As a result, a team was selected in July, 2013 to begin such a review. The team consisted of Councilmember Milton Curtis, Councilmember Brent Smith, Joanne Gregory, Lauri Anderson, Nicki Walsh, Patty Safrin, Andrew Bauer, Brian Randall, Carla Schnee, and Shawn Friang.

The mission of the team was articulated in a memo dated August 6, 2013, Attachment A, and two goals were established:

1. Compare and evaluate the City's benefit package in relation to its competitive market.
2. Explore and examine ways to reduce or contain health care costs while at the same time ensuring that the City and the employees are getting the best value for the dollar in terms of the insurance or benefit package, the provider of the insurance or benefit, and the premium rates for the insurance.

The first meeting of the team was on August 8. Members were introduced to each other and provided with comparable city data which Shawn had collected, Attachment B. The team also received information on the various methods by which medical benefits can be provided, such as self-insurance, direct contract with carriers, the AWC Trust pool, or participation in other pools. We introduced information regarding various types of medical insurance structures (and their associated acronyms) such as Preferred Providers (PPO), High Deductible Health Plans (HDHP), Consumer Driven Health Plans (CDHP), Health Savings Accounts (HSA), and Health Reimbursement Accounts (HRA).

On August 21, the team's next meeting, the Finance Director and the Human Resources Director from Lake Forest Park met with us and discussed the process they recently utilized when budget constraints and collective bargaining forced a comprehensive reexamination

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov



City Of Kenmore, Washington

Memorandum

of the health insurance benefits provided to their employees. They developed a Microsoft Excel model, used to illustrate the budgetary impacts of various medical insurance scenarios, which they shared with us. They also provided some useful insight into how they educated and shared information with the employees during a long and comprehensive process. Our team recorded this particular meeting because some of our members could not attend. The recording was very useful and is still available on our network.

Our next step was to bring in an outside expert or consultant in the field to provide some insight into what might be happening in the private sector. This meeting took place on September 4, when we were joined by Mike Rask of Aon Risk Services, <http://www.aon.com>. Mike facilitated our discussion of how the health insurance industry is evolving, and some of the graphics and slides he spoke to are contained in the PowerPoint presentation document, Attachment C. An important conclusion reached was that the City is not large enough nor adequately funded or staffed to manage a self-insurance program and that participation in a pool such as the AWC Trust pool had the most advantages for our City.

On September 11, Carol Wilmes, AWC Trust Manager, met with the team and presented a comprehensive review of the AWC Trust plans. She also provided PowerPoint slides, Attachment D, and spoke of the decisions of some cities in the Trust to offer a High Deductible Health Plan with Health Savings Accounts to their employees.

On November 6, the team met once again, this time to determine if we were ready to make any decisions or recommendation and, if not, what additional information was needed to get us to a decision point. The team considered the favorable news that there will be no increases in health insurance premiums next year, and that the Affordable Care Act may drive some changes to our employee health benefit plans in the next few years regardless of what we do at this time. We acknowledged that some employees may find the High Deductible Health Plan (HDHP) with Health Savings Account to be desirable, and that for each employee who migrates to a HDHP, the City will realize premium savings. As an example, the 2013 Regence HealthFirst monthly premium for a single employee is \$652.32. The 2013 HDHP premium for a single employee is \$349.23, a savings of \$303 per month. It must be noted that the actual savings will be somewhat less because the Employer (the City) will return a portion of that savings back to the employee in a contribution to the HSA.

For the first time in its history, the AWC Trust is providing a new option which enables the City to offer both the current Regence and Group Health plans AND the High Deductible Health Plans to our employees. These factors led our team to agree to recommend that the City continue to offer the Regence and Group Health plans at this time to our

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov



City Of Kenmore, Washington

Memorandum

employees and to add the option that an employee can transfer to an HDHP with HSA by mid-2014, after some comprehensive education and information sharing.

Additional recommendations remain to be formulated. For instance, we are in the process of gathering information from other cities with an HDHP to assist us in determining the amount of contribution the City might make to an employee's HSA. Another decision will involve when and how to fund the HSAs when they are first implemented.

The work of the Employee Benefit Review team is not done. We will continue to meet over the next month or two as we develop a strategy for offering this new and additional health plan to our employees. We feel that a positive word-of-mouth experience from employees who do take advantage of the HDHP will encourage others and that it will result in a win-win for both the employees and the City.

The team will bring a complete recommendation to the City Council in the first quarter of 2014. Comments and questions are welcomed and should be directed to Joanne Gregory who will share them with the team and provide a response.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov



City Of Kenmore, Washington

Memorandum

Date: August 6, 2013

To: Employee Benefits Review Team

From: Rob Karlinsey, City Manager
Joanne Gregory, Finance Director

Subject: Mission of the Employee Benefits Review Team

Thank you for taking your valuable time to participate in the Employee Benefits Review Team. You will be making a valuable contribution to the sustainability of an employee benefit package that the City can maintain and that City employees can enjoy for years to come.

In 2011 the City evaluated employee salary ranges using comparable ranges from other cities in the area, and subsequent range adjustments were made in 2012. This year we will turn our attention to the benefits side of the employee compensation package.

As we are all aware, health care insurance premiums have steadily outpaced cost of living indexes, putting additional financial burden on employees and the City. In many previous years, those percentage increases have been in the double digits. While recent Federal health care legislation is expected to expand coverage opportunities for millions more Americans, the jury is still out on whether this legislation will reduce insurance premiums or slow down the pace of insurance premium increases. In other words, health care costs are likely to continue to rise and even continue to outpace inflation.

As a result, the City Council has asked us to creatively examine ways to reduce and/or contain health care insurance premiums and costs while maximizing the value of the health care dollar to City employees and their families.

The review team is charged with two goals:

1. Compare, and evaluate the City's benefit package in relation to its competitive market. For this purpose the Cities included in the salary range market analysis were queried. The evaluation will determine if any adjustments would be appropriate or recommended.
2. Explore and examine ways to reduce or contain health care costs while at the same time ensuring that the City and the employees are getting the best value for the

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov



City Of Kenmore, Washington

Memorandum

dollar in terms of the insurance or benefit package, the provider of the insurance or benefit, and the premium rates for the insurance.

While the priority for this project is health care costs and premiums, we encourage you to look at the entire benefits package for overall context and also specific and comparable value for each of the benefit components.

There will be a number of committee meetings over the next several weeks, and we encourage you to make every effort to attend and participate. At our first meeting, we will review the comparative analysis findings based on the preliminary research that Shawn Friang has performed.

At the second or third meeting, we will have other provider(s) and expert(s) come and present information on plan alternatives, the latest cost containment innovations, and other information to aid the committee in making recommendations. At a subsequent meeting we will have an AWC Employee Benefits Trust representative speak about the various plan options provided by the AWC. Your input and assistance on what experts and/or providers should address the committee is invited and appreciated.

We expect the committee will meet several times—probably four to six meetings—with a recommendation for the City Manager and the City Council sometime before Thanksgiving.

Again, thank you for taking time to be part of this important project, and we look forward to your input and recommendations.

i:\admin & finance\human resources\2013 benefits review memo.docx

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

City of Kenmore
 Employee Benefits Review
 2013

2013 Insurance Benefits - AWC

City	Pop	Medical				Dental/Orthodontics				Vision			
		Employee Only		Employee & Spouse/Partner & 2 Dependents		Employee Only		Employee, & all Dependents		Employee Only		Employee, & all Dependents	
		Paid by Employer	Paid by Employee	Paid by Employer	Paid by Employee	Paid by Employer	Paid by Employee	Paid by Employer	Paid by Employee	Paid by Employer	Paid by Employee	Paid by Employer	Paid by Employee
Cities over 50,000													
Redmond	55360	575	0	1702	296	115	0	422	0	25	0	70	0
Shoreline	53270	652	0	1635	261	51	0	0	151	17	0	17	0
Cities 30,000 to 49,999													
Bothell	34000	652	0	1776	125	53	0	173	13	24	0	24	0
Burien	47330	597	0	1625	114	45	0	138	0	23	0	23	0
Edmonds	39800	557	62	1639	182	47	5	153	17	19	2	19	2
Issaquah	31150	688	44	1950	184	51	0	131	20	24	0	24	0
Lynnwood	35900	666	0	1812	127	51	0	140	10	8	0	8	11
Sammamish	47420	652	0	1801	100	53	0	186	0	19	0	19	0
Cities 20,000 to 29,999													
Bainbridge Island	23090	666	33	1715	224	53	0	186	0	24	0	24	0
Kenmore	21020	652	0	1776	125	51	2	183	4	17	0	17	0
Lake Stevens	28370	666	0	1812	127	49	0	145	11	17	0	17	0
Mountlake Terrace	20160	666	0	1552	388	49	0	117	30	24	0	24	0
Mukilteo *	20360	652	0	1777	125	140	0	140	0	24	0	24	0
Cities 10,000 to 19,999													
Lake Forest Park	12640	632	33	1746	194	49	0	147	0	24	0	24	0
Mill Creek	18450	587	65	1710	190	51	0	150	0	21	0	21	0
Woodinville	10960	635	30	1844	95	49	2	148	2	21	0	21	0
Average without Kenmore	31884	636	18	1,740	182	60	0	158	17	21	0	24	1

* combined dental/vision plan



Health Care Reform: Impact to Employers

Compliance Issues—2013 and 2014

2013

- ***Employer must determine FTEs to avoid ACA penalties for not offering health care coverage***
- Notice informing employees of coverage options in exchange
- Limit health care FSA contributions to \$2,500 (Indexed)
- Elimination of deduction for expenses allocable to retiree drug subsidy (RDS)
- Additional 0.9% Medicare tax on high income earners
- 3.8% Medicare tax on investment income of high income earners
- Addition of women's preventive health requirements of no cost sharing and coverage for certain in-network preventive health services
- PCORI fee filing and payment for 2012 due by 7/1/13 (\$1 for average number of lives covered)

2014

- ***Employer must provide affordable health care coverage to FTEs or risk penalty – Delayed to January 1, 2015***
- Individuals must buy health care or pay tax
- State/Federal insurance exchanges begin
- Pre-existing condition exclusions prohibited
- Annual dollar limits on Essential Health Benefits prohibited
- Automatic enrollment (guidance delayed)
- Maximum 90-day waiting period for coverage
- Employer reporting of health insurance information to government and participants
- Increased cap on rewards tied to wellness programs (cap increases from 20% to 30-50% of total plan cost)
- Cost-sharing limits for all group health plans, not just HDHPs/HSA (deductibles and OOP maximum)
- Transitional reinsurance fees begin (proposed fee amount is \$63 per covered member)

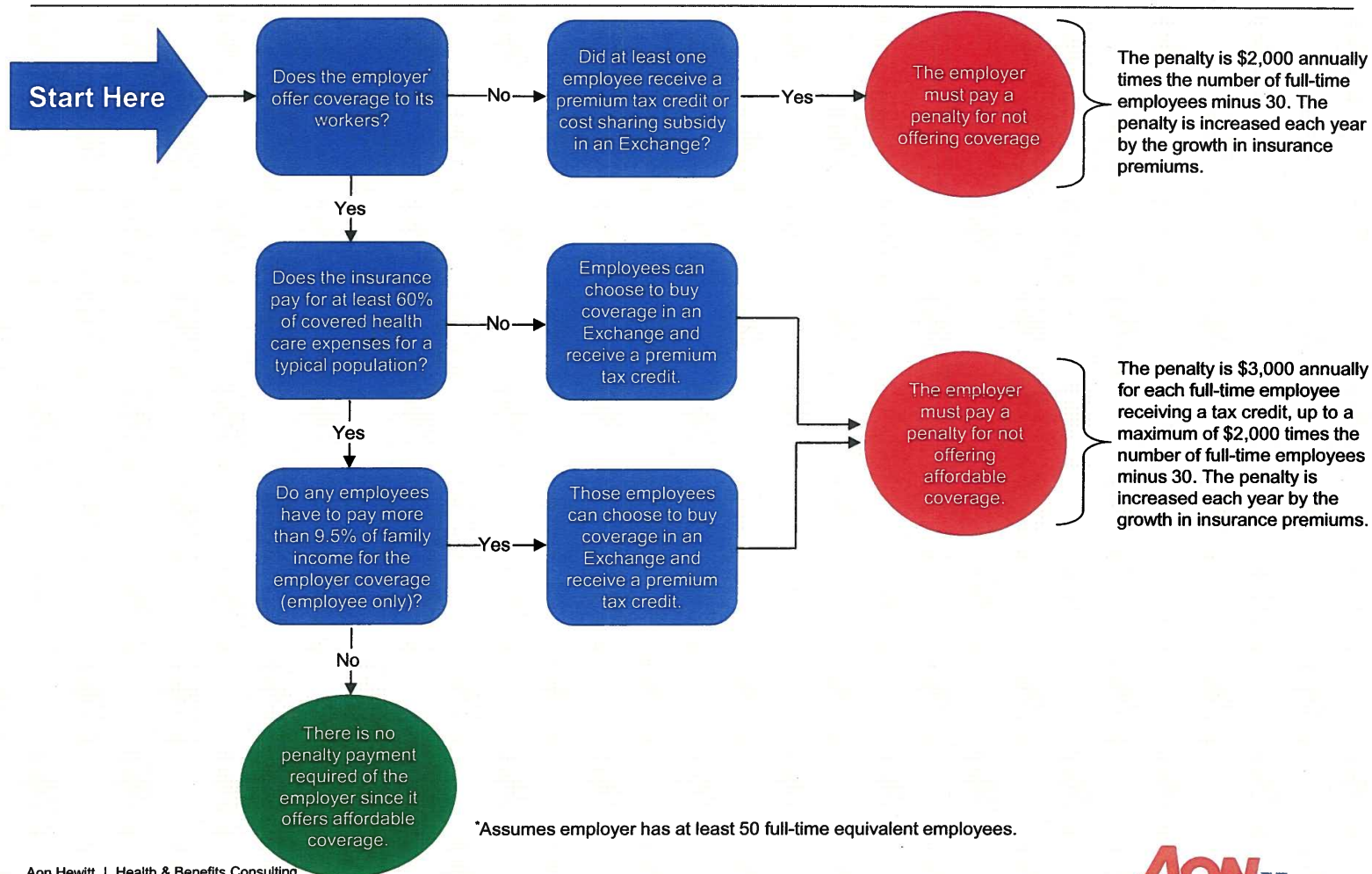
Health Care Reform Direct Impact: 2014-2018

Mandate	Employer Impact	Effective
Employer mandate to offer minimum essential coverage to all full-time employees defined as working on average 30 or more hours per week, or pay free rider penalty	Employers will need to confirm if anyone is working over 30 hours and not eligible for coverage	Delayed to January 1, 2015
Federal premium subsidy available to employees with household income below 400% of poverty level only if employer coverage does not meet minimum essential coverage or coverage is not "affordable" (9.5% of household income for employee only coverage)	Employers should analyze employee costs to estimate the number of employees for whom coverage is not "affordable." For any employee receiving subsidy, the employer penalty is \$3,000	1/1/2014
No service waiting periods greater than 90 days	Employers must comply	1/1/2014
Cost sharing limits for all group health plans (for non-grandfathered health plans)	Employers must comply	1/1/2014
Annual dollar limits on Essential Health Benefits prohibited	Employers must comply	1/1/2014

Health Care Reform Direct Impact: 2014-2018

Mandate	Employer Impact	Effective
Transitional Reinsurance Program Fee will be assessed to employer plans to support reinsurance payments to issuers that cover high cost individuals in individual market plans	Proposed amount for 2014 is \$63 per covered member. Aggregate national contributions are \$10B in 2014, \$6B in 2015, \$4B in 2016.	1/1/2014
No pre-existing condition exclusions	Employers must comply	1/1/2014
Increased cap on rewards for participation in wellness program	Employers will be able to increase rewards/ incentives further, up to 50% of total cost if tobacco reduction/cessation is included	1/1/2014
Automatic enrollment of all eligible employees; employees may opt out	Employers may experience higher costs with increased participation	Some time after 1/1/2014
Imposes a 40% excise tax on high cost health plans that exceed total plan cost of \$10,200 for individual and \$27,500 for family coverage (amounts subject to change before 2018)	Employers will need to continue to evaluate implications of "Cadillac tax" as 2018 approaches	1/1/2018

Employer Penalties in 2014





Managing Through Reform

Managing Through Reform

- Employers with modest impact will see costs rise 2-5% in 2014
- Employers with low-paid workers, long waiting periods, 30+ hour employees with no coverage or low value coverage could see costs increase 20-60% in 2014
- For some employers, 2014 changes will mean incremental changes to health care programs and offering more traditional decision-making tools and resources to employees
- For other employers, 2014 will mean radically redefining their health care offerings and helping employees optimize their coverage and cost through
 - Employer plan
 - Exchanges
 - Medicaid

It Is Still About An Evolving Health Care System

Exchange and Individual Solutions

- Value add defined by what individuals desire
- Greater accountability to engage members
- Networks contract and payment reforms expand

Rapid Consolidation

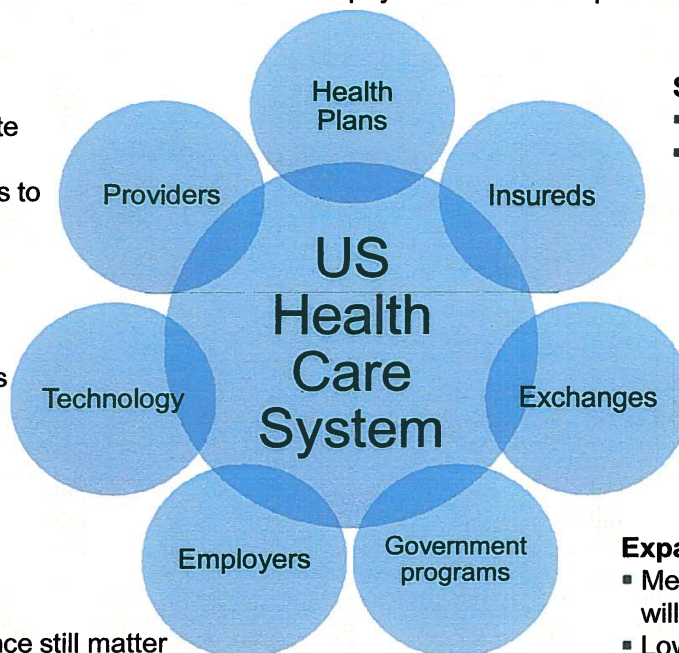
- Supports Accountable Care Organizations (ACOs)/alternate payment models
- Shortage of primary care leads to access issues
- Waste and fraud reduced

Broad Adoption

- Stimulus for electronic records
- Broader availability of cost and quality data
- Mobile and integrated at personal level

New Normal

- Health and performance still matter
- Potential changes in program funding and delivery provide real options



System Overload

- 30 million new consumers
- Faster adoption of telemedicine, retail clinics, alternate providers, on-site clinics

More Strategic Options

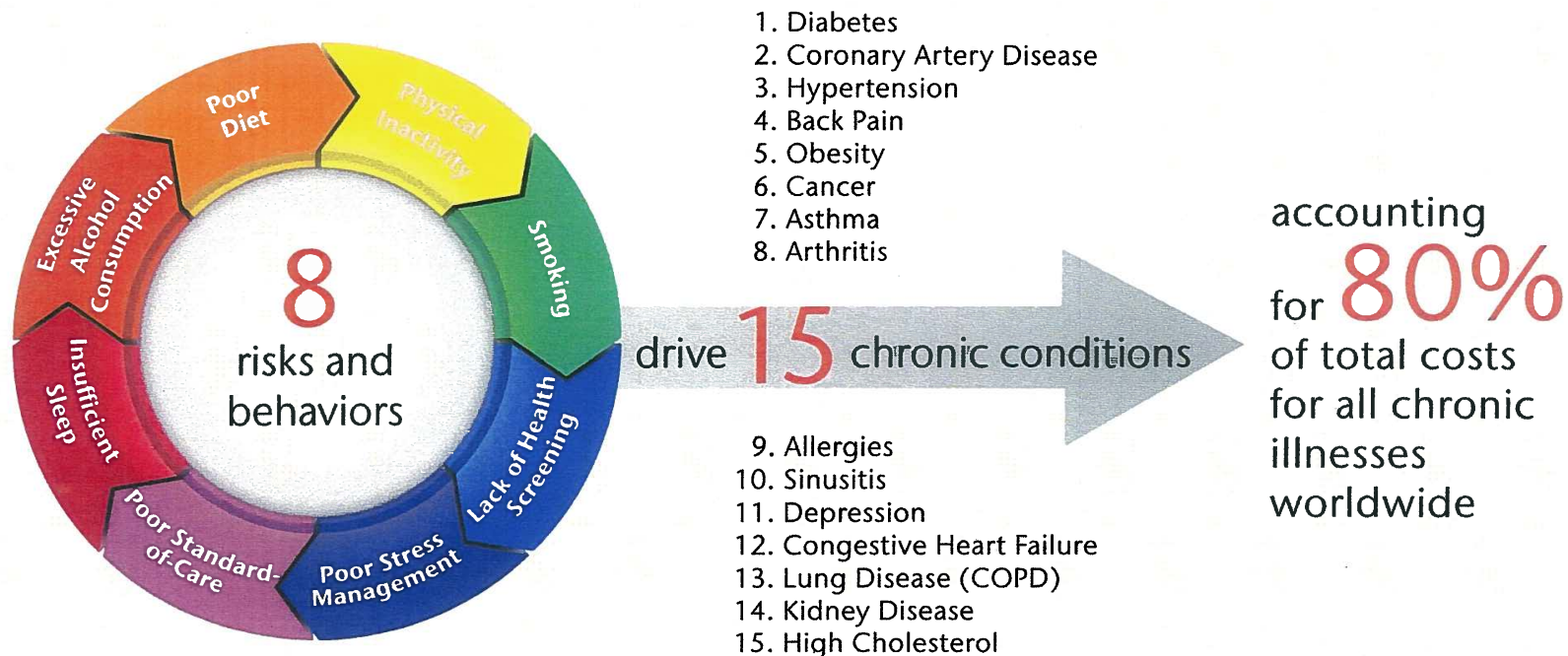
- State and private exchanges offer consumers more options
- Supports move to defined contribution or complete exit

Expanded Coverage

- Medicaid expanded, but not all states will comply
- Low-income subsidies, and penalties to employers whose employees qualify

Still About Rising Cost, Worsening Health Risk

Since 2006, **employer** costs for health care have risen **40%**, while **employee** costs (out-of-paycheck and out-of-pocket) have risen **82%**.



Source: 2010 World Economic Forum

Moving Beyond “Managing the Plan”



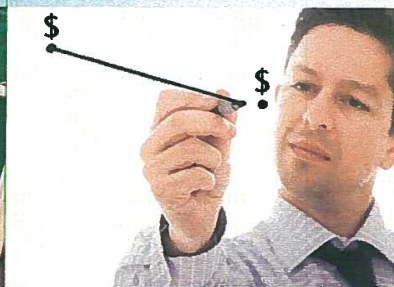
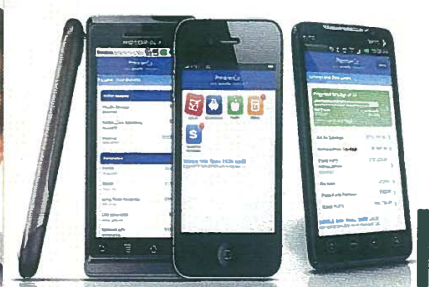
**End Game:
Improved Health,
Lower Costs**



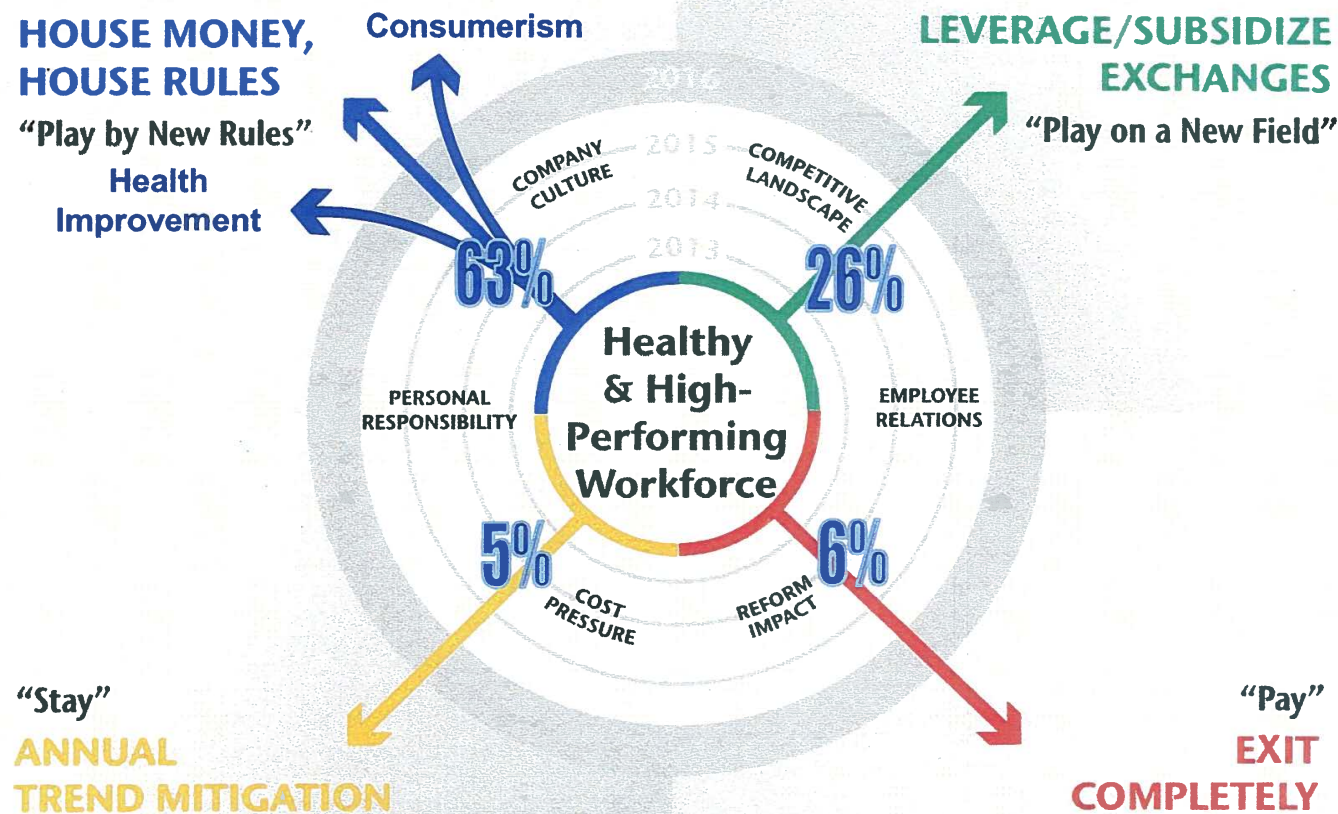
- **HRQ & biometrics**
- **Health coaching**
- **Behavior change tactics**
- **Individual health management plans**
- **Portals and integrated tools**
- **Worksite initiatives**
- **Ties to job satisfaction, overall wellbeing**

- **On-site/near-site clinics**
- **PCMH & ACO opportunities**
- **Telemedicine/virtual doctors**
- **High-performance or narrow networks**
- **Direct contracting**
- **Reference-based pricing**
- **Procurement strategies**

...Leading us to a "New Normal"

Buy Local	Keep It Simple	Make It Relevant	Data Driven, Evidence Informed
			
▪ ACOs ▪ Medical homes ▪ Health centers	▪ Fewer choices ▪ Reduced barriers to care ▪ Concentrate on 2 to 3 priorities	▪ Individual health improvement plans ▪ Targeted communication and decision support	▪ Focus on risks and behaviors ▪ Results-based incentives ▪ Drive for intrinsic behavior change

Which Path to Take?



Source: Aon Hewitt 2012 Health Care Survey, n = 1,887

Aon Hewitt | Health & Benefits Consulting
Proprietary & Confidential

2013 Strategy Actions

- Health care reform is here to stay
 - The costs and risks of non-compliance are high. Act now!
- Assess and measure impact of strategic and health care reform changes
 - Understand the financial impact: identify costs and project through 2018
 - Create appropriate metrics and delivery mechanism
- A compliance strategy is not a health care strategy. **You need both.**
 - Health care reform does not solve two priority issues: rising costs and declining health
- Turn opportunities from reform into better results for your organization and employees
 - Reward healthy behavior. In 2014, the law allows differentiated subsidies for those who take steps to improve health
 - Refine partner portfolio
 - Revise and focus your employee communications and engagement strategies
- Explore emerging market options
 - Network configurations (ACOs)
 - Private health care exchanges



Thank You!

Mike Rask

Aon

mike.rask@aonhewitt.com

206-467-4627

Aon Hewitt | Health & Benefits Consulting
Proprietary & Confidential



Incorporating High Deductible Health Plans into the Benefit Mix

Presented to: City of Kenmore

By: Carol Wilmes, Program Manager

AWC Employee Benefit Trust



What Are Your Benefit Goals?

1. Maintain quality benefits for employees
2. Maintain or reduce premium contributions for the City
3. Provide benefit options to employees, focusing on affordable out-of-pocket expense (premium contributions AND benefit costs)
4. Provide auxiliary savings mechanisms for future health care costs as a retiree



Longer Term Strategy - Impacts of Health Care Reform

Issue	Patient Protection and Affordable Care Act, as amended															
40% excise tax on “high cost” employer coverage	■ 40% excise tax on “high cost” coverage, including medical, employee and employer health FSA contributions, onsite medical clinics, and employer (but not employee) contributions to HSAs (but not insured stand-alone dental and vision coverage)															
	<table><tr><th rowspan="2"></th><th colspan="2">Thresholds for excise tax (Indexed to CPI + 1% in 2019, CPI thereafter)</th></tr><tr><th>Self-only</th><th>Any other tier</th></tr><tr><td>General</td><td>\$ 10,200</td><td>\$ 27, 500</td></tr><tr><td>High-risk professions</td><td rowspan="2">\$ 11,850</td><td rowspan="2">\$ 30,950</td></tr><tr><td>Retiree aged 55 through 64</td></tr><tr><td>Multiemployer plan</td><td>\$ 27,500</td><td>\$ 27,500</td></tr></table>		Thresholds for excise tax (Indexed to CPI + 1% in 2019, CPI thereafter)		Self-only	Any other tier	General	\$ 10,200	\$ 27, 500	High-risk professions	\$ 11,850	\$ 30,950	Retiree aged 55 through 64	Multiemployer plan	\$ 27,500	\$ 27,500
			Thresholds for excise tax (Indexed to CPI + 1% in 2019, CPI thereafter)													
		Self-only	Any other tier													
	General	\$ 10,200	\$ 27, 500													
	High-risk professions	\$ 11,850	\$ 30,950													
	Retiree aged 55 through 64															
Multiemployer plan	\$ 27,500	\$ 27,500														
	■ Employers to determine aggregate cost, report to insurers and TPAs who must pay the tax															

Challenges Ahead

Healthcare Reform Excise Tax Estimate Summary - Regence/Asuris & Group Health Active Plans Based on Projected Self-Insured Premium Equivalent Rates

Option Name	Tier	2018 Estimated Coverage Cost				Year Crossing Threshold	Excise Tax (Not Tax Deductible)	
		Estimated Enrollment	Non-FSA Participants	FSA Participants	Aggregate Premium and FSA Contributions		Estimated Excise Tax in 2018	10 Year PV of Estimated Excise Tax
HF Plan	Single	2,222	\$ 11,176	\$ 12,259	\$195,000,000	2018	\$1,420,000	\$123,000,000
	Family	6,189	\$ 27,181	\$ 29,346		2018		
HF-250 Plan	Single	142	\$ 10,222	\$ 11,305	\$8,990,000	2018	\$ 7,430	\$3,050,000
	Family	312	\$ 23,882	\$ 26,047		2020		
HF-500 Plan	Single	18	\$ 9,244	\$ 10,327	\$261,000	2018	\$ 91	\$ 64,600
	Family	5	\$ 18,239	\$ 20,404		2027		
HDHP - HSA	Single	134	\$ 7,021	\$ 7,021	\$7,200,000	2028	\$ 0	\$ 0
	Family	368	\$ 17,002	\$ 17,002		2032		
Plan A Active	Single	2	\$ 16,376	\$ 17,458	\$298,000	2018	\$ 5,030	\$ 56,700
	Family	16	\$ 16,376	\$ 18,541		2031		
GH \$10	Single	554	\$ 8,701	\$ 9,784	\$35,400,000	2020	\$ 0	\$3,520,000
	Family	1,422	\$ 21,267	\$ 23,432		2022		
GH \$200	Single	9	\$ 7,658	\$ 8,741	\$1,270,000	2022	\$ 0	\$ 20,000
	Family	60	\$ 19,844	\$ 22,009		2024		
GH HDHP HSA	Single	6	\$ 7,411	\$ 7,411	\$ 73,400	2027	\$ 0	\$ 411
	Family	2	\$ 14,444	\$ 14,444		2038		
GH Options	Single	0	\$ 7,962	\$ 9,045	\$ 0	2021	\$ 0	\$ 0
	Family	0	\$ 17,982	\$ 20,147		2027		
TOTAL		11,461			\$248,492,400		\$1,432,551	\$129,711,711



Consider the HDHP: Option 1

Annual Open Enrollment *could* offer you a choice:

1. Regence plan; or
2. Group Health plan; or
3. NEW Option: Regence High Deductible Health Plan with Health Savings Account; or
4. NEW Option: Group Health High Deductible Health Plan with Health Savings Account



Consider the HDHP: Option 2

Move exclusively to HDHP:

1. Regence/Asuris High Deductible Health Plan with Health Savings Account; or
2. Group Health High Deductible Health Plan with Health Savings Account



Sample Employer Contributions - Lakewood

COST COMPARISON – HealthFirst Plan vs. High Deductible Plan w/ HSA

AWC HealthFirst Plans	2013 HealthFirst Mo. Premium	2013 HealthFirst Employee Contributions	2013 HDHP Mo. Premium	2013 HDHP Employee Contributions	Total Annual Employee Premium Savings
Employee only	652.32	65.23	349.23		
Employee + spouse	1,309.57	130.96	702.77		
Employee + 1 child	975.69	97.57	526.50		
Employee + 2 or more children	1,243.64	124.36	671.65		
Employee, spouse + 1 child	1,632.94	163.29	880.04		
Employee, spouse + 2 or more children	1,900.90	190.09	1,025.19		

2013 Contribution to HDHP Per Employee	HSA Maximum IRS Allowable Annual Contribution	Proposed City HSA Monthly Contribution	Proposed City HSA Annual Contribution	Annual Deductible	Annual Out-of-Pocket Maximum
EE	\$ 3,250	250.00	3,000	1,500	5,000
Employee + spouse	\$ 6,450	333.33	4,000	3,000	10,000
Employee + 1 child	\$ 6,450	333.33	4,000	3,000	10,000
Employee + 2 or more children	\$ 6,450	416.67	5,000	3,000	10,000
Employee, spouse + 1 child	\$ 6,450	416.67	5,000	3,000	10,000
Employee, spouse + 2 or more children	\$ 6,450	500.00	6,000	3,000	10,000

ATTACHMENT D



Sample Employer Contributions - Bellingham

Bellingham Employer Contributions

2012 CONTRIBUTION RATES	Annual ER Contribution	ER Contribution (Monthly)	ER Contribution (Semi-Monthly)
Employee Only	\$2,000.00	\$181.82	\$90.91
Employee & Spouse	\$4,000.00	\$363.64	\$181.82
Employee & 1 Child	\$3,000.00	\$272.74	\$136.37
Employee & 2 Children	\$3,150.00	\$286.38	\$143.19
Employee, Spouse & 1 Child	\$5,000.00	\$454.56	\$227.28
Employee, Spouse & 2 Children	\$5,150.00	\$468.20	\$234.10



Sample Employer Contributions - Aberdeen

COST COMPARISON - HealthFirst Plan vs. HealthFirst High Deductible Plan w/ HSA

AWC HealthFirst Plans	2012 HealthFirst Mo. Premium	2012 HealthFirst Employee Contributions	2012 HDHP Mo. Premium	2012 HDHP Employee Contributions	Total Annual Employee Premium Savings
Employee only	\$ 630.48		\$ 336.66	\$ -	
Employee + spouse	\$ 1,265.29	\$ 126.96	\$ 677.04	\$ 68.08	\$ 706.63
Employee + 1 child	\$ 941.50	\$ 62.20	\$ 506.05	\$ 33.88	\$ 339.91
Employee + 2 or more children	\$ 1,198.80	\$ 113.66	\$ 644.30	\$ 61.53	\$ 625.63
Employee, spouse + 1 child	\$ 1,576.31	\$ 189.17	\$ 846.43	\$ 101.95	\$ 1,046.54
Employee, spouse + 2 or more children	\$ 1,833.61	\$ 240.63	\$ 984.68	\$ 129.60	\$ 1,332.26

Proposed 2012 Contribution to HealthFirst HDHP HSA Per Employee	HSA Maximum IRS Allowable Annual Contribution	Proposed City HSA Annual Contribution
EE	\$ 3,100	2,400
Employee + spouse	\$ 6,250	4,800
Employee + 1 child	\$ 6,250	4,800
Employee + 2 or more children	\$ 6,250	4,800
Employee, spouse + 1 child	\$ 6,250	4,800
Employee, spouse + 2 or more children	\$ 6,250	4,800



Sample Employer - Lake Forest Park

COST COMPARISON – HealthFirst Plan vs. High Deductible Plan w/ HSA

AWC HealthFirst Plans	2013 HealthFirst Mo. Premium	2013 HealthFirst Employee Contributions	2013 HDHP Mo. Premium	2013 HDHP Employee Contributions	Total Annual Employee Premium Savings
Employee only	665.63	145.94	356.36	0.00	1,751.28
Employee + spouse	1,336.30	304.56	717.11	36.08	3,221.76
Employee + 1 child	995.60	214.88	537.25	18.09	2,361.48
Employee + 2 or more children	1,269.02	227.27	685.36	32.90	2,332.44
Employee, spouse + 1 child	1,666.27	373.50	898.00	54.17	3,831.96
Employee, spouse + 2 or more children	1,939.69	385.89	1,046.11	68.98	3,802.92

2013 Contribution to HDHP Per Employee	HSA Maximum IRS Allowable Annual Contribution	Proposed City HSA Monthly Contribution	Proposed City HSA Annual Contribution
EE	\$ 3,250	139.13	1,669.56
Employee + spouse	\$ 6,450	263.13	3,157.56
Employee + 1 child	\$ 6,450	201.57	2,418.84
Employee + 2 or more children	\$ 6,450	260.72	3,128.64
Employee, spouse + 1 child	\$ 6,450	325.57	3,906.84
Employee, spouse + 2 or more children	\$ 6,450	384.72	4,616.64



High Deductible Health Plan with Health Savings Account

Employer provides
coverage above
the deductible

Employer or
employee deposits
money into an
employee's account

Deductibles: Employee \$1,500 Family \$3,000 Out of Pocket Maximum (OPM) Employee: \$5,000 Family: \$10,000 After deductible is met, benefits	100% Preventive Care
<u>Health Savings Account</u> 2014 \$3,300/year, ee only \$6,550/year, family	

Coverage takes effect
when expenses
exceed the deductible

Rx drugs subject to
deductible

Used by employees for
medical or non-medical
expenses; unused
amounts roll over year-
to-year



AWC Plans At a Glance

	RBS HDHP	GHC HDHP
2013/2014 Monthly Premiums	Employee - \$336.66 Family - \$984.68	Employee - \$332.08 Family - \$985.36
Deductible	\$1,500/individual \$3,000/family	\$1,500/individual \$3,000/family
Co-Insurance Maximum	\$5,000/individual \$10,000/family	\$3,750/individual \$7,500/family
Physicians	80%; preventive care not subject to deductible	\$20 copay, then 90%; preventive care not subject to deductible
Hospital	80%	90% for inpatient & outpatient \$75 copay for ER then 90%
Prescription Drugs	80% in-pharmacy 80% mail order	\$15/\$30 in pharmacy \$45/\$90 mail order

ATTACHMENT D



Who Can Have an HSA?

- Per federal law, any employee can contribute to an HSA if they are:
 - ◆ Enrolled in High Deductible Health Plan (HDHP).
 - ◆ Not enrolled in other coverage
 - ◆ Not enrolled in Medicare
 - ◆ Not claims as a dependent on someone else's tax return



HSA Contributions

- ◆ Contributions can be made by the employee, the employer or both
- ◆ Total contributions are limited annually
- ◆ Contributions stop when no longer enrolled on a HDHP, or when enrolled in Medicare
 - ☞ While contributions can no longer be made, the money can continue to be used for expenses – as this is a bank account in the employee's name



HSA Contributions

HSA Contribution 2014 Maximums

Self only coverage: \$3,300

Family coverage: \$6,550

Maximums indexed annually

Additional contribution

If age 55 or older, your contribution limit is increased by
\$1,000



HSA Contribution Limitations

- **FSA or HRA enrollment**
 - An employee covered by a HDHP and health FSA or an HRA that pays or reimburses qualified medical expenses generally cannot make contributions to an HSA
- **Additional limitations**
 - LEOFF 1's (on Regence Plan A) are not eligible to contribute to a HSA
 - Employer HSA contribution made for an employee covering a domestic partner or domestic partner's children in most cases is considered taxable income to the employee



Using Your HSA

- You can use the money to pay for “qualified medical expenses” permitted under federal tax law
 - This includes most medical care not covered by insurance, dental and vision care, as well as COBRA, Medicare and other health care coverage if you are 65 or older
- You can use the money to pay for medical expenses of yourself, your spouse, or your dependent children – even if they are not enrolled on the HDHP
- Debit cards are issued for ease in paying for services
- Record keeping/documenting qualified expenses is up to the employee



Tax Advantage

- Funds contributed to the account are not subject to federal income tax at the time of deposit
- Interest or earnings that accumulate in the account are not subject to federal income tax
- Funds taken from the account to pay for qualified medical expenses – at any time – are not subject to federal income tax



Penalties

- Any amounts used for purposes other than to pay for “qualified medical expenses” are taxable as income and subject to an additional 20% penalty tax
 - After turning 65 (or becoming disabled & enrolling on Medicare), the 20% additional tax penalty no longer applies
- It is up to the HSA account holder to keep records proving amounts withdrawn were used for qualified medical expenses



Claims Scenarios

EXAMPLE I (Insuring Employee + Spouse + 1 Child)

Illustration: An employee and her husband gave birth to a newborn baby boy in February. The birthing costs and follow-up well child care visits and immunizations at 3, 6 and 9 months are illustrated below.

		Billed Amount	Deductible/ Copay/Out of Pocket	Regence Pays	Patient Responsibility
HF	Doctor – Prenatal & delivery	\$1,370	\$10	\$1,360	\$10
	Hospital – Newborn	\$1,700	\$150 + \$155	\$1,395	\$305
	Hospital – Vaginal Birth	\$4,850	\$150 + \$470	\$4,230	\$620
	1st Well Care Visit	\$250	\$0	\$250	\$0
	2nd Well Care Visit & Shots	\$400	\$0	\$400	\$0
	3rd Well Care Visit & Shots	\$400	\$0	\$400	\$0
	TOTAL				\$935
HDHP	Doctor – Prenatal & delivery	\$1,370	\$1,370	\$0	\$1,370
	Hospital – Newborn	\$1,700	\$1,630 + \$14	\$56	\$1,644
	Hospital – Vaginal Birth	\$4,850	\$970	\$3,880	\$970
	1st Well Care Visit	\$250	\$0	\$250	\$0
	2nd Well Care Visit & Shots	\$400	\$0	\$400	\$0
	3rd Well Care Visit & Shots	\$400	\$0	\$400	\$0
	TOTAL				\$3,984



Claims Scenarios

EXAMPLE II – OUTPATIENT HOSPITAL (Insuring Employee + Spouse + 2 Children)

***Illustration:** It's football season, and in the opening game an employee's son breaks his arm prompting a visit to the emergency room. Later that year, the employee's spouse has gallstones and requires emergency gallbladder surgery.*

		Billed Amount	Deductible/ Copay/Out of Pocket	Regence Pays	Patient Responsibility
HF	Child – ER Hospital & X-ray	\$600	\$75 + \$52.50	\$472.50	\$127.50
	Attending ER Physician	\$425	\$0	\$425	\$0
	Spouse – Outpatient Hospital	\$2,500	\$250	\$2,250	\$250
	Attending surgeon & anesthesiologist	\$1,500	\$0	\$1,500	\$0
	TOTAL				\$377.50
HDHP	Child – ER Hospital & X-ray	\$600	\$600	\$0	\$600
	Attending ER Physician	\$425	\$425	\$0	\$425
	Spouse – Outpatient Hospital	\$2,500	\$1,975 + \$105	\$420	\$2,080
	Attending surgeon & anesthesiologist	\$1,500	\$300	\$1,200	\$300
	TOTAL				\$3,405



Claims Scenarios

EXAMPLE III – INPATIENT HOSPITAL (Insuring Employee + Spouse)

Illustration: Employee has a heart attack and requires open heart surgery. Inpatient hospital surgery followed by outpatient cardiac rehabilitation.

		Billed Amount	Deductible/ Copoly/Out of Pocket	Regence Pays	Patient Responsibility
HF	Hospital	\$50,000	\$150 + \$1,000	\$48,850	\$1,150
	Surgeon/Anesthesiologist	\$15,000	\$0	\$15,000	\$0
	Follow-up weekly cardiac Rehabilitation visits	\$ 3,000	\$0	\$3,000	\$0
	TOTAL				\$1,150
HDHP	Hospital	\$50,000	\$3,000 + 7,000	\$40,000	\$10,000
	Surgeon/Anesthesiologist	\$15,000	\$0	\$15,000	\$0
	Follow-up weekly cardiac Rehabilitation visits	\$ 3,000	\$0	\$3,000	\$0
	TOTAL				\$10,000



Claims Scenarios

EAMPLE IIIa – INPATIENT HOSPITAL (Insuring Employee Only)

Illustration: Employee has a heart attack and requires open heart surgery. Inpatient hospital surgery followed by outpatient cardiac rehabilitation.

		Billed Amount	Deductible/ Copay/Out of Pocket	Regence Pays	Patient Responsibility
HF	Hospital	\$50,000	\$150 + \$1,000	\$48,850	\$1,150
	Surgeon/Anesthesiologist	\$15,000	\$0	\$15,000	\$0
	Follow-up weekly cardiac Rehabilitation visits	\$ 3,000	\$0	\$3,000	\$0
	TOTAL				\$1,150
HDHP	Hospital	\$50,000	\$1,500 + 3,500	\$45,000	\$5,000
	Surgeon/Anesthesiologist	\$15,000	\$0	\$15,000	\$0
	Follow-up weekly cardiac Rehabilitation visits	\$ 3,000	\$0	\$3,000	\$0
	TOTAL				\$5,000



Claims Scenarios

EXAMPLE IV – WELL ADULT CARE (Insuring Employee + Spouse)

Illustration: Employee sees physician for routine check-up and, due to age, the doctor prescribes a routine physical examination – billed as preventive care. Spouse also visits the doctor for annual gynecological exam.

		Billed Amount	Deductible/ Copay/Out of Pocket	Regence Pays	Patient Responsibility
HF	Employee - Physician	\$600	\$0	\$600	\$0
	Spouse - Physician & PAP Smear labwork	\$200	\$0	\$200	\$0
	TOTAL				\$0
HDHP	Employee - Physician	\$600	\$0	\$400	\$0
	Spouse - Physician & PAP Smear labwork	\$200	\$0	\$160	\$0
	TOTAL				\$0



Claims Scenarios

EXAMPLE V – MULTIPLE OFFICE VISITS (Insuring Full Family)

Illustration: Shortly after the first of the year, the employee visits the doctor for flu symptoms and is prescribed an antibiotic. Several months later, the employee's spouse visits the doctor for bronchitis and a follow-up antibiotic. Later that year, the employee visits the doctor again for his annual check of high blood pressure. The spouse also needs to visit the doctor to check her thyroid medication.

		Billed Amount	Deductible/ Copay/Out of Pocket	Regence Pays	Patient Responsibility
HF	Employee 1 ST Office Visit	\$100	\$10	\$90	\$10
	Rx – Brandname Preferred	\$60	\$15	\$45	\$15
	Spouse 1 ST Office Visit	\$100	\$10	\$90	\$10
	Rx – Generic	\$30	\$4	\$26	\$4
	Employee 2 ND Office Visit	\$250	\$10	\$240	\$10
	Spouse 2 ND Office Visit	\$250	\$10	\$240	\$10
	TOTAL				\$59
HDHP	Employee 1 ST Office Visit	\$100	\$100	\$0	\$100
	Rx – Brandname Preferred	\$60	\$60	\$0	\$60
	Spouse 1 ST Office Visit	\$100	\$100	\$0	\$100
	Rx – Generic	\$30	\$30	\$0	\$30
	Employee 2 ND Office Visit	\$250	\$250	\$0	\$250
	Spouse 2 ND Office Visit	\$250	\$250	\$0	\$250
	TOTAL				\$790



HSA or HRA Administrators

- **HSA Bank**
 - \$2.25 per employee per month
 - Deducted from employee's account
 - Waived on balances of \$3,000 and above
- **Discovery Benefits**
 - \$1.50 per employee per month
 - Deducted from employee's account
 - Administers FSA, HRA & HSA
- **Included for both HSA Bank & Discovery Benefits:**
 - Initial debit card & 4-year renewal
 - Debit card point-of-sale purchase via signature
 - Online account access & transfers
 - Monthly e-statements/quarterly paper statements
 - Tax reporting



Resources....

- U.S. Department of the Treasury – HSA Info
 - ◆ <http://www.treasury.gov/resource-center/faqs/Taxes/Pages/Health-Savings-Accounts.aspx>
- IRS Publication 969
 - ◆ <http://www.irs.gov/pub/irs-pdf/p969.pdf>
- Qualified Medical Expenses
 - ◆ IRS Publication 502, Medical & Dental Expenses



Questions....

Carol Wilmes

Program Manager

AWC Employee Benefit Trust

1-800-562-8981 or (360) 753-4137

carolw@awcnet.org

www.awcnet.org/employeebenefits

