

CITY COUNCIL MEETING AGENDA



City of Lake Stevens Vision Statement

By 2030, we are a sustainable community around the lake with a vibrant economy, unsurpassed infrastructure and exceptional quality of life.

July 12, 2022 - 6:00 PM

HYBRID COUNCIL MEETING - TWO WAYS TO PARTICIPATE:

In Person at The Mill, Sawyers Room, 1808 Main Street, Lake Stevens OR
via Zoom: <https://us02web.zoom.us/j/81820921156> or by calling 253-215-8782,
Meeting ID: 818 2092 1156

1. **Call to Order**
2. **Pledge of Allegiance** Mayor
3. **Roll Call**
4. **Approval of Agenda** Council President
5. **Citizen Comments**
6. **Council Business** Council President
7. **Mayor's Business**
8. **City Department Report**
 - A. Special Events Russ Wright
 - B. Public Records Requests for 2021 (Information only) Kelly Chelin
9. **Consent Agenda**
 - A. 2022 Vouchers Barb Stevens
 - B. Cancel Council Meetings for Summer Break Kelly Chelin
 - C. Contract with Data Transfer Solutions for deployment of VUEWorks Troy Stevens
 - D. Frontier Heights Park - Professional Services Agreement with LDC for Design of Park Improvements (Phase II) Aaron Halverson, Russ Wright
 - E. Surface Water Division Job Title Changes Shannon Farrant, Aaron Halverson, Anya Warrington

10. Public Hearing

- A. 29th St NE ROW Vacation Public Hearing Melissa Place

11. Action Items

- A. Transportation Benefit District Resolution 2022-10 and
Ballot Documents Aaron
Halverson, Russ
Wright

12. Discussion Items

- A. Storage Facilities Code Amendment Introduction Jill Needham
(LUA2022-0079)

13. Executive Session (Confidential Session of the Council)

- A. Collective Bargaining-(No action to follow)

14. Adjourn***THE PUBLIC IS INVITED TO ATTEND***

Special Needs: *The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Human Resources, City of Lake Stevens ADA Coordinator, (425) 622-9400, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.*

NOTICE: All proceedings of this meeting are audio recorded, except Executive Sessions.

CITY DEPARTMENT REPORT



Agenda Date: 7/12/2022

Contact Person/Department: Russ Wright, Community Development

At a recent City Council meeting, councilmembers requested an update on scheduled special events. Staff has prepared a list of city-sponsored and private events held to date and planned for the remainder of 2022.

MEMORANDUM



Planning and Community Development

DATE: 6/29/2022

TO: Russ Wright, Community Development Director

FROM: Jill Meis, Parks Planning and Development Coordinator

SUBJECT: Events and recreation

Events are welcomed to the city to foster community pride and to contribute to vibrant economic development. There are privately sponsored events and events that the city partners in to bring them to the community. The privately sponsored events are ones that are generally self-sufficient, and the role of staff is to review the proposed event against criteria in LSMC and evaluate risk. The city sponsored events are submitted through an RFP process and are planned with input from city staff and contributions from the city in the form of rental space or waiving fees. There are times that groups or individuals have an event that benefits the community, but don't have the funds to start or sustain the event. City-sponsored events are ones that the city creates and staffs for the community.

A list of the privately sponsored events is listed here:

2/5/2022	Freeze in the Trees Disc Golf Tournament
2/6/2022	NW Washington Disc Golf Tournament
4/23,24/2022	Spring Sprints Rowing Regatta
5/21/2022	Lion's Club Fishing Derby
6/11/2022	Lake Church Carnival
7/4/2022	Chamber of Commerce Old Fashioned 4th

Future events:

7/19/2022	Fire District Water Safety Class
9/10/2022	BuDu Triathlon
10/29/2022	Bull Trout Regatta

A list of city-partnered events held is listed here:

6/1- 8/31/2022	Lake Stevens Farmers Market
6/4/2022	Lake Stevens Band Concert
6/26/2022	Lake Stevens Health and Wellness Festival

Future dates:

7/29,31/2022	Aquafest
8/13/2022	Run for Your Life Suicide Awareness Run
10/8/2022	Film Festival
10/30/2022	Harvest Market

A list of city-sponsored events is listed here:

2/27/2022 Polar Plunge

Future Dates:

8/2/2022 National Night Out Against Crime

8/5/2022 Movie in the Park

8/7/2022 Theater in the Park

8/14/2022 Theater in the Park

8/19/2022 Movie in the Park

10/31/2022 HarvestFest

12/3/2022 WinterFest

Beginning in 2020, the city began offering youth sports focused recreation classes. Prior to 2020, recreation classes were provided by other agencies. The city currently offers Skyhawks camps in our parks for youth over the summer. Classes are offered every week during the summer for tennis, football, soccer, basketball, etc.

Other recreation offerings include:

Toddler tumbling class and gymnastics at Lundeen

Paddleboard and kayak rentals

Zumba at Lundeen

Dance Fit at Lundeen

CITY DEPARTMENT REPORT



Agenda Date: 7/12/2022

Contact Person/Department: Kelly Chelin, Administration

In 2017, the Washington State Legislature passed ESHB 1594. Section 6 (5) of the bill directs certain state and local agencies to report annually on performance metrics related to public records retention, management, and disclosure. The Joint Legislative Audit and Review Committee (JLARC) established this online system to collect data about these performance metrics as required by state law.

The City of Lake Stevens is required to report because it has at least \$100,000 in staff and legal costs associated with fulfilling public records requests. The purpose of this report is to share with the Council the metrics that were submitted to JLARC for 2021.

Reporting Period from January 1, 2021-December 31, 2021:

- 1,351 requests were received.
- 1,344 were closed in 2021.
- 924 were closed within 5 business days.
- 590 requests were partially denied or redacted (i.e. Investigative records, attorney client communication, personal information, HIPPA or HR investigations).

Number of requests, by type of requestor:

- Individuals - 488
- Law firms -121
- Organizations -123
- Insurers - 212
- Governments - 22
- Media- 62
- Current or former employees - 4
- Anonymous - 4
- Duplicate Requests and Interagency - 315

Staff and equipment costs:

- Estimated total staff hours: 848 with an average of 1 hour per request.
- Estimated total staff costs: \$126,626 with an average cost of \$102.36 per request.
- Estimated cost of systems that manage/retain records: \$28,246.

The City received no claims alleging a violation of Chapter 42.56 - Public Records Act.

BLANKET VOUCHER APPROVAL
2022

Payroll Direct Deposits	7/8/2022	\$280,696.59
Payroll Checks	56042	\$2,002.94
Electronic Funds Transfers	ACH	\$213,471.97
Claims	56036-56041, 56043-56110	\$243,035.85
Void Checks		
Total Vouchers Approved:		\$739,207.35

This 12th day of July 2022

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment or a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Lake Stevens, and that I am authorized to authenticate and certify to said claim.

Finance Director/Auditing Officer, Barb Stevens

Mayor, Brett Gailey

July 12, 2022



City expenditures by type for this voucher packet		
Personnel Costs	\$ 282,700	38%
Payroll Federal Taxes	\$ 103,646	14%
Retirement Benefits - Employer	\$ 62,687	8%
Other Employer Paid Benefits	\$ 864	0%
Employee Paid Benefits	\$ 13,914	2%
Supplies	\$ 33,804	5%
Professional Services	\$ 227,900	31%
Refunds	\$ 144	0%
Capital *	\$ 13,549	2%
Total	\$ 739,207	100%

Large Purchases

* Water Tower Sculpture - Partial Payment \$5,470

* Eagle Ridge Park Archaeological Survey \$7,303

City of Lake Stevens Blanket Voucher Report
Checks to be approved for period 06/23/2022 - 07/06/2022

Total for Period
\$456,507.82

Vendor Name	Invoice #	Account #	Account Name	Description	Check #	Amount
911 Supply Inc	INV-2-19424	001 008 521 20 31 05	LE-Equipment - New Officers	Blauer Armor Skin - O Scholz	56043	\$150.72
911 Supply Inc	INV-2-19442	001 008 521 20 31 05	LE-Equipment - New Officers	Belts/Glove/Radio Pouch/Cuff Case/Spray Pouch - M Walters	56043	\$297.31
911 Supply Inc	INV-2-19443	001 008 521 20 31 01	LE-Fixed Minor Equipment	Radio Pouch/Cuff Case/Spray Pouch/Gloves - M Cooper	56043	\$354.68
911 Supply Inc	INV-2-19674	001 008 521 21 26 00	LE-Boating Clothing	Bike Patrol Polos	56043	\$103.64
					56043 Total	\$906.35
Ace Hardware	73964	001 008 521 50 30 00	LE-Facilities Supplies	Mop	56044	\$18.54
Ace Hardware	73970	001 008 521 50 30 00	LE-Facilities Supplies	Toilet Paper/Clorox Wipes/Trash Bags/Cleaner	56044	\$133.71
Ace Hardware	74033	001 008 521 50 30 00	LE-Facilities Supplies	Pledge	56044	\$26.15
Ace Hardware	74040	001 008 521 20 31 01	LE-Fixed Minor Equipment	Gloves	56044	\$567.10
Ace Hardware	74042	001 007 558 50 31 02	PL-Permit Related Op. Costs	Stakes for Noticing Boards	56044	\$67.82
					56044 Total	\$813.32
Advance Testing & Service	23153	001 012 575 50 48 00	CS- The Mill - R & M	Annual Backflow Testing for the Mill	56045	\$100.00
					56045 Total	\$100.00
Alexander Printing Co Inc	73038	001 010 576 80 31 00	PK-Operating Costs	Business Cards for PW	56046	\$35.36
Alexander Printing Co Inc	73038	101 016 544 90 31 02	ST-Operating Cost	Business Cards for PW	56046	\$35.37
Alexander Printing Co Inc	73038	410 016 531 10 31 02	SW - Operating Costs	Business Cards for PW	56046	\$35.37
					56046 Total	\$106.10
Amazon Capital Services	13C1-3FNT-33YW	001 010 576 80 31 00	PK-Operating Costs	Notebooks/Dry Erase Markers	56047	\$21.97
Amazon Capital Services	13C1-3FNT-33YW	101 016 544 90 31 02	ST-Operating Cost	Notebooks/Dry Erase Markers	56047	\$21.98
Amazon Capital Services	13C1-3FNT-33YW	410 016 531 10 31 02	SW - Operating Costs	Notebooks/Dry Erase Markers	56047	\$21.98
Amazon Capital Services	1F9T-FDLD-174R	410 016 531 10 31 02	SW - Operating Costs	iPhone Chargers/Car Chargers	56047	\$58.29
Amazon Capital Services	1FKC-CDJX-1WV7	001 013 518 20 31 00	GG-Operating Costs	Janitorial Cart	56047	\$141.82
Amazon Capital Services	1HRT-9PTJ-XG3R	001 007 558 50 31 00	PL-Office Supplies	Advertising Business Sign Holder	56047	\$140.19
Amazon Capital Services	1HRT-9PTJ-XG3R	001 013 518 20 31 00	GG-Operating Costs	Lysol	56047	\$12.99
Amazon Capital Services	1HRT-9PTJ-XG3R	001 003 514 20 31 00	CC-Office Supply	Water/Paper	56047	\$45.69
Amazon Capital Services	1WTK-FDK4-GR4C	001 013 518 20 31 00	GG-Operating Costs	Seat Covers/Toilet Paper/Copy Paper/Cleaning Cloths	56047	\$249.22
					56047 Total	\$714.13
BeyondTrust Corporation	IN0067017	510 006 518 80 49 25	LR - Bomgar Cloud Remote Admin	Remote Support Concurrent User Cloud	56048	\$2,751.43
					56048 Total	\$2,751.43
Canon Financial Services Inc	28687540	001 013 518 20 48 00	GG-Repair & Maintenance	Copier Lease CH Admin	56049	\$285.53
Canon Financial Services Inc	28687543	001 007 558 50 48 00	PL-Repairs & Maint.	Copier Lease CH Planning/Building	56049	\$76.98
Canon Financial Services Inc	28687543	001 007 559 30 48 00	PB-Repair & Maintenance	Copier Lease CH Planning/Building	56049	\$76.98
Canon Financial Services Inc	28687543	001 013 518 20 48 00	GG-Repair & Maintenance	Copier Lease CH Planning/Building	56049	\$76.98
Canon Financial Services Inc	28718273	001 010 576 80 48 00	PK-Repair & Maintenance	Copier Lease PW Upstairs	56049	\$11.39
Canon Financial Services Inc	28718273	101 016 542 30 48 00	ST-Repair & Maintenance	Copier Lease PW Upstairs	56049	\$11.40
Canon Financial Services Inc	28718273	410 016 531 10 48 00	SW - Repairs & Maintenance	Copier Lease PW Upstairs	56049	\$11.39
					56049 Total	\$550.65
Cellebrite Inc	INVUS244120	001 008 521 20 41 01	LE-Professional Serv-Fixed	UFED Ulitmate/Physical Analyzer SW Renewals	56050	\$4,691.30
					56050 Total	\$4,691.30
Central Welding Supply Co Inc	B133197	410 016 531 10 35 00	SW - Small Tools	Drive Roll Kit	56051	\$117.35
Central Welding Supply Co Inc	EV303189	410 016 531 10 35 00	SW - Small Tools	Kevlar Gloves/Fastip	56051	\$141.64
					56051 Total	\$258.99

Vendor Name	Invoice #	Account #	Account Name	Description	Check #	Amount
Christofferson	062522 CHRISTOF	001 000 382 10 00 01	The Mill - Deposit	LS22-Christoff The Stack Rental 06/25/22 Deposit	56052	\$100.00
					56052 Total	\$100.00
Cintas Loc 460	4123339292	001 010 576 80 41 00	PK-Professional Services	PW Uniform Service	56053	\$134.24
Cintas Loc 460	4123339292	101 016 542 30 41 02	ST-Professional Service	PW Uniform Service	56053	\$134.24
Cintas Loc 460	4123339292	410 016 531 10 41 01	SW - Professional Services	PW Uniform Service	56053	\$134.24
					56053 Total	\$402.72
City of Everett	I22003539	001 008 554 30 41 00	LE-Animal Control	Animal Control Services 05-2022	56054	\$940.00
City of Everett	I22003610	001 008 554 30 41 00	LE-Animal Control	Animal Boarding Fees	56054	\$1,240.00
					56054 Total	\$2,180.00
City of Marysville	LKS22-005	001 013 512 50 41 00	GG-Municipal Court Fees	Marysville Court Citations 05-2022	56055	\$4,782.53
					56055 Total	\$4,782.53
Code Publishing LLC	GC0007826	001 003 514 20 41 00	CC-Professional Services	Muni Code Update	56056	\$190.86
					56056 Total	\$190.86
Compensation Connections LLC	2275	001 013 518 20 41 00	GG-Professional Service	Salary Study Consulting	56057	\$600.00
					56057 Total	\$600.00
Crystal Springs	5249844 060122	001 007 558 50 31 01	PL-Operating Costs	Bottled Water - City Hall	56058	\$30.94
Crystal Springs	5249844 060122	001 007 559 30 31 01	PB-Operating Cost	Bottled Water - City Hall	56058	\$30.94
Crystal Springs	5249844 060122	001 013 518 20 31 00	GG-Operating Costs	Bottled Water - City Hall	56058	\$93.22
Crystal Springs	5249844 060122	101 016 544 90 31 02	ST-Operating Cost	Bottled Water - PW Shop	56058	\$7.63
Crystal Springs	5249844 060122	410 016 531 10 31 02	SW - Operating Costs	Bottled Water - PW Shop	56058	\$7.63
Crystal Springs	5249844 070122	001 007 558 50 31 01	PL-Operating Costs	Bottled Water - City Hall	56058	\$39.50
Crystal Springs	5249844 070122	001 007 559 30 31 01	PB-Operating Cost	Bottled Water - City Hall	56058	\$39.50
Crystal Springs	5249844 070122	001 013 518 20 31 00	GG-Operating Costs	Bottled Water - City Hall	56058	\$119.89
Crystal Springs	5249844 070122	101 016 544 90 31 02	ST-Operating Cost	Bottled Water - PW Shop	56058	\$2.17
Crystal Springs	5249844 070122	410 016 531 10 31 02	SW - Operating Costs	Bottled Water - PW Shop	56058	\$2.18
					56058 Total	\$373.60
David Evans and Associates Inc	512275	001 007 558 50 41 04	Permit Related Professional Sr	Engineering Svcs - 21-20 North Cove Park Drainage	56059	\$1,463.50
					56059 Total	\$1,463.50
Dept of Licensing	062522 DOL	633 000 589 30 00 05	Gun Permit - State DOL	Weapons Permits 06/19/22 thru 06/25/22	56060	\$234.00
Dept of Licensing	070222 DOL	633 000 589 30 00 05	Gun Permit - State DOL	Weapons Permits 06/26/22 thru 07/02/22	56060	\$198.00
					56060 Total	\$432.00
Dept of Retirement (Deferred Comp)	62522	001 000 282 00 00 00	Payroll Liability Retirement	Employee Portion-State Deferre	0	\$4,545.24
					0 Total	\$4,545.24
Dept of Retirement PERS LEOFF	62522	001 000 282 00 00 00	Payroll Liability Retirement	PERS LEOFF Contributions	0	\$62,450.62
Dept of Retirement PERS LEOFF	62522	001 000 282 00 00 00	Payroll Liability Retirement	PERS LEOFF Contributions-State	0	\$343.84
Dept of Retirement PERS LEOFF	062522Correction	001 000 282 00 00 00	Payroll Liability Retirement	PERS LEOFF Contributions	0	(\$107.80)
					0 Total	\$62,686.66
Dept of Revenue EFT	May-22	001 013 518 90 49 06	GG-Excise Tax	Excise Taxes - May 2022	0	\$792.77
Dept of Revenue EFT	May-22	410 016 531 10 44 00	SW-Excise Taxes	Excise Taxes - May 2022	0	\$35,486.63
					0 Total	\$36,279.40
EFTPS	62522	001 000 281 00 00 00	Payroll Liability Taxes	Federal Payroll Taxes	0	\$103,645.99
					0 Total	\$103,645.99
Electronic Business Machines	AR223079	001 008 521 50 48 00	LE-Facility Repair & Maint	Copier Copy Cost PD - JMQ10326	56061	\$125.40
Electronic Business Machines	AR223180	001 013 518 20 48 00	GG-Repair & Maintenance	Copier Copy Cost CH Admin XTZ1787	56061	\$729.75
					56061 Total	\$855.15
Elite Securities Inc	39488	001 008 521 50 48 00	LE-Facility Repair & Maint	Service Call - PD Rear Doors	56062	\$223.66
					56062 Total	\$223.66

Vendor Name	Invoice #	Account #	Account Name	Description	Check #	Amount
Environmental Systems Research Inst	94273661	001 010 576 80 31 00	PK-Operating Costs	ArcGIS Enterprise Field Worker Term License	56063	\$1,032.81
Environmental Systems Research Inst	94273661	101 016 544 90 31 02	ST-Operating Cost	ArcGIS Enterprise Field Worker Term License	56063	\$1,032.81
Environmental Systems Research Inst	94273661	410 016 531 10 31 02	SW - Operating Costs	ArcGIS Enterprise Field Worker Term License	56063	\$1,032.82
					56063 Total	\$3,098.44
Evans	062822 EVANS	001 010 576 80 31 00	PK-Operating Costs	Trailer Hitch for Utility Trailer - Reimbursement Evans	56064	\$23.62
Evans	062822 EVANS	101 016 544 90 31 02	ST-Operating Cost	Trailer Hitch for Utility Trailer - Reimbursement Evans	56064	\$23.61
Evans	062822 EVANS	410 016 531 10 31 02	SW - Operating Costs	Trailer Hitch for Utility Trailer - Reimbursement Evans	56064	\$23.61
					56064 Total	\$70.84
Florida State Disbursement Unit	200000082DR34	001 000 284 00 00 00	Payroll Liability Other	200000082DR34 Child Support	56037	\$177.57
					56037 Total	\$177.57
Gailey	062122 GAILEY	001 001 513 10 43 00	Executive - Travel & Mtgs	AWC Conf Vancouver WA Hotel Reimbursement-Gailey	56065	\$691.22
Gailey	062422 GAILEY	001 001 513 10 43 00	Executive - Travel & Mtgs	AWC Conf Vancouver WA Fuel Reimbursement-Gailey	56065	\$66.45
Gailey	062422 GAILEY	001 001 513 10 43 00	Executive - Travel & Mtgs	AWC Conf Vancouver WA Parking Reimbursement-Gailey	56065	\$28.00
					56065 Total	\$785.67
Garceau	063022 GARCEAU	001 005 518 10 41 01	HR - Advertising/Marketing	Reimbursement for Park/Rec Director Interview - Candidate Travel	56066	\$1,168.24
					56066 Total	\$1,168.24
Hathaway	33384	001 010 576 80 31 00	PK-Operating Costs	Nameplates/Wall Holders	56067	\$270.04
Hathaway	33384	410 016 531 10 31 02	SW - Operating Costs	Nameplates/Wall Holders	56067	\$270.05
					56067 Total	\$540.09
Held	063022 HELD	001 007 558 50 49 01	PL-Staff Development	Reimbursement for Permit Tech Exam - Held	56068	\$241.00
					56068 Total	\$241.00
Hester	063022 HESTER	001 005 518 10 41 01	HR - Advertising/Marketing	Reimbursement for Park/Rec Director Interview - Travel Expenses	56069	\$1,975.90
					56069 Total	\$1,975.90
Home Depot	2182380	410 016 531 10 35 00	SW - Small Tools	Chain Link Fabric Repair Roll/Pliers/Hog Rings	56070	\$87.17
Home Depot	4131686	001 010 576 80 31 00	PK-Operating Costs	Chain Link Fence Supplies	56070	\$825.22
Home Depot	4131686	101 016 544 90 31 02	ST-Operating Cost	Chain Link Fence Supplies	56070	\$825.23
Home Depot	4131686	410 016 531 10 31 02	SW - Operating Costs	Chain Link Fence Supplies	56070	\$825.23
					56070 Total	\$2,562.85
Honey Bucket	552720551	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Event 12305 17th Pl NE	56071	\$725.00
Honey Bucket	552720552	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Event 1812 Main St	56071	\$505.00
Honey Bucket	552832351	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - 12308 17th Pl NE	56071	\$255.50
Honey Bucket	552840417	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Callow Rd	56071	\$142.50
Honey Bucket	552840418	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Frontier Cir W	56071	\$224.00
Honey Bucket	552849450	001 010 576 80 45 00	PK-Equipment Rental	Honey Bucket Rental - Davies Beach	56071	\$249.50
					56071 Total	\$2,101.50
HSA Bank	62522	001 000 284 00 00 00	Payroll Liability Other	Health Savings Account Employee Contributions	56038	\$125.00
					56038 Total	\$125.00
J Thayer Co Inc	1598348-0	001 013 518 20 31 00	GG-Operating Costs	Janitorial Supplies	56072	\$256.51
J Thayer Co Inc	1598418-0	001 013 518 20 31 00	GG-Operating Costs	Gloves	56072	\$17.45
					56072 Total	\$273.96
Lake Stevens Chamber of Commerce	07-2022 CHAMBER	001 013 518 90 49 01	GG-Chamber of Commerce	Contributions for VIC 07-2022	56073	\$1,500.00
					56073 Total	\$1,500.00
Lake Stevens Police Guild	62522	001 000 284 00 00 00	Payroll Liability Other	Employee Paid Union Dues	56039	\$1,086.75
					56039 Total	\$1,086.75
Lakeside Industries Inc	196451	101 016 542 70 31 00	ST-Roadside - Supply	Pallet of Pot Hole Mix	56074	\$1,089.62
					56074 Total	\$1,089.62

Vendor Name	Invoice #	Account #	Account Name	Description	Check #	Amount
Lemay Mobile Shredding Inc	47530955185	001 013 518 20 41 00	GG-Professional Service	Shredding Services CH	56075	\$12.33
					56075 Total	\$12.33
LN Curtis & Sons	INV603445	001 008 521 20 31 02	LE-Minor Equipment	Short Sleeve ArmorSkin Base Shirt - Wachtveitl	56076	\$76.03
LN Curtis & Sons	INV604337	001 008 521 20 31 02	LE-Minor Equipment	TacShell Jacket - D Thomas	56076	\$388.43
LN Curtis & Sons	INV605927	001 008 521 20 31 01	LE-Fixed Minor Equipment	Armor/Concealable Carrier/Trama Plate - S Warbis	56076	\$1,377.93
					56076 Total	\$1,842.39
Long	062122 LONG	001 000 362 00 00 17	North Cove Park - Rental	Refund North Cove Park Rental for 07/02/22 - Long	56077	\$40.00
Long	062122 LONG	633 000 389 30 00 10	Sales Tax owed to DOR	Refund North Cove Park Rental for 07/02/22 - Long	56077	\$3.60
					56077 Total	\$43.60
McLoughlin & Eardley Group Inc	262811	001 008 521 50 30 02	LE-Fleet Minor Equipment	Gateway Installation Kit - PD Vehicle PO #1857	56078	\$35.70
McLoughlin & Eardley Group Inc	262981	001 008 521 20 48 00	LE-Repair & Maintenance Equip	PD Vehicle LED Duo Lamps PO #1857	56078	\$1,279.46
					56078 Total	\$1,315.16
Nationwide Retirement Solution	62522	001 000 282 00 00 00	Payroll Liability Retirement	Employee Portion-Nationwide	0	\$5,604.32
					0 Total	\$5,604.32
Office of the State Treasurer	06-2022 STATE	633 000 589 30 00 03	State Building Permit Remit	Building Code Fees 06-2022	56079	\$491.00
Office of the State Treasurer	06-2022 STATE	633 000 586 00 00 01	State Court Remit	State Court Fees 06-2022	56079	\$8,706.63
					56079 Total	\$9,197.63
Ogden Murphy Wallace PLLC	863568	001 011 515 41 41 00	Ext Consultation - City Atty	Legal Services 05-2022	56080	\$22,028.50
Ogden Murphy Wallace PLLC	863568	001 011 515 41 41 00	Ext Consultation - City Atty	Legal Services 05-2022 Powerline Quail Court	56080	\$2,902.11
Ogden Murphy Wallace PLLC	863568	001 011 515 41 41 00	Ext Consultation - City Atty	Legal Services 05-2022 Powerline Trail Willowood	56080	\$3,035.17
Ogden Murphy Wallace PLLC	863568	001 011 515 41 41 01	Ext Consult - PRA	Legal Services 05-2022 PRR	56080	\$1,449.00
Ogden Murphy Wallace PLLC	863568	001 011 515 41 41 04	Ext Attorney - Sewer	Legal Services 05-2022 Sewer	56080	\$10,251.28
					56080 Total	\$39,666.06
Outcomes by Levy LLC	2022-06-LS	001 013 511 70 40 00	Lobbying Services	Legislative/Regulatory Consulting 06-2022	56081	\$5,395.79
					56081 Total	\$5,395.79
Pace Engineers Inc	83804	302 010 594 76 61 14	PM - Cedarwood Park	Feasability Study - Cedarwood	56082	\$776.00
					56082 Total	\$776.00
Powers	85	112 012 594 73 63 00	Art - Public Art Acquisition	Water Tower Sculpture - Partial Payment	56083	\$5,470.00
					56083 Total	\$5,470.00
Public Safety Testing Inc	PSTI22-186	001 008 521 20 41 00	LE-Professional Services	Background Investigation - Record Specialist	56084	\$1,691.70
					56084 Total	\$1,691.70
Puget Sound Clean Air Agency	Q3 2022 PSCAA	001 013 553 70 41 00	GG - Air Pollution	Q3 2022 Clean Air Assesment	56085	\$5,895.25
					56085 Total	\$5,895.25
Puget Sound Energy	22339471 0622	001 012 575 50 47 00	CS- The Mill- Utilities	Natural Gas - The Mill	56086	\$331.85
Puget Sound Energy	24316495 0622	001 010 576 80 47 00	PK-Utilities	Natural Gas - PW Shop	56086	\$117.52
Puget Sound Energy	24316495 0622	101 016 543 50 47 00	ST-Utilities	Natural Gas - PW Shop	56086	\$117.53
Puget Sound Energy	24316495 0622	410 016 531 10 47 00	SW - Utilities	Natural Gas - PW Shop	56086	\$117.53
Puget Sound Energy	24770236 0622	001 008 521 50 47 00	LE-Facility Utilities	Natural Gas - Police Dept Evidence Bldg	56086	\$116.79
Puget Sound Energy	3723810 0622	001 012 575 30 47 00	CS- Museum - Utilities	Natural Gas - Museum	56086	\$96.91
					56086 Total	\$898.13
Purchase Power	06-2022 POSTAGE	001 007 558 50 42 00	PL-Communication	Postage	56087	\$3.14
Purchase Power	06-2022 POSTAGE	001 013 518 20 42 00	GG-Communication	Postage	56087	\$190.58
Purchase Power	06-2022 POSTAGE	101 016 543 30 42 00	ST-Communications	Postage	56087	\$3.14
Purchase Power	06-2022 POSTAGE	410 016 531 10 42 00	SW - Communications	Postage	56087	\$3.14
					56087 Total	\$200.00
Redefined Corp	382207	001 006 518 80 41 00	IT-Professional Services	Contract IT Services 05-2022	56088	\$6,160.00
					56088 Total	\$6,160.00

Vendor Name	Invoice #	Account #	Account Name	Description	Check #	Amount
Right On Heating and Sheet Metal Inc	29192	001 013 518 20 48 00	GG-Repair & Maintenance	Annual HVAC Maint - PD/CH/PW/Mill/Senior Center/ Library	56089	\$1,242.65
					56089 Total	\$1,242.65
Roth	062022 ROTH	001 010 576 80 31 00	PK-Operating Costs	Reimburse - Shipping Charges/Suncreeen for PW Crew	56090	\$12.68
Roth	062022 ROTH	101 016 544 90 31 02	ST-Operating Cost	Reimburse - Shipping Charges/Suncreeen for PW Crew	56090	\$12.69
Roth	062022 ROTH	410 016 531 10 31 02	SW - Operating Costs	Reimburse - Shipping Charges/Suncreeen for PW Crew	56090	\$12.69
					56090 Total	\$38.06
SAFEbuilt Washington LLC	0086767-IN	001 007 558 50 41 04	Permit Related Professional Sr	Inspection Services 05-2022	56091	\$3,196.96
					56091 Total	\$3,196.96
Sandquist	070622SANDQUIST	001 005 518 10 41 01	HR - Advertising/Marketing	Reimbursement for Park/Rec Director Interview - Travel Expenses	56092	\$1,958.35
					56092 Total	\$1,958.35
SHI International Corp	B15314014	001 007 558 50 31 02	PL-Permit Related Op. Costs	BlueBeam Software	56093	\$14,046.19
					56093 Total	\$14,046.19
Snohomish Co-Op Inc	309354	001 010 576 80 32 00	PK-Fuel Costs	Fuel	56094	\$39.45
					56094 Total	\$39.45
Snohomish County Dept of Info Technology	I000594344	510 006 518 80 49 12	LR - Datacenter Rack Spc SnoCo	Enterprise Infrastructure/GIS Services	56095	\$5,197.50
					56095 Total	\$5,197.50
Snohomish County PUD	119006270	001 010 576 80 47 00	PK-Utilities	222509887 Davies Beach Electric/Water	56096	\$125.04
Snohomish County PUD	122314101	101 016 542 63 47 00	ST-Lighting - Utilities	200178218 Traffic Signal/Street Lights	56096	\$88.48
Snohomish County PUD	128911669	001 010 576 80 47 00	PK-Utilities	221908015 City Shop Mechanic	56096	\$55.32
Snohomish County PUD	128911669	101 016 543 50 47 00	ST-Utilities	221908015 City Shop Mechanic	56096	\$55.31
Snohomish County PUD	128911669	410 016 531 10 47 00	SW - Utilities	221908015 City Shop Mechanic	56096	\$55.31
Snohomish County PUD	138727793	001 013 518 20 47 00	GG-Utilities	223034448 Old WWTP Area Lighting	56096	\$8.40
Snohomish County PUD	138727793	001 013 518 20 47 00	GG-Utilities	223034448 Old WWTP Electric	56096	\$430.07
Snohomish County PUD	145383847	001 010 576 80 47 00	PK-Utilities	203599006 City Shop Electric/Water	56096	\$252.68
Snohomish County PUD	145383847	101 016 543 50 47 00	ST-Utilities	203599006 City Shop Electric/Water	56096	\$252.67
Snohomish County PUD	145383847	410 016 531 10 47 00	SW - Utilities	203599006 City Shop Electric/Water	56096	\$252.67
Snohomish County PUD	158406910	101 016 542 63 47 00	ST-Lighting - Utilities	203728159 Traffic Signal	56096	\$58.98
					56096 Total	\$1,634.93
Snohomish County Sheriffs Office	2022-7361	001 008 523 60 41 00	LE-Jail	Jail Services 05-2022	56097	\$37,274.75
Snohomish County Sheriffs Office	2022-7379	001 008 523 60 41 00	LE-Jail	Jail Services Medical 05-2022	56097	\$3,830.26
					56097 Total	\$41,105.01
Snohomish County Treasurer	0622 TREASURER	633 000 586 00 00 02	Crime Victims Comp - SnoCo	Crime Victims Compensation 06-2022	56098	\$152.98
					56098 Total	\$152.98
Snohomish Regional Fire & Rescue	Q2 2022 FIRE	633 000 589 30 00 02	Fire District Fee Remit	Q2 2022 Fire Fees	56099	\$7,130.00
					56099 Total	\$7,130.00
Sound Publishing Inc	EDH956141	001 013 518 30 41 01	GG-Advertising	CC Special Meeting 06/04/22	56100	\$39.68
Sound Publishing Inc	EDH957088	001 007 558 50 31 02	PL-Permit Related Op. Costs	LUA2022-0072 Edwards Boatlift SEPA DNS	56100	\$106.76
Sound Publishing Inc	EDH957093	001 007 558 50 31 02	PL-Permit Related Op. Costs	LUA2022-0069/0070 Lakeview Flats	56100	\$106.76
Sound Publishing Inc	EDH957246	001 007 558 50 31 02	PL-Permit Related Op. Costs	LUA2022-0090 29th St NE ROW Vacation	56100	\$96.44
Sound Publishing Inc	EDH957519	001 007 558 50 31 02	PL-Permit Related Op. Costs	Sewer District Gravity Main	56100	\$89.56
					56100 Total	\$439.20
Sound Safety Products Co Inc	476794/1	001 010 576 80 26 00	PK-Clothing - Boot Allowance	Boots - Wright T	56101	\$108.34
Sound Safety Products Co Inc	476794/1	101 016 542 30 26 00	ST-Clothing - Boot Allowance	Boots - Wright T	56101	\$108.33
Sound Safety Products Co Inc	476794/1	410 016 531 10 26 00	SW - Clothing - Boot Allowance	Boots - Wright T	56101	\$108.33
					56101 Total	\$325.00

Vendor Name	Invoice #	Account #	Account Name	Description	Check #	Amount
Springbrook Nursery & Trucking Inc	328604	410 016 531 10 41 03	SW - Street Cleaning	Dump Fees - Brush/Stumps	56102	\$72.00
					56102 Total	\$72.00
Statistical Research Inc	2022-292	302 010 594 76 61 04	PM - Eagle Ridge	Eagle Ridge Park Archaeological Survey	56103	\$7,302.64
					56103 Total	\$7,302.64
Stericycle Inc	3006040503	001 008 521 20 41 01	LE-Professional Serv-Fixed	Hazardous Water Disposal PD	56104	\$10.36
					56104 Total	\$10.36
Summit Law Group PLLC	137205	001 011 515 41 41 03	Ext Consult - Labor Relations	General Labor Matters 05-2022	56105	\$315.00
					56105 Total	\$315.00
Thompson Guilder & Associates Inc PS	1042	001 011 515 45 41 00	Ext Litigation - City Atty	Legal Services 05-2022	56106	\$1,862.25
					56106 Total	\$1,862.25
Trailers Plus	TRPL26-51790	001 010 576 80 31 00	PK-Operating Costs	Utility Trailer	56036	\$2,232.74
Trailers Plus	TRPL26-51790	101 016 544 90 31 02	ST-Operating Cost	Utility Trailer	56036	\$2,232.75
Trailers Plus	TRPL26-51790	410 016 531 10 31 02	SW - Operating Costs	Utility Trailer	56036	\$2,232.75
					56036 Total	\$6,698.24
Transpo Group USA Inc	28288	101 016 542 30 41 02	ST-Professional Service	On-Call Engineering Services Task #05	56107	\$5,560.00
Transpo Group USA Inc	28289	101 016 542 30 41 02	ST-Professional Service	On-Call Engineering Services Task #06	56107	\$5,482.50
					56107 Total	\$11,042.50
UPS	0000074Y42252	001 008 521 20 42 00	LE-Communication	Evidence Shipping	56108	\$30.30
UPS	0000074Y42262	001 008 521 20 42 00	LE-Communication	Evidence Shipping	56108	\$9.42
					56108 Total	\$39.72
Vantagepoint Transfer Agents - 108991	769286	001 000 282 00 00 00	Payroll Liability Retirement	ICMA Deferred Comp - Employer Contribution	56040	\$435.73
					56040 Total	\$435.73
Vantagepoint Transfer Agents - 307428	769295	001 000 282 00 00 00	Payroll Liability Retirement	ICMA Deferred Comp - Employee Contribution	56041	\$1,664.69
					56041 Total	\$1,664.69
Washington State Support Registry	62522	001 000 284 00 00 00	Payroll Liability Other	Employee Paid Child Support	0	\$710.36
					0 Total	\$710.36
Wave Broadband	103946401-0009582	510 006 518 80 49 04	LR - WaveBroadband Fiber Lease	Fiber Leases	56109	\$633.27
Wave Broadband	103946401-0009582	001 002 513 11 42 00	AD-Communications	Telephone Service	56109	\$70.22
Wave Broadband	103946401-0009582	001 003 514 20 42 00	CC-Communications	Telephone Service	56109	\$140.44
Wave Broadband	103946401-0009582	001 004 514 23 42 00	FI-Communications	Telephone Service	56109	\$140.44
Wave Broadband	103946401-0009582	001 005 518 10 42 00	HR-Communications	Telephone Service	56109	\$70.23
Wave Broadband	103946401-0009582	001 006 518 80 42 00	IT-Communications	Telephone Service	56109	\$210.66
Wave Broadband	103946401-0009582	001 007 558 50 42 00	PL-Communication	Telephone Service	56109	\$456.67
Wave Broadband	103946401-0009582	001 007 559 30 42 00	PB-Communication	Telephone Service	56109	\$70.22
Wave Broadband	103946401-0009582	001 008 521 20 42 00	LE-Communication	Telephone Service	56109	\$2,388.46
Wave Broadband	103946401-0009582	001 012 575 30 42 00	CS- Museum - Communications	Telephone Service	56109	\$70.22
Wave Broadband	103946401-0009582	001 012 575 50 42 00	CS- The Mill- Communication	Telephone Service	56109	\$70.22
Wave Broadband	103946401-0009582	001 013 518 20 42 00	GG-Communication	Telephone Service	56109	\$280.89
Wave Broadband	103946401-0009582	101 016 543 30 42 00	ST-Communications	Telephone Service	56109	\$404.13
Wave Broadband	103946401-0009582	410 016 531 10 42 00	SW - Communications	Telephone Service	56109	\$404.13
					56109 Total	\$5,410.20
Zachor Stock & Krepps Inc PS	22-LKS-0006	001 011 515 41 41 02	Ext Consult - Prosecutor Svs	Prosecution Services 06-2022	56110	\$13,818.48
					56110 Total	\$13,818.48

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: Cancel Council Meetings for Summer Break

Contact Person/Department: Kelly Chelin, Administration

Budget Impact: n/a

Legal Review: No

RECOMMENDATION(S)/ACTION REQUESTED:

Cancel the following Council meetings for Summer Recess:

July 19, 2022

July 26, 2022

August 2, 2022

August 9, 2022

August 16, 2022

SUMMARY/BACKGROUND:

Each year the Council takes a Summer Recess.

APPLICABLE CITY POLICIES:

n/a

ATTACHMENTS:

None

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: Contract with Data Transfer Solutions for deployment of VUEWorks

Contact Person/Department: Troy Stevens, Information Technology

Budget Impact: \$100,000 (3-year)

Legal Review: Yes

RECOMMENDATION(S)/ACTION REQUESTED:

Authorize the Mayor to execute the proposed contract with Data Transfer Solutions substantially in the form included with the agenda materials

SUMMARY/BACKGROUND:

****Update****

The city attorney was able to adjust the legal requirements of this PSA in favor of the City and DTS has agreed to the adjustments.

The software committee concluded its investigation into the city's current software solutions to see where we could consolidate and/or improve operational efficiencies across departments. One primary driver behind this is the APWA accreditation for the Public Works department. This led to an RFP for a new Permitting/Land Use and Public Works GIS Asset Management solution. The summary conclusion from this committee is based on the TCO and ROI as well as the time commitment for employees to learn new solutions was to reengage our existing solutions and work with current vendors to build these systems for our specific business needs. This is a 3-year professional service contract not to exceed the amount of \$100,000 and will be executed by submitting supplemental work agreements with well-defined sets of objectives and outcomes targeted to each of the various aspects of designing and implementing a fully functional solution that aligns with each department's needs for this solution. The funding for this has been discussed and agreed upon to come from the ARPA funding.

The included document "Attachment A - VUEWORKS SOW" includes the first agreements under this contract which include the upgrade from our current licensing to the full Enterprise Suite of this solution, and the current subscription renewal and maintenance for the existing solution in the amount of \$34,000.

The remaining \$66K will be available as needed for professional services and training needed to accomplish our desired outcomes.

APPLICABLE CITY POLICIES:

ATTACHMENTS:

1. Attachment A - VUEWORKS SOW
2. Data Transfer Solutions



SOFTWARE LICENSE AND SERVICES AGREEMENT

This Software License and Services Agreement (“Agreement”) is entered into as of the Effective Date specified below by and between Data Transfer Solutions, LLC, a Florida limited liability company having its principal place of business at 3680 Avalon Park East Boulevard, Suite 200, Orlando, Florida 32828 (“DTS”) and the client specified below (“Client”), whose address is specified below. For good and valuable consideration, DTS and Client agree as follows:

This Agreement consists of the following:

- This cover/signature page (the “Signature Page”);
- The Order Form(s) attached as Exhibit A hereto and signed by the parties (the “Order Form(s)”);
- The Statement(s) of Work attached as Exhibit B hereto and signed by the parties (“Statement(s) of Work”);
- The terms and conditions attached as Exhibit C hereto (the “Terms and Conditions”); and
- The support services terms attached as Exhibit D hereto (the “Support Services Terms”).

Each of the above-referenced exhibits are incorporated herein by reference. In the event of a conflict or inconsistency between or among the terms included in the attached Terms and Conditions, this Signature Page, an Order Form, a Statement of Work or the Support Services Terms, the order of precedence shall be: (i) Statement of Work; (ii) Order Form; (iii) Signature Page; (iv) the Terms and Conditions; and (v) the Support Services Terms.

Effective Date: _____	
Client: <u>City of Lake Stevens, WA</u> Address: 1812 Main Street PO Box 257 Lake Stevens, WA 98258	Contact Person: <u>Troy Stevens</u> Telephone Number: <u>(425) 622-9416</u> Fax Number: _____ E-mail: <u>tstevens@lakestevenswa.gov</u>

Should Client have any questions concerning this Agreement, or if Client desires to contact DTS for any reason, please contact DTS at info@dtsgis.com.

The parties, by and through their undersigned duly authorized officers, have signed below to indicate their acceptance of and agreement with the terms of this Agreement:

DTS:

Client:

DATA TRANSFER SOLUTIONS, LLC

CITY OF LAKE STEVENS, WA

By: _____
Name: Donna Huey
Title: President

By: _____
Name: _____
Title: _____

EXHIBIT A **ORDER FORM**

This Order Form (“Order Form”) is entered into by and between Data Transfer Solutions, LLC (“DTS”) and _____ (“Client”) subject to the Software License and Services Agreement entered into by and between DTS and Client (the “Agreement”) and shall have an effective date as the Signature Page hereto of this Agreement (“Order Form Effective Date”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

I. TERM: The initial term for this Order Form (the “Initial Term”) begins on the Order Form Effective Date and shall remain in effect for an initial period of five (5) years thereafter, subject to termination in accordance with the Terms and Conditions, and shall be automatically extended for successive one (1) year periods (each, a “Renewal Term”) unless either Client or DTS gives the other written notice of termination at least sixty (60) days prior to the end of the Initial Term or any Renewal Term or until terminated in accordance with the provisions of the Terms and Conditions.

II. SOFTWARE; SERVICES; FEES: Client hereby orders and purchases from DTS the following software and/or services (collectively, the “Services”) and agrees to pay the applicable fees specified below:

<u>Software/Service Description</u>	<u>Fee Description</u>	<u>Fee Amount (\$US)</u>
☒ VUEWorks® Software Perpetual License	One-Time License Fee 25 Concurrent User Licenses and 2_VUEWorks application environments	<u>\$24,000.00</u> (\$50,000 - \$26,000 existing license credit)
☐ Technical Support and Maintenance	Recurring Annual Support and Maintenance Fee	<u>\$10,000.00</u>
☐ Software Hosting * or	Recurring Annual Hosting Fee Maximum data storage	<u>\$N/A</u>
☐ VUEWorks® Software as a Service (SaaS)	Recurring Annual SaaS fee includes license, technical support and maintenance, and hosting ____ Concurrent Users Maximum data storage	<u>\$N/A</u>
Implementation Services:*	[Fixed Fee/Hourly fee, \$ ____/hr]	\$N/A
Integration Services*	[Fixed Fee/Hourly fee, \$ ____/hr]	\$N/A
Training Services*	[Fixed Fee/Hourly fee, \$ ____/hr]	\$N/A
Other Professional Services*	[Fixed Fee/Hourly fee, \$ ____/hr]	\$N/A
	Total Fees Due :	\$34,000.00

*** To be furnished pursuant to the Statement of Work attached hereto, which is incorporated herein by reference.** The Software; Services; Fees in Table II. Exclude any administration or assessment fee levied by the client unless expressly stated therein. All amounts in this Agreement are stated exclusive of Value Added Taxes, Sales Taxes, and indirect or turnover taxes. Any such taxes required to be charged will be separately stated on the invoice in addition to the total fees.

Payment Terms: The Implementation Fees are due in accordance with the Statement of Work attached hereto, which is incorporated herein by reference. The [License Fees/first installment of the SaaS License Fees, first installment of the Support and Maintenance Fee and first installment of the hosting fee if applicable are payable upon execution and delivery of the Agreement. Subsequent [monthly/annual] recurring fees (Support and Maintenance Fee, and/or Hosting Fee as applicable) are due on or before the first day of the applicable year. [DTS will invoice Client in advance of the applicable year.]

III. AUTHORIZED USERS:

Authorized Users: Users of the following Client entities:
City of Lake Stevens employees and City authorized contractors for work related to the City of Lake Stevens.

IV. ADDITIONAL TERMS:

The parties, by and through their duly authorized officers, have signed to indicate their acceptance of the terms of this Order Form on the Signature Page hereto.

EXHIBIT B

STATEMENT OF WORK

This Statement of Work ("Statement of Work") by and between Data Transfer Solutions, LLC ("DTS") and _____ ("Client") pursuant to that certain Software License and Services Agreement entered into by and between DTS and Client (the "Agreement") and shall have an effective date as of the Signature Page hereto of this Agreement. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

1. **Scope of Implementation, Training and Other Professional Services.** The Services to be provided under this Statement of Work consist of implementation, training and other professional services described below for implementation and use of the VUEWorks Software by Client and its authorized users as specified in the Order Form:

A. **Implementation Services:** Implementation and configuration of the VUEWorks Software including the following:

N/A

B. **Training Services:** Provision of training materials and training support to Client for use of the VUEWorks Software, not to exceed ___ hours.

N/A

C. **Other Professional Services:** Delivery of upgraded VUEWorks Software License

D. Hosting Services N/A

2. **Assumptions.**

- Client will be solely responsible for the provision, accuracy and completeness of all Client Data or other Client content and shall have obtained and shall maintain all necessary rights to use same and provide same to DTS as necessary for the provision and use of the VUEWorks Software.

- Any Client-end proprietary software and hardware and any third party licenses or other authorizations required for DTS to access, communicate with, or otherwise use Client-end software or hardware as reasonably necessary for DTS to provide the VUEWorks Software and for Client to access and use the VUEWorks Software will be obtained and/or otherwise provided by Client. Client will have installed and made operational any Client-end hardware and software necessary for communication with the VUEWorks Software prior to DTS beginning implementation.

Client is responsible to meet the technical requirements as defined for VUEWorks.

- Client will provide in a timely manner all necessary access to Client systems and facilities and such reasonable cooperation to DTS in order for DTS to perform the Services.

- DTS will perform the Implementation Services and Training Services remotely from its own offices during its regular business hours.

- Client will provide a primary contact person to assist in the creation of the implementation plan and to otherwise consult with during the course of the performance of the Statement of Work. This person will be available as needed through the kick-off and the implementation and test phases. If needed, an additional Client contact will be designated who will be authorized to sign for Client at the completion of the phases of the implementation.

- Client will provide the resources necessary to identify, evaluate and resolve Client-end system, hardware, software or communications problems, which may involve, without limitation, communications facilities, services, cabling and capacities or Client-end system software/hardware configuration. If a third party vendor of any such Client-end hardware or software is required to perform certain test or configuration functions on such hardware or software, Client will arrange and pay for such assistance by the vendor(s). Any delays caused by Client or its other

vendors will be addressed by lengthening the implementation schedule by the period of such delays and/or as otherwise agreed to by the parties.

If any of the above-described assumptions are inaccurate, or there is a delay in accomplishing the assumptions or circumstances change, the schedule, duration, scope and other terms of this Statement of Work shall be subject to change. The parties will enter into an amendment to this Statement of Work setting forth the changed terms and any additional applicable fees or other charges.

3. Implementation Schedule.

{INSERTION}

<u>Implementation Item</u>	<u>Scheduled Date</u>
Delivery of Upgraded VUEWorks Software License	Upon Contract Exec.

The parties, by and through their duly authorized officers, have signed to indicate their acceptance of the terms of this Statement of Work on the Signature Page hereto.

EXHIBIT C

TERMS AND CONDITIONS

1. Services. Subject to Client's payment of the applicable fees and charges and performance of its obligations under the Agreement, DTS agrees to provide the VUEWorks Software, Implementation Services, Training Services and Professional Services (each as defined below) (the VUEWorks Software, Implementation Services, Training Services and Professional Services are sometimes hereinafter collectively referred to as the "**Services**").

1.1 VUEWorks Software; Installed Software; Hosted Software. Subject to payment of the applicable fees specified in the Order Form (the "**License Fees**") and Client's compliance the terms and conditions of this Agreement, DTS shall provide to Client, for use by the Client's authorized users as specified in the applicable Order Form solely for Client's internal use, access to and use of the software and/or software services described in the applicable Order Form (the "**VUEWorks Software**") while the Agreement is in effect. Client acknowledges and agrees that Client's authorized users shall be limited to Client's active users and their use of the VUEWorks Software shall be limited to use during the period in which they are employed by Client, unless otherwise approved by DTS in writing. The applicable Order Form will indicate whether the VUEWorks Software or components thereof will be provided for installation on Client systems or devices and/or will be provided as an online software service hosted by DTS or its designated hosting service provider(s) ("**Hosted Software**"). The VUEWorks Software is licensed to Client on a limited, nonexclusive, non-transferable, non-sublicenseable and revocable basis, and no portion of the VUEWorks Software is sold to Client. All rights not expressly granted to Client hereunder are reserved by DTS. If Client will be given access to use the VUEWorks Software as Hosted Software, DTS shall undertake commercially reasonable efforts to make such Hosted Software available in accordance with the availability standards provided in Exhibit D to the Agreement.

1.2 Implementation Services. DTS shall provide the implementation services (“**Implementation Services**”) as specified in the applicable Order Form in accordance with the statement(s) of work (each a “**Statement of Work**”) accompanying the applicable Order Form. **1.3.**

Training Services. DTS shall provide the training services (“**Training Services**”) relating to access and use of the VUEWorks Software specified in the applicable Order Form and Statement of Work. Training Services shall be provided remotely via video conference or remote access to Client’s and/or its authorized users’ computers during DTS’s regular business hours unless otherwise specified in the applicable Order Form.

1.4 Support Services; Other Professional Services. DTS will provide basic support services to Client in accordance with DTS’s standard support procedures to address reported incidents of the VUEWorks Software not being accessible or not performing properly when used by Client’s authorized users in accordance with the Agreement and all applicable documentation. Support services that are made necessary due to improper use, tampering or lack of proper configurations, settings, or other issues attributable to Client-end hardware, software or connectivity or otherwise not relating to issues with the DTS systems or the VUEWorks Software shall be chargeable by DTS and shall be paid for by Client at DTS’s then current service rates unless otherwise agreed to by DTS. Unless otherwise agreed to by the parties in an Order Form or Statement of Work, DTS shall have no obligation or responsibility with respect to maintenance, repair or support of any software or hardware not supplied by DTS. Except as expressly provided otherwise in the applicable Order Form, it shall be Client’s and its authorized users’ sole responsibility to maintain their own system security and protect their data, including virus protection, data backup and reasonable security procedures. DTS will also provide to Client other professional services (“**Professional Services**”) as Client may request from time to time, subject to the parties agreeing on the terms for such Professional Services, which shall be set forth in the applicable Order Form and Statement of Work. All Professional Services will be billed on a time and materials basis unless otherwise agreed to by the parties. The Statement of Work shall describe the project assumptions, specifications, scope, work plan, responsibilities, duration and fees for such Professional Services. DTS may subcontract all or a portion of the Professional Services to a qualified third party. In recognition that DTS’s personnel may perform similar services for third parties, nothing in the Agreement or a Statement of Work shall be

deemed to prevent DTS from providing services or developing materials that may be perceived as competitive with those developed or provided hereunder.

1.5 Data Maintenance. If Client is purchasing rights to access the VUEWorks Software as Hosted Software, Client shall deliver to DTS Client Data, in a format specified by DTS. The total amount of Client Data is limited to the Client Data Amount set forth in this agreement. Client may request that DTS provide services to update Client Data. DTS shall invoice Client for such requested services at its then current data maintenance rates (the “**Data Maintenance**”). “**Client Data**” means Client’s VUEWorks Software database files and all other electronic content and data stored on DTS’s computers for use by Client with the VUEWorks Software. The amount of Client Data to be stored shall be measured in bytes and be limited to the amount of disk space provided in this agreement. Procedures by which Client may store and access Client Data via DTS’s servers shall be limited to the use of the Hosted Software. Client acknowledges that DTS shall have no obligation to return to Client any Client Data if Client has not paid all amounts due hereunder or does not comply with the notice procedure with respect to the return of Client Data set forth hereunder.

1.6 Exclusions from the Service. The Services do not include, and DTS shall not be responsible for, the following in the provision of the VUEWorks Software, other than the Implementation Services described in the Order Form(s) and Statement(s) of Work to the Agreement: (a) the provision of Client or User-end hardware or non-DTS software required for access to and use of the VUEWorks Software via the Internet, or any Professional Services required to manage such hardware and non-DTS software; (b) services to modify or extend the scope of the VUEWorks Software; (c) assistance to resolve VUEWorks Software problems or errors that are not within the scope of the support services as described in DTS’s standard support terms; (d) modification to the VUEWorks Software configuration, including without limitation, the following: (i) modification to the connectivity configuration for on-premise and cloud-based applications, including without limitation, changing the IP address or application credentials; (ii) modification to Client’s existing policies and roles for who has access to each resource, password rules or approvers; (iii) account reconciliation for new groups of users who are being added to the VUEWorks Software; (iv) adding a new connected system or application to the VUEWorks Software; and (v)

modifying the configuration of the user interface, including the appearance, text, branding or other features.

1.7 Additional VUEWorks Software, Professional Services and/or Authorized Users. Client may purchase additional VUEWorks Software or Professional Services and/or add authorized users for use of the VUEWorks Software under the terms of the Agreement at then current pricing or such other pricing as may be mutually agreed to by DTS and Client by contacting DTS and completing an Order Form or amendment to Order Form and paying the applicable fees and charges.

2. Fees and Billing.

2.1 Fees. Client shall pay all fees specified in the Order Form in accordance with the payment terms set forth herein unless other payment terms are specified in the applicable Order Form. All fees are non-refundable unless expressly agreed otherwise.

2.2 Billing and Payment Terms. Unless otherwise specified in the applicable Order Form, all upfront fees are due on the Effective Date, License Fees are invoiced, payable and due in advance of the applicable month or year, as applicable, and other fees shall be invoiced in arrears at the beginning of every calendar month and shall be due within thirty (30) days after the invoice date. All payments must be made in U.S. Dollars. Late payments hereunder will accrue interest at a rate of 1½% per month, or the highest rate allowed by applicable law, whichever is lower. In the event of non-payment (subject to the cure period in section 8.2(b)), DTS may suspend or terminate access to and/or use or provision of the Services upon notice to Client. DTS reserves the right to make changes to fees, prices and other billing and payment terms upon at least sixty (60) days' written notice.

2.3 Taxes. If any federal, state, local or foreign sales, use, property, value-added, excise or gross receipts taxes or any other taxes or other governmental charges of any kind (other than DTS's income taxes) are imposed or are otherwise payable with respect to any access to or use of the VUEWorks Software or any license, software, hardware or other goods or Implementation, Training, support, or other Professional Services provided under the Agreement, then such taxes and other charges shall be billed to and paid by Client. If Client is exempt from payment of any taxes, Client is responsible for providing DTS with a valid tax exemption or direct pay certificate for

same; otherwise Client remains responsible for all such taxes and other governmental charges.

3. Client's Obligations.

3.1 Client shall: (a) be solely responsible for all of Client's users' compliance with the Agreement and shall comply and cause its users to comply with all applicable laws in their conduct of their business and their use of the VUEWorks Software; (b) be solely responsible for the accuracy, integrity, and legality of Client Data and of the means by which it acquires and enters Client Data; (c) use the VUEWorks Software only in accordance with all documentation provided with the VUEWorks Software and all applicable laws and regulations; and (d) notify DTS immediately of any unauthorized use of any password, account, copying or access to the VUEWorks Software. Any failure of Client's users to comply with the terms of the Agreement shall constitute a material breach of the Agreement by Client. Client will maintain industry standard organizational and technical security safeguards for data accessed, stored, collected, provided or processed by Client's users through the VUEWorks Software.

3.2 Prohibited Conduct. Client shall not, and shall not permit its authorized users to, directly or indirectly: (a) send or store spam, unlawful, infringing, obscene, or libelous material, or Malicious Code through the VUEWorks Software; (b) sublicense, resell, rent, lease, distribute, market, provide service bureau services or other software services to third parties using or based upon the VUEWorks Software, or commercialize or otherwise transfer or provide rights with respect to, or access to or usage of the VUEWorks Software; (c) remove or alter any copyright, trademark or proprietary notice in the VUEWorks Software; (d) reverse engineer, decompile, disassemble or modify the VUEWorks Software or any component thereof or attempt to derive or otherwise obtain the source code for the VUEWorks Software; (e) copy any ideas, features, functions or graphics of the VUEWorks Software or create a product or service using the same or similar ideas, features, functions or graphics as those in the VUEWorks Software, or otherwise use the VUEWorks Software or any DTS Confidential Information for purposes of creating a substitute or otherwise competing product or service; (f) conduct automated functionality tests or load tests on the VUEWorks Software; (g) create Internet links to the VUEWorks Software; or (h) "frame," "fork" or "mirror" any part of the VUEWorks Software on any other device. DTS may terminate this Agreement immediately if Client or its authorized users violate

this Section 3.2. “**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs. DTS may suspend Client’s access to the VUEWorks Software (in whole or in part) for any of the following reasons: (i) to prevent damages to, or degradation of, the VUEWorks Software or DTS systems; (ii) to comply with any law, court order, or other governmental request; (iii) to otherwise protect DTS from potential legal liability; (iv) if Client violates the terms of this Agreement and fails to remedy such breach within the time frame set forth herein; or (v) in the event an invoice remains unpaid for more than thirty (30) days after the date on which payment is due under such invoice. DTS shall use reasonable efforts to provide Client with notice before or promptly following any suspension of access to the VUEWorks Software. DTS shall restore access to the VUEWorks Software as soon as the event giving rise to suspension has been resolved to DTS’s satisfaction. Nothing in this Agreement shall be construed as imposing any obligation or duty on DTS to monitor Client’s use of the VUEWorks Software or the data or other content uploaded by Client or its authorized users.

4. Confidential Information.

4.1 Confidential Information. Each party acknowledges that it will have access to certain confidential information of the other party concerning the other party’s business, plans, customers, technology, products and services, and including the terms and conditions of this Agreement (collectively, “**Confidential Information**”). For avoidance of doubt, any non-public information regarding the VUEWorks Software and software services and technology, know-how, trade secrets and proprietary information used and/or embodied therein, and any analytics or work product created by DTS resulting therefrom is and shall be Confidential Information belonging to DTS. Each party shall not use in any way, for its own account or the account of any third party, except as expressly permitted by this Agreement, nor disclose the other party’s Confidential Information to any third party (except as required by law or to that party’s employees, contractors, agents, users, attorneys, accountants and other advisors as reasonably necessary) without the prior written consent of the other party, and shall take reasonable precautions to protect the confidentiality of such Confidential Information, using the same degree of care that it uses to protect its own information of similar importance, but will in any case use no less than a reasonable degree of care to protect Confidential Information. The employees of a party that receive disclosure of the other party’s

Confidential Information shall only receive same in the normal course of the applicable party’s business and only on a need-to-know basis; provided; each such employee must either have agreed in writing to comply with confidentiality obligations no less restrictive than those set forth herein or must be bound by a recognized professional ethical duty of confidentiality that would prohibit disclosure of such Confidential Information. If disclosure is required by law, statute, rule, regulation, or regulatory or administrative body (including any subpoena or other similar form of process), the party to which the request for disclosure is made shall (to the extent permissible by law) provide the other party with prior prompt written notice thereof and, if practicable under the circumstances, allow the other party to seek a restraining order or other appropriate relief. The party required to make such disclosure will cooperate with the efforts of the other party in obtaining such relief. If such relief cannot be obtained, the party required to disclose the Confidential Information shall cooperate with the other party’s efforts to obtain reasonable assurances that confidential treatment will be accorded to the information so disclosed.

4.2 Exceptions. Information will not be deemed Confidential Information if such information: (a) is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (b) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (c) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party; or (d) is independently developed by the receiving party without use of the disclosing party’s Confidential Information.

5. Proprietary Rights

5.1 DTS Intellectual Property. DTS and/or its licensors own the “DTS Intellectual Property” (as defined below) in and to the VUEWorks Software and the Services and the software and technology used and/or embodied therein, and, in each case, any modifications, enhancements or improvements thereto created by or for DTS. This Agreement does not convey or transfer any ownership rights in any DTS Intellectual Property or any software or technology used and/or embodied in the Services. The DTS name, logo, and trade names are trademarks of DTS and no right is granted to use them except as

expressly granted herein. DTS reserves all rights, title, and interest in and to the Services, including, without limitation, all software (including object code and source code), algorithms, databases, inventions, works of authorship, trade secrets and other DTS Intellectual Property. **“DTS Intellectual Property”** means any patents and patent applications, copyrights, trademarks, service marks and any applications or registrations for same, trade names, domain name rights, trade secret rights, and all other intellectual property rights with respect to DTS products, Services, software or other works of authorship and/or other DTS assets. Client acknowledges and agrees that, except for the access and usage authorization provided by DTS to Client with respect to the VUEWorks Software specified in the Order Form, it shall not acquire or otherwise have any right, title or interest in and to any of the VUEWorks Software or any other software or other work of authorship, invention, concept, process, trade secret, proprietary information, trademark, service mark or other intellectual property or work product developed by DTS independently or by DTS with Client’s input (**“DTS Work Product”**). Under no circumstances shall the disclosure of any such DTS Work Product or delivery of any copy of any DTS Work Product by DTS to Client be construed as a transfer of title to that copy or a transfer of any right, title or interest in such DTS Work Product, except for the usage authorization granted to Client as set forth in the Agreement. Client is not authorized to, and shall not undertake, to create any system, service, product, software or other work of authorship, invention, concept, process, trade secret, proprietary information or other intellectual property based upon, copying or otherwise including or using functions, features, style, form or other elements of the VUEWorks Software or other DTS Intellectual Property. To the extent that, notwithstanding the foregoing, Client employees or contractors conceive of, develop or otherwise create, whether separately or jointly with DTS, any such software or other work of authorship, invention, concept, process, trade secret, proprietary information, data, or other intellectual property, or work product based upon, copying or otherwise including or using functions, features, style, form or other elements of the VUEWorks Software or other DTS Intellectual Property (**“Client Work Product”**) then Client shall assign and hereby does assign, and shall cause its employees and contractors to assign, to DTS all rights, title and interests with respect to such Client Work Product, and, to the extent necessary for Client to use the VUEWorks Software as contemplated hereunder, such Client Work Product shall be deemed to form part of the VUEWorks Software or other DTS software provided for use as a service to Client subject to the terms and conditions of

the Agreement. It is recognized and understood that DTS may develop new software or modify its existing software based upon the suggestions and recommendations provided by Client, and that except as otherwise expressly agreed to by DTS in writing signed by a duly authorized officer of DTS, Client shall have no right, claim or interest in such new or modified software developed by DTS.

5.2 Client Data; License of Client Data for Analytical Purposes; Ownership of Analytics Data. Client shall own the intellectual property rights, if any, in and to Client Data, which includes Client employee personal data (as defined below). Client hereby grants to DTS a non-exclusive, worldwide, royalty-free right and license to receive, retrieve, process, administer, transmit and otherwise use any Client Data or content as necessary to provide the VUEWorks Software in accordance with the Agreement or as required by court order, applicable law or other legal requirement. Additionally, Client hereby grants to DTS an irrevocable, perpetual, worldwide, royalty-free, fully paid transferable and sublicensable license and right to use Client Data for analytical purposes. DTS may also use Client employee personal data in accordance with the DTS Privacy Policy which is posted online at [Privacy Policy](#), as may be amended or modified from time to time, and Client’s employees are required to agree to and consent to said Privacy Policy as a condition to their use of the VUEWorks Software. DTS shall own and have the right to gather, retrieve, compile, store, retain, use, sell, license, transfer or otherwise exploit all information that is not personal data for research, quality control, product development and refinement, commercial and other purposes as determined by DTS without a duty to account to or obtain consent from Client or Client’s authorized users or any third party. As used herein, **“personal data”** is any data element or collection of data elements that can be associated with a specific individual, whether by itself or in combination with other information. DTS may use such information as may be reasonably necessary in connection with performing, providing, developing, enhancing, supporting, and maintaining the Services; and (ii) in connection with the creation of any information or data derived from use of the VUEWorks Software (including, without limitation, metrics and analytics related to such use), which does not identify a specific person, including as may be required to develop, deliver and provide ongoing innovation to the VUEWorks Software. DTS shall own all intellectual property rights with respect to any analytics and analytical data, work of authorship or other work product created or otherwise acquired

based on analysis of Client Data by DTS or its contractors.

5.3 Suggestions. Client hereby grants and shall cause its users to grant to DTS an irrevocable, perpetual, worldwide, royalty-free, fully paid transferable and sublicensable license and right to use, copy, modify, make derivative works based upon, distribute or otherwise exploit, including by incorporating into the VUEWorks Software any suggestions, enhancement requests, recommendations or other feedback provided by Client, including Client's authorized users, relating to the VUEWorks Software, and shall exclusively own all intellectual property rights in and to all software, technology, inventions, works of authorship and other developments created by DTS based on same.

6. Representations and Warranties.

6.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that it has all necessary power, right and authority to enter into this Agreement and perform its obligations hereunder, and that its entering into this Agreement does not violate the terms of any agreement between it and any third party.

6.2 Client Representations and Warranties. Client represents, warrants and covenants to DTS that: (a) Client owns all right, title and interest in and to, and/or has full and sufficient authority to use and provide access to DTS to all Client systems, software, materials or data furnished by Client or its authorized users as contemplated for the provision of the Services; (b) Client will procure, and comply with the terms and conditions of, any licensing or other agreements which govern the use of any third party software, data or other materials or intellectual property used in or forming part of the Client systems, software, materials or data; (c) the Client's systems, software, materials and/or data do not and will not infringe the patent, copyright, trademark or other intellectual property rights of any party, or constitute libel, slander, defamation, invasion of privacy, or violation of any right of publicity or any other third party rights; (d) Client has or will obtain all necessary consents, permissions, clearances, authorizations and waivers (including any of the foregoing required from its employees and other authorized users) for the access to and use of the Client's systems, software, materials and data as contemplated hereunder, including all of the foregoing required to transfer and use data from Client and/or its authorized users' or other systems to and from DTS systems in connection with providing the VUEWorks Software and all

consents, permissions and authorizations; and (e) Client is presently in compliance with, has complied and will comply with all laws, rules, regulations and other legal requirements in the conduct of its business and with respect to Client's use of the VUEWorks Software and Client's systems, software, materials or data. Specifically, but without limitation, Client further represents and warrants with respect to all Client Data that (i) it has obtained all rights, consents, and permissions necessary to input the Client Data into the VUEWorks Software and to grant the foregoing rights to DTS, (ii) Client's use, copying, displaying, and distribution of the Client Data complies with all federal, state, and/or local laws, rules, regulations and/or ordinances and the terms and policies (including terms of use and privacy and security policies) of all websites from which the Client Data originated and all websites to which the Client Data is copied, distributed, displayed, or published using the VUEWorks Software, and (iii) the Client Data shall not include any personally identifiable healthcare data or financial data of any individual and/or any other data violative of third party rights and/or any applicable law, and/or any data relating to any person under the age of thirteen (13) years.

6.3 DTS Representations and Warranties. DTS represents and warrants that the VUEWorks Software shall substantially conform to the applicable descriptions and specifications for same set forth in the documentation for same and that Implementation Services and other Professional Services that it provides shall be performed in a professional and workmanlike manner. Client acknowledges and agrees that its sole remedy for breach of the foregoing representations and warranties shall be support services provided by DTS in accordance with DTS's standard support services terms.

6.4 Indemnification; Breach of Warranties. Client shall indemnify and defend DTS, its affiliates and their respective employees, officers, managers, directors, shareholders, agents, contractors and representatives (collectively, the "DTS Indemnitees") and hold the DTS Indemnitees harmless from and against any and judgments, losses, costs (including court costs and reasonable attorneys' fees), damages, settlements, suits, actions, expenses, liabilities, taxes, fines and claims asserted against, sustained, or suffered by or involving the DTS Indemnitees arising out of or resulting from (i) any breach by Client of its representations, warranties or obligations hereunder; and/or (ii) any claims made by Client's employees, any other authorized users or other third parties arising out of Client's or its

employees' or other authorized users' use of or access to the VUEWorks Software or related to any other Services provided by DTS. In the event of any breach (subject to the cure period in section 8.2(b)), or reasonably anticipated breach, of any of Client's warranties herein, in addition to any other remedies available at law or in equity, DTS will have the right to immediately, in DTS's sole discretion, suspend access to, use or provision of the VUEWorks Software and/or any other Services if deemed reasonably necessary by DTS to prevent any liability for DTS. Client shall be solely responsible for the accuracy and completeness of all Client Data provided by Client or its authorized users in connection with the VUEWorks Software or the Services. DTS does not warrant the correctness, completeness, merchantability or fitness for a particular purpose of any such Client Data and Client shall indemnify, defend and hold the DTS Indemnitees harmless from any and all claims arising out of Client Data or its use.

6.5 Warranties and Disclaimers by DTS. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE HEREIN, THE VUEWORKS SOFTWARE, INCLUDING, WITHOUT LIMITATION, THE HOSTED SOFTWARE, TECHNICAL SUPPORT, MAINTENANCE, DATA MAINTENANCE AND ANY OTHER SERVICES ARE PROVIDED "AS IS" AND "AS-AVAILABLE," WITH ALL FAULTS, AND WITHOUT WARRANTIES OF ANY KIND. DTS AND ITS VENDORS AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUALITY OF INFORMATION, AND TITLE/NON-INFRINGEMENT. CLIENT EXPRESSLY AGREES AND ACKNOWLEDGES THAT USE OF VUEWORKS SOFTWARE IS AT CLIENT'S SOLE RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DTS OR ITS AUTHORIZED REPRESENTATIVES CREATES ANY OTHER WARRANTIES OR IN ANY WAY INCREASES THE SCOPE OF DTS'S OBLIGATIONS UNDER THIS AGREEMENT. THE VUEWORKS SOFTWARE MAY BE USED TO ACCESS AND TRANSFER INFORMATION, INCLUDING CONFIDENTIAL INFORMATION, OVER THE INTERNET. CLIENT ACKNOWLEDGES AND AGREES THAT DTS AND ITS VENDORS AND LICENSORS DO NOT OPERATE OR CONTROL THE INTERNET AND THAT (A) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR

SOFTWARE; OR (B) UNAUTHORIZED THIRD PARTIES (e.g., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE CLIENT'S DATA, WEBSITES, COMPUTERS, OR NETWORKS. DTS WILL NOT BE LIABLE FOR ANY SUCH ACTIVITIES NOR WILL SUCH ACTIVITIES CONSTITUTE A BREACH BY DTS OF ITS OBLIGATIONS UNDER THIS AGREEMENT. The VUEWorks Software (including, without limitation, the Hosted Software) may include gateways, links, or other functionality that allows Client to access third party services ("**Third Party Services**") and third party content and materials ("**Third Party Materials**"). DTS does not supply and is not responsible for any Third Party Services or Third Party Materials, which may be subject to their own licenses, end-user agreements, privacy and security policies, and terms of use. ALL THIRD PARTY MATERIALS ARE PROVIDED AS-IS, WITHOUT WARRANTIES OF ANY KIND. DTS MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO ANY PRESENT OR FUTURE METHODOLOGY EMPLOYED IN ITS GATHERING OR REPRODUCING OF ANY THIRD PARTY MATERIAL, OR AS TO THE ACCURACY, CURRENCY, OR COMPREHENSIVENESS OF THE SAME. ALL OF THE FOREGOING EXCLUSIONS AND DISCLAIMERS IN THIS SECTION ARE AN ESSENTIAL PART OF THIS AGREEMENT AND FORMED THE BASIS FOR DETERMINING THE PRICES CHARGED FOR THE VUEWORKS SOFTWARE, INCLUDING, WITHOUT LIMITATION, THE HOSTED SOFTWARE, TECHNICAL SUPPORT, MAINTENANCE, DATA MAINTENANCE AND ANY OTHER SERVICE PROVIDED IN CONNECTION WITH THIS AGREEMENT. The VUEWorks Software may not be compatible with all devices, connection services, or service plans. Not all VUEWorks Software features are available to all clients or users. Availability may depend on a client's or user's location, device type, service plan, and other factors or restrictions.

6.6 Infringement. Should the VUEWorks Software and/or any other DTS software and/or service or use thereof become, or be likely to become in DTS's reasonable opinion, the subject of any claim that the same infringes, violates or constitutes a wrongful use of any intellectual property right, DTS may, at its option: (i) procure for Client the right to continue using the potentially infringing materials; (ii) replace or modify the potentially infringing materials to make them non-infringing, but substantially functionally equivalent; or (iii) terminate this Agreement. THE FOREGOING PROVISIONS OF

THIS SECTION STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF DTS, AND THE EXCLUSIVE REMEDY OF CLIENT, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT BY THE VUEWORKS SOFTWARE AND ANY OTHER DTS SOFTWARE AND/OR SERVICE.

7. Limitations of Liability.

7.1 Exclusions. DTS WILL NOT BE LIABLE TO THE CLIENT, ITS EMPLOYEES OR ANY OTHER AUTHORIZED USERS OR ANY THIRD PARTY FOR ANY LOST REVENUE, LOST PROFITS, REPLACEMENT GOODS, LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, LOSS OF DATA, OR INTERRUPTION OF BUSINESS, EVEN IF DTS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

7.2 Maximum Liability. DTS'S MAXIMUM AGGREGATE LIABILITY RELATED TO OR IN CONNECTION WITH THIS AGREEMENT AND/OR THE SERVICES WILL BE LIMITED TO THE TOTAL AMOUNT PAID BY CLIENT TO DTS HEREUNDER IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE FIRST EVENT GIVING RISE TO THE APPLICABLE LIABILITY.

7.3 Basis of the Bargain; Failure of Essential Purpose. Client acknowledges that DTS has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

8. Term and Termination.

8.1 Term. This Agreement will be effective commencing on the Effective Date, and continue until the expiration of the last terminated or expiring Order Form unless terminated sooner.

8.2 Termination.

(a) **[For Convenience.** DTS may terminate this Agreement upon no less than [two/six] month's written notice for any reason or no reason.] DTS shall have the right to terminate this Agreement upon providing written notice to Client if Client and/or any of its affiliates is or becomes a competitor of DTS.

(b) **For Cause.** Either party will have the right to terminate this Agreement, or the applicable Order Form, if the other party breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice of the same, except in the case of Client's failure to pay fees, which must be cured within fifteen (15) days after receipt of written notice from DTS. Either party may also terminate this Agreement upon providing written notice thereof to the other party if: (i) the other party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (ii) the other party becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

8.3 Effect of Termination. Upon the effective date of expiration or termination of this Agreement: (a) DTS may immediately cease providing access to and use of the Hosted Software and any other Services; however, upon Client's written request provided to DTS within thirty (30) days after the effective date of termination, DTS shall use reasonable efforts to assist Client in transferring Client Data to Client or another service provider (such services to be subject to DTS's customary fees on a time and materials basis unless otherwise agreed to by the parties); (b) any and all payment obligations of Client under this Agreement will become due immediately; (c) within thirty (30) days after such expiration or termination, each party shall return all Confidential Information and other property of the other party in its possession at the time of expiration or termination and shall not make or retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirement. Client shall be required to pay the License Fees any other fees that are payable for the period that would remain had the Agreement not been terminated, unless the Agreement is terminated by Client based on an uncured material breach by DTS.

8.4 Survival. The following provisions will survive any expiration or termination of the Agreement: Sections 2, 3.2, 4-7, 8.3, 8.4 and 9.

9. Miscellaneous provisions.

9.1 Force Majeure. Except for the obligation to pay subscription fees and other amounts payable by Client to DTS hereunder, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including act of war, acts of God, epidemics, pandemics or government ordered shutdowns, earthquakes, hurricanes, tornadoes or other windstorms, other storms or other elements of nature, embargo, riot, protests, civil disturbances, looting, sabotage, labor shortage or dispute or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, governmental act or failure of the Internet, provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to correct promptly such failure or delay in performance.

9.2 Government Regulations. DTS provides software and uses software and technology that may be subject to U.S. export controls administered by the U.S. Department of Commerce, the U.S. Department of Treasury Office of Foreign Assets Control, and other U.S. agencies. Client shall not access or use the VUEWorks Software or otherwise transfer or export or re-export to countries that the United States maintains an embargo (collectively, “**Embargoed Countries**”), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury’s List of Specially Designated Nationals or the U.S. Department of Commerce’s Table of Denial Orders (collectively, “**Designated Nationals**”), each of which may change from time to time. By using the VUEWorks, Client represents and warrants that Client is not located in, under the control of, or a national or resident of, an Embargoed Country or Designated National. The VUEWorks Software may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774. Client shall not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Client operates or does business.

9.3 Governing Law; Legal Proceedings, Severability. The Agreement shall be governed by and construed in accordance with the laws of the State of Florida without application of conflicts of laws rules or principles. Any legal proceedings relating to the terms, interpretation or performance of the Agreement will be brought and heard in the state or federal courts located in Orange County, Florida, and Client consents to such venue and personal jurisdiction therein for any such proceedings. EACH PARTY HEREBY IRREVOCABLY WAIVES THE RIGHT TO A JURY TRIAL. A printed version of the Agreement and of any notice given in electronic form shall be admissible in any legal proceedings based upon or relating to the Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. In the event any provision of this Agreement is held by a court or arbitrator to be contrary to the law, the remaining provisions of this Agreement will remain in full force and effect.

9.4 Amendment; Waivers; Interpretation. DTS may update this Agreement from time to time. DTS will post the current version on the website in which the Hosted Software is provided or otherwise electronically via the Hosted Software. If Client does not agree to such an update, Client must immediately stop using the VUEWorks Software. By continuing to access or use the VUEWorks Software, Client confirms and acknowledges its acceptance of the updated Agreement. Except as otherwise provided herein, no amendment, rescission, or termination of this Agreement or any of its terms is effective unless it is in writing and signed by the party against whom enforcement is sought. A party does not waive any right under this Agreement by failing to insist on compliance with any term of this Agreement or by failing to exercise any right hereunder. Any waiver granted hereunder is effective only if it is written and signed by the party granting such waiver. A waiver of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision of this Agreement. The parties agree that the terms and conditions of this Agreement are a result of mutual negotiations. Therefore, the rule of construction that any ambiguity shall apply against the drafter is not applicable and will not apply to this Agreement. Any ambiguities shall be reasonably construed as to its fair meaning and not strictly for or against one party regardless of who authored the ambiguous language.

9.5 Assignment. Client may not assign its rights or delegate its duties under this Agreement

either in whole or in part without the prior written consent of DTS. Any attempted assignment or delegation without such consent will be void. DTS may assign this Agreement in whole or part to an affiliate or in connection with a sale of all or substantially all of its assets. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns. Except for DTS's suppliers and licensors, this Agreement shall not be construed to make any person or entity a third-party beneficiary hereof.

9.6 Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, or mailed by registered or certified mail, return receipt requested; postage prepaid to the address for the applicable party indicated in the first page of the Agreement, or at such other address as may hereafter be furnished in writing by either party hereto to the other. Such notice will be deemed to have been given as of the date it is delivered, mailed or sent, whichever is earlier. Notwithstanding the above, notices may be sent by email from DTS to Client or may be posted by DTS via the VUEWorks Software online on Client's account and shall be effective upon sending or posting.

9.7 Relationship of Parties. DTS and Client are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between DTS and Client. Neither DTS nor Client will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

9.8 U.S. Government-Restricted Rights. The software and accompanying documentation are deemed to be "commercial computer Software" and "commercial computer Software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as

applicable. Any use, modification, reproduction release, performance, display or disclosure of the Software and accompanying documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

9.9 Publicity. Client agrees that DTS may use Client's name and refer to Client directly or indirectly in any media release, public announcement, or public disclosure relating to this Agreement or its subject matter, including in any promotional or marketing materials and its website, lists and business presentations.

9.10 Entire Agreement; Counterparts. This Agreement, including the Order Forms and other exhibits and other documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. No provision of this Agreement may be explained, supplemented, or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied on any statement, representation, warranty, nor agreement of the other party except for those expressly contained in this Agreement. This Agreement shall prevail over any terms and conditions appearing on Client's purchase orders or other ordering documents, regardless of when such purchase orders or other ordering documents are delivered to DTS to which notice of objection is hereby given. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument.

EXHIBIT D

SUPPORT SERVICES TERMS

Support services provided by DTS to Client with respect to access and use of the VUEWorks Software shall consist of the following:

(i) Telephone Help Desk. Telephone help desk support in English by telephone shall be available from [8:00 a.m. to 5:00 pm]. eastern time Monday through Friday. The telephone number for help desk support is: (800) 252-2402.

(ii) Email Support. Access to help desk support by email shall be available from [8:00 a.m. to 8:00 p.m. eastern time Monday through Friday. The e-mail address for email support is: support@vueworks.com

(iii) [Hosted Software Client Data Back-ups. DTS's back-up responsibilities with respect to the VUEWorks Software provided as Hosted Software consist of performing daily back-ups of Client Data on the DTS servers, including databases supported by DTS after setup by Client, such that all Client files and data can be recovered by DTS to the last recovery point in the event of loss.]

(iv) Identification of an Incident or Problem. An incident or problem shall be deemed to begin at the earliest time it is observed by DTS or reported to DTS by Client.

(v) Response Procedures. In responding to incidents or problems, DTS shall notify Client in reasonable detail in writing, as soon as reasonably practicable, and shall provide telephone or e-mail contact. Client shall ensure that their telephone numbers and e-mails may be accessed by individuals capable of providing back-up if Client representatives are unavailable. If DTS is unable to reach a particular Client representative, DTS will leave a message and attempt to contact any alternative contacts such Client representative may have designated.

(vi) DTS Response Obligations. DTS's specific response obligations shall consist of the following:

(a) Notify Client of the problem and provide an estimate of the time required to resolve the problem as soon as such an estimate is determined.

(b) Undertake commercially reasonable efforts to implement a permanent solution; if a permanent solution cannot be found, DTS shall undertake commercially reasonable efforts to implement and provide a temporary solution (either by bypassing or working around the problem) and will provide a permanent solution as soon as possible.

(c) Update Client regularly on progress in resolving problems.]

(vii) Client Reporting Obligations. Client agrees that it shall inform the DTS of any incidents or problems of which Client becomes aware as promptly as reasonably practicable.

(viii) Hosted Software Maintenance. DTS will use reasonable efforts to perform software updates in the production environment in coordination with the Client during off peak hours and shall perform any maintenance requiring scheduled downtime on the production environment only on weekend nights between the hours of [1:00 AM and 4:00 AM] eastern time and no more than two (2) times per calendar month unless required otherwise due to a security issue or other urgent issue. DTS shall use reasonable efforts to notify Client by email or telephone of any maintenance work which shall result in system downtime no less than [one (1) day] prior to the actual commencement of the downtime.

(ix) Hosted Software Availability. DTS shall use its commercially reasonable efforts to make the Hosted Software available to authorized users 99.9% of the time in each calendar quarter, less the periods of time during which the Hosted Software are not available due to one or more of the following events (collectively, **"Excepted Downtime"**):

(a) Maintenance. Maintenance as described in (viii) above.

(b) Unscheduled Maintenance. Unscheduled maintenance that is performed in response to a critical unforeseen circumstance, such as security vulnerability or performance issue.

(c) Client Acts or Omissions. The acts or omissions of Client or Client's employees, agents, contractors, vendors, or any end user or any other party gaining access to the Hosted Software by reason, directly or indirectly, of any act or omission of Client, including without limitation, the following:

- Non-availability of Client's connected systems or applications;
- Upgrades or changes made to Client's connected systems or applications without approval by DTS and other changes made to Client's connected systems or applications without sufficient time for DTS to prepare for Client's changes;
- Client's failure to implement, install and/or otherwise use updates and other modifications or recommendations from DTS;
- Client errors in integration of the VUEWorks Software; and
- Time waiting for Client to provide required information or to perform required actions.

(d) Network Failures. A failure of the Internet and/or telecommunications networks or issues attributable to DTS's hosting/web services provider; or

(e) Force Majeure. The occurrence of any event that is beyond DTS's reasonable control.

The parties acknowledge that, although DTS will use reasonable efforts to work with third parties to avoid and remedy any impairment or disruption in Hosted Software services availability, DTS cannot guarantee that such impairment or disruption will not occur or that it can be resolved if it occurs.

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF LAKE STEVENS, WASHINGTON
AND DATA TRANSFER SOLUTIONS, LLC
FOR CONSULTANT SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the City of Lake Stevens, a Washington State municipal corporation (“City”), and Data Transfer Solutions a Limited Liability Company authorized to do business in the State of Washington, (“Consultant”).

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is to provide the City with consultant services as described in Article II. The general terms and conditions of the relationship between the City and the Consultant are specified in this Agreement.

ARTICLE II. SCOPE OF SERVICES

The Scope of Services is included in the VUEWorks Software License and Services Agreement, which document is attached hereto as **Exhibit “A”** and incorporated herein by this reference (“Scope of Services”). PROVIDED, In the event of any conflict between any provisions of this Agreement and the “terms and conditions” provisions of Exhibit C to Exhibit A hereto, the provisions of this Agreement shall prevail. All services and materials necessary to accomplish the tasks outlined in the Scope of Services shall be provided by the Consultant unless noted otherwise in the Scope of Services or this Agreement. All such services shall be provided in accordance with the standards of the Consultant’s profession.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

III.1 MINOR CHANGES IN SCOPE. The Consultant shall accept minor changes, amendments, or revision in the detail of the Scope of Services as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the Scope of Services in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

III.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this Agreement or in the event that this Agreement shall be terminated prior to its completion as herein provided, all work product of the Consultant, along with a summary of work as of the date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this Agreement. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of documents produced under this Agreement or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

III.3 **TERM.** The term of this Agreement shall commence upon full signing and shall terminate at midnight June_____,2025 The parties may extend the term of this Agreement by written mutual agreement.

III.4 **NONASSIGNABLE.** The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

III.5 **EMPLOYMENT.**

a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employee of the Consultant.

b. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

c. Consultant represents, unless otherwise indicated below, that all employees of Consultant that will provide any of the work under this Agreement have not ever been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please indicate No or Yes below)*

 X No employees supplying work have ever been retired from a Washington state retirement system.

 Yes employees supplying work have been retired from a Washington state retirement system.

In the event the Consultant indicates “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, Consultant hereby agrees to save, indemnify, defend and hold City harmless from and against all expenses and costs, including reasonable attorney’s fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for

all reimbursement required to the Washington State retirement system. In the event Consultant affirms that an employee providing work has ever retired from a Washington State retirement system, said employee shall be identified by Consultant, and such retirees shall provide City with all information required by City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

III.6 INDEMNITY.

a. **Indemnification / Hold Harmless.** Consultant shall defend, indemnify and hold the City, its officers, officials, and employees harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the negligence of the City.

b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

c. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

d. **Public Records Requests.**
In addition to Paragraph IV.3 b, when the City provides the Consultant with notice of a public records request per Paragraph IV. 3 b, Consultant agrees to save, hold harmless, indemnify and defend the City its officers, agents, employees and elected officials from and against all claims, lawsuits, fees, penalties and costs resulting from the consultant's violation of the Public Records Act RCW 42.56, or consultant's failure to produce public records as required under the Public Records Act.

e. The provisions of this section III.6 shall survive the expiration or termination of this agreement.

III.7 INSURANCE.

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

b. **No Limitation**
The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

c. **Minimum Scope of Insurance - Consultant shall obtain insurance of the types**

and coverages described below:

- (1) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
- (2) Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Professional Liability insurance appropriate to the Consultant's profession.

d. The minimum insurance limits shall be as follows:

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 \$2,000,000 each occurrence, \$2,000,000 general aggregate.
- (3) Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

e. Notice of Cancellation. In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within two business days of receipt of such notice) provide written notification of such cancellation/termination to the City.

f. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

g. Verification of Coverage. In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current. 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 Agreement before commencement of the work. Further, throughout the term of this Agreement, the Consultant shall provide the City with proof of insurance upon request by the City.

h. Insurance shall be Primary - Other Insurance Provision. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-

insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

j. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

k. **Subcontractors' Insurance.** The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

III.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, sexual orientation, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

III.9 UNFAIR EMPLOYMENT PRACTICES. During the performance of this Agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

III.10 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this Agreement. The Consultant represents that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this Agreement are fully qualified-and properly licensed to perform the work to which they will be assigned. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any litigation commenced relating to this Agreement shall be in Snohomish County Superior Court.

III.11 INDEPENDENT CONTRACTOR.

a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants and agrees that his status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall claim any related employment benefits, social security, and/or retirement benefits.

b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

d. Prior to commencement of work, the Consultant shall obtain a business license from the City.

III.12 CONFLICTS OF INTEREST. The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant's client base and shall obtain written permission from the City prior to providing services to third parties where a conflict or potential conflict of interest is apparent. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

III.13 CITY CONFIDENCES. The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

III.14 SUBCONTRACTORS/SUBCONSULTANTS.

a. The Consultant shall be responsible for all work performed by subcontractors/subconsultants pursuant to the terms of this Agreement.

b. The Consultant must verify that any subcontractors/subconsultants they directly hire meet the responsibility criteria for the project. Verification that a subcontractor/subconsultant has proper license and bonding, if required by statute, must be included in the verification process. The Consultant will use the following Subcontractors/Subconsultants or as set forth in Exhibit ____:

c. The Consultant may not substitute or add subcontractors/subconsultants without the written approval of the City.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS.

a. The Consultant shall be paid by the City for services rendered under this Agreement as described in the Scope of Services and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed \$100,000.00 without the written agreement of the Consultant and the City. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount.

b. The Consultant shall submit a monthly invoice to the City for services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.

c. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the Scope of Services and City requirements.

IV.3 MAINTENANCE/INSPECTION OF RECORDS.

a. The Consultant shall maintain all books, records, documents and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

b. Public Records.

The parties agree that this Agreement and records related to the performance of the Agreement are with limited exception, public records subject to disclosure under the Public Records Act RCW 42.56. Further, in the event of a Public Records Request to the City, the City may provide the Consultant with a copy of the Records Request and the Consultant shall provide copies of any City records in Consultant's possession, necessary to fulfill that

Public Records Request. If the Public Records Request is large the Consultant will provide the City with an estimate of reasonable time needed to fulfill the records request.

ARTICLE V. GENERAL

V.1 **NOTICES.** Notices to the City and Consultant shall be sent to the following addresses:

To the City:

City of Lake Stevens
Attn: City Clerk
Post Office Box 257
Lake Stevens, WA 98258
Telephone: 425-622-9412

To the Consultant:

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this Agreement in whole or in part at any time upon ten (10) calendar days' written notice to the Consultant.

If this Agreement is terminated in its entirety by the City for its convenience, the City shall pay the Consultant for satisfactory services performed through the date of termination in accordance with payment provisions of Section IV.1.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **EXTENT OF AGREEMENT/MODIFICATION.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

V.5 **SEVERABILITY.**

a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

V.6 **NONWAIVER.** A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such

agreement, covenant, condition or right.

V.7 **FAIR MEANING.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

V.8 **FORCE MAJEURE.** Consultant shall not be responsible for delays or failures in performance resulting from acts beyond its reasonable control. Such acts shall include, but not be limited to, acts of God, strikes, acts of war, epidemics, Government regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes, acts of terrorism, or other disasters. Time of performance and compensation to Consultant shall be adjusted appropriately for any such event.

V.9 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

V.10 **VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Snohomish County, Washington.

V.10 **COUNTERPARTS AND SIGANTURES.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Digital, electronic, and PDF signatures will constitute an original in lieu of the “wet” signature.

V.11 **AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth below.

DATED this _____ day of _____ 2022.

CITY OF LAKE STEVENS

DATA TRANSFER SOLUTIONS, LLC

By: _____
Gene Brazel, City Administrator

By: _____
Donna Huey, President
Printed Name and Title

Approved as to Form:

By: _____
Greg Rubstello, City Attorney

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: Frontier Heights Park - Professional Services Agreement with LDC for Design of Park Improvements (Phase II)

Contact Person/Department: Aaron Halverson, Russ Wright, Public Works

Budget Impact: The contract cost is \$153,065.

Legal Review: No

RECOMMENDATION(S)/ACTION REQUESTED:

Motion to authorize the Mayor to sign a contract with LDC, Inc. for planning, surveying, and engineering services for Frontier Heights Park Playfield (Phase II).

SUMMARY/BACKGROUND:

LDC was selected using the MRSC Consultant Roster process to provide design and engineering services for the Frontier Heights Phase II project. The outcome of their effort will be bid documents including plans, specifications and estimates. Frontier Heights Phase II will add amenities including:

- Four Pickleball Courts
- Artificial Turf Multi-Use Playfield (Baseball, Soccer, Lacrosse)
- Drainage Improvements
- Outdoor Fitness Stations (30% design)
- Sensory Garden (30% design)
- Labyrinth Overlook (30% design)
- Two Frontage Parking Lots

Design will begin upon execution of the contract with the goal of construction beginning in late spring 2023.

The Washington State Recreation Conservation Office has awarded grant funds for construction of this project.

APPLICABLE CITY POLICIES:

ATTACHMENTS:

1. 22016 LDC Contract

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF LAKE STEVENS, WASHINGTON
AND LAND DEVELOPMENT CONSULTANTS, INC.
FOR CONSULTANT SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Lake Stevens, a Washington State municipal corporation ("City"), and Land Development Consultants, Inc., a Washington corporation, ("Consultant").

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is to provide the City with consultant services Land as described in Article II. The general terms and conditions of the relationship between the City and the Consultant are specified in this Agreement.

ARTICLE II. SCOPE OF SERVICES

The Scope of Services is attached hereto as **Exhibit "A"** and incorporated herein by this reference ("Scope of Services"). All services and materials necessary to accomplish the tasks outlined in the Scope of Services shall be provided by the Consultant unless noted otherwise in the Scope of Services or this Agreement. All such services shall be provided in accordance with the standards of the Consultant's profession.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

III.1 MINOR CHANGES IN SCOPE. The Consultant shall accept minor changes, amendments, or revision in the detail of the Scope of Services as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the Scope of Services in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

III.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this Agreement or in the event that this Agreement shall be terminated prior to its completion as herein provided, all work product of the Consultant, along

with a summary of work as of the date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this Agreement. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of documents produced under this Agreement or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

III.3 TERM. The term of this Agreement shall commence upon full signing and shall terminate at midnight, December 31, 2023. The parties may extend the term of this Agreement by written mutual agreement.

III.4 NONASSIGNABLE. The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

III.5 EMPLOYMENT.

a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employee of the Consultant.

b. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

c. Consultant represents, unless otherwise indicated below, that all employees of Consultant that will provide any of the work under this Agreement have not ever been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please indicate No or Yes below)*

_____ No employees supplying work have ever been retired from a Washington state retirement system.

_____ Yes employees supplying work have been retired from a Washington state retirement system.

In the event the Consultant indicates “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, Consultant hereby agrees to save, indemnify, defend and hold City harmless from and against all expenses and costs, including reasonable attorney’s fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event Consultant affirms that an employee providing work has ever retired from a Washington State retirement

system, said employee shall be identified by Consultant, and such retirees shall provide City with all information required by City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

III.6 INDEMNITY.

a. **Indemnification / Hold Harmless.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

c. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

d. **Public Records Requests.**
In addition to Paragraph IV.3 b, when the City provides the Consultant with notice of a public records request per Paragraph IV. 3 b, Consultant agrees to save, hold harmless, indemnify and defend the City its officers, agents, employees and elected officials from and against all claims, lawsuits, fees, penalties and costs resulting from the consultant's violation of the Public Records Act RCW 42.56, or consultant's failure to produce public records as required under the Public Records Act.

e. The provisions of this section III.6 shall survive the expiration or termination of this agreement.

III.7 INSURANCE.

a. **Insurance Term**
The Consultant shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein

b. **No Limitation**
Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

c. **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.

- (2) Commercial General Liability insurance shall be written at least as broad on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Professional Liability insurance appropriate to the Consultant's profession.

d. **The minimum insurance limits shall be as follows:**

Consultant shall maintain the following insurance limits:

- (1) Comprehensive General Liability. Insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
- (2) Automobile Liability. \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington.
- (4) Professional Liability/Consultant's Errors and Omissions Liability. \$1,000,000 per claim and \$1,000,000 as an annual aggregate.

e. **Notice of Cancellation.** In the event that the Consultant receives notice (written, electronic or otherwise) that any of the above required insurance coverage is being cancelled and/or terminated, the Consultant shall immediately (within forty-eight (48) hours) provide written notification of such cancellation/termination to the City.

f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

g. **Verification of Coverage.** In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current. 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. Further, throughout the term of this Agreement, the Consultant shall provide the City with proof of insurance upon request by the City.

h. **Insurance shall be Primary - Other Insurance Provision.** The Consultant's insurance coverage shall be primary insurance as respect the City. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

j. **Public Entity Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Consultant.

k. **Subcontractors' Insurance.** The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the Public Entity is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

III.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, sexual orientation, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

III.9 UNFAIR EMPLOYMENT PRACTICES. During the performance of this Agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

III.10 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this Agreement. The Consultant represents that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this Agreement are fully qualified-and properly licensed to perform the work to which they will be assigned. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any litigation commenced relating to this Agreement shall be in Snohomish County Superior Court.

III.11 INDEPENDENT CONTRACTOR.

a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants and agrees that his status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall claim any related employment benefits, social security, and/or retirement benefits.

b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

d. Prior to commencement of work, the Consultant shall obtain a business license from the City.

III.12 CONFLICTS OF INTEREST. The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant's client base and shall obtain written permission from the City prior to providing services to third parties where a conflict or potential conflict of interest is apparent. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

III.13 CITY CONFIDENCES. The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

III.14 SUBCONTRACTORS/SUBCONSULTANTS.

a. The Consultant shall be responsible for all work performed by subcontractors/subconsultants pursuant to the terms of this Agreement.

b. The Consultant must verify that any subcontractors/subconsultants they directly hire meet the responsibility criteria for the project. Verification that a subcontractor/subconsultant has proper license and bonding, if required by statute, must be included in the verification process. The Consultant will use the following Subcontractors/Subconsultants or as set forth in Exhibit ____:

c. The Consultant may not substitute or add subcontractors/subconsultants without the written approval of the City.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS.

a. The Consultant shall be paid by the City for services rendered under this Agreement as described in the Scope of Services and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed \$153,065 without the written agreement of the Consultant and the City. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. In the event the City elects to expand the scope of services from that set forth in Exhibit A, the City shall pay Consultant a mutually agreed amount.

b. The Consultant shall submit a monthly invoice to the City for services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.

c. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the Scope of Services and City requirements.

IV.3 MAINTENANCE/INSPECTION OF RECORDS.

a. The Consultant shall maintain all books, records, documents and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

b. **Public Records.**

The parties agree that this Agreement and records related to the performance of the Agreement are with limited exception, public records subject to disclosure under the Public Records Act RCW 42.56. Further, in the event of a Public Records Request to the City, the City may provide the Consultant with a copy of the Records Request and the Consultant shall provide copies of any City records in Consultant's possession, necessary to fulfill that Public Records Request. If the Public Records Request is large the Consultant will provide the City with an estimate of reasonable time needed to fulfill the records request.

ARTICLE V. GENERAL

V.1 **NOTICES.** Notices to the City and Consultant shall be sent to the following addresses:

To the City:

City of Lake Stevens
Attn: City Clerk
Post Office Box 257
Lake Stevens, WA 98258
Telephone: 425-622-9412

To the Consultant:

Land Development Consultants, Inc.
Attn: Darrell Smith & Mark Villwock
20210 142nd Avenue NE
Woodinville, WA 98072-4477
Telephone: 425-806-1869

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this Agreement in whole or in part at any time upon ten (10) calendar days' written notice to the Consultant.

If this Agreement is terminated in its entirety by the City for its convenience, the City shall pay the Consultant for satisfactory services performed through the date of termination in accordance with payment provisions of Section IV.1.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **EXTENT OF AGREEMENT/MODIFICATION.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

V.5 **SEVERABILITY.**

a. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

b. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory

provision.

V.6 **NONWAIVER.** A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

V.7 **FAIR MEANING.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

V.8 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

V.9 **VENUE.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Snohomish County, Washington.

V.10 **COUNTERPARTS AND SIGANTURES.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Digital, electronic, and PDF signatures will constitute an original in lieu of the “wet” signature.

V.11 **AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT.** The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth below.

DATED this _____ day of _____

CITY OF LAKE STEVENS

LAND DEVELOPMENT CONSULTANTS, INC.

By: _____
Gene Brazel, City Administrator

By: _____

Printed Name and Title

Approved as to Form:

By: _____
Greg Rubstello, City Attorney

May 26, 2022
Public Works Department
Attn: Aaron Halverson, Public Works Director
1812 Main Street
Lake Stevens, WA 98258

RE: Proposal for Planning, Surveying, and Engineering Services: Frontier Heights Park Playfields

Dear Aaron,
Land Development Consultants, Inc. (LDC) is pleased to submit the following proposal for professional services in conjunction with your proposed project in the City of Lake Stevens.

BACKGROUND

The purpose of this project is to design Playfield Park improvements at Frontier Heights Park:

- Four Pickleball Courts
- Multi use playfield, Baseball, Soccer, and Lacrosse Overlay
- Drainage detention of entire park
- Outdoor Fitness Stations (30% Design Level Only, no construction details or specs)
- Sensory Garden (30% Design Level Only, no construction details or specs)
- Labyrinth Overlook (30% Design Level Only, no construction details or specs)
- Two Frontage Parking Lots

This proposal is based upon a request from the client as well as our familiarity with the City of Lake Stevens Development Standards, and the approved preliminary plans. Please see the following scope of services for the required service below:

SUMMARY OF SERVICES

Task 01	Survey/Base Mapping	\$11,000
Task 02	Conceptual Design	\$9,000
Task 03	Drainage Report	\$10,000
Task 04	Landscape Architectural Design	\$9,265
Task 05	75% Design (Draft/Permit Submittal)	\$48,000
Task 06	Final Design (Bid Set Submittal)	\$48,000
Task 07	Project Manual, Specification, and Special Provisions	\$4,500
Task 08	Public Outreach Graphic Support	\$2,000
Task 09	Project Coordination and Meetings (T&E)	\$2,600
Task 10	Geotechnical Infiltration Analysis	\$6,000
Task 11	Bidding Assistance (T&E)	\$1,500
Task 99	Reimbursable Expenses	\$1,200
TOTAL:		\$153,065

GENERAL PROJECT ASSUMPTIONS

- Maximum contract duration will be 12 months.
- Playfield Fencing needs to be non-conducting
- Baseball fields to be synthetic turf

- City to provide construction notes & plans from recent improvements. Provide information on under drain system that was installed.
- Wetland Delineation and Critical Areas report will not be required.
- Permitting is responsibility of the city.
- Formal illumination design is excluded, placement of solar powered illumination poles may be added.
- City will provide a backhoe and a water source for infiltration on-site testing.

TASK 01- BOUNDARY AND TOPOGRAPHIC FIELD SURVEY AND MAPPING

This task is to perform boundary verification and onsite topography of the site:

- Verify/set horizontal, vertical control
- Perform site survey to include existing topography, trails, drainage facilities, structures, significant trees, fences, and above ground utilities within the project site area
- Locate and map all significant trees
- Prepare boundary/topographic base map for design purposes
- Plot all easements as shown on the title report (to be supplied by client)
- Two-foot contours will be shown

TASK ASSUMPTIONS:

- Title reports for subject properties will be provided by Client, or will be invoiced as a reimbursable expense (Task 99)
- No sub-contracted utility locates are included in this proposal. If locates are required or requested after field work for this task is completed, the cost of locates will be assessed as a reimbursable expense.
- No property corners will be set under this proposal
- A Record of Survey will not be filed under this proposal
- Exclusions include boundary/encroachment resolution if encountered. If these services are required, they will be performed on a Time & Expense basis.
- Recording fees, submittal fees, reprographic costs will be billed as a reimbursable expense and are not included in this proposal.
- Any additional work, beyond the scope above, which is requested by the Client, will be performed on a Time & Expense basis.

FIXED FEE: \$11,000 (TASK 01)

TASK 02 – CONCEPTUAL DESIGN

The intent of this task is to develop a programming level conceptual design to establish design features and treatments:

- Ballfield Layout
- Pickleball Court Layout.
- Parking lot.
- Define playfield surface.
- Define playfield stormwater collection system.
- Other Park opportunities will not be identified or addressed.
- Walkways.
- Wood Park sign location will be identified.

TASK ASSUMPTIONS:

- A maximum of two concept layout will be prepared.
- City comments and suggestions will be incorporated into the final plan set.

FIXED FEE: \$9,000 (TASK 02)

TASK 03 – DRAINAGE REPORT

This task will include preparing a draft and final drainage report.

TASK ASSUMPTIONS:

- The entire park will be reviewed for stormwater quality and quantity control.
- City will provide documentation of existing drainage features that have been incorporated into the park.
- If possible, dispersion treatment will be utilized for the existing site paved paths.
- Adhere to city and DOE stormwater standards.

FIXED FEE: \$10,000 (TASK 03)

TASK 04 – DRAFT 30% SUBMITTAL (Schematic Design)

HBB have been involved with Phase 1 design plans and site planning for the City of Lake Steven's RCO grant applications, we are confident that we can provide the professional services required to make the project a success. Based upon our knowledge of this project, we understand the city wishes to move forward with the 30% Submittal (Schematic Design only) of sensory garden, labyrinth plaza, and outdoor fitness stations.

HBB Scope Items:

1. The Sensory Garden schematic plan will include primary site elements with labels, hatches, and notes for crushed rock pathways, soil, planting concept, concrete mow strip, and off-the-shelf wooden gazebo.
2. The Labyrinth Plaza includes general layout of plaza with labels, hatches, and notes for materials.
3. Outdoor Fitness Stations includes labels, hatches, and notes for wood-based equipment for calisthenic (body weight) exercises, mulched surfacing, concrete mow-strips.
4. All other non-paved areas of the project will be shown as hydroseeded.

To accomplish the design, we are proposing the following professional services.

4.1 Prepare draft 30% Schematic Design plans. Prepare final 30% based on minor review comments; assumes 25% of time needed for revisions. Preparation time includes coordination with design team and disciplines. The HBB set of drawings includes the following estimated sheets:

1. Site Improvements & Planting Legend and Notes
2. Schematic Site Plan
3. Site Improvement Plan Enlargement (Sensory Garden)
4. Site Improvement Plan Enlargement (Labyrinth Plaza)
5. Site Improvement Plan Enlargements (Outdoor Fitness Stations)

4.2 Prepare for and attend up to 2 meetings with design team and city.

4.3 Provide one (1) quality control review of HBB deliverables by senior landscape architect. This will occur concurrently with review of the set by the city.

TASK ASSUMPTIONS:

- The below fee assumes that the project will be developed as a single package and only up to a typical 30%, Schematic Plan level. Permit submittals, construction plans and details, bid sets, bid alternates, bid additives, or subsequent repackaging of the project into separate phases is not included. Schematic Drawings will have a landscape architecture seal but will not be signed.
- Revisions that exceed 25% of level-of-effort will be additional services.
- Specifications and special provisions are not included at the 30% Schematic design level.
- Construction cost estimates will not be updated at the 30% Schematic design level.
- Coordination and/or meeting with the 3 electrical utility service providers regarding the proposed design is by others.
- Site demolition, TESC, site preparation, grading, and utilities will be by LDC, including design and detailing for the pickleball courts, concrete paths, asphalt trails, potential concrete pad/footings for the wood gazebo, and synthetic turf athletic practice field.
- No irrigation design services are included.
- A recent topographic survey of the project site will be provided in AutoCAD 2019 or later file version.
- Scope items not explicitly mentioned within this scope and fee are considered outside of this scope.
- All meetings will be virtual. Meeting notes will be by LDC. Site visits and in-person meetings are not included.
- Graphic renderings, design presentations, and illustrations of park elements is not included.
- Preparation for and attendance at public meetings, council meetings, or other public process events is not included.
- Structural design of footings or concrete support pad for wood gazebo in the Sensory Garden is by others.

Expenses:

Mileage, parking, reproduction, printing, are excluded.

Inconsideration of the above services, we are proposing the following fee. It may be necessary to utilize an independent AutoCAD service company to meet the proposed schedule for this project. If necessary, time incurred by the independent AutoCAD service company will be billed at the Computer and Technical Staff rate above, not to exceed the Total Cost of Services for the project.

FIXED FEE: \$9,265 (TASK 04)

TASK 05 – 75% DESIGN (Draft/Permit Submittal)

This proposed task will develop 75% plans for Frontier Heights Park. This proposed task brings the site up to the 75% design level and includes the following scope of work:

Plan Set

- Cover Page (1 Sheet)
- Site Plan (2 Sheet)
- Erosion Control (3 Sheets) & DEMO.
- Erosion Control Details (1 Sheet)
- Grading Plans (4 Plan Sheets)
- Parking Lot Paving & Stormwater Plan & Details (3 Sheets)
- Pickleball Court Paving & Stormwater Plan & Details (3 Sheets)
- Playfield Turf Plan (3 Sheets)
- Stormwater Detention Details (2 Sheets)
- Misc. detail plan sheets (2 Sheets)
- A maximum of 24 plan sheets will be prepared.
- Stormwater Pollution Prevention Plan (SWPPP).

TASK ASSUMPTIONS:

- A traffic control plan is not provided as part of this proposal.
- Rain gardens, bioswales, or other above ground drainage/treatment facilities will not be required.
- Landscape Architectural effort will be accounted for under Task 04.

FIXED FEE: \$48,000 (TASK 05)

TASK 06 – FINAL DESIGN (Bid Set Submittal)

This proposed task will develop 100% plans for Frontier Heights Park. This proposed task brings the site up to the 100% design level and includes the following scope of work:

Plan Set

- Cover Page (1 Sheet)
- Site Plan (2 Sheet)
- Erosion Control (3 Sheets) & DEMO.
- Erosion Control Details (1 Sheet)
- Grading Plans (4 Plan Sheets)
- Parking Lot Paving & Stormwater Plan & Details (3 Sheets)
- Pickleball Court Paving & Stormwater Plan & Details (3 Sheets)
- Playfield Turf Plan (3 Sheets)
- Stormwater Detention Details (2 Sheets)
- Misc. detail plan sheets (2 Sheets)
- A maximum of 24 plan sheets will be prepared.
- Stormwater Pollution Prevention Plan (SWPPP).

TIME & EXPENSE: \$48,000 (TASK 06)

TASK 07 – PROJECT MANUAL, SPECIFICATIONS, AND SPECIAL PROVISIONS

This proposed task includes the following scope of work:

- Prepare Project Manual in WSDOT/APWA format including supplemental specifications and special provisions particular to the project (2022 Spec Book).
- Bidding instructions with itemized Base Bid Schedule of quantities.

FIXED FEE: \$4,500 (TASK 07)

TASK 08 – PUBLIC OUTREACH GRAPHIC SUPPORT

This task will include presenting materials to city council, parks board and the public as follows:

- Prepare one to two color graphics

TASK ASSUMPTIONS:

- City staff will lead this overall effort
- Power point presentation or meeting materials will be prepared by city staff
- City will secure public meeting space.
- City will coordinate and send out public meeting notices.
- Basic CAD files utilized as site renderings with color added.

FIXED FEE \$2,000 (TASK 08)

TASK 09 – PROJECT DESIGN COORDINATION AND MEETINGS

This proposed task includes the following scope of work:

- 2 meetings at City Hall.
- 2 conference call meetings.

TIME & EXPENSE: \$2,600 (TASK 09)

TASK 10 – GEOTECHNICAL ANALYSIS

Task 10.1 - Geotechnical Evaluation

The scope of services to be provided by Robinson Noble, Inc. is for geotechnical evaluation services, including the following:

- Review available geologic maps for the site.
- Mark the site for the One Call Public Utility locate service.
- Explore the subsurface soil and groundwater conditions in the area of the planned improvements with two test pit explorations. The excavator and operator are to be provided by the City of Lake Stevens.
- Evaluate pertinent physical and engineering characteristics of the soils encountered in the test pits.
- Prepare a draft geotechnical report containing the results of our subsurface explorations, and our conclusions and recommendations for geotechnical design elements of the project. Our report will include:
 - Description of the geological materials encountered.
 - Description of depth to groundwater, if encountered.
 - Discussion of seismicity at the site along with seismic design parameters including Site Class and site coefficients based on current IBC criteria.
 - Recommendations for shallow foundations including allowable soil bearing values, minimum footing sizes, soil parameters for lateral load resistance, and footing drains.
 - Estimate the total and differential settlements of spread footings and floor slabs for variable loading within the building.
 - Geotechnical recommendations for stormwater vault.
 - Recommendations for parking subgrade preparation.
 - Preliminary recommendations for infiltration at the site.
 - Recommendations for earthwork and site preparation. An evaluation of the effects of weather and/or construction equipment on site soils and mitigation of any unsuitable soil conditions at the site will be included.

Task 10.2 – Infiltration Testing

- Perform a Small Pilot Infiltration Test (PIT) at the location and depth of the proposed infiltration facility. Water will be provided by the City of Lake Stevens.
- The excavator and operator to dig the pit are to be provided by the City of Lake Stevens.
- Prepare a final geotechnical report including the results of the PIT.

FIXED FEE: \$6,000 (TASK 10)

TASK 11 – BIDDING ASSISTANCE

Respond to questions raised during the bid phase of the project. No addendums will be prepared.

TIME & EXPENSE: \$1,500 (TASK 11)

TASK 99 – REIMBURSABLE EXPENSES

This task will include:

- Printing of Plans.
- Mileage.
- Other project costs.

TIME & EXPENSE: \$1,200 (TASK 99)

ITEMS EXCLUDED FROM SCOPE OF SERVICES:

- Permitting and environmental documentation.
- HPA permit.
- Environmental or hazardous material studies.
- Structural Engineering and Wall design.
- Illumination modeling.
- Traffic analysis and traffic engineering.
- Detailed irrigation plans.
- Easement and boundary survey.
- Construction observation and engineering construction support.
- Property acquisition.
- Public outreach and city council meetings.
- Structural Engineering and retaining wall design.
- Irrigation and Landscape plans
- Play structure design.
- JARPA preparation.
- Restroom and picnic like structures.
- Garbage enclosures
- City council presentations and communications with BPA.
- Utility design (besides stormwater improvements).

If the scope of project changes due to circumstances beyond our control as otherwise specified herein, we reserve the right to renegotiate the fees outlined in this agreement. We also reserve the right to renegotiate the balance of the contract should the work not be completed by June 1, 2023. As of that date, this agreement will become null and void and payment for all work accomplished to that date would become due and payable.

At that time, we will review the work necessary to complete the contract and negotiate a new agreement to complete the remainder of the project should you so desire. In addition, should work not defined herein be requested and authorized by you, we will perform said work on a time and expense basis in accordance with our standard fee schedule in effect at the time the extra work is done. We typically adjust our fee schedule January 1st of each year.

All filing, checking, and inspection fees required by the agencies, utilities, etc. are not part of this agreement and are to be paid by the owner. Reimbursable expenses such as blueprint costs, etc. will be billed in accordance with our standard fee schedule. Outside services will be billed at our cost plus 15%.

This proposal is based upon written design standards and ordinances of the jurisdiction that governs the sites that are in effect at the date of this letter.

Consultant will mail monthly invoices in Consultant's standard format reflecting all current charges to Client. Invoices are due when received by client and must be paid within 30 days of invoice date, after which time absent full payment, Consultant may at its sole discretion terminate this agreement without liability on the part of the Consultant. Any unpaid invoices are deemed to be correct and binding on Client unless Client provides Consultant written notification of specific objections within 10 days of the date of invoice. Preparation of additional documentation for invoiced charges when requested by the Client shall be deemed Additional Services approved upon request.

We are available immediately to commence the proposed scope of services upon receipt of a signed copy of this contract. Please feel free to contact the undersigned with any questions or comments.

Sincerely,



LDC, Inc.

Darrell Smith, PE

Director of Civil Engineering

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: Surface Water Division Job Title Changes

Contact Person/Department: Shannon Farrant, Aaron Halverson, Anya Warrington,
Public Works

Budget Impact: There are no budgetary impacts, these are job title changes only and the job classification will remain the same.

Legal Review: No

RECOMMENDATION(S)/ACTION REQUESTED:

Motion to approve job title changes in the Surface Water Division. Proposed title changes are as follows:

1. Surface Water Management Coordinator – to – Surface Water Coordinator
2. Engineering Technician – Surface Water – to – Surface Water Specialist
3. Engineering Technician – Storm (Field Tech) – to – Surface Water Field Technician

SUMMARY/BACKGROUND:

There are currently two vacant positions in the Surface Water Division. In coordination with the Human Resources Director and the Public Works Director, the new Surface Water Manager has outlined the positions and key job functions within the Surface Water Division, and is proposing job title changes to better characterize the functional differences between each position. The new job titles will align with the services provided by the Surface Water Division and further streamline the tasks and processes carried out by the Division. In addition, updated job titles will better aid in the recruitment process to seek out qualified candidates that best fit the job functions.

The Surface Water Division is responsible for program development and implementation in accordance with the City's NPDES stormwater permit, lake

management, surface water capital projects, and water quality and environmental regulatory compliance. The attached organizational chart outlines the current job titles and the proposed job titles along with the job functions for each role.

APPLICABLE CITY POLICIES:

None

ATTACHMENTS:

1. organizational chart and job functions

Surface Water Division Organizational Chart

Job Functions

Surface Water Manager

- Oversees the Surface Water Division and personnel
- Develops long range and strategic plans
- Serves as a technical advisor to the Public Works Director

Surface Water Coordinator

- Coordinates NPDES Requirements
- Technical advisor to Surface Water Manager
- Surface water program implementation and process improvement

Surface Water Specialist

- Water quality data analysis
- Implantation of programs to meet NPDES compliance
- Field data collection and investigation

Surface Water Field Technician

- Performs annual inspections and responds to reports of drainage concerns
- Collects water quality samples
- Maps and updates stormwater geodatabase

Current Job Titles

Surface Water
Manager

Surface Water
Management
Coordinator

Engineering
Technician – Surface
Water

Engineering
Technician – Storm

Proposed Job Titles

Surface Water
Manager

Surface Water
Coordinator

Surface Water
Specialist

Surface Water Field
Technician

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: 29th St NE ROW Vacation Public Hearing

Contact Person/Department: Melissa Place, Community Development

Budget Impact: None

Legal Review: Yes

RECOMMENDATION(S)/ACTION REQUESTED:

Hold a public hearing and approve the proposed Right-of-Way Vacation by adoption of Ordinance No. 1142 (**Attachment 1**).

SUMMARY/BACKGROUND:

The Soper Hill Commercial development project at the intersection of SR 9 and Soper Hill Road consists of eight commercial lots, a new roundabout, and a through road connection from SR 9 to Lake Drive via 29th St NE. During the development review process, it was determined that a 29th St NE through connection would improve access to Stevens Creek Elementary School and provide a vehicular connection to Lake Drive. The design of the proposed 29th St NE connection requires a right-of-way (ROW) dedication from the Lake Stevens School District and would create a small triangle of existing city ROW on 29th St NE that is no longer needed and would be best absorbed into the school district property via a ROW vacation.

The proposed ROW vacation is comprised of a 215 square-foot area along the east side of 29th St NE that would be incorporated into the Lake Steven School District property. A survey illustrating the proposed vacation area is included (**Attachment 2**). As compensation for the proposed ROW vacation, the school district has dedicated 5,870 square feet of their property to the city for the 29th St NE ROW.

The requested action is a legislative decision subject to a Type V review process, with a required public notice, public meeting, and public hearing with City Council. Per LSMC 14.16C.095(a), the City Council initiated the right-of-way vacation procedure via Resolution No. 2022-09 (**Attachment 3**) and

held the required public meeting at their June 14th regular meeting. As required by RCW 35.79, the City Council also set the public hearing date for the ROW vacation for July 12, 2022.

ANALYSIS:

1. The City Council initiated the right-of-way vacation (File No. LUA2022-0090) via Resolution No 2022-09 and held the required public meeting on June 14th, 2022.
2. In accordance with Chapter 14.16B LSMC, Part V, the city provided the required public notice for the land use action and hearing by publication in the Everett Herald; mailing postcards to residents within 300-feet of the properties; posting the notice at city hall and on site; and publishing on the city website on June 22, 2022.
3. LSMC 14.16C.095 establishes the procedure and decision criteria for right-of-way vacations.
 - a. The proposed ROW vacation is 215 square feet along 29th St NE and will be incorporated into the Lake Steven School District property. As compensation for the ROW vacation, the City has received 5,870 square feet of dedicated ROW property from the school district.
 - b. A draft ordinance is attached (subject to the City Attorney's approval) for City Council's consideration.
 - c. The Soper Hill Commercial development's engineer provided a survey and legal description for the proposed right-of-way vacation. The city's engineer reviewed the survey and legal description on June 9, 2022, and determined them accurate.
 - d. The City Council waived compensation for the 215 square foot vacation in exchange for the compensatory dedication of 5,870 square feet from the school district via Resolution No. 2022-09. Thus, no appraisal is required.
 - e. Decision Criteria pursuant to LSMC 14.16C.095(f):
 1. This criterion is not applicable, as the property does not adjoin any freshwater body.
 2. Responses to City Council criteria for deciding upon the petition:
 - i. *The vacation will provide a public benefit, and/or will be for a public purpose;* The through connection from SR 9 to 29th St NE would help serve Stevens Creek Elementary School and provide a vehicular connection to Lake Drive. The frontage improvements to 29th St NE to be constructed by the adjacent proposed development will be within public right-of-way and will provide improved access for both pedestrians and vehicles.
 - ii. *The right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole;* The right-of-way vacation and dedication improves the street pattern and circulation in the area and positively impacts the

community as a whole. It does not reduce the 29th St NE ROW to be less than the required minimum width of 60 feet and the proposed frontage improvements are compliant with the city's Engineering Design and Development Standards (EDDS) for collector roadways.

- iii. *The public need shall not be adversely affected;* The ROW vacation does not adversely affect the public need and is currently not serving any public purpose.
- iv. *The right-of-way is not contemplated or needed for future public use; and* The requested ROW vacation section is currently an opened portion of the east side of 29th St NE and is not necessary for future road needs since the existing developed portion and dedicated ROW of 29th St NE will fully encompass the frontage improvements needed for the ROW.
- v. *No abutting owner will become landlocked or its access will not be substantially impaired (i.e., there must be an alternative mode of ingress and egress, even if less convenient); provided, that the City Council may, at the time of its public hearing, determine that the City may retain an easement or right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services.* No abutting owner will become landlocked nor will any abutting owner have their access substantially impaired.

3. This criterion is not applicable, as compensation was waived.

f. The ordinance upon approval will be recorded with Snohomish County along with the record of survey.

CONCLUSIONS:

1. The proposal has met the procedural and noticing requirements for Type V permits per Chapters 14.16A and 14.16B LSMC.
2. The proposal meets the criteria to approve a Right-of-Way vacation per LSMC 14.16C.095.
3. The Public Works Department has verified that the location, survey, and legal description is accurate.

RECOMMENDATION

Staff recommends that the City Council hold a public hearing and **APPROVE** the proposed Right-of-Way Vacation (LUA2022-0090) subject to Ordinance No. 1142.

APPEALS

The decision of the City Council on a Type V application is the final decision and may be appealed to Snohomish County Superior Court by filing a land use petition which meets the requirements set

forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. The appeal period shall commence upon the City Council's final decision and not upon expiration of the reconsideration period.

APPLICABLE CITY POLICIES:

LSMC 14.16C.095 Right-of-Way Vacation and Chapter 14.16B LSMC, Part V – Type V Review - Quasi-Judicial, City Council Decisions

ATTACHMENTS:

1. Ordinance No. 1142
2. Survey and Legal Description
3. Resolution No. 2022-09

**CITY OF LAKE STEVENS
Lake Stevens, Washington
ORDINANCE NO. 1142**

**AN ORDINANCE OF THE CITY OF LAKE STEVENS PROVIDING FOR A
RIGHT-OF-WAY VACATION OF APPROXIMATELY 215 SQUARE FEET
OF LAND ALONG 29TH ST NE TO THE LAKE STEVENS SCHOOL
DISTRICT.**

WHEREAS, the City of Lake Stevens is the owner of public right-of-way located on 29th St NE; and

WHEREAS, there is an ongoing new commercial development at the crossroads of Soper Hill Road and SR 9 called the Soper Hill Commercial project; and

WHEREAS, through the development review process of the commercial project, it was determined that a through connection from SR 9 to 29th St NE would help serve Stevens Creek Elementary School and provide a vehicular connection to Lake Drive; and

WHEREAS, as a condition of approval of the land use permits for Soper Hill Commercial the developer agreed to construct off-site improvements including the connection of 29th St NE in exchange for traffic impact fee credits; and

WHEREAS, during the project's review process it was identified that a right-of-way dedication of the new portion of 29th St NE would be required; and

WHEREAS, during the review process it was also determined that a small triangle of existing city right-of-way on 29th St NE would no longer be needed based on the roadway design and would be best absorbed into the Lake Stevens School District property; and

WHEREAS, the city, the Lake Stevens School District, and the developer have worked together to finalize this road connection, by determining the right-of-way dedication responsibility of the school district, the right-of-way vacation responsibility of the city, and the street construction responsibility of the developer; and

WHEREAS, the Lake Stevens School District is the owner of Parcel Number 290501004 01000 and has recently dedicated a portion of their property via a separate executed deed and dedication document per AFN 202206070195, to the city of Lake Stevens to create the new connection between Soper Hill Road and 29th St NE; and

WHEREAS, right-of-way vacations per LSMC 14.16C.095 and RCW 35.79.010 may be initiated by property owners or legislative bodies, and may be subject to slightly different procedural requirements depending on the initiator; and

WHEREAS, per LSMC 14.16C.095(a), the City Council may initiate by resolution a right-of-way vacation procedure; and

WHEREAS, on June 14, 2022, the Lake Stevens City Council declared its intent to authorize, by ordinance, the vacation of approximately 215 square feet of land along 29th St NE via Resolution No. 2022-09, for the purpose of creating a through road connection along 29th St NE; and

WHEREAS, per RCW 35.79, the legislative authority by resolution shall fix a time when the petition will be heard and determined, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution; and

WHEREAS, the Lake Stevens City Council set the date of July 12, 2022, for the public hearing on the right-of-way vacation ordinance, which is 28 days after the adoption of Resolution 2022-09; and

WHEREAS, the City Council desires to waive compensation for the 215 square foot right-of-way vacation in exchange for the compensatory dedication of 5,870 square feet from the school district; and

WHEREAS, right-of-way vacations are Type V (quasi-judicial) land use permits subject to public notice and a public hearing before the City Council; and

WHEREAS, Planning and Community Development staff prepared a staff report for City Council's consideration describing the project and provided an analysis, conclusions and recommendations in coordination with the Public Works Department; and

WHEREAS, public notice for the land use action and hearing was provided by publication in the Everett Herald, mailing postcards to residents within 300-feet of the properties; and posting the site on June 22, 2022, in accordance with Chapter 14.16B LSMC, Part V; and

WHEREAS, the Lake Stevens City Council held a public meeting on June 14, 2022 to inform citizens about the proposal in accordance with Chapter 14.16B.525 LSMC.

WHEREAS, The Lake Stevens City Council held a public hearing on July 12, 2022 to receive public comment and testimony, in accordance with Chapter 14.16B LSMC, Part V.

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

Section 1. The City Council hereby adopts the following findings and conclusions, in addition to the analysis, conclusions and recommendations contained in the staff report dated July 12, 2022, in support of the proposed request:

ANALYSIS:

1. The City Council initiated the right-of-way vacation (File No. LUA2022-0090) via Resolution No 2022-09 and held the required public meeting at their June 14th, 2022.
2. In accordance with Chapter 14.16B LSMC, Part V, the city provided the required public notice for the land use action and hearing by publication in the Everett Herald; mailing postcards to residents within 300-feet of the properties; posting the notice at city hall and on site; and publishing on the city website on June 22, 2022.
3. LSMC 14.16C.095 establishes the procedure and decision criteria for right-of-way vacations.
 - a. The proposed ROW vacation is 215 square feet along 29th St NE and will be incorporated into the Lake Steven School District property. As compensation for the ROW vacation, the City has received 5,870 square feet of dedicated ROW property from the school district.
 - b. A draft ordinance is attached (subject to the City Attorney's approval) for City Council's consideration.
 - c. The Soper Hill Commercial development's engineer provided a survey and legal description for the proposed right-of-way vacation. The city's engineer reviewed the survey and legal description on June 9, 2022 and determined them accurate.
 - d. The City Council waived compensation for the 215 square foot vacation in exchange for the compensatory dedication of 5,870 square feet from the school district via Resolution No. 2022-09. Thus, no appraisal is required.
 - e. Decision Criteria pursuant to LSMC 14.16C.095(f):
 - 1) This criterion is not applicable, as the property does not adjoin any freshwater body.
 - 2) Responses to City Council criteria for deciding upon the petition:
 - i. *The vacation will provide a public benefit, and/or will be for a public purpose;*

The through connection from SR 9 to 29th St NE would help serve Stevens Creek Elementary School and provide a vehicular connection to Lake Drive. The frontage improvements to 29th St NE to be constructed by the adjacent proposed development will be within public right-of-way and will provide improved access for both pedestrians and vehicles.
 - ii. *The right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole;*

The right-of-way vacation and dedication improves the street pattern and circulation in the area and positively impacts the community as a whole. It does not reduce the 29th St NE ROW to be less than the required minimum width of 60 feet and the proposed frontage improvements are compliant with the city's Engineering Design and Development Standards (EDDS) for collector roadways.
 - iii. *The public need shall not be adversely affected;*

The ROW vacation does not adversely affect the public need and is currently not

serving any public purpose.

- iv. *The right-of-way is not contemplated or needed for future public use; and*

The requested ROW vacation section is currently an opened portion of the east side of 29th St NE and is not necessary for future road needs since the existing developed portion and dedicated ROW of 29th St NE will fully encompass the frontage improvements needed for the ROW.

- v. *No abutting owner will become landlocked or its access will not be substantially impaired (i.e., there must be an alternative mode of ingress and egress, even if less convenient); provided, that the City Council may, at the time of its public hearing, determine that the City may retain an easement or right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services.*

No abutting owner will become landlocked, nor will any abutting owner have their access substantially impaired.

- 3) This criterion is not applicable, as compensation was waived.

- f. The ordinance upon approval will be recorded with Snohomish County along with the record of survey.

CONCLUSIONS:

1. The proposal has met the procedural and noticing requirements for Type V permits per Chapters 14.16A and 14.16B LSMC.
2. The proposal meets the criteria to approve a Right-of-Way vacation per LSMC 14.16C.095.
3. The Public Works Department has verified that the location, survey, and legal description is accurate.

Section 2. The city of Lake Stevens does hereby vacate the portion of 29th St NE described and shown in **Exhibit A** to the Lake Stevens School District, the adjacent landowner, to become part of their parcel, Parcel # 29050100401000. Recording of this ordinance in accordance with Section 5 hereof shall confirm satisfaction of the condition to this right-of-way vacation; and

Section 3. The Lake Stevens School District has dedicated a compensatory amount of property to the city totaling approximately 5,870 square feet per AFN 202206070195; and

Section 4. Reservation of Utility and Access Easement. The above-described property shall be vacated subject to reservation of a utility and access easement under and through the property for all existing utilities connecting to the public right-of-way; and

Section 5. Pursuant to LSMC 14.16C.095 (g) the City Clerk or designee will confirm that the city has recorded the record of survey for the right-of-way vacation and certified copy of Ordinance No. 1142 and any part thereof and returned conformed copies of the same to the Lake Stevens Planning and Community Development Department; and

Section 6. Severability. If any section, subsection, sentence, clause, phrase or work of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance; and

Section 7. Effective Date. This Ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

ADOPTED by the City Council and **APPROVED** by the Mayor this 12th day of July 2022.

CITY OF LAKE STEVENS

By: _____
Brett Gailey, Mayor

ATTEST/AUTHENTICATED:

By: _____
Kelly Chelin, City Clerk

APPROVED AS TO FORM:

By: _____
Greg Rubstello, City Attorney

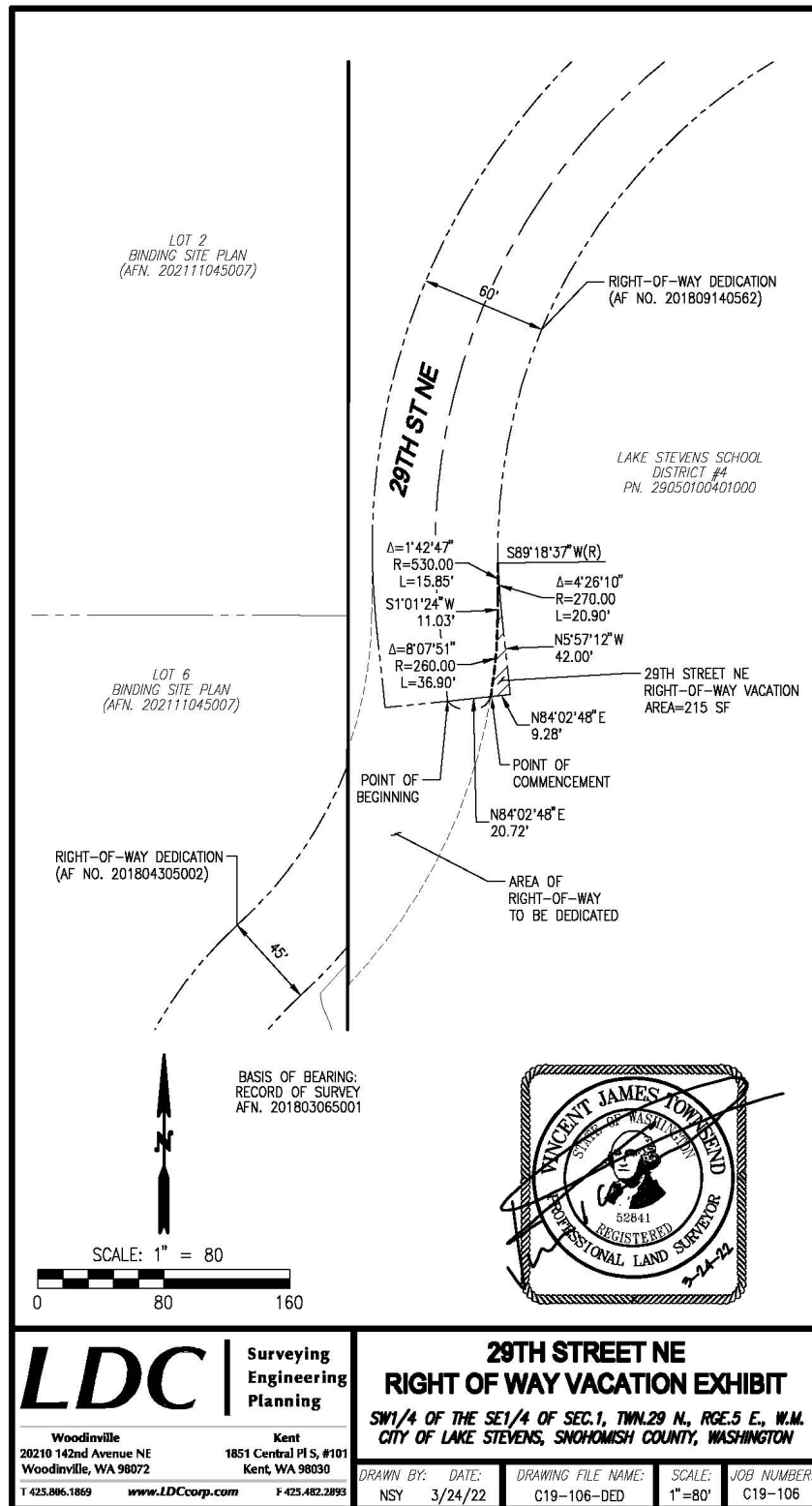
1st and Final Reading: July 12, 2022

Date of Publication:

Effective Date:

EXHIBIT A

RECORD OF SURVEY FOR RIGHT-OF-WAY VACATION



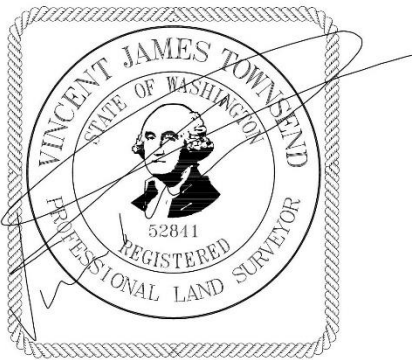
**RIGHT-OF-WAY VACATION
LEGAL DESCRIPTION**

A PORTION OF 29TH STREET NE DEDICATED IN DEED AND DEDICATION FOR PUBLIC RIGHT OF WAY
DOCUMENT FILLED IN SNOHOMISH COUNTY RECORDS UNDER AUDITORS FILE NUMBER 201809140562

SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE TERMINUS OF THE CENTERLINE OF 29TH STREET NE DESCRIBED IN THE ABOVE
MENTIONED DEED AND DEDICATION;
THENCE NORTH 84°02'48" EAST ALONG THE SOUTH MARGIN OF SAID 29TH STREET NE, A DISTANCE OF
20.72 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 84°02'48" EAST CONTINUING ALONG SAID SOUTH MARGIN, A DISTANCE OF 9.28 FEET;
THENCE NORTH 5°57'12" WEST ALONG THE EASTERLY MARGIN OF SAID 29TH STREET NE, A DISTANCE OF
42.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 270.00 FEET;
THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 4°26'10"
FOR AN ARC LENGTH OF 20.90 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT
FROM WHICH THE CENTER BEARS SOUTH 89°18'37" WEST, A DISTANCE OF 530.00 FEET;
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 1°42'27"
FOR AN ARC LENGTH OF 15.58 FEET;
THENCE SOUTH 1°01'24" WEST, A DISTANCE OF 11.03 FEET TO THE BEGINNING OF A CURVE TO THE
RIGHT HAVING A RADIUS OF 260.00 FEET;
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 8°07'51"
FOR AN ARC LENGTH OF 36.90 FEET TO THE POINT OF BEGINNING;

SAID VACATION CONTAINING 215 SQUARE FEET MORE OR LESS.



3-24-22

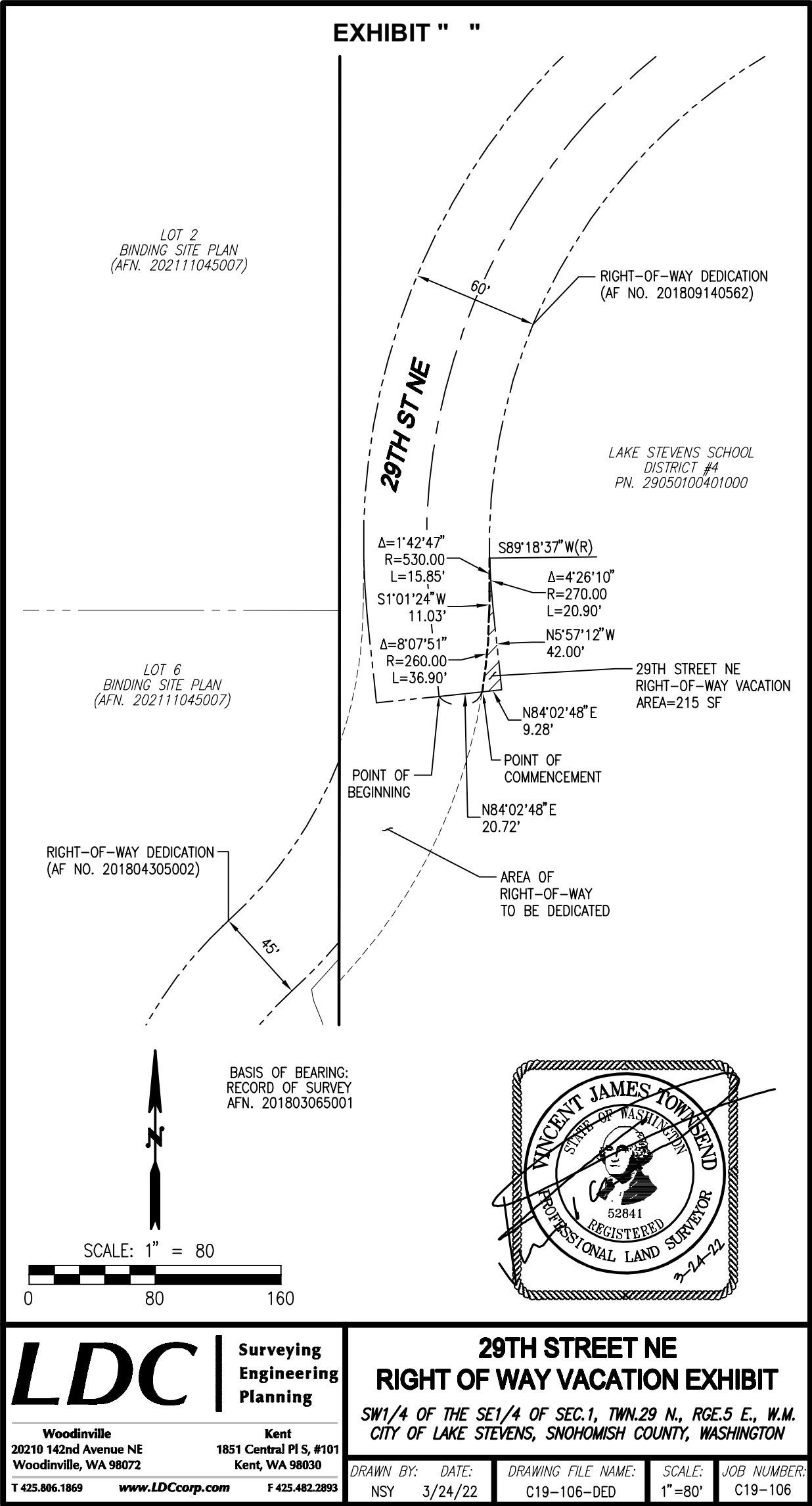


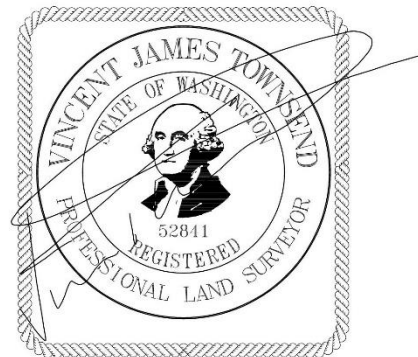
EXHIBIT “ ”
RIGHT-OF-WAY VACATION

A PORTION OF 29TH STREET NE DEDICATED IN DEED AND DEDICATION FOR PUBLIC RIGHT OF WAY
DOCUMENT FILLED IN SNOHOMISH COUNTY RECORDS UNDER AUDITORS FILE NUMBER 201809140562

SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE TERMINUS OF THE CENTERLINE OF 29TH STREET NE DESCRIBED IN THE ABOVE
MENTIONED DEED AND DEDICATION;
THENCE NORTH 84°02'48" EAST ALONG THE SOUTH MARGIN OF SAID 29TH STREET NE, A DISTANCE OF
20.72 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 84°02'48" EAST CONTINUING ALONG SAID SOUTH MARGIN, A DISTANCE OF 9.28 FEET;
THENCE NORTH 5°57'12" WEST ALONG THE EASTERLY MARGIN OF SAID 29TH STREET NE, A DISTANCE OF
42.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 270.00 FEET;
THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 4°26'10"
FOR AN ARC LENGTH OF 20.90 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT
FROM WHICH THE CENTER BEARS SOUTH 89°18'37" WEST, A DISTANCE OF 530.00 FEET;
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 1°42'27"
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RIGHT HAVING A RADIUS OF 260.00 FEET;
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 8°07'51"
FOR AN ARC LENGTH OF 36.90 FEET TO THE POINT OF BEGINNING;

SAID VACATION CONTAINING 215 SQUARE FEET MORE OR LESS.



3-24-22

ATTACHMENT 3

CITY OF LAKE STEVENS LAKE STEVENS, WASHINGTON

RESOLUTION 2022-09

A RESOLUTION OF THE CITY OF LAKE STEVENS, DECLARING THE INTENT TO INITIATE A RIGHT-OF-WAY VACATION OF APPROXIMATELY 215 SQUARE FEET OF LAND ALONG 29TH ST NE TO THE LAKE STEVENS SCHOOL DISTRICT IN EXCHANGE FOR A RIGHT-OF-WAY DEDICATION OF APPROXIMATELY 5,870 SQUARE FEET TO THE CITY FROM THE LAKE STEVENS SCHOOL DISTRICT.

WHEREAS, the City of Lake Stevens is the owner of public right-of-way located on 29th St NE; and

WHEREAS, there is an ongoing new commercial development at the crossroads of Soper Hill Road and SR 9 called the Soper Hill Commercial project; and

WHEREAS, through the development review process of the commercial site, it was identified that a through connection from SR 9 to 29th St NE would help serve Stevens Creek Elementary School and provide a vehicular connection to Lake Drive; and

WHEREAS, as a condition of approval of the land use permits for Soper Hill Commercial the developer agreed to construct off-site improvements including the connection of 29th St NE in exchange for traffic impact fee credits; and

WHEREAS, during the project's review process it was identified that a right-of-way dedication of the new portion of 29th St NE would be required; and

WHEREAS, during the review process it was also determined that a small triangle of existing city right-of-way on 29th St NE is no longer needed based on the roadway design and is best absorbed into the Lake Stevens School District property; and

WHEREAS, the city, the Lake Stevens School District, and the developer desire to jointly work together to finalize this road connection, where the right-of-way dedication responsibility lies with the school district, the right-of-way vacation responsibility lies with the city, and the street construction responsibility lies with the developer; and

WHEREAS, the Lake Stevens School District is the owner of Parcel Number 29050100401000 and has recently dedicated a portion of their property via a separate executed deed and dedication document to the city of Lake Stevens to create the new connection between Soper Hill Road and 29th St NE; and

WHEREAS, right-of-way vacations per LSMC 14.16C.095 and RCW 35.79.010, may be initiated by property owners or legislative bodies, and may be subject to slightly different procedural requirements depending on the initiator; and

WHEREAS, per LSMC 14.16C.095(a), the City Council may initiate by resolution a right-of-way vacation procedure; and

WHEREAS, per LSMC 14.16C.095 right-of-way vacations are Type V (quasi-judicial) land use permits subject to public notice, a public meeting, and a public hearing before the City Council; and

WHEREAS, this meeting of the City Council and the reading of this resolution serve to fulfill the public meeting requirements of the city's right-of-way vacation process; and

WHEREAS, per RCW 35.79, the legislative authority by resolution shall fix a time when the petition will be heard and determined, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution; and

WHEREAS, per LSMC 14.16C.095(e) the City Council may require compensation for the vacated right-of-way in which case an appraisal is required; and

WHEREAS, for this right-of-way vacation, the City Council desires to waive compensation for the 215 square foot vacation in exchange for the compensatory dedication of 5,870 square feet from the school district; and

WHEREAS, the City Council authorizes city staff, by way of this resolution, to take the next steps in the right-of-way vacation process as per LSMC 14.16C.095 by providing public notice of the proposed land use action and public hearing date on the right-of-way vacation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE STEVENS AS FOLLOWS:

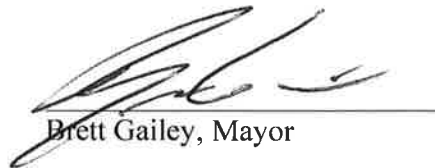
Section 1. Resolution of Intent. The Lake Stevens City Council declares its intent to authorize, by ordinance, the vacation of approximately 215 square feet of land along 29th St NE as shown in Attachment A attached hereto, for the purpose of creating a through road connection along 29th St NE.

Section 2. Date of Public Hearing. The Lake Stevens City Council hereby sets the date of July 12, 2022, for the public hearing on the right-of-way vacation ordinance.

Section 3. Severability. If any section, sentence, clause or phrase of this resolution should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

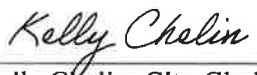
Section 4. Effective Date. This resolution shall take effect immediately upon passage by the Lake Stevens City Council.

PASSED by the City Council of the City of Lake Stevens this 14th day of June, 2022.



Brett Gailey, Mayor

ATTEST:



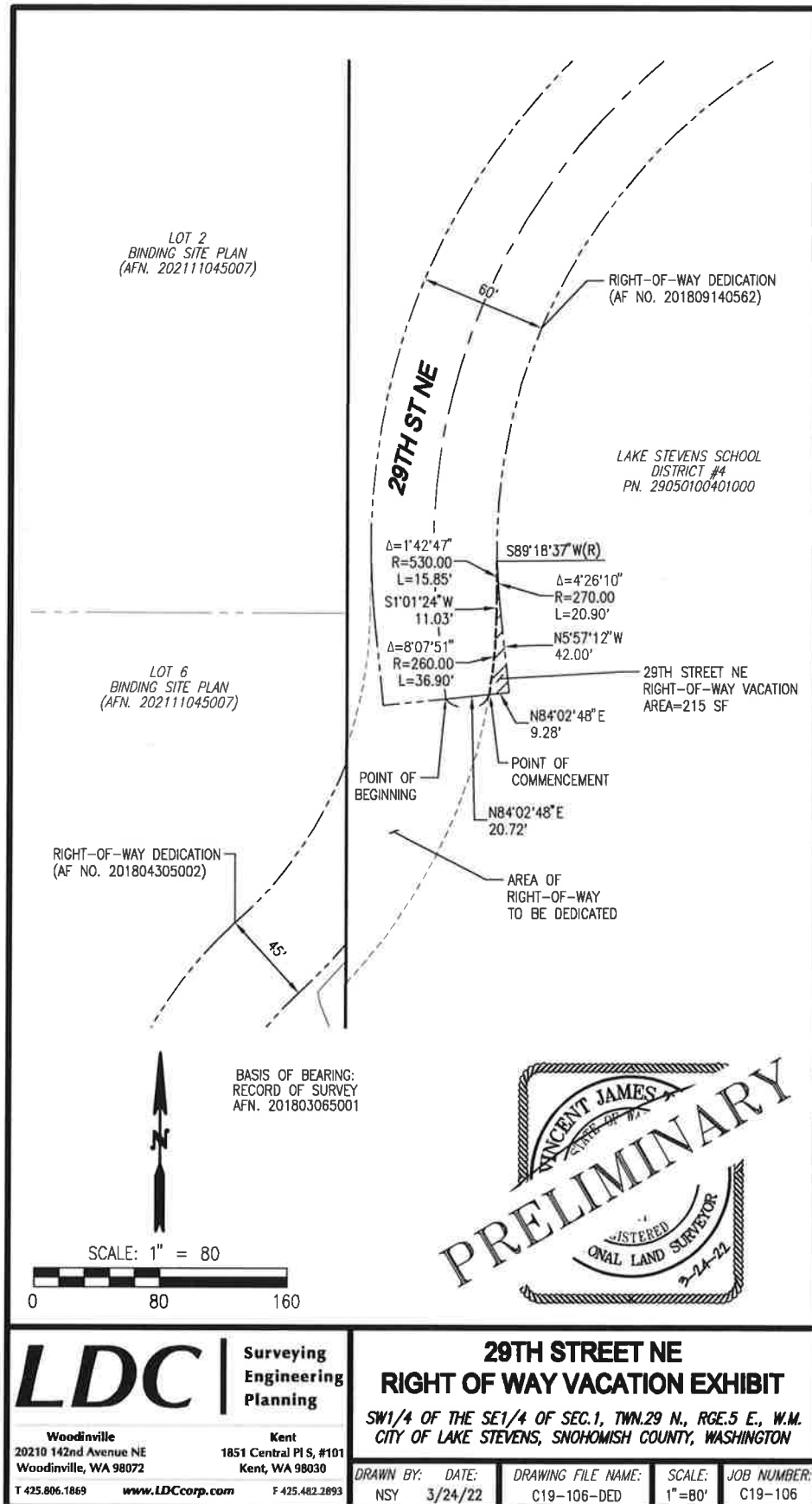
Kelly Chelin, City Clerk

APPROVED AS TO FORM:



Greg Rubstello (Jun 21, 2022 15:53 PDT)
Greg Rubstello, City Attorney

ATTACHMENT A



RIGHT-OF-WAY VACATION

A PORTION OF 29TH STREET NE DEDICATED IN DEED AND DEDICATION FOR PUBLIC RIGHT OF WAY DOCUMENT FILLED IN SNOHOMISH COUNTY RECORDS UNDER AUDITORS FILE NUMBER 201809140562

SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE TERMINUS OF THE CENTERLINE OF 29TH STREET NE DESCRIBED IN THE ABOVE MENTIONED DEED AND DEDICATION;
THENCE NORTH 84°02'48" EAST ALONG THE SOUTH MARGIN OF SAID 29TH STREET NE, A DISTANCE OF 20.72 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 84°02'48" EAST CONTINUING ALONG SAID SOUTH MARGIN, A DISTANCE OF 9.28 FEET;
THENCE NORTH 5°57'12" WEST ALONG THE EASTERLY MARGIN OF SAID 29TH STREET NE, A DISTANCE OF 42.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 270.00 FEET;
THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 4°26'10" FOR AN ARC LENGTH OF 20.90 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT FROM WHICH THE CENTER BEARS SOUTH 89°18'37" WEST, A DISTANCE OF 530.00 FEET;
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 1°42'27" FOR AN ARC LENGTH OF 15.58 FEET;
THENCE SOUTH 1°01'24" WEST, A DISTANCE OF 11.03 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 260.00 FEET;
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 8°07'51" FOR AN ARC LENGTH OF 36.90 FEET TO THE POINT OF BEGINNING;

SAID VACATION CONTAINING 215 SQUARE FEET MORE OR LESS.



3-24-22

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: Transportation Benefit District Resolution 2022-10 and Ballot Documents

Contact Person/Department: Aaron Halverson, Russ Wright, Administration

Budget Impact: If approved by voters, the city would receive an additional 0.2% sales tax for transportation projects.

Legal Review: Yes

RECOMMENDATION(S)/ACTION REQUESTED:

Approve Resolution 2022-10 to submit a Ballot Proposition for the November 8, 2022 General Election, requesting authorization of a 0.2% Sales & Use Tax to Finance Transportation Improvements.

Approve the Explanatory Statement to be included in the November 8, 2022 General Election Voters' Pamphlet.

Approve the Mayor and/or the Council President to select the Pro and Con Committee members.

SUMMARY/BACKGROUND:

The City Council adopted Ordinance 1043 on December 18, 2018, creating the Lake Stevens Transportation District. On January 8, 2019, the Lake Stevens City Council assumed the responsibilities of the Transportation District through Ordinance 1044. The Lake Stevens City Council has debated an appropriate funding mechanism on several occasions. At its recent winter retreat, the Council directed staff to prepare a ballot measure for the community to consider a local sales tax increase to fund transportation improvements. The Council believed this was the most equitable tax, as residents and visitors alike impact Lake Stevens roads while shopping and receiving services.

Earlier in the year, the city conducted a community survey to ascertain public input on a proposed tax increase. Over the past few Council meetings, staff have provided the Council with specific funding forecasts, project lists and prioritization strategies. Staff has recommended that the TBD proceeds be used for street preservation and to fund street, sidewalk, walkway, and trail construction. In coordination with the attorney's office, staff presented draft resolution 2022-10 for the Council's consideration on July 5, 2022. Updates have been made and the final resolution is being brought forward for approval.

The sales and uses tax proceeds are estimated at \$19,000,000 to be received over the 10-year period. The Council intends to set aside \$500,000 annually (\$5,000,000 over the life of the tax) for pavement preservation. The remaining proceeds will be used to pay for projects, and for the repayment of an estimated \$10,000,000 in debt to be issued to expedite the completion of transportation projects.

If approved, the ballot measure will be forwarded to Snohomish County for inclusion in the November 2022 general election.

Lastly, the City of Lake Stevens has the responsibility of recruiting and appointing members to a committee that will write a statement supporting "yes" (pro) and a committee that will write a statement supporting "no" (con). Committees are allowed to have up to (3) three members. Staff will begin the recruitment process immediately after the passage of the Resolution. With the Council's approval, the Mayor and/or Council President will select the names of the committee members to be included in the materials that are due to the Elections office by August 2, 2022.

APPLICABLE CITY POLICIES:

Chapter 3.80 LSMC Transportation Benefit Districts and RCW 36.73.040

ATTACHMENTS:

1. 2022-10 TBD Ballot Resolution
2. Explanatory Statement

CITY OF LAKE STEVENS
LAKE STEVENS, WASHINGTON

RESOLUTION NO. 2022 – 10

A RESOLUTION OF THE CITY OF LAKE STEVENS, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED VOTERS OF THE CITY AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, TO AUTHORIZE A SALE AND USE TAX TO BE IMPOSED WITHIN THE BOUNDARIES OF THE CITY UPON ALL TAXABLE RETAIL SALES AND USES IN THE AMOUNT OF TWO-TENTHS OF ONE PERCENT FOR A PERIOD OF NOT MORE THAN TEN YEARS, COMMENCING NOT EARLIER THAN APRIL 1, 2023, FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTING, REPAIRING AND MAINTAINING CITY STREETS, SIDEWALKS, WALKWAYS, AND TRAILS ALONG WITH FINANCING THE OVERLAY AND PRESERVATION OF STREETS WITHIN THE CITY.

WHEREAS, chapter 36.73 RCW enables cities and counties to create transportation benefit districts to finance and carry out transportation improvements necessitated by economic development and to improve the performance of transportation systems; and

WHEREAS, pursuant to chapter 36.73 RCW, the Lake Stevens City Council approved Ordinance No. 1043 creating the Lake Stevens Transportation Benefit District (the “District”) with boundaries coterminous with the City of Lake Stevens, Washington (the “City”); and

WHEREAS, the District was originally organized as a legally separate municipal entity and taxing authority from the City; and

WHEREAS, the City Council approved Ordinance No. 1044, whereby the Council assumed the rights, powers, immunities, functions, and obligations of the District, as allowed by Second Engrossed Substitute Senate Bill 5987, Section 302 (July 15, 2015), and as a result, the District was absorbed into the City and is no longer considered a legally separate entity; and

WHEREAS, the City Council has identified the sales and use tax as an authorized source of revenue identified in chapter 36.73 RCW to finance the construction of transportation improvements, including streets, sidewalks, walkways, and trails as listed in the City’s Capital Improvement Plan (“CIP”) and to finance the city’s annual street preservation program; and

WHEREAS, RCW 36.73.040(3)(a) gives transportation benefit districts the authority to impose a sales and use tax in accordance with RCW 82.14.0455 in the amount of two-tenths of one percent (0.2%) for a period of ten years; and

WHEREAS, with voter approval, the City (acting through its assumed powers of the District) may impose a sales and use tax upon all taxable retail sales and uses within the boundaries of the City/District to finance transportation improvements; and

WHEREAS, projects related to public transportation as described in the City's CIP are included in the definition of a transportation improvement project pursuant to RCW 36.73.015(6) and are eligible transportation benefit district projects; and

WHEREAS, on July 12, 2022, the City Council conducted a public meeting in accordance with RCW 36.73.050, after giving proper notice describing the transportation improvements that may be funded by the City pursuant to Chapter 36.73 RCW and Chapter 36.74, including the funding for such improvements authorized by Chapter 36.73 RCW and Chapter 36.74; and

WHEREAS, if approved by voters, the sales and use tax will apply to persons who shop and thereby use the sidewalks, walkways, trails and roads in the City and not just to City residents; and

WHEREAS, the sales and use tax will be used entirely to finance the cost, and repay debt issued, to construct and maintain streets, sidewalks, walkways, and trails and related infrastructure identified in Section 2 of this Resolution, along with additional funding for the City's street preservation program;

WHEREAS, the total proceeds of the sales and use tax are estimated at \$19,000,000; and

WHEREAS, the City means to issue an estimated \$10,000,000 in debt to expedite the completion of eligible transportation improvement projects; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON AS FOLLOWS:

Section 1. Current Purpose and Need. The City Council hereby finds that the best interests of the inhabitants of the City require the City (acting through its assumed powers of the District) to submit to the qualified voters of the City/District, at a general election to be held on November 8, 2022, a proposition authorizing the imposition of a sales and use tax in the amount of two-tenths of one percent (0.2%) pursuant to RCW 36.73.040(3)(a), 36.73.065(1) and 82.14.0455 for the purpose of providing revenue necessary to finance the transportation improvement projects described in Section 2 of this resolution ("Projects").

Section 2. Description of Transportation Improvement Projects. The revenues from a sales and use tax will be dedicated for the payment of costs and repayment of indebtedness issued from time to time in one or more series to finance the following Projects:

- The construction of street, sidewalk, walkways, and trail improvements in the City to improve transportation and pedestrian safety and access along with the overlay and repair of city streets included in the City's annual street preservation program as set forth below.

Sidewalk/Walkway/Trail	Start	End	Cost Estimate
16th Street NE	Main Street	Machias Cutoff	1,060,544
91st Ave SE	4th St. SE	Market Street	606,528
91st Ave SE	8th Street SE	4th Street SE	808,704
117th Ave NE	20th Street NE	26th Street NE	1,224,288
91st Ave SE	20th Street SE	12th Street SE	1,179,360
North Lakeshore Drive	Main Street	123rd Ave NE	131,976
Soper Hill	Lake Drive	RAB at SR9	1,714,284
113 th Ave NE	32nd Street NE	36th Street NE	68,796
20th Street NE	Main Street	131st Ave SE	29,484
Grade Road	Hartford Drive	Library	383,292
Hartford Drive	20th St NE	21st Street NE	303,264
123rd Ave NE	22nd Street NE	North Lakeshore Drive	421,200
83rd Ave NE	20th Street SE	17th Street SE	477,360
99th Ave NE	1st Street NE	Chapel Hill Road	101,088
North Lakeshore Drive	123rd Ave NE	North Lakeshore Swim Beach	692,172
99 th Ave NE	Sunnycrest Elem.	30th Street NE	741,312
99th Ave SE	20th St. SE	8th St. SE	1,718,496
South Lake Stevens Road	East Lakeshore Drive	123rd Street SE	2,729,376
20th Street SE	S. Lake Stevens Road	113th Drive SE	1,151,280
4th Street NE	97th Drive NE	98th Drive NE	263,952
<i>Sidewalk and walkway replacement/maintenance, connection of missing links and ADA improvement upgrades, construction of new walkways and trail links</i>			<i>Varies</i>

Roadways	Start	End	Cost Estimate
<i>Pavement Preservation (Annual Allocation)</i>			500,000
79th Ave SE Access Road	20th St. NE	83rd Ave SE	3,163,500
Main Street	16th Street NE	20th Street NE	7,198,720
91st Street NE	Market Place	SR 204	6,748,800
<i>Traffic and Pedestrian Safety Programs - Striping, pavement marker/delineators, and traffic control devices, sight improvements, traffic configuration</i>			<i>Varies</i>

The cost of all necessary design, engineering, financial, legal and other consulting services, inspection and testing, administrative and relocation expenses, and other costs incurred in connection with the foregoing Projects shall be deemed a part of the costs of the Projects.

The City Council shall determine the application of moneys available for the Projects so as to accomplish, as nearly as may be practical, all of the Projects. In the event that the proceeds of sales and use taxes authorized herein, plus any other money of the City legally available therefore, are insufficient to accomplish all of the Projects, the City Council shall use the available funds for paying the cost of those portions of the Projects deemed by the City Council most necessary and in the best interests of the City.

The City Council shall determine the exact locations and specification for the elements of the Projects as well as the timing, order, and manner of implementing or completing the Projects. The City Council may alter, make substitutions to, and amend the Projects as it determines is in the best interests of the City consistent with the general descriptions provided above.

If the City Council shall determine that it has become impractical to acquire, construct, or implement all or any portion of the Projects by reason of changed conditions, incompatible development, costs substantially in excess of the amount of sales and use tax proceeds estimated to be available, or acquisition by a superior governmental authority, the City Council shall not be required to acquire, construct, or implement such portions. If all of the Projects have been acquired, constructed, implemented or duly provided for, or found to be impractical, the City Council may apply the sales and use tax proceeds (including earnings thereon) or any portion thereof to the other pedestrian improvements and/or the street overlay program, then identified in the Transportation Improvement Plan adopted by the Council, as it may be amended, supplemented, and restated from time to time.

Section 3. Sales and Use Tax. If approved by a majority of voters voting at the election, the City Council for the City shall fix and impose a sales and use tax as authorized by RCW 36.73.040(3)(a) and RCW 82.14.0455 upon all taxable retail sales & uses at the rate of two-tenths of one percent (0.2%) of the selling price (in the case of sales tax) and the value of the article used (in the case of the use tax). Revenues of the sales and use tax shall be dedicated for the payment of costs and repayment of indebtedness issued from time to time in one or more series to pay for the Projects described in Section 2 of this resolution. The sales and use tax shall be imposed for a period not exceeding ten years. The tax shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapter 82.08 and 82.12 RCW, as amended, upon the occurrence of any taxable event within the boundaries of the City. The City Council may reduce the amount of the sales and use tax in the manner provided by law.

Section 4. Findings of Fact.

1. The Transportation Benefit District was permitted to place a ballot measure before the voters and, upon receipt of voter approval, is so authorized pursuant to RCW 36.73.040(3)(a) to impose a sales and use tax in accordance with RCW 82.14.0455.
2. The provisions of Ordinance No. 1043 adequately state the purpose and need for the District in the City.
3. The provisions of Ordinance No. 1044, the City assumed the rights, powers, immunities, functions and obligations of the District, as allowed by Second Engrossed Substitute Senate Bill 5987, Section 302 (July 15, 2015), and as a result, the District was absorbed into the City and is no longer a legally separate entity.
4. The City, acting through its assumed powers, will now place a ballot measure before the voters pursuant to RCW 36.73.040(3)(a) to impose a sales and use tax in accordance with RCW 82.14.0455.

Section 5. Ballot Measure. The Director of Elections of Snohomish County, Washington (the “Director”), as ex officio supervisor of elections in Snohomish County, Washington is hereby requested to call and conduct an election in the City to be held on November 8, 2022, for the purpose of submitting to the qualified electors of the City for their approval or rejection, a proposition in accordance with state law and in substantially the following form:

**CITY OF LAKE STEVENS, WASHINGTON
(LAKE STEVENS TRANSPORTATION BENEFIT DISTRICT)
PROPOSITION 1
SALES AND USE TAX FOR
STREET, SIDEWALK, WALKWAYS, AND TRAIL CONSTRUCTION AND STREET
PRESERVATION IMPROVEMENTS**

If approved, this proposition would authorize a sales and use tax of 0.2% within the City pursuant to RCW 82.14.0455, for a term of 10 years, to pay for costs, and repay indebtedness issued from time to time to construct, repair, and maintain streets, sidewalks, walkways, and trail improvements in the City to improve transportation and pedestrian access and safety.

Should this proposition be:

Approved ☐

Rejected ☐

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

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

The proper City officials are authorized to perform such duties as are necessary or required by law to submit the question of whether the sales and use tax shall be imposed, as provided in this resolution, to the electors at the November 8, 2022 general election.

Section 6. Voter’s Pamphlet. The Council finds and declares it to be in the best interests of the City to have information regarding the aforesaid proposition included in local voters’ pamphlets and authorizes the appropriate costs thereof to be charged to and paid by the City, and further authorizes and directs the City Attorney and City Clerk to provide such information to the Director and to take such other actions as may be necessary or appropriate to that end.

Section 7. Severability. If any provision of this resolution shall be declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be separable from the remaining provisions and shall in no way affect the validity of the other provisions, or of the imposition of collection of the tax authorized herein.

ADOPTED BY THE CITY COUNCIL ON JULY 12, 2022.

Mayor Brett Gaily

ATTEST:

Kelly Chelin
City Clerk

ATTACHMENT TO CITY ATTORNEY LETTER

**CITY OF LAKE STEVENS, WASHINGTON
(LAKE STEVENS TRANSPORTATION BENEFIT DISTRICT)
PROPOSITION 1
SALES AND USE TAX FOR
STREET, SIDEWALK, WALKWAYS, AND TRAIL CONSTRUCTION AND STREET PRESERVATION
IMPROVEMENTS**

EXPLANATORY STATEMENT (For Voter's Pamphlet)

The City Council for the City of Lake Stevens in the interest of public safety, acting through its assumed power of the Lake Stevens Transportation Benefit District, is seeking voter approval to impose a two-tenths of one percent sales and use tax upon all taxable retail sales and uses within the boundaries of the City/District to finance transportation improvements. The sales and use tax will be used entirely to finance the cost, and repay debt issued, to construct and maintain streets, sidewalks, walkways, trails, and related infrastructure described in Section 2 of Council Resolution No. 2022 – 10 and on the City website. The period of the tax, if approved, is ten years. The sales and use tax will apply to persons who shop and thereby use the sidewalks, walkways, trails, and roads in the City and not just to City residents. The proceeds from the sales and use tax are intended to finance the costs and repay an estimated \$10,000,000 in debt to be issued to expedite the completion of sidewalks, walkways, trails, and other eligible transportation improvement projects, improving pedestrian and traffic safety within the City of Lake Stevens. The sales and use tax proceeds will supplement existing revenue sources and any grant funding obtained by the City for transportation improvements.

CITY COUNCIL STAFF REPORT



Agenda Date: 7/12/2022

Subject: Storage Facilities Code Amendment Introduction (LUA2022-0079)

Contact Person/Department: Jill Needham, Community Development

Budget Impact: None

Legal Review: No

RECOMMENDATION(S)/ACTION REQUESTED:

Introduce and gather initial Council feedback on the scope and content of LUA2022-0079, a city-initiated land use code amendment related to LSMC Section 14.44.044 (Storage Facilities) and associated chapters. **This is an informational briefing and no formal action is requested at this time.**

SUMMARY/BACKGROUND:

The purpose of this briefing is to introduce and discuss the scope of potential amendments to the city's supplementary use regulations for storage facilities ([LSMC Section 14.44.044](#)). Amendments to this section were recommended by the Planning Commission as part of the city's Permissible Uses code amendment (LUA2021-0136), which was adopted by the City Council in November 2021 via [Ordinance 1124](#). However, during their public hearing to consider the Commission's recommendation, the City Council opted to remove the updated regulations for storage facilities and requested that staff bring back potential updates as a separate code amendment in 2022.

The city currently has nine existing storage facilities and one pending land use application for a new facility. Storage facilities are typically quite land consumptive in nature, occupying large swaths of land while generating very few jobs. The Comprehensive Plan [Land Use Element](#) acknowledges this issue (page LU-22) and calls for uses with higher employment densities (Policy 2.6), especially in industrial areas, where storage facilities can economically outcompete more traditional industrial

uses. The [Economic Development Element](#) (Policy 6.81, page ED-10) also calls for diverse employment that supports family wage jobs.

The lack of job generation from such uses is an issue for cities such as Lake Stevens, which is projected to face a deficit of approximately 1,100 jobs when comparing recently adopted 2044 employment growth targets to its supply of employment land (based on existing zoning and derived from the [2021 Buildable Lands Report](#)). Urban 3 also analyzed the land consumptive nature of storage facilities in its review of the city's industrial area and presented their findings to year. Their report showed that facilities like storage units were less productive than manufacturing, retail and office uses.

To address the low employment density of these uses, the Planning Commission's recommendation for LUA2021-0136 included language that would have required the preparation of an economic analysis for any storage facility application. However, the City Council felt such a requirement was too subjective in nature and was not supported by clearly defined standards or metrics. Instead, councilmembers requested that staff address employment density through clear and objective development standards.

The city's current supplementary use regulations are shown in Attachment 1 and were adopted in 2017 ([Ordinance 1016](#)). Per LSMC Table 14.40-II, storage facilities are currently permitted through a Type II Administrative Conditional Use Permit (ACUP) in the Local Business (LB), Light Industrial (LI), and General Industrial (GI) zones according to Table 14.40-II, as well as those properties with a Commercial District zoning designation that are located outside of the city's three adopted subareas. Many of the existing regulations are specific to the LB zoning district, including subsection (c)(1), which intends to limit the storage use to 25% of the site while reserving the rest for other uses. However, the use of "may" in (c)(1)(ii) does not make this a firm requirement, and the lack of applicability to other zoning districts creates additional confusion and ambiguity.

SCOPE AND SCHEDULE

The proposed code amendment aims to accomplish the following:

- Evaluate appropriate zoning districts where storage facilities should be permitted and whether they should be outright or conditionally permitted.
- Provide clear and objective development and design standards for storage facilities, such as maximum size and lot coverage, minimum number of stories, a potential citywide square footage cap on storage facilities and percentage of active commercial uses to be included in combination with storage facilities.
- Address the city's future employment needs and projected employment deficit when drafting updated code language.

- Revise the language so that it more clearly addresses the applicability of standards in all zoning districts where storage facilities are permitted, instead of just the LB zoning district.
- More clearly distinguish between personal storage facilities detailed in Section 14.44.04 and Table 14.40-II and warehouse storage uses permitted by LSMC 14.38.020 in the subareas' Business District.

On June 1, Planning Commission held an introductory briefing on this new amendment. Several commissioners felt that storage facilities should be further restricted (or potentially prohibited) in several areas, such as gateways to the city (along SR-9, Highway 204, and Highway 92) and/or within the LB zone. Additional Commission feedback included limiting storage facilities to a maximum of 25% of a project site. Given the amount of time they spent discussing this topic last year, commissioners felt they could complete their analysis and recommendation on the proposed code amendment in a timely manner, with public hearings in early Fall 2021.

Staff has examined codes from several nearby jurisdictions and found that [Lynnwood](#) provides a good mix of design and development standards (Attachment 2). Staff will continue to review codes from other jurisdictions as it moves forward with the drafting of code language.

APPLICABLE CITY POLICIES:

ATTACHMENTS:

1. Attachment 1 - Existing Storage Facility Regulations
2. Attachment 2 - City of Lynnwood Regulations

14.44.044 Storage Facilities.

(a) Intent. Storage facilities include characteristics common to commercial and industrial uses. This section provides regulations to help guide appropriate siting of storage facilities in the Local Business zoning district, while maintaining the desired character and function of that district. If designed appropriately, storage facilities can emulate the exterior architecture and site design of commercial or mixed-use developments, reducing inconsistencies with Comprehensive Plan goals or zoning district intent and limiting impacts to surrounding neighborhoods. Storage facilities in the Local Business zoning district shall adhere to the additional special restrictions and development standards of this section.

(b) Applicable Location of Section [14.44.044](#) Regulations. Storage facilities shall be allowed in the Local Business zoning districts on roads designated as State routes or State highways.

(c) Special Restrictions.

(1) The storage use shall be limited in size to 25 percent coverage or less per development.

(i) Each development is defined as the area of contiguous Local Business parcels.

(ii) The use coverage is defined as the amount of space solely devoted to supporting the storage use on each development. This may include building footprints, drive aisles between storage facilities, loading bays, parking, landscape screening, offices and associated appurtenances. The use coverage percentage may exclude critical areas and features shared within a development like pedestrian facilities, internal access and circulation roads, and shared parking.

(d) Design Standards.

(1) Storage facilities shall have an outward appearance that more closely resembles a commercial or mixed-use development than a warehouse or single-story linear shed design, and shall be subject to the design review requirements of Section [14.16C.050](#).

(2) Storage facilities shall include architectural and design features that promote visual compatibility with commercial or mixed-use developments. Examples of these features may include providing facade modulation; using varied or contrasting exterior building materials and detailing; screening blank walls; incorporating varied roof-lines among other features.

(3) Storage facilities shall shield exterior lighting so as not to directly illuminate or create visible glare from adjacent residential properties subject to the requirements of Section [14.38.080](#).

(4) Storage facilities are subject to the screening requirements of a Type A screen, as described in Chapter [14.76](#), when abutting residential zoning districts.

(i) Open storage facilities must provide an additional Type C screen that includes trees, shrubs and ground cover or similar vegetation to screen the exterior of the open storage facility's enclosure. (Ord. 1016, Sec. 2, 2018)

Attachment 2

City of Lynnwood Storage Facility Regulations (LMC 21.46.119 B)

B. Self-Service Storage Facilities in Commercial Zones. Self-service storage facilities have characteristics in common with both commercial uses and industrial uses. This subsection provides regulations to appropriately site self-service storage facilities in certain commercial zones while maintaining the desired character and function of those zones. In general, self-service storage facilities generate low levels of vehicular and pedestrian activity and do not contribute to the vitality of a commercial area compared to other commercial uses. Historically self-service storage facilities have visually resembled industrial facilities, but some recently constructed facilities have featured designs compatible with higher quality commercial development. If designed appropriately as stand-alone multistory structures that emulate the exterior architecture of residential or multifamily or as components located within larger multistory office or residential structures, self-storage uses may be located without adversely impacting comprehensive plan goals, zoning district intent or the surrounding neighborhood. Thus, self-storage uses in commercial zones shall adhere to the additional development standards articulated in this chapter.

1. Use Regulations.

a. Where this chapter provides for self-service storage facilities upon property zoned CG, self-service storage facilities are permitted only within multistory structures designed to emulate multifamily or office buildings.

b. Where this chapter provides for self-service storage facilities upon property zoned CC or ACC, self-service storage facilities are permitted as an accessory use, and may occupy no more than 20 percent of the property's building floor area. With the exception of the business office and loading/unloading facilities, self-service storage facilities shall not be permitted upon the ground or street level of the multistory building.

c. Permitted Activities. The only activities permitted in individual storage units shall be the rental of the unit and the pickup and deposit of goods and/or property in dead storage. Storage units shall not be used for activities such as:

i. Residences, offices, workshops, studios, hobby or rehearsal areas;

ii. Manufacturing, fabrication, or processing of goods, service or repair of vehicles, engines, appliances, or other electrical equipment, or any other industrial activity;

iii. Conducting retail sales of any kind including garage or retail sales or auctions or to conduct any other commercial activity;

iv. Storage of flammable, perishable or hazardous materials or the keeping of animals.

d. Accessory Uses. Accessory uses such as the rental of trucks, trailers or moving equipment (hand carts, jacks and lifts, etc.), the installation of trailer hitches, or the sale of boxes or packing materials are permitted only if they are otherwise permitted in the zone in which the facility is located, and shall meet all use and development standards of the commercial zone.

e. Hours of Operation.

i. Self-service storage facilities located in commercial zones shall not operate or allow tenant access between the hours of 10:00 p.m. and 7:00 a.m. if the site abuts a Class A EDNA, as defined in Chapter [10.12](#) LMC, Noise.

ii. The director may permit extended hours of operation if the facility operator demonstrates that due to facility design or other factors the facility will not have significant noise impacts on the adjacent Class A EDNA property. The burden of proof is on the facility operator.

iii. Nothing in this section overrides or supersedes any requirement of Chapter [10.12](#) LMC and all restrictions of Chapter [10.12](#) LMC apply even during allowed hours of operation.

f. Outdoor Storage Prohibited. Within commercial zones, all goods and property stored in a self-service facility shall be stored in an enclosed building. No outdoor storage of boats, RVs, vehicles, etc., or storage in outdoor storage pods or shipping containers is permitted.

2. Development Standards. All development standards of the commercial zone in which the facility is located apply unless the standard is superseded by regulations in this subsection.

a. Storage Units.

i. All storage units shall gain access from the interior of the building(s) or site – no unit doors may face the street or be visible from off the property.

ii. If the facility abuts residentially zoned property, the facility loading bays, docks or doors shall not be visible from the residential property.

iii. Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping the fixtures for other purposes.

b. Additional standards for self-service storage facilities in the commercial zones as outlined in Table 21.46.12 subject to the following limitations:

i. The facility shall be located in a multistory building.

ii. Loading docks, entrances or bays may not be located on a street-facing side of a building and shall be screened from residential uses.

3. Design Standards. Design review shall be required for all new construction and expansions of self-service storage buildings to ensure the development has a high quality design and is appropriate to the desired character of the zone it is located in and the adjacent neighborhood.

Self-service storage facilities shall meet the requirements of Chapter [21.25](#) LMC, Project Design Review, and the following requirements:

a. Fences and Walls. Fences and walls including entry gates shall be constructed of high quality materials and shall be compatible with the design and materials of the building(s) and site. The design guidelines for fences and walls and the following provisions shall apply to self-service storage facilities:

- i. Decorative metal or wrought iron fences are preferred.
- ii. Chain-link (or similar) fences, barbed or razor wire fences and walls made of precast concrete blocks are prohibited.
- iii. Fences or walls are not allowed between the main or front building on the site and the street.
- iv. Street-front landscape areas required by the design guidelines or elsewhere in this code shall not be fenced.

b. Ground and Upper Floor Facades. Ground floor and upper floor facades for self-service storage facility buildings in commercial zones shall meet the following requirements:

- i. The ground floor transparency requirements of the commercial districts design guidelines shall also apply to each floor above the ground floor of a self-service storage facility building that is visible from a street or from a residentially zoned area.
- ii. The ground floor on rear or side facades facing residential areas do not have to meet subsection (B)(3)(b)(i) of this section if they are effectively visually screened from view from the street or nearby residential uses by a transition or landscape strip.
- iii. The design guidelines for treating blank walls and for opaque walls in the design shall apply to the upper floors of self-service storage buildings.
- iv. In order to promote visual compatibility with commercial and multifamily development allowed in commercial zones, self-service storage facilities buildings shall incorporate architectural and design features common to commercial and/or multifamily development. Examples of such architectural and design features include: massing, proportion; facade modulation; exterior building materials and detailing; varied roof line; pedestrian scale; fenestration; repetition; etc.

c. Street Entrance. The business office of self-service storage facilities in commercial zones shall have a pedestrian entrance facing the street.

- i. This entrance shall be considered the “main” or “principal” entrance to the building for the purpose of the design guidelines or other sections of this chapter even if the

majority of customers using the facility enter through loading docks, bays, doors or other side or rear entrances.

ii. This entrance shall meet the design guideline prominent entrance requirements.

d. Materials. Self-service storage facility buildings shall be surfaced in high-quality materials. Unfaced concrete block, painted masonry, tilt-up and precast concrete panels and prefabricated metal sheets are prohibited. Prefabricated buildings are not allowed.

e. Design Departures. In addition to the requirements for design departures in Chapter [21.25](#) LMC, the director shall find that a request for approval of a design departure will not cause the development or the use to be inconsistent with the desired character of the zone on which it is located or have negative impacts on surrounding uses. (Ord. 3258 § 20, 2017; Ord. 3233 § 25, 2016; Ord. 3010 § 5 (Exh. A), 2013; Ord. 2947 § 6, 2012; Ord. 2441 § 14, 2003; Ord. 2065 § 8, 1995; Ord. 2020 § 19, 1994; Ord. 1963 § 2, 1993; Ord. 1758 § 5, 1990)