



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**August 19, 2013**

**Ordinance 17638**

**Proposed No. 2013-0287.2**

**Sponsors Lambert**

1           AN ORDINANCE approving the sale to the city of  
2           Sammamish of four surplus road parcels located in district  
3           three.

4           BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5           SECTION 1. Findings:

6           A. The road services division is the custodian of four unimproved parcels  
7 identified as assessor's parcels 162506-9070, 162506-9071, 212506-9042 and 212506-  
8 9043.

9           B. Consistent with K.C.C. 4.56.070, the road services division has determined  
10 that these parcels are surplus to its needs and the needs of the public.

11           C. Pursuant to K.C.C. 4.56.070, the facilities management division has circulated  
12 surplus notices to King County agencies and none expressed interest. The facilities  
13 management division has also determined that the property is not suitable for affordable  
14 housing purposes and declared the property surplus to the future foreseeable needs of the  
15 county.

16           D. Pursuant to chapter 39.33 RCW and K.C.C. 4.56.140, the King County  
17 executive has negotiated an intergovernmental purchase and sale agreement for the sale  
18 of these surplus parcels ("the sale parcels") to the city of Sammamish("the buyer").

19 E. The proposed sale of the sale parcels to the city of Sammamish is consistent  
20 with chapter 39.33 RCW relating to the intergovernmental disposition of property and  
21 with K.C.C. 4.56.100 and 4.56.140 providing for a direct negotiated sale to a government  
22 agency. K.C.C. 4.56.080 provides that council approval is required for the sale of  
23 county-owned property valued in excess of ten thousand dollars.

24 SECTION 2. The King County council, having held a hearing as required by  
25 RCW 39.33.020 and K.C.C. 4.56.140, and having determined that the sale of the subject  
26 property is in the best interest of the public, hereby authorizes the executive to execute a  
27 purchase and sale agreement substantially in the form of Attachment A to this ordinance  
28 and to execute any other documents necessary to convey and deliver title to the sale  
29 parcels to the buyer. All actions up to now taken by county officials, agent and  
30 employees consistent with the terms and purposes of the sale agreement are hereby  
31 ratified, confirmed and approved.

32 SECTION 3. If any one or more of the covenants or agreements provided in this  
33 ordinance to be performed on the part of the county is declared by any court of competent  
34 jurisdiction to be contrary to law, then such a covenant or covenants, agreement or  
35 agreements are null and void and shall be deemed separable from the remaining

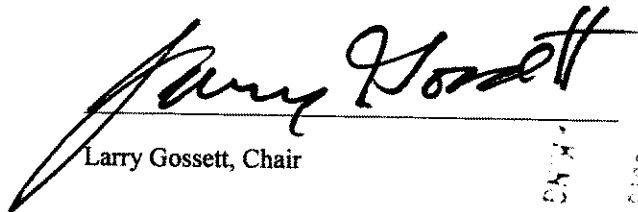
36 provisions of this ordinance and in no way affect the validity of the other provisions of  
37 this ordinance or of the sale authorized by this ordinance.

38

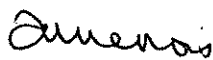
Ordinance 17638 was introduced on 6/24/2013 and passed by the Metropolitan King County Council on 8/19/2013, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,  
Ms. Patterson, Ms. Lambert, Mr. Dunn, Mr. McDermott and Mr.  
Dembowski  
No: 0  
Excused: 0

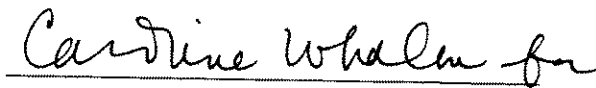
KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Larry Gossett, Chair

ATTEST:

  
Anne Noris, Clerk of the Council

APPROVED this 30 day of August, 2013.

  
Dow Constantine, County Executive

RECEIVED  
2013 AUG 30 PM 3:51  
CLERK  
KING COUNTY COUNCIL

Attachments: A. Real Estate Purchase and Sale Agreement

17638

**ATTACHMENT A to ORDINANCE**

**Real Estate Purchase and Sale Agreement**

**Sahalee Roads Surplus Sale**

# REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of \_\_\_\_\_, 2013, by and between **KING COUNTY**, a political subdivision of the State of Washington (the "Seller") and the **CITY OF SAMMAMISH**, a municipal corporation (the "Buyer").

## RECITALS

A. Seller is the owner of certain real property located in the City of Sammamish, King County, State of Washington, the legal description of which is attached hereto as **EXHIBIT A** (the "Property").

B. Seller is desirous of selling the Property to Buyer and Buyer is desirous of purchasing the Property. The sale is being carried out pursuant to RCW ch. 39.33.

## AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

### ARTICLE 1. PURCHASE AND TRANSFER OF ASSETS

1.1. **PROPERTY TO BE SOLD.** Subject to and upon the terms and conditions set forth in this Agreement, Seller shall sell and convey to Buyer on the Closing Date (as hereinafter defined) and Buyer shall buy and accept from Seller on the Closing Date the following assets and properties:

(a) all of Seller's right, title and interest in the following parcels legally described in **EXHIBIT A** ("the Property"):

Road Drainage Parcels: Assessor's Parcels 162506-9071 and 162506-9070  
(the "Road Drainage Parcels")

Park Access Parcels: Assessor's Parcels 212506-9043 and 212506-9042 (the "Park Access Parcels")

(b) all of Seller's right, title and interest in improvements and structures located on the Property, if any;

(c) all of Seller's right, title and interest in and to tangible personal property, if any, owned by the Seller and attached, appurtenant to or used in connection with the Property ("Personal Property");

(d) all of Seller's tenements, easements and rights appurtenant to the Property, if any, including but not limited to all of the Seller's right, title, and interest in and to streets, alleys or other public ways adjacent to the Property, easements for public utilities, all sewers and service drainage easements, all rights of connection to the sewers, and all rights of ingress and egress, and all leases, licenses, government approvals and permits affecting the Property; and

Hereinafter, the items listed in Section 1.1 are collectively referred to as the "Purchased Assets."

## ARTICLE 2. PURCHASE PRICE

**2.1. PURCHASE PRICE AND PAYMENT.** In consideration of the conveyance of the Purchased Assets, Buyer and Seller shall make the following payments:

(a) **Cash Payable at Closing** – Buyer shall pay Seller cash at Closing: \$224,000.

(1) The payment provided above is calculated as follows:

Fair Market Value of the Park Access Parcels: \$322,000

Less: Non-cash credit from Seller to Buyer  
for assuming responsibility for  
long-term maintenance of the Road  
Drainage Parcels: \$59,000

Non-cash credit from Seller to Buyer  
for carrying out deferred maintenance  
on the Road Drainage Parcels: \$39,000 (98,000)

Cash Payable at Closing: \$224,000

(b) **Cash Payable Following Closing but Prior to December 31, 2014** – Seller shall pay to Buyer grant funds for trail and parks related improvements by December 31, 2014 in consideration of the restrictive covenants for park and recreation use to be imposed on the Park Access Parcels under this Agreement and of the trail and parks related improvements to be made under the Interagency Agreement, attached hereto as Exhibit D, to be executed by the parties on or before Closing: \$100,000.

**2.2. ALLOCATION OF PURCHASE PRICE.** Seller and Buyer agree that the entire Purchase Price is allocable to real property and that the value of the Personal Property, if any, is *de minimis*.

## ARTICLE 3.

## REPRESENTATIONS AND WARRANTIES OF THE PARTIES

**3.1. WARRANTIES AND REPRESENTATIONS OF SELLER.** AS of the Closing Date, Seller represents and warrants as follows:

**3.1.1. Organization.** The Seller is a political subdivision of the State of Washington duly organized, validly existing and in good standing under the laws of the State of Washington.

**3.1.2. Execution, Delivery and Performance of Agreement, Authority.** The execution, delivery and performance of this Agreement by Seller (i) is within the powers of Seller as a political subdivision and charter county of the State of Washington, (ii) has been or will be on or before the closing date, duly authorized by all necessary action of the Seller's legislative authority, and (iii) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which the Seller is a party or which is presently in effect and applicable to Seller. This Agreement constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with the terms thereof.

**3.1.3. Litigation.** There is no pending, or to the best of Seller's knowledge, threatened lawsuit or material claim against or relating to Seller with respect to the Property, which shall impede or materially affect Seller's ability to perform the terms of this Agreement. There is no pending or, to the best of Seller's knowledge, contemplated condemnation or similar proceeding with respect to the Property or any part thereof.

**3.1.4. Assessments.** There is no pending, or to the best of Seller's knowledge, contemplated local improvement district or other special assessment or charge with respect to the Property, except as may be disclosed in the Title Commitment described below.

**3.1.5. Full Disclosure.** No representation or warranty by Seller in this Agreement or in any instrument, certificate or statement furnished to Buyer pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or fails to state a material fact which is necessary to make the statements set forth therein not false or misleading.

**3.1.6. No Broker.** No broker, finder, agent or similar intermediary has acted for or on behalf of Seller in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding with Buyer or any action taken by Buyer.

**3.1.7. Contracts.** There are no contracts or other obligations outstanding for the sale, exchange, transfer, lease, rental or use of the Property or any portion thereof.

**3.1.8. Future Agreements.** From and after the Effective Date hereof unless this Agreement is terminated in accordance with its terms, Seller shall not without the prior written consent of Buyer:

- (i) enter into any agreement, contract, commitment, lease or other transaction that affects the Property in any way; or
- (ii) sell, dispose of or encumber any portion of the Property;

**3.1.9. Maintenance of the Property.** Seller shall continue to maintain the Property in compliance with all applicable laws and pay all costs of the Property with respect to the period prior to Closing.

**3.1.10. Condition of the Property.**

(a) Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, contracts or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to the value, nature, quality, or condition of the Property, including, without limitation:

- (i) The water, soil and geology;
- (ii) The income to be derived from the Property;
- (iii) The suitability of the Property for any and all activities and uses that Buyer or anyone else may conduct thereon;
- (iv) The compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;
- (v) The habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property;
- (vi) The manner or quality of the construction or materials, if any, incorporated into the Property; or
- (vii) Any other matter with respect to the Property.

(b) Seller has not made, does not make, and specifically disclaims any representations regarding compliance with any environmental protection, pollution, zoning or land use laws, rules, regulations, orders, or requirements, including the existence in or on the Property of hazardous materials or substances.

(c) Without limitation, Seller does not make and specifically disclaims any warranties, express or implied, any warranties or representations with respect to the structural condition of the Purchased Assets, the area of land being purchased, the existence or non-



existence of any Hazardous Substances or underground storage tanks, or the actual or threatened release, deposit, seepage, migration or escape of Hazardous Substances, from or into the Purchased Assets, and the compliance or noncompliance of the Purchased Assets with applicable federal, state, county and local laws and regulations, including, without limitation, environmental laws and regulations and seismic/building codes, laws and regulations. For purposes of this Agreement, the term "Hazardous Substances" shall mean: "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended; hazardous wastes, hazardous materials, hazardous substances, toxic waste, toxic materials, or toxic substances as defined in state or federal statutes or regulations; asbestos-containing materials, polychlorinated biphenyls; radioactive materials, chemicals known to cause cancer or reproductive toxicity; petroleum products, distillates or fractions; any substance the presence of which is prohibited by statute or regulation; and any substance for which any statute or regulation requires a permit or special handling in its use, collection, storage, treatment or disposal.

(d) All provisions of this Section 3.1.10 shall survive Closing and the expiration or earlier termination of this Agreement.

**3.1.11. Risk of Loss.** Until the Closing Date, the risk of loss relating to the Property shall rest with the Seller. Risk of Loss shall be deemed to include any property damage occurring as a result of an "Act of God," including, but not limited to, earthquakes, tremors, wind, rain or other natural occurrence.

**3.1.12. Foreign Person.** Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986, as amended and shall deliver to Purchaser prior to the Closing an affidavit, as set forth in **EXHIBIT D**, evidencing such fact, and such other documents as may be required under the Code.

**3.1.13 Full Disclosure.** To the extent of Seller's knowledge as defined herein, no representation or warranty by Seller in this Agreement or in any instrument, certificate or statement furnished to Buyer pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or fails to state a material fact which is necessary to make the statements set forth therein not false or misleading. As used in this Agreement, the phrase "Seller's knowledge" or any derivation or variation thereof shall mean the actual knowledge of the following persons, based on their reasonable inquiry in the file locations where the relevant information would normally be filed:

(a) Steve Salyer, Manager, Real Estate Services Section, Facilities Management Division, King County Department of Executive Services;

(b) Kate Donley, Project Program Manager IV, Real Estate Services Section, Facilities Management Division, King County Department of Executive Services;

(c) Jon Cassidy, P.E., Maintenance Engineering Manager, Road Services Division, King County Department of Transportation; and

(d) Monica Leers, Section Manager, Capital Planning & Land Management Section, King County Parks Division.

**3.2. REPRESENTATIONS AND WARRANTIES OF BUYER.** As of the Closing Date, Buyer represents and warrants as follows:

**3.2.1. Organization.** Buyer is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Washington. Buyer has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

**3.2.2. Execution, Delivery and Performance of Agreement, Authority.** The execution, delivery and performance of this Agreement by Buyer (i) is within the powers of Buyer as a municipal corporation, (ii) has been or will be on or before the closing date, duly authorized by all necessary action of the Buyer's legislative authority, and (iii) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which the Buyer is a party or which is presently in effect and applicable to Buyer. This agreement constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms hereof.

**3.2.3. Litigation.** There is no pending or, to the best of Buyer's knowledge, threatened lawsuit or material claim against or relating to Buyer that shall impede or materially affect Buyer's ability to perform the terms of this Agreement.

**3.2.4. Condition of Property.**

(a) Buyer acknowledges and accepts Seller's disclaimer of the Property condition in Section 3.1.9 of this Agreement.

(b) Buyer further acknowledges and agrees that, having been given the opportunity to inspect the Property, Buyer is relying solely on its own investigation of the Property and not on any information provided or to be provided by Seller. Buyer further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information and no employee or agent of Seller is authorized otherwise. Buyer further acknowledges and agrees that Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person, and, to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS-IS" condition and basis with all faults. It is understood and agreed that the sale price reflects that the Property is sold by Seller to Buyer subject to the foregoing.

(c) Buyer acknowledges that, within the Due Diligence Period as defined in Section 4.1.2 of this Agreement, Buyer will have conducted a physical inspection and made all

investigations that Buyer deems necessary in connection with its purchase of the Purchased Assets, and that, as of the Effective Date hereof, Seller has provided Buyer with copies of all reports in Seller's possession that have been requested by Buyer. Upon waiver or satisfaction by Buyer of its contingencies pursuant to Article 5, Buyer will be deemed to have approved the physical condition of the Property and agrees to accept and purchase the same "AS IS, WHERE IS", including, without limitation, the existence or nonexistence of any pollutants, contaminants, hazardous waste, dangerous waste, toxic waste, underground storage tanks or contaminated soil, or the actual or threatened release, deposit seepage, migration or escape of such substances at, from or into the Property and the compliance or noncompliance of the Property with applicable federal, state, county and local laws and regulations including, without limitation, environmental laws and regulations. Buyer acknowledges and agrees that, except to the extent of Seller's representations and warranties in Section 3.1 of this Agreement, and to the extent of any fraud or deliberate misrepresentation by Seller, Seller shall have no liability for, and that Buyer shall have no recourse against the Seller for, any defect or deficiency of any kind whatsoever in the Property including without limitation those relating to Hazardous Substances, without regard to whether such defect or deficiency was discovered or discoverable by the Buyer or Seller.

**3.2.5 No Broker.** No broker, finder, agent or similar intermediary has acted for or on behalf of Buyer in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent, or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement, or understanding with the Buyer or any action taken by the Buyer.

**3.2.6. Indemnification.** From and after the Closing Date, Buyer shall indemnify, defend and hold Seller, its officers, agents and employees harmless from and against any and all claims and agency orders or requirements relating to or arising out of, directly or indirectly, the Purchased Assets.

## **ARTICLE 4. TITLE MATTERS**

**4.1. TITLE.** Seller shall deliver to Buyer good and marketable title, free and clear of all liens, defects and encumbrances except the Permitted Exceptions. The title, right of possession and interest to the Purchased Assets shall pass to Buyer upon the Closing Date and thereafter the risk of loss thereof shall be the responsibility of Buyer.

**4.1.1. Title Commitment.** Buyer shall obtain a current ALTA form of commitment for an owner's extended policy of title insurance (the "Title Commitment") issued by First American Title Insurance Company. (the "Title Company"), describing the Property, listing Buyer as the prospective named insured and showing as the policy amount the total Purchase Price for the Property. At such time as the Title Company causes the Title Commitment to be furnished to Buyer, the Title Company shall further cause to be furnished to Buyer legible copies of all instruments referred to in the Title Commitment as restrictions or exceptions to title to the Property.

**4.1.2. Survey.** Prior to the expiration of the Due Diligence Period (as defined in Section 5.2), Buyer shall have the option, at its expense, to have prepared and furnished to the Title Company and Buyer a survey (the "Survey") of the Property prepared by a licensed public surveyor. The Survey shall be certified to Buyer and the Title Company, shall be satisfactory to the Title Company so as to permit it to issue an owner's extended coverage title policy, identify the Property by legal description and shall set forth the number of square feet contained within the Property, show all natural monuments, existing fences, drainage ditches and/or courses, flood plain limits, any building or other site improvements and/or objects, any rights-of-way for streets, existing driveways, alleys or highways, easements and other restriction lines existing and/or proposed which shall affect any portion of the Property, and such other items as required by Buyer.

**4.1.3. Review of Title Commitment and Survey.** Buyer shall have until fourteen (14) days after receipt of the last of the Title Commitment and the Survey (the "Review Period") but no later than the expiration of the Due Diligence Period as defined below, in which to notify Seller of any objections Buyer has to any matters shown or referred to in the Title Commitment or Survey and of any title insurance endorsements required by Buyer. Any exceptions or other items that are set forth in the Title Commitment or the Survey and to which Buyer does not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which Buyer does object within the Review Period, Seller shall notify Buyer within ten (10) days after Seller receives Buyer's notice of objections of any exceptions to title or items on the survey which Seller is not able to remove or otherwise resolve and any endorsements that Seller is not able to provide following Buyer's request within the Review Period, and Buyer may, at Buyer's option, either waive the objections not cured or Buyer may terminate this Agreement by notice to Seller. Notwithstanding the foregoing, all monetary liens or encumbrances on the Property at closing shall be paid by Seller at Closing.

**4.2. OWNER'S TITLE INSURANCE POLICY.** At the closing, Buyer shall cause an owner's policy of title insurance to be issued by the Title Company in the full amount of the purchase price, effective as of the Closing Date, insuring Buyer that the fee simple title to the Property is vested in Buyer, subject only to the usual printed exceptions contained in such title insurance policy, to the matters approved by Buyer as provided herein, and to any other matters approved in writing by Buyer. The obligation of Buyer to provide the title policy called for herein shall be satisfied if, at the closing, the Title Company has given a binding commitment, in a form reasonably satisfactory to Buyer, to issue the policies in the form required by this section. Buyer shall pay any sum owing to the Title Company for the preparation of the preliminary and binding commitments generated by the Title Company.

**4.3. CONVEYANCE.** Seller shall convey to Buyer the title to the Road Drainage Parcels by quitclaim deed in the form attached hereto as **EXHIBIT B1**, and to the Park Access Parcels by bargain and sale deed in the form attached hereto as **EXHIBIT B2**, subject only to the Permitted Exceptions, and appropriate covenants reserved in federal patents or state deeds, building or use restrictions general to the district, and building or zoning regulations or provisions shall be deemed Permitted Exceptions.

## ARTICLE 5. CONTINGENCIES

**5.1. DUE DILIGENCE INSPECTION AND FEASIBILITY.** Buyer shall satisfy itself by investigation and inspection, at its cost and expense in its sole and absolute discretion, that the condition of the Property for Buyer's contemplated use meets with its approval. If Buyer approves of the condition of the Property, Buyer agrees to notify Seller, in writing, thereby removing the contingency. Buyer shall make such determination within thirty (30) days following the date of mutual execution of this Agreement ("Due Diligence Period"). In the event this contingency is not satisfied or waived within the Due Diligence Period, Buyer may terminate this Agreement upon written notice to Seller on or before the expiration of the Due Diligence Period, and neither party shall have any further rights or obligations to the other hereunder.

**5.1.1. Inspections.** During the Due Diligence Period, Buyer, its designated representatives or agents shall have the right at Buyer's expense to (i) perform any and all tests, inspections, studies, surveys or appraisals of the Property deemed necessary, on any subject, by the Purchaser (subject to the limitations set forth below and Paragraph 5.1.2 Right of Entry); (ii) obtain a Phase I or Phase II Environmental Assessment on the Property and perform any and all tests, inspections and studies deemed necessary therewith; and (iii) examine all Due Diligence materials that Buyer may reasonably request from Seller that are not subject to attorney-client privilege or that the County is not otherwise prohibited from disclosing by law; (IV) determine to its satisfaction whether approvals, permits and variances can be obtained under applicable land use and zoning codes for Buyers proposed development of the property, (V) determine whether Purchaser's proposed development of the property is economically feasible.

**5.1.2. Right of Entry.** Buyer and Buyer's designated representatives or agents shall have the right and Seller hereby grants to Buyer and Buyer's designated representatives the right to enter the Property and conduct tests, investigations and studies pursuant to this Article 5 upon three (3) days advance written notice; provided that such right of entry will be limited to those times and dates that will not disrupt Seller's use of, or Seller's operations and activities on the Property. Invasive tests of the Property, such as drilling or excavation shall be subject to Seller's prior written approval. The Buyer will not be permitted to undertake activities that damage County property. In connection with any such inspections and tests, Buyer agrees to hold harmless, indemnify and defend Seller, its officers, agents and employees, from and against all claims, losses, or liability for injuries, sickness or death of persons, including employees of Buyer caused by or arising out of any act, error or omission of Buyer, its officers, agents, contractors, subcontractors or employees in entering the Property for the above purposes, to the extent not caused by or arising out of any act, error or omission of Seller, its officers, agents and employees.

## ARTICLE 6. COVENANTS OF SELLER PENDING CLOSING

**6.1 CONDUCT, NOTICE OF CHANGE.** Seller covenants that between the date hereof and the Closing, Seller shall take all such actions as may be necessary to assure that the

representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of Seller set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Seller shall give Buyer prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing Date.

## **ARTICLE 7. COVENANTS OF BUYER PENDING CLOSING**

**7.1 CONDUCT, NOTICE OF CHANGE.** Buyer covenants that between the date hereof and the Closing, Buyer shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and that all covenants of Buyer set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided in this Agreement. Buyer shall give Seller prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing Date.

## **ARTICLE 8. CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS**

All obligations of Buyer hereunder are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Seller shall exert its best efforts to cause each such condition to be fulfilled:

**8.1. DELIVERY OF DOCUMENTS.** Seller shall have delivered to Buyer at or prior to closing all documents required by the terms of this agreement to be delivered to Buyer.

**8.2. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of Seller contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**8.3. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by Seller at or before the Closing shall have been properly performed in all material respects.

**8.4. TITLE.** Any and all matters shown or referred to in the Title Commitment to which Buyer has objected within the time specified in Section 4.1, shall have been cured by Seller, unless such objections have been waived by Buyer.

**8.5 APPROVAL OF COUNSEL.** Seller's counsel shall have approved this document as to form as evidenced by such counsel's signature on this Agreement.

**8.6. CONDEMNATION.** No portion of the Purchased Assets shall have been taken or damaged by any public or quasi-public body, and Seller shall not have transferred any portion of the Purchased Assets to any such body in lieu of condemnation.

## **ARTICLE 9. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS**

All obligations of Seller to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Buyer shall exert its best efforts to cause each such condition to be so fulfilled:

**9.1. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of Buyer contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**9.2. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by Buyer at or before the Closing shall have been properly performed in all material respects.

**9.3. APPROVAL OF KING COUNTY COUNCIL.** This Agreement is subject to the approval by ordinance of the King County Council, which must take place prior to Closing.

**9.4. DELIVERY OF DOCUMENTS.** Buyer shall have delivered to Seller at or prior to Closing all documents required by the terms of this Agreement to be delivered to Seller.

**9.5. TITLE.** Buyer shall have caused the Title Company to be irrevocably committed to issue an owner's policy of title insurance for the full amount of the Purchase Price, effective as of the Closing Date, containing no exceptions other than the Permitted Exceptions.

## **ARTICLE 10. CLOSING**

**10.1. CLOSING/CLOSING DATE.** The Closing shall take place within thirty (30) days following the latest approval of this Agreement by the City of Sammamish and King County Councils or such other date as may be mutually agreed upon by the Parties, unless extended pursuant to a written agreement executed by Buyer and Seller. Upon execution of this Agreement, the Parties shall establish an escrow account with First American Title Insurance Company (the "Escrow Agent"). The Escrow Agent shall serve as closing agent for the transaction contemplated herein and closing shall occur in the offices of Escrow Agent in Seattle, Washington. **10.2. PRORATIONS.** All prorations, unless otherwise specifically provided for herein, shall be made as of the Closing Date.

**10.2.1. Closing Costs.** Seller shall pay the cost of one-half (1/2) of the escrow fee charged by the Escrow Agent, any real estate excise or other transfer tax due, and its own attorneys' fees. Buyer shall pay one-half (1/2) of the escrow fee charged by the Escrow Agent, the

cost of the preliminary and binding title commitments from the Title Company, the recording fees for the deed and its own attorneys' fees. Except as otherwise provided in this Section 10.2, and Section 9.4 above, all other expenses hereunder shall be paid by the Party incurring such expenses.

**10.3. SELLER'S DELIVERY OF DOCUMENTS AT CLOSING.** At the Closing, Seller will deliver to Buyer the following properly executed documents:

- (a) A Quitclaim Deed conveying the Property in the form of **EXHIBIT B1**;
- (b) A Bargain and Sale Deed conveying the Property in the form of **EXHIBIT B2** attached hereto;
- (c) A Bill of Sale and Assignment duly executed by the Seller in the form of **EXHIBIT C**, attached hereto for the Personal Property, if any;
- (d) Seller's Certificate of Non-Foreign status substantially in the form of **EXHIBIT D**, attached hereto

**10.4. BUYER'S DELIVERY OF DOCUMENTS AND PURCHASE PRICE AT CLOSING.** At the Closing, Buyer will deliver to Seller the following properly executed documents:

- (a) Cash or immediately available funds in the amount of the Purchase Price.

## **ARTICLE 11. TERMINATION**

**11.1. TERMINATION BY EITHER PARTY.** Either Party may terminate this Agreement if a condition to its obligation to consummate the transactions contemplated by this Agreement as set forth in Articles 8 or 9 has not been satisfied by the Closing Date. In that event, if neither Party is in default of any material term under this Agreement, the Parties shall have no further obligations or liabilities to one another and all documents delivered into escrow shall be returned to the appropriate Party.

## **ARTICLE 12. MISCELLANEOUS PROVISIONS**

**12.1. NATURE AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES.** Each statement, representation, warranty, indemnity, covenant, and agreement made by Seller or Buyer in this Agreement or in any document, certificate or other instrument delivered by or on behalf of Seller or Buyer pursuant to this Agreement or in connection herewith shall be deemed the representation, warranty, indemnity, covenant and agreement of Seller and Buyer and shall survive the Closing Date unless a different time period is expressly provided for in this Agreement; and all such statements are made only to and for the benefit of the Parties hereto, and shall not create any rights in any other person or entity.



**12.2. DEFAULT AND ATTORNEYS' FEES.** In the event of default of any material term by either Party to this Agreement, and unless otherwise terminated pursuant to Section 11.1, the non-defaulting Party shall have the right to bring an action for specific performance and actual damages. Each party shall bear its own attorney's fees and costs. In the event of any litigation hereunder, the Superior Court of King County, Washington shall have exclusive jurisdiction and venue.

**12.3. TIME IS OF THE ESSENCE.** Time is of the essence in the performance of this Agreement.

**12.4. NOTICES.** Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the parties at the addresses set forth below or at such other addresses as any parties may specify by notice to all other parties and given as provided herein:

**If to Buyer:** City of Sammamish  
801 228<sup>th</sup> Avenue SE  
Sammamish, WA 98075

*With a copy to:*

**If to Seller:** King County  
Real Estate Services  
ADM-ES-0830  
500 Fourth Avenue, Room 830  
Seattle, WA 98104-2337

**12.5. ENTIRE AGREEMENT AND AMENDMENT.** This writing (including the Exhibits attached hereto) constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all Parties hereto.

**12.6 SEVERABILITY.** In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, then such holding shall not impact or affect the remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

**12.7 WAIVER.** No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

**12.8 BINDING EFFECT.** Subject to Section 12.14 below, this Agreement shall be binding upon and inure to the benefit of each party hereto, its successors and assigns.

**12.9 LEGAL RELATIONSHIP.** The parties to this Agreement execute and implement this Agreement solely as Seller and Buyer. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

**12.10 CAPTIONS.** The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

**12.11 COOPERATION.** Prior to and after Closing the parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement.

**12.12 GOVERNING LAW.** This Agreement and all amendments thereof shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law rules or choice of law provisions.

**12.13 NON-MERGER.** The terms and provisions of this Agreement shall not merge in, but shall survive, the Closing of the transaction contemplated under this Agreement.

**12.14 ASSIGNMENT.** Buyer shall not assign this Agreement or any rights hereunder without Seller's prior written consent.

**12.15 NEGOTIATION AND CONSTRUCTION.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. All Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement, although each party must determine if they wish to obtain and pay for such legal review. Each Party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of the terms found in this Agreement.

**12.16 EXHIBITS.** The following Exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

EXHIBIT A	Legal Description
EXHIBIT B1	Quitclaim Deed
EXHIBIT B2	Bargain and Sale Deed
EXHIBIT C	Bill of Sale and Assignment
EXHIBIT D	Interagency Agreement
EXHIBIT E	Certificate of Non-Foreign Status

EXECUTED as of the date and year first above written:

**SELLER:** King County

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

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

APPROVED AS TO FORM:

By \_\_\_\_\_

Senior Deputy Prosecuting Attorney

**BUYER:** City of Sammamish

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

Its: \_\_\_\_\_

STATE OF WASHINGTON

COUNTY OF KING

} ss.

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of KING COUNTY, the political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

Printed Name \_\_\_\_\_

NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON

}

ss.

COUNTY OF KING

On this day personally appeared before me \_\_\_\_\_, the  
\_\_\_\_\_ of \_\_\_\_\_,  
known to me to be the Buyer that executed the foregoing instrument, and acknowledged such  
instrument to be [his/her] free and voluntary act and deed for the uses and purposes therein  
mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002.

Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

## **EXHIBIT A.**

### **Legal Description**

Real property in the County of King, State of Washington, described as follows:

**PARCEL A:**

THAT PORTION OF THE WEST 580 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 16;  
THENCE 88°55'29" ALONG THE SOUTH LINE OF SAID SECTION 16 FOR 269.97 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY MARGIN OF 228TH AVE, N.E., EXTENSION;  
THENCE NORTH 08°29'21" EAST ALONG SAID EASTERLY RIGHT-OF-WAY MARGIN FOR 547.30 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY MARGIN FOR 514.05 FEET TO THE POINT OF TANGENCY OF A 762 FOOT RADIUS CURVE TO THE LEFT;  
THENCE ALONG SAID 762 FOOT RADIUS CURVE FOR 254.62 FEET, BEING A CONTINUATION OF THE AFORESAID EASTERLY RIGHT-OF-WAY MARGIN TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE AFORESAID SECTION 16;  
THENCE SOUTH 89°54'11" EAST FOR 183.81 FEET;  
THENCE SOUTH 01°07'34" WEST FOR 766.11 FEET;  
THENCE NORTH 88°55'29" WEST FOR 240.00 FEET TO THE TRUE POINT OF BEGINNING.

**PARCEL B:**

THAT PORTION OF THE WEST 580 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 6, EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF 228TH N.E. AND SOUTHERLY OF A LINE DEFINED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY MARGIN OF 228TH N.E. AND THE SOUTH LINE OF SAID SECTION 16;  
THENCE NORTH 8°29'21" EAST 547.3 FEET TO POINT OF BEGINNING OF SAID LINE;  
THENCE SOUTH 88°55'29" EAST 240 FEET TO THE EAST LINE OF THE WEST 580 FEET.

**PARCEL C:**

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EAST OF THE SAHLEE WAY NORTHEAST

EXCEPT THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF 228TH AVENUE N.E. EXTENSION AS SURVEYED BY KING COUNTY SURVEY NO. 28-25-6-3, AND WESTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 118+91 AT ZERO FOOT WIDTH;  
THENCE INCREASING TO 312 FOOT WIDTH AT STATION 120+15;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+27 EXCEPT THAT PORTION LYING ADJACENT TO AND EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID ROAD AND WESTERLY OF A LINE BEGINNING AT STATION 119+30 HAVING A WIDTH OF 33 FEET;  
THENCE INCREASING TO 90 FOOT WIDTH AT STATION 120+95;

THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+16.

EXCEPT THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER SECTION 21;  
THENCE NORTH 89°00'54" WEST 562.19 FEET. ALONG THE SOUTH LINE OF THE ABOVE DESCRIBED PARCEL OF LAND TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 21°30'54" WEST 164.96 FEET;  
THENCE NORTH 44°18'42" WEST 203.77 FEET;  
THENCE SOUTH 50°10'52" WEST 125.63 FEET;  
THENCE SOUTH 18°08'39" EAST PARALLEL WITH THE EAST LINE OF SAHALEE WAY NE. 226.13 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER SAID SECTION 21;  
THENCE SOUTH 89°00'54" EAST ALONG SAID SOUTH LINE 228.95 FEET, TO THE TRUE POINT OF BEGINNING.

EXCEPT THE SOUTH 232 FEET OF THE NORTH 650 FEET OF THE EAST 120 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

EXCEPT THE EAST 208 FEET OF THE NORTH 418 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST W.M., IN KING COUNTY, WASHINGTON.

AND ALSO EXCEPT THAT PORTION CONVEYED FOR ROAD BY WARRANTY DEED RECORDED UNDER RECORDING NUMBER 19990924000296.

PARCEL D:

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF 228TH AVENUE N.E., EXTENSION AS SURVEYED BY KING COUNTY SURVEY NO. 28-25-6-3, AND WESTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 118+91 AT ZERO FOOT WIDTH;  
THENCE INCREASING TO 312 FOOT WIDTH AT STATION 120+51;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+27.

EXCEPT THAT PORTION LYING ADJACENT TO AND EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID ROAD AND WESTERLY OF A LINE BEGINNING AT STATION 119+30 HAVING A WIDTH OF 33 FEET;  
THENCE INCREASING TO 90 FOOT WIDTH AT STATION 120+95;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+16.

Tax Parcel Numbers: 162506-9071-02, 162506-9070-03, 212506-9043-00 and 212506-9042-01

Situs Address: Vacant, Sammamish, WA 98074

**EXHIBIT B1.**

**Quitclaim Deed**

**AFTER RECORDING RETURN TO:**

City of Sammamish  
801 228th Avenue SE  
Sammamish, WA 98075  
Attn:

**QUIT CLAIM DEED**

**Grantor -- King County, Washington**  
**Grantee -- City of Sammamish**  
**Legal ---**  
**Tax Acct. -- Parcels 162506-9071 and 162506-9070**

The Grantor, KING COUNTY, a political subdivision of the State of Washington, for and in consideration of the commitment by the Grantee, the CITY OF SAMMAMISH, to maintain the drainage facilities described in Exhibit A in perpetuity, hereby conveys and quit claims unto the Grantee, the CITY OF SAMMAMISH, a municipal corporation of the State of Washington, all interest in the real estate as legally described in Exhibit A attached hereto and made a part of this Deed, and Grantee hereby accepts the same, subject to all covenants, conditions, encumbrances, restrictions of record, and specific covenant pertaining to use (as described in Exhibit B).

**GRANTOR**  
**KING COUNTY**

**GRANTEE**  
**CITY OF SAMMAMISH**

BY \_\_\_\_\_

BY \_\_\_\_\_

TITLE \_\_\_\_\_

TITLE \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_

**NOTARY BLOCKS APPEAR ON PAGE 2**

**NOTARY BLOCK FOR KING COUNTY**

STATE OF WASHINGTON)

) SS

COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared STEVE SALYER, to me known to be the Manager of the Real Estate Services Section in the Facilities Management Division of the King County Department of Executive Services, and who executed the foregoing instrument and acknowledged to me that HE was authorized to execute said instrument on behalf of KING COUNTY for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the  
State of Washington, residing

at \_\_\_\_\_

City and State

My appointment expires \_\_\_\_\_

**NOTARY BLOCK FOR CITY OF SAMMAMISH**

STATE OF WASHINGTON)

) SS

COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_, who executed the foregoing instrument and acknowledged to me that SHE or HE was authorized to execute said instrument on behalf of the CITY OF SAMMAMISH for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the  
State of Washington, residing

at \_\_\_\_\_

City and State

My appointment expires \_\_\_\_\_



**Exhibit A**

**Legal Description**

Real property in the County of King, State of Washington, described as follows:

**PARCEL A:**

THAT PORTION OF THE WEST 580 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 16;  
THENCE 88°55'29" ALONG THE SOUTH LINE OF SAID SECTION 16 FOR 269.97 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY MARGIN OF 228TH AVE, N.E., EXTENSION;  
THENCE NORTH 08°29'21" EAST ALONG SAID EASTERLY RIGHT-OF-WAY MARGIN FOR 547.30 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY MARGIN FOR 514.05 FEET TO THE POINT OF TANGENCY OF A 762 FOOT RADIUS CURVE TO THE LEFT;  
THENCE ALONG SAID 762 FOOT RADIUS CURVE FOR 254.62 FEET, BEING A CONTINUATION OF THE AFORESAID EASTERLY RIGHT-OF-WAY MARGIN TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE AFORESAID SECTION 16;  
THENCE SOUTH 89°54'11" EAST FOR 183.81 FEET;  
THENCE SOUTH 01°07'34" WEST FOR 766.11 FEET;  
THENCE NORTH 88°55'29" WEST FOR 240.00 FEET TO THE TRUE POINT OF BEGINNING.

**PARCEL B:**

THAT PORTION OF THE WEST 580 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 25 NORTH, RANGE 6, EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF 228TH N.E. AND SOUTHERLY OF A LINE DEFINED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY MARGIN OF 228TH N.E. AND THE SOUTH LINE OF SAID SECTION 16;  
THENCE NORTH 8°29'21" EAST 547.3 FEET TO POINT OF BEGINNING OF SAID LINE;  
THENCE SOUTH 88°55'29" EAST 240 FEET TO THE EAST LINE OF THE WEST 580 FEET.

Tax Parcel Number: 162506-9071-02 and 162506-9070-03

Situs Address: Vacant, Sammamish, WA 98074

**END OF EXHIBIT A**

**EXHIBIT B**

**Restrictive Covenants**

Parcel 162506-9071:

The Grantee shall maintain the property in its existing condition and may only use the property for drainage purposes related to the adjacent portion of Sahalee Drive, or other purposes related to the operation and maintenance of said roadway and for no other purpose without the prior written consent of the King County Road Engineer.

Parcel 162506-9070:

The Grantee shall maintain the property in its existing condition and may only use the property for drainage purposes related to the adjacent portion of Sahalee Drive, or other purposes related to the operation and maintenance of said roadway and for no other purpose without the prior written consent of the King County Road Engineer.

These covenants for the parcels identified herein are intended to be running covenants burdening and benefitting the Parties and their successors and assigns.

**END OF EXHIBIT B**

**EXHIBIT B2.**

**Bargain and Sale Deed**

**AFTER RECORDING RETURN TO:**  
CITY OF SAMMAMISH  
801 228TH AVENUE SE  
SAMMAMISH, WA 98075  
ATTN:

**BARGAIN AND SALE DEED**

**Grantor -- King County, Washington**

**Grantee -- City of Sammamish**

**Legal - - - -**

**Tax Acct. -- 212506-9043 and 212506-9042**

The Grantor, KING COUNTY, a political subdivision of the State of Washington, for and in consideration of mutual benefits, pursuant to King County Ordinance No. \_\_\_\_\_, does hereby bargain, sell and convey unto the Grantee, the CITY OF SAMMAMISH, a municipal corporation of the State of Washington, the following described lands, situate in King County, Washington and referred to herein as the "Property":

Legal description of which is attached hereto as "Exhibit 1" and incorporated herein by this reference.

SUBJECT TO THE FOLLOWING COVENANTS, WHICH ARE INTENDED TO BE RUNNING COVENANTS BURDENING AND BENEFITING THE PARTIES, SUCCESSORS AND ASSIGNS:

The following covenants (A) through (C) apply to all of the Property legally described in Exhibit 1 attached hereto:

- (A) The City covenants that the Property shall continue to be used for park or recreation purposes unless other equivalent facilities within the county or the city are received in exchange therefore and the replacement lands or facilities are used in perpetuity for park or recreation purposes.
- (B) The City further covenants that it will not limit or restrict access to and use of the Property by non-city residents in any way that does not also apply to city residents. The City covenants that if differential fees for non-city residents are imposed, they will be reasonably related to the cost borne by city taxpayers to maintain, improve or operate the Property for parks and recreation purposes.

(C) The City covenants that it shall place the preceding covenants (A) and (B) in any deed transferring the Property or a portion of the Property for public park, recreation or open space uses.

**GRANTOR**  
**KING COUNTY**

**GRANTEE**  
**CITY OF SAMMAMISH**

BY \_\_\_\_\_

BY \_\_\_\_\_

TITLE \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

Approved as to Form:

By \_\_\_\_\_

**NOTARY BLOCKS APPEAR ON PAGE 3**

**NOTARY BLOCK FOR KING COUNTY**

STATE OF WASHINGTON)

) SS

COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared STEVE SALYER, to me known to be the Manager of the Real Estate Services Section in the Facilities Management Division of the King County Department of Executive Services, and who executed the foregoing instrument and acknowledged to me that HE was authorized to execute said instrument on behalf of KING COUNTY for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the  
State of Washington, residing

at \_\_\_\_\_

City and State

My appointment expires \_\_\_\_\_

**NOTARY BLOCK FOR CITY OF SAMMAMISH**

STATE OF WASHINGTON)

) SS

COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_, who executed the foregoing instrument and acknowledged to me that SHE or HE was authorized to execute said instrument on behalf of the CITY OF SAMMAMISH for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the  
State of Washington, residing

at \_\_\_\_\_

City and State

My appointment expires \_\_\_\_\_

**EXHIBIT 1**

**LEGAL DESCRIPTIONS**

Page 1 of 2

Real property in the County of King, State of Washington, described as follows:

PARCEL C:

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EAST OF THE SAHLEE WAY NORTHEAST

EXCEPT THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF 228TH AVENUE N.E. EXTENSION AS SURVEYED BY KING COUNTY SURVEY NO. 28-25-6-3, AND WESTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 118+91 AT ZERO FOOT WIDTH;  
THENCE INCREASING TO 312 FOOT WIDTH AT STATION 120+15;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+27 EXCEPT THAT PORTION LYING ADJACENT TO AND EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID ROAD AND WESTERLY OF A LINE BEGINNING AT STATION 119+30 HAVING A WIDTH OF 33 FEET;  
THENCE INCREASING TO 90 FOOT WIDTH AT STATION 120+95;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+16.

EXCEPT THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER SECTION 21;  
THENCE NORTH 89°00'54" WEST 562.19 FEET. ALONG THE SOUTH LINE OF THE ABOVE DESCRIBED PARCEL OF LAND TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 21°30'54" WEST 164.96 FEET;  
THENCE NORTH 44°18'42" WEST 203.77 FEET;  
THENCE SOUTH 50°10'52" WEST 125.63 FEET;  
THENCE SOUTH 18°08'39" EAST PARALLEL WITH THE EAST LINE OF SAHALEE WAY NE. 226.13 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER SAID SECTION 21;  
THENCE SOUTH 89°00'54" EAST ALONG SAID SOUTH LINE 228.95 FEET, TO THE TRUE POINT OF BEGINNING.

EXCEPT THE SOUTH 232 FEET OF THE NORTH 650 FEET OF THE EAST 120 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

EXCEPT THE EAST 208 FEET OF THE NORTH 418 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST W.M., IN KING

**EXHIBIT 1, CONTINUED**

Page 2 of 2

COUNTY, WASHINGTON.

AND ALSO EXCEPT THAT PORTION CONVEYED FOR ROAD BY WARRANTY DEED RECORDED UNDER RECORDING NUMBER 19990924000296.

PARCEL D:

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF 228TH AVENUE N.E., EXTENSION AS SURVEYED BY KING COUNTY SURVEY NO. 28-25-6-3, AND WESTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 118+91 AT ZERO FOOT WIDTH;  
THENCE INCREASING TO 312 FOOT WIDTH AT STATION 120+51;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+27.

EXCEPT THAT PORTION LYING ADJACENT TO AND EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID ROAD AND WESTERLY OF A LINE BEGINNING AT STATION 119+30 HAVING A WIDTH OF 33 FEET;  
THENCE INCREASING TO 90 FOOT WIDTH AT STATION 120+95;  
THENCE DECREASING TO ZERO FOOT WIDTH AT STATION 122+16.

Tax Parcel Number: 212506-9043-00 and 212506-9042-01

Situs Address: Vacant, Sammamish, WA 98074

**END OF EXHIBIT 1**

**EXHIBIT C.**

**Bill of Sale and Assignment.**

**BILL OF SALE AND ASSIGNMENT**

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THIS BILL OF SALE is made as of this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by KING COUNTY (“**Seller**”), in favor of \_\_\_\_\_, a political subdivision of the State of Washington (“**Buyer**”), with reference to the following facts.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to Buyer all of Seller’s right, title and interest in and to any and all equipment, furniture, furnishings, fixtures and other tangible personal property owned by Seller that is attached, appurtenant to or used in connection with the real property legally described on the attached Exhibit A.

Seller represents and warrants that it is the sole owner of, and has good title to, such personal property, and has full right and authority to transfer and deliver the same, and will defend the sale hereby against each and every person claiming otherwise.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first above written.

SELLER:

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

Its: \_\_\_\_\_



## **EXHIBIT D.**

### **INTERAGENCY AGREEMENT**

**between**

**King County Department of Natural Resources and Parks, Parks and Recreation Division  
and  
City of Sammamish**

THIS AGREEMENT, made and entered into as of the date last set forth below by and between King County, a home rule charter county, through the Parks and Recreation Division of its Department of Natural Resources and Parks, (hereinafter "Division") and the City of Sammamish, Washington, a non-charter code city and municipal corporation organized pursuant to RCW Title 35A (hereinafter "City"), for contribution of funds towards the improvement of two parcels totaling 27.14 acres of land permanently dedicated for park, open space, and passive recreation purposes. Together the City and the County are sometimes referred to herein as "the Parties."

### **RECITALS**

- A. King County is a home rule charter county that, among other things, provides regional and rural parks, recreation, and sports facilities for public use.
- B. RCW 36.68.090 authorizes the King County to build, construct, care for, control, supervise, improve, operate and maintain parks, swimming pools, and other recreational facilities.
- C. RCW 36.89.050 authorizes the King County to participate with other local governments in the financing, acquisition, construction, development, improvement, use, maintenance and operation of open space, park, recreation and community facilities.
- D. Under King County Code section 2.16.045.E.1 the duties of the Parks and Recreation Division include facilitating agreements for recreation services with other jurisdictions and entities, and King County Ordinance 14509 Section 1.A.5 contemplates that whenever possible, the County should ensure operation and maintenance of new facilities by entities other than the County.
- E. King County's Roads Services within its Department of Transportation owns the following parcels: 162506-9071 and 162506-9070 (the "Road Drainage Parcels"); and 212506-9043 and 212506-9042 (the "Park Access Parcels"), collectively referred to herein as "the Property."

- F. The City of Sammamish is a non-charter code city and municipal corporation organized pursuant to RCW Title 35A, with all of the applicable rights, powers, privileges, duties and obligations of a non-charter code city as established by law.
- G. The City of Sammamish desires to acquire the Road Drainage Parcels and Park Access Parcels to support City road maintenance improvements along Sahalee Way NE, and to provide passive recreational and public access amenities to the City's Evans Creek Preserve park property.
- H. In consideration of the improvements to be made to the Park Access Parcels and of the perpetual covenants and restrictions dedicating the Park Access Parcels to park and recreation purposes, which covenants are set forth in that certain bargain and sale deed attached as Exhibit B-2 to the Real Estate Purchase and Sale Agreement for the Property, and subject to the terms and conditions set forth in this Agreement, the Division will contribute \$100,000 towards improvements to the Park Access Parcels, which improvements the City shall operate and maintain for benefit of the public, including citizens of King County.

NOW, THEREFORE, in consideration of the promises and commitments made herein, King County and the City of Sammamish agree as follows:

**AGREEMENT**

- 1. **PARTIES.** The parties to this Agreement are the Division and the City. There are no other parties and no third party beneficiaries. This Agreement creates no legal right, obligation, or cause of action in any person or entity not a party to it. The Parties' representatives are identified below. All communication, notices, coordination, and other aspects of this Agreement shall be managed by the Parties' representatives. Either Party may change or substitute its representative at any time during the term of this Agreement by providing written notice to the other Party.

The Division's representative is:

Monica Leers, Section Manager  
 King County, Parks and Recreation Division  
 201 South Jackson Street, Suite 700  
 Mailstop: KSC-NR-0700  
 Seattle, WA 98104-3855  
 Email: [monica.leers@kingcounty.gov](mailto:monica.leers@kingcounty.gov)  
 Phone: (206) 263-7243

The City's representative is:

Laura Philpot, Director  
 City of Sammamish, Public Works  
 801 228<sup>th</sup> Avenue SE  
 Sammamish, WA 98075  
 Email: [lphilpot@ci.sammamish.wa.us](mailto:lphilpot@ci.sammamish.wa.us)  
 (425) 295-0570

2. TERM. Except as it may be later modified or amended in writing, or unless it is terminated as provided herein, the term of this Agreement shall commence on the date it is fully executed, and end on December 31, 2015 (the "Term").
  
3. CONTRIBUTION. The Division shall provide the City an amount not to exceed One Hundred Thousand Dollars (\$100,000) during the Term of this Agreement, which funds the Division shall disburse to the City exclusively to reimburse the City for expenses related to the design and construction of improvements to the Park Access Parcels, which improvements include but are not limited to: Approximately 5,161 linear feet of recreational trail design and construction; trailhead design and construction (e.g., restroom, interpretive signage, user amenities such as picnic table, benches and garbage receptacles); viewing/observation deck design and construction; mitigation or landscaping related to permit requirements; and other site rehabilitation or related improvements (collectively, the "Improvements"). The City shall use the Division funds for reimbursement of its costs related to these Improvements, and no other. Nothing in this Agreement obligates, or shall be deemed to obligate, the Division to provide any additional funding beyond the amount specified in this Section 3.
  
4. TIMING OF PAYMENT. The Division shall reimburse the City for Improvement-related expenditures, up to the amount specified in Section 3. The City shall invoice the Division in writing. The City's invoice shall include copies of receipts, ledger entries, warrant receipts, or other documentation sufficient to support the City's claim for reimbursement. Unless the Division disputes the City's invoice, then the Division shall pay such invoice within thirty (30) days of receipt.
  
5. DISPUTE RESOLUTION. In the event any dispute regarding this Agreement cannot be resolved by informal methods, then prior to commencing litigation or taking any administrative action, the aggrieved Party shall notify the other in writing of the particulars of the grievance, and the other Party shall reply in writing within ten (10) working days, setting forth its position and stating what, if any, action it will take with respect to the grievance. The aggrieved Party shall respond in writing, indicating its satisfaction or dissatisfaction, as the case may be; in the event the aggrieved Party is dissatisfied, the Parties shall then meet in person and confer in good faith to resolve their differences before litigation is commenced.
  
6. ANTI-DISCRIMINATION. In all hiring or employment made possible or resulting from this Agreement, there shall be no discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, sexual orientation, marital status or the presence of any sensory, mental, or physical handicap, unless based

upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, lay-off, or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, sexual orientation, gender identity or expression, age (except minimum age and retirement provisions), marital status, or the presence of any sensory, mental, or physical handicap. Any violation of this Section 6 shall be considered a violation of a material provision of this Agreement and shall be grounds for cancellation, termination or suspension in whole or in part of this Agreement by the Division.

7. COMPLIANCE WITH ALL LAWS AND REGULATIONS. The City will comply with all applicable laws, ordinances and regulations from any and all authorities having jurisdiction over it, the activities contemplated in this Agreement. The City specifically agrees to comply and pay all costs associated with achieving such compliance without any notice or requirements from the Division; and the City further agrees that the Division does not waive this Section 7 by giving notice of demand for compliance in any instance.

8. INSURANCE.

A. The City shall obtain, and shall maintain for the duration of this Agreement, insurance meeting the Insurance Requirements (Attachment A) against all claims which may arise from, or in connection with, the performance or non-performance of work hereunder by the City, its agents, representatives, employees, and/or contractors/consultants of all tiers. The costs of such insurance shall be paid by the City or contractor/consultants. The City may furnish separate certificates of insurance and policy endorsements for each subcontractor as evidence of compliance with the insurance requirements of this Agreement.

B. The City is responsible for ensuring compliance with all of the insurance requirements stated in this Section 8. If the City is self-insured, or insured through a risk-pooling arrangement or similar mechanism, then the City shall provide the Division with written proof of such insurance, sufficient to demonstrate that such insurance is equivalent to the commercial insurance requirements set forth in Attachment A.

C. Failure by the City, its agents, employees, officers, contractors and/or subcontractors of all tiers to comply with the insurance requirements stated in this Section 8 shall constitute a material breach of this Agreement. The City's obligation to procure and maintain insurance for benefit of the Division under this Section 8 shall survive the

expiration or earlier termination of this Agreement. Failure to obtain or maintain such insurance shall constitute a material breach of this Agreement.

9. NO EMPLOYMENT RELATIONSHIP. In executing this Agreement, the City is an independent Contractor, and neither it nor its officers, agents, employees, or subcontractors are employees of the Division for any purpose. The City shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a Division employee under state or local law. The Division assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of the City, its employees, subcontractors and/or others by reason of this Agreement. The City shall protect, indemnify, and save harmless the Division, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the City of Sammamish's failure to pay any such compensation, wages, benefits, or taxes, and/or (2) the supplying to the City of work, services, materials, or supplies in connection with or support of the performance of this Agreement.
  
10. AUDIT EXCEPTION. The City further agrees that it is financially responsible for and will repay the Division all indicated amounts following an audit exception which occurs due to the negligence, intentional act, and/or failure to comply with the terms of this Agreement by the City, its officers, employees, agents, representatives, or subcontractors. This duty to repay the Division shall survive the expiration or prior termination of the Agreement.
  
11. INDEMNIFICATION AND HOLD HARMLESS; RELEASE AND WAIVER. The City expressly agrees to protect, defend, indemnify and hold harmless King County, its elected and appointed officials, officers, employees, and agents from and against liability for any claims (including all demands, suits, and judgments) caused by, arising out of, or incident to the scope of activities under this Agreement. The City's obligations under this Section 11 shall include, but not be limited to:
  - A. The duty to promptly accept tender of defense and provide defense to King County at the City's own expense.
  - B. Indemnification of claims, including those made by the City's own employees and/or agents for this purpose.
  - C. In the event the King County incurs a judgment, award and/or cost against the City, including attorney's fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the City.
  - D. The City shall protect, defend, indemnify, and hold harmless King County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of

damages arising out of, or in any way resulting from the performance or non-performance of the obligations under this Agreement by the City's subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract.

A hold harmless provision to protect King County similar to this Section 11 shall be included in all contracts or subcontracts entered into by the City in conjunction with this agreement. The City's duties and obligations under this Section 11 shall survive the expiration or earlier termination of this Agreement.

12. ENTIRE AGREEMENT; AMENDMENTS. This Agreement and any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the Division and the City. It replaces all other negotiations and agreements. There are no terms, obligations, allowances, covenants, or conditions other than those contained herein. Provided, that the Parties may amend this Agreement or its exhibits in writing upon negotiation of mutually acceptable terms for such amendment. Any such amendment shall be attached to this Agreement and executed by the Parties.
13. WAIVER. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the Division, which shall be attached to the original Agreement.
14. ATTACHMENTS.
  - A. Insurance Requirements
15. ADDITIONAL TERMS. The Division reserves the right to set additional terms as unforeseen conditions may warrant. The Division must submit to the City a written addendum to this contract of the additional terms for the City to approve in writing, which approval shall not be unreasonably withheld, conditioned, or delayed.
16. PERFORMANCE REVIEW AND RIGHT TO INSPECT RECORDS.
  - A. The Division at its discretion reserves the right to review and approve the performance of the City with regard to this Agreement. If the Division does not approve of the City's performance, then the Division will give the City written notification of unacceptable performance. The City then agrees to take corrective action within a reasonable period of time, as defined by the Division in the aforementioned written notification.
  - B. The City shall keep accurate books and accounts in order to document disbursements related to the Improvements. The City shall maintain its books, records and accounts

for a period of not less than six (6) years following the expiration or earlier termination of this Agreement. Such books and records shall be open and available for inspection by the Division upon the official request of the Director of the Division during regular working hours from Monday through Friday during the Term of this Agreement, and during the six (6) years following the expiration or earlier termination of this Agreement. The Division covenants and warrants that it will keep any information acquired from the examination of such books and records confidential and that it will not disclose any such information directly or indirectly or use such information for any purpose during the Term of the Agreement or any time thereafter; EXCEPT with respect to the disclosure of information concerning the amount of the Improvement funding provided to City under this Agreement, and EXCEPT with respect to the disclosure of information which is required by the laws of the State of Washington. The Parties' rights and obligations under this Section 16 shall survive the expiration or earlier termination of this Agreement.

17. POLICE POWERS. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of King County or the City of Sammamish.
18. IMPOSSIBILITY. The performance of this Agreement by either Party is subject to acts of God, war, government regulation or advisory, disasters, fire, accidents or other casualty, strikes or threat of strikes, civil disorder, acts and/or threats of terrorism, or curtailment of transportation services or facilities, cost or availability of power, or similar causes beyond the control of either Party making it illegal, impossible or impracticable to perform as contemplated herein. Either Party may terminate or suspend its obligations under this Agreement if such obligations are prevented by any of the above events to the extent such events are beyond the reasonable control of the Party whose reasonable performance is prevented.
19. NO PARTNERSHIP. Nothing contained herein shall make, or be deemed to make, the Division and City a partner of one another, and this Agreement shall not be construed as creating a partnership or joint venture.
20. SINGULAR AND PLURAL. Wherever the context shall so require, the singular shall include the plural and plural shall include the singular.
21. HEADINGS NOT PART OF AGREEMENT. The headings in this Agreement are for convenience only and shall not be deemed to expand, limit, or otherwise affect the substantive terms of this Agreement.

22. GOVERNING LAW. This Agreement is made under and shall be governed by the laws of the State of Washington, without reference to its conflicts of law rules or choice of law provisions.
23. JURISDICTION AND VENUE. King County Superior Court shall have jurisdiction over any litigation arising under this Agreement, and the venue for any such litigation shall be the King County Superior Court in Seattle, Washington.
24. COUNTERPARTS. This Agreement may be executed in two counterparts, either one of which shall be regarded for all purposes as one original, but both of which together shall constitute one and the same instrument. For purposes of closing on the real estate transaction with which this Agreement is associated, the Parties' escrow agent may attach the Parties' separately executed original signature and acknowledgement pages to a single copy of this Agreement to establish a single execution copy for the closing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date set forth below.

King County, Parks and Recreation Division

City of Sammamish

By \_\_\_\_\_

By \_\_\_\_\_

TITLE \_\_\_\_\_

TITLE \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_



Attachment A – Insurance Requirements

- A. By the date of execution of this Agreement, the City of Sammamish shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, including products-completed operations which may arise from, or in connection with, the performance of activities under this Agreement. The City of Sammamish or contractor/consultant shall pay the cost of such insurance. The City of Sammamish may furnish separate certificates of insurance and policy endorsements from each contractor/consultant as evidence of compliance with the insurance requirements of this Agreement.

For All Coverages: Each insurance policy shall be written on an “occurrence” form; excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a “claims made” form.

If coverage is approved and purchased on a “claims made” basis, the City of Sammamish/Contractor/Consultant warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this Agreement.

By requiring such minimum insurance coverage, the Division shall not be deemed or construed to have assessed the risks that may be applicable to the City of Sammamish under this Agreement. The City of Sammamish shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.

- B. Minimum Scope of Insurance: Coverage shall be at least as broad as:
1. General Liability: Insurance Services Office form number (CG 00 01 or its equivalent) covering COMMERCIAL GENERAL LIABILITY including Products and Completed Operations.
  2. Professional Liability: Professional Liability, Errors and Omissions coverage. In the event that services delivered pursuant to this Contract either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided.
  3. Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.

4. Employers Liability or "Stop-Gap": The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.
  5. Commercial Automobile: Insurance Services Office form number (CA 00 01 or its equivalent) covering AUTOMOBILE LIABILITY
- C. Minimum Limits of Insurance: The City of Sammamish shall maintain limits no less than, for:
1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
  2. Professional Liability, Errors and Omissions: \$1,000,000 Per Claim and in the Aggregate
  3. Workers' Compensation: Statutory requirements of the State of residency.
  4. Employers' Liability or "Stop Gap" Coverage: \$1,000,000
  5. Commercial Automobile: \$1,000,000 Combined Single Limit Bodily
  6. Injury and Property Damage: \$1,000,000 Per Occurrence
- D. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to, and approved by, the Division. The deductible and/or self-insured retention of the policies shall not limit or apply to the City's liability to the Division and shall be the sole responsibility of the City.
- E. Other Insurance Provisions: The insurance coverage(s) required in this Agreement are to contain, or be endorsed to contain the following provisions:
1. All Liability Policies (except Professional Liability, Errors and Omissions and Workers Compensation):
    - a. King County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the City in connection with this Agreement. CG 2010 11/85 or its equivalent
    - b. The City's insurance coverage shall be primary insurance as respects King County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by King County, its officers, officials, employees or agents shall not contribute with the City's insurance or benefit the City in any way.
    - c. The City's insurance coverage shall apply separately to each insured against whom a

claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

2. All Policies:

- a. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) calendar days prior written notice, has been given to the Division.

- F. Acceptability of Insurers: Unless otherwise accepted by the Division: Insurance coverage is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII. Professional Liability, Errors and Omissions insurance coverage may be placed with insurers with a Bests' rating of B+: VII. Any exception must be approved by the Division.

If at any time of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the Division, promptly obtain a new policy, and shall submit the same to the Division, with the appropriate certificates and endorsements, for approval.

- G. Verification of Coverage: The City shall furnish the Division with certificates of insurance and endorsements required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the Division and are to be received and approved by the Division prior to the commencement of activities associated with the Agreement. The Division reserves the right to require complete, certified copies of all required insurance policies at any time.

If Professional Liability coverage is required under this Agreement, the Certificate of Insurance provided by the City shall specifically state that the activities required under this Agreement are included under this policy.

- H. Sub-contractors: The City shall include all Contractors/Consultants as insureds under its policies, or shall require separate certificates of insurance and policy endorsements from each contractor/consultant. Insurance coverages provided by contractors/consultants as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.

**EXHIBIT E.**

**Certificate of Non-Foreign Status.**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a United States real property interest by **KING COUNTY** ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations); and
2. Transferor's United States employer identification number is 91-6001327; and
3. Transferor's office address is King County Facilities Management Division, Asset Development and Management Section, Room 500 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

**TRANSFEROR:**

**KING COUNTY**

By \_\_\_\_\_

Title \_\_\_\_\_

**Certificate of Non-Foreign Status.**