

WEST SOUND UTILITY DISTRICT  
Minutes of Meeting of the Board of Commissioners  
Microsoft Teams (Virtual Meeting)  
2924 SE Lund Avenue, Port Orchard, WA 98366  
Monday March 7, 2022 at 3:00 p.m.

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Chairperson: Jerry Lundberg  
Vice Chairperson: Susan Way  
Commissioner: James J. Hart

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Attending: Randy Screws, General Manager  
John Tapia, Operation Manager  
Marty Grabill, Plant Manager  
Joy Ramsdell, Finance Manager  
Ken Bagwell, Attorney  
Amber Brooks, Accounting/Office Assistant

The meeting was called to order by Commissioner Lundberg at 3:00 p.m.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

CONSENT AGENDA

1. Approval of the Regular Board Meeting Minutes of February 22, 2022
2. Approval of Vouchers WSUD #30361 through #30388 in the amount of \$171,462.06
3. Approval of Vouchers SKWRF #16860 through #16872 in the amount of \$22,424.35

Commissioner Hart moved to approve items in the Consent Agenda. The motion was seconded by Commissioner Way; motion approved 3-0.

BOARD DISCUSSION/ACTION

Board Discussion, Resolution 880-20, Emergency Declaration

Washington State is ending its indoor mask mandate on March 12<sup>th</sup>, two years after Gov. Jay Inslee issued the first pandemic restrictions in March 2020.

South Kitsap Covid cases reported last Thursday from Kitsap Health District were at 83. Keep in mind this is 5 day delayed data to account for testing results. The District Office lobby is open as of today to all customers. Recommend that the Board consider resuming in-person meetings at their March 21<sup>st</sup> or April 4<sup>th</sup> Board Meeting. The Board can also choose to meet in a hybrid setting. Appropriate technology is available and policies are in place that will allow Board Members to participate remotely if they so choose. Board opted to meet in person on April 4<sup>th</sup>.

Update, Well 1 & 5 Site Area, Veterans Park

Everything is still doing well.

Resolution 997-22, DEC, Brixx Development, LLC., Overlook Apartments Phase II

This Resolution was tabled until next meeting due to Overlook not providing the required Pay and Performance Bond.

Resolution 1001-22, Authorizing Utility Vehicle Purchase, WSUD Operations

Passed 3-0

PLANT MANAGER'S REPORT

Plant Manager Marty Grabill reported:

PSE Conservation Grant Agreement (2021-2023)

- Continues work with PSE on Conservation Grant Agreement.
- Year one of three completed 02/02/2022.
- Workshop 2022 to begin shortly with the first one on 04/07/2022 of this year.
- Working on Grant funding for 2023 capital project for Annox mixer replacement.

Rotary Drum Thickener-ESCO (2022)

- Continued work with Trane (ESCO) on the Sharples replacement.
- WSUD approved Investment Grade Audit on 02/07/2022.
- DES provided Funding Authorization on 02/14/2022.
- Received Thickener Replacement Engineer Report Draft 03/03/2022.
- Draft review meeting with Trane set for 03/09/2022.

Nutrient General Permit (2022)

- Currently sampling per General Nutrient Permit.
- Applied for Grant funding through Department of Ecology Nutrient Permit Grant Program to assist with some of the new requirements of the new GNP. No Updates on that.

PSE Conservation Grant Agreement (2021-2023)

- Working with the City and District on the Industrial Users Survey, no updates.
- Outfall inspection in the works, no updates.

OPERATIONS MANAGER REPORT

Operations Manager John Tapia reported:

CIP-South Park Main replacement

- Our final comments are with WSE.
- Possible conflict with storm culvert, no updates.

Powell Booster Station Engineering

- Addendum for project received. This is for offsite pipe abandonment and upsizing.

Sedgwick Water Main/Culvert Project

- We have been notified by WSDOT and Fisheries that the water main is in conflict with a new fish stream crossing culvert.

- Project is ready to be sent out for bid.

#### Eisenhower Main Replacement

- Engineers' estimate came in at \$390,000.00.
- Prepping project for bid.

#### Fircrest/Mile Hill Main Replacement

- Project is being reviewed.
- 2" galvanized to be replaced.
- Possible development going in, it may change the scope of the project.

#### Olney Sewer Replacement

- HDR Engineering estimate came back high.
- Sent to WSE for review. Will start when other projects are returned to us, no updates.

#### Well 21 Pump and Motor Replacement

- We are running Hokkaido's pump and motor to obtain more data.
- First part of April for completion.
- Possible power issue out on the site. Western Electric has been scheduled to come out with PSE (Kurt) on 03/11/2022. Site will be down for about 8 hours.

#### Pipe Line Project on Madrona

- Posted in the paper for bids.
- 3 company's interested out of the 6 that notified through WRSC.

#### CREW:

1. St. Vincent De Paul project will happen after the rain, around late March.
2. E-one survey and repairs have been completed.
3. Upper gradient flushing continues.
4. Boom truck has been delivered.
5. Gas Company has completed the relocate.
6. Water meter replacements for Commercial meters continues.
7. Installed 8 updated radio's in the Mission dialers.

#### FINANCE MANAGER REPORT

Finance Manager Joy Ramsdell reported:

- Billed 34 million gallons of water in February 2022, which decreased 1% from February 2021.
- There are 1755 online paying accounts which includes auto pay of 1433. We final billed 17 accounts.
- Sent out 124 reminder letters for past due customers, 72 final letters and only 11 accounts were shut off.
- As of today there are 155 past due accounts in the amount of \$74K.

- We have been through 2 billing cycles since raising our rates and customers have not complained.
- Lobby has opened as of 03/07/2022.
- County required use to submit new forms for payroll this month for adjustments.
- We are ready to close 2021 books.
- Will start working on annual reports.
- Spring Conference is coming in April and it is open enrollment.

### GENERAL MANAGER’S REPORT

General Manager Screws reported:

- Work continues on restructuring of the District Developer permitting process.
- Work continues on reviewing and updating the website.
- Continue working with HDR on completion of the Water System Plan FCS Group on the Rate Study. Met last Friday with FCS Group to go over the Financial Chapter for the WSP and to review initial cost of service analysis on water and sewer. We will be discussing and updating with an additional meeting next week based on the prior meetings conversations.
- Capital projects are being put out to bid. Sedgwick Road Water Main Replacement, Sewer Main Relining, and currently working on the Eisenhower Water Main relocation/replacement project.
- Reviewing District FOG policies.
- Reclassification of some of the risk class employees to reduce L&I Costs. Awaiting L&I response. It has been confirmed that it is in the hands of L&I
- Received few applications for the Utility Specialist Trainee position.
- Reminder of the WASWD Spring Conference this April 6th,7th and 8<sup>th</sup>. Commissioner Hart has indicated he will attend and I just wanted to ensure there has not been a change in the potential attendance of the Board Members.

### COMMISSIONER REPORTS

Commissioner Lundberg, Way and Hart had nothing to report.

### Adjourn

Commissioner Hart moved to adjourn the meeting at 3:25 p.m. The motion was seconded by Commissioner Way; motion was approved 3-0.

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Jerry Lundberg  
Chairperson

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Susan Way  
Vice-Chairperson

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James Jay Hart  
Secretary



**WEST SOUND UTILITY DISTRICT  
RESOLUTION 997-22**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF WEST SOUND UTILITY DISTRICT  
APPROVING THE DEVELOPERS EXTENSION CONTRACT  
FOR SEWER AND WATER UTILITIES FOR THE  
OVERLOOK APARTMENTS PHASE II**

**WHEREAS**, Mr. Brett McDonough, Manager of Brixx Development, LLC., has submitted an application, plans and documents for the extension of water and sewer services for Phase II of the Multifamily Development, Overlook Apartments; and

**WHEREAS**, it shall be the responsibility of the developer to construct the water and sewer system to and within their development site in accordance with the standards of West Sound Utility District and as approved by the District; **NOW, THEREFORE**,

**THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:**

**Section 1.** West Sound Utility District hereby approves the execution of a Developer Extension Contract (Exhibit “A”) with Mr. Brett McDonough, Manager of Brixx Development, LLC. for the extension of water and sewer services to and within Phase II of the Multifamily Development, Overlook Apartments in Port Orchard Washington. The Board further authorizes the General Manager on behalf of the District, to execute the contract with Mr. Brett McDonough, Manager of Brixx Development, LLC.

**APPROVED and ADOPTED** by the Board of Commissioners of West Sound Utility District at a Regular Board meeting scheduled on February 7, 2022.

**WEST SOUND UTILITY DISTRICT**  
Kitsap County, Washington

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Jerry Lundberg  
Chairperson

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Susan Way  
Vice Chairperson

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James J. Hart  
Secretary

# West Sound

UTILITY DISTRICT

## DEVELOPER EXTENSION CONTRACT

### OVERLOOK APARTMENT PHASE 2 FEBRUARY 2022





## DEVELOPER EXTENSION CONTRACT

THIS CONTRACT is entered into between WEST SOUND UTILITY DISTRICT, a municipal corporation of the State of Washington, hereinafter referred to as "District," and Brix Development LLC, hereinafter referred to as "Developer" (Insert full legal name of Developer on the preceding line).

The principal owner(s) of the Developer Company and their titles are as follows:

BRETT McDONOUGH, OWNER - MANAGER

The Developer represents that it is a legal entity in good standing with the State of Washington, with all license and other fees currently paid. This contract shall be referred to as the "Developer Extension Contract" or "DEC".

IN CONSIDERATION of the foregoing recitals and mutual promises contained herein, the parties agree as follows:

### I. GENERAL AGREEMENT

The Developer seeks to construct a water and/or wastewater system (hereinafter referred to as "Developer Improvement"), and thereafter connect the Developer Improvement into the utility system owned and operated by the District (hereinafter called "District System"). As a condition to the District permitting connection of the Developer Improvement into the District System, the Developer agrees to timely:

1. Be responsible for all costs and fees of planning and construction of the Developer Improvement.
2. Design the Developer Improvement to the standards and specifications of the District as set forth in this Contract.
3. Comply with all other conditions and obligations imposed upon it by this Contract.

Upon compliance with all conditions and obligations imposed herein on the Developer, the District agrees to accept the Developer Improvement, and ownership and all future maintenance thereof.

The common name of the Developer's project is OVERLOOK APARTMENTS and is generally located and described as follows: 3570 SE ORLANDO ST.

### II. LOCATION OF DEVELOPER IMPROVEMENT

The Developer shall complete the attached "EXHIBIT A", by inserting thereon the full and complete legal description of the real property owned by the Developer where the Developer Improvement will be located (hereinafter called "Developer Property"). If all or any portion of the Developer Improvement will be located outside the Developer Property, the rights-of-way(s) and/or



development at depths, whenever possible, which enable the District to provide gravity service to upstream properties.

**V. REIMBURSEMENT AGREEMENT (LATECOMER FEES)**

The Developer may request a reimbursement agreement if the Developer Improvement abuts real property of persons other than the Developer's and the Developer does not include the signatures of the other property owners in this application or the District requires construction of oversized mains to serve other areas. However, if the amount that could be charged according to the scenarios set forth above is less than \$150 per lot to be developed of the abutting properties, a latecomer's agreement may not be granted by the District. The terms of any latecomer agreements entered into is contained in "**EXHIBIT G**", entitled "REIMBURSEMENT AGREEMENT", which by this reference is incorporated herein and made a part hereof.

**VI. FEES**

The Developer shall pay the following fees as part of this Contract, and as shown on the fee estimate:

- Administrative fee for the DEC
- Plan review fees for water and wastewater
- Construction observation fees for water and wastewater
- Meter installation fee
- Reimbursement fees, if applicable
- General Facility Charge for water
- General Facility Charge for fire flow and irrigation, if applicable
- Local Facility Charge for water, if applicable
- General Facility Charge for wastewater
- Facility Construction Fee for wastewater treatment
- Local Facility Charge for wastewater, if applicable

**VII. DEVELOPER EXTENSION FEES**

The administrative fee, plan review fees and construction observation fees shall be paid prior to approval of this Developer Extension Contract by the District. These fees represent estimates of the anticipated work required by the District for review and inspection of the Developer's project. If the District's work exceeds the above estimates, the Developer shall pay the additional plan review fee and/or construction observation fee when requested by the District.

**VIII. REINBURSEMENT FEE**

Any water reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a binding water availability letter. Any wastewater reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a sewer permit.

**IX. GENERAL FACILITIES CHARGES (WASTEWATER, WATER, IRRIGATION)**

The General Facility Charges are established by District resolution as amended from time to time.

completion of the project, the Developer shall provide the District record drawings and the District-specified electronic file that incorporate all field changes and any other record drawing information required by the District.

C. Job Site Safety. The Developer and its Contractor shall be solely responsible at all times for job site safety. The District assumes no responsibility for job site safety resulting from its observation of construction. The Developer and its Contractor are responsible for providing a safe work site for the District to observe construction at all times.

D. Residential Side Sewers. In no event shall the house side sewer service connection (from the sewer to the property line) ever be less than 6 inches, and the house side sewer lateral (from the property line to the house) ever be less than 4 inches.

E. Commercial Side Sewers and Clean Outs. Commercial development side sewers, grease interceptors, oil/water interceptors, clean outs and other pre-treatment systems shall be designed by a registered professional engineer and submitted to the District for review and acceptance prior to the time the Developer Improvements are made. Side sewers and clean outs may be designed for future structures, but shall not be installed until additional plans have been reviewed and accepted by the District and all applicable permits purchased and issued. The design calculations for commercial buildings shall be stamped by a professional engineer licensed in the State of Washington and submitted to the District for review and acceptance. In no case shall a commercial side sewer service connection or lateral be less than 6 inches.

F. Sewage Lift Stations. The design for any required sewage lift stations shall be completed by the Developer through a licensed engineer in the State of Washington in strict accordance with the requirements and details shown in the District's Developer's Extension Manual and provided to the District upon request.

### **XIII. CONTRACTORS, SUBCONTRACTORS, LABORERS, AND MATERIALMEN**

1. List of Contractors, Sub-Contractors, Materialmen, & Suppliers. The District has a substantial interest in insuring the Developer Improvement is constructed and connected to the District System in a good, competent, and professional manner. Therefore, the Developer and/or additional owners agree to submit the names of all contractors, subcontractors, laborers, materialmen and suppliers or, in the event the Developer or additional owners are contractors, a statement that said Developer or additional owner(s) will perform said improvement. The District reserves the right to approve or disapprove of any contractor, subcontractor, materialmen, or supplier. The District will not unreasonably withhold approval

2. Review Process Utilized by District. In determining whether the Developer, additional owner, contractor, subcontractor, materialman or laborer is or is not satisfactory, the District may take into consideration said parties' prior experience in similar type improvement work, available manpower and equipment, financial ability, and prior work performed by such parties for or on behalf of the District or others. Such names and other information requested by the District shall be submitted to the District by the Developer prior to any construction being performed with respect to said real property described in this Contract.

3. Rejection by District of a Contractor, Sub-Contractor, or Supplier. If a party designated to perform services or supply materials regarding the Developer Improvement is not acceptable to the

## **XV. EASEMENTS & PERMITS**

1. **Easement Width & Location of Main therein.** Easements for water or wastewater mains shall be a minimum of fifteen (15) feet wide. The center of the pipeline shall be not less than five (5) feet from the edge of the easement. The developer shall provide a wider easement if the District Engineer determines it is required.

2. **Developer to Bear Easement Costs.** Any required easement shall be obtained by the Developer at its sole cost and expense, and a true copy of such easement (a copy of the conveyance document to be later provided to the District and a description the easement's on ground location) shall be delivered to the District prior to the time Developer commences construction. Upon completion of construction and prior to acceptance of the Developer Improvement by the District in accordance with the provisions hereof, the original easement shall be recorded and granted by warranty deed from the Developer to the District.

3. **Easement Title Policy / Survey Record / Easement Restrictions.** The Developer shall provide all necessary easements at his sole cost, regardless of changes in the Contract Plans, together with evidence of title and a title insurance policy in the sum not less than \$1,000 per 500 feet of easement, establishing clear title in the grantor. The Developer shall also provide a Record of Survey or final plat-showing basis for control and sufficient information to verify the easement legal descriptions. All easements shall prohibit the construction of any structures, other improvements, or trees over the easement or in any location that would make it difficult for the District to easily access the easement for inspection and maintenance purposes.

4. **Easement Conveyance.** The Developer shall submit all required easements to the District using the conveyance form set forth in attached "EXHIBIT C", which by this reference is incorporated herein. In the event legal services may be required incident to any easements beyond review of the form thereof, the costs of such services shall be paid by the Developer in the amounts billed to the District before the District's acceptance of the Developer Improvement.

5. **Developer to Obtain all Necessary Permits.** All necessary permits and approvals from any governmental agency shall be obtained by the Developer directly at the Developer's expense. The District shall be provided with a copy of all such permits and approvals prior to the pre-construction conference between the contractor and the District.

## **XVI. EVIDENCE OF INSURANCE AND HOLD HARMLESS**

1. **Developer's Liability Insurance Obligation.** The Developer's Contractor shall purchase liability insurance from and maintain such in a company or companies with a Best's rating of no less than A:VII and lawfully authorized to do business in Kitsap County, Washington. Developer's Contractor shall provide the District with written evidence of insurance covering public liability and property damage prior to the time construction of the Developer Improvement occurs. Insurance shall provide protection to the District from claims set forth below which may arise out of or result from the Contractor's operations and including operations by any tier of subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable for:

a) Claims under workers' or workmen's compensation disability benefit and other similar employee benefit acts which are applicable to the Work to be performed, including voluntary coverage

claim, damage, loss or expense attributable to bodily injury, sickness, disease, or death (including that sustained by the work Contractor's or any others working on the project), or to injury to or destruction of tangible property including the loss of use therefrom, regardless of whether such liability, claim, damage, loss, or expense was caused in part by any negligent act or omissions, whether active or passive, by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.

7. Indemnification / Hold Harmless Provisions to be Broadly Construed. The Developer's and Contractor's liability to the District under this Indemnification Clause shall not be limited by any legal limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts. The indemnification and hold harmless rights of the District in regards to the Developer shall be liberally construed in favor of the District.

## **XVII. GRADING ROADS**

1. Pre-Construction Road Work by Developer. Unless otherwise specifically determined in writing by the District, the Developer shall grade all roads to the design subgrade elevations prior to the start of construction and shall advise the District in writing of any changes that may be contemplated during construction prior to such work being performed.

2. Post-Work Changes to Road Elevation or Subgrade. If the Developer changes, or causes to be changed, the subgrade or elevation of the road after completion of the Developer Improvement, or any part thereof, the Developer shall be responsible for all costs incurred for any additional work required as a result of said change in subgrade elevation. This obligation shall remain in full force and effect until the District, Kitsap County and/or any other pertinent municipality possessing jurisdiction where the work is performed releases the right-of-way or road construction bond or any other required bond in connection of the roads within the area.

## **XIII. DEVELOPER REQUIREMENTS PRIOR TO START OF CONSTRUCTION**

The Developer shall not commence construction of the water and/or wastewater system until the following conditions have been fulfilled:

1. The District has completed review of the construction plans and specifications for the Developer Improvement and approved them for construction.
2. Developer's engineer has submitted a construction cost estimate to the District.
3. All costs incurred by the District on behalf of the Developer have been paid in full.
4. Copies of all necessary permits have been received by the District.
5. The performance bond, if required by the District, or other approved method of assuring construction compliance is on file with the District.
6. Evidence of insurance as required in this Contract is on file with the District.

**XX. DISTRICT ACCEPTANCE OF THE DEVELOPER IMPROVEMENT**

The Developer Improvement shall not be accepted by the District until the following requirements are met to the District's satisfaction:

1. District inspection of the Developer Improvement and Developer completion of the punch list items have been completed. Inspection, testing, and lamping reports for the wastewater main have been completed and are on file at the District, and CCTV video tapes or DVD's are submitted and approved.
2. Final construction costs have been submitted to the District.
3. All costs incurred by the District on behalf of the Developer have been paid in full, including construction observation fees and other services provided by the District.
4. Record drawings are complete and certified correct by the Contractor. One complete record set is received by the District on mylar and one set on bond paper. District also shall receive the electronic file of the record drawings in the District-specified format. The electronic copy will be used to update system mapping.
5. All duly Executed Bills of Sales and Conveyances have been received by the District in the form set forth in the attached EXHIBIT B.
6. Easements on the District's form (EXHIBIT C) for all completed water and/or waste-water improvements have been furnished to the District, accepted by the District, and recorded with the Kitsap County Auditor; and the easement title insurance policy, record of survey or final plat have been submitted and accepted by the District.
7. The Developer has furnished the District with an affidavit warranting that all bills pertaining to the Developer Improvement have been paid and there are no liens against the Developer Improvement (EXHIBIT D).
8. The Developer has furnished the District with a two-year guarantee, in the form of a maintenance bond (EXHIBIT F), performance bond extension, or an assignment of funds, that the Developer Improvement will be free of defects in labor and materials during this term. The two-year guarantee period shall commence on the date of acceptance of the completed Developer Improvement. The maintenance bond shall be for 10% of the final construction costs with a minimum bond amount of \$2,000.
9. The District shall not be obliged to provide utility service to the property described in this Contract until all above requirements have been met by the Developer to the District's satisfaction.
10. The District shall not be obligated to provide utility service to the property described in this Contract if construction by third parties of facilities to be deeded to the District has not been completed and accepted by the District, if such third party facilities are necessary to provide utility service to the property described in this Contract.

## **XXII. FINAL ACCEPTANCE**

1. **Conveyance of Developer Improvement to District.** Upon completion of the work and approval of the Developer Improvement and all work associated therewith by the District, the Developer shall, as a condition of acceptance by the District, convey the Developer Improvement and all necessary easements to the District by Bill of Sale in the form as set forth on the attached EXHIBIT B, and by Statutory Warranty Deed as to any easements in the form identified herein.

2. **Acceptance by District.** Upon full compliance with this Contract including connection of the Developer Improvement to the District System and completion and conveyance of the Bill of Sale and any required easements, the District shall accept the Developer Improvement by written notification to the Developer in letterform. Upon acceptance, the Developer shall have the right to use the District System subject to all District regulations, conditions, and charges as it determines to be reasonable and proper from time to time.

## **XXIII. CORRECTION OF DEFECTS OCCURRING OR DISCOVERED WITHIN WARRANTY PERIOD**

1. **Post Acceptance Defects in Developer Improvement.** If defects in the Developer Improvement are discovered after acceptance thereof by the District within the two-year warranty period, the Developer shall start work to remedy any such defects within seven days receipt of written notice from the District. In the event the Developer does not commence and/or accomplish corrections within the time specified by the District, the work may be accomplished by the District at its option, and the cost thereof shall be paid by the Developer immediately upon demand being made by the District. In emergencies, where public health concerns are involved or where damage may result from delay and/or where loss of service may result, corrections may be made by the District upon discovery, in which case the cost thereof shall be borne by the Developer immediately upon demand being made by the District.

2. **Developer Responsible for Work Defects within Warranty Period.** The Developer shall be responsible for all expenses incurred by the District of every kind and nature resulting from defects in the Developer's work, including: all actual damages; costs of materials and labor expended by the District in making repairs; and costs of engineering, construction observation, and supervision by the District.

## **XXIV. PROJECT DOCUMENTS**

The documents for the project involving the Developer Improvement as identified herein shall include the following:

- Executed Developer Extension Contract
- Standard Specifications and Details as identified in this Contract
- Change orders after Contract is signed
- District approved plans for the Developer Improvement
- Detailed drawings, Special Specifications, and written instructions by the District Engineer or District Manager concerning the Developer Improvement
- Addenda relating to the work project when written
- Reference Specifications concerning the project
- Performance bond or equivalent instrument as identified in this Contract
- Evidence of insurance as required in this Contract

## **XXV. SAFETY OF PERSONS AND PROTECTION OF PROPERTY**

The Developer shall be solely and exclusively responsible for construction safety means and methods, and for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of all its work relating to the Developer Improvement. The Developer shall insure the Contractor takes all necessary precautions for safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. Employees on the project and other persons who may be affected thereby.
2. The work, materials, and equipment incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's subcontractors or other sub-subcontractors.
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation, or replacement in the course of construction.

**Safety Notices.** The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

**Construction of Safety Related Facilities.** The Developer shall erect and maintain, as required by law, conditions and performance of the contract, necessary fences and other safe-guards for safety and protection of persons/property on and off the work site and shall: 1) post danger signs and other warnings against hazards, 2) promulgate safety regulations, and 3) notify owners/users of adjacent sites/utilities when the Contractor's operations may affect them.

**Hazardous Materials.** When the use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the work, the Developer and its agents shall exercise utmost care and carry out such activities under supervision of properly qualified personnel.

**Remedying Loss to Property.** The Developer shall promptly remedy damage and loss to property that the Developer is required to protect caused in whole or in part by the Developer, Contractor, a subcontractor, or anyone directly or indirectly employed at the worksite.

**Safety Officer.** The Developer shall designate a responsible and competent member of the Developer's organization at the work site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Developer in writing to the District.

**Safety Program Maintenance.** The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs required in connection with the project work and shall send copies of all accident, injury, or work-related illness reports and of all notices of unsafe conditions to the District and appropriate governmental authorities.



**XXVI. NO ASSIGNMENT WITHOUT DISTRICT APPROVAL**

The Developer shall not assign this Contract or any responsibilities imposed upon it hereunder without first obtaining the prior written consent of the District, which the District may grant or withhold in its sole discretion. Written documents as required by the District of any proposed assignment shall be filed with the District by the Developer at the time of any assignment, together with the written consent of the District.

**XXVII. ATTORNEYS FEES AND COSTS**

In the event either the District or the Developer commences any legal action relating to the provisions of this Contract, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled by this Contract, to its reasonable attorney's fees and costs involved in such action, including those incurred on appeal.

**XXIII: GOVERNING LAW/FORUM**

This Contract shall be construed and enforced in accordance with the laws of the State of Washington. Any suit relating to, or to enforce the provisions of this Contract, shall be brought in Kitsap County, Washington Superior Court.

**XXIX. SEVERABILITY OF PROVISIONS**

The finding under law that any one or more provisions or any portion of a provision in this Contract is invalid, unenforceable, or illegal, shall not impair the validity or enforceability of any other provision hereof or the Contract Documents as a whole.

**XXX. EXECUTION**

The undersigned Developer and any additional owners warrant and represent they constitute the owners of all real property that is the subject matter of this Contract and, upon request by the District, agree to provide title insurance, establishing to the satisfaction of the District that the parties executing this application constitute the owners of all real property described and have the authority to execute this Contract with respect to said real property and on behalf of any party legal entities.

Dated this 3 day of DECEMBER, 2021.

DEVELOPER:

Bruce Development LLC

(State full legal name of Developer)

by: [Signature]

Print Name: BRETT McDONOUGH

Title: MANAGER

Its duly authorized representative for entry into this Contract

*West Sound Utility District recommends that you retain a copy of this completed form for your personal records.  
(Developer Extension Contract-Exhibit A)*

Address: 2680 E. SEYCHELLES CT  
SALT LAKE CITY, UT 84121

Contact Phone Numbers: 801.792.1540

Contact Email: BRETT@BLUXDEVELOPMENT.COM

STATE OF UTAH )  
 ) ss Corporation or LLC Acknowledgment  
COUNTY OF SALT LAKE )

I certify that I know or have satisfactory evidence that BRETT McDONOUGH is the person who appeared before me, and such person acknowledged he/she signed this instrument, and on oath stated he/she were authorized to execute it on behalf of BLUX DEVELOPMENT, a Washington LLC (insert "corporation" or "limited liability company" as appropriate); and he/she acknowledged it as MANAGER (state the offices of each), respectively, of such business entity, to be the free and voluntary act of such business entity for the uses and purposes mentioned in the instrument.

Dated: 12/31/2021

Print Name: JOHNY FREDRICK

NOTARY PUBLIC in and for the State of UTAH

UTAH, residing in 3125 S RICHMOND, 84106, UTAH

My Commission Expires: 02/09/2022



**ACCEPTANCE OF CONTRACT BY DISTRICT:** Upon compliance with all terms and conditions of this Contract by the Developer in a timely manner, the District will accept the Developer Improvement and furnish the applicable utility service thereto.

WEST SOUND UTILITY DISTRICT

by: \_\_\_\_\_ Date: \_\_\_\_\_  
General Manager

Print Name:

**EXHIBIT "A"**

**DEVELOPER EXTENSION CONTRACT /  
LOCATION OF DEVELOPER IMPROVEMENT**

Project Name: OVERLOOK APARTMENTS

The proposed Developer Improvement will be installed on, under, and/or over: roads; easements; and/or other rights-of-way. The Developer Improvements shall be for the use and benefit of the real property hereafter described, which real property is owned by the Developer and/or other persons who are contributing to the costs of said Developer Improvement and said other owners join in this application and are referred to as "additional owners" in this Contract. The said real property is described as follows:

**Legal description of Premises-Insert or attach all applicable legal description(s) and tax parcel number(s)**

• SEE NEXT PAGE

## OVERLOOK APARTMENTS PHASE III - LEGAL DESCRIPTIONS

PARCEL: 4598-005-026-0009

LOTS 26 AND 27, BLOCK 5, NAVY YARD ADDITION TO SIDNEY ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGES 87, RECORDS OF KITSAP COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED PALMER AVENUE AS ATTACHES BY OPERATION OF LAW PER ORDINANCE NO. 1791, RECORDED UNDER AUDITOR'S FILE NO. 3241143, DATED MARCH 6, 2000.

EXCEPT THE SOUTH 5.00 FEET OF SAID LOT 26.

SITUATE IN THE CITY OF PORT ORCHARD, KITSAP COUNTY, STATE OF WASHINGTON.

PARCEL: 4598-005-024-0001

LOT 25 AND THE SOUTH 5.00 FEET OF LOT 26, BLOCK 5, NAVY YARD ADDITION TO SIDNEY ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGES 87, RECORDS OF KITSAP COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED PALMER AVENUE AS ATTACHES BY OPERATION OF LAW PER ORDINANCE NO. 1791, RECORDED UNDER AUDITOR'S FILE NO. 3241143, DATED MARCH 6, 2000.

TOGETHER WITH THE NORTH 15.00 FEET OF LOT 24 OF SAID BLOCK 5.

SITUATE IN THE CITY OF PORT ORCHARD, KITSAP COUNTY, STATE OF WASHINGTON.

PARCEL: 4598-005-017-0208

RESULTANT PARCEL 2 OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 201610270137, BEING A PORTION OF LOTS C AND D OF THE CITY OF PORT ORCHARD SHORT PLAT NO. PO-79R-2 (S-1085R-2) RECORDED UNDER KITSAP COUNTY AUDITOR'S FILE NO. 3000847/848, BEING AN AMENDMENT OF 9512290269 AND 9503270155, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, SECTION 30, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON.

TOGETHER WITH LOTS 1 THROUGH 10, AND LOTS 23 THROUGH 32, ALL IN BLOCK 6, AND LOTS 17 THROUGH 24, BLOCK 5, OF THE NAVY YARD ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 87, RECORDS OF KITSAP COUNTY, WASHINGTON.

EXCEPT THE NORTH 15.00 FEET OF LOT 24 OF SAID BLOCK 5.

ALSO TOGETHER WITH THOSE PORTIONS OF VACATED WENDELL AND HARRIET STREET AS ATTACHES BY OPERATION OF LAW PER RESOLUTION 004-2000 AS RECORDED UNDER AUDITOR'S FILE NO. 3231877, RECORDS OF KITSAP COUNTY, WASHINGTON.

ALSO TOGETHER WITH THAT PORTION OF VACATED PALMER AVENUE AS ATTACHES BY OPERATION OF LAW PER ORDINANCE NO. 1791, RECORDED UNDER AUDITOR'S FILE NO. 3241143, DATED MARCH 6, 2000.

SITUATE IN THE CITY OF PORT ORCHARD, KITSAP COUNTY, STATE OF WASHINGTON.

PARCEL: 4598-005-028-0007

LOTS 28 THROUGH 32, INCLUSIVE, BLOCK 5, NAVY YARD ADDITION TO SIDNEY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 87, IN KITSAP COUNTY, WASHINGTON;

TOGETHER WITH THAT PORTION OF VACATED PALMER AVENUE AS ATTACHES BY OPERATION OF LAW PER ORDINANCE NO. 1791, RECORDED UNDER AUDITOR'S FILE NO. 3241143, DATED MARCH 6, 2000, NAVY YARD ADDITION TO SIDNEY.





**WEST SOUND UTILITY DISTRICT  
RESOLUTION 1002-22**

**A RESOLUTION OF  
THE BOARD OF COMMISSIONERS  
OF WEST SOUND UTILITY DISTRICT  
APPROVING THE DEVELOPERS EXTENSION CONTRACT  
FOR SEWER AND WATER UTILITIES  
FOR THE EMELIA LANDING PLAT.**

**WHEREAS**, Mr. Nick Abdelnour, Division President of Richmond American Homes of Washington, a publicly traded corporation, has submitted an application, plans and documents for the extension of water and sewer services for the Emelia Landing Plat on SE Baker Road consisting of a thirty-seven (37) lot plat; and

**WHEREAS**, it shall be the responsibility of the developer to construct the water and sewer system to and within their Plat site in accordance with the standards of West Sound Utility District and as approved by the District; **NOW, THEREFORE**,

**THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:**

**Section 1.** West Sound Utility District hereby approves the execution of a Developer Extension Contract (Exhibit “A”) with Mr. Nick Abdelnour, Division President of Richmond American Homes of Washington for the extension of water and sewer services to and within the Emelia Landing Plat on SE Baker Road located in Port Orchard Washington. The Board further authorizes the General Manager, on behalf of the District, to execute the Developers Extension Contract with Richmond American Homes.

**APPROVED and ADOPTED** by the Board of Commissioners of West Sound Utility District at a Regular Board meeting scheduled on March 21, 2022.

**WEST SOUND UTILITY DISTRICT**  
Kitsap County, Washington

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Jerry Lundberg  
Chairperson

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Susan Way  
Vice Chairperson

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James J. Hart  
Secretary

## DEVELOPER EXTENSION CONTRACT

**THIS CONTRACT** is entered into between **WEST SOUND UTILITY DISTRICT**, a municipal corporation of the State of Washington, hereinafter referred to as "District," and Richmond American Homes of WA, hereinafter referred to as "Developer" (Insert full legal name of Developer on the preceding line).

The principal owner(s) of the Developer Company and their titles are as follows:

Nick Abdelnour - Division President

The Developer represents that it is a legal entity in good standing with the State of Washington, with all license and other fees currently paid. This contract shall be referred to as the "Developer Extension Contract" or "DEC".


IN CONSIDERATION of the foregoing recitals and mutual promises contained herein, the parties agree as follows:

### **I. GENERAL AGREEMENT**

The Developer seeks to construct a water and/or wastewater system (hereinafter referred to as "Developer Improvement"), and thereafter connect the Developer Improvement into the utility system owned and operated by the District (hereinafter called "District System"). As a condition to the District permitting connection of the Developer Improvement into the District System, the Developer agrees to timely:

1. Be responsible for all costs and fees of planning and construction of the Developer Improvement.
2. Design the Developer Improvement to the standards and specifications of the District as set forth in this Contract.
3. Comply with all other conditions and obligations imposed upon it by this Contract.

Upon compliance with all conditions and obligations imposed herein on the Developer, the District agrees to accept the Developer Improvement, and ownership and all future maintenance thereof.

The common name of the Developer's project is Emelia Landing and is generally located and described as follows: SE Baker Rd, Port Orchard, WA. 37 .

### **II. LOCATION OF DEVELOPER IMPROVEMENT**

The Developer shall complete the attached "EXHIBIT A", by inserting thereon the full and complete legal description of the real property owned by the Developer where the Developer Improvement will be located (hereinafter called "Developer Property"). If all or any portion of the Developer Improvement will be located outside the Developer Property, the rights-of-way(s) and/or



easement(s) required to connect the Developer Improvement to the District System shall also be fully and completely legally described and identified on EXHIBIT A. EXHIBIT A, by this reference is incorporated herein and made a part hereof. The Developer warrants and represents the information contained on EXHIBIT A is complete and correct.

### **III. DEVELOPER PROPERTY OUTSIDE THE DISTRICT**

In the event the Developer Property is located wholly or partially outside the District's legal boundaries, any obligations placed on the District in this Contract are conditioned on the following requirements having first been met by the Developer:

1. The Developer Property shall be annexed into the District, subject to approval by the Kitsap County Boundary Review Board, in the manner required by law. The annexation shall include a service area acceptable to the District. At the sole discretion of the District, the District may not require annexation; however, in that event, the Developer must agree to pay all surcharges for out-of-District service.
2. Water and/or wastewater service received from the District is conditioned on compliance with all pertinent Growth Management Act requirements by the Developer.
3. The Developer shall be responsible for meeting all requirements for annexation of the Developer Property as required by law and all costs and fees associated therewith.
4. The Developer shall pay all legal, engineering, and District staff costs and fees incurred in assisting the Developer with the annexation. The Developer shall also pay the filing fee required by the Kitsap County Boundary Review Board for such annexation and all other annexation fees and costs of every kind and nature.

### **IV. COMPREHENSIVE DEVELOPMENT**

As a condition precedent to the District's obligations under this Contract, the Developer shall construct the proposed Developer Improvement in conformance with the District's specifications, together with any amendments made thereto by the District to conform with the District's long-range plan, including any over-sizing of mains and pump stations necessitated by the comprehensive plan or as determined by the District in its sole discretion.

It is the policy of the District that the Developer extend any water main improvements to the most distant end of abutting and interior rights-of-way or easements, unless it is determined by the District, according to its policies and/or rules, that extension of the water main will not be necessary. Developers owning corner property shall extend the water main to the far ends of both corners of the property unless it is determined by the District, in its sole discretion, extension of the system is not necessary.

It is the policy of the District that the Developer extend any wastewater main improvements to the most distant end of abutting and interior rights-of-way or easements unless it is determined by the District, according to its rules and policies, that extension of the wastewater main will not be necessary. Developers owning corner property shall extend the wastewater system to the far ends of both corners of the property unless it is determined by the District, in its sole discretion, extension of the system is not necessary. The wastewater system shall be extended to the far end of the

development at depths, whenever possible, which enable the District to provide gravity service to upstream properties.

#### **V. REIMBURSEMENT AGREEMENT (LATECOMER FEES)**

The Developer may request a reimbursement agreement if the Developer Improvement abuts real property of persons other than the Developer's and the Developer does not include the signatures of the other property owners in this application or the District requires construction of oversize mains to serve other areas. However, if the amount that could be charged according to the scenarios set forth above is less than \$150 per lot to be developed of the abutting properties, a latecomer's agreement may not be granted by the District. The terms of any latecomer agreements entered into is contained in "**EXHIBIT G**", entitled "REIMBURSEMENT AGREEMENT", which by this reference is incorporated herein and made a part hereof.

#### **VI. FEES**

The Developer shall pay the following fees as part of this Contract, and as shown on the fee estimate:

- Administrative fee for the DEC
- Plan review fees for water and wastewater
- Construction observation fees for water and wastewater
- Meter installation fee
- Reimbursement fees, if applicable
- General Facility Charge for water
- General Facility Charge for fire flow and irrigation, if applicable
- Local Facility Charge for water, if applicable
- General Facility Charge for wastewater
- Facility Construction Fee for wastewater treatment
- Local Facility Charge for wastewater, if applicable

#### **VII. DEVELOPER EXTENSION FEES**

The administrative fee, plan review fees and construction observation fees shall be paid prior to approval of this Developer Extension Contract by the District. These fees represent estimates of the anticipated work required by the District for review and inspection of the Developer's project. If the District's work exceeds the above estimates, the Developer shall pay the additional plan review fee and/or construction observation fee when requested by the District.

#### **VIII. REINBURSEMENT FEE**

Any water reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a binding water availability letter. Any wastewater reimbursement fees to be collected from a benefiting third party property must be paid in full at the time application is made for a sewer permit.

#### **IX. GENERAL FACILITIES CHARGES (WASTEWATER, WATER, IRRIGATION)**

The General Facility Charges are established by District resolution as amended from time to time.

Wastewater: The General Facility Charge (Wastewater) for residential, commercial, multi-family and other connections to the District system shall be paid in full at the time application is made for a sewer connection permit.

Water: The General Facility Charges (Water) for residential, commercial, multi-family, and other connections to the District System shall be paid in full at the time application is made for a binding water availability letter.

Irrigation: The General Facility Charges for irrigation for connections other than residential (i.e. multi-family, commercial, and institutional) to the District System shall be paid in full at the time application is made for a binding water availability letter. The General Facility Charges for irrigation is dependent upon on the size of the water meter and if the landscaping is drought-tolerant, in accordance with Kitsap County standards.

**X. FACILITY CONSTRUCTION FEE FOR WASTEWATER TREATMENT**

The Facility Construction Fee shall be paid in full at the time application is made for a sewer connection permit. For properties outside the boundaries of the Wastewater Treatment Plant ULID #1 or properties inside ULID #1 that have not previously paid the assessment, or any other properties that have not paid the wastewater treatment connection charge, a Facility Construction Fee shall be determined in accordance with District resolution.

**XI. LOCAL FACILITY CHARGE**

A Local Facility Charge is separate and payable in addition to the General Facility Charge. The Local Facility Charge would be utilized in an area where the District has invested District funds for the benefit of local properties. The collection of a Local Facility Charge reimburses the District for its investment by properties that derive the benefit. The Local Facility Charge for hookup to the District System shall be paid in full prior to the Developer Improvement being accepted by the District. The amount of a Local Facility Charge is established by District resolution as amended from time to time.

**XII. SYSTEM DESIGN & OBSERVATION**

1. **Plan Review.** Review of water and/or wastewater plans prepared by the Developer's engineer will be performed by the District. Plans prepared by the Developer's engineer shall conform to the District's graphic standards in effect at the time the plans are developed.

2. **Observation of Construction / DRAWINGS / JOB SITE SAFETY**

A. **District & Developer Inspections.** Observation of construction and testing of the Developer Improvement, review of materials, and verification of record drawing information will be made by District personnel. Observation of the Developer's construction shall be for the sole benefit of the District and shall not be a substitute for the Developer's own inspection process.

B. **Developer's Obligation Regarding Drawings.** The Developer shall be responsible for maintaining a red line set of drawings with all construction changes at the job site and available for review by the District at all reasonable times. The Developer shall provide the locations of the constructed facilities and all other information to be incorporated into the record drawings. After

completion of the project, the Developer shall provide the District record drawings and the District-specified electronic file that incorporate all field changes and any other record drawing information required by the District.

C. Job Site Safety. The Developer and its Contractor shall be solely responsible at all times for job site safety. The District assumes no responsibility for job site safety resulting from its observation of construction. The Developer and its Contractor are responsible for providing a safe work site for the District to observe construction at all times.

D. Residential Side Sewers. In no event shall the house side sewer service connection (from the sewer to the property line) ever be less than 6 inches, and the house side sewer lateral (from the property line to the house) ever be less than 4 inches.

E. Commercial Side Sewers and Clean Outs. Commercial development side sewers, grease interceptors, oil/water interceptors, clean outs and other pre-treatment systems shall be designed by a registered professional engineer and submitted to the District for review and acceptance prior to the time the Developer Improvements are made. Side sewers and clean outs may be designed for future structures, but shall not be installed until additional plans have been reviewed and accepted by the District and all applicable permits purchased and issued. The design calculations for commercial buildings shall be stamped by a professional engineer licensed in the State of Washington and submitted to the District for review and acceptance. In no case shall a commercial side sewer service connection or lateral be less than 6 inches.

F. Sewage Lift Stations. The design for any required sewage lift stations shall be completed by the Developer through a licensed engineer in the State of Washington in strict accordance with the requirements and details shown in the District's Developer's Extension Manual and provided to the District upon request.

### **XIII. CONTRACTORS, SUBCONTRACTORS, LABORERS, AND MATERIALMEN**

1. List of Contractors, Sub-Contractors, Materialmen, & Suppliers. The District has a substantial interest in insuring the Developer Improvement is constructed and connected to the District System in a good, competent, and professional manner. Therefore, the Developer and/or additional owners agree to submit the names of all contractors, subcontractors, laborers, materialmen and suppliers or, in the event the Developer or additional owners are contractors, a statement that said Developer or additional owner(s) will perform said improvement. The District reserves the right to approve or disapprove of any contractor, subcontractor, materialmen, or supplier. The District will not unreasonably withhold approval

2. Review Process Utilized by District. In determining whether the Developer, additional owner, contractor, subcontractor, materialman or laborer is or is not satisfactory, the District may take into consideration said parties' prior experience in similar type improvement work, available manpower and equipment, financial ability, and prior work performed by such parties for or on behalf of the District or others. Such names and other information requested by the District shall be submitted to the District by the Developer prior to any construction being performed with respect to said real property described in this Contract.

3. Rejection by District of a Contractor, Sub-Contractor, or Supplier. If a party designated to perform services or supply materials regarding the Developer Improvement is not acceptable to the

District, the District will so notify the Developer, along with the reasons why, within fifteen (15) days after notification is provided the District of the name of such party. Upon such event, the Developer shall submit alternates, and said alternates shall likewise be subject to the same approval upon the same criteria as the original party submitted and notification will be given by the District within the same time period specified. All contractors and subcontractors performing work pursuant to this Contract shall be registered as a contractor pursuant to the provisions of RCW 18.27.

4. Skill Level of Contractor. The Contractor shall be skilled in the type of work required for the project and shall have performed similar type work in a professional manner in the past. The Contractor shall supervise and direct the Work using its best skill and attention. The Contractor shall employ a competent superintendent to represent the Contractor at the site at all times work is being performed.

5. Construction Methods. The Contractor and Developer shall be solely and completely responsible for and have control over construction means, methods, techniques, procedures, safety, and for coordinating all portions of the Work in a timely and professional manner.

6. Work Place Discipline. The Contractor shall enforce strict discipline and good order among persons performing the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Contractor shall be responsible for the acts and omissions of the Contractor's employees, subcontractors, and their agents and representatives.

7. Notices Required by Public Authorities & Compliance with Laws. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on furnishing and performing the Work.

#### **XIV. PERFORMANCE BOND**

1. Performance Bond Requirement. The District reserves the right to require the Developer to furnish the District a performance bond between the Developer (or the Developer's Contractor) and the District upon the form included in this Contract and in an amount equal to the Engineer's estimated cost of the project, or actual cost if known, prior to the contractor's pre-construction conference with the District. Typically, the bond will be required if other properties or District obligations are or may be affected by the Developer's timely performance.

2. Alternative to Performance Bond. The District may accept, in lieu of a performance bond, an assignment of savings on the form enclosed in the documents.

3. Performance Bond Requirements. The performance bond shall require completion of all work within a period of two (2) years from date of the application's acceptance by the District in accordance with the plans and specifications prepared or approved by the District. Said bond shall also require the Developer to pay all persons furnishing labor and material and hold the District harmless from any claims thereon, whether any such claim may arise under the public works lien statutes or the mechanic lien statutes of the State of Washington; and compliance with the formal requirements of either or both said statutes. The District shall release the performance bond in accordance with the provisions of its final acceptance of the Developer Improvement.

## **XV. EASEMENTS & PERMITS**

1. Easement Width & Location of Main therein. Easements for water or wastewater mains shall be a minimum of fifteen (15) feet wide. The center of the pipeline shall be not less than five (5) feet from the edge of the easement. The developer shall provide a wider easement if the District Engineer determines it is required.

2. Developer to Bear Easement Costs. Any required easement shall be obtained by the Developer at its sole cost and expense, and a true copy of such easement (a copy of the conveyance document to be later provided to the District and a description the easement's on ground location) shall be delivered to the District prior to the time Developer commences construction. Upon completion of construction and prior to acceptance of the Developer Improvement by the District in accordance with the provisions hereof, the original easement shall be recorded and granted by warranty deed from the Developer to the District.

3. Easement Title Policy / Survey Record / Easement Restrictions. The Developer shall provide all necessary easements at his sole cost, regardless of changes in the Contract Plans, together with evidence of title and a title insurance policy in the sum not less than \$1,000 per 500 feet of easement, establishing clear title in the grantor. The Developer shall also provide a Record of Survey or final plat-showing basis for control and sufficient information to verify the easement legal descriptions. All easements shall prohibit the construction of any structures, other improvements, or trees over the easement or in any location that would make it difficult for the District to easily access the easement for inspection and maintenance purposes.

4. Easement Conveyance. The Developer shall submit all required easements to the District using the conveyance form set forth in attached "EXHIBIT C", which by this reference is incorporated herein. In the event legal services may be required incident to any easements beyond review of the form thereof, the costs of such services shall be paid by the Developer in the amounts billed to the District before the District's acceptance of the Developer Improvement.

5. Developer to Obtain all Necessary Permits. All necessary permits and approvals from any governmental agency shall be obtained by the Developer directly at the Developer's expense. The District shall be provided with a copy of all such permits and approvals prior to the pre-construction conference between the contractor and the District.

## **XVI. EVIDENCE OF INSURANCE AND HOLD HARMLESS**

1. Developer's Liability Insurance Obligation. The Developer's Contractor shall purchase liability insurance from and maintain such in a company or companies with a Best's rating of no less than A:VII and lawfully authorized to do business in Kitsap County, Washington. Developer's Contractor shall provide the District with written evidence of insurance covering public liability and property damage prior to the time construction of the Developer Improvement occurs. Insurance shall provide protection to the District from claims set forth below which may arise out of or result from the Contractor's operations and including operations by any tier of subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable for:

a) Claims under workers' or workmen's compensation disability benefit and other similar employee benefit acts which are applicable to the Work to be performed, including voluntary coverage

for entities exempt from mandatory coverage; all such coverage to be equivalent to mandatory coverage required by law;

b) Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

c) Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

d) Claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by any other person for any reason;

e) Claims for damages including explosion, collapse and underground (XCU) damages as applicable, other than to the Work itself, because of injury to or destruction of tangible property including loss of use resulting therefrom;

f) Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle; and

g) involving contractual liability insurance applicable to the Developer's and the Contractor's obligations under the indemnification and hold harmless clauses of this Contract.

2. Comprehensive Insurance. The Contractor's liability insurance shall be comprehensive type insurance and shall include all major divisions of coverage including Completed Operations Coverage.

3. Minimum Insurance Coverage Amounts. The Contractor's liability insurance shall be written for not less than the following limits of coverage or the limits required by law, whichever coverage is greater: \$2,000,000.00 for each occurrence with an aggregate limit of not less than \$2,000,000.00 combined single limit. The deductible, if any, shall not exceed \$5,000 and the Contractor shall be solely responsible for payment of the deductible amount.

4. Covered Parties on Insurance. The Developer's Contractor's liability insurance shall name the District and each of its commissioners, officers, employees, agents and consultants as named additional insureds. The Developer's liability insurance shall provide primary coverage. Other insurance carried by the additional insureds shall be deemed excess insurance.

5. Insurance Coverage Time Period. Insurance coverage shall be maintained without interruption from the date of commencement of the work until completion of the work, and at all times thereafter when the Contractor is correcting defective work. The Insurance certificate shall contain a provision that the District shall be notified in writing 30 days before the policies may be canceled or allowed to expire.

6. Indemnification / Hold Harmless Provisions. To the fullest extent permitted by law, the Developer and the Developer's Contractor agree to indemnify and hold harmless the District and each of its employees, agents, consultants, officers and shareholders from and against all claims, damages, losses, and expenses including but not limited to attorney's fees, arising out of or resulting from performance of the work; provided that such insurance shall also provide coverage regarding any



claim, damage, loss or expense attributable to bodily injury, sickness, disease, or death (including that sustained by the work Contractor's or any others working on the project), or to injury to or destruction of tangible property including the loss of use therefrom, regardless of whether such liability, claim, damage, loss, or expense was caused in part by any negligent act or omissions, whether active or passive, by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.

7. Indemnification / Hold Harmless Provisions to be Broadly Construed. The Developer's and Contractor's liability to the District under this Indemnification Clause shall not be limited by any legal limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts. The indemnification and hold harmless rights of the District in regards to the Developer shall be liberally construed in favor of the District.

## **XVII. GRADING ROADS**

1. Pre-Construction Road Work by Developer. Unless otherwise specifically determined in writing by the District, the Developer shall grade all roads to the design subgrade elevations prior to the start of construction and shall advise the District in writing of any changes that may be contemplated during construction prior to such work being performed.

2. Post-Work Changes to Road Elevation or Subgrade. If the Developer changes, or causes to be changed, the subgrade or elevation of the road after completion of the Developer Improvement, or any part thereof, the Developer shall be responsible for all costs incurred for any additional work required as a result of said change in subgrade elevation. This obligation shall remain in full force and effect until the District, Kitsap County and/or any other pertinent municipality possessing jurisdiction where the work is performed releases the right-of-way or road construction bond or any other required bond in connection of the roads within the area.

## **XIII. DEVELOPER REQUIREMENTS PRIOR TO START OF CONSTRUCTION**

The Developer shall not commence construction of the water and/or wastewater system until the following conditions have been fulfilled:

1. The District has completed review of the construction plans and specifications for the Developer Improvement and approved them for construction.
2. Developer's engineer has submitted a construction cost estimate to the District.
3. All costs incurred by the District on behalf of the Developer have been paid in full.
4. Copies of all necessary permits have been received by the District.
5. The performance bond, if required by the District, or other approved method of assuring construction compliance is on file with the District.
6. Evidence of insurance as required in this Contract is on file with the District.

7. Road grading as required by the District or other pertinent parties concerning the Developer Improvement is complete.
8. All easements have been obtained.
9. Utility construction staking is complete.
10. Material submittals have been approved by the District.
11. A pre-construction conference has been held as required in this Contract.
12. Contractor provides the District with an advance 48-hour notification in writing of intent to start work on the Developer Improvement.

## **XIX. CONSTRUCTION**

1. Construction Standards. The Developer shall construct the Developer Improvement in accordance with the District's specifications and standard details. Construction of the Developer Improvement shall be observed by the District in such manner and at such times as the District deems reasonably necessary to assure construction of the Developer Improvement will conform to the plans and specifications approved by the District. The Developer shall permit such observation and cooperate at all times with District personnel in providing reasonable advance notice during the various construction phases as required by the District. The advance notices required by the District personnel will be identified at the pre-construction conference, but in no case shall the advance notice be less than two full working days.

2. District to Have Safe Access to Project. The Developer shall provide the District and its representatives safe access to every part of the work project at all times work is in progress for observation, inspection and testing, all as determined necessary by the District.

3. Observation of Water Lines Prior to Backfilling. The District requires all water lines and mains constructed be observed by the District prior to backfilling. If backfilling occurs prior to such observation, the Developer shall excavate and expose all construction for observation by the District, at no cost to the District. All "as built" information shall be provided by the Developer and verified by District personnel prior to the Contractor being permitted to backfill.

4. Developer Solely Responsible for Performing Work in Accordance with District Standards & Specifications. Any observations by the District, or tests, inspections or approvals by others shall not relieve the Developer and the Contractor from their obligation to perform the work in accordance with the District's Specifications and the approved Contract Drawings.

5. Damage to County Facilities. The Developer agrees that, in the event any authorized official of the Kitsap County Public Works Department complains to the District that the Developer damaged any County facilities, the District shall have the option, twenty-four (24) hours after notification to the Developer, of specifying such complaints or damage, to make such emergency repairs or restoration work as the District deems necessary; and in such event, the District shall have the right to be reimbursed for the reasonable cost thereof from the proceeds in the security deposit. Such notices shall be hand delivered or mailed to the Developer by certified mail, return receipt requested.

## **XX. DISTRICT ACCEPTANCE OF THE DEVELOPER IMPROVEMENT**

The Developer Improvement shall not be accepted by the District until the following requirements are met to the District's satisfaction:

1. District inspection of the Developer Improvement and Developer completion of the punch list items have been completed. Inspection, testing, and lamping reports for the wastewater main have been completed and are on file at the District, and CCTV video tapes or DVD's are submitted and approved.
2. Final construction costs have been submitted to the District.
3. All costs incurred by the District on behalf of the Developer have been paid in full, including construction observation fees and other services provided by the District.
4. Record drawings are complete and certified correct by the Contractor. One complete record set is received by the District on mylar and one set on bond paper. District also shall receive the electronic file of the record drawings in the District-specified format. The electronic copy will be used to update system mapping.
5. All duly Executed Bills of Sales and Conveyances have been received by the District in the form set forth in the attached EXHIBIT B.
6. Easements on the District's form (EXHIBIT C) for all completed water and/or waste-water improvements have been furnished to the District, accepted by the District, and recorded with the Kitsap County Auditor; and the easement title insurance policy, record of survey or final plat have been submitted and accepted by the District.
7. The Developer has furnished the District with an affidavit warranting that all bills pertaining to the Developer Improvement have been paid and there are no liens against the Developer Improvement (EXHIBIT D).
8. The Developer has furnished the District with a two-year guarantee, in the form of a maintenance bond (EXHIBIT F), performance bond extension, or an assignment of funds, that the Developer Improvement will be free of defects in labor and materials during this term. The two-year guarantee period shall commence on the date of acceptance of the completed Developer Improvement. The maintenance bond shall be for 10% of the final construction costs with a minimum bond amount of \$2,000.
9. The District shall not be obliged to provide utility service to the property described in this Contract until all above requirements have been met by the Developer to the District's satisfaction.
10. The District shall not be obligated to provide utility service to the property described in this Contract if construction by third parties of facilities to be deeded to the District has not been completed and accepted by the District, if such third party facilities are necessary to provide utility service to the property described in this Contract.

Unauthorized Connection of Developer Improvement to District System. When an unauthorized connection of the Developer Improvement to the District System is made, the District may implement the following:

1. It may impose a fine for any unauthorized sewer main connection to any District sewer or pump station of up to \$5,000, plus all District costs to disconnect the unauthorized connection and repair the area to its original condition, plus double connection fees upon request for connection by the Developer.
2. It may impose fines for any unauthorized connection of double the normal General Facility Charge fee and Facility Construction Fee.

**XXI: LIMITATION OF PERIOD FOR ACCEPTANCE**

1. Time Period for Acceptance of Developer Improvement. The Developer Improvement shall be completed and accepted by the District according to its standards within two years of the date of acceptance of this application by the District. If the extension is not completed and accepted within two years from the date the District accepts the application, the Developer's rights under this Contract shall cease, and no additional service shall be connected to such Developer Improvement unless and until the Developer makes a new application which is accepted by the District, or the District consents to the renewal of the existing application. The Developer shall pay all additional administrative, legal, engineering and construction observation costs involved, as determined by the District. Any required new application or renewed contract shall be subject to any new or amended standard specifications, standard details, resolutions or policies of the District, including those related to any increased fees or connection charges, which have taken effect since the execution of the original contract before the District accepts the extension.

2. Notice to Commence Work by District. If the District determines, in its absolute discretion, that it is necessary for the Developer Improvement be completed in order for the District to provide water and/or wastewater service to other property, the District may give the Developer and/or additional owners notice that construction of the Developer Improvement must be commenced within sixty (60) calendar days of the notice by the District to the Developer and/or additional owners, provided that plans have been prepared and approved. If construction is not commenced within the time specified, the District may in its sole discretion terminate this Contract with no resulting liability of any kind as a result of such termination. After any such termination, the District shall retain all payments made by the Developer to the District as the District's sole property and the District shall be free to proceed with construction of the water and/or wastewater improvements within the area described in the developer extension in the manner and method provided by law. If delay in plans is occasioned by failure of the Developer to provide the necessary data to the District, this contract likewise may be terminated by the District with no resulting liability incurred by the District to the Developer, and the District may proceed with construction of the improvements in the manner and method provided by law if the data required to be furnished by the Developer to complete the engineering have not been supplied to the District within 30 calendar days of date of demand thereof by the District upon said Developer.

3. Construction in Phases. The Developer Improvement may be constructed in phases with prior Board approval as conditioned and as specifically designated in the plans and specifications. Acceptance may also be on a phased basis when all requirements have been met. There will be no conditional acceptance by the District of any work performed by the Developer.

## **XXII. FINAL ACCEPTANCE**

1. Conveyance of Developer Improvement to District. Upon completion of the work and approval of the Developer Improvement and all work associated therewith by the District, the Developer shall, as a condition of acceptance by the District, convey the Developer Improvement and all necessary easements to the District by Bill of Sale in the form as set forth on the attached EXHIBIT B, and by Statutory Warranty Deed as to any easements in the form identified herein.

2. Acceptance by District. Upon full compliance with this Contract including connection of the Developer Improvement to the District System and completion and conveyance of the Bill of Sale and any required easements, the District shall accept the Developer Improvement by written notification to the Developer in letterform. Upon acceptance, the Developer shall have the right to use the District System subject to all District regulations, conditions, and charges as it determines to be reasonable and proper from time to time.

## **XXIII. CORRECTION OF DEFECTS OCCURRING OR DISCOVERED WITHIN WARRANTY PERIOD**

1. Post Acceptance Defects in Developer Improvement. If defects in the Developer Improvement are discovered after acceptance thereof by the District within the two-year warranty period, the Developer shall start work to remedy any such defects within seven days receipt of written notice from the District. In the event the Developer does not commence and/or accomplish corrections within the time specified by the District, the work may be accomplished by the District at its option, and the cost thereof shall be paid by the Developer immediately upon demand being made by the District. In emergencies, where public health concerns are involved or where damage may result from delay and/or where loss of service may result, corrections may be made by the District upon discovery, in which case the cost thereof shall be borne by the Developer immediately upon demand being made by the District.

2. Developer Responsible for Work Defects within Warranty Period. The Developer shall be responsible for all expenses incurred by the District of every kind and nature resulting from defects in the Developer's work, including: all actual damages; costs of materials and labor expended by the District in making repairs; and costs of engineering, construction observation, and supervision by the District.

## **XXIV. PROJECT DOCUMENTS**

The documents for the project involving the Developer Improvement as identified herein shall include the following:

- Executed Developer Extension Contract
- Standard Specifications and Details as identified in this Contract
- Change orders after Contract is signed
- District approved plans for the Developer Improvement
- Detailed drawings, Special Specifications, and written instructions by the District Engineer or District Manager concerning the Developer Improvement
- Addenda relating to the work project when written
- Reference Specifications concerning the project
- Performance bond or equivalent instrument as identified in this Contract
- Evidence of insurance as required in this Contract

## **XXV. SAFETY OF PERSONS AND PROTECTION OF PROPERTY**

The Developer shall be solely and exclusively responsible for construction safety means and methods, and for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of all its work relating to the Developer Improvement. The Developer shall insure the Contractor takes all necessary precautions for safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. Employees on the project and other persons who may be affected thereby.
2. The work, materials, and equipment incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's subcontractors or other sub-subcontractors.
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation, or replacement in the course of construction.

Safety Notices. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

Construction of Safety Related Facilities. The Developer shall erect and maintain, as required by law, conditions and performance of the contract, necessary fences and other safe-guards for safety and protection of persons/property on and off the work site and shall: 1) post danger signs and other warnings against hazards, 2) promulgate safety regulations, and 3) notify owners/users of adjacent sites/utilities when the Contractor's operations may affect them.

Hazardous Materials. When the use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the work, the Developer and its agents shall exercise utmost care and carry out such activities under supervision of properly qualified personnel.

Remedying Loss to Property. The Developer shall promptly remedy damage and loss to property that the Developer is required to protect caused in whole or in part by the Developer, Contractor, a subcontractor, or anyone directly or indirectly employed at the worksite.

Safety Officer. The Developer shall designate a responsible and competent member of the Developer's organization at the work site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Developer in writing to the District.

Safety Program Maintenance. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs required in connection with the project work and shall send copies of all accident, injury, or work-related illness reports and of all notices of unsafe conditions to the District and appropriate governmental authorities.

**XXVI. NO ASSIGNMENT WITHOUT DISTRICT APPROVAL**

The Developer shall not assign this Contract or any responsibilities imposed upon it hereunder without first obtaining the prior written consent of the District, which the District may grant or withhold in its sole discretion. Written documents as required by the District of any proposed assignment shall be filed with the District by the Developer at the time of any assignment, together with the written consent of the District.

**XXVII. ATTORNEYS FEES AND COSTS**

In the event either the District or the Developer commences any legal action relating to the provisions of this Contract, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled by this Contract, to its reasonable attorney's fees and costs involved in such action, including those incurred on appeal.

**XXIII: GOVERNING LAW/FORUM**

This Contract shall be construed and enforced in accordance with the laws of the State of Washington. Any suit relating to, or to enforce the provisions of this Contract, shall be brought in Kitsap County, Washington Superior Court.

**XXIX. SEVERABILITY OF PROVISIONS**

The finding under law that any one or more provisions or any portion of a provision in this Contract is invalid, unenforceable, or illegal, shall not impair the validity or enforceability of any other provision hereof or the Contract Documents as a whole.

**XXX. EXECUTION**

The undersigned Developer and any additional owners warrant and represent they constitute the owners of all real property that is the subject matter of this Contract and, upon request by the District, agree to provide title insurance, establishing to the satisfaction of the District that the parties executing this application constitute the owners of all real property described and have the authority to execute this Contract with respect to said real property and on behalf of any party legal entities.

Dated this 9th day of February, 2022.

DEVELOPER:

Richmond American Homes of Washington, Inc.  
(State full legal name of Developer)

by:  \_\_\_\_\_

Print Name: Nick Abdelnour

Title: Division President

Its duly authorized representative for entry into this Contract



Address: 20819 72nd Avenue South, Suite 110  
Kent, WA, 98032

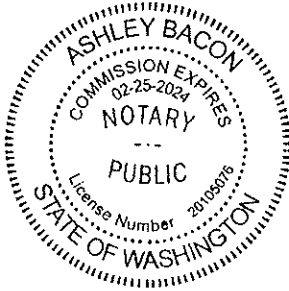
Contact Phone Numbers: 360 590 4224

Contact Email: Ryan.Meier@MDCH.com

STATE OF WASHINGTON )  
 ) ss Corporation or LLC Acknowledgment  
COUNTY OF KITSAP )

I certify that I know or have satisfactory evidence that NICK ABDELNOUR is the person who appeared before me, and such person acknowledged he/she signed this instrument, and on oath stated he/she were authorized to execute it on behalf of RICHMOND AMERICAN HOMES, a Washington CORPORATION (insert "corporation" or "limited liability company" as appropriate); and he/she acknowledged it as DIVISION PRESIDENT (state the offices of each), respectively, of such business entity, to be the free and voluntary act of such business entity for the uses and purposes mentioned in the instrument.

Dated: 02/09/2022



[Signature]  
Print Name: ASHLEY BACON  
NOTARY PUBLIC in and for the State of  
Washington, residing in RENTON, WA  
My Commission Expires: 02/25/2024

**ACCEPTANCE OF CONTRACT BY DISTRICT:** Upon compliance with all terms and conditions of this Contract by the Developer in a timely manner, the District will accept the Developer Improvement and furnish the applicable utility service thereto.

WEST SOUND UTILITY DISTRICT

by: \_\_\_\_\_ Date: \_\_\_\_\_  
General Manager  
Print Name:

**EXHIBIT "A"**

**DEVELOPER EXTENSION CONTRACT /  
LOCATION OF DEVELOPER IMPROVEMENT**

Project Name: Emelia Landing

The proposed Developer Improvement will be installed on, under, and/or over: roads; easements; and/or other rights-of-way. The Developer Improvements shall be for the use and benefit of the real property hereafter described, which real property is owned by the Developer and/or other persons who are contributing to the costs of said Developer Improvement and said other owners join in this application and are referred to as "additional owners" in this Contract. The said real property is described as follows:

**Legal description of Premises-Insert or attach all applicable legal description(s) and tax parcel number(s)**

See attached Exhibit A.

Exhibit A

Existing Parcels Legal Description

Parcel 132301-1-058-2002:

Resultant Parcel 1 of Boundary Line Adjustment recorded under Auditor's File No. 200408310486, in Kitsap County, Washington, described as follows:

The East half of Lots B and C of Short Subdivision No. 4614, recorded in Volume 4 of Short Plats, Page 61, under Auditor's File No. 8910060172, being a portion of the Northeast quarter of the Northeast quarter, Section 13, Township 23 North, Range 1 East, W.M., in Kitsap County, Washington;

Parcel 132301-1-059-2001:

Resultant Parcel 2 of Boundary Line Adjustment recorded under Auditor's File No. 200408310486, in Kitsap County, Washington, described as follows:

The West half of Lots B and C of Short Subdivision No. 4614, recorded in Volume 4 of Short Plats, Page 61, under Auditor's File No. 8910060172, being a portion of the Northeast quarter of the Northeast quarter, Section 13, Township 23 North, Range 1 East, W.M., in Kitsap County, Washington;

Parcel 122301-4-021-2001:

The East half of the Southeast quarter of the Southeast quarter of the Southeast quarter, Section 12, Township 23 North, Range 1 East, W.M., in Kitsap County, Washington;

Except roads;