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CITY OF LACEY

LACEY CITY COUNCIL AGENDA

JANUARY 21, 2021
7:00 P.M.
REMOTE ATTENDANCE

To comply with Governor Inslee's Proclamation 20-28, the City Council meeting will be conducted remotely, not in-person. You may view the Council meeting by watching live through video streaming on Live Meetings, YouTube, Facebook, or Thurston Community Media, Channel 3 with your local cable provider.

The public may also listen to the meeting via telephone by dialing toll-free:

(888) 788-0099 or **(877) 853-5247** - when prompted enter Webinar ID **821 7414 6916 press #** *(participant ID not required)*

CALL TO ORDER:

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA & CONSENT AGENDA ITEMS*

A. Council Meeting Minutes of January 7, 2021

B. A motion to approve payment of claims, wages, and transfers for December 30, 2020 through January 14, 2021

**Items listed under the consent agenda are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

3. PUBLIC RECOGNITIONS AND PRESENTATIONS:

4. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

VERBAL PUBLIC COMMENT
Persons wishing to provide verbal public comment on items NOT on the agenda must preregister to speak at https://us02web.zoom.us/webinar/register/WN_HEExZmGsRjqw06wso5avJw. Instructions and access details will be provided once registration is complete. Registration for verbal public comment closes at 3:00 p.m. on January 21, 2021.

WRITTEN PUBLIC COMMENT
Public comments may also be submitted by email to publiccomment@ci.lacey.wa.us. Written comments will be provided to the City Council electronically prior to the meeting. Comments will not be addressed during the Council meeting; however, comments received will be added to the official record. The commenting period will close at 12:00 p.m. on January 21, 2021.

5. PUBLIC HEARING:

> ***HOW TO TESTIFY AT THE PUBLIC HEARING***
>
> *Persons wishing to provide oral testimony on the Comcast Cable Communications Management-Cable Franchise Agreement Renewal must preregister to speak at: https://us02web.zoom.us/webinar/register/WN_HEExZmGsRjqw06wso5avJw*
> *Instructions and access details will be provided once registration is complete. Registration closes at 3:00 p.m. on January 21, 2021.*
>
> *Persons wishing to provide written testimony may send their comments to cityclerk@ci.lacey.wa.usno later than 12:00 p.m. on January 21, 2021. Written testimony will be provided to the City Council and made part of the public record.*

A. Comcast Cable Communications Management–Cable Franchise Agreement Renewal (*Steve Kirkman*)

6. PROCLAMATIONS:

7. REFERRAL FROM PLANNING COMMISSION:

8. REFERRAL FROM HEARINGS EXAMINER:

9. RESOLUTIONS:

A. Resolution 1102 to accept and place Climate Action Plan on 2021 Planning Commission Work Program for review and action (*Rick Walk*)

10. ORDINANCES:

A. Ordinance 1579 Restrict Retail Sales of Dogs, Cats and Rabbits in Pet Stores (*Sarah Hock*)
B. Ordinance 1580 Serenity Carpenter Road Annexation Project No. 20-183 (*Ryan Andrews*)
C. Ordinance 1581 Lacey Commission on Equity (*Scott Spence*)
D. Ordinance 1582 Amending Chapter 2.04 – City Council Meetings (*Scott Spence*)

11. MAYOR'S REPORT:

A. Recommend Reappointment of Amy Blondin and Scott Robinson to the Library Board (*Mayor Ryder*)
B. Council Assignments to Intergovernmental Boards and Commissions (*Mayor Ryder*)

12. CITY MANAGER'S REPORT:

A. Mosure 54th Avenue Annexation Project No. 20-312 (*Ryan Andrews*)

13. STANDING GENERAL COMMITTEE:

A. Community Relations and Public Affairs Committee (01.04.2021)
B. Utilities Committee (01.04.2021)
C. Transportation Committee (01.05.2021)

14. OTHER BUSINESS:

15. BOARDS, COMMISSIONS AND COMMITTEE REPORTS:

A. *Mayor Andy Ryder*:
   1. Mayors' Forum
   2. Thurston Chamber Shared Legislative Committee
   3. Transportation Policy Board (TPB)

B. *Deputy Mayor Cynthia Pratt*:
   1. Joint Animal Services Commission (JASCOM)
   2. LOTT Clean Water Alliance
   3. Olympic Region Clean Air Agency (ORCAA)

C. *Councilmember Carolyn Cox:*
   1. Regional Housing Council
   2. Intercity Transit (IT)

D. *Councilmember Lenny Greenstein:*
   1. Emergency Medical Services (EMS)
   2. TCOMM911
   3. Thurston County Law & Justice

E. *Councilmember Malcolm Miller*:
   1. Thurston Regional Planning Council (TRPC)
   2. Thurston Thrives
   3. Lodging Tax Advisory Committee (LTAC)
   4. Thurston County Coalition Against Trafficking (TCCAT)

F. *Councilmember Michael Steadman*:
   1. Community Action Council
   2. Solid Waste Advisory Committee (SWAC)

G. *Councilmember Ed Kunkel*:
   1. Olympia-Lacey-Tumwater Visitor & Convention Bureau (VCB)
   2. Lacey South Sound Chamber
   3. Economic Development Council (EDC)

16. ADJOURN

MINUTES OF A REGULAR MEETING OF THE LACEY CITY COUNCIL HELD THURSDAY, JANUARY 7, 2021, REMOTE ATTENDANCE

CALL TO ORDER: Mayor Ryder called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE: Mayor Ryder led the Pledge of Allegiance.

COUNCIL PRESENT: A. Ryder, C. Pratt, L. Greenstein, C. Cox, S. Steadman, E. Kunkel, M. Miller

STAFF PRESENT: S. Spence, J. Burbidge, S. Egger, M. Hardie, D. Schneider, R. Walk, T. Woo, P. Edmonds

APPROVAL OF AGENDA AND CONSENT AGENDA: Consent Agenda Items:

A. Council Meeting Minutes of December 3, 2020.
B. Council Worksession Minutes of December 10, 2020.
C. Council Meeting Minutes of December 17, 2020.
D. A motion to approve payment of claims, wages and transfers for December 11, 2020, through December 29, 2020.

Mayor Ryder noted the December 3, 2021, Council minutes were approved at the December 17, 2021, Council meeting and should be removed and the Consent Agenda amended.

DEPUTY MAYOR PRATT MOVED TO APPROVE THE AGENDA AND AMENDED CONSENT AGENDA. COUNCILMEMBER COX SECONDED. MOTION CARRIED.

PUBLIC COMMENT:

Persons wishing to provide public comment on items not on the agenda must pre-register to speak. Registration closed at 3:00 p.m. today.

Kyrian MacMichael spoke against the political signs that have not been removed following the November election.

Wayne Olsen spoke in favor of the Thurston Climate Mitigation Plan, and noted a petition was signed by Panorama residents in support of the Plan.

Barak Gale spoke in favor of the Thurston Climate Mitigation Plan.

Public comments may also be submitted by email by 12:00 p.m. today. Comments will be provided to the City Council electronically prior to the meeting. Comments will not be addressed during the meeting; however, comments received will be added to the official record.

Four written public comments were received and made part of the official record.

ORDINANCES:

Ryan Andrews, Planning Manager, presented Ordinance 1576 relating to Zoning Text Amendments in Lacey Municipal Code 16.29.

The Community and Economic Development Department received a private applicant-initiated zoning text amendment request. The request is to amend LMC 16.39 to allow buildings between 200,000 and 500,000 square feet, and establish standards applying to these uses within the Light Industrial-Commercial zone. The request is to amend specific text within the zoning code and does not require the need to amend any policies within the Comprehensive Plan.

The Planning Commission reviewed the request, held a public hearing on November 17, 2020, and recommends the City Council approve the amendment. The only public comments received were in support of the application. After the public hearing, the Planning Commission voted 8-1 to recommend approval of the request based on the following findings of fact. The one dissenting vote stated that the request was contrary to the intent of the Light Industrial-Commercial zone and the vision of the City to accommodate a greater number of large buildings.

The Lacey Planning Commission recommends to the Lacey City Council the approval of the application to amend Chapter 16.39 of the Lacey Municipal Code to allow buildings between 200,000 and 500,000 square feet and establish standards to these uses within the Light Industrial-Commercial zone subject to the findings of fact presented.

COUNCILMEMBER STEADMAN MOVED TO APPROVE ORDINANCE 1576 APPROVING ZONING TEXT AMENDMENTS TO LMC 16.39 INCREASING THE SQUARE FOOTAGE LIMIT FOR BUILDINGS IN LIGHT INDUSTRIAL-COMMERCIAL ZONE SUBJECT TO THE FINDINGS OF FACT. COUNCILMEMBER KUNKEL SECONDED. MOTION CARRIED.

Troy Woo, Finance Director, presented Council with Ordinance 1577 relating to the Imprest (Petty) Cash Funds, and Ordinance 1578 repealing LMC 3.32 relating to the Interlocal Drug Enforcement Fund.

There are three cash fund changes being proposed. The City Council authorizes all city cash funds within

Title 3 Revenue and Finance of the Lacey Municipal Code (LMC). The proposed changes include the following:

1. Repeal the entire LMC Chapter 3.32, including two cash funds related to the operations of the Interlocal Drug Enforcement Fund.

2. Increase the Law Enforcement Investigative Fund to $5,000 (LMC 3.36.030).

3. Add a new section authorizing a $5,000 Social Service Fund (LMC 3.36.050).

COUNCILMEMBER GREENSTEIN MOVED TO ADOPT ORDINANCE 1577 AMENDING IMPREST (PETTY) CASH FUND LMC 3.36. DEPUTY MAYOR PRATT SECONDED. MOTION CARRIED.

COUNCILMEMBER GREENSTEIN MOVED TO ADOPT ORDINANCE 1578 REPEALING THE AUTHORIZIATION OF THE INTERLOCAL DRUG ENFORCEMENT FUND LMC 3.32. COUNCILMEMBER STEADMAN SECONDED. MOTION CARRIED.

MAYOR'S REPORT: Mayor Ryder proposed the Council review their Intergovernmental Boards and Commission assignments and submit recommended changes before the January 14 Worksession.

CITY MANAGER'S REPORT: Rick Walk, Community & Economic Development Director, presented Council with the Regional Housing Council Interlocal Agreement.

Over the last several months, the collective efforts of Thurston County and the cities of Lacey, Olympia, and Tumwater, worked to form a new partnership to replace Health and Human Services Council (HHSC). This effort proposes to create the Regional Housing Council (RHC) as the primary advisory body to help guide and direct public funds to address social services and housing needs within the Thurston Region. A new interlocal agreement (ILA) formalizes this new direction. The ILA has been modified to include acknowledgement that 2060 funds will continue to be used as the match to the HOME funds as requested by City Council.

The RHC will be comprised of elected representatives and senior staff from Thurston County and the Cities of Lacey, Olympia, and Tumwater. Councilmember Cox and Councilmember Greenstein (alternate) will represent the City of Lacey on the RHC. Staff support will be provided by Scott Spence, City Manager, and Rick Walk, Director of Community & Economic Development.

The purpose of the RHC is to be a regional forum to discuss and coordinate actions related to housing and homelessness and to leverage resources and partnerships through policies and projects that promote equitable access to safe and affordable housing.

Specifically, the RHC will make recommendations related to funding a regional response to homelessness and affordable housing through existing and future Federal, State, and local funding programs, which may include but not limited to:

- RCW 36.22.179 (ESSHB 2163)
- RCW 36.22.178 (SHB 2060) funds
- HOME Investment Partnership Program ("HOME")
- Consolidated Homeless Grant ("CHG")
- Housing and Essential Needs (“HEN”)
- RCW 82.14.540 (SHB 1406)
- Community Development Block Grant ("CDBG")

- And, other related funding sources such as a regional home fund to help implement the five-year HCRP and increase affordable housing options.

Originally, the City Council approved the ILA at its August 27, 2020, meeting. At that time the ILA included the communities of Tenino, Rainier, and Bucoda. Subsequent to the City Council's passage of the ILA, Tenino, Rainier, and Bucoda, informed Thurston County that they would not be participating. As a result, the original ILA was never ratified, and a new ILA is necessary, excluding the three communities, to formalize the RHC.

Staff noted the notification section of the ILA will be revised to reflect the City of Yelm's correct address.

DEPUTY MAYOR PRATT MOVED TO APPROVE THE REGIONAL HOUSING COUNCIL INTERLOCAL AGREEMENT. COUNCILMEMBER COX SECONDED. MOTION CARRIED.

Puna Clark, Utility Engineer, recommended awarding Contract Number PW2020-24 to low bidder NW Cascade in the amount $395,021.52 for the Manhole Rehabilitation 2020 Project. The engineer's estimate was $571,505.60.

COUNCILMEMBER STEADMAN MOVED TO AWARD CONTRACT NUMBER PW 2020-24 TO LOWER BIDDER NW CASCADE IN THE AMOUNT OF $395,021.52 FOR THE MANHOLE REHABILITATION 2020 PROJECT. COUNCILMEMBER GREENSTEIN SECONDED. MOTION CARRIED.

Scott Spence, City Manager, reported to Council on the following interlocal agreement, which was approved by the City Manager pursuant to Resolution

1067 and the Interlocal Agreements Approval Process Policy.

- Capital Metro Independent Investigation Team between the cities of Lacey, Olympia, Tumwater, and Yelm.

Scott Spence, City Manager, announced the City will retain Congressional District 10 offices on the 3rd floor

STANDING COMMITTEES:

Finance & Economic Development Committee
Mayor Ryder reported the Committee met on December 22, 2020, to discuss proposed changes to the Imprest Cash Fund and Interlocal Drug Enforcement Fund.

General Government & Public Safety Committee
Deputy Mayor Pratt reported the Committee met on December 22, 2020, to discuss the Police Department Independent Investigation Team, and a recommendation by Joint Animal Services Commission to adopt an ordinance restricting the resale of dogs, cats, and rabbits in retail stores.

OTHER BUSINESS:

Mayor Ryder accepted public comment from Carol Robinson due to technical difficulties she experienced during the Public Comment period.

Ms. Robinson shared concerns relating to a political rally held November 14, 2021, where she witnessed reckless driving and intimidation.

BOARDS, COMMISSIONS AND COMMITTEE REPORTS:

Mayor Ryder asked Council to consider inviting the Youth Council Mayor to either the Lacey City Council meetings or Worksessions as a non-voting member.

Intercity Transit
Councilmember Cox reported on service levels, surplus van grant recipient, and the Walk N Roll youth education program.

TCOMM911
Councilmember Greenstein reported on subscriber equipment, the Family First Act extension, and legislation relating to training and certification of 911 operators.

Solid Waste Advisory Council
Councilmember Steadman reported a Request for Proposal will be issued next week for the operation and maintenance of the solid waste facilities, transportation, and disposal.

Mayor Ryder adjourned the Council Meeting at 9:03 p.m.

MAYOR: ___________________________________

ATTESTED BY CITY CLERK: ___________________

DATE APPROVED: ___________________________

CITY OF LACEY
Shaping our community together

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT: **Disbursement Approval**

RECOMMENDATION: **By motion, approve payment of claims, wages, and transfers.**

STAFF CONTACT: Troy Woo, Finance Director TW

ORIGINATED BY: Troy Woo, Finance Department

BACKGROUND:

The action requested of the City Council is by motion to approve payment of claims, wages and transfers for 12/30/2020 through 1/14/2021. The disbursements consist of the following:

Checks:	Week of	Beg. Check No.	End. Check No.	Amount
	12/31/2020	254833	254945	145,581.38
	12/31/2020	254946	254946	10,000.00
	*12/31/2020	254947	254949	928.06
	1/8/2021	254950	255053	1,703,774.90

Electronic Transfers:	Week of	Amount
	12/30/2020	234.00
	12/31/2020	228,322.92
	12/31/2020	50,652.63
	*12/31/2020	34,273.53
	*12/31/2020	1,440,174.71
	1/7/2021	363.00
	1/8/2021	227,004.30
	1/8/2021	15,878.10
	1/10/2021	11,324.15

Payroll:	Month Ended:	Wages
	*12/31/2020	1,508,804.57

* Disbursements for employee out-of-pocket deductions and employee benefits.

Significant Disbursements:

Vendor	Amount	Description
OSG Dozing, Inc.	$ 114,715.90	25th Loop SE Utilities Improvements
Assoc. of WA Cities	$ 77,997.77	2021 Membership Assessments
LOTT Wastewater Alliance	$1,424,408.01	LOTT Reserve Cap Fees/ERU's
Terex Utilities, Inc.	$ 167,864.73	Scheduled Vehicle Replacement
TMG Services, Inc.	$ 60,159.06	Hypochlorite Generation System

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT: **Comcast Cable Communications Franchise Public Hearing**

RECOMMENDATION: **As required by federal law, conduct a public hearing for the purpose of receiving public comment and input on the proposed non-exclusive 10-year franchise agreement between the City of Lacey and Comcast Cable Communications Management, LLC, which authorizes Comcast to operate a cable television system within the City of Lacey.**

STAFF CONTACT: Scott Spence, City Manager
Steve Kirkman, Public Affairs Manager

ORIGINATED BY: Public Affairs Department

ATTACHMENTS:
1. Proposed 2021-2031 Cable Franchise Agreement between the City of Lacey and Comcast Cable Communications LLC
2. Letter of Agreement Regarding PEG Access Studio Location

FISCAL NOTE: The proposed franchise agreement maintains the City's ability to collect franchise and Public, Education, and Government (PEG) fees as allowed under federal law. Franchise fees collected by the City exceed $700,000 annually.

PRIOR REVIEW: This is the first review of the proposed franchise agreement.

BACKGROUND

Since 1990, the City of Lacey has granted a series of non-exclusive, 10-year cable television franchises to Comcast Cable Communications Management and its predecessor corporations to operate and maintain a cable television system within the City.

In anticipation of franchise renewal talks with Comcast, in March of 2018, the City entered into an interlocal agreement with Thurston County and the cities of Olympia and Tumwater to share in the cost of hiring cable franchise consultant Kissinger & Fellman, P.C., to assist with negotiation of new 10-year franchise agreements with the company.

In December, 2019, the City Council approved Ordinance 1562, extending the term of Comcast's current franchise to allow completion of negotiations.

Franchise Document Overview

In general, the proposed new franchise provides standards under which Comcast Cable can construct cable infrastructure within the city's rights-of-way, identifies the compensation owed to the City of Lacey for the direct use of the city's rights-of-way, and outlines conditions for the continued support of local access cable television. The franchise also provides a process to address violations during the term of the agreement.

Local government is limited in its authority to regulate certain aspects of cable services provided to residents. Namely, local government does not have the authority to determine cable rates. The United States Congress, through the passage of cable legislation, grants cable operators the authority to determine the final price of cable television services.

Another limitation is in the arena of cable channels. Local government does not have the right to require cable providers to offer specific channels or compel the cable operator to offer the purchase of individual channels — sometimes referred to as *à la carte.* These limitations are important in the context of reviewing the cable franchise as a whole.

Also important to note is that a cable franchise may only address the provision of cable (video) services. Local governments are preempted from collecting franchise fees related to the provision of internet or telephone services.

Specific provisions and conditions that have been updated or added in the proposed franchise include:

- **Definition of Gross Revenues.** Comcast pays a franchise fee to the city in an amount equal to five percent of the gross revenues generated from the provision of cable services. The definition of gross revenues has been amended to ensure the City's franchise fee fully compensates for the use of public rights-of-way permitted under federal law.

- **Audit / Financial Review.** New language has been added that will allow for more accurate monitoring and audit of future franchise fee payments.

- **Competitive Equity.** Competitive equity provisions generally provide that the City can enter into a competitive franchise with any other operator on any terms and conditions it chooses, but if those provisions are more favorable than in Comcast's franchise, Comcast has the ability to force the City to change the terms of its own franchise to match the terms offered to the new competitor.

- **Insurance.** Following input from the Washington Cities Insurance Authority (WCIA), more protective insurance requirements have been added.

- **Public, Education, and Government (PEG) Fees.** With ninety (90) days notice from the City, the existing thirty cents ($0.30) per subscriber monthly PEG fee can be increased to up to fifty cents ($0.50) per subscriber. Eligible PEG expenditures include production equipment and studio facilities. PEG fees can be treated by Comcast as an external cost, and therefore be itemized on subscribers' monthly billing statements.

- **Digital Public, Educational, and Government (PEG) Channels.** Provision of high-definition (HD) channels for PEG operations has been added. The new franchise provides for government and most other PEG programming to be shown simultaneously on HD and standard-definition (SD) PEG channels. The franchise continues the ability for each jurisdiction to have its local PEG content shown on PEG channels in the other jurisdictions.

- **Public, Education, and Government (PEG) Studio Support.** Comcast has provided studio space to the City's designated community access provider, Thurston Community Media (TCM), for more than two decades, but is not required to do so under current federal law. Comcast has given notification to the City that studio lease support for TCM will end on December 1, 2021. This will likely lead to an increased cost of providing local access programming. Internal discussions are underway to review options that will address this eventuality.

Potential Impact of Section 621 FCC Order on Franchise Fees

In August 2019, the Federal Communications Commission (FCC) issued an order regarding implementation of Section 621 of the Cable Communications Policy Act of 1984, which could dramatically change the way the Federal Cable Act is interpreted regarding calculation of franchise fees. The FCC's order suggests that the retail value of cable service provided to public buildings and the value of other franchise benefits could be deducted from franchise fee payments, or alternatively, could be paid for separately by the local government granting the franchise. The order is being appealed in federal court by numerous local governments across the country, including the City of Lacey. The case is fully briefed; oral arguments are expected to be scheduled in mid-2021.

ADVANTAGES:

1. The hearing allows residents to provide input on the proposed cable franchise as provided for in federal law.

2. The proposed franchise provides standards and practices necessary for the protection of the City's public rights-of-way.

3. The proposed franchise provides compensation for use of the City's public rights-of-ways.

4. The proposed franchise provides high-definition (HD) channels for PEG operations.

5. The proposed franchise provides an option to increase PEG fees by up to sixty-seven percent, from thirty cents ($0.30) per subscriber per month to up to fifty cents ($0.50), resulting in potential PEG fee revenues of up to $62,000 annually.

DISADVANTAGES:

1. Comcast studio lease support for public, education, and government programming activities will sunset on December 1, 2021, which could increase the operational costs of providing local access programming.

CITY OF LACEY, WASHINGTON
AND
COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

CABLE FRANCHISE AGREEMENT
AG-09.0005
2021 - 2031

TABLE OF CONTENTS

SECTION 1. DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein when indicated with the text of the Franchise by being capitalized. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined or those defined but not capitalized within the text shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 "Access" means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including Grantor and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:

a. "Public Access" means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.

b. "Educational Access" means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, "school" means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

c. "Government Access" means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 "Access Channel" means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 "Activated" means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.4 "Affiliate," when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 "Applicable Law" means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law that determines the legal standing of a case or issue.

1.6 "Bad Debt" means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 "Basic Service" is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 "Broadcast Channel" means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.9 "Broadcast Signal" means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.10 "Cable Act" means the Title VI of the Communications Act of 1934, as amended.

1.11 "Cable Operator" means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.12 "Cable Service" means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.13 "Cable System" means a facility, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.14 "Channel" means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.15 "City Council" means the Lacey City, or its successor, the governing body of the City of Lacey, Washington.

1.16 "Commercial Subscribers" means any Subscribers other than Residential Subscribers.

1.17 "Designated Access Provider" means the entity or entities designated now or in the future by Grantor to manage or co-manage Access Channels and facilities. Grantor may be a Designated Access Provider.

1.18 "Downstream" means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.19 "Dwelling Unit" means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.20 "Emergency" means a public safety emergency creating an immediate danger to property, life, health or safety of any individual in or under any right-of-way or a service interruption to a large number of Subscribers caused by an unforeseen or unanticipated failure.

1.21 "FCC" means the Federal Communications Commission.

1.22 "Fiber Optic" means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.23 "Franchise" means the document in which this definition appears, *i.e.*, the contractual agreement, executed between Grantor and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.24 "Franchise Area" means the area within the jurisdictional boundaries of Grantor, including any areas annexed by Grantor during the term of this Franchise.

1.25 "Franchise Fee" means that fee payable to Grantor described in subsection 3.1.

1.26 "Grantee" means Comcast Cable Communications Management, LLC or its lawful successor, transferee or assignee.

1.27 "Grantor" means the City of Lacey, Washington, a municipal corporation of the State of Washington.

1.28 "Gross Revenues" means and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);

- installation, reconnection, downgrade, upgrade, or similar charges associated with changes in subscriber Cable Service levels;

- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Franchise Area;

- converter, remote control, and other Cable Service equipment rentals, leases, or sales;

- Advertising Revenues as defined herein;

- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Franchise Area;

- revenues from program guides;

- Franchise Fees;

- FCC Regulatory Fees; and,

- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Franchise Area.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and EffecTV or their successors associated with sales of advertising on the Cable System within the Franchise Area allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual Bad Debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the Franchise Area;

- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

- Public, Educational and Governmental (PEG) Fees;

- launch fees and marketing co-op fees; and,

- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law. The allocations shall be done for each bundled package separately and updated and revised within sixty (60) days of each time an element within the package has its rate card changed including when an element is substituted for another element within the bundled package. It is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Franchise Area. Grantor reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.28 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee shall notify Grantor of any changes in allocation methodologies in its next quarterly franchise fee reports delivered to Grantor.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.29 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.30 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.31 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.32 "Residential Subscriber" means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.33 "Right-of-Way" means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Franchise Area: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements. Right-of-Way does not include any private property, or any other public property owned, in whole or in part, leased, or otherwise occupied by Grantor, including but not limited to parks, trails, and open space.

1.34 "State" means the State of Washington.

1.35 "Subscriber" means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee's regular and nondiscriminatory terms and conditions for receipt of service.

1.36 "Subscriber Network" means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.37 "Tier" means a group of Channels for which a single periodic subscription fee is charged.

1.38 "Upstream" means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) Grantor hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Franchise Area to construct, operate, maintain, reconstruct and rebuild a Cable System and to provide Cable Service subject to the terms and conditions set forth in this Franchise and Applicable Law.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Grantor ordinance existing as of the Effective Date, as defined in subsection 2.3.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, and generally applicable ordinances and regulations enacted by the City Council pursuant thereto, portions of which may be codified in the Municipal Code. To the extent there is any conflict between this Franchise and any provision of the Grantor's Code as it exists on the Effective Date of this Franchise, the terms of this Franchise shall control. Subject to the Grantor's right to exercise its police power under Section 2.5, the Grantor may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent Grantor from imposing additional conditions for use of the Rights-of-Way, as allowed by Applicable Law should Grantee provide service other than Cable Service, nor shall this Franchise be interpreted to either prevent or authorize Grantee from making any other lawful uses of the Cable System as permitted by Applicable Law related to Grantee's non-Cable Service operations.

(E) Grantee agrees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions and obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Franchise Area that may be required by the ordinances and laws of the Grantor;

(2) Any permit, agreement, or authorization required by the Grantor for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of Grantor or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which Grantor has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Rights-of-Way

(A) Subject to Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Franchise Area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Franchise Area.

(B) Grantee must follow Grantor established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to Grantor’s role in protecting public health, safety and welfare, Grantor may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Grantor's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by Grantor, or which is installed without prior Grantor approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on ___________________________, 2021 (the "Effective Date"), and shall terminate on ___________________________, 2031 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, or licenses granted by the Grantor to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of Grantor to use the same for any purpose it lawfully deems fit, including the same or similar purposes allowed Grantee hereunder. Grantor may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems, as Grantor deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by Grantor or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. Grantor shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of Grantor's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to utilize the Rights-of-Way in order to provide Cable Services within the Franchise Area. If Grantor grants such an additional franchise or other similar lawful authorization to utilize the Rights-of-Way for Cable Services containing material terms and conditions that differ from Grantee's material obligations under this Franchise, or declines to require such franchise or other similar lawful authorization where it has the legal authority to do so, then Grantor agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; complementary services; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to Grantor regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to Grantor, with a written explanation of why the proposed amendments are necessary and consistent. Notwithstanding any modification of this Franchise pursuant to the provisions of this subsection 2.6, should any entity, whose authorization to provide Cable Services or similar video programming service resulted in a triggering of the amendments under this Section, cease to provide such services within the City, the City may provide ninety (90) days' written notice to Grantee of such fact, and the City and Grantee shall enter into good faith negotiations to determine which of the original terms, conditions and obligations of this Franchise shall be reinstated and fully effective.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then Grantor shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if Grantor and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that Grantor grants to another provider of Cable Services (with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, Grantor shall immediately commence proceedings to replace this Franchise with the franchise issued to the other multi-channel video programming provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, Grantor shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar video programming service available for purchase by Subscribers or customers under its franchise agreement with Grantor.

(F) Notwithstanding any provision to the contrary, at any time that a wireline facilities-based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the City that permits a new entrant to utilize the Rights of Way granted by Grantor, then:

(1) Grantee may negotiate with Grantor to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice and Grantee shall be deemed to have timely invoked the renewal process under 47 USC 546; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

For the purposes of this section, a "wireline facilities-based entity" means an entity, including the Grantor that owns, controls or manages a significant portion of the wireline facilities located in the Grantor's Rights-of-Way, over which the video programming services are delivered.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time, and consistent with all local, State, and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts Grantor 's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use Grantor's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to Grantor, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to Grantor shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee. The period of limitation for recovery of Franchise Fees payable hereunder shall be six (6) years from the date on which payment by the Grantee was due or such shorter period if required by Applicable Law.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to Grantor, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within ninety (90) days after the end of each year, furnish to Grantor a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, Grantor, including Grantor's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.28, as part of the Franchise Fee audit/review Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Grantor subscribers during the audit period. To the extent that Grantor does not believe that the relevant data supplied is sufficient for Grantor to complete its audit/review, Grantor may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow Grantor to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more, Grantee shall pay the total cost of the audit/review, such cost not to exceed five thousand dollars ($5,000) for each year of the audit period, with such amount to increase upon the annual anniversary of the Effective Date, by an amount equal to the most recent semi-annual Seattle-Tacoma-Bellevue CPI-U as published by the US Department of Labor, Bureau of Labor Statistics. The Grantor's right to audit/review and Grantee's obligation to retain records necessary to complete any audit under this subsection shall expire consistent with the applicable statute of limitations period under State law; provided, however, that this would not apply to a time period covered under a pending audit.

3.7 Late Payments

In the event any quarterly Franchise Fee payment is not received within forty-five (45) days from the date the payment was due to the Grantor, Grantee shall pay interest on the amount due in the amount of one percent (1%) per month (twelve percent (12%) per annum) on any unpaid balance of the Franchise Fee due, until all payments due are paid in full. Any unpaid fee or interest due under this Franchise that remains unpaid shall constitute a debt to the Grantor, collectible in accordance with the Grantor Code.

3.8 Underpayments and Overpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest as applicable for late payments under Section 3.7 of this Franchise, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Grantor. If an overpayment is discovered, Grantee may take an offset against future Franchise Fee payments, with no interest or other cost to the Grantor.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate Grantor through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall comply with any other Applicable Law related to the right to occupy the Grantor's Rights-of-Way and compensation therefor.

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits Grantor to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, Grantor is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by Grantor to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to Grantor hereunder, provided that the Grantor adopts such increase at a public hearing and Grantee has received at least ninety (90) days prior written notice from Grantor of such amendment, so long as all cable operators in the Franchise Area are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

(A) The PEG Capital Contribution pursuant to Section 9.6, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Grantor and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments such as complimentary Cable Service, against Franchise Fees in accordance with Applicable Law, including any Orders resulting from the FCC's 621 proceeding, MB Docket No. 05-311, Grantee shall provide the Grantor with advance written notice. Such notice shall document the proposed offset or service charges so that the Grantor can make an informed decision as to its course of action. Upon receipt of such notice Grantor shall have up to one hundred twenty (120) days to either (1) maintain the commitment with the understanding that the value shall be offset from Franchise Fees; (2) relieve Grantee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Grantee's regular and nondiscriminatory term and conditions.

(B) Grantee's notice pursuant to Section 3.11(A) shall, at a minimum, address the following: (1) identify the specific cash or non-cash consideration or obligations that must be offset from Grantee's Franchise Fee obligations; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent with Applicable Law; (4) provide all information and documentation reasonably necessary to address how and why specific offsets are to be calculated and (5) if applicable provide all information and documentation reasonably necessary to document how Franchise Fee offsets may be passed through to Subscribers in accordance with 47 U.S.C. 542(e). Nothing in this Section 3.11(B) shall be construed to extend the one hundred twenty (120) day time period for Grantor to make its election under Section 3.11(A); provided however, that any disagreements or disputes over whether sufficient information has been provided pursuant to this Paragraph (B) may be addressed under Sections 13.1 or 13.2 of this Franchise.

(C) Upon receipt of Grantee's written notice as provided in Section 3.11 (B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications and agree to what offsets, if any, are to be made to the Franchise Fee obligations. Such negotiation will proceed and conclude within a one hundred twenty (120) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include those modifications.

(D) If the parties are unable to reach agreement on any Franchise Fee offset issue within one hundred twenty (120) days or such other time as the parties may mutually agree, each party reserves all rights it may have under Applicable Law to address such offset issues.

(E) The Grantor acknowledges that Grantee currently provides one outlet of Basic Service and Digital Starter Service and associated equipment to certain Grantor owned and occupied or leased and occupied buildings, schools, fire stations and public libraries located in areas where Grantee provides Cable Service. For purposes of this Franchise, "school" means all State-accredited K-12 public and private schools. Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Grantee's commitment to provide this service is voluntary, and may be terminated by Grantee, at its sole discretion.

(1) Grantee's termination of complimentary services provided shall be pursuant to the provisions of Section 3.11(A)-(D) above. Grantor may make a separate election for each account or line of service identified in the notice (for example, Grantee may choose to accept certain services or accounts as offsets to Franchise Fees, and discontinue other services or accounts), so long as all elections are made within one hundred twenty (120) days. Grantee shall also provide written notice to each entity that is currently receiving complimentary services with copies of those notice(s) sent to the Grantor.

(2) Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law.

(F) The parties understand and agree that offsets may be required and agreed to as a result of the FCC's Order in what is commonly known as the 621 Proceeding, MB Docket No. 05-311, and that this Order is on appeal. Should there be a final Order in the appeal of the 621 Proceeding, which would permit any cash or non-cash consideration or obligations to be required by this Franchise without being offset from Franchise Fees, or would change the scope of the Grantor's regulatory authority over the use of the rights-of-way by the Grantee, the parties shall, within one hundred twenty (120) days of written notice from the Grantor, amend this Franchise to reinstate such consideration or obligations without offset from Franchise Fees, and to address the full scope of the Grantor's regulatory authority.

3.12 Tax Liability

Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by Grantor. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of Grantor upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which Grantor deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with Grantor within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to Grantor by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) Grantor shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Federal, State and local law.

(B) Nothing in this Franchise shall limit nor expand Grantor 's right of eminent domain under State law.

4.2 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or, where consistent with any requirements of Federal law, geographic location within the Franchise Area. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.3 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with Grantor a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of Grantor, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.4 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.5 Reserved Authority

Both Grantee and Grantor reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.6 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise, and sufficient grounds for Grantor to invoke any relevant remedy in accordance with Section 13.1 of this Franchise.

4.7 Franchise Amendment Procedure

Except as otherwise provided in Section 2.6, either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, Grantor and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the City Council for its approval. If so approved by the City Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.8 Performance Evaluations

(A) Special evaluation sessions may be held at any time upon request by Grantor during the term of this Franchise.

(B) All evaluation sessions shall be open to the public.

(C) Topics that may be discussed at any evaluation session may include those issues surrounding the terms, conditions and obligations of the Franchise, provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise or any term or provision therein and further provided that this subsection need not be followed before other legal or equitable remedies within this Franchise.

4.9 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the customer service standards described in Section

6.1 or any Grantor customer service standards, as the same may be adopted and amended from time to time by the City Council acting by ordinance or resolution, or as the same may be superseded by legislation or final court order.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of Grantor without regard to the neighborhood or income level of the Subscriber.

4.10 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to Grantor. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Franchise Area and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by Grantor to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide Grantor with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold Grantor, its officers, officials, boards, commissions, agents, employees and volunteers, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with Grantor while conducting its defense of Grantor. Grantee shall not be obligated to indemnify Grantor to the extent of Grantor's negligence or willful misconduct. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW

4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee and the Grantor, its officers, officials, employees, and volunteers, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

(B) Indemnification for Relocation. Grantee shall indemnify Grantor for any damages, claims, documented additional costs or reasonable expenses assessed against, or payable by, Grantor arising out of, or resulting from, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with a relocation required by Grantor. Grantee shall always be provided a minimum of thirty (30) days-notice to perform such relocation, except in the case of an emergency and therefore the obligation to indemnify would not apply.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, Grantor shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for Grantor's attorneys fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting Grantor without Grantor's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between Grantor and the counsel selected by Grantee to represent Grantor, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by Grantor in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. Grantor 's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by Grantor's Attorney or his/her assistants or any employees of Grantor or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided Grantor by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability insurance with limits of no less than five million dollars ($5,000,000.00) per occurrence and five million dollars ($5,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by the current ISO CG 00 01 or its equivalent and include severability of interests with respect to each additional insured. Such insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The Grantor shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect this Franchise Agreement using the current ISO endorsement CG 20 12 05 09.

(2) Commercial Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles, with a minimum combined single limit for bodily injury and property damage of five million dollars ($5,000,000.00) per accident. The policy shall contain a severability of interests provision with respect to each additional insured.

(3) Excess or Umbrella Liability insurance shall be written with limits of not less than five million dollars ($5,000,000) per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Grantee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits. Such insurance shall name Grantor, its officers, officials and employees as additional insureds.

(B) The insurance shall provide for notice of cancellation in accordance with policy provisions. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide notice of such cancellation or material alteration within two (2) business days of its receipt of such notice. Grantee shall additionally provide evidence of a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

(C) The Grantee shall cause each of its subcontractors to provide insurance coverage reasonably appropriate to the scope of each such subcontractor's work.

(D) Failure on the part of the Grantee to maintain the insurance as required shall constitute a material breach of this Agreement.

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to Grantor.

(A) Endorsements.

(1) All commercial general, automobile, and umbrella excess liability policies required herein shall contain, or shall be endorsed so that:

(a) Grantor, its officers, officials, boards, commissions, and employees are to be covered as, and have the rights of, additional insureds with respect to liability for which the Grantee is responsible herein;

(b) Grantee's insurance coverage shall be primary insurance with respect to each additional insured. Any insurance or self-insurance maintained by the additional insured shall be in excess of the Grantee's insurance and shall not contribute to it with respect to liability for which the Grantee is responsible hereunder; and

(c) Grantee's insurance shall provide for severability of interest with respect to each additional insured.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A: VII."

(C) Verification of Coverage. The Grantee shall furnish Grantor with certificates of insurance, evidencing the required endorsements, including but not limited to blanket additional insured status. The certificates are to be on standard forms or such forms as are consistent with standard industry practices.

(D) Adequacy of Limits and Coverage. It is agreed that these insurance requirements shall not in any way act to reduce or otherwise alter the liability of Grantee herein. No representation is made that the minimum insurance requirements of this Franchise are sufficient to cover the obligations of Grantee hereunder.

5.4 Letter of Credit

(A) If there is a claim by Grantor of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then Grantor may require and Grantee shall establish and provide within thirty (30) days from receiving notice from Grantor, to Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to Grantor in the amount of fifty thousand dollars ($50,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained fifty thousand dollars ($50,000) until the allegations of the uncured breach have been resolved.

(C) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by Grantor for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay Grantor sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by Grantor to correct Franchise violations not corrected by Grantee;

(3) Monetary damages assessed against Grantee as provided for in this Franchise.

(D) Grantor shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within ten (10) business days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(E) Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with customer service standards as provided in FCC Standards 47 C.F.R. Sections 76.309, 76.1602, 76.1603 and 76.1619, and any local standards adopted in accordance with applicable law. Grantee acknowledges Grantor's ability to enact customer service standards that exceed those enacted by the FCC and Grantor acknowledges Grantee's right to recover the costs associated with complying with such standards. The Grantee shall not enter into a contract with any Subscriber that is in any way inconsistent with the terms of this Franchise, or the requirements of any applicable customer service standards.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in Applicable Law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or Applicable Law. Upon request, Grantee will provide to Grantor a sample of the Subscriber contract or service agreement then in use.

6.4 Identification of Local Franchise Authority on Subscriber Bills

Within ninety (90) days after written request from Grantor, Grantee shall place Grantor’s phone number on its Subscriber bills, to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records relevant to the provision of Cable Services in the Franchise Area and related to any terms, conditions or obligations contained in this Franchise open and accessible to Grantor. Grantor, including Grantor’s Auditor or his/her authorized representative, shall have access to, and the right to inspect, books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny Grantor access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate. Grantor may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to Grantor, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that Grantor inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to Grantor upon written request as set forth above, and if Grantor determines that an examination of such records is necessary or appropriate for the performance of any of Grantor's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality and Proprietary Information

Grantor agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes Grantor aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information and shall provide a brief written explanation as to why such information is confidential under State or federal law. If Grantor receives a request under the Act to inspect or copy the information so identified by Grantee and Grantor determines that release of the information is required by the Act, Grantor will use its best efforts to promptly provide Grantee with notice of the request in accordance with RCW 42.56.540, and a copy of any written request by the party demanding access to such information, in order to have a reasonable time (of no less than 10 business days) within which Grantee may seek an injunction to prohibit the Grantor's disclosure of the requested record. If the Grantee fails to timely obtain a court order enjoining disclosure, the Grantor will release the requested information on the date specified. Grantee shall join the Person requesting the documents to such an action. Grantee shall defend, indemnify and hold the Grantor harmless from any claim or judgment and Grantee shall reimburse the City for all reasonable costs and attorney's fees incurred in any legal proceedings pursued under this Section.

The Grantor has, and by this section assumes, no obligation on behalf of the Grantee to claim any exemption from disclosure under the Act, however the Grantor may assert such exemption if the Grantor itself believes in good faith that an exemption applies to the requested records. The Grantor shall not be liable to the Grantee for releasing records not clearly identified by the Grantee as confidential or proprietary. The Grantor shall not be liable to the Grantee for any records that the Grantor releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to Grantor upon 30 days written request and subject to Applicable Law:

(1) A complete set of maps showing the location of all Cable System equipment and facilities in the Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by Grantor's authorized representative(s) or agent(s) during the course of technical inspections as reasonably conducted by Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the Franchise Area;

(3) Number of current subscribers by Tier;

(4) Total homes passed for the previous twelve (12) months;

(5) A list of current Cable Services, rates and Channel line-ups; and

(6) Grantee shall, at Grantee's expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the Franchise Area for a period of at least three (3) years, and individual Subscriber complaints from the Grantor for a period of at least one (1) year, and make such information available to Grantor at Grantee's office upon reasonable request.

(B) Subject to subsection 7.2, all information furnished to Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within ninety (90) days of Grantor's written request, Grantee shall submit to Grantor a written report for the prior calendar year, in a form acceptable to Grantor, which shall include, but not necessarily be limited to, the following information for Grantor:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

(B) A statement of planned construction, if any, for the next year; and,

(C) A copy of the most recent annual report Grantee filed with the SEC or other governing body.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request from Grantor, Grantee shall submit to Grantor copies of all pleadings, applications, notifications, public communications and public documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Franchise Area. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints.

(B) Within thirty (30) days of a written request, Grantee shall provide Grantor a quarterly summary, which shall include the following information from the preceding quarter:

(1) A summary of service calls, identifying the number and nature of the requests and their disposition;

(2) A log of all service interruptions;

(3) A summary of customer complaints referred by Grantor to Grantee; and,

7.7 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to Grantor under this Franchise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

(A) Educational programming;

(B) Washington news, weather & information;

(C) Sports;

(D) General entertainment;

(E) Children's programming;

(F) Arts, culture and performing arts;

(G) Foreign language;

(H) Science/documentary;

(I) National news, and information; and,

(J) Public, Educational and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of Grantor.

8.3 Obscenity

Grantee shall not transmit or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service. For the purposes of this subsection, "uninterrupted" does not include outages of the Cable System for maintenance or testing or an event covered under Section 4.11.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) Grantor may authorize Designated Access Providers to control, operate, and manage the use of any and all Access Facilities provided by Grantee under this Franchise, including, without limitation, the operation of Access Channels. The Grantor or its designee may formulate rules for the operation of the Access Channels, consistent with this Franchise, the FCC, federal and State law. Nothing herein shall prohibit the Grantor from authorizing itself to be a Designated Access Provider. As used in this Section, such “Access Facilities” includes the Channels, services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Public Access, Educational Access, and Government Access (“PEG” or “PEG Access”).

(B) Grantee shall cooperate with Grantor and Designated Access Providers in the use of the Cable System and Access facilities for the provision of Access Channels.

9.2 Channel Capacity and Use

(A) Grantee shall make available to Grantor up to five (5) Downstream Channels for PEG use as provided for in this Section.

(B) Grantee shall have the right to temporarily use any Channel, or portion thereof, which is allocated under this Section for Public, Educational, or Governmental Access use, within one hundred eighty (180) days after a written request for such use is submitted to Grantor, if such Channel is not "fully utilized" as defined herein. A Channel shall be considered fully utilized if substantially unduplicated programming is delivered over it more than an average of 38 hours per week over a six (6) month period. Programming that is repeated on an Access Channel up to two times shall be considered "unduplicated programming." Character-generated programming shall be included for purposes of this subsection, but may be counted towards the total average hours only with respect to the Channels provided to Grantor. If a Channel allocated for Public, Educational, or Governmental Access use will be used by Grantee in accordance with the terms of this subsection, the institution to which the Channel has been allocated shall have the right to require the return of the Channel or portion thereof. Grantor shall request return of such Channel space by delivering written notice to Grantee stating that the institution is prepared to fully utilize the Channel, or portion thereof, in accordance with this subsection. In such event, the Channel or portion thereof shall be returned to such institution within one-hundred eighty (180) days after receipt by Grantee of such written notice.

(C) Standard Definition ("SD") Digital Access Channels.

(1) Grantee shall provide the existing three (3) Activated Downstream Channel for PEG Access use in a standard definition ("SD") digital format. Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning, stereo audio, and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the demarcation point at the designated point of origination for the SD Access Channels. At such time as the HD Access Channels described in subsection (C) below are activated, the Designated Access Provider will provide only an HD Access Channel Signal in an HD format. At that time, Grantee will broadcast the HD signal on the HD Access Channels and also down-convert the HD signal for additional broadcast on the SD Access Channels. Grantee shall transport and distribute the SD Access Channels signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility and functionality, and not unreasonably discriminate as to the application of any applicable FCC Rules & Regulations.

(2) With respect to signal quality, Grantee shall not be required to carry SD Access Channels in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute all SD Access Channel signals without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this subsection 9.2(C).

(3) Grantee shall be responsible for costs associated with the transmission of SD Access signals on its side of the demarcation point, which for the purposes of this subsection 9.2 (C)(3), shall mean up to but not including the modulator where the Grantor signal is converted into a format to be transmitted over a fiber connection to Grantee. The Grantor or Designated Access Provider shall be responsible for costs associated with SD Access signal transmission on its side of the demarcation point.

(4) SD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those Tiers of Cable Service, upon

which SD Channels are made available. Grantee is not required to provide free SD equipment to Subscribers, nor modify its equipment or pricing policies in any manner.

(D) High Definition ("HD") Digital Access Channels.

(1) After the return lines have been upgraded in accordance with Section 9.11 and within one hundred twenty (120) days' written notice, Grantee shall activate one (1) HD Access Channels, for which the Grantor may provide Access Channel signals in HD format to the demarcation point at the designated point of origination for the Access Channel. After the first anniversary of the first HD Channel activation, and with at least one hundred twenty (120) days written notice to Grantee, Grantor may request, and Grantee shall provide on its Cable System, one (1) additional Activated Downstream Channel for PEG Access use in HD") digital format.

(a) The Grantor shall, in its written notice to Grantee as provided for in this Section, confirm that it or its Designated Access Provider has the capabilities to produce, has been producing and will produce programming in an HD format for any newly activated HD Access Channel; and,

(b) There will be a minimum of five (5) hours per-day, five days per-week of HD PEG programming available for each HD Access Channel. For the purposes of this subsection, character-generated programming (i.e., community bulletin boards) shall not satisfy, in whole or in part, this programming requirement.

(2) Grantor shall be responsible for providing HD Access Channel signals in an HD digital format to the demarcation point at the designated point of origination for the HD Access Channels. For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of either 720p or 1080i, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) Grantee shall transport and distribute the HD Access Channel signals on its Cable System and shall not discriminate against the HD Access Channels with respect to accessibility, functionality, and to the application of any applicable FCC Rules & Regulations. With respect to signal quality, Grantee shall not be required to carry the HD Access Channels in a higher quality format than that of the HD Access Channel signals delivered to Grantee, but Grantee shall distribute the HD Access Channel signals without degradation. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. Upon reasonable written request by Grantor, Grantee shall verify signal delivery to Subscribers with the Grantor, consistent with the requirements of this subsection 9.2(D).

(4) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those Tiers of Cable Service, upon

which the HD Channels are made available. Grantee is not required to provide free HD equipment to Subscribers, nor modify its equipment or pricing policies in any manner.

(5) Grantor or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) The Designated Access Provider shall be responsible for providing the Access Channel signals in an HD format to the demarcation point at the designated point of origination for each Access Channel. Grantee shall provide all necessary equipment outside the demarcation point at the Designated Access Provider Channel origination point, at its Headend and throughout its distribution system to deliver the Access Channel(s) in the HD format to Subscribers.

(E) Grantee shall simultaneously carry the two (2) HD Access Channels provided for in Section 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the SD Access Channels provided pursuant to Subsection 9.2(C).

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Grantee may implement HD carriage of the PEG channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event Grantor believes that Grantee fails to meet this standard, Grantor will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

9.3 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of SD and HD Access Channel assignments. Grantee shall also use reasonable efforts to institute common SD and HD Access Channel assignments among the served by the same Headend as Grantor for compatible Access programming, for example, assigning all Educational Access Channels programmed by higher education organizations to the same Channel number. In addition, Grantee will make reasonable efforts to locate HD Access Channels provided pursuant to Subsection 9.2(D) in a location on its HD Channel line-up that is easily accessible to Subscribers.

9.4 Relocation of Access Channels

Grantee shall provide Grantor a minimum of sixty (60) days' notice, and use its best efforts to provide one hundred and twenty (120) days' notice, prior to the time Public, Educational, and Governmental Access Channel designations are changed. Grantee, at Grantee's expense, will place the Grantor's notice of the Access Channel changes on or with its regular monthly billing, upon the Grantor's request. Such request shall be for one notice per occurrence of Access Channel changes, whether one or more channels are affected. Grantor shall be responsible for the costs of printing its notice which must conform to Grantee's reasonable mailing requirements and providing them to the Grantee. Grantee shall be provided an opportunity to review and approve all Access bill insertions.

9.5 Support for Access Costs

(A) As of the Effective Date of this Franchise Agreement, Grantee is providing thirty cents ($0.30) per month per Residential Subscriber (the "PEG Contribution") to be used solely for capital costs related to Public, Educational and Governmental Access, or as may be permitted by Applicable Law. Upon ninety (90) days written notice from the Grantor, the PEG Contribution may be increased to up to fifty cents ($0.50) per month per Residential Subscriber. Any written request by Grantor to increase the PEG Contribution from its then current level shall be effective ninety (90) days after the date of such written request. Grantee shall make PEG Contribution payments quarterly, following the effective date of this Franchise Agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter. Grantor shall have sole discretion to allocate the expenditure of such payments for any capital costs related to PEG Access.

(B) During the term of this Franchise, Grantee may inquire of Grantor about the PEG Contribution being collected at that time. Upon Grantee's request, Grantor shall meet with Grantee to discuss issues related to the PEG Contribution in good faith and the parties may mutually agree to adjust the PEG fee accordingly.

9.6 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to Grantor. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, the additional commitments shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise and federal law.

9.7 Access Channels On Basic Service or Lowest Priced HD Service Tier

All SD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of Basic Service. All HD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.8 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access services or programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of Grantor's Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change. If Grantor implements a new video delivery technology that is not currently offered on and/or that cannot be accommodated by the Grantee's local Cable System, then Grantor shall be responsible for acquiring all necessary equipment, facilities, technical assistance, and training to deliver the signal to the Grantee's headend for distribution to subscribers.

9.9 Technical Quality

Grantee shall maintain all Upstream and Downstream Access services and Channels on its side of the demarcation point at the same level of technical quality and reliability required by this Franchise Agreement and all other applicable laws, rules and regulations for Residential Subscriber Channels. In no event shall the technical quality of any Access channels be lower than the quality of other commercial SD or HD channels carried on the Cable System. Grantee shall provide routine maintenance for all transmission equipment on its side of the demarcation point, including modulators, decoders, multiplex equipment, and associated cable and equipment necessary to carry a quality signal to and from Grantor's facilities for the Access Channels provided under this Franchise Agreement. Grantee shall also provide, if requested in advance by Grantor, advice and technical expertise regarding the proper operation and maintenance of transmission equipment on Grantor's side of the demarcation point. Grantee shall be responsible for all initial and replacement costs of all HD modulator and demodulator equipment. Grantor shall also be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by the gross negligence or intentional acts of Grantor staff. The Grantee shall be responsible, at its own expense, to replace any of the Grantor's equipment that is damaged by the gross negligence or intentional acts of Grantee's staff.

9.10 Access Cooperation

Grantor may designate any other jurisdiction to share in the use of Access Facilities hereunder. The purpose of this subsection shall be to allow cooperation in the use of Access and the application of any provision under this Section as Grantor in its sole discretion deems appropriate, and Grantee shall cooperate fully with, and in, any such arrangements by Grantor.

9.11 Return Lines/Access Origination

(A) Grantee shall maintain the return line from the existing Access origination site to the Headend in order to enable the distribution of Access programming to Subscribers on the Access Channels. To the extent that the return line upgrades are required in order to facilitate delivery of Access Programming in HD, such upgrades shall be completed within one (1) year of a written request from Grantor; provided however, that Grantee may recover the costs of such upgrades from Subscribers in the Franchise Area in accordance with Applicable Law and that in so doing the PEG Contribution does not exceed fifty ($.50) cents in total. If such costs result in exceeding fifty ($.50) cents then the Grantor shall reduce the existing PEG Contribution amount so as to allow for the recoupment of all upgrade costs without exceeding the cap of fifty ($.50) cents over a period of three (3) years. Grantee shall continuously maintain the return line throughout the term of the Franchise, unless this location is no longer used in the future to originate Access programming or are not upgraded as part of the HD conversion. The existing return line facilities are noted as "exterior" to reflect a return line on the physical property but not extending into the building, or "interior" where the return line connection extends into the building itself.

The Access origination site is:

Lacey City Hall, 420 College Street SE, Lacey, WA (interior)

(B) Within eighteen (18) months of written request by the Grantor, Grantee shall construct and maintain additional return lines to other locations within the Franchise Area; provided however, that all Grantee's construction costs shall be paid by the Grantor or its Designated Access Provider(s).

9.12 Promotion of PEG Access Schedule

The Grantee shall include appropriate designation of the PEG channels on channel cards and other channel listings provided to Subscribers in a manner comparable to commercial channels on the Cable System.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, generally applicable Municipal Code, Right-of-Way Construction Standards, and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of Grantor, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts which Grantee needs to occupy within the Franchise Area.

10.3 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices consistent with applicable permit requirements.

10.4 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from Grantor. As part of the permitting process, Grantor may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite Grantor permits received by Grantee.

10.5 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify Grantor of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.6 Compliance with Applicable Codes

(A) Grantor Construction Codes. Grantee shall comply with all applicable industry, State and Grantor construction codes and standards.

(B) Safety Codes. Grantee shall comply with all federal, State and Grantor safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards. All installations of equipment shall be permanent in nature, and final equipment placement shall not interfere with the travel and use of public places by the public.

10.7 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of Grantor, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, Grantor’s authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements Grantor may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, Grantor may require the removal or relocation of Grantee’s lines, cables, equipment and other appurtenances from the property in question at Grantee’s expense.

10.8 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to Grantor's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights. Further, any street cuts made and repaired shall be performed in accordance with all Grantor construction codes.

10.9 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

(B) Upon reasonable notice to Grantee, Grantor may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

(C) The provisions of Section 5.1 shall apply to any claims against the Grantor arising out of a release of hazardous substances caused by Grantee’s Cable System.

10.10 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to Grantor and to the notification association established in Ch. 19.122 RCW, as such may be amended from time to time.

Within forty-eight (48) hours after any Grantor bureau or franchisee, licensee or permittee notifies Grantee of a proposed Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.11 Notice to Private Property Owners

Except in the case of an emergency involving public safety or service interruption to a large number of Subscribers, Grantee shall give at least three (3) days advance notice to private property owners or legal tenants of work on or adjacent to private property prior to entering upon private premises. Nothing herein shall be construed as authorizing access or entry to private property or any other property where such right to access or entry is not otherwise provided by law.

10.12 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations or rules of Grantor or applicable State or federal law, or Grantor project Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with Grantor's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) The Grantee shall utilize existing poles wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of undergrounding an extension of the Cable System or for placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. Grantor will reasonably determine the most appropriate option between undergrounding and erecting new poles considering site specific details and availability of space in the Right-of-Way. If poles are used, all poles of Grantee shall be located as designated by the proper Grantor authorities. Grantor will determine if such poles and related facilities may be placed based on reasonable availability of space within the right of way.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of Grantor or any other Person.

(F) Grantee and Grantor recognize that situations may occur in the future where Grantor may desire to place its own cable or conduit for Fiber Optic cable in trenches or bores opened by the Grantee. Grantee agrees to cooperate with Grantor in any construction by the Grantee that involves trenching or boring, provided that Grantor has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring and Grantor enters into a contract with Grantee consistent with RCW 80.36.150, this Franchise and applicable provisions of Grantor's Code. Grantee shall allow Grantor to lay its cable, conduit and Fiber Optic cable in the Grantee's trenches and bores, provided there is reasonable space available and Grantor shares in the cost of the trenching and boring on the same terms and conditions as the Grantee or otherwise in accordance with Applicable Law. Grantor shall be responsible for maintaining its respective cable, conduit, vaults and Fiber Optic cable buried in the Grantee's trenches and bores under this paragraph.

(G) Where Grantor codes provide holders of building or development permits for planned developments within the Franchise Area to notify utilities and other similar service providers of availability of open trenches, it is the intent of Grantor that such requirements shall include operators of cable systems in the list of entities required to be provided notice by the permit holder. In the event an underground conversion of cable facilities is required as part of the street improvement condition(s) of a new land use development, not associated with a Grantor designated capital improvement project, this Franchise shall in no way limit the Grantee's right to recoup all time and material costs associated with the underground conversion of the Cable System from the Person responsible for the project.

10.13 Prewiring

Any ordinance or resolution of Grantor which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.14 Repair and Restoration of Property

(A) The Grantee shall protect public and private property from damage, when performing work as it pertains to using the Right of Way. If damage is caused by Grantee, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, Grantor may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay Grantor.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed.

10.15 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Grantor Right-of-Way, or upon the addition to Grantor of any area in which Grantee owns or operates any such facility, Grantee shall, at Grantor's request, submit to Grantor a statement describing all such facilities located in the Right of Way, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.16 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that Grantor permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, Grantor may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest at no cost to Grantor. Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by Grantor. Until such time as Grantee removes or modifies the facility as directed by Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.17 Movement of Cable System Facilities For Grantor Purposes

Grantor shall have the right to require Grantee to, at Grantor’s request, relocate, remove, replace, modify or disconnect Grantee’s facilities and equipment located in the Rights-of-Way or on any other property of Grantor for public purposes, in the event of an emergency; or when the public health, safety, or welfare requires such change. For example, without limitation, this movement of Grantee’s facilities may be needed by public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by Grantor for public purposes. Such work shall be performed at Grantee’s expense. Except when a shorter time is necessitated due to an emergency, Grantee shall, within sixty (60) days’ written notice by Grantor, or such longer period as Grantor may specify, complete all work to temporarily or permanently relocate, remove, replace, modify, or disconnect any of its facilities and equipment located in the Rights-of-Way or on any other property of Grantor. In the event of any capital improvement project exceeding five hundred thousand dollars ($500,000) in expenditures by Grantor, which requires the removal, replacement, modification, or disconnection of Grantee’s facilities or equipment, Grantor shall provide at least one-hundred twenty (120) days’ written notice to Grantee. Following notice by Grantor, if all users of the Right-of-Way relocate aerial facilities underground as part of an undergrounding project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities, if it desires to continue to occupy that particular Right of Way. If Grantor requires Grantee to relocate its facilities located within the Rights-of-Way, Grantor will work collaboratively with Grantee to identify available alternate locations within the Rights-of-Way for Grantee to relocate its facilities at Grantee’s cost.

If Grantee fails to complete this work within the time prescribed above and to Grantor’s satisfaction, Grantor may cause such work to be done and bill the cost of the work to Grantee. In such event, Grantor shall not be liable for any damage to any portion of Grantee’s Cable System. Within forty-five (45) days of receipt of an itemized list of those costs, Grantee shall pay Grantor. In any event, if Grantee fails to timely relocate, remove, replace, modify or disconnect Grantee’s facilities and equipment, and that delay results in any damage claim against Grantor, Grantee shall be responsible to Grantor for documented costs of construction delays attributable to Grantee's failure to timely act. Grantee reserves the right to challenge any determination by Grantor of Grantee's responsibility for the delay and/or costs for construction delays related to an alleged failure to act in accordance with this subsection 10.17.

10.18 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another franchise holder, Grantee shall, after at least sixty (60) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the costs associated with the removal or relocation be paid by the benefited party.

10.19 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance. The cost of such temporary change may be charged by the Grantee to the permit holder, and Grantee may require the estimated payment in advance. Such payment is an exchange between the Grantee and the permittee and the Grantor will not be the administrator of these transactions.

10.20 Reservation of Grantor Use of Right-of-Way

Nothing in this Franchise shall prevent Grantor or public utilities owned, maintained or operated by public entities other than Grantor from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.21 Tree Trimming

Trees shall be maintained per ANSI A300, Standard Practices for Trees, Shrubs and other Woody Plant Maintenance. Upon obtaining a written permit from Grantor, if such a permit is required, Grantee may prune or cause to be pruned, using proper pruning practices in accordance with such permit, any tree in the Rights-of-Way that interferes with the Cable System. The adjacent property owner shall be notified by the Grantee of the tree removal or trimming. All tree trimming shall be done at Grantee's sole cost and expense.

10.22 Stop Work

(A) On notice from Grantor that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by Grantor, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by Grantor.

(B) The stop work order shall:

(1) Be in writing;

(2) Be given to the Person doing the work, or posted on the work site;

(3) Be sent to Grantee by overnight delivery at the address given herein;

(4) Indicate the nature of the alleged violation or unsafe condition; and

(5) Establish conditions under which work may be resumed.

Grantee shall be liable for all costs incurred by Grantor and associated with Grantee’s violation and Grantor’s issuance of the stop work order. Grantee reserves the right to challenge any Grantor determination of Grantee’s obligations under this Section.

10.23 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with Grantor's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Prior to the Effective Date of this Franchise, the parties acknowledge that Grantee undertook a voluntary upgrade of its Cable System to a hybrid fiber coaxial (HFC) fiber-to-the-node system architecture, with Fiber Optic cable deployed from its Headend to nodes and tying into a coaxial system serving Subscribers. The Cable System is now and shall throughout the term of this Franchise, deliver high quality signals that meet or exceed FCC technical quality standards regardless of any particular manner in which the signal is transmitted.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the City's permitting process.

(D) Grantee and the City shall meet, at the City's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to Grantor no later than thirty (30) days following receipt of a request.

11.3 Emergency Alert Capability

Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, Grantor shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested in accordance with Applicable Law.

11.4 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including but not limited to the FCC) technical standards, as they may be amended from time to time. Grantor shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.5 Cable System Performance Testing

(A) Grantee shall maintain written records of all results of its Cable System tests performed by or for Grantee. Copies of such test results will be provided to Grantor upon reasonable request.

(B) Grantee shall perform any tests required by the FCC.

11.6 Additional Tests

Where there exists other evidence which in the judgment of Grantor casts doubt upon the reliability or technical quality of Cable Service, Grantor shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with Grantor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

(A) the nature of the complaint or problem which precipitated the special tests;

(B) the Cable System component tested;

(C) the equipment used and procedures employed in testing;

(D) the method, if any, in which such complaint or problem was resolved; and

(E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

(A) In General. Except as otherwise provided herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the Franchise Area. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. The seven (7) day requirement may be extended if underground construction permitting would preclude such connection within that time period. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to Grantor;

(3) At non discriminatory monthly rates for Residential Subscribers consistent with Section 4.2 above.

(B) Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall provide Cable Service to Multiple Dwelling Units in accordance with an agreement with the property owner or owners, this Franchise and all applicable laws.

(C) Customer Charges for Extensions of Service. Grantee agrees to extend its Cable System to all persons living in areas with a residential density of twenty five (25) residences per mile of aerial feet of trunk or distribution cable or sixty (60) residences per mile of underground trench feet of trunk or distribution cable. If the residential density is less than twenty five (25) residences per 5,280 aerial cable-bearing strand feet of trunk or distribution cable, or sixty (60) residences per mile of underground trench feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals twenty five (25) or sixty (60), as applicable. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

(A) If Grantor reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to Grantor, contesting Grantor's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify Grantor that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify Grantor in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, Grantor may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or Grantor orders a meeting in accordance with subsection (A)(3), Grantor shall set a meeting to investigate said issues or the existence of the alleged default. Grantor shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, Grantor determines that a default exists, Grantor shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as Grantor shall determine. In the event Grantee does not cure within such time to Grantor’s reasonable satisfaction, Grantor may:

(1) Withdraw an amount from the letter of credit as monetary damages;

(2) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.4; or,

(3) Recommend any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of Grantor, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

13.2 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of Grantor to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of Grantor to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.3 Assessment of Monetary Damages

(A) Subject to the terms of this Franchise, Grantor may assess against Grantee monetary damages (i) up to five hundred dollars ($500.00) per day for general construction delays, (ii) up to two hundred fifty dollars ($250.00) per day for violations of PEG obligations, payment obligations or any other material breaches, or (iii) up to one hundred dollars ($100.00) per day for defaults, and withdraw the assessment from the letter of credit or collect the assessment as specified in this Franchise. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. To assess any amount from the letter of credit, Grantor shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and-in this Franchise. Such damages shall accrue beginning thirty (30) days following Grantee’s receipt of the notice required by subsection 13.1(A), or such later date if approved by Grantor in its sole discretion, but may not be assessed until after the procedures in subsection 13.1 have been completed.

(B) The assessment does not constitute a waiver by Grantor of any other right or remedy it may have under the Franchise or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs and expenses that are incurred by Grantor by reason of the breach of this Franchise.

13.4 Revocation

(A) Grantor may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

(1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding Grantor and Grantee;

(2) Grantee abandons the Cable System, or terminates the Cable System's operations;

(3) Grantee fails to restore service to the Cable System after three consecutive days of an outage or interruption in service; except in the case of an emergency or during a Force Majeure occurrence, or when approval of such outage or interruption is obtained from the Grantor, it being the intent that there shall be continuous operation of the Cable System); or

(4) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon Grantor or Subscribers; or

(5) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

(6) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, Grantor shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with Grantor to assume and be bound by all of the terms and provisions of this Franchise.

(D) Any proceeding under the paragraph above shall be conducted by the City Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The City Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular,

an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the City Council determines are reasonable under the circumstances. If Grantor determines that the Franchise is to be revoked, Grantor shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by Grantor's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The City Council may at its sole discretion take any lawful action which it deems appropriate to enforce Grantor's rights under the Franchise in lieu of revocation of the Franchise.

13.5 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, Grantor may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to Grantor's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, Grantor may order the removal of the above-ground Cable System facilities and such underground facilities from Grantor at Grantee's sole expense within a reasonable period of time as determined by Grantor. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to Grantor's satisfaction, after written notice to Grantee, Grantor may cause the work to be done and Grantee shall reimburse Grantor for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or Grantor may recover the costs through the letter of credit provided by

Grantee.

(D) Grantor may seek legal and equitable relief to enforce the provisions of this Franchise.

13.6 Purchase of Cable System

(A) If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, Grantor shall have the option to purchase the Cable System.

(B) Grantor may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from Grantor within which to accept or reject the offer.

(C) In any case where Grantor elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of Grantor's audit of a current profit and loss statement of Grantee. Grantor shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(D) For the purposes of this subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain the fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which Grantor would assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

13.7 Receivership and Foreclosure

(A) At the option of Grantor, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and

every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with Grantor to assume and be bound by all of the terms and conditions of this Franchise.

13.8 No Monetary Recourse Against Grantor

Grantee shall not have any monetary recourse against Grantor or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of Grantor under this Franchise are in addition to, and shall not be read to limit, any immunities Grantor may enjoy under federal, State or local law.

13.9 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to Grantor, or until the Franchise is revoked and a new franchisee is selected by Grantor; or obtain an injunction requiring the Grantee to continue operations. If Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse Grantor or its designee for all reasonable costs, expenses and damages incurred.

13.10 What Constitutes Abandonment

Grantor shall be entitled to exercise its options in subsection 13.9 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for three (3) consecutive days, unless there is a situation constituting Force Majeure or Grantor authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) Grantor and Grantee agree that any proceedings undertaken by Grantor that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Grantor shall continue to comply with all obligations and duties under the Franchise.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of Grantor, which consent shall be by the City Council, acting by ordinance/resolution.

(B) The Grantee shall promptly notify Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to Grantor for its approval of a sale or transfer and furnish all information required by law and Grantor.

(D) In seeking Grantor's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that Grantor may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) Grantor shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. Grantor and the Grantee may by mutual agreement, at any time, extend the 120 day period. Subject to the foregoing, if Grantor fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and Grantor agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by Grantor, Grantee shall file with Grantor a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist Grantor in so inquiring. Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of Grantor shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by Grantor and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by Grantor or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast of Cable Communications Management, LLC
900 132nd Street SW
Everett, Washington 98204
Attention: Franchising

With a Copy To:

Comcast Cable
Attention Franchising
410 Valley Ave. NW, Suite 9
Puyallup, WA 98371

Grantor's address shall be:

Lacey, Washington
420 College St. SE
Lacey, Washington 98503
Attention: Clerk

With a copy to:

City Attorney
420 College St. SE
Lacey, Washington 98503

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse Grantor for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of Grantor at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of Grantor hereafter to enforce the same. Nor shall the waiver by Grantor of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise "reasonableness" is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Jurisdiction

Venue for any dispute related to enforcement or interpretation of this Franchise shall be in an appropriate state court of competent jurisdiction in Thurston County, Washington, or in the United States District Court for the Western District of Washington at Tacoma.

IN WITNESS WHEREOF, this Franchise is signed in the name of City of Lacey, Washington this ____ day of ________________, 2021.

ATTEST:	CITY OF LACEY, WASHINGTON:
______________________________	______________________________
City Clerk	Mayor
APPROVED AS TO FORM:	RECOMMENDED AND APPROVED:
______________________________	______________________________
City Attorney	City Manager

Accepted and approved this _____ day of ___________________, 2021.

ATTEST:	COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC
______________________________	______________________________
Public Notary	Name/Title: ________________________________

COMCAST

January 12, 2021

Mr. Scott Spence
City Manager, City of Lacey
Lacey City Hall
420 College Street SE
Lacey, WA 98503

Dear Mr. Spence:

The purpose of this letter agreement is to set forth a commitment between Comcast Cable Communications Management, LLC ("Comcast") and the cities of Lacey, Tumwater, Olympia and Thurston County (hereafter collectively the "Jurisdictions") that is in addition to the obligations contained in the Franchise Agreement (hereinafter the "Franchise"), to be adopted by the Jurisdictions as an Ordinance and executed by Comcast. The item set forth herein: 1) has been negotiated in good faith and mutually agreed to by Comcast and the Jurisdictions as part of the informal franchise renewal process pursuant to 47 U.S.C. 546(h); 2) is provided by Comcast in consideration of the grant of the Franchise; and 3) specifically relates to unique community needs that exist in the Jurisdictions.

Comcast shall maintain the current PEG Access studio location at 440 Yauger Way SW, Olympia, Washington 98502 until December 1, 2021 or such earlier date as may be directed by the Jurisdictions in writing, at no cost to the Jurisdictions. Comcast shall provide for adequate parking and a separate entrance to the studio. This studio has been and may continue to be operated and managed by Thurston County Media, a designated access provider that is a nonprofit organization. Within sixty (60) days of the Effective Date of the Franchise, the Jurisdictions shall give notice to the Thurston County Media of the need to vacate the studio entirely by December 1, 2021 and take further action as may be necessary to ensure that the space is vacated on time.

Acknowledged and agreed to this 13th day of January, 2021.

Comcas[DocuSigned by:]ations Management, LLC
By: Steven Holmes
81376AE1171F408...
Its: Division Vice President
Date: 1/13/2021

City of Lacey, Washington
By:____________________________
Its: City Manager
Date:__________________________

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT:	**Regional Climate Action Plan – Plan Acceptance**
RECOMMENDATION:	**Motion to adopt Resolution No. 1102 accepting the Thurston Climate Action Plan**
STAFF CONTACT:	Scott Spence, City Manager Rick Walk, Community and Economic Development Director Ryan Andrews, Planning Manager Jessica Brandt, Associate Planner
ORIGINATED BY:	Community and Economic Development Department
ATTACHMENTS:	1 Thurston Climate Mitigation Plan (TCMP) 2. Resolution 1102
FISCAL NOTE:	Phase 2 cost totaled $43,750 Phase 1 cost totaled $5,000.
PRIOR REVIEW:	December 10, 2020, City Council Worksession September 3, 2020, City Council Worksession September 1, 2020, Planning Commission June 23, 2020, General Government Committee December 12, 2019, City Council Worksession October 1, 2019, Planning Commission October 11, 2018, City Council Meeting September 20, 2018, City Council Worksession June 21, 2018, City Council Worksession April 12, 2018, City Council Meeting March 15, 2018, City Council Worksession

BACKGROUND:

The City Council signed an interlocal agreement with Thurston County, Olympia, and Tumwater in April 2018 to complete Phase 1 of a Regional Climate Mitigation Plan. Phase 1 focused on assessing existing policies and targets of each jurisdiction for gaps and consistencies, recommending a regional emissions target, identifying each jurisdictions implemented mitigations actions to date, and recommend regional emissions reduction targets.

The recommended targets were adopted July 12, 2019. The targets are as follows:

- Achieve a 45% reduction of 2015 greenhouse gas levels by 2030.
- Achieve an 85% reduction of 2015 greenhouse gas levels by 2050.

Phase 1

Phase 1 adopted targets and produced a recommended scope of work for Phase 2, which included a public engagement strategy, assessment of actions sufficient to reach shared emissions targets, and implementation strategies. On October 11, 2018, the Council approved the ILA for Phase 2. In February 2019, TRPC hired a consultant team, Cascadia Consulting, to assist with Phase 2.

Phase 2

Phase 2 of the planning process, which started in early 2019 and has just concluded, included the following steps:

1. Develop steering committee and charter (January 2019)
2. Develop stakeholder advisory committee (February – March 2019)
3. Engage the general public and develop potential actions list (July – Sept 2019)
4. Assess potential actions and develop scenarios (September – June 2019)
5. Develop plan and strategies (March – July 2020)
6. Engage the general public (September 2020)
7. Adopt plan and strategies (October – December 2020)

Upon acceptance of the Thurston Climate Mitigation Plan, the Planning Commission will continue with the formal adoption process under their 2021 work program and follow the Comprehensive Amendment process. The Comprehensive Amendment process includes staff work sessions with the Planning Commission where they will assist in prioritizing actions and engaging the public, and then hold a public hearing, and make a recommendation to Council in July 2021.

A discussion about a Phase 3 interlocal agreement, outlining regional coordination, will be scheduled for a future Council Worksession.

ADVANTAGES:

1. Regional and local approaches are key to achieving a coordinated and collaborative response to climate mitigation.

DISADVANTAGES:

1. None.

Agenda Item 9-A:

Resolution No. 1102 to accept and place Climate Action Plan on 2021 Planning Commission Work Program for review and action

Attachment 1 Thurston Climate Mitigation Plan (TCMP)

RESOLUTION NO. 1102

CITY OF LACEY

A RESOLUTION ACCEPTING THE *THURSTON CLIMATE MITIGATION PLAN* (2020) AS A FRAMEWORK TO GUIDE FUTURE ACTION ADDRESSING LOCAL SOURCES OF GREENHOUSE GAS EMISSIONS THAT CONTRIBUTE TO GLOBAL CLIMATE CHANGE.

WHEREAS, Thurston County and the cities of Lacey, Olympia, and Tumwater believe that carbon dioxide and other greenhouse gas emissions from human activities are accelerating global climate change and resulting in local impacts, including sea-level rise, ocean acidification, and more frequent and intense heavy precipitation events, floods, droughts, and wildfires; and

WHEREAS, the County and the Cities agree that impacts from climate change pose an urgent threat to public health, public infrastructure, and the quality of life of residents in the Thurston region; and

WHEREAS, the *Sustainable Thurston* Plan adopted by Thurston Regional Planning Council (TRPC) in 2013, and subsequently accepted by the County and cities, sets a goal for the Thurston region to move toward carbon neutrality, and identified the creation of a regional climate action plan as a first action step; and

WHEREAS, a regional climate action plan consists of two parts: (1) the emissions reducing mitigation plan referenced in this Resolution; and (2) the *Thurston Climate Adaptation Plan* adopted by TRPC in 2018; and

WHEREAS, in 2018 the City of Lacey adopted Resolution 1062 adopting common targets to reduce communitywide greenhouse gas emissions 45 percent below 2015 levels by 2030 and 85 percent below 2015 levels by 2050 to ensure that local communities do their part to keep the global average temperature from rising more than 2°C; and

WHEREAS, the County and the Cities signed an interlocal agreement in 2018 to contract with Thurston Regional Planning Council to develop a Regional Climate Mitigation Plan and develop Implementation Strategies to be administered by each party; and

WHEREAS, the City of Lacey was an active member of the Steering Committee for the Thurston Climate Mitigation Plan, which guided development of the Plan; and

WHEREAS, a Climate Advisory Workgroup made up of public- and private-sector members of the community with subject matter expertise in energy, construction and building design, real estate, transportation, land use, wastewater, water supply, agriculture, forestry, education, economic development, climate advocacy, community outreach, youth and tribal perspectives provided input on the Plan, including recommended actions; and

WHEREAS, hundreds of community members participated in developing the Plan through focus group meetings, community workshops, interviews, surveys, and other outreach methods over the course of the project; and

WHEREAS, the Steering Committee with input from the Climate Advisory Workgroup articulated the following vision for the Thurston Climate Mitigation Plan: *"Thurston County, Lacey, Olympia, Tumwater, and neighboring tribes recognize the urgent threat and opportunity that climate change poses to our community's economy, public health, public safety, and environment. We will work together to identify and boldly implement the most effective, efficient, and equitable actions to reduce locally generated greenhouse gas emissions to protect current and future generations from the most severe impacts of climate change;"* and

WHEREAS, the Steering Committee completed the Plan, identifying a framework for future climate action, including strategies and actions sufficient to meet the emission reduction targets adopted by the parties; and

WHEREAS, continued coordination, monitoring, and public outreach will be essential to achieving the vision laid out in the Plan; and

WHEREAS, this Plan can only be successful if implemented on a communitywide basis with ongoing support from local governments, private entities, utilities, nonprofits, community groups, neighborhoods, and the public;

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

Section 1. The City Council accepts the document "*Thurston Climate Mitigation Plan*" as a resource for providing background information, informed strategies and actions, and a viable framework for coordinated climate action in the Thurston region.

Section 2. The City Council acknowledges a continuing role for Thurston Regional Planning Council to coordinate regional efforts to address climate change and multijurisdictional participation in implementation of the Plan, share best practices and funding opportunities, and monitor progress toward climate goals and targets; and

Section 3. The City Council agrees to move the Plan forward to their respective staff and planning groups for integration, as appropriate, of relevant action into local plans, regulations, and programs.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

Section 5. Severability. The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 6. Effective Date. This Resolution shall become effective immediately upon adoption and signature as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this ______ day of _______________, 2021.

CITY COUNCIL

BY: ___________________________

Mayor

Attest:

____

City Clerk

Approved as to form:

____

City Attorney

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT:	**Pet Store Ordinance**
RECOMMENDATION:	Motion to adopt Ordinance No. 1579 restricting the retail sale of dogs, cats, and rabbits in pet stores
STAFF CONTACT:	Scott Spence, City Manager Sarah Hock, Executive Director of Animal Services
ORIGINATED BY:	Animal Services Department
ATTACHMENTS:	1. Ordinance 1579 2. JASCOM Ordinance Recommendation Letter
FISCAL NOTE:	None
PRIOR REVIEW:	December 22, 2020, General Government Committee

BACKGROUND:

The Joint Animal Services Commission (JASCOM) recommends the adoption of an ordinance to restrict the retail sale of dogs, cats, and rabbits in pet stores.

Other local communities in the state of Washington have adopted similar measures including Olympia, Bainbridge Island, Bremerton, Gig Harbor, Kitsap County, and Poulsbo, as well as more than 350 other cities, counties, and states that prohibit pet stores from selling commercially bred pets and instead allow for the adoption of pets sourced from shelters or rescue groups.

Preemptive ordinances, such as the one the City of Lacey is considering, protect constituents from predatory lending practices pet store's offer and from inadvertently supporting the puppy mill industry.

This ordinance would not affect any current businesses within the City of Lacey. A humane pet store ordinance is business friendly. The most successful stores, both large chains and small shops, profit from the selling of products for pets and offering in-demand services such as grooming or training. Pet stores such as PetSmart or Petco would still be able to continue business as usual. Point in fact they are industry leaders and examples of a successful business model that partners with animal shelters, humane societies, and other nonprofit rescue groups to promote and adopt out dogs, cats, and rabbits. Last year 1 in 5 adoptable pets found their homes through this partnership nationally.

This ordinance does not take away consumer choice as reputable breeders or individuals sell directly to the public, not through brokers or pet stores. Most reputable breeders belong to their local breed club which have a Code of Ethics prohibiting them from selling in pet stores.

This legislation would not prohibit individuals who choose to breed their pet and place litters with interested individuals or families.

The proposed resolution was reviewed by the General Government Committee on December 22, 2020, and recommended approval of an ordinance relating to restricting the retail sale of dogs, cats, and rabbits in pet stores.

ADVANTAGES:

1. The proposed humane pet store ordinance would not affect current businesses in the City of Lacey.

2. A humane pet store ordinance will protect consumers and City of Lacey residents.

3. It addresses the public health risk pet store puppies pose regarding zoonotic diseases.

DISADVANTAGES:

1. None foreseen.

ORDINANCE No. 1579

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON RELATING TO THE RETAIL SALE OF DOGS AND CATS, CREATING A NEW CHAPTER 7.01 OF THE LACEY MUNICIPAL CODE, AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, pet stores selling live animals have traditionally been a sales outlet for young dogs and cats bred in "puppy mill" and "kitten mills" both within the United States and abroad. According to the Humane Society of the United States, it is estimated that 10,000 puppy mills produce more than 2,400,000 puppies a year in the United States and that most pet store puppies and many pet store kittens come from puppy mills and kitten mills, respectively. When consumers buy puppies and kittens from pet stores, there is a strong likelihood that consumers are unknowingly supporting the puppy mill or kitten mill industry; and

WHEREAS, the documented abuses of puppy and kitten mills include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate food, water and shelter; lack of socialization; lack of adequate space; and the euthanization of unwanted animals. The inhumane conditions in puppy and kitten mill facilities lead to health and behavioral issues with animals, which many consumers are unaware of when purchasing animals from retailers due to both a lack of education on the issue and misleading tactics of retailers in some cases. These health and behavioral issues, which may not present themselves until years after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; and

WHEREAS, the lack of enforcement resources at local, state and federal levels allow many inhumane puppy and kitten mills to operate with impunity. According to The Humane Society of the United States, American consumers purchase dogs and cats from pet stores that the consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases or genetic disorders that present immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to the pet owners; and

WHEREAS, the cities of Lacey, Olympia, Tumwater and Thurston County incur significant costs operating and caring for the treatment of animals brought into Joint Animal Services (JAS), including food, supplies, drugs, medicine and chemical materials for said animals. Each year thousands of dogs and cats are euthanized because they are not wanted, many times due to surrenders by pet owners. This Ordinance should reduce the number of unwanted animals brought to organizations like JAS who may have health or behavioral issues, which would also serve to reduce the financial burden on Lacey's taxpayers. Further, consumers may be more likely to adopt a dog or a cat if dogs and cats were not readily available for purchase in pet stores. Moreover, there is a large financial benefit to consumers who adopt animals, as the fee charged by JAS is in many cases significantly lower than the cost of purchasing a dog or cat from a pet store; and

WHEREAS, a review of inspection reports by the State of California and the United States Department of Agriculture (USDA) from more than one hundred breeders who sold animals to the nation's largest retail pet store chain revealed that more than sixty percent (60%) of the inspections found serious violations of basic animal care standards, including sick or dead animals in their cages, lack of proper veterinary care, inadequate shelter from weather conditions, and dirty, unkempt cages that were too small; and

WHEREAS, according to The Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mill" or "kitten factories," that mass produce animals for sale to the public; and many of these animals are sold at retail in pet stores. Because of the lack of proper animal husbandry practices at these facilities, animals born and raised there are more likely to have genetic disorders and lack adequate socialization, while breeding animals utilized there are subject to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and

WHEREAS, according to USDA inspection reports, some additional documented problems found at puppy mills include (a) sanitation problems leading to infectious disease, (b) large numbers of animals overcrowded in cages; (c) lack of proper veterinary care for severe illnesses and injuries; (d) lack of protection from harsh weather conditions; and (e) lack of adequate food and water; and

WHEREAS, the homeless pet problem notwithstanding, there are many reputable dog and cat breeders who refuse to sell through pet stores and who work carefully to screen families and ensure good, lifelong matches; and

WHEREAS, responsible dog and cat breeders do not sell their animals to pet stores. The United Kennel Club (UKC), the second oldest all-breed registry of purebred dog pedigrees in the United States and the second largest in the world, asks all of its member breeders to agree to a Code of Ethics which includes a pledge not to sell their puppies to pet stores. Similar pledges are included in Codes of Ethics for many breed clubs for individual breeds; and

WHEREAS, across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these stores collaborate with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, the Lacey City Council recognizes that not all dogs and cats retailed in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a "puppy mill" or "kitten factory," it is the City Council's belief that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet stores; and

WHEREAS, the Lacey City Council finds that the current state of retail sale of dogs and cats in pet stores in the City of Lacey is inconsistent with the City's goal to be a community that cares about animal welfare; and

WHEREAS, the Lacey City Council believes that eliminating the retail sale of dogs and cats in pet stores in the City will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the City; and

WHEREAS, the Lacey City Council also believes that elimination of the retail sale of dogs and cats in pet stores in the City will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals; and

WHEREAS, this Ordinance will not affect a consumer's ability to obtain a dog or cat of his or her choice directly from a breeder, a breed-specific rescue or a shelter; and

WHEREAS, in the United States and Canada alone, over forty (40) cities have enacted ordinances addressing the sale of puppy and kitten mill dogs and cats, including Chicago, Illinois; Los Angeles, California; San Diego, California; Albuquerque, New Mexico; Austin, Texas; Brick, New Jersey; Poulsbo, Washington, and Toronto, Canada, to name but a few; and

WHEREAS, current federal and state laws and City ordinances do not properly address the sale of puppy and kitten mill dogs and cats in City business establishments; and

WHEREAS, the Lacey City council believes it is in the best interests of the City to adopt reasonable regulations to reduce costs to the City and its residents, protect the citizens of the City who may purchase cats or dogs from a pet store or other business establishment, help prevent these inhumane conditions, promote community awareness of animal welfare, and foster a more humane environment in the City; and

WHEREAS, the Lacey City Council desires to adopt a new chapter to the Lacey Municipal Code to prohibit the retail sale of dogs and cats in the City of Lacey by adding the language shown below;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. There is hereby added to the Lacey Municipal Code a new Chapter 7.01, Retail Sale of Dogs and Cats, to read as follows:

7.01.010 Definitions

For purposes of this Chapter, the following definitions shall apply:

a. “Animal shelter” means a municipal or related public agency animal shelter devoted to the rescue, care, and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

b. “Dog” means an animal of the Canidae family of the order Carnivora.

c. “Cat” means an animal of the Felidae family of the order Carnivora.

d. “Certificate of source” shall mean a document declaring the source of the dog or cat sold or transferred by the pet store. The certificate shall include the name and address of the source of the dog or cat.

e. “Existing pet store” means any pet store or pet store operator that displayed, sold delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred dogs or cats in the City of Lacey on the effective date of this Chapter, and complied with all applicable provisions of the Lacey Municipal Code.

f. “Pet store” means a retail establishment open to the public and engaging in the business of offering for sale and/or selling animals, including dogs and cats, at retail.

g. “Pet store operator” means a person or legal entity who owns or operates a retail pet store, or both.

h. “Rescue organization” means any nonprofit organization that has tax exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of dogs and cats.

7.01.020 Prohibition on Retail Sale of Dogs and Cats

Notwithstanding any provision in the Lacey Municipal Code to the contrary, no pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the City of Lacey on or after the effective date of this Chapter.

7.10.030 Exemptions

This Chapter does not apply to:

a. A person or establishment that sells, delivers, offers for sale, barters, auctions, gives away, or otherwise transfers or disposes of animals that were bred and reared on the premises of the person or the retail establishment;

b. A publicly operated animal control facility or animal shelter;

c. A charitable, nonprofit animal humane society or animal rescue organization which does not acquire or sell dogs and cats for profit;

d. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

7.01.040 Adoption of Shelter and Rescue Animals
Nothing in this Chapter shall prevent a pet store or its owner or legal entity or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization and maintained at the pet store for the purpose of adopting those animals to the public. No pet store, or its owner or legal entity operating a retail pet store, shall receive any compensation from pet adoptions or for the use of the store and its resources in connection with adoption events.

7.01.050 Record Keeping and Disclosure
A pet store shall maintain records stating the name and address of the publicly operated animal shelter, nonprofit animal humane society or animal rescue organization that each dog and cat was obtained from for at least three (3) years following the date of acquisition. Such records shall be made available upon request to a City code enforcement officer or animal control authority. Each pet shop shall display on each cage or pen containing a dog or cat, a label stating the certificate of source, including the name and address of the animal shelter or nonprofit humane society or animal rescue organization which is the source for each dog or cat kept in the cage or pen.

7.01.060 Right of Entry for Inspection and Enforcement
The City retains all rights of entry into any pet store as allowed by any law, code, constitutional provision, common law, or any other legal authority for purposes of inspection and enforcement of the provisions of this Chapter.

7.01.070 Violations
It shall be a civil infraction pursuant to RCW 7.80.120 for any person or corporation to violate or fail to comply with any of the provisions of this Chapter. Each day shall be a separate infraction. A person or corporation found to have committed a civil infraction shall be assessed a monetary penalty as provided under RCW 7.80.120:

a. A first offense shall be a Class 3 infraction.

b. A second offense arising out of the same facts as the first offense shall be a Class 2 infraction.

c. A third offense arising out of the same facts as the first offense and all further offenses arising out of the same facts as the first offense shall be a Class 1 infraction.

7.01.080 Abatement of Nuisance

The City retains the right to enforce the provisions of this Chapter in superior court by any and all legal means in its sole discretion, including but not limited to pursuing abatement of any nuisance through injunctive relief and warrant of abatement.

Section 2. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make corrections to this ordinance including, but not limited to, the corrections of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 4. The Summary Attached is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this

________________, 2021.

CITY COUNCIL

BY: ________________________

Mayor

Attest: Approved as to form:

____________________________ ________________________

City Clerk City Attorney

Published: ______________________

SUMMARY FOR PUBLICATION

ORDINANCE NO 1579

CITY OF LACEY

The City Council of Lacey, Washington passed on __________________, 2021, Ordinance No. 1579, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON RELATING TO THE RETAIL SALE OF DOGS AND CATS, CREATING A NEW CHAPTER 7.01 OF THE LACEY MUNICIPAL CODE, AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance creates a new Chapter 7.01 of the Lacey Municipal Code related to the retail sale of dogs and cats.
2. The Ordinance approves this summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: _____________________, 2021.

3120 Martin Way E, Olympia, WA 98506-4950
Phone (360) 352-2510, Fax (360) 352-2782

www.jointanimalservices.org

October 20, 2020

Mayor Ryder and Lacey City Council
City of Lacey
420 College Street SE
Lacey, WA 98503

Re: Retail pet sales in the City of Lacey

Dear Mayor Ryder and Lacey City Councilmembers,

The Joint Animal Services Commission recommends the adoption of an ordinance to restrict the retail sale of dogs, cats, and rabbits in pet stores. Banning the commercial sale of pets keeps sick and inhumanely raised animals from being brought into the City of Lacey; it does not restrict people from purchasing a pet from a private breeder.

Other local communities in the state of Washington have adopted similar measures including Olympia, Bainbridge Island, Bremerton, Gig Harbor, Kitsap County, and Poulsbo, as well as more than 350 other cities, counties, and states that prohibit pet stores from selling commercially bred pets, and instead allow for the adoption of pets sourced from shelters or rescue groups.

Pet mills, particularly puppy mills, are a serious problem in the U.S. These facilities, which supply nearly 100% of retail pet stores and online retailers, are cruel and inhumane breeding factories in which profit takes priority over the health, comfort and welfare of the animals.

Although the USDA regulates most commercial breeders, the minimum federal standards do not ensure a humane life for dogs. These types of kennels can legally have more than a thousand dogs in one facility, and these dogs are allowed to be confined to very small cages for their entire lives, breeding continuously in order to produce as many puppies as possible for the pet trade. USDA inspection reports show that many USDA-licensed breeders continue to sell animals to local pet stores even after being cited for serious violations at their facilities. In other words, having a USDA license does **not** ensure humane or responsible breeding.

Further, with the USDA no longer making inspection reports readily available to the public, there is no way for pet stores or consumers to know if the puppies for sale have come from breeding facilities with serious violations of the Animal Welfare Act. Therefore, the idea that pet stores are sourcing from federally regulated breeders doesn't carry much weight. It doesn't protect consumers or animals.

Also concerning is the fact that 21 states have been hit by an outbreak of a strain of bacteria (Campylobacter) that is linked to pet shop puppies. Campylobacter is resistant to antibiotics and contagious to humans. City of Lacey residents should not be exposed to this serious public health threat.

Pet stores that have transitioned from selling dogs, cats, and rabbits to offering rescued pets for adoption have found this animal-friendly model to be both viable and embraced by the communities in which the stores are located. Therefore, a retail pet sales ordinance would not preclude pet stores from doing

3120 Martin Way E, Olympia, WA 98506-4950
Phone (360) 352-2510, Fax (360) 352-2782

www.jointanimalservices.org

business, but would alleviate a significant burden on local shelters and rescue groups by increasing pet adoptions.

The Joint Animal Services Commission thanks you in advance for consider this reasonable and effective measure to protect consumers, pets, and taxpayers in the City of Lacey.

Respectfully,

Joint Animal Services Commission

Lisa Parshley, DVM - Chair
Olympia City Council

Michael Althauser- JASCOM
Tumwater City Council

Kristin Ripka, DVM - JASCOM
South Sound Veterinarians

Cynthia Pratt – Vice Chair
Deputy Mayor, City of Lacey

Tye Menser - JASCOM
Thurston County Commissioner

Doug Howie - JASCOM
President, Thurston County Humane Society

CITY OF LACEY
Shaping our community together

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT:	**Serenity Carpenter Road Annexation. Project no. 20-183.**

RECOMMENDATION:	**Motion to adopt an ordinance to approve the Serenity Carpenter Road Annexation.**

STAFF CONTACT:	Scott Spence, City Manager Rick Walk, Community and Economic Development Director Ryan Andrews, Planning Manager
ORIGINATED BY:	Community and Economic Development Department
ATTACHMENTS:	1. Ordinance 1580 2. Overview Map 3. Petition for Annexation
FISCAL NOTE:	None.
PRIOR REVIEW:	December 3, 2020 City Council Meeting September 24, 2020 City Council Meeting September 8, 2020 Utilities Committee Meeting

BACKGROUND:

The City has received a petition for annexation filed by Serenity Apartment Homes, LLC and the estate of Patrick Hefferman using the 60 percent petition method (RCW 35A.14.120). The Thurston County Assessor's office has verified that the signatures represent not less than 60 percent of the assessed valuation for general taxation of the property for which the annexation has been petitioned (RCW 35A.01.040). The annexation has been sent to the Thurston County Boundary Review Board (BRB) for their review. The BRB has declined to invoke jurisdiction so the application returns to the Council for final consideration in ordinance form.

Proposed Annexation Area

The area proposed for annexation is located in the Tanglewilde/Thompson Place Planning Area and within the Lacey Urban Growth Area east of Carpenter Road SE, west of Kinwood Road SE between Martin Way E and 5th Way SE. The area includes two tax parcels located at 612 and 408 Carpenter Road SE totaling 5.18 acres. The property at 612 Carpenter Road SE contains an existing single-family residence and the property at 408 Carpenter Road SE contains an existing manufactured home—both of which are accessible from Carpenter Road. The remainder of the property is forested. The 2020-2021 assessed value of these parcels is $1,061,200. There are no known critical areas or buffers located on the property.

The parcel located at 612 Carpenter Road SE is zoned Mixed Use High Density Corridor (MHDC). The purpose of the MHDC zone is to provide for commercial and residential uses that serve the needs of the neighborhood and the community as well as enhancing the appearance and identity of the Martin Way Corridor. The southern parcel is zoned Low Density Residential 3-6 (LD 3-6). The purpose of the LD 3-6 zone is to allow single-family residential structures on individual lots with a minimum density of three units per acre and a maximum density of six units per acre. Upon annexation, the zoning of these parcels will remain as currently designated as required by an annexation agreement with Thurston County.

The area proposed for annexation includes two parcels located immediately east and north of the existing Lacey city limits. The configuration is a logical extension of the city limits and would not create any islands or illogical boundaries. With the annexation, the adjacent right-of-way associated with Carpenter Road would also be annexed. This is required under the Thurston County annexation agreement and this portion of Carpenter Road is included in the annexation boundary.

Like other recently completed annexations, the annexation will require the assumption of the City's bonded indebtedness except that it specifically waives the City's portion of the bonded indebtedness associated with Fire District 3. This is to prevent the property owners from paying both the Thurston County fire levy as well as the Lacey fire levy.

The properties are located within the City of Lacey's water service area and are served by an existing 12-inch waterline located in Carpenter Road. The line is adequate to serve the existing and future development of the properties within the proposed annexation area.

City of Lacey sewer service in the area is relatively limited. An existing 8-inch PVC line terminates at the northwest corner of the proposed annexation area. This line is connected to the sewer main in Martin Way that connects to the LOTT treatment plant to the west. Upon development of the properties within the annexation area, sewer service would be required to be extended and connected to this line.

Process

Procedurally, the next step is for the City Council to take final action through passage of an ordinance approving the annexation. Upon final ordinance passage, notification of the annexation is sent to affected agencies and the annexation certification process will be completed.

ADVANTAGES:

1. Annexing the proposed area is a logical extension of city boundaries into an area that will be served by city utilities and will make for more logical municipal boundaries.

DISADVANTAGES:

1. None identified.

ORDINANCE NO. 1580

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, ANNEXING TERRITORY TO THE CITY OF LACEY, ESTABLISHING THE ZONING FOR SUCH PROPERTY, AND APPROVING A SUMMARY FOR PUBLICATION (SERENITY CARPENTER ROAD).

WHEREAS, a legally sufficient petition for annexation was filed seeking annexation of certain properties shown on Exhibit A and described on Exhibit B; and

WHEREAS, the City Council held a public hearing on December 3, 2020, pursuant to legal notice, to consider the petition; and

WHEREAS, the City Council voted to refer the proposed annexation to the Thurston County Boundary Review Board; and

WHEREAS, said proposed annexation was filed with and processed by the Thurston County Boundary Review Board, and jurisdiction was not invoked; and

WHEREAS, the proposed annexation represents a logical extension of the corporate limits of the City of Lacey into its established UGA; and

WHEREAS, the proposed annexation is found to be in compliance with the criteria for annexations established in Chapter 35A.14 RCW.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. That certain territory shown on Exhibit A and described on Exhibit B, each of which exhibits are attached hereto and made a part hereof as though fully set forth at length, is hereby annexed to the City of Lacey.

Section 2. Pursuant to the terms of the petition for annexation of said property, the property within the territory annexed by this Ordinance shall be assessed and taxed on the same basis as property previously within the City for the payment of any bonds issued or debts contracted prior to or existing at the date of this annexation. Provided, however, as it relates to the issue of bonded indebtedness associated with Fire District 3, the City hereby waives the City's portion of such bonded indebtedness for the area of the annexed territory that was already located in Fire District 3, it being the City's intent that these parcels not be levied twice.

Section 3. The zoning and all land use designations within the territory annexed shall be in accordance with the Lacey Comprehensive Land Use Plan and the zoning map for the Lacey Urban Growth Area.

Section 4. This Ordinance shall take effect five (5) days after its passage and publication as provided by law.

Section 5. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make corrections to this ordinance including, but not limited to, the corrections of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 7. The Summary Attached is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this _________________, 2021.

CITY COUNCIL

BY: ___________________________
Mayor

Attest:

____
City Clerk

Approved as to form:

____
City Attorney

Published: _________________________

SUMMARY FOR PUBLICATION
ORDINANCE NO 1580
CITY OF LACEY

The City Council of Lacey, Washington passed on ___________________, 2021, Ordinance No. 1580, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, ANNEXING TERRITORY TO THE CITY OF LACEY, ESTABLISHING THE ZONING FOR SUCH PROPERTY, AND APPROVING A SUMMARY FOR PUBLICATION (SERENITY CARPENTER ROAD)."

The main points of the Ordinance are described as follows:

1. The Ordinance annexes territory to the City of Lacey.

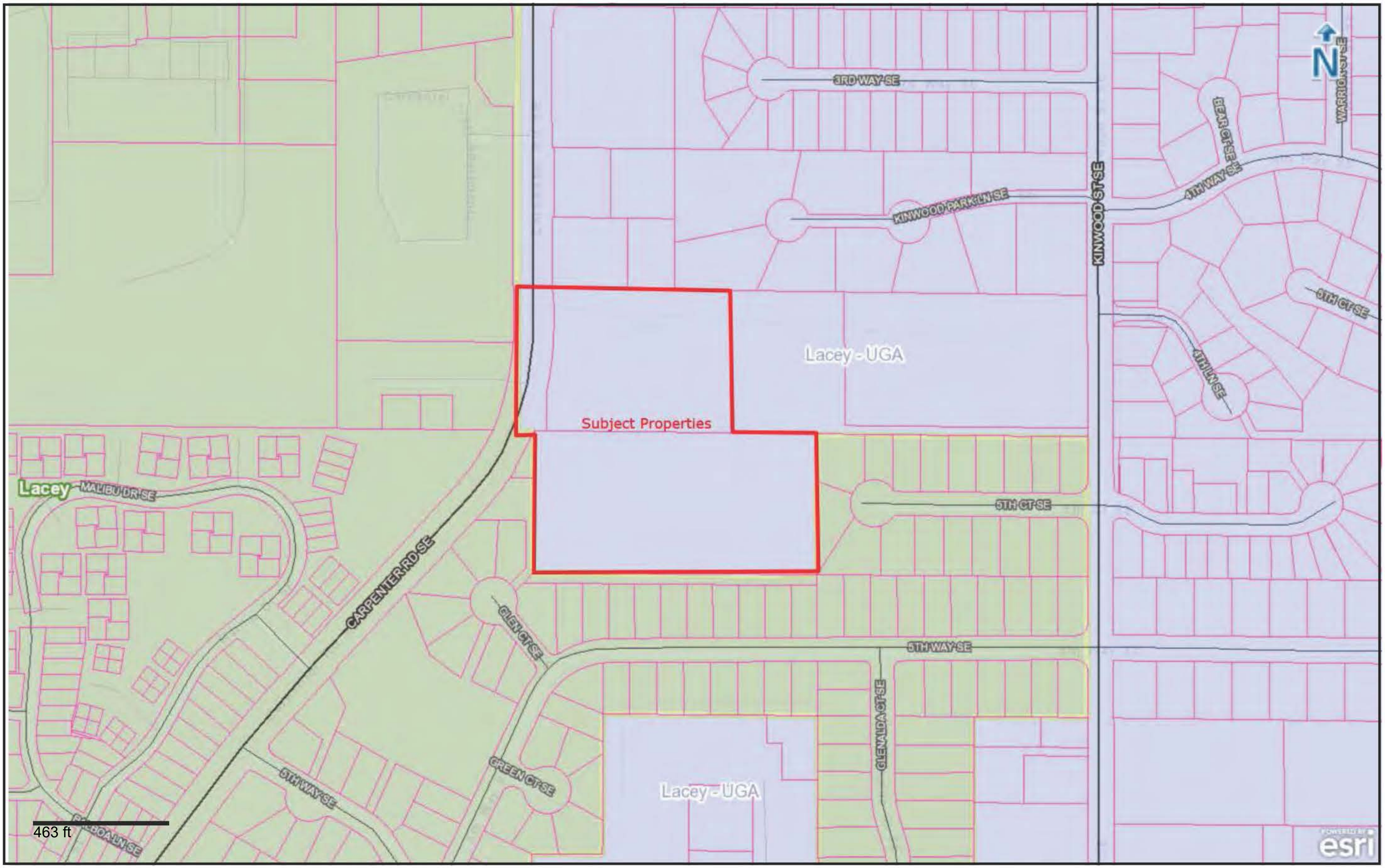
2. The Ordinance maintains the current zoning for the annexed territory

3. The Ordinance approves this summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: ______________________, 2021.

Serenity Carpenter Road Annexation Overview Map



PETITION FOR ANNEXATION
60 PERCENT PETITION METHOD
RCW 35A.14.120

TO: THE HONORABLE CITY COUNCIL of the City of Lacey, State of Washington:

The undersigned, being property owner(s) and representing at least 60% of the assessed value of property herein depicted on Exhibit A and described on exhibit B, do hereby petition to annex this property to the City of Lacey pursuant to RCW 35A.14.120 and under the following terms and conditions.

1. Adoption of __Mixed Use High Density Corridor and Low Density Residential 3-6__ comprehensive plan and zoning designation;

2. Assumption of a pro rata share of the City's bonded indebtedness.

Signature(s) of property owners:

WARNING

EVERY PERSON WHO SIGNS THIS PETITION WITH ANY OTHER THAN HIS/HER TRUE NAME, OR WHO KNOWINGLY SIGNS MORE THAN ONE OF THESE PETITIONS, OR SIGNS A PETITION SEEKING AN ELECTION WHEN HE/SHE IS NOT A LEGAL VOTER, OR SIGNS A PETITION WHEN HE/SHE IS OTHERWISE NOT QUALIFIED TO SIGN, OR WHO MAKES HEREIN ANY FALSE STATEMENT, SHALL BE GUILTY OF A MISDEMEANOR.

NOTE: EACH PAGE WITH A SIGNATURE MUST CONTAIN ALL OF THE ABOVE INFORMATION

Property Owner	Date	Address	Acreage	Parcel No	Assessor Value
Patricia Heffernan Estate Patsy P. Brasel Personal Representative	10-13 2020	408 Carpenter Rd SE Lacey, WA	5 acres	11815310200	$233,300 ~~$250K~~
Serenity apartment Homes, LLC Jeff Powell, mgr	10-26-20	612 Carpenter Rd SE Lacey, Wa	3.18 acres	11815240500	$827,900

LINE TABLE

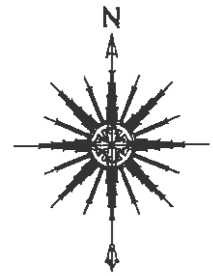
NO.	BEARING	DISTANCE
L1	S 87°40'33" E	30.00
L2	S 03°38'44" E	35.40
L3	S 01°29'50" W	53.80
L4	S 01°29'50" W	92.70
L5	N 87°40'33" W	92.83
L6	S 01°29'50" W	97.98
L7	S 87°40'33" E	101.37

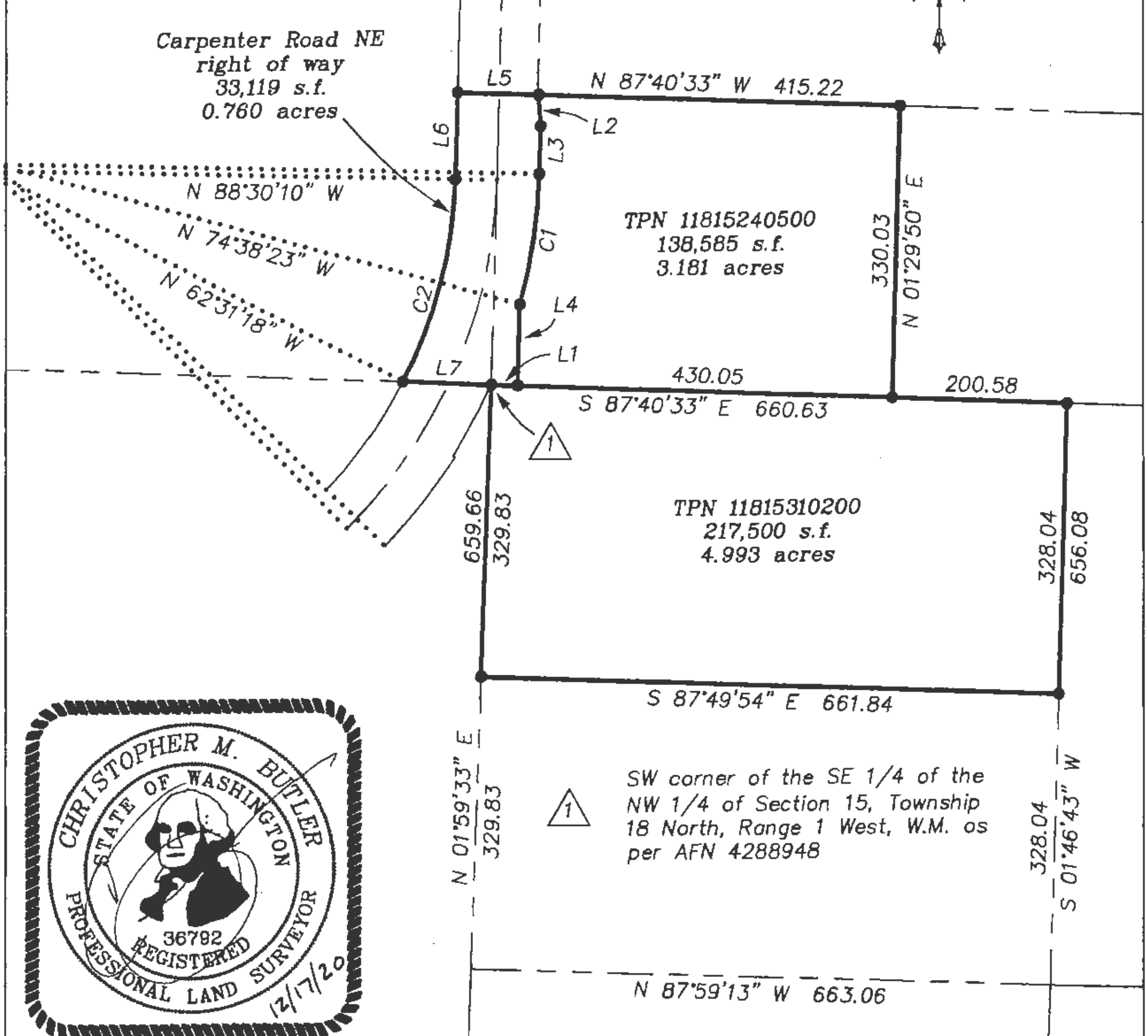
CURVE TABLE

NO	DELTA	RADIUS	LENGTH
C1	13°51'47"	617.95	149.52
C2	25°58'52"	527.95	239.40

EXHIBIT A

A portion of the SW 1/4 & SE 1/4 of the NW 1/4 and the NE 1/4 of the SW 1/4 of Section 15, Township 18 North, Range 1 West, W.M., in the City of Lacey, Thurston County, WA





BUTLER SURVEYING INC.
475 NW CHEHALIS AVENUE
P.O. BOX 149, CHEHALIS, WA 98532
360/748-8803 FAX 360/748-9319

Basis of bearings and section subdivision: Record of survey as recorded under Auditor's File Number 4288948, Records of Thurston County, WA

EXHIBIT B

TPN 11815240500: The west 460 feet of the South 330 feet of the Southeast Quarter of the Northwest Quarter of Section 15, Township 18 North, Range 1 West, W.M., in the City of Lacey, Thurston County, Washington.

EXCEPT the West 30.00 feet for the county road known as Carpenter Road;

ALSO EXCEPT that portion described in right of way deed recorded under Auditor's File Number 4152130, Records of Thurston County, Washington.

TPN 11815310200: The North Half of the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of Section 15, Township 18 North, Range 1 West, W.M., in the City of Lacey, Thurston County, Washington.

CARPENTER ROAD RIGHT OF WAY ADJOINING TPN 11815240500

That portion of the Southwest Quarter and Southeast Quarter of the Northwest Quarter of Section 15, Township 18 North, Range 1 West, W.M., in the City of Lacey, Thurston County, Washington described as follows:

BEGINNING at the southwest corner of said Southeast Quarter of the Northwest Quarter; thence S87°40'33"E along the south line of said subdivision a distance of 30.00 feet; thence N01°29'50"E parallel with the west line of said subdivision a distance of 92.70 feet to the intercept of a curve whose radius point bears N74°38'23"W a distance of 617.95 feet; thence Northerly along said curve through a central angle of 13°51'47" for an arc distance of 149.52 feet; thence N01°29'50"E parallel with said west line a distance of 53.80 feet; thence N03°38'44"W a distance of 35.40 feet; to the north line of the South 330 feet of said subdivision; thence N87°40'33"W along said north line and the westerly extension thereof a distance of 92.83 feet; thence S01°29'50"W parallel with the east line of said Southwest Quarter of the Northwest Quarter a distance of 97.98 feet to a curve to the right whose radius point bears N88°30'10"W a distance of 527.95 feet; thence Southerly along said curve through a central angle of 25°58'52" for an arc distance of 239.40 feet to the south line of said subdivision; thence S87°40'33"E along said south line a distance of 101.37 feet to the Point of Beginning.

CHRISTOPHER M BUTLER
STATE OF WASHINGTON
36792
REGISTERED
PROFESSIONAL LAND SURVEYOR
10/26/20

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT:	**Lacey Commission on Equity**
RECOMMENDATION:	**Motion to approve the proposal on a seven member Commission on Equity that will identify and address issues of inequity through policy improvement, inclusive activities, and educational partnerships.**
STAFF CONTACT:	Scott Spence, City Manager Kelly Adams, Management Analyst
ORIGINATED BY:	City Manager's Department
ATTACHMENTS:	1. Commission Proposal 2. Population by Race (2015-2019 Average) – Census Data 3. Ordinance 1581 - Establish a Commission on Equity
FISCAL NOTE:	The 2021 Lacey City Budget includes $25,000 in addition to elected and staff support.
PRIOR REVIEW:	City Council Worksession – July 2, 2020 City Council Worksession – January 14, 2021

BACKGROUND:

The City of Lacey is the most ethnically and racially diverse community in Thurston County. In 2019, the City formalized a series of exploratory meetings with civic leaders from underrepresented community groups to discover experiences and develop momentum forward on issues of racial inequity and inclusion. Progress on this effort temporarily paused due to the COVID-19 health pandemic in 2020.

Throughout 2020, Lacey elected officials and staff regularly received requests from the community to address issues of inequity for underrepresented groups locally in response to national, regional, and local events. Work previously initiated with civic leaders advanced with a draft proposal and recommendation to create an advisory board to the Lacey City Council called the Commission on Equity.

The primary vision of the Commission on Equity will be to support a welcoming and inclusive City for all members of the Lacey community. To support this effort, the Commission will focus on the improvement of equity through inclusion, education, and policy initiatives. The Commission will address and examine the barriers and constraints that limit the full potential of Lacey community members.

At the January 14 Worksession, the City Council agreed to move forward with the proposal to create a Commission on Equity. As a result, a new chapter to the Lacey Municipal Code will be added, codifying the creation of the commission and affirming the City of Lacey's commitment to equity and inclusion.

ADVANTAGES:

1. The work of the Commission on Equity will help City Council to better serve Lacey's mission to enrich the quality of life in Lacey for <u>all</u> its citizens and to build an attractive, inviting, and secure community.

2. The Commission on Equity will provide a better holistic view of the challenges of municipal growth, including a better insight to the obstacles experienced by the minority owned business community.

3. The Commission on Equity will help to increase public participation in local government including Parks, Culture and Recreation programs, public feedback on policy approaches, voter participation, public safety initiatives, and much more.

4. The work of the Commission on Equity will improve the City's ability to mitigate the risk of discrimination created by policy approaches.

5. Feedback from the Commission on Equity has the potential to improve strategic communication approaches to reach underrepresented community members.

DISADVANTAGES:

1. No disadvantages identified.

Proposal

Commission on Equity

OVERVIEW

The City Council envisions a welcoming and inclusive City for all members of the community. To support this effort, the City Council seeks applicants to serve on a new Commission focused on the improvement of equity through inclusion, education, and policy-related initiatives. The Commission on Equity will strengthen our community by addressing and examining barriers and constraints that limit the full potential of Lacey residents. The Commission on Equity serves in an advisory capacity to the City Council.

COMMISSION GOALS

1. To better understand the needs of underrepresented community members.
2. To identify what voices are missing from government and public policy.
3. To refer equity concerns to the City Council.
4. To develop policy recommendations to the City Council.

PROJECT GOALS

1. Inclusivity
    a. Promote full community participation
    b. Increase representation on Boards and Commission

    c. Provide multilingual communication
    d. Diversify workforce of the City to reflect the diversity of the community
    e. Develop a population and demographic profile to establish current baseline data in tracking progress
2. Education
    a. Acknowledge the extent of the racial inequity program in the City of Lacey and surrounding areas
    b. Create understanding of challenges
    c. Build empathy
    d. Host critical conversations with leadership
    e. Facilitate projects and relationships with community partners
3. Equity
    a. Data analysis
    b. Equity assessment program policy recommendations
    c. Publication/report
    d. Build performance measures

TERM

Members serving on the Commision on Equity will serve a 3-year term. Appointees will be recommended by the Mayor of Lacey and confirmed by the City Council. Members serving on the Commission may serve up to two consecutive terms.

SIZE

The Commission will consist of seven members with broad representation of underrepresented groups in Lacey.

Special thanks to the following contributors who provided their experience, expertise and patience to this effort:

Dr. Thelma Jackson
Tam Dinh, Ph.D., LICSW
Isaia Vimoto
Nam D. Nguyen
Mustafa Mohamedali, PE, PMP

Agenda Item 10-C:

Lacey Commission on Equity

Attachment 2 *Population by Race (2015-2019 Average) – Census Data*

ORDINANCE NO. 1581

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON ESTABLISHING A COMMISSION ON EQUITY TO IDENTIFY AND ADDRESS ISSUES OF INEQUITY THROUGH POLICY IMPROVEMENT, INCLUSIVE ACTIVITIES, AND EDUCATIONAL PARTNERSHIPS, ADDING A NEW CHAPTER 2.34 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, the City of Lacey is the most racially and ethnically diverse city in Thurston County; and

WHEREAS, the City of Lacey is a stronger community *because of* the diversity of background, perspectives, and experiences of its community members; and

WHEREAS, the City of Lacey identifies itself as a welcoming and inclusive city for all members of the Lacey community; and

WHEREAS, the City of Lacey recognizes its responsibility to establish and maintain civic engagement with underrepresented groups in the community, ensuring that differences and gaps are considered in the decision making process for the benefit of all; and

WHEREAS, the City of Lacey is committed to partnering with local civic leaders and organizations to improve communication with underrepresented groups to address areas of concern; and

WHEREAS, City of Lacey employees and elected leaders strongly support these principles and strive to embody these ideals every day as they provide critical public services in an inclusive and equitable manner to all residents, visitors, and businesses in Lacey.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON as follows:

Section 1. There is hereby added to the Lacey Municipal Code a new Chapter 2.34, Commission on Equity, to read as follows:

2.34.010 Creation

There is created a commission to be known as the Commission on Equity which shall perform all of the duties and shall have all of the authority hereinafter set out.

2.34.020 Purpose

The purpose of the commission is to identify and advance opportunities that will create a more welcoming community, continue critical conversations on race and equity, seek greater participation from underrepresented community members, and identify existing gaps and barriers which could prevent full participation in government and public policy.

2.34.030 Membership – Terms

A. The commission shall consist of seven general members and one youth member who reside in the city of Lacey or reside in Lacey's urban growth management area. Commissioners shall be appointed by the mayor, which appointment shall be subject to confirmation by the city council. Terms for general members shall be for three years. General membership on the commission shall be limited to two full consecutive terms. If there are no applicants for a vacant position one month prior to the expiration of term, the incumbent may be reappointed to an additional three-year term by the mayor with the approval of the city council. The general and youth members shall be selected without respect to political affiliations.

B. The youth member shall be at least sixteen years of age (when appointed), enrolled as a junior or senior in the North Thurston School District, or enrolled in private school or homeschooled, and be a resident of the city of Lacey or reside in Lacey's urban growth management area. The youth member shall be appointed to serve for a term of one year. The incumbent youth member may be reappointed to an additional one-year term. Except as outlined in this section, the youth member shall have the same rights and responsibilities of the general members.

C. A majority of the general members of the commission shall constitute a quorum for the transaction of business. The youth member shall not be included in the count to constitute a quorum. Any action taken by a majority of those present when those present constitute a quorum, at any regular or special meeting of the commission, shall be deemed and taken as the action of the commission.

D. The commission members shall not receive any salary or other compensation for services rendered on the commission, but necessary expenses actually incurred and within the budget as set by the annual budget ordinance shall be paid.

E. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired terms. The members shall be selected without respect to political affiliations. The general commissioners may request the resignation of a general and/or youth member who has three or more unexcused absences at regular meetings in a calendar year.

F. General or youth members may be removed from the commission prior to the expiration of their term of office by the mayor with approval of the city council, pursuant to the city of Lacey policy procedure manual and boards and commissions standards, protocols, and ground rules handbook

2.34.040 Organization – Records

A. The commission shall select its own chairperson from within its membership and may create such other offices and adopt all rules as it may deem necessary for the orderly conduct of its business.

B. An accurate record shall be kept of the proceedings of all meetings. These records shall be public and a copy thereof shall be transmitted to the city clerk after each meeting.

2.34.040 Commission Duties and Responsibilities

The commission shall have the power and it shall be its duty, subject to such rules and regulations as may from time to time be prescribed by ordinance, to create policy recommendations, provide data analysis, and address issues related to:

A. Inclusivity;

B. Education; and

C. Equity.

Section 2. This Ordinance shall take effect five (5) days after its passage and publication as provided by law.

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

Section 4. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make corrections to this ordinance including, but not limited to, the corrections of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 5. The Summary Attached is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this

_________________, 2021.

CITY COUNCIL

BY: ________________________

Mayor

Attest: Approved as to form:

______________________________ ___________________________

City Clerk City Attorney

Published: _________________________

SUMMARY FOR PUBLICATION

ORDINANCE NO 1581

CITY OF LACEY

The City Council of Lacey, Washington passed on ________________, 2021, Ordinance No. 1581, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON ESTABLISHING A COMMISSION ON EQUITY TO IDENTIFY AND ADDRESS ISSUES OF INEQUITY THROUGH POLICY IMPROVEMENT, INCLUSIVE ACTIVITIES, AND EDUCATIONAL PARTNERSHIPS, ADDING A NEW CHAPTER 2.34 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance adds a new chapter 2.34 to the Lacey Municipal Code establishing a Commission on Equity.

2. The Ordinance approves this summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: ____________________, 2021.

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT: **Chapter 2.04 – City Council Meetings**

RECOMMENDATION: **Motion to adopt Ordinance 1582 Amending Chapter 2.04 – City Council Meetings**

STAFF CONTACT: Scott Spence, City Manager

ORIGINATED BY: City Manager

ATTACHMENTS: 1. Ordinance 1582 - Amending Chapter 2.04

FISCAL NOTE: No fiscal impact

PRIOR REVIEW: January 14, 2021, Council Worksession

BACKGROUND:

At the Worksession on January 14, 2021, the Lacey City Council discussed a proposal to change when regular meetings and worksessions of Council were to be held during the calendar year.

As per Lacey Municipal Code, Chapter 2.04, regular meetings are held on the second and fourth Thursdays of each calendar month with the exception of the months of January, November, and December of each calendar year. City Council Worksessions are held on Thursdays but occur on the first and third Thursdays of each calendar month with the exception of January, November, and December of each calendar year. During the months of January, November, and December, regular meetings are held on the first and third Thursdays and worksessions are held the second and fourth Thursdays. Historically, the current meeting schedule was put in place to ensure regular meetings did not get canceled due to holidays in November and December.

For consistency and to avoid confusion when regular meetings and worksessions are to be held for the public's business, an amendment is proposed to fix regular meetings of the City

Council on the first and third day of each month of each calendar year. The amendment would establish the second and fourth Thursdays of each month for Worksessions.

ADVANTAGES:

1. Provides consistency throughout the year when regular meetings and worksessions of City Council will be held.

2. The new proposal does not require a change during the months of January, November, and December when regular meetings and worksessions are to be held as the current written code now requires.

DISADVANTAGES:

1. None

ORDINANCE NO. ~~——~~1582

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON RELATED TO THE TME AND PLACE OF CITY COUNCIL MEETINGS, AMENDING SECTION 2.04.010 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON as follows:

Section 1. Section 2.04.010 of the Lacey Municipal Code is hereby amended to read as follows:

The city council shall hold its regular meetings on the ~~second~~ first and ~~fourth~~ third Thursdays of each calendar month ~~with the exception of the months of January, November, and December of each calendar year, during which months the regular meetings of the city council shall be held on the first and third Thursdays~~. All regular meetings of the city council shall commence at 7:00 p.m. on such days and shall be held at Lacey city hall at 420 College Street SE, in the city council chambers at such address, or at such other place as may be determined by the city council in accordance with the requirements of the State Open Meetings Act. Work sessions of the city council which shall be considered regular meetings for purposes of the State Open Meetings Act shall be held at the same time and same place on the ~~first~~ second and ~~third~~ fourth Thursdays of each month ~~with the exception of the months of January, November, and December of each calendar year, during which months such work session meetings shall be held on the second and fourth Thursdays of the month~~.

Section 2. This Ordinance shall take effect five (5) days after its passage and publication as provided by law.

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

Section 4. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make corrections to this ordinance including, but not limited to, the corrections of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 5. The Summary Attached is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this

__________________, 2021.

CITY COUNCIL

BY: ________________________

Mayor

Attest: Approved as to form:

____________________________ ________________________

City Clerk City Attorney

Published: ______________________

SUMMARY FOR PUBLIC~~-~~ATION

ORDINANCE NO ~~______~~1582

CITY OF LACEY

The City Council of Lacey, Washington passed on ___________________, 2021, Ordinance No. ~~______,~~ 1582, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON RELATED TO THE TME AND PLACE OF CITY COUNCIL MEETINGS, AMENDING SECTION 2.04.010 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance amends section 2.04.010 of the Lacey Municipal Code related to the time and place of Council Meetings.

2. The Ordinance approves this summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: ______________________, 2021.

2021 RECOMMENDED COUNCIL ASSIGNMENTS

Edited 1.15.2021

COUNCIL COMMITTEE	DATE / TIME	STAFF CONTACT	LOCATION	CHAIR	MEMBERS
Community Relations	1st Monday - 11:00 a.m.	Dina Christensen 360.413.4387	Council Chambers	**Steadman**	**Cox Steadman Kunkel**
Finance	4th Tuesday – 8:30 a.m.			**Ryder**	**Ryder Pratt Greenstein**
Government	4th Tuesday – 9:30 a.m.			**Pratt**	**Ryder Pratt Greenstein**
Land Use	4th Tuesday – 10:30 a.m.			**Cox**	**Cox Pratt Greenstein**
Transportation	1st Tuesday – 12:00 p.m.			**Cox**	**Cox Miller Steadman**
Utilities	1st Monday – 12:00 p.m.			**Steadman**	**Kunkel Miller Steadman**
INTERGOVERNMENTAL BOARDS & COMMISSIONS	**DATE / TIME**	**STAFF CONTACT**	**LOCATION**	**DELEGATE**	**ALTERNATE**
Community Action Council	4th Wednesday 5:30 p.m. No meeting Nov. or Aug.	Ali Tope 360.438.1100 (x1132)	3020 Willamette Drive NE Lacey, WA 98503	**Steadman**	**Miller**
Economic Development Council	4th Wednesday 12:00 p.m. – 1:30 p.m.	Michael Cade 360.754.6320	4220 6th Avenue SE Lacey, WA 98503	**Kunkel**	**Miller**
Emergency Medical Services	3rd Wednesday 3:30 p.m. – 5:00 p.m.	Sandra Bush 360.704.2784	2703 Pacific Ave SE Olympia, WA 98501	**Greenstein**	**Steadman**
Intercity Transit Authority	1st & 3rd Wednesday 5:30 p.m.	Pat Messmer 360.705.5860	526 Pattison SE Olympia, WA 98501	**Cox**	**Greenstein**
Joint Animal Services Commission	1st Monday 5:30 p.m.	Sarah Hock 360.352.2510	Lacey City Hall Executive Boardroom	**Pratt**	**Miller**
LOTT Clean Water Alliance	2nd Wednesday 5:30 p.m.	Maegen McAuliffe 360.664.2333 x5701	500 Adams Street NE Olympia, WA 98501	**Pratt**	**Greenstein**
Mayors' Forum	1st Friday 12:00 p.m. – 2:00 p.m.	Nicole Williams 360.438.2620	Rotates each month	**Ryder**	**Pratt**
Olympia-Lacey-Tumwater Visitor & Convention Bureau	3rd Tuesday 3:00 p.m. - 5:00 p.m.	Jeff Bowe 360.704.7544	Various Locations	**Kunkel**	**Miller**
Olympic Region Clean Air Agency	2nd Wednesday 10:00 a.m.	Debbie Moody 360.539.7610	2940 Limited Lane NW Olympia, WA 98502	**Pratt**	**Cox**
Regional Housing Council	3rd Thursday 4:30 p.m.	Nicole Boyes 510-910-1119	Zoom Webinar	**Cox**	**Greenstein**
Solid Waste Advisory Committee	1st Wednesday 10:00 a.m. – 11:30 a.m.	Amanda Romero 360.867.2282	9605 Tilley Road South Olympia, WA 98512	**Kunkel**	**Greenstein**
TCOMM 911	1st Wednesday 3:30 p.m.	Bre Skaggs 360.704.2729	2703 Pacific Ave SE, Rm. 119 Olympia, WA 98501	**Greenstein**	**Steadman**
Thurston County Law & Justice Council	January 21, April 15, July 15, October 21 4:30 p.m. – 6:00 p.m.	Mia Pagnotta 360.786.5868	2000 Lakeridge Drive Building 1, Room 280 Olympia, WA 98502	**Steadman**	**Greenstein**
Thurston Regional Planning Council	1st Friday 8:30 a.m. (except Jan & July, 2nd Fri)	Burlina Lucas 360.956.7823	2424-A Heritage Ct. SW Olympia WA 98502	**Miller**	**Cox**
Thurston Thrives	3rd Monday 3:00 p.m. – 5:00 p.m.	Krosbie Carter 360.357.3362	809 Legion Way SE Olympia, WA 98501	**Miller**	**Kunkel**
Transportation Policy Board	1st Friday 8:30 a.m.	Burlina Lucas 360.956.7823	2424-A Heritage Ct. SW Olympia WA 98502	**Ryder**	**Steadman**
AD HOC COMMITTEES	**DATE / TIME**	**STAFF CONTACT**	**LOCATION**	**DELEGATE**	**ALTERNATE**
Law Enforcement Officers & Firefighters (LEOFF)	AS NEEDED	Kalie Nichols 360.438.2680	Executive Boardroom	**Greenstein**	**Steadman**
Lodging Tax Advisory Committee (LTAC)		Nicole Williams 360.438.2620	Council Chambers	**Miller**	**N/A**
Thurston Chamber Shared Legislative Committee		Dave Schaffert 360.357.3362	TBD	**Ryder**	**N/A**
Thurston County Coalition Against Trafficking (TCCAT)		Mary Shockman 360.259.7704	Executive Boardroom	**Miller**	**N/A**
Lacey South Sound Chamber		Blake Knoblauch 360.491.4141	TBD	**Kunkel**	**Steadman**
Lacey Youth Council		Kelly Adams 360.412.2892	Council Chambers	**Ryder**	**Pratt**

LACEY CITY COUNCIL MEETING
January 21, 2021

SUBJECT: **Mosure 54th Avenue Annexation. Project no. 20-312**

RECOMMENDATION: **Approve a motion to proceed with the proposed Mosure 54th Avenue annexation proposal that includes the following provisions:**

1) **Authorize the applicants to circulate a petition and gather signatures of property owners representing at least 60% of the assessed value of the annexation property demonstrating their consent to annex;**

2) **Require the assumption of all or of any portion of existing City indebtedness by the area to be annexed; and**

3) **Waive the requirement for completion of an annexation study in accordance with the City's annexation policies prior to adoption of an ordinance to formally annex the area or make application to the Boundary Review Board.**

STAFF CONTACT: Scott Spence, City Manager SS
Rick Walk, Community and Economic Development Director RW
Ryan Andrews, Planning Manager RA

ORIGINATED BY: Community and Economic Development by Private Applicant

ATTACHMENTS:
1. Notice of Intent to Commence Annexation
2. Overview Map
3. Existing Zoning
4. Aerial Photo
5. Existing Sewer Lines
6. Existing Water Lines and Service Areas

FISCAL NOTE: None

PRIOR REVIEW: January 4, 2021 Utilities Committee Meeting

BACKGROUND:

The City has received a notice of intent to commence annexation proceedings filed by Patty Mosure for a single parcel located on 54th Avenue SE. The filing of the notice is the first step in the annexation process under the petition method (RCW 35A.14.120), which requires a petition filed by property owners representing a minimum of 10% of the valuation of the area proposed for annexation. The City has verified that the ownership does comprise a minimum of more than 10% of the assessed valuation for general taxation purposes of the properties for which annexation is requested.

As a result of the petition, the City Council must pass a motion notifying the petitioners of its approval, rejection, or modification of the annexation area's geographical boundaries. If the Council votes to approve the 10% petition, then the applicant moves forward on obtaining a petition from a total of 60% of the assessed valuation of the area.

Proposed Annexation Area

The area proposed for annexation is located in the Lakes Planning Area and within the Lacey Urban Growth Area east of Ruddell Road SE and north of 54th Avenue SE between Lakehills Street SE and Alderglen Drive SE. The area includes one tax parcel (parcel is currently unaddressed but has an assessor's parcel no. 11834320000) totaling 9.83 acres. The property is undeveloped and is accessible from 54th Avenue SE which is a Lacey city street. The 2020-2021 assessed value of this parcel is $222,000. There are critical areas on the site including Southwick Lake and a wetland. Prior to development of the site, a critical area report will need to be prepared to ensure that the development meets the requirements of the City of Lacey's Shoreline Master Program and wetland regulations contained in chapter 14.28 of the Lacey Municipal Code.

The parcel is zoned Low Density Residential 0-4. The purpose of the LD 0-4 zone is to allow single-family residential development at a density of up to 4 units per acre for larger lot size development adjacent to environmentally sensitive areas. Upon annexation, the zoning of these parcels will remain as currently designated as required by an annexation agreement with Thurston County.

Annexation Boundary

The area proposed for annexation a single parcel that is surrounded on three sides by the existing Lacey city limits. The configuration is a logical extension of the city limits and would not create any islands or illogical boundaries. All streets accessing the property including 54th Avenue SE and 53rd Avenue SE are City of Lacey rights-of-way.

The City Council does have the opportunity to modify any boundaries prior to the applicant proceeding with the annexation. The only area that the annexation could be expanded into would be the existing Forest Glen subdivision to the east. Staff is not recommending that the annexation be expanded to include this area because of the City does not hold any power of attorney agreements for the Forest Glen parcels which would require a significant number of Forest Glen property owners to sign a petition for annexation.

Utilities

The proposed annexation area is located within the City of Lacey's water service area and is served by an existing 10-inch waterline located in 54th Avenue SE and an 8-inch waterline in 53rd Avenue SE within the Lake Hills subdivision to the west. The lines are adequate to serve the future development of the proposed annexation area.

City of Lacey sewer service is provided by existing 10-inch PVC line in 54th Avenue SE. An existing 2-inch step line is available in 53rd Avenue, however, staff is recommending that the future development associated with this property be required to connect to the gravity line in 54th Avenue.

The area is also served by private utilities including Puget Sound Energy and Comcast. No issues are expected concerning provision of these utilities to the area.

Taxes, Fees, and Services

Typically, as part of an annexation proposal, a full annexation study is performed to outline all issues associated with the annexation including taxes and fees. However, with this property, very little tax revenue is gained through the proposed annexation. It is the City Council's option to require an annexation study; however, staff believes that in this case there is little to be gained by completing a study.

Comments were received from the Lacey Police Department about service to this area. Based on the property's limited capacity for future development, the annexation would not create traffic or call load issues for the Lacey Police Department that would be insurmountable for the existing operations division.

Process

The applicant has submitted a notice of intent to commence annexation using the petition method of annexation (RCW 35A.14.120). Using the petition method, property owners representing a minimum of 10 percent of the assessed valuation of the property proposed for annexation are required to submit the notice. After filing the petition, the City Council must pass a motion notifying the petitioners of its approval, rejection, or modification of the annexation area's geographical boundaries. Prior to full City Council review of the annexation, the City Council Utilities Committee has reviewed the application for the provision of utilities and is recommending approval. If the Council votes to approve the petition, then the applicant moves forward on obtaining a petition from a total of 60% of the assessed valuation of the area. Once the City receives the 60% petition, the City can move forward on annexation proceedings.

Recommendation

The City Council will review the annexation request under the 60% petition method and is requested to pass a motion indicating the following:

1. Authorize the applicants to circulate a petition and gather signatures of property owners representing at least 60% of the assessed value of the annexation property demonstrating their consent to annex;

2. Require the assumption of all or of any portion of existing City indebtedness by the area to be annexed; and

3. Waive the requirement for completion of an annexation study in accordance with the City's annexation policies prior to adoption of an ordinance to formally annex the area or make application to the Boundary Review Board.

NOTICE OF INTENT TO COMMENCE ANNEXATION PROCEEDINGS

The following owners of land do hereby certify that we are the owners of not less than 10% in value, according to assessed valuation for general taxation, of the following described property (as generally described on the attached exhibit and legal description) which is contiguous to the City of Lacey and hereby provide notice to the City Council of the City of Lacey of the landowners intent to commence annexation proceeding pursuant to Ordinance 510. Pursuant to Section 35A.14.120 of the Revised Code of Washington, the landowners request the Council to set a public meeting at which time this annexation proposal may be considered. The landowners hereby waive the requirement to set a date no late than sixty days after the filing of the request.

Exhibit and Legal Description (see attached)

Warning: Every person who signs this notice with any other that his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Property Owner	Signature	Date	Address	Acreage	Parcel No.
Patty Mosure	Patty Mosure	11/6/2020		9.83	11834320000

I hereby certify that I have examined the above petition as well as the Assessor's rolls for the area described and I have determined that the petitioners are the owners of not less than 10% in value, according to the assessed valuation for general taxation, of the described area to be annexed.

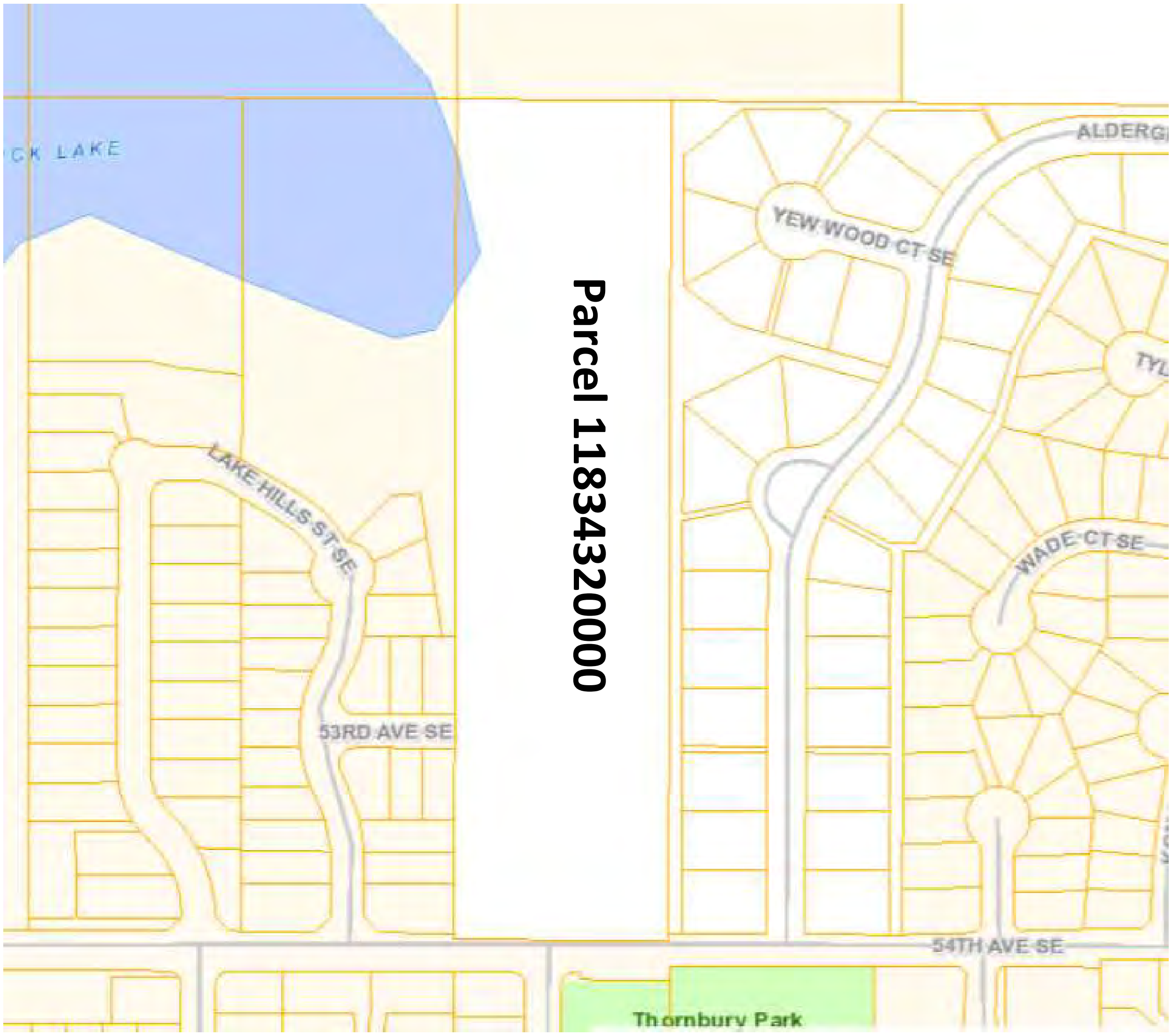
In determining whether this petition contains the signatures of owners of not less than 10% in value according to the assessed valuation for general taxation purposes I have used the same method that the Thurston County Assessor would use to define assessed valuation for general taxation purposes as the date affixed below.

Signed this ____________ day of ____________, 20__

____

Director, Community & Economic Development Department

Thurston County Parcel 11834320000 Map



CLOSE

When recorded return to:
Patricia A. Mosure and Henry Jakala
1211 215th Place SW
Lynnwood, WA 98036

READ AND APPROVED

DocuSigned by: Patricia M — DocuSigned by: Henry Jakala

DocuSigned by: — DocuSigned by: Jennifer Chap

DocuSigned by: Ivy Styron — DocuSigned by: Jacob Styron

STATUTORY WARRANTY DEED

THE GRANTOR(S) Silver King Development Corporation, a Washington corporation

for and in consideration of Ten And No/100 Dollars ($10.00) , and other valuable consideration in hand paid, conveys, and warrants to Patricia A. Mosure and Henry Jakala, wife and husband and Craig D Chapline and Jennifer K Chapline, husband and wife and Ivy J. Styron and Jacob C. Styron wife and husband

the following described real estate, situated in the County of Thurston, State of Washington:

The West quarter of the Northwest quarter of the Southwest quarter of Section 34, Township 18 North, Range 1 West, W.M.; excepting therefrom the South 20 feet for County Road known as 54th Avenue Southeast.

In Thurston County, Washington.

Abbreviated Legal: (Required if full legal not inserted above.)

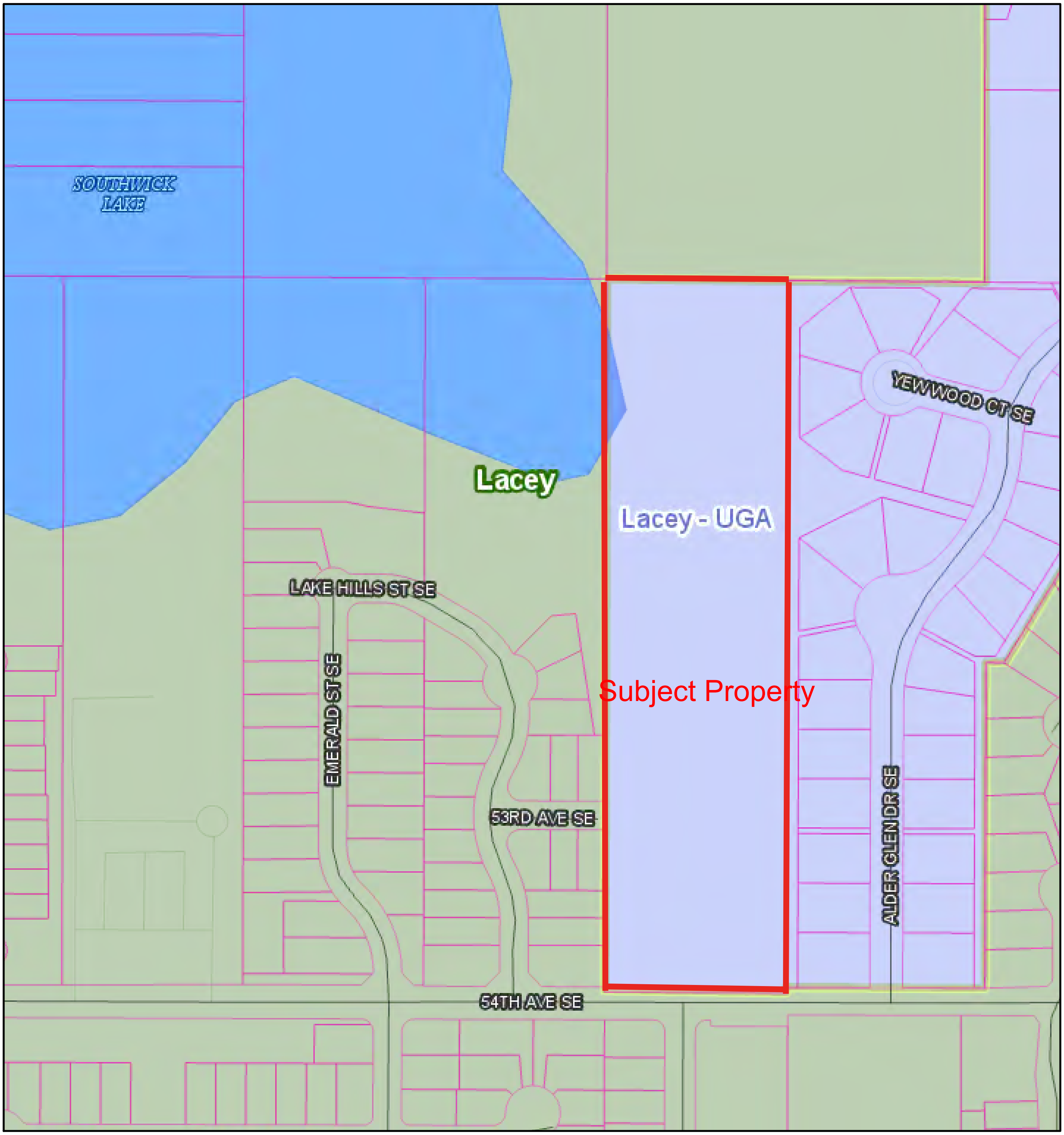
Tax Parcel Number(s): 11834320000

Subject to:

1. Statement of Intent Not to Convert and the terms and conditions thereof:

   Recording Date: March 15, 1995
   Recording No.: 9503150171

Mosure 54th Avenue Annexation Overview



12/21/2020, 9:42:04 AM

1:4,514

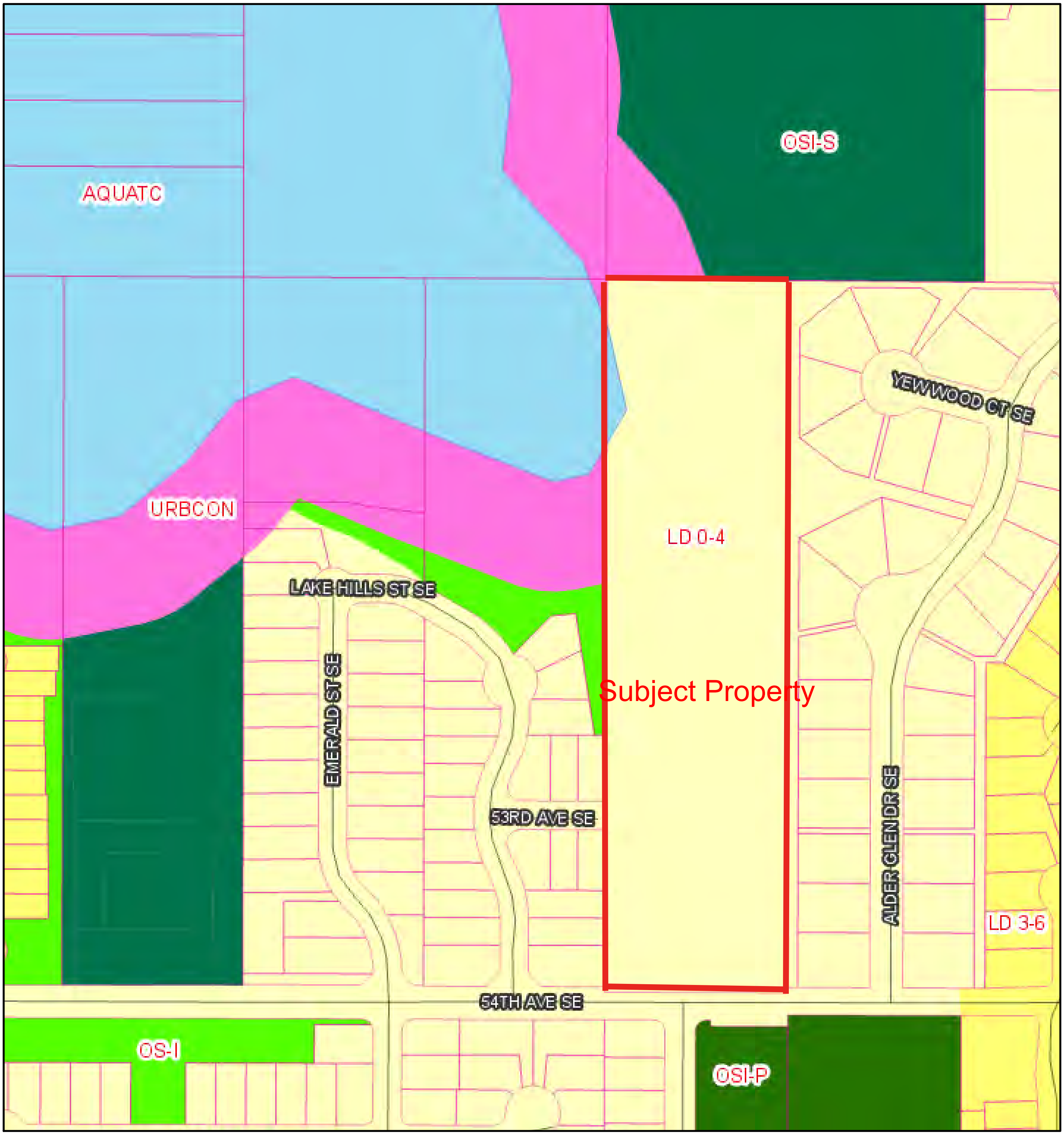
0 0.03 0.05 0.1 mi
0 0.04 0.08 0.16 km

Olympia
UGA
City Limits
Stream
Water Bodies
Lacey Streets
Interstate 5
US/State Routes
Major Roads
Minor Roads
Unnamed
Railroad
Lacey Area Parcels

GIS Coordinator, City of Lacey

Lacey C&ED

Mosure 54th Avenue Annexation Zoning



12/21/2020, 9:48:27 AM

1:4,514

0 | 0.03 | 0.05 | 0.1 mi

0 | 0.04 | 0.08 | 0.16 km

Lacey Zoning

- MGSA McAllister Geologically Sensitive Area
- LHN Lacey Historic Neighborhood
- LD 0-4 Low Density Residential
- LD 3-6 Low Density Residential

GIS Coordinator, City of Lacey

Lacey C&ED

Mosure 54th Avenue Annexation Aerial Photo

12/21/2020, 9:44:22 AM

1:4,514

0 0.03 0.05 0.1 mi

0 0.04 0.08 0.16 km

Lacey Streets

Interstate 5

US/State Routes

Major Roads

Minor Roads

Unnamed

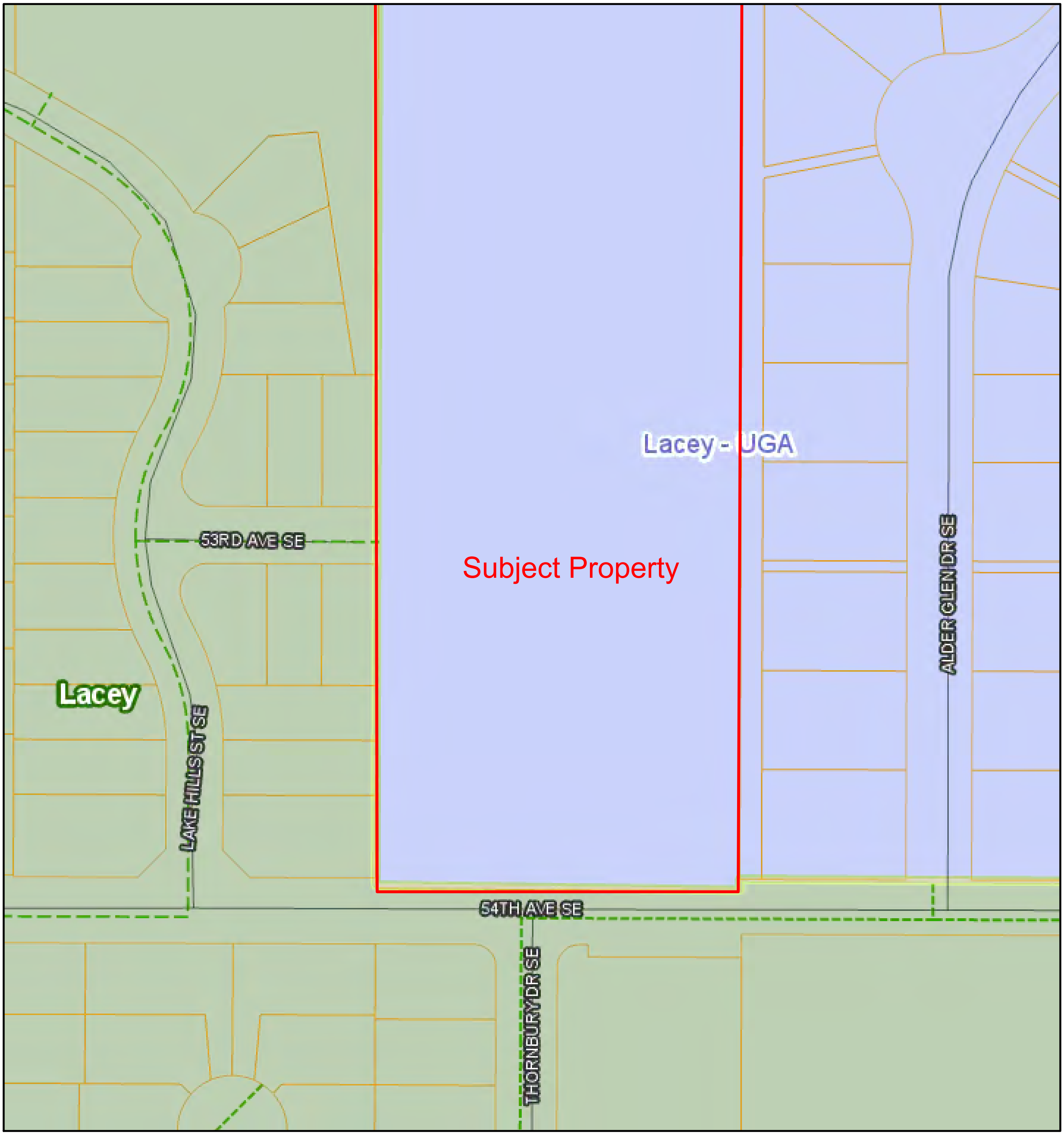
Railroad

Lacey Area Parcels

GIS Coordinator, City of Lacey

Lacey C&ED

Mosure 54th Avenue Annexation Sewer Lines



12/21/2020, 10:04:15 AM

1:2,257

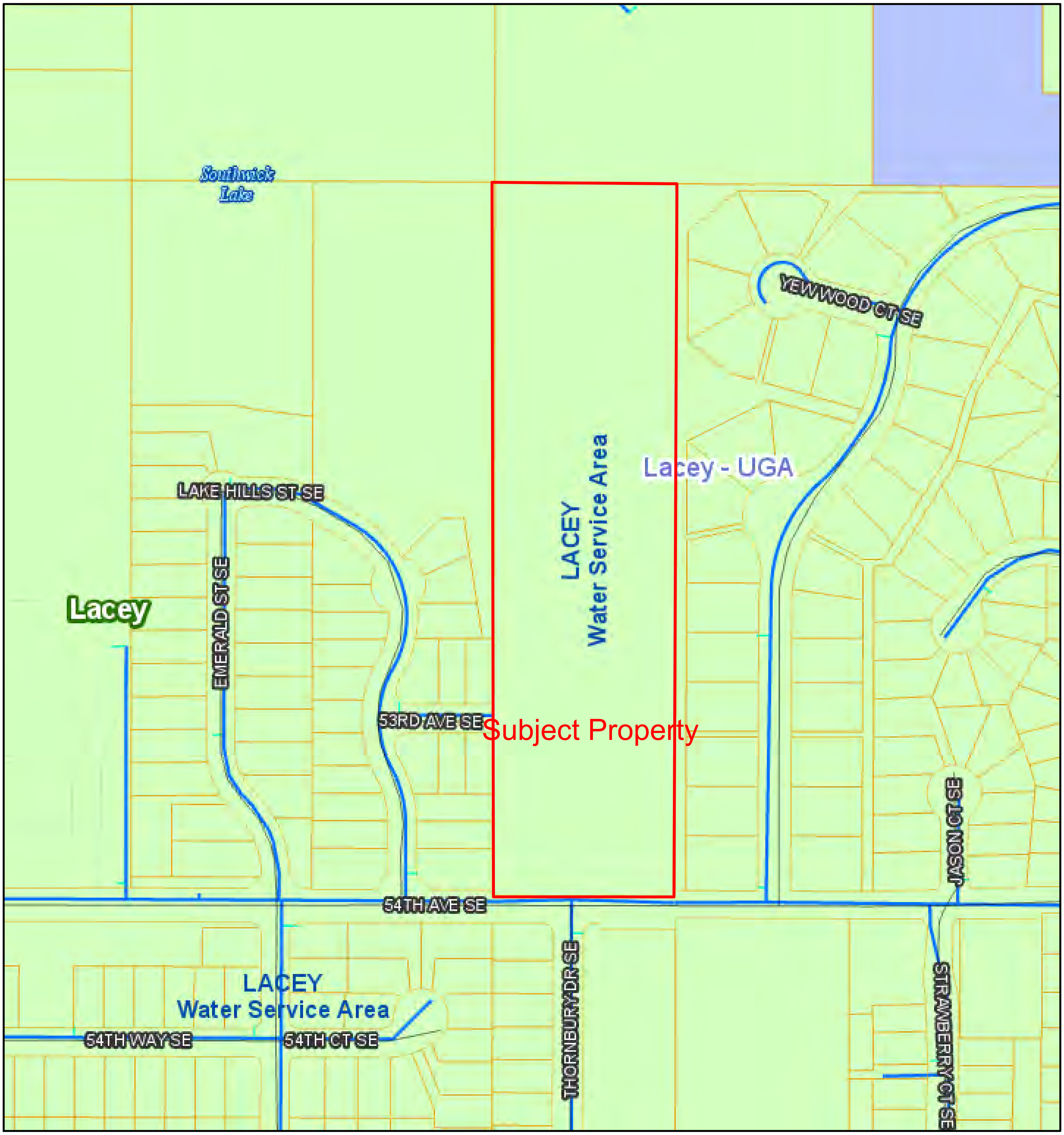
0	0.01	0.03	0.05 mi
0	0.02	0.04	0.08 km

Sewer Main

- Force Main, COL
- Gravity Main, COL
- STEP Main, COL
- Force Main, LOTT
- Gravity Main, LOTT
- Force Main, PVT/Other
- Gravity Main, PVT/Other
- STEP Main, PVT/Other
- Force Main, Thurston
- <all other values>
- Olympia
- UGA
- City Limits
- Stream

Web AppBuilder for ArcGIS
Earthstar Geographics | Fugro USA Land, Inc. |

Mosure 54th Avenue Annexation Water Lines and Service Areas



12/21/2020, 9:58:19 AM

1:4,514

0	0.03	0.05	0.1 mi
0	0.04	0.08	0.16 km

Olympia
UGA
City Limits
Stream
Water Bodies
Railroad
Lacey Streets
Interstate 5
US/State Routes
Major Roads
Minor Roads
Unnamed
Water Mains
WS, COL
WS, PVT/OTHER

Web AppBuilder for ArcGIS
Earthstar Geographics | Fugro USA Land, Inc. |

COMMUNITY RELATIONS & PUBLIC AFFAIRS COMMITTEE MINUTES

JANUARY 7, 2021

11:00 A.M. – 11:17 A.M.

REMOTE ONLY

COUNCIL PRESENT: COUNCILMEMBERS STEADMAN (CHAIR), GREENSTEIN, KUNKEL AND COX

STAFF PRESENT: SCOTT SPENCE, JEN BURBIDGE, SCOTT DEVLIN, PERI EDMONDS, DINA CHRISTENSEN

ACTION: APPROVE COMMUNITY RELATIONS & PUBLIC AFFAIRS COMMITTEE AGENDA

MOTION: MOTION MADE, SECONDED AND CARRIED BY COUNCILMEMBERS KUNKEL AND STEADMAN

NEW MUSEUM & CULTURAL CENTER LOGO

PRESENTER: JEN BURBIDGE, PARKS, CULTURE & RECREATION DIRECTOR

ACTION: INFORMATION ONLY

Staff presented the new Lacey Museum and Cultural Center logo. The new logo is a nod to the culture of Lacey with a mid-century design that is meant to be classic, yet modern and smart. The logo includes colors of the new Depot and colors which will be used throughout Lacey parks. Several variations and a monogram were provided which compliment the new Parks logo.

The Committee requested staff review the horizontal logo spacing between "Lacey" and "Museum" before making a final decision.

BLUE STAR MEMORIAL AT CIVIC PARK

PRESENTER: JEN BURBIDGE, PARKS, CULTURE & RECREATION DIRECTOR
SCOTT DEVLIN, PARKS MAINTENANCE SUPERVISOR

ACTION: INFORMATION ONLY

The Blue Star Memorial at Civic Park has been completed. City Parks Maintenance will be responsible for maintenance of the memorial site.

The Gold Star Memorial is underway and a combined grand opening celebration for both memorials will be scheduled once COVID restrictions allow.

Staff provided the Committee an update on the Elf Hunt which was a success. Residents were encouraged to find all 12 elves in Lacey parks and submit an “Elfie” photo. There were 125 participants overall. All submissions were eligible to win a prize. A total of 25 families found all 12 elves and earned a chance to win an additional prize.

UTILITIES COMMITTEE MINUTES

JANUARY 4, 2021
12:00 P.M. – 12:17 P.M.
REMOTE ONLY

COUNCIL PRESENT: COUNCILMEMBERS STEADMAN (CHAIR), KUNKEL AND MILLER

STAFF PRESENT: SCOTT SPENCE, RICK WALK, RYAN ANDREWS, PERI EDMONDS, DINA CHRISTENSEN

ACTION: APPROVE UTILITIES COMMITTEE AGENDA
MOTION: MOTION MADE, SECONDED AND CARRIED BY COUNCILMEMBERS KUNKEL AND MILLER

MOSURE 54TH AVENUE ANNEXATION PROJECT NO. 20-312

STAFF: RYAN ANDREWS, PLANNING MANAGER
ACTION: RECOMMEND TO FULL COUNCIL FOR APPROVAL TO PROCEED WITH MOSURE 54TH AVENUE ANNEXATION PROPOSAL INCLUDING PROVISIONS PRESENTED
MOTION: MOTION MADE, SECONDED AND CARRIED BY COUNCILMEMBER STEADMAN AND KUNKEL

The City has received a notice of intent to commence annexation proceedings filed by Patty Mosure for a single parcel located on 54th Avenue SE. The filing of the notice is the first step in the annexation process under the petition method, which requires a petition filed by property owners representing a minimum of 10% of the valuation of the area proposed for annexation. The City has verified that the ownership does comprise a minimum of more than 10% of the assessed valuation for general taxation purposes of the properties for which annexation is requested.

The annexation is for a single undeveloped tax parcel totaling 9.83 acres. The 2020-2021 assessed value of this parcel is $222,000. There are critical areas on the site including Southwick Lake and a wetland. Prior to development of the site, a critical area report will need to be prepared to ensure the development meets the requirements of the City of Lacey's Shoreline Master Program and wetland regulations contained in chapter 14.28 of the Lacey Municipal Code.

The parcel is zoned Low Density Residential 0-4. Upon annexation, the zoning of these parcels will remain as currently designated as required by an annexation agreement with Thurston County.

The area proposed for annexation is a single parcel surrounded on three sides by the existing Lacey city limits. The configuration is a logical extension of the city limits and would not create any islands or illogical boundaries.

The proposed annexation area is located within the City of Lacey's water service area and served by an existing 10-inch waterline located in 54th Avenue SE and an 8-inch waterline in 53rd Avenue SE within the Lake Hills subdivision to the west. The lines are adequate to serve the future development of the proposed annexation area. City of Lacey sewer service is provided by existing 10-inch PVC line in 54th Avenue SE. An existing 2-inch step line is available in 53rd Avenue; however, staff is recommending the future development associated with this property be required to connect to the 54th Avenue gravity line.

Typically, as part of an annexation proposal, a full annexation study is performed to outline all issues associated with the annexation including taxes and fees. However, with this property, very little tax revenue is gained through the proposed annexation. It is the City Council's option to require an annexation study; however, staff believes in this case there is little to be gained by completing a study.

Comments were received from the Lacey Police Department about service to this area. Based on the property's limited capacity for future development, the annexation would not create traffic or call load issues for the Lacey Police Department that would be insurmountable for the existing operations division.

The applicant recently purchased the property and plans to build three homes for herself and her adult children at the southern end of the parcel. They do not intend to develop that portion north portion of the property, which is primarily wetlands.

The Utilities Committee reviewed the annexation proposal to verify the City can effectively provide utility service to the proposed annexation area and reviewed the boundaries of the annexation area for any recommended modifications. The City Council must now pass a motion notifying the petitioners of its approval, rejection, or modification of the annexation area's geographical boundaries.

The Committee reviewed the annexation request under the 60% petition method and recommends the Council pass a motion indicating the following:

1. Authorize the applicants to circulate a petition and gather signatures of property owners representing at least 60% of the assessed value of the annexation property demonstrating their consent to annex;

2. Require the assumption of all or of any portion of existing City indebtedness by the area to be annexed; and

3. Waive the requirement for completion of an annexation study in accordance with the City's annexation policies prior to adoption of an ordinance to formally annex the area or make application to the Boundary Review Board.

TRANSPORTATION COMMITTEE MINUTES

JANUARY 5, 2021
12:00 – 1:03 P.M.
REMOTE ONLY

COUNCIL PRESENT: COUNCILMEMBERS CAROLYN COX (CHAIR), MICHAEL STEADMAN, AND MALCOLM MILLER

STAFF PRESENT: SCOTT SPENCE, SCOTT EGGER, ROGER SCHOESSEL, MARTIN HOPPE, AUBREY COLLIER, SHAWN CUNHA, PERI EDMONDS, DINA CHRISTENSEN

ACTION: APPROVE TRANSPORTATION COMMITTEE AGENDA
MOTION: MOTION MADE, SECONDED AND CARRIED BY COUNCILMEMBERS MILLER AND STEADMAN

TIB AWARD & TRANSPORTATION DESIGN UPDATES

STAFF: MARTIN HOPPE, TRANSPORTATION MANAGER
ACTION: INFORMATION ONLY

Transportation Improvement Board (TIB) grant awarded in November 2020 in the amount of $2.8 million (state funds funded by the state gas tax).

The following transportation design updates for current projects were presented:

- College Street NE Extension
  - Extend College Street from 6th Avenue NE to 15th Avenue NE to relieve traffic from residential streets
  - Transportation Benefit District (TBD) funds to overlay and stripe remainder of College Street NE and 6th Avenue
  - Design begins in 2021, right-of-way acquisition by 2022, and construction to begin in 2023
- College Street & 16th Avenue Roundabout – Phase 3
  - College Street Corridor Plan from Lacey Blvd to 18th Avenue; roundabout at 16th Avenue
  - Design began in 2020, right-of-way acquisition and construction schedules are dependent on future grant awards
  - TRPC federal grant - $905,180 (design only)
- College Street & 29th Avenue Roundabout – Phase 4
  - TRPC federal grant - $1.4 million for design only for 2022
  - College Street Corridor Plan from 37th/Mullen to 25th Avenue
  - Roundabout at 29th Avenue and Belair Drive

- Design begins in 2023, right-of-way acquisition and construction schedules dependent on future grant awards
- Electric Vehicle Charging Stations
  - TRPC federal grant - $281,590
  - Partnership with North Thurston Public Schools (NTPS)
  - Install stations at NTPS District Office, City Hall, Library, and Community Center
  - Right-of-way acquisition in 2021, construction in 2021 or 2022 depending on funding availability
- Carpenter & Britton Parkway Roundabout
  - City funded
  - Design begins 2021, right-of-way acquisition in 2022, construction required to begin before 2026
- Sycamore Bike Route
  - City funded
  - Install bike route from 22nd Avenue to Lacey Blvd
  - Route is Lacey Blvd, Alder Street, Gemini Street to Sycamore Street
  - Shop will install Summer 2021
- College Pedestrian Crossing
  - City funded
  - Install pedestrian crossing at College Street and Woodland Square Loop with raised median
  - In process of purchasing of right-of-way

CONSTRUCTION UPDATE

STAFF: AUBREY COLLIER, DESIGN & CONSTRUCTION MANAGER
ACTION: INFORMATION ONLY

Staff presented the Committee with the following construction updates:

- Ruddell Road Retaining Wall
  - Tree removal complete
  - Construction has begun
- Mullen Road Improvements
  - Water system construction complete
  - Working on sewer and storm work
  - Construction complete in August 2021
  - Managed by Thurston County
- Hawks Prairie Roundabout
  - Improvements to the intersection of Hawks Prairie Road and Marvin Road
  - Expansion of the existing roundabout
  - Completed storm water system
  - Installing curb and gutter
  - Work is weather dependent
- Capitol City Water and Wastewater
  - Phase 1 converts 175 homes from septic to sewer (50% complete)

    - Construction complete in June 2021
    - Advertise Phase 2 late January 2021
- Avonlea Sidewalk Repairs
    - Replacing buckling sidewalks
    - Notice to proceed in mid-January
- Hawks Prairie Sister Standpipe
    - Includes construction of 2 million gallon steel reservoir and frontage improvements on Marvin Road
    - Notice to proceed in early January
    - Construction to be completed end of 2021

LACEY SNOW & ICE PROGRAM

STAFF: SHAWN CUNHA, MAINTENANCE SUPERVISOR
ACTION: INFORMATION ONLY

An update of the snow and ice program was presented:

Improvements:

- Plow Route Expansion
    - Additional plows have been purchased
    - 3 plows originally/2 in south, 1 in NE
    - Added additional plows (2 large and 1 small) which expanded the routes
- Salt Storage Increase
    - Ability to store more salt
- Accelerated De-icing Response
    - Additional trucks added will improve response times
- Materials
    - Ice Kicker – new product. Better pavement stick and dust reduction. Better pricing, better brine production. Will phase out the older inventory of salt.

FUTURE COMMITTEE MEETING TIME

Due to the time, the Committee agreed to discuss this item at the next meeting scheduled for February 2, 2021.

- Current scheduled time