

Return Address:

Project No. _____

Parcel Number(s) _____

Additional legal(s) on page _____

OUTSIDE UTILITY EXTENSION AGREEMENT

(PETITION FOR ANNEXATION, ANNEXATION AGREEMENT AND DECLARATION OF COVENANT)

(LEGAL DESCRIPTION IN HERE)

The Agreement executed herein between the City of _____, Washington, a municipal corporation, hereinafter referred to as the "CITY" and _____ hereinafter referred to as the "Owner," and the heirs, assigns, and/or successors in interest of certain property, hereinafter referred to as "OWNER", is for and in consideration of the furnishing of utility service by the CITY to certain property of the OWNER hereinafter referred to as "PROPERTY". The OWNER does hereby petition for and agree to annexation of the PROPERTY to the CITY, and does hereby agree to the conditions of annexation herein, and does hereby declare this covenant.

1. ACKNOWLEDGMENTS AND REPRESENTATIONS

The OWNER does hereby acknowledge and agree as follows:

1.1. The OWNER is the owner of certain PROPERTY, which is located outside the corporate limits of the CITY.

1.2. The OWNER is seeking Preliminary Plat approval from _____ County for the PROPERTY.

1.3. The OWNER has requested the CITY to furnish _____ (water and/or sewer) services to the PROPERTY, which the owner understands and agrees may be limited by issues including the Endangered Species Act (ESA) and other governmental agencies.

Outside Utility Extension Agreement

Project # _____

(date)

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1.4. This Agreement to extend _____ (water and/or sewer) services outside the corporate limits of the CITY is authorized by RCW 35.67.310, RCW 35.91.020 and RCW 35.92.170, and shall not be construed as an agreement pursuant to RCW 82.02.020 and therefore the provisions of RCW 82.02.020 shall not be applied hereto. The OWNER hereby acknowledges the authority of the City to enter into utility extension agreements pursuant to RCW 35.67.310, RCW 35.91.020 and RCW 35.92.170, and as part of the consideration of the City entering into this agreement, and the concessions and accommodations of standards otherwise applicable, the OWNER covenants not to challenge this agreement or the authority under which it was made. The OWNER also hereby acknowledges that neither this Agreement nor the action of the CITY to make and/or approve this Agreement constitutes a land use decision within the meaning and purpose of the Land Use Petition Act (LUPA), pursuant to RCW Chapter 36.70C. The concessions and accommodations negotiated by the parties in this Agreement included, but are not limited to:

1.5. This Agreement does not preclude any evaluation and determination by the CITY that later development actions or proposals undertaken by the OWNER may require a determination of significance and environmental review under SEPA.

1.6. The CITY'S Comprehensive Plan requires annexation or a commitment to future annexation and compliance with certain other conditions as a prerequisite for the extension of utility service outside the corporate limits of the CITY.

1.7. Washington law recognizes a City's requirement of an annexation agreement or a commitment to future annexation as a condition of extending utility service outside the corporate limits of the CITY.

1.8. Extension of utility services beyond CITY limits is subject to the authority of the _____ County Boundary Review Board, and said Board requires that such extensions be conditioned on annexation or efforts toward annexation.

1.9. The PROPERTY is located within the CITY'S POTENTIAL ANNEXATION AREA or URBAN SERVICE AREA for annexation purposes as adopted by the CITY in its Comprehensive Plan pursuant to the _____ County Countywide Planning Policies.

1.10. It is in the interest of the citizens of the CITY to insure that all developments which are or could be constructed within the corporate limits of the CITY or will be ultimately annexed into the CITY, are constructed in accordance with CITY development standards as defined by section _____ of the _____ Municipal Code.

1.11. The OWNER'S request for the extension of utility services was duly considered by the CITY, and it was determined that the furnishing of _____ (water and/or sewer) services to the PROPERTY would be proper upon the fulfilling of all conditions and covenants herein.

1.12. The OWNER does hereby acknowledge that in the event of violation or breach of the terms of this OUTSIDE UTILITY EXTENSION AGREEMENT, or upon the invalidation of this AGREEMENT by judicial action, operation of law or otherwise, the CITY reserves the right at its sole discretion to immediately terminate the provision of utility service to the PROPERTY and in such case the Owner agrees to indemnify and hold the CITY harmless from any and all claims of any party.

2. PROPERTY DESCRIPTION

The PROPERTY is hereby described as follows:

OR

The PROPERTY is legally described in Attachment A, attached hereto and represented by reference as if set forth in full. The OWNER warrants that Attachment A is correct as fully describing subject PROPERTY.

3. PETITION AND COVENANT FOR ANNEXATION

The OWNER, in consideration of the CITY'S agreement to provide utility service to the PROPERTY, does hereby petition, agree and covenant as follows:

3.1. The OWNER does hereby apply for and petition for annexation of the PROPERTY to the CITY and thereby agrees, promises and covenants that if at any time the PROPERTY is included within any area which is being considered for annexation to the CITY, said OWNER does join in said annexation and by this PETITION does provide this NOTICE OF

INTENT TO ANNEX and that the petition referred to herein is irrevocable. The OWNER recognizes and agrees that by signing this Agreement, the PROPERTY of the OWNER will automatically be included as a property to be annexed in the event the PROPERTY is within a proposed annexation area.

3.2. The OWNER agrees to execute all necessary documents such as applications, letters, notices, petitions or other instruments initiating, furthering or accomplishing the annexation of the PROPERTY to the CITY, whether or not the annexation involves the assumption by the area to be annexed of existing CITY indebtedness, the application to the area to be annexed of the CITY Comprehensive Plan and land use controls, and such other conditions as the CITY may lawfully impose. The OWNER, for him/her/themselves and for his/her/their heirs, successors and assigns, agrees and covenants with the CITY, and to the present and future owners of the PROPERTY to which this covenant relates, that this agreement is to constitute a covenant running with the land, and shall burden such land that he/she/they shall, whenever so requested, execute such letters, notices, petitions or other instruments. Owner agrees to immediately record this document and specifically advise future interests in the property.

3.3. The OWNER recognizes that the laws of the State of Washington relating to the annexation of property by a city provides that property may be annexed to a city if property owners, equal to sixty percent of the assessed value of property within the area proposed to be annexed, sign a petition for such an annexation.

3.3.1 The OWNER further recognizes that other methods of annexation are allowed under the laws of the State of Washington, including the election method.

3.4. The OWNER understands that the OWNER'S signatures on this Agreement is an admission that the OWNER understands the certain rights which the OWNER has regarding the PROPERTY and that the OWNER is willingly waiving such rights in consideration of receiving the described utility services.

3.5. The OWNER understands and agrees that upon annexation by the CITY, the PROPERTY annexed shall be assessed and taxed at the same rate and on the same basis as property within the CITY is assessed and taxed to pay for any then outstanding indebtedness of the CITY which was contracted prior to, or existing at, the date of annexation.

3.6 The undersigned OWNER of the PROPERTY, on behalf of himself/herself/themselves, his/her/their heirs, successors and assigns, hereby designate(s) the CITY as OWNER'S true and lawful attorney-in-fact for the purpose of signing any petition leading to the annexation of said PROPERTY to the CITY, with full power to do and perform any proper act which the OWNER may do with respect to the annexation of said real property.

The CITY may exercise this power through its City Clerk or otherwise as the CITY COUNCIL may direct. This Special Power of Attorney is given for the valuable consideration of the furnishing of water and/or sewer service by the CITY, and this Special Power of Attorney is further given as security for performance of the annexation covenant obligation set forth herein. This Special Power of Attorney is not revocable and shall not be affected by the disability of the principal.

3.7 The OWNER agrees on his/her/their behalf and on behalf of his/her/their heirs, successors and assigns that the OWNER will not protest the future formation of any local improvement district for any or all of the following: domestic water, sewer service, streets, street lighting and storm water facilities, including regional detention and water quality facilities, for any district which includes the PROPERTY affected by this agreement.

4. AGREEMENT OF CONDITIONS AND/OR MITIGATION MEASURES OF APPROVAL

The OWNER, in consideration of the CITY'S agreement to provide _____ (water and/or sewer) services to the PROPERTY, and in recognition of the CITY's conditions for annexation of the PROPERTY, does hereby agree to comply with the following:

4.1. _____

4.2. _____

4.3. _____

4.4. _____

4.5. _____

5. GENERAL PROVISIONS

The OWNER and the CITY do hereby acknowledge and agree to the following provisions, which apply to the entire Agreement herein.

5.1. The OWNER agrees that all future land use and development on the PROPERTY will meet all land use and development standards of the CITY. In the event of a conflict between CITY standards and any applicable County standards, the more restrictive standards as determined by the CITY shall apply.

5.2. Nothing in this agreement shall be construed to create any financial obligation on the part of the CITY with regard to annexation, construction of utility facilities and appurtenances, or any other matter. The OWNER and the CITY hereby acknowledge that it is the OWNER'S responsibility to finance the design and construction of utility facilities needed to serve OWNER'S property consistent with CITY plans and specifications, unless otherwise agreed by the CITY.

5.3. The OWNER agrees to allow CITY, at CITY'S option, plan review and approval prior to construction, and CITY inspection during construction of all public improvements as they are built, regardless of the ownership of such improvements, and shall reimburse the CITY for any reasonable costs incurred in such plan review and inspection.

5.4. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.

5.5. If for any reason of any default or breach on the part of either the OWNER or the CITY in the performance of any of the provisions of this Agreement a legal action is instituted, the party not prevailing agrees to pay all reasonable costs and attorney fees and costs in connection therewith. It is hereby agreed that the venue of any legal action brought under the terms of this Agreement shall be _____ County, Washington. The applicable laws, rules, and regulations of the State of Washington and the CITY shall govern this Agreement.

5.6. The terms and provisions of this OUTSIDE UTILITY EXTENSION AGREEMENT shall inure to the benefit and become binding upon the heirs, assigns and/or successors in interest of the parties hereto and is a covenant running with the land. The OWNER agrees to indemnify and hold the CITY harmless from any claims that any subsequent purchaser may have as a result of this Agreement, including CITY's attorney fees and costs.

5.7. Any notice or demand required or permitted to be given under this Agreement shall be sufficient if given in writing and sent by registered or certified mail, return receipt requested, to the address of the parties set forth below. Any notice shall be deemed to have been given on the date it is deposited in the U.S. Postal Service mail with postage prepaid.

5.7.1 The OWNER warrants that the OWNER will undertake, and be responsible for, all notifications, including recording, to all parties of interest and future parties of interest.

5.8. In the event that any term, provision, condition, clause or other portion of this Agreement be held to be inoperative, invalid, void, or in conflict with applicable provision, condition, clause or other portion of this Agreement, and the remainder of this Agreement shall be effective as if such term, provision, condition or other portion had not been contained herein, and to this end, the terms of this Agreement are declared by the parties to be severable, PROVIDED that the extension of utility services by the CITY is expressly conditioned upon the OWNER and DEVELOPER making the improvements to the PROPERTY in accordance with the standards described herein; and Failure of the OWNER and DEVELOPER to do so as promised shall terminate any responsibility on the CITY's part to provide such utility services.

5.9. Upon execution, this Agreement shall be recorded with the _____ County Auditor's office. The OWNER shall be responsible for recording and shall provide evidence of such recording to the CITY.

IN WITNESS WHEREOF, the OWNER and the CITY hereto have executed this Agreement as of this _ day of _____, 200__.

[OWNER]

CITY OF _____

By: _____
Its: _____

Mayor

Attest:

By: _____
Its: _____

City Clerk

Approved as to form:

City Attorney

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

On this _____ day of _____, 200__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____, to me known as the Mayor and City Clerk, for the City of _____, the corporation who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said City of _____, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

NAME

NOTARY PUBLIC in and for the State of
Washington, residing at _____
MY COMMISSION EXPIRES: _____

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

On this _____ day of _____, 200__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ [on behalf of the OWNER], the person(s) who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person(s), for the uses and purposes therein mentioned, and [if the OWNER IS A CORPORATION or other entity warranting authorized signatures] on oath stated that they are authorized to execute said instrument on behalf of said OWNER.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

NAME

NOTARY PUBLIC in and for the State of
Washington, residing at _____
MY COMMISSION EXPIRES: _____

ATTACHMENT A

LEGAL DESCRIPTION:

