

## SURFACE USE AGREEMENT

Between

King County Department of Natural Resources and Parks, Wastewater Treatment Division  
and

City of Bothell for the  
1<sup>st</sup> Lt. Nicholas Madrazo Memorial Park  
North Creek Storage Facility

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This Surface Use Agreement (“Agreement”) is made by and between King County through its Department of Natural Resources and Parks, Wastewater Treatment Division, a home rule charter county and a political subdivision of the State of Washington, (“King County” or “County”) and the City of Bothell a non-charter code city of the State of Washington (“City”) for the use, development, construction and maintenance of a public use park area with active recreation, including, but not limited to a full basketball court, two tennis courts and a field area for youth soccer, youth baseball, volleyball and similar activities at the King County North Creek Wastewater Storage Facility Property as more particularly described herein. County and City may also be referred to individually as a “Party” and collectively as the “Parties.”

IN CONSIDERATION of the promises, covenants and other provisions set forth in this Agreement, the County and the City agree as follows:

### **1. BACKGROUND**

- 1.1. King County, a home rule charter county and political subdivision of the State of Washington is the owner of the North Creek Storage Facility depicted in Exhibit A and described with greater particularity in Exhibit B to this Agreement. The North Creek Storage Facility is located on property in the City of Bothell, King County, Washington, with the address 18707 North Creek Parkway, Bothell, WA 98011 (the “North Creek Storage Facility Property”). The North Creek Storage Facility Property is a part of the Quadrant Business Park Plat (which is also referred to herein as the “Bothell Business Park”). The North Creek Storage Facility Property is subject to, among other things, the Declaration of Covenants, Conditions and Restrictions and the Development Standards and Declaration of Covenants, Conditions and Restrictions for the Quadrant Business Park-Bothell (hereinafter, collectively referred to as the “Bothell Business Park CCRs”).
- 1.2. On or about May 7, 2001 the County and the City entered into an agreement entitled Memorandum of Agreement by and between the City of Bothell and King County regarding mitigation for the North Creek Storage Facility (hereinafter “North Creek Storage Facility Mitigation Agreement”). In consideration of the Parties' intent for the North Creek Storage Facility Mitigation Agreement to provide for mitigation projects at the North Creek Storage Facility Property, the County and the City have agreed to develop this surface use agreement to allow the City to develop a portion of

the North Creek Storage Facility Property for a public park with active recreational components. The Parties agree that the County's performance under this Agreement fulfills all its obligations under the North Creek Storage Facility Mitigation Agreement.

- 1.3. The "City Use Site" or "Site" shall be defined as set forth herein as that certain surface portion of the North Creek Storage Facility Property comprising approximately 3.01 acres of the North Creek Storage Facility Property as legally described in Exhibit C and depicted in Exhibit D attached hereto and incorporated by this reference. If there is a discrepancy between Exhibit C and any other exhibit purporting to describe or illustrate the City Use Site, then the legal description of the Site in Exhibit C shall prevail.
- 1.4. This Surface Use Agreement is expressly conditioned upon and subject to the approval of the King County Council by ordinance.
- 1.5. King County Code Section 4.56.150(e) authorizes the Department of Natural Resources and Parks, to enter into agreements for the use of King County land by governmental agencies that provide a service to the public.
- 1.6. Under the terms of the North Creek Storage Facility Mitigation Agreement, the City intends to develop a park with active recreation, including but not limited to a full basketball court, two tennis courts and a field area for youth soccer, youth baseball, volleyball and similar activities at the North Creek Storage Facility Property under the terms and conditions set forth in this Agreement.

## **2. TERM OF AGREEMENT**

- 2.1. **EFFECTIVE DATE.** The effective date ("Effective Date") of this Agreement is the date of execution by the last Party to execute this Agreement. The initial term of this Agreement shall be ten (10) years from the Effective Date (the "Initial Term") unless otherwise terminated pursuant to the provisions of this Agreement. At the expiration of the Initial Term, the term of this Agreement shall be renewed automatically for successive additional ten (10) year periods each on the same terms and conditions as set forth herein, provided that the City is then in compliance with the terms and conditions of this Agreement. Upon mutual agreement the Parties may modify this Agreement during the Initial Term or during a renewal term.
- 2.2. **TEMPORARY DISTURBANCE OF CITY USE SITE.** The North Creek Storage Facility Property is a working wastewater storage facility and part of the County's regional wastewater treatment system. The County may need to alter, repair, replace, maintain, modify or re-configure the North Creek Storage Facility requiring the temporary use and/or disturbance of all or a portion of the North Creek Storage Facility Property, including all or a portion of the City Use Site. If this becomes

necessary, then in accordance with the provisions of the North Creek Storage Facility Mitigation Agreement the County shall fully restore the City Facilities (as defined in said agreement) that are damaged by the operation, maintenance and capital improvement work.

- 2.3 **TERMINATION FOR PERMANENT EXPANSION OF WASTEWATER FACILITIES.** If during the term of this Agreement, all of the City Use Site is permanently needed by the County to expand, enlarge or re-configure the North Creek Storage Facility, then the County may terminate this Surface Use Agreement by providing the City with one-hundred eighty (180) days' notice. If the County terminates this Agreement in order to expand, enlarge or re-configure the North Creek Storage Facility, and the City is not in breach of this Agreement then the County shall be responsible to pay for the relocation or replacement (whichever is less) of the park improvements that are in place at the time of such termination to a location within the City of Bothell city limits. The County's financial responsibility for such termination shall not exceed the value of (1) the Surface Use Agreement and (2) the park improvement facilities in place at the time of the County's termination. The value of the Surface Use Agreement and park improvements in place at the time of such termination shall be determined by an independent appraiser, selected as described herein.

If the County terminates this Agreement under this provision then within ten (10) calendar days of giving the above-referenced notice of termination, each Party shall designate, in writing, not more than three (3) candidates, who must each be a Member of the Appraisal Institute, that it proposes to act as the independent appraiser to determine the value of the Surface Use Agreement and park improvements in place at the time of such termination. If the Parties cannot agree on one of the appraisers from the combined list within five (5) calendar days, then the Parties shall promptly meet and select an appraiser by blind draw from the combined list. The cost for the appraisal services shall be borne equally between the Parties, each Party paying one-half of the cost. This section shall only apply if the County terminates the Agreement in order to expand, enlarge or re-configure the North Creek Storage Facility and only if the City is not otherwise in breach of the Agreement at the time of termination.

If the City is in breach of the Agreement, then the County may terminate this Agreement as provided in Section 5.26 herein and shall have no further obligations to the City regarding the City Use Site.

### **3. USE, MAINTENANCE, AND OPERATION OF CITY USE SITE**

- 3.1. **CITY USE.** The City shall have a right to use the City Use Site for use as a park for recreation purposes as described in this Agreement and for no other activities or purpose without the written consent of the County. The City agrees to provide for public access to the City Use Site, as described herein. The City may apply rules for

public use applicable to its parks in similar use which do not conflict with the terms of this Agreement. The City shall not assign this Agreement of the City Use Site without the express written consent of the County which consent may be withheld in the County's sole and absolute discretion

- 3.2. **AS-IS CONDITION.** The City has inspected and knows the condition of the North Creek Storage Facility Property and agrees to accept the City Use Site in its present as is condition. The City is not relying on any representation or warranties, express or implied, of any kind whatsoever with respect to the City Use Site and hereby waives any claim for warranty of merchantability, habitability or fitness for a particular purpose.
- 3.3. **NO WARRANTIES.** King County does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, with respect to the City Use Site, and no official, employee, representative or agent of King County is authorized to represent otherwise.
- 3.4. **NO OBLIGATION OF COUNTY FUNDS.** King County is, and shall be, under no obligation directly or indirectly to pay for any labor, material, equipment or improvements associated with the City Use Site other than the mitigation funds provided under the Memorandum of Agreement dated March, 2001, previously paid to the City, except where said labor, material or improvements are directly related to King County's use of the North Creek Storage Facility Property as provided in Sections 3.6 and 3.7, and elsewhere in this Agreement.
- 3.5. **COUNTY OWNERSHIP.** King County shall retain ownership of the City Use Site and the North Creek Storage Facility Property, including all improvements, permanent fixtures and County-purchased equipment. The City acknowledges and agrees that permission to use or occupy the City Use Site is of a temporary nature and vests no permanent rights in the City to use or occupy the City Use Site. No legal title or leasehold interest in the City Use Site shall be deemed or construed to have been created or vested in the City by anything contained in this Agreement.
- 3.6. **FUTURE WASTEWATER FACILITY CONSTRUCTION.** The City shall allow the construction of future wastewater facilities on the City Use Site by the County. The County will make a reasonable attempt to minimize disruption of the City Use Site by the County's construction and will provide the City at least 180 days' notice prior to the start of such construction. The County shall have the right to make repairs to the City Use Site while unaccompanied by the City. The County shall notify the City as soon as reasonably possible after the County's knowledge of the need for access and emergency repairs and minimize as far as possible disruption to any City-built improvements. The County shall fully restore the City Facilities (as defined in the North Creek Storage Facility Mitigation Agreement) if they are damaged by County operation, maintenance, and capital improvement work.

- 3.7. **ACCESS AND ENTRY BY KING COUNTY.** King County, its employees, agents and contractors may enter the City Use Site during the City's usage for any reason, including but not limited to performing routine operations, maintenance, inspections, making repairs, additions or alterations to the North Creek Storage Facility Property or any property owned by or under the control of the County, including underground facilities. The City shall provide the County keys to any installed locks and fencing for the City Use Site. King County has the right to use any and all means that King County deems necessary to open locks and gates to obtain entry to the City Use Site. The County shall notify the City as soon as reasonably possible after the County's knowledge of the need for access and/or repairs and minimize as far as reasonably possible disruption to any City-built improvements and the use of the City Use Site. Provided, however that the County may enter the City Use Site without prior notice for routine maintenance and inspection.
- 3.8. **USER FEES.** The City retains the right to charge reasonable use fees, as authorized by the City of Bothell City Council for use of the facility to offset the on-going cost of maintenance and operations of the City Use Site. Non-city users will be charged the same fee(s) that apply to city residents.
- 3.9. **SOLICITATION.** Canvassing, soliciting or peddling on the City Use Site is prohibited except by concession contract, or special use permit issued by the City, not to exceed a duration of three (3) days in length. The City shall not issue a concession contract, special use permit or other authorization or approval for use of the City Use Site for canvassing, soliciting or peddling for a term of more than three (3) days without the prior written approval from the County, which may be withheld in the County's sole discretion and judgment.
- 3.10. **POSTING SIGNS, POSTERS AND NOTICES.** Use, placement or reset of any signboard, sign, billboard, bulletin board, post hole or device of any kind for advertising on the City Use Site or placing or erecting a temporary structure is prohibited except by concession contract or special use permit issued by the City in accordance with the Bothell Municipal Code. Any such signboard, sign, billboard, bulletin board, post hole or device shall not be approved or allowed by the City unless it has been approved in advance, in writing, by the County, which approval may be withheld in the County's sole discretion and judgment, and is also in compliance with the Bothell Business Park CCRs.
- 3.11. The City shall establish and deposit any fees or proceeds it receives pursuant to the activities authorized in sections 3.8, 3.9 and 3.10 into a single purpose fund for the sole and exclusive benefit of the maintenance and operation of the City Use Site.
- 3.12. **HOURS OF USE.** The availability of recreational opportunities for King County's wastewater treatment division ratepayers is a material consideration for this Agreement. The City Use Site shall be open, at a minimum from dawn to dusk, seven

days per week, 365 days per year. The City shall enforce the approved hours of use, at its sole cost and expense.

- 3.13. **LAWFUL USE.** The City shall take reasonable precautions to secure the City Use Site during use by the public, will ensure that the Site is not used for any unlawful purposes and that it is not used or occupied in any manner which would constitute a public nuisance or otherwise violate the Bothell Business Park CCRs or any federal, state or local laws. The possession and/or use of illegal and unauthorized drugs or substances, alcoholic beverages, fireworks, or explosives, on the City Use Site is prohibited.
- 3.14. **USE OF FIREARMS OR OTHER WEAPONS.** Discharging across, in or onto the City Use Site a firearm, bow and arrow, air or gas weapon, or any device capable of injuring or killing any person or animal, or damaging or destroying the City Use Site is prohibited except where the City Department of Public Works, or similar City agency, for good cause has authorized special recreational activity upon finding that it is not inconsistent with the general public's use of the City Use Site.
- 3.15. **SITE MAINTENANCE GUIDELINES AND SITE MAINTENANCE PLAN.** All cost and expense to operate, maintain, program, and use the City Use Site, including but not limited to utilities, utility infrastructure, and utility bills, shall be borne solely by the City. In maintaining the City Use Site, the City shall maintain the City Use Site in a manner that is attractive and inviting to the public; maintain sanitation and sanitary facilities in accordance with applicable State and local public health standards; keep the Site safe for public use; and keep buildings, roads, trails, and other structures and improvements internal to the site in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.
- 3.15.1. The City shall prepare a Maintenance Plan ("the Plan"), for approval by King County and the Bothell Business Park Owners' Association. The Plan shall at a minimum, describe the City's maintenance standards and maintenance schedule for the City Use Site; any planned Site closures which will exceed thirty (30) days in length; and ensure that King County does not incur any operations and maintenance costs requiring County funds to be used or invested in the City Use Site during the Term of this Agreement. If the construction of restroom facilities is approved pursuant to Section 4.1 of this Agreement, then the City shall amend the Plan to specify the level and frequency of maintenance to ensure that any such restroom facilities are kept clean and sanitary at all times at the City's sole cost and expense. The City may amend the Plan from time to time during the course of the Agreement, subject to King County's written approval.

- 3.15.2. Except in case of an emergency, the City shall also provide at least two (2) business days prior written notice to the County before any partial or complete closure of the City Use Site intended to last one (1) day or more in duration.
- 3.16. LIMITED USE. The City shall use the Site for no other business or purpose than as explicitly provided in this Agreement.
- 3.17. RIGHT TO INSPECT. King County at its discretion reserves the right to inspect the City's use of the Site and its compliance with this Agreement. If King County does not approve of the City's use and compliance, King County will notify the City in writing of the specific items that King County deems objectionable. The City agrees to undertake reasonable corrective action within a time period agreed to by the Parties, or if no time period is agreed, within sixty (60) days.
- 3.18. SIGNS. The City Use Site shall be named the 1<sup>st</sup> Lt. Nicholas Madrazo Memorial Park. The City may at its sole cost and expense, and in compliance with the approvals required in Section 4.1 below, install a sign on the City Use Site identifying the site as the 1<sup>st</sup> Lt. Nicholas Madrazo Memorial Park. An approved sign may be placed on the City Use Site with the understanding and agreement that the City shall remove the sign at the termination of this Agreement. The City may not sell naming rights or receive any gift or consideration for the naming of the City Use Site.
- 3.18.1. The City may install signage stating hours of operation and public use rules of a size and format which is comparable to signs installed at City parks of a similar use.
- 3.18.2 The City may install a plaque recognizing 1<sup>st</sup> Lt. Nicholas Madrazo and other military members who have given service to their country.
- 3.18.3 No other sign and no advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by the City or allowed by the City to be exhibited, inscribed, painted, or affixed on any part of the City Use Site without the prior written approval of the County, which may be withheld by the County in its sole discretion. If the City violates this provision, King County may remove the sign without any liability and may charge the expense incurred for such removal to the City. All signs erected or installed pursuant to King County's prior written approval shall also comply with the Bothell Business Park CCRs and any applicable federal, state or local statutes, ordinances and regulations.

- 3.19. **FENCING.** The City at its sole cost and expense shall install and maintain a fence between the City Use Site and the North Creek Storage Facility along the Westerly edge, the length of the area designated as the playfield, as shown in Exhibit E attached hereto.
- 3.20. **UTILITIES SERVICE.** The City agrees to furnish and pay for necessary electrical, sewer, water and other utilities as might be required for its use of the City Use Site. As the County is billed for surface water charges via the King County Property Tax billing or other method, the City will pay for a proportionate share of the surface water charges based upon the impervious surface area of the City Use Site. The County will invoice the City for its share of the surface water charges once per year. The City shall within thirty (30) days after the receipt of such invoice remit to King County payment for the full amount of the invoice. The City is not authorized to use or connect to any existing County electrical, sewer or water connections for the City Use Site without the County's written authorization, which may be withheld in the County's sole discretion. The County shall not be liable for the failure of any utility service on the City Use Site.
- 3.20.1. **STORMWATER FACILITIES.** The Parties agree that the existing stormwater facilities on the North Creek Storage Facility Property are currently adequate only for the current uses at the North Creek Storage Facility Property as of the date of this Agreement. As part of the Site Plan referred to in Section 4.2 herein the City shall identify any new stormwater facilities and/or any upgrades to the existing stormwater facilities that will be necessary to allow or support the City's use of the City Use Site. The City agrees to pay for the construction, maintenance, and operation of any new facilities and/or any upgrades to the existing facilities that are determined to be necessary as a result of the City's Site Plan, City modifications to the City Use Site and/or the City's use of the City Use Site
- 3.20.2. As part of the Site Master Plan referred to in Section 4.2 herein, the City shall identify appropriate landscaping and irrigation improvements for the City Use Site. The City agrees to pay for the construction, maintenance and operation of any irrigation facilities, including a separate water meter or meters, that are necessary as a result of an approved City Site Plan, City's modifications to the City Use Site and/or the City's use of the City Use Site.
- 3.21. **REPAIRS AND CARE OF CITY USE SITE.** The City shall take no action which would interfere with the County's access to or use of the North Creek Storage Facility Property or would damage the North Creek Storage Facility Property. The City shall pick up, collect and dispose of garbage and trash from the City Use Site on a regular basis. The City shall, at all times, use the City Use Site in accordance with, and comply with the Bothell Business Park CCRs, the laws of the State of Washington and



ordinances of the City and in accordance with all directions, rules, and regulations of the health officer, fire marshal, building inspector of the City at the sole cost and expense of the City.

- 3.22. **BOTHELL BUSINESS PARK CCRs AND PAYMENT OF DUES.** The City acknowledges that it has received a copy of the Bothell Business Park CCRs (attached as Exhibit F) and agrees that City's construction, maintenance and use of the City Use Site shall comply with said CCRs at all times. The Bothell Business Park Owner's Association assesses yearly dues to each owner within the Bothell Business Park ("Bothell Business Park Dues"), payable no later than January 31 of each year. The estimated Bothell Business Park Dues for the calendar year 2014 were \$10,191.00 per year; they were paid in full by the County by January 31, 2014. The Bothell Business Park Dues typically increase on a yearly basis based on budgeted needs which are subject to annual reconciliation. As further consideration for its use of the City Use Site, the City agrees to pay a pro rata share of the Bothell Business Park Dues, each year, during the term of this Agreement based upon the ratio of the square footage of the City Use Site to the square footage of the North Creek Storage Facility Property. Failure by the City to timely pay its pro rata share of the Bothell Business Park Dues shall constitute an event of default pursuant to Section 5.25.2. The County will invoice the City for its share of the dues. The City shall within thirty (30) days after the receipt of such invoice remit to King County payment for the full amount of the invoice. Where possible, the County will solicit input from the City prior to meetings of the Bothell Business Park Owner's Association and will attempt to represent the City's interests, before the Bothell Business Park Owner's Association regarding the City Use Site.
- 3.23. **NO LIENS.** The City shall keep the City Use Site free from any liens arising out of work performed, materials furnished or obligations incurred by the City. The City acknowledges and agrees that it has no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of King County in the fee interest in the North Creek Storage Property, or to charge fees for any claim in favor of any person or entity dealing with the City, including those who may furnish materials or perform labor for any construction or repairs. If any such liens are filed, King County may, without waiving its rights and remedies for breach, and without releasing the City from its obligations under this Agreement, require the City to post security in a form and an amount reasonably satisfactory to King County or to cause such liens to be released by any means King County deems proper, including payment upon satisfaction of the claim giving rise to the lien. The City shall pay to King County upon demand any sum paid by King County to remove the liens. Further, the City agrees that it will save and hold King County harmless from any and all loss, cost, or expenses connected with or arising out of the asserted claims or liens, or claims asserted against the right, title and interest of King County in the City Use Site or under the terms of this Agreement, including reasonable attorney's fees and costs incurred by King County to remove

such liens, and in enforcing this paragraph. Additionally, it is mutually understood and agreed that this paragraph is intended to be a continuing provision applicable to future improvements after any initial improvements are made on the City Use Site.

#### **4. MODIFICATIONS TO THE SITE BY THE CITY**

4.1. **MODIFICATIONS TO THE CITY USE SITE.** Before installation or construction of any modifications or improvements to the City Use Site the City shall submit and obtain approval from the Bothell Business Park Architectural Control Committee, or its successor entity, (the “Architectural Committee”) and the County for the design and construction of such modifications. The City desires to construct on the City Use Site the following improvements, including but not limited to: a full basketball court at high school dimensions, two tennis courts at USTA dimensions including a 12 ft. high fence surrounding the court, pre-fabricated restrooms (10 X 20 ft.) with separate men’s and women’s stalls, one picnic shelter (24 X 24 ft.) constructed of steel, hip roof, concrete floor, parking spaces for 25 vehicles plus 1 ADA stall, a memorial structure for 1st Lt. Nicholas Madrazo in the vicinity of the picnic shelter, a field area approximately 270 X 200 ft. suitable for modified youth soccer, youth baseball, volleyball and similar activities as programmed by the City and a trail loop approximately 630 linear feet, 6 ft. wide paved path (collectively referred to as the “City-Desired Improvements”). The City will work with the Architectural Committee during the design process to determine methods, potentially to include plantings, signage and/or fencing, to restrict access from the parking lot north of the City Use Site. The City acknowledges and agrees that it may not install or construct any of the City-Desired Improvements or any other structures or improvements on the City Use Site, unless and until (1) the City submits a design and site plan for the City-Desired Improvements or any other structures or improvements for the City Use Site and (2) the City receives the written approval for the City-Desired Improvements or any other structures and improvements, including but not limited to signage and fencing, from the County and the Architectural Committee. Approval may be withheld based on the Bothell Business Park CCRs. The design and site plan for the City-Desired Improvements and any other structures or improvements on the City Use Site must at a minimum, comply with the Bothell Business Park CCRs, be compatible with the County’s access, use and operation of the North Creek Storage Facility and not damage, disturb or interfere with County facilities that are located below the surface of the City Use Site. Starting upon approval of this Agreement, the City will provide quarterly status reports related to project schedule to the County and the Architectural Committee.

4.1.1. **PARKING.** Any parking proposed for the City Use Site must not inhibit or impair in anyway the County’s use of or access to the North Creek Storage Facility Property and must be approved in advance in writing by the County and be in compliance with the Bothell Business Park CCRs. Any proposed

parking may be accessed only from the existing King County access drive with no vehicle access to or from any adjoining properties.

- 4.1.2. **RESTROOM FACILITIES.** The City acknowledges and agrees that the City Use Site is not equipped with public restroom facilities. Any restroom facilities proposed for the City Use Site must be in compliance with the Bothell Business Park CCRs and be approved in advance in writing by the Architectural Committee and the County.
- 4.2. **SITE PLAN REQUIRED.** Prior to its use of the City Use Site the City shall provide to the County and the Architectural Committee a site plan for all proposed improvements to the City Use Site, in substantial compliance with the Adopted Master Plan dated July, 2013 attached hereto as Exhibit E and incorporated herein by this reference. The Site Plan shall also provide information concerning the proposed means and methods for the proposed improvements in sufficient detail such that the County can evaluate whether or not the proposed improvements and/or the proposed means and methods for construction of the improvements will have the potential to damage, disturb or interfere with County facilities located below the surface of the City Use Site.
- 4.3. **PRIOR CONSENT REQUIRED.** The City shall not make any alterations, additions or improvements to the City Use Site without the prior written approval of the County and the Architectural Committee as required by both the Bothell Business Park CCRs and this Agreement. For any such approved alteration, addition or improvement to the City Use Site, the City shall be solely responsible for the design, construction and permitting thereof, including all costs and expenses, the City shall own such alteration, addition or improvement, and such alteration, addition or improvement shall be removed by the City at the termination of this Agreement. If any alteration, addition or improvement, including but not limited to the City-Desired Improvements, is approved by the County and Architectural Committee, then the City shall ensure that the work area is properly barricaded, and will ensure that signage is installed, directing unauthorized persons not to enter onto the construction site during any phase of development or construction. During any construction on the City Use Site, a perimeter fence restricting public access to the Site shall be maintained at all times. Unless otherwise agreed to by the Parties in writing, fencing will be placed around work areas. In addition the construction areas will be kept reasonably clean and safe during the construction of improvements. The City shall be responsible for site security, traffic and pedestrian warnings at the City Use Site during any construction on the City Use Site. In no event shall any construction work occur on or interfere with access to, or operation or maintenance of the North Creek Storage Facility.
- 4.4. **INDEMNIFICATION AND HOLD HARMLESS DURING CONSTRUCTION.** In performing any work on the City Use Site the City agrees to comply with the Bothell Business Park CCRs, all laws, ordinances, rules and regulations of the appropriate federal, state and local agencies. As set forth below, the City further agrees to defend,

indemnify and save the County free and harmless from all costs, claims, damages, losses or expenses arising out of said work.

4.5. The City shall defend, indemnify and hold King County, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney's fees and costs, arising out of or in connection with the design, development and construction of any improvements on the City Use Site, except for injuries and damages caused by the sole negligence of King County.

4.5.1. The City, shall require its construction contractors and subcontractors to defend, indemnify and hold King County, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney's fees and costs, arising out of or in connection with the design, development and construction of any improvements on the City Use Site, except for injuries and damages caused by the negligence of King County.

4.5.2 In the event it is determined that RCW 4.24.115 applies to this Agreement, the City agrees to protect, defend, indemnify and save the County, its officers, officials, employees and agents from any and all claims, demands, suits, penalties, losses damages judgments, or costs of any kind whatsoever for bodily injury to persons or damage to property (hereinafter "claims"), arising out of or in any way resulting from the City's officers, employees, agents and/or subcontractors of all tiers, acts or omissions, performance of failure to perform the rights and privileges granted under this Agreement, to the maximum extent permitted by law or as defined by RCW 4.24.115, as now enacted or hereafter amended.

4.6. **COMMERCIAL GENERAL LIABILITY INSURANCE DURING CONSTRUCTION OF IMPROVEMENTS.** The City shall require its construction contractors to procure and maintain, for the duration of construction of any improvements on the City Use Site, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of the work by the construction contractors and subcontractors, their agents, representatives, or employees. If the City performs such construction work using its own forces, then it shall procure and maintain such insurance or provide the County with comparable coverage. All said policies will name King County as an additional named insured (including products-completed operations) and will include a provision prohibiting cancellation or reduction in the amount of said policies except upon 30 days prior written notice to King County.

The City's contractor(s) shall obtain and maintain the minimum insurance set forth below. By requiring such minimum insurance, King County shall not be deemed or construed to have assessed the risks that may be applicable to the City or its

contractor(s). The City and its contractor(s) shall assess their own risks and if they deem it appropriate and/or prudent, maintain greater limits and/or broader coverage. Each insurance policy shall be written on an “occurrence” form; excepting that insurance for professional liability, errors and omissions when required, may be acceptable on a “claims made” form. If coverage is approved and purchased on a “claims made” basis, the City and its contractor(s) warrant continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this insurance coverage shall be at least as broad as stated below and with limits no less than:

A. General Liability. Coverage shall be at least as broad as Insurance Services Office form number CG 00 01 covering COMMERCIAL GENERAL LIABILITY. \$1,000,000 combined single limit per occurrence, and for those policies with aggregate limits, a \$2,000,000 aggregate limit including Products/Completed Operations.

B. Explosion & Collapse, Underground Damage (XCU). Coverages shall apply for the same limits as the General Liability. Evidence of Insurance must specifically state coverage has not been excluded.

C. Automobile Liability. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 covering BUSINESS AUTO COVERAGE, symbol 1 “any auto”; or the combination of symbols 2, 8, and 9. \$1,000,000 combined single limit per accident. If the work involves the transport of pollutants (as defined by the standard auto policy exclusion of pollution) the auto policy shall be endorsed to include endorsement CA 9948 (or its equivalent) and MCS 90.

D. Workers’ Compensation. Statutory requirements of the State of residency. Coverage shall be at least as broad as Workers’ Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or “other States” State Law.

E. Employer’s Liability or “Stop Gap”. Coverage shall be at least as broad as the protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the “Stop Gap” endorsement to the general liability policy with a limit of \$1,000,000.

If the City performs such construction work using its own forces, then the City may meet these insurance requirements by providing satisfactory proof of its coverage under the Washington City Insurance Association (“WCIA”) together with a letter of coverage from WCIA.

- 4.7. BUILDERS RISK INSURANCE. The City shall require its construction contractors to procure and maintain, for the duration of the construction of improvements on the Site, Builders Risk insurance covering the interests of King County and the construction contractor in the work. Builders Risk insurance will be on an all-risk policy form and will insure against the perils of fire and extended coverage and

physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of no greater than \$5,000 for each occurrence, which will be the responsibility of the construction contractor. Higher deductibles for flood and earthquake perils may be accepted by King County upon written request by the City and written acceptance by King County. Any increased deductibles accepted by King County will remain the responsibility of the construction contractor. The Builders Risk insurance will be maintained until final acceptance of the work by the City. The City will require its construction contractors to maintain Builders Risk insurance in the amount of the completed value of the improvements to the City Use Site with no coinsurance provisions.

- 4.8. **PROFESSIONAL LIABILITY ERRORS AND OMISSIONS.** If the City directly or indirectly requires professional services in connection with the exercise of the City's rights, privileges, duties, or obligations under this Agreement, then the City will require its professional service providers to carry insurance meeting all requirements set forth herein. In addition, the City will require its professional service providers to carry Professional Liability Errors and Omissions insurance in an amount not less than \$1,000,000 per claim/aggregate. The City will require its professional service providers to give the County copies of all insurance certificates or insurance policies upon request.
- 4.9. **SUBCONTRACTORS.** The City will require its construction contractors to include all subcontractors as insured under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the same insurance requirements as stated herein for the construction contractor.
- 4.10. **VERIFICATION OF COVERAGE.** The City shall furnish King County with original certificates and a copy of the endorsements, including, but not limited to the additional insured endorsement, evidencing the Commercial General Liability insurance of the construction contractor before commencement of the work. Before any exposure to loss may occur, the City shall file with King County a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to work under this Agreement.
- 4.11. **ACCEPTABILITY OF INSURERS.** Unless otherwise approved by King County, the following provisions apply during any construction on the Site:
  - 4.11.1. Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investor Service.

- 4.11.2. If at any time any of the foregoing policies fail to meet the above minimum standards, then the City shall, upon notice to that effect from King County, promptly obtain a new policy, and submit the same to King County with certificates and endorsements, for approvals.
- 4.12. **WAIVER OF SUBROGATION.** The City shall cause its contractors and subcontractors and their insurance carriers to release and waive all rights of subrogation against King County during the construction to the extent a loss is covered by property insurance in force. The City hereby releases from liability and waives all right of recovery against King County for any loss from perils insured against or under the respective fire insurance policies of its contractors, subcontractors, or any of them, including any extended coverage endorsements thereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of the City or King County.
- 4.13. **INSURANCE PROVISIONS ARE MATERIAL TERMS.** Failure by the City, its agents, employees, officers, and/or subcontractors to comply with these insurance requirements shall constitute a material breach of this Agreement.
- 4.14. **PAYMENT AND PERFORMANCE BONDS.** The City will require its construction contractors to provide payment and performance bonds, each for one hundred percent of the contract price, on a form of bond acceptable to the County with an approved surety company and in compliance with Chapter RCW 39.08 RCW. The City or its contractor shall notify the surety of any changes in the work. The City or its contractor shall promptly furnish additional bond security to protect the County and persons supplying labor or materials required by any City project on the City Use Site if:
- A. The County has a reasonable objection to any surety;
  - B. Any surety fails to furnish reports on its financial condition pursuant to the County's request; or
  - C. The contract price for the City work on the City Use Site increases beyond the bond amount.
- 4.15. **LICENSED CONTRACTORS AND PROFESSIONAL SERVICE PROVIDERS.** For any work performed on the City Use Site pursuant to this Agreement, the City will use only contractors and professional service providers that are licensed and authorized to do business in Washington State, consistent with RCW 39.06.
- 4.16. **PUBLIC WORKS AND PREVAILING WAGE.** The City acknowledges and agrees that construction on the City Use Site constitutes "public work" for purposes of the prevailing wage statute, RCW Ch. 39.12, such that prevailing wages will be paid as may be required under that statute.

## 5. GENERAL CONDITIONS

5.1. **INDEMNIFICATION AND HOLD HARMLESS.** The City shall defend, indemnify and hold harmless the County from and against any and all costs (including attorneys' fees and costs), claims, demands, judgments, damages or liability of any kind including but not limited to personal injury or damages to property which arise out of or in any way result from or are connected to the City's use of the City Use Site or from any work or things done, permitted by or suffered by the City in or about the Site and shall further defend, indemnify and hold harmless the County from and against any and all claims, demands, judgments, damages or liability of any kind arising out of or resulting from any breach or default in the performance of any obligation on the City's part to be performed under the terms of this Agreement, or arising from any negligence of the City or any of the City's officers, officials, agents, contractors and employees, except such injury or damage as; shall have been occasioned by the sole negligence of the County. The City's obligations under this section shall include, but not be limited to:

- 5.1.1. The duty to promptly accept tender of defense and provide defense to the King County at the City's expense for claims that fall within this section;
- 5.1.2. Indemnification of claims, including those made by the City's own employees and/or agents for this purpose, for claims that fall within this section;
- 5.1.3. In the event King County incurs any judgment, award and/or cost arising from claims that fall within this section, including attorney's fees to successfully enforce the section, all such fees, expenses, and costs shall be recoverable from the City.
- 5.1.4. The City expressly and specifically agrees that its obligations under this paragraph extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees, or agents. For this purpose, the City, hereby expressly and specifically waives, with respect to King County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify King County.
- 5.1.5. The provisions contained in this section shall survive the termination of this Agreement, for any reason.

## 5.2. LIABILITY POLICIES

**MINIMUM SCOPE OF INSURANCE FOR THE CITY.** In addition to the insurance requirements set forth in Section 4 that are applicable to the construction of improvements on the City Use Site, the City shall at all times during the term and any



extension of this Agreement, maintain insurance that, at a minimum, covers the City's and public's activities and usage of the Site as follows:

- 5.2.1. Commercial General Liability insurance (Insurance Services Office form number (CG00 001), covering Commercial General Liability with a limit of not less than \$1,000,000 combined single limit per occurrence; \$5,000,000 aggregate.
  - 5.2.2. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to and approved by King County. The deductible and/or self-insured retention of the policies will not limit or apply to King County and will be the sole responsibility of the City.
- 5.3. OTHER INSURANCE PROVISIONS. The insurance policies required by Section 5.2 shall also contain or be endorsed to contain the following provisions where applicable:
- 5.3.1. The City's comprehensive general liability insurance coverage will be primary insurance as respects King County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by King County, its officers, officials, employees or agents will not contribute with the City's insurance or benefit the City in any way.
  - 5.3.2. Coverage will not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limits by claims paid, until after forty-five (45) days' prior written notice has been given to the City and King County.
- 5.4. ACCEPTABILITY OF INSURERS. Unless otherwise approved by King County, the following provisions apply exclusively to the City's and public's activities and usage of the City Use Site after the construction of any improvements on the Site:
- 5.4.1. Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investor Service.
  - 5.4.2. If at any time any of the foregoing policies fail to meet the above minimum standards, then the City will, upon notice to that effect from King County, promptly obtain a new policy, and submit the same to King County with certificates and endorsements, for approvals.
  - 5.4.3. The City and its insurance carriers will release and waive all rights of subrogation against King County. The City hereby releases from liability and waives all right of recovery against King County for any loss from perils

insured against or under their respective fire insurance policies, including any extended coverage endorsements thereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of the City or King County.

5.4.4 The City's membership in the self-insured risk pool Washington Cities Insurance Authority shall satisfy all requirements set forth in sections 5.2, 5.3 and 5.4.

5.5. OTHER INSURANCE MATTERS.

5.5.1. Each insurance policy will be written on an "occurrence" basis.

5.5.2. By requiring such minimum insurance as specified herein, neither party is deemed to, or construed to, have assessed the risks that may be applicable to the other party to this Agreement. The City will assess its own risks and, if it deems appropriate or prudent, or both, maintain greater limits or broader coverage.

5.5.3. The City will furnish King County with certificates of insurance and endorsements as required by this Agreement. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for the City's insurance are to be on forms approved by King County and are to be received and approved by King County prior to the Effective Date of this Agreement. King County reserves the right to require complete certified copies of all required policies at any time.

5.6. NON-WAIVER OF BREACH. The failure of either the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment thereof, or any other covenants or agreements, but the same shall be and remain in full force and effect.

5.7. NOTICE. Any notices required to be given by either Party to the other pursuant to the provisions of this Agreement or any law, present or future, shall be in writing and shall be deemed to have been duly delivered or given by any of the following methods: (1) if delivered personally, (2) if sent by nationally recognized overnight delivery service, (3) if mailed or deposited in the United States mail, postage prepaid (4) if mailed or deposited in the United States mail by registered or certified mail, return receipt requested, postage prepaid, (5) if given by facsimile transmission (provided the fax machine has printed a confirmation of receipt). All notices that are mailed shall be deemed received three (3) business days after mailing. All other notices shall be

deemed complete upon the date that such notice is sent or given. Notices shall be sent to the following person and address:

City of Bothell  
18305 - 101st Ave. NE  
Bothell, WA 98011  
Attn: Public Works Director

King County  
Right-of-Way and Permitting Supervisor  
Department of Natural Resources and Parks  
Wastewater Treatment Division,  
Major Capital Improvement Program  
201 South Jackson Street, Suite 503  
Seattle, Washington 98104-3855

or, to such other person or address as is hereafter designated in writing by either Party to the other.

5.8. NONDISCRIMINATION.

5.8.1. EMPLOYMENT. The City does not anticipate hiring any employees to develop and maintain the Site or otherwise perform its obligations under this Agreement. If the City should elect to do so, however, the City agrees not to discriminate against any employee or applicant for employment because of sex, age, race, color, creed, national origin, sexual orientation, marital status religious affiliation, disability, gender identity or expression, or age (except by minimum age and retirement provisions), unless based upon a bona fide occupational qualification This requirement shall apply without limitation to all aspects of employment (including lay-offs or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship) and advertisement.

5.8.2. SERVICES AND ACTIVITIES. No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, sexual orientation, age (except minimum age and retirement provisions), marital status, gender identity or expression, religion, ancestry, disability or use of a service or assistive animal by an individual with a disability, unless based upon a bona fide contractual qualification. Any violation of this provision shall be considered a violation of a material provision of this Agreement and shall be grounds for termination or suspension in whole or in part of this Agreement by King County and may result in ineligibility for further King County agreements.

- 5.8.1. The City shall also comply with all applicable anti-discrimination laws or requirements of any and all jurisdictions having authority.
- 5.9. **ASSIGNMENT.** Upon King County's prior written approval, the City may assign its rights under this Agreement only to a person or entity that is a functional successor and only upon such successor's express assumption of the obligations under this Agreement.
- 5.10. **TRANSFER OF OWNERSHIP OR OPERATIONS OF NORTH CREEK STORAGE FACILITY PROPERTY BY COUNTY.** King County shall have the right to sell or otherwise transfer or dispose of the City Use Site, or to assign this Agreement or any interest of the County hereunder. In the event of a sale or other means of transfer of ownership, operations, or disposition of any part of the North Creek Storage Facility Property, either by operation of law or other means, the County shall be and is hereby relieved of all liability under any and all of its covenants and obligations contained in or derived from this Agreement arising out of any act, occurrence or omission occurring after the consummation of such sale or other means of transfer of ownership, operations, or disposition. The purchaser, owner, or operator, at such transfer or any subsequent transfer of the North Creek Storage Facility Property, shall be deemed, without any further agreement between the Parties or their successors in interest or between the Parties and such transferee, purchaser or operator, to have assumed and agreed to carry out any and all of the covenants and obligations of the County under this Agreement.
- 5.11. **POWERS OF THE COUNTY.** Nothing contained in this Agreement will be considered to limit or diminish the governmental or police powers of King County.
- 5.12. **FORCE MAJEURE.** The performance of this Agreement by either Party is subject to acts of God, war, government regulation or advisory, disasters, fire, accidents or other casualty, strikes or threat of strikes, civil disorder, acts and/or threats of terrorism, or curtailment of transportation services or facilities, or similar causes beyond the control of either Party making it illegal, impossible or impracticable to perform. Either Party may terminate or suspend its obligations under this Agreement if such obligations are prevented by any of the above events to the extent such events are beyond the reasonable control of the Party whose reasonable performance is prevented.
- 5.13. **AGREEMENT IS PUBLIC DOCUMENT.** This Agreement will be considered a public document and will be available for inspection and copying by the public.
- 5.14. **TAXES.** The City agrees to pay on a current basis all applicable taxes or assessments levied on its activities, if any; **PROVIDED**, however, that nothing contained herein will modify the City's right to contest any such tax, and the City will not be deemed to be in default as long as it will, in good faith, be contesting the validity or amount of any such taxes.

- 5.15. **RECORDS, AUDITS AND INSPECTIONS.** During the Term of this Agreement, and any extension thereof, the City's books, records and other materials related to any matters covered by this Agreement and not otherwise privileged shall be subject to inspection, review, and/or audit by King County at King County's sole expense. Such books, records and other materials shall be made available for inspection during regular business hours within a reasonable time of the request.
- 5.16. **COMPLIANCE WITH ALL LAWS AND REGULATIONS.** In using the City Use Site, the City and members of the public shall comply with the Bothell Business Park CCRs and all applicable laws, ordinances and regulations from any and all authorities having jurisdiction and, specifically, the requirements of the Washington Industrial Safety and Health Act (WISHA). The City specifically agrees to comply and pay all costs associated with achieving such compliance without notice from the County, and further agrees that the County does not waive this provision by giving notice of demand for compliance in any instance.
- 5.17. **INTERPRETATION OF COUNTY CODE AND RULES.** If there is any question regarding the interpretation of any provision of King County Code or any King County rule or regulation, King County's decision will govern and will be binding upon the City.
- 5.18. **PERMITS AND LICENSES.** The City will conduct its own environmental review and obtain and maintain, at its own costs and expense, all necessary permits, licenses and approvals required for the activities contemplated under this Agreement.
- 5.19. **RISK OF LOSS.** All property of any kind or description whatsoever placed or moved onto the City Use Site by the City shall be at the City's sole risk, and King County shall not be liable for any damage done to, or loss of, such property.
- 5.20. **ENVIRONMENTAL LIABILITY.**
- 5.20.1. The City covenants and warrants that the City, its employees, contractors, agents or invitees shall not use the City Use Site in a manner which violates any applicable federal, state or local law, regulation or ordinance governing the handling, transportation, storage, treatment, usage or disposal of toxic or hazardous substances, wastes or materials.
- 5.20.2. The City shall not, without first obtaining King County's written approval, apply, store, deposit, transport, release or dispose of any hazardous substances, petroleum products, sewage, medicinal, bacteriological, or toxic materials, or pollutants, on the City Use Site. All approved application, storage, deposit, transportation, release and disposal shall be done safely and in compliance with applicable laws.

- 5.20.3. The City shall immediately notify the County of any and all spills or releases of any toxic or hazardous substances, wastes, or materials, all failures to comply with any federal, state, or local law, regulation or ordinance, all inspections of the City Use Site by any regulatory entity concerning the same, all regulatory orders or fines, and all response or interim cleanup action taken by or proposed to be taken by an government entity or private party on the City Use Site.
- 5.20.4. The City shall indemnify, defend, and hold harmless the County from any claims, judgments, damages, penalties, fines, expenses, liabilities (including sums paid in settlements of claims) or loss arising out of or in any way relating to a breach of the environmental warranty made by the City above. Such indemnity shall include, without limitation, attorneys' fees, consultants' fees, and expert fees, as well as costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision.
- 5.20.5. For the purposes of this section, "toxic or hazardous substances, wastes and materials" or "toxic substance" includes but is not limited to any material or substance which is (1) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Liability and Compensation Act, 42 U.S.C. 9601(14); (2) defined as a "hazardous Waste" pursuant to Section 1004 or Section 3001 of the Resource, Conservation and Recovery Act, 42 U.S.C. 6903, 42 U.S.C. 6921; (3) included on the toxic pollutant list under Section 307(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1317(a); (4) defined as a "hazardous Substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1321; (5) defined as a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. 7412; (6) defined as a "hazardous substance" under Washington's Hazardous Waste Cleanup Act, RCW 70.105B.020; (7) defined as a "hazardous substance" pursuant to the hazardous waste site cleanup law, the Model Toxics Control Act ((initiative 97). "Toxic or hazardous substances, wastes and materials" specifically includes, but is not limited to, asbestos, polychlorinated biphenyls (PCBs), petroleum and petroleum products, and urea formaldehyde.
- 5.20.6. The covenants and warranties in this Section 5.20 shall survive the termination of this Agreement.
- 5.21. **NO EMPLOYMENT RELATIONSHIP.** In providing services under this Agreement, the City is an independent Contractor, and neither it nor its officers, agents, employees, or subcontractors are employees of King County for any purpose. The City shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for

these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law. King County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of the City, its employees, subcontractors and/or others by reason of this Agreement.

- 5.22. **RECORDATION OF AGREEMENT.** This Agreement may be recorded at either Party's request. If this Agreement is recorded then upon termination both Parties shall execute, acknowledge, and deliver to the other any instrument reasonably requested by either Party for purposes of providing record notice of a termination.
- 5.23. **OBLIGATION TO PERFORM.** Nothing herein shall imply any duty upon King County to do any work required to be performed by the City in this Agreement, and the performance thereof by King County will not constitute a waiver of the City's default. Provided, if King County does perform work in accordance with this provision, the City agrees that King County will not in any event be liable to the City for any inconvenience, annoyance, and disturbance to the City's activities on the City Use Site.
- 5.24. **PAYMENTS TO OTHER PARTIES.** Except as expressly provided hereunder, all obligations of the City under this Agreement will be performed by the City at the City's sole cost and expense. If the City fails to pay any sum of money owed to any Person or entity other than King County for which the City is liable hereunder, or if the City fails to perform any other act on its part to be performed hereunder, and such failure continues for ten days after notice thereof by King County, King County may, without waiving or releasing the City from its obligations, make any such payment or perform any such other act to be made or performed by the City. The City shall pay King County, on demand, all sums so paid by King County and all necessary incidental costs, together with interest thereon at the lesser of 1 percent per month or the maximum rate permissible by law, from the date of such payment by King County.
- 5.25. **DEFAULT.**
- 5.25.1. **KING COUNTY'S DEFAULT.** King County will not be in default unless King County fails to perform an obligation within sixty (60) days after notice by the City, which notice must specify the alleged breach; provided that if the nature of King County's breach is such that more than sixty (60) days are reasonably required for cure, then King County will not be in default if King County commences to cure within sixty (60) days of the City's notice and thereafter diligently pursues completion and completes performance within a reasonable time.
- 5.25.2. **THE CITY'S DEFAULT.** The occurrence of any one or more of the following events constitutes a default by the City under this Agreement:

(1) The City fails to provide for and/or maintain insurance as set forth in Sections 4 and 5 of this Agreement and such breach is not cured within 3 days after notice from the County to the City.

(2) The City will be in default of the performance of any covenants, conditions, or provisions of this Agreement, where such failure continues for a period of thirty (30) days after written notice is given by King County; or

(3) The City will be adjudged a bankrupt, make a general assignment for the benefit of creditors, or take the benefit of any insolvency act, or if a permanent receiver and trustee in bankruptcy is appointed for the City's estate and such appointment is not vacated within sixty (60) days; or

(4) If this Agreement is assigned or the City Use Site is used by the City for activities other than in accordance with the terms of this Agreement, and such default is not cured within thirty (30) days after written notice from King County to the City; or

(5) The City fails to timely pay the Bothell Business Park Dues, Surface Water Management fees or fails to make any other payment required hereunder when due, when that failure is not cured within thirty (30) days after written notice thereof by King County.

## 5.26. TERMINATION

5.26.1. TERMINATION FOR DEFAULT. This Agreement may be terminated for any default set forth in Section 5.25 upon written notice to the defaulting Party as provided in that section.

### 5.26.2. OTHER KING COUNTY TERMINATION.

5.26.2.1. COUNTY EXPANSION OF WASTEWATER FACILITIES. The County may terminate this Agreement if the City Use Site is needed permanently for the North Creek Storage Facility as described in Section 2.3 herein.

5.26.2.2. NUISANCE. The County may terminate this Agreement upon thirty (30) days written notice to the City for suffering, permitting or maintaining a nuisance in or on the Site; provided however that if the City commences to abate the nuisance within thirty (30) days of King County's notice and thereafter diligently pursues completion of the abatement and completes abatement of the nuisance within a reasonable time, then King County will not terminate the Agreement.



**5.26.2.3. DESTRUCTION OR DAMAGE TO NORTH CREEK STORAGE FACILITY.** In the event the North Creek Storage Facility or North Creek Storage Facility Property is damaged or destroyed (even though the City Use Site is not damaged thereby) to such an extent that in the opinion of the County it shall not be practicable to repair or rebuild, or the County elects to abandon the storage facility and surplus the property, then, the County shall follow applicable federal, state and local laws regarding surplus County property, without further obligation of any kind to the City.

5.26.3. This Agreement and all rights to use the property granted the City hereunder shall terminate : (a) 180 days from the delivery of written notice from the County to the City stating that the Site is needed pursuant to one or more of the conditions set forth in Section 2.3, or (b) expiration of the time period to cure a default under Section 5.25 of this Agreement as measured from the delivery of written notice from the County to the City that an event of default has occurred and which default was not cured within the period of time provided for the cure; or expiration of the time period to abate a nuisance under Section 5.25.2 of this Agreement as measured from the delivery of written notice from the County to the City that a nuisance exists and which nuisance was not abated within the period of time provided for such abatement . The City authorizes the County, without further notice to or approval by the City, to record a termination of this Agreement in the real property records of King County, Washington, to confirm of record that this Agreement has terminated and is of no further force and effect. If requested by the County, the City agrees to join in the execution of the termination of Agreement and will execute or furnish such documents and further assurances to King County or to other persons, public officials or other entities as may be necessary to carry out the transactions contemplated by this Agreement.

5.27. **DUTIES UPON TERMINATION.** Upon termination of this Agreement, the City agrees to remove all facilities developed by the City, including but not limited to basketball equipment, fencing, restrooms, picnic shelters, tables and benches and volleyball nets and bear all costs of removing said improvements within ninety (90) days from the effective date of such notice of termination by the County. The City shall deliver the City Use Site to the County in the same condition as it received the City Use Site from the County unless otherwise permitted in writing by the County. The City shall be liable for additional costs of construction that may occur due to its failure to timely deliver possession in accordance with such notice. If the City fails to perform this duty at termination, King County may cause such removal to be made and the City's personal property, goods and effects to be stored, the cost and expense to be paid by the City. It is understood and agreed that the real property constituting

the City Use Site is the real property of King County and that all improvements to that real property will continue to belong to King County upon termination of this Agreement.

- 5.28. **REMOVAL OF PROPERTY.** In the event of default by the City and re-entry by the County, the County shall have the right, but not the obligation, to remove from the City Use Site all personal property located therein, and may store the same in any place selected by the County, including but not limited to a public warehouse, at the expense and risk of the City, with the right to sell such stored property, without notice to the City, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from the City to the County under any of the terms hereof, the balance if any to be paid to the City.
- 5.29. **REMEDIES ARE CUMULATIVE.** Remedies under this Agreement are cumulative; the failure to exercise any right on any occasion will not operate to forfeit such remedy.
- 5.30. **DESTRUCTION OF PREMISES AND USE OF INSURANCE PROCEEDS.**
- 5.30.1. Unless otherwise mutually agreed by the Parties, if the City Use Site is destroyed or damaged by fire, earthquake, or other casualty, then the City may terminate this Agreement or shall proceed to rebuild and restore the City Use Site, or such part thereof as may be damaged or destroyed. In the event of any loss covered by the insurance policies described and required under this Agreement, unless this Agreement is terminated as provided herein, the City will use the proceeds of such insurance policies first to restore the City Use Site and replace the improvements, fixtures, and equipment, which may be damaged or destroyed by such casualty.
- 5.31. **EMINENT DOMAIN.** The following rules will govern the rights and duties of the Parties in the event of interference with the City's design, construction, or use of the City Use Site as a result of the exercise of eminent domain or purchase in lieu thereof.
- 5.31.1. **RIGHT OF TERMINATION.** If the whole of the City Use Site is taken for any public or quasi-public use under any statute or by right of eminent domain, or by purchase in lieu thereof, then this Agreement will automatically terminate as of the date that title is taken. If more than twenty-five percent (25%) of the City Use Site is so taken and if the taking renders the remainder thereof unusable for the purposes contemplated under this Agreement, then the City and King County will each have the right to terminate this Agreement on thirty (30) days' notice to the other, given within ninety (90) days after the date of such taking.

- 5.31.2. **COMPENSATION.** The compensation awarded or paid upon a total or partial taking of the City Use Site, will belong to King County as owner of the Site. The City may prosecute any claim directly against the condemning authority for the costs of improvements and of removal of the personal property, if any, belonging to the City. King County will have no claim to condemnation proceeds attributable to the City's improvements and personal property on the City Use Site. The City shall have no interest in King County's condemnation proceeds, if any.
- 5.32. **HEADINGS NOT PART OF AGREEMENT.** The headings in this Agreement are for convenience only and shall not be deemed to expand, limit, or otherwise affect the substantive terms of this Agreement.
- 5.33. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Washington.
- 5.34. **JURISDICTION AND VENUE.** The exclusive jurisdiction and venue for any disputes arising under this Agreement, including matters of construction, validity and performance, shall be in the Superior Court for King County in Seattle, Washington.
- 5.35. **NEUTRAL AUTHORSHIP.** Each Party has been represented by legal counsel or has had the opportunity to consult with legal counsel in connection with the negotiation, execution and delivery of this Agreement and its Attachments. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the Party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Agreement or its Attachments.
- 5.36. **ENTIRE AGREEMENT.** This agreement and any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between King County and the City. There are no promises, agreements, conditions, understandings, inducements, warranties, or representations, oral or written, expressed or implied, other than what is expressly set forth in this Agreement. This Agreement shall not be modified in any manner except by an instrument in writing and executed by the Parties.
- 5.37. **SEVERABILITY.** Should any provision of this Agreement be found to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision shall be stricken and the remainder of this Agreement shall nonetheless remain in full force and effect unless striking such provision shall materially alter the intention of the Parties.

### 5.38. DISPUTE RESOLUTION.

- 5.38.1. Resolution of Disputes by County Wastewater Treatment Division Manager and City Public Works Director or City Equivalent. The County Wastewater Treatment Division Manager and the City Public Works Director (or the City Department Director then responsible for Parks' oversight) or their respective designees shall use their best efforts to resolve disputes arising out of or related to this Agreement. Each will consult with the responsible agency staff members and officials regarding existing requirements or other policies and procedures before attempting to resolve disputes.
- 5.38.2. Resolution of Disputes by City Manager and County Executive. If the Wastewater Treatment Division and City Public Works Director or City Equivalent are unable to resolve a matter within fifteen (15) days of the time such matter is properly referred to them, the City Manager and County Executive or their respective designees shall be asked to resolve the dispute, subject to applicable statutory permit requirements, policies or procedures. In the event of an emergency, either County Wastewater Treatment Division Manager and City Public Works Director or City Equivalent may (after notifying the other) refer a project-related dispute immediately to the City Manager and Executive for resolution. The City Manager and Executive may call upon their staff for assistance.
- 5.38.3. Exhaustion of Procedural Steps. The County and the City agree to exhaust each of these procedural steps before seeking to resolve disputes through informal mediation or court of law or other tribunal.

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STATE OF WASHINGTON )  
 )ss  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared \_\_\_\_\_, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that s/he signed and sealed the said instrument as the \_\_\_\_\_ of King County, a political subdivision of the State of Washington, as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

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

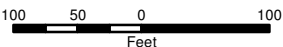
Notary Public in and for the  
State of Washington  
Residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_



North Creek Pump Station & Storage Facility



1 inch = 150 feet



June 2014



**King County**

Department of  
Natural Resources and Parks  
**Wastewater Treatment  
Division**

The information included on this map has been compiled from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

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Exhibit A

**North Creek Pump Station  
and Storage Facility Location**

## (Legal Description)

The land referred to is situated in the State of Washington, County of KING, and is described as follows:

LOTS 6 AND 7, QUADRANT BUSINESS PARK-BOTHELL, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 131 OF PLATS, PAGE(S) 87 THROUGH 91, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION OF SAID LOT 6 LYING NORTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE MOST SOUTHWESTERLY CORNER OF SAID LOT 6;  
 THENCE NORTH 25°29'22" WEST ALONG THE WESTERLY BOUNDARY OF SAID LOT 6, A DISTANCE OF 106.65 FEET TO THE TRUE POINT OF BEGINNING;  
 THENCE NORTH 64°09'48" EAST, A DISTANCE OF 88.05 FEET;  
 THENCE NORTH 19°24'58" EAST, A DISTANCE OF 70.71 FEET;  
 THENCE NORTH 27°36'10" EAST, A DISTANCE OF 86.06 FEET TO THE POINT OF COMMENCEMENT OF A CURVE TO THE RIGHT HAVING A RADIUS OF 60.54 FEET;  
 THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 36°56'11" AN ARC DISTANCE OF 39.09;  
 THENCE NORTH 64°32'21" EAST, A DISTANCE OF 214.26 FEET;  
 THENCE NORTH 71°53'28" EAST, A DISTANCE OF 35.36 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY MARGIN OF NORTH CREEK PARKWAY, SAID POINT BEARS NORTH 20°30'08" WEST, A DISTANCE OF 144.31 FEET FROM THE POINT OF TERMINATION OF THE CURVE ON SAID RIGHT OF WAY MARGIN;

AND EXCEPT THE SOUTHEASTERLY 20 FEET OF SAID LOT 7;

(ALSO KNOWN AS LOT 6A, CITY OF BOTHELL LOT LINE ADJUSTMENT NUMBER SPL0017-95, RECORDED UNDER RECORDING NUMBER 9605290965 AND LOT 7, CITY OF BOTHELL LOT LINE ADJUSTMENT NUMBER D-88-28, RECORDED UNDER RECORDING NUMBER 8608110334).

9608201753



**EXHIBIT C****Legal Description of City Use Site**

That portion of the Southwest Quarter of the Southwest Quarter of Section 4, Township 26 North, Range 5 East, W.M. described as follows:

Beginning at the Northeast Corner of Lot 6A per City of Bothell Lot Line Adjustment No. SPL0017-95, as filed under recording number 9605290965, records of King County, Washington, said corner being the beginning of a non-tangent curve to the left, the radial center of which bears N 74°29'08" E, a distance of 830.00 feet;

Thence along said curve to the left, said curve being also the northeasterly boundary of said lot 6A, through a central angle of 09° 58' 30", an arc distance of 144.50 feet;

Thence S 25° 29' 22" E, continuing along said northeasterly boundary of said lot 6A, a distance of 62.54 feet;

Thence S 64° 01' 05" W, departing from said northeasterly boundary of said lot 6A, a distance of 47.00 feet;

Thence S 25° 35' 05" E, a distance of 46.69 feet;

Thence S 63° 31' 28" W, a distance of 7.65 feet;

Thence S 24° 44' 28" E, a distance of 7.41 feet;

Thence N 64° 35' 41" E, a distance of 54.67 feet to a point on the northeasterly boundary of lot 7 per City of Bothell Lot Line Adjustment No. D-86-28, as filed under recording number 8608110334, records of King County, Washington;

Thence S 25° 29' 22" E, along said northeasterly boundary of said lot 7, a distance of 191.87 feet;

Thence S 64° 34' 40" W, departing from said northeasterly boundary of said lot 7, a distance of 263.25 feet;

Thence N 38° 21' 02" W, a distance of 54.21 feet to the beginning of a non-tangent curve to the right, the radial center of which bears N 50° 24' 23" E, a distance of 104.27 feet;

Thence along said curve to the right, through a central angle of 16° 25' 18", an arc distance of 29.88 feet;

Thence N 25° 59' 39" W, a distance of 181.21 feet to the beginning of a non-tangent curve to the left, the radial center of which bears S 70° 44' 01" W, a distance of 10.36 feet;

Thence along said curve to the left, through a central angle of 74° 46' 06", an arc distance of 13.52 feet;

Thence N 81° 48' 20" W, a distance of 35.39 feet to the beginning of a non-tangent curve to the right, the radial center of which bears N 12° 28' 58" E, a distance of 22.44 feet;

Thence along said curve to the right, through a central angle of  $54^{\circ} 44' 50''$ , an arc distance of 21.44 feet;

Thence  $N 26^{\circ} 11' 31'' W$ , a distance of 92.87 feet to a point on the northwesterly boundary of said lot 6A;

Thence  $N 27^{\circ} 36' 10'' E$ , along said northwesterly boundary of said lot 6A, a distance of 65.60 feet to the beginning of a tangent curve to the right, the radial center of which bears  $S 62^{\circ} 23' 50'' E$ , a distance of 60.64 feet;

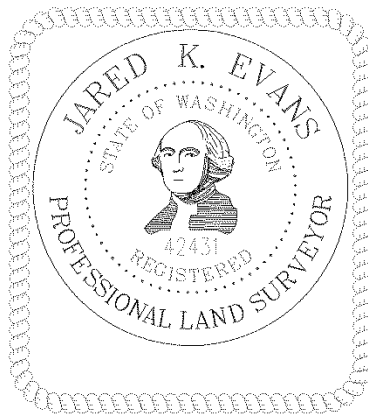
Thence along said curve to the right, said curve being the northwesterly boundary of said lot 6A, through a central angle of  $36^{\circ} 56' 11''$ , an arc distance of 39.09 feet;

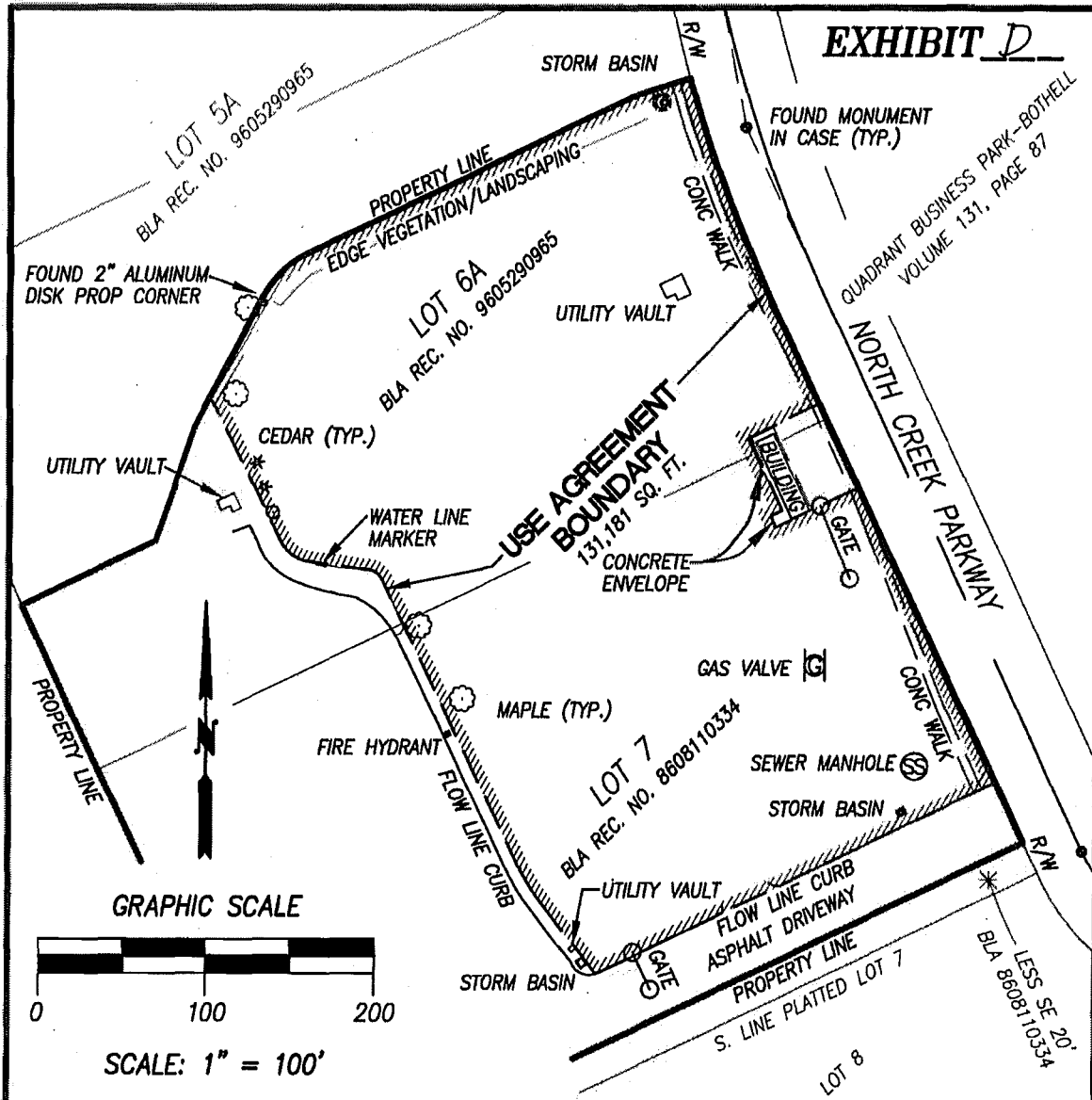
Thence  $N 64^{\circ} 32' 21'' E$ , along said northwesterly boundary of said lot 6A, a distance of 214.26 feet;

Thence  $N 71^{\circ} 53' 28'' E$ , along said northwesterly boundary of said lot 6A, a distance of 35.35 feet to the point of beginning.

Containing approximately 131,181 Square Feet (3.01 Acres).

Situate in the County of King, State of Washington.



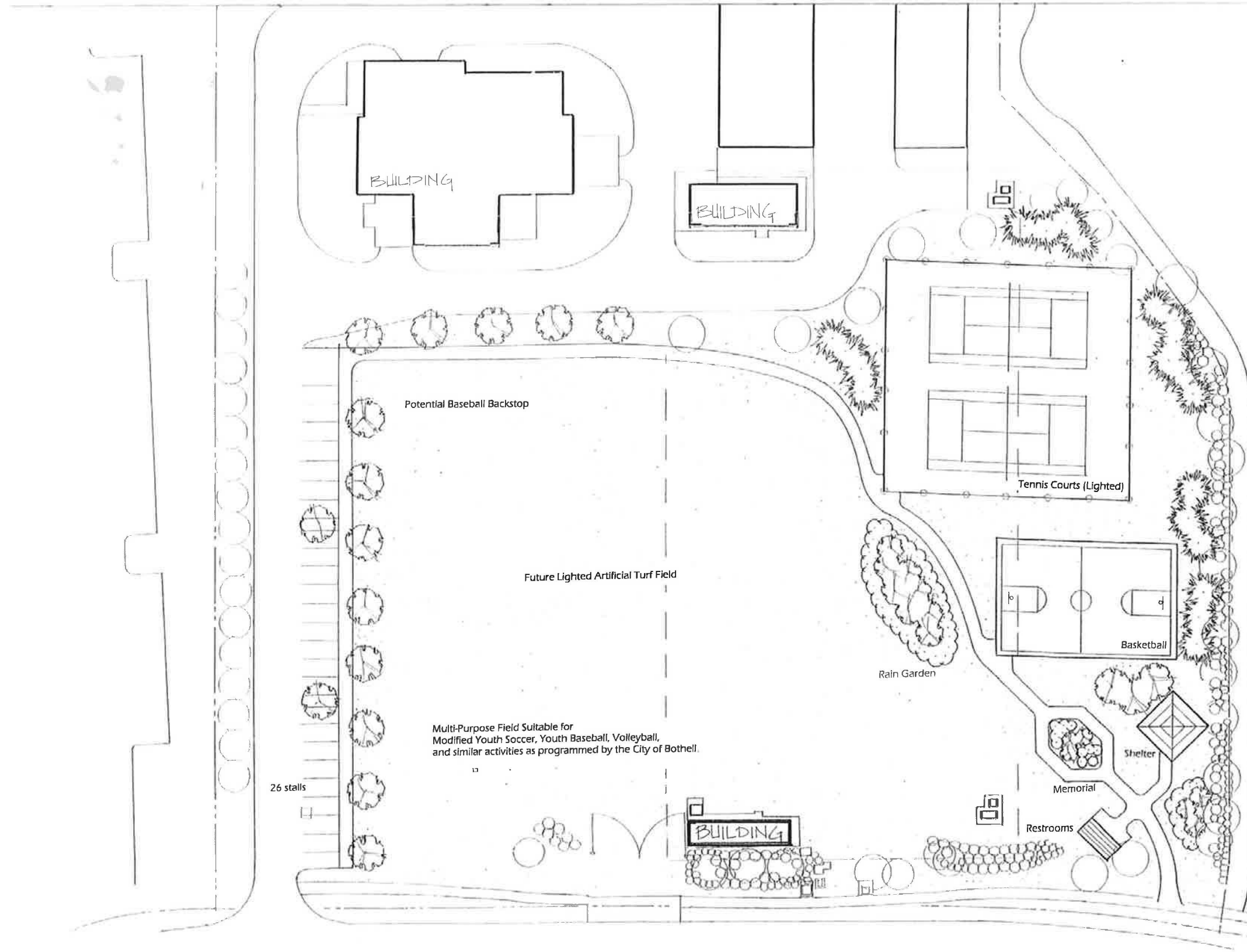


**NOTES**








1.) SEE WRITTEN LEGAL DESCRIPTION FOR USE AGREEMENT AREA DIMENSIONS.



<b>KING COUNTY SURVEY UNIT</b>		206-296-8508 (OFFICE)	
<b>DEPT. OF TRANSPORTATION</b>		206-296-7719 (FAX)	
<b>ROADS DIVISION</b>		<b>USE AGREEMENT</b>	
**155 MONROE AVE NE • RENTON • WA • 98056**		<b>MAP FOR:</b>	
<b>KING COUNTY WTD</b>			
SW 1/4, SW 1/4, SEC.4, T.26N., R.5E., W.M.			
DWN. BY	DATE	REV. BY	DATE
JKE	08/07/14		
PROJECT MANAGER	SCALE		
J. EVANS	1"=100'		
DRAWING FILENAME	CHK. BY	F.B. NO.	JOB NO.
14052-Exh.DWG	TSC	14052	14052
			SHT. NO.
			1 of 1



### Legend

-  Deciduous Tree
-  Coniferous Tree
-  Existing Landscaping
-  Shrubs and Groundcovers
-  Picnic Table
-  Bench
-  Path

### Notes:

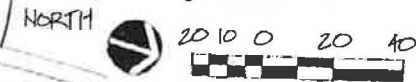
1. Lot information: Size, 270 by 460 feet (2.66 acres); Owner, King County; Use, overflow tank, pump station, and odor control facility.
2. Tennis Courts: USTA dimensions and clearances. To be surrounded by 12-foot tall fence.
3. Basketball court: High School dimensions for "full court" or 50 feet by 84 feet.
4. Field Area approximately 220 feet by 200 feet.
5. Trails: 630 lineal feet of 6-foot wide asphalt paved trail.
6. Restroom: Pre-fabricated, 10 by 20 foot with separate women's and men's rooms -- Gable roof and wood-siding appearance.
7. Shelter: Steel construction, hip roof, 24 feet by 24 feet with concrete floor.
8. Parking: 25 parking stalls plus 1 handicap stall.
9. Access: From existing King County access drive with no vehicle access from adjoining properties.
10. Memorial: Shown near shelter within garden area. Final location and design to be determined.

## Master Plan



City of Bothell  
 1<sup>st</sup> Lt. Madrazo U.S.M.C.  
 Memorial Park

Adopted July 9, 2013





Development Standards  
&  
Declaration of  
Covenants, Conditions  
&  
Restrictions



## Development Standards

**QUADRANT BUSINESS PARK - BOTHELL  
DEVELOPMENT STANDARDS**

**TABLE OF CONTENTS**

- I. MASTER PLAN SUMMARY
- II. OBJECTIVES
- III. BUSINESS PARK USES
- IV. SITE PLANNING, ARCHITECTURAL AND LANDSCAPE STANDARDS
  - A. Site Coverage
  - B. Building Setbacks
  - C. Landscape Standards
  - D. Parking and Access
  - E. Architectural Standards
  - F. Signs
  - G. Energy Conservation
  - H. Screening of Storage, Service and Loading Areas
    - I. Lighting
    - J. Utilities
  - K. Construction
  - L. Grading
  - M. Shoreline Master Program
  - N. General Provisions
- V. ARCHITECTURAL COMMITTEE
- VI. DEFINITIONS

**QUADRANT BUSINESS PARK - BOTHELL  
DEVELOPMENT STANDARDS**

**I MASTER PLAN SUMMARY**

Quadrant Business Park - Bothell is located within the North Creek Valley, Bothell, Washington. The 175 acre Business Park includes a variety of lots ranging in size from less than 2 acres to combinations of 20 acres or more. The Business Park is adjacent to Interstate 405 offering convenient access to the Eastside, Seattle and the Puget Sound Region. The Master Plan is included for reference - See Figure 1.

Quadrant Business Park - Bothell has been planned as a quality business park. The emphasis has been not only on creating and maintaining a good business environment but also on incorporating a park-like setting. A large percentage of the development is set aside as open space offering recreational opportunities for both the community and Quadrant Business Park - Bothell. Landscaping on each lot and along the major roadways further enhances the overall concept. The planning has included provisions for utilities and roadways.

Development Standards have been prepared for the Business Park as a means to insure compatibility of the individual developments. These Standards define the minimum requirements for all lots and tracts. The owner/developer will be expected to work within these Standards and submit plans to the Architectural Committee and the City of Bothell for review and approval.

The Development Standards have been formulated to assist the owner/developer in preparing plans for review and approval within the shortest possible time. The Architectural Committee will first review the plans to assure consistency with the overall design concepts and may make reasonable interpretations to assist in the development of a quality Business Park. The City of Bothell will review the plans for each lot based on its certificate of zoning compliance procedures and the standards and conditions related to the Master Plan. Also, to insure the shortest possible review of any plan, the owner/developer should be familiar with these Development Standards, protective covenants, development conditions affecting any proposal and any applicable City of Bothell codes. The normal review procedure is outlined in Figure 2.



**QUADRANT BUSINESS PARK - BOTHELL OUTLINE OF DEVELOPMENT REVIEW  
PROCEDURE FIGURE 2.**

---

Preliminary  
Proposed  
development plan  
prepared

---

- Early consultation with:
  - Quadrant as to development requirements
  - City of Bothell as to codes and related requirements

---

Final  
Architectural  
Committee  
review/approval

---

- Review primarily based on:
  - Quadrant Business Park-Bothell Master Plan/objectives/conditions
  - CC&R's/Development Standards

---

City of Bothell  
Certificate  
of Zoning Compliance  
review/approval

---

- Review based on:
  - Architectural Committee approval
  - Master Plan/Conditions
  - City of Bothell codes/conditions
  - Development Standards

---

Construction/  
Occupancy

---

**II. QUADRANT BUSINESS PARK OBJECTIVES:**

To insure that the Master Plan concept is implemented, the Development Standards have been formulated to meet the following objectives:

- A. To implement the North Creek Valley Plans as approved through the rezone and planned unit development procedures.
- B. To permit office, light industrial and related uses based on development standards insuring a high quality business park.
- C. To insure that the lots be developed in a manner which encourages the efficient use of property and the maintenance and enhancement of property values.
- D. To assist in the preparation of development plans for each lot and tract within the Business Park.
- E. To insure that the major roadways and open spaces are planned, constructed and maintained to complement or enhance the Business Park concepts.

### III. BUSINESS PARK USES

- A. **OBJECTIVE:** The Business Park is planned as a mixed-use business park. The mixed-uses, primarily offices and light industry, can be designed to complement one another while making a positive contribution to the employment and tax base of the Bothell area and the region.
- B. Offices, light industrial and incidental commercial uses have been designated as the mixed uses for the business park. Incidental commercial uses shall be limited to an aggregate of 55,000 sq. ft. within the total site and not exceed 20 percent of the gross floor area of any single building complex.
- C. These uses will generally be permitted, if:
  - 1. There is no emission of significant quantities of dust, dirt, cinders, smoke, gases, fumes, odors or vapor into the atmosphere,
  - 2. There is no emission of any solid or liquid wastes into the drainage system or North Creek, or other waterways,
  - 3. There is no emission outside of the facility of radiation, electromagnetic, microwaves, ultrasonic, laser or other such phenomena,
  - 4. There is no significant perception of noise, glare, heat or vibration beyond each lot,
  - 5. There is no significant daily use of semi-trailers,

6. Not utilizing open storage.
  7. Not carried on in a manner which is intended or has the effect of attracting freeway motorists as a substantial source of business.
  8. Determined to be appropriate for the Business Park in accordance with applicable review procedures.
  9. Conforming to the requirements of the North Creek Valley Special District - Bothell Municipal Code -BMC 17.25.
- D. Specific uses not permitted are defined in the Bothell Municipal Code BMC 17.23.02.B.
- E. If a phased development of Lots is proposed, a phasing plan will be required at the initial development review stage.
1. If the Lot is to be developed in phases, the owner/developer will provide a phasing plan indicating the construction of buildings, parking areas and related elements for the Lot. A landscaping plan for the entire Lot shall be submitted with the Certificate of Zoning compliance application; if implementation is phased, the owner/developer will describe the phases, time periods and amounts to be installed. Performance bonds may be required for later phases.
  2. Each phase of development will be required to meet the provisions of the BMC and the Development Standards.
  3. The Architectural Committee may require improvements to meet the approved conditions or requirements for the Business Park.

#### IV. SITE PLANNING, ARCHITECTURAL AND LANDSCAPE STANDARDS

##### A. SITE COVERAGE

1. **OBJECTIVE:** The Master Plan includes provisions for maintaining large open spaces within the North Creek Valley. These open spaces provide passive and active recreational uses benefitting the community and Business Park. Since these large open spaces have been provided, each lot can be developed according to the Development Standards. These Standards, for each lot, not only provide for reasonable building and parking facilities but require on-site landscaping areas.

2. Clean light industrial uses shall have a minimum of 27% of the lot area for non-impervious or landscaped areas.
3. Office, light industrial and incidental commercial uses shall have a minimum of 33 percent of the lot area for non-impervious or landscaped areas.
4. Parks and Open Spaces - per the approved Master Plan.

#### B. BUILDING SETBACKS

1. **OBJECTIVE:** The building setback areas, especially those adjacent to the roadways, provide for a positive business park image through landscaping and other design features. Provisions are also made for perimeter setbacks to assure that the business park complements and enhances the overall quality of the North Creek area. In addition, other setback areas are afforded some design flexibility to enhance site efficiency and effective use of landscaping.
2. Street Building Setback
  - a. A minimum of 30 feet as measured from the right-of-way line, except for Lots on NE 195th Street, west of 120th Avenue N.E., where the building setback on 195th Street will be a minimum of 35 feet
  - b. Lots having frontage on two or more rights-of-way will be subject to street building setback distance for each right-of-way.
3. Side and rear yard building setbacks are to be a minimum of 10 feet except:
  - a. When adjacent to Interstate 405 - a minimum of 25 feet (no buildings, parking areas or driveways may intrude in this setback area; other impervious surfaces may be permitted by the Planning Commission based on a specific review).
  - b. When adjacent to the central drainage way - a minimum of 20 feet.
  - c. When adjacent to residential zoned properties - a minimum of 25 feet

- d. If adjoining lots are developed simultaneously or with the written approval of the adjoining property owner, the side and rear yard building setback area may be reduced to zero, except as required in a, b, c in this Section 3 and subject to City of Bothell approval.

### C. LANDSCAPE STANDARDS

1. **OBJECTIVE:** The landscaping of each lot should enhance the overall quality of the Business Park. Special attention should be paid to the street landscaping in order to provide an immediate positive image and a well-maintained visual amenity. The landscaping standards also provide for perimeter visual enhancement to complement other uses within the North Creek Valley as well as for on-site measures to enhance the interior of each lot. These standards are considered the minimum landscaping requirements for each lot and tract. Additional landscaping materials will be encouraged.

1. Total Lot Landscaping Areas

- a. Clean, light industrial uses - a minimum of 27% of the lot.
- b. Office and other business park uses - a minimum of 33% of the lot.
- c. Parks and open spaces - as described on the Master Plan and approved pursuant to applicable review procedures.
- d. The developed portions of the lot not covered by impervious surfaces shall be landscaped. Portions of the lot to be developed at a later date shall be seeded within 30 days of grading or the addition of fill. Undisturbed portions of the lot may be left in the natural state.

2. Street Landscaped Area

- a. The Street Landscaped Area is a minimum of 25 feet from the edge of the right-of-way including any areas between the edge of the right-of-way and pedestrian way/sidewalk. If no sidewalk or other pedestrian path exists within the right-of-way, the Street Landscaped Area would extend to the curbline.
- b. The primary purpose for landscaping this area is to complement or enhance the visual amenities within and

adjacent to the right-of-way and subject to the following standards:

- 1) Lawns and ground covers in the street landscaped area.
  - a) Lawns will be the primary ground cover material within the Street Landscaped Area. A minimum of 60% of the street setback landscaping area should be lawn. Bark or similar ground surface materials will be limited to areas within plantings of shrubs and ground covers and may be limited in application or area by the Architectural Committee.
  - b) Low planting areas, including ground covers and shrubs, may be included provided that sight distances entering and leaving the adjacent street are not impaired. Shrubs should not be higher than 42 inches to provide sight distance.
  - c) To reduce the visibility of parking areas located in front of a building and beyond the Street Landscaped Area, an earthen berm up to 3 feet in height above the sidewalk will be required in the street landscaped area. The berm shall be finished with lawn unless approved otherwise by the Architectural Committee.
  - d) Automatic sprinkler and irrigation systems will be included within the Street Landscaping Lawn areas. The underlying Owner shall be responsible for the cost of any additions or modifications to the Street Landscaping sprinkler system as may be required to irrigate supplemental landscaping installed by such Owner.
- 2) Trees in the Street Landscaped Area.
  - a) The trees in the Street Landscaped Area shall provide for visual continuity along the rights-of-way. Tree species will be selected for all

rights-of-way and within the Street Landscaped Area by the Architectural Committee. Other species may be approved to add variety and may be approved by the Architectural Committee.

- b) The trees may be located in groves, in lines or otherwise arranged to enhance the building, tie with adjoining lots and relate to right-of-way tree plans.
  - c) The number of trees should average one for every 30 feet of frontage on the right-of-way. The trees should be 6 to 8 feet in height at time of planting.
  - d) Trees will be located as not to impair sight distances when entering or leaving the adjacent street. The limbs of the trees are to be maintained a minimum of 8 feet above the grade to provide sight distance. Trees on any Lot bordering N.E. 195th Street shall be maintained by the Owner thereof with a minimum five (5) foot separation between the branches of any tree and the overhead power transmission lines. Prior to any planned tree trimming, the Architectural Committee shall review and approve the trimming plan.
- 3) Paved areas within the Street Landscaped Area.
- a) Paved areas within the Street Landscaped Area will be limited to driveways, walkways and for approved signs. The Architectural Committee may approve other limited paved areas.
  - b) No parking will be permitted in the Street Landscaped Area.

### 3. Interstate 405

- a. Landscaping adjacent to Interstate 405, for that area extending 25 feet from that property Line, shall include:

- 1) trees and shrubs to be visually significant at time of planting, approximately 6 to 8 feet in height with some deciduous trees interspersed, and to include varieties similar to other Interstate 405 setback areas within the Business Park as selected by the Architectural Committee. The trees within this area should be one per 20 feet of Interstate 405 frontage and should include groupings, a minimum of 3 trees, of primarily evergreen species,
- 2) trees and shrubs of sufficient height and quantities at time of planting to screen outdoor storage or utility areas,
- 3) ground covers or lawns except for utility access,
- b. Provisions for utilities and utility easement access, where necessary, will be included within this area.
4. Landscaping adjacent to North Creek Park or other open space areas.
  - a. Shall be a minimum of 10 feet.
  - b. If the Lot is adjacent to North Creek Park, a minimum of 10 feet from the property boundary or 50 feet from the ordinary high water mark of North Creek, whichever is greater.
  - c. Shall include planting materials of sufficient height and quantity at time of planting to screen outdoor storage or service areas.
5. Other landscaped areas.
  - a. Landscaping within rear and side building setback areas.
    - 1) The rear or side yard building setback areas are to be landscaped to provide visual continuity with adjoining lots if uses on the adjoining lot are similar or visual screening if the uses are not similar.
    - 2) If visual screening is required or to provide perimeter landscaping of parking lots one of the following methods will be required.



- a) a solid screen evergreen plant material at least 4 feet high, or
  - b) fencing in combination with planting, or
  - c) a 3 foot high earth berm in combination with planting. See BMC 17.25.200 C.
- 3) If joint access to the lot is located on the property line, the Architectural Committee may require landscaping materials at suitable locations to minimize the visual impact of parking areas or to visually separate different uses.
- b. The central drainage channel.
- 1) Any landscaping within the central drainage channel easement will be designed as not to impede the flow of water, cause flooding and should be of materials which allow easy maintenance of the channel.
  - 2) The landscaping for the central drainage channel and adjacent area will be designed and constructed by the developer of the Business Park.
  - 3) Additional landscaping may be required by the Architectural Committee along the drainage channel when it is visually prominent from a right-of-way within the Business Park or When additional screening may be required between different uses.
  - 4) The drainage channel shall be maintained as a grass-lined channel in order to reduce heavy metal contaminants and organic components in the storm water runoff. Maintenance shall concentrate on preventing the succession from grasses to larger growth. The grasses may need to be cleaned and replanted to remove channel sediment concentrations.
- c. Lots adjacent to residential zones.
- 1) Landscaping materials shall be of sufficient height and materials to provide for a visual separation of uses. Trees shall be a minimum of 6 to 8 feet in height at time of planting.

- 2) The landscaped area shall be a minimum of 20 feet and adjacent to the property line.
- 3) Landscaping plans for lot areas adjacent to residential zones may vary considering topographic changes, intervening open spaces, existing vegetation or other factors providing for visual separation.

d. Interior Lot

- 1) Not less than 6% of the interior of a parking lot with at least 15 parking stalls shall be landscaped. The landscaping shall be distributed throughout the parking area. The landscaping shall include ground covers in the landscaped strips with planting of trees. The trees shall be 6 to 8 feet in height at time of planting. See BMC 17.25.200.E.
- 2) Landscaping shall be provided at entry ways to buildings.
- 3) Screening of outdoor storage and loading areas shall be screened by plant materials of sufficient size and quantity at time of planting or other features to screen the view from rights-of-way, other lots or open spaces.

7. General Landscaping standards

- a. Landscaping materials shall be selected as appropriate for the North Creek Valley with preference given to species indigenous or adaptable to the Northwest.
- b. The Architectural Committee may recommend or require specific landscaping materials or additional plant materials to insure that the quality of the Business Park is enhanced and maintained.
- c. All landscaping plans shall be reviewed by the City of Bothell pursuant to applicable procedures.

D. PARKING AND ACCESS

- 1. **OBJECTIVE:** The parking standards provide for the necessary parking spaces and related landscaping and pedestrian access.

Provisions are included to allow for traffic reduction programs to reduce parking needs and to allow flexibility in the arrangement of parking areas.

2. Parking spaces

- a. Parking spaces required.
  - 1) warehousing - 1 space per 1000 square feet of gross floor area. See BMC 17.25.220.A.
  - 2) manufacturing - 1 space per 500 square feet of gross floor area. See BMC 17.25.220.B
  - 3) business and professional offices, medical and dental clinics and banks - 1 space for each 250 square feet of gross floor area. See BMC 17.32.020.
  - 4) for other uses - refer to the Bothell Municipal Code - BMC 17.32.010.E and BMC 17.32.020.
- b. Up to 40% of the parking spaces may be designated for compact vehicles.
- c. For the size of parking spaces, traffic aisles and details - refer to Bothell Municipal Code, especially BMC 17.32.030.H.
- d. Preferential location of vanpool, carpool or other ride-sharing vehicle parking spaces will be given with respect to building entries. Those spaces will be so identified by appropriate markings or signs.
- d. Parking standards may be modified based on changes in Bothell codes.

3. If the number of required parking spaces can be reduced due to vanpool, carpool or other methods to reduce traffic demands, the unused parking impervious surface areas will be reallocated to landscaped areas as proposed by the owner/developer and approved pursuant to applicable review procedures and conditions of approval.

4. Parking area setbacks required

- a. From rights-of-way a minimum setback of 25 feet.

- b. From side or rear property lines a minimum of 5 feet or as described in Section C6, unless additional area is required as part of the Certificate of Zoning compliance process, except where;
  - 1) adjacent to Interstate 405 - a minimum of 25 feet, (no buildings, parking lots or driveways may intrude in this setback area; other impervious surfaces may be permitted by the Planning Commission based on a specific review) or
  - 2) adjacent to the central drainage channel - a minimum of 20 feet, or
  - 3) adjacent to North Creek Park - a minimum of 20 feet from the property line, or 75 feet from the mean high water line of North Creek, whichever is greater, or
  - 4) adjacent to other open spaces or parks - a minimum of 10 feet,
  - 5) adjacent to residentially zoned property - a minimum of 20 feet, or
  - 6) as defined in following Sections.
- c. If parking areas on two lots adjoin, either when lots are planned jointly or adjacent to an existing parking area and the parking areas can be functionally connected, the parking area setback may be reduced provided that parking areas do not intrude in the setback along 1-405. The combined parking area plans may be approved pursuant to applicable review procedures. Any reduction in the parking area setback would require comparable landscaping in the parking areas in addition to the 6% requirement in Section C6d1.
- d. If the following conditions are met, the parking area setback may be reduced to zero and be approved in accordance with applicable review procedures:
  - 1) a Lot adjoins a common area or public park,
  - 2) parking stalls will be available on the adjoining lot for use by public park users,

## 5. Vehicular Access

- a. Shared vehicular access to lots will be encouraged as a means to reduce impervious surfaces and the number of access points.
- b. Access points for each lot will be limited to no more than two locations to public rights-of-way. Corner lots will be limited to two access points.
- c. Lots adjacent to NE 195th Street
  - 1) Corner lots adjacent to NE 195th street will be required to have primary access from North Creek Parkway or 120th Avenue NE. A right turn only ingress/egress access point may be permitted to NE 195th Street or access to NE 195th may be shared with an adjacent lot.
  - 2) Lots with access to NE 195th Street only will be limited to one primary access point. A second access point may be permitted on a share basis with an adjacent lot or limited to a right turn ingress/egress access.
- d. When parking is provided at the rear of the building, and a driveway or land alongside the building provides access to the rear parking area, such driveway will have a minimum width of 12 feet and a 3 foot minimum sidewalk adjoining the building curbed or raised six inches above the driveway surface. See BMC 17.32.030.1.

## E. ARCHITECTURAL STANDARDS

1. **OBJECTIVE:** The architectural standards have been formulated to encourage high quality design yet allow owners/developers latitude to construct facilities based on individual needs and to utilize innovative or creative design solutions.
2. Building height
  - a. There is no building height limitation, provided that, for all structures over 35 feet in height, all building setbacks will increase by one foot for each foot of building over 35 feet.

- b. The additional setback distance required for structures over 35 feet in height, may be applied unequally with respect to each setback area and in accordance with applicable review procedures.
- c. For buildings exceeding 35 feet in height, see BMC 17.25.180.E and BMC 17.34.010. Additional environmental review will be required in conjunction with the Certificate of Zoning Compliance if buildings with more than three stories are proposed.
- d. Consideration will be given to the location and height of buildings relative to any existing solar collection elements to minimize shading thereof.

3. Building Materials and Components

- a. The Architectural Committee will review all building and structure designs to insure the style and materials of which they are constructed are compatible with the surrounding buildings and the overall character of the Business Park. No "period buildings" will be permitted. Contemporary buildings forms and materials will be encouraged.
- b. Prefabricated pre-engineered metal buildings will not be permitted. Metal building components may be incorporated as an exterior finish material provided the components fit the overall design concept for the structure. Plans which provide for metal clad buildings may be proposed. These buildings must be designed and constructed so as not to have the appearance of a pre-engineered building and designed by an architect and specifically approved in writing by the Architectural Committee.
- c. All rooftop or other attached equipment must be treated architecturally to minimize its visual impact on the building and from major roadways and hillsides. If rooftop equipment cannot be screened by building parapets such equipment will be screened by unobtrusive devices that would appear as an integral part of the building. See BMC 17.25.180.D.
- d. The major exterior portions of buildings and fencing materials should be of natural, white or earth tones. Accent colors would be permitted. See BMC 17.25.180.B.

4. Design consideration for each building should be given to achieving these guidelines.
  - a. views and vistas
  - b. solar orientation and climate, solar reflection
  - c. orientation toward major streets and thoroughfares
  - d. vehicular and pedestrian flows
  - e. the character of surrounding developments
  - f. expressions of a facility's functional organization
  - g. expressions of the individual character of each business
  - h. the satisfaction of physical, psychological, social and functional needs of facility users
  - i. energy conservation through facility design
  - j. potential environmental hazards
  - k. enhancement of the overall landscape
  - l. the adjacent open space
  
5. Consideration should be given to the incorporation of design features.
  - a. ceremonial or well defined entrance drives
  - b. visitor parking areas
  - c. highlighted visitor entrance and entry plazas
  - d. highlighted employee entries and entry plazas
  - e. decorative pedestrian plazas and walkways
  - f. focal theme towers
  - g. focal site sculptures
  - h. employee lunch areas
  - i. employee recreational facilities
  - j. accent landscaping
  - k. accent lighting
  - l. atriums and interior courts
  - m. dynamic building and roof forms
  - n. striking window patterns
  - o. light and shadow patterns
  - p. color accents
  
6. Buildings located on Lots adjacent to Interstate 405
  - a. Shall be designed or positioned so as to buffer freeway noise.
  - b. Shall be designed to minimize the view of storage or loading areas from the freeway.
  
7. Buildings located on Lots adjacent to open spaces.

- a. These buildings should be designed to take advantage of the open space amenities.
- b. The Architectural Committee will review building elevations adjacent to and facing the open spaces to assure workable and suitable elevations.

F. SIGNS

- 1. **OBJECTIVE:** Signs are to provide for identification of the Business Park, buildings and major business as therein. The size and number of signs are to be limited to minimize their negative visual impact.
- 2. Business Park identification signs
  - a. Signs identifying Quadrant Business Park -Bothell may be located at each entry to the Business Park.
  - b. Each sign may be up to 40 square feet in area and be illuminated. The signs may be designated as part of an entry structure.
  - c. The signs are to be located as not to impair sight distances.
- 3. Project identification signs on each lot.
  - a. The signs shall be related to the scale of the building, location on the lot and size of other signs.
  - b. The signs may be attached to the building or ground mounted. No pole signs will be permitted.
  - c. Primary identification signs may be permitted in the street building setback area and contain the name of the building or sole user of any lot and the address. Signs in the street building area are not to exceed 42 inches in height and be located as to provide adequate sight distances for vehicles entering the right-of-way. No directory sign will be permitted in the street building setback area.
  - d. Any directory sign to identify all tenants will be located a minimum of 25 feet from the right-of-way. The directory sign is to be oriented to facilitate ease of direction on site and not be oriented to vehicles within the right-of-way.
  - e. Signs on buildings.



- 1) Signs on buildings may be in lieu of primary identification signs.
  - 2) Tenant identification signs may be located near entries to the building and shall be in scale with the design of the building and entryway.
  - 3) Addresses should be attached to buildings or may be integrated with other signs to facilitate easy identification.
- f. For lots adjacent to Interstate 405, signs may be visible to the freeway incidentally, but will not be directed toward the freeways or travelling public. Such signs will be designed and located to serve the users of the property. Any signs which may be directed to the freeway incidentally may be limited in size and color. See BMC 17.25.210.D.
4. Temporary real estate, construction and related signs will be limited in size and number, will not be illuminated, will be appropriately designed and require Architectural Committee approval. Removal of temporary signs will be upon completion of a building under construction, or sale or lease of a lot or improvement thereon. See BMC 17.28.090 for sign dimensions.
  5. The sign requirements of the Bothell Municipal Code will also apply except the Architectural Committee may recommend or require that the size of signs be limited further.

#### G. ENERGY CONSERVATION

1. **OBJECTIVE:** To encourage site planning and architectural standards as well as a traffic system management (TSM) program to achieve conservation and the effective use of energy.
2. Site Planning:
  - a. To reduce energy consumption the buildings shall be oriented considering the following factors:
    - 1) to gain maximum solar insolation to reduce space heating demand, and
    - 2) to minimize cooling needs.

- b. Trees and other landscaping materials and treatments should be located
  - 1) to take advantage of solar access opportunities,
  - 2) to enhance summer cooling effects and to minimize the effects of winter prevailing winds.
- c. Exterior lighting shall be energy efficient.
- d. Site planning examples
  - 1) Primary orientation of buildings should be to due south for maximum passive solar opportunities yet recognizing that orientations of 30 degrees or more from due south provides good passive solar benefits.
  - 2) The location of deciduous trees, primarily to the southeast, south, southwest and west of buildings can provide summer shade for reducing cooling needs and allow for solar exposure during the winter months.
  - 3) Significant groupings of evergreen trees should be avoided to minimize solar access problems relative to office or similar buildings on-site or to adjacent lots.

3. Architectural

- a. Roof overhangs or other shading elements should be located on southerly facing facades to minimize summer heat gains. Such roof overhangs or other shading devices would not be counted as impervious surfaces.
- b. Major exterior entries to office or other similar work areas should include vestibules to minimize excessive infiltration.
- c. Elements of solar systems, such as solar panels, photovoltaic cells or other external individual energy generating equipment, will be reviewed and approved by the Architectural Committee on a case-by-case basis to insure that the elements are integrated as a design feature of the building and are considered as part of the site plan.

- d. The proposed energy conservation and the solar elements with respect to adjoining lot buildings and landscaping for the purpose of maximizing solar access potential will be reviewed on case-by-case basis by the Architectural Committee.
- e. Design parameters
  - 1) Interior temperatures should be 70 degrees F for heating and 78 degrees F for cooling based on State Energy Code and ASHRAE design guidelines.
  - 2) Resistance to heat flow (R values) are to meet State Energy Code requirements. Any proposed reductions in the R values would require documentation as to the expected energy efficiency as equal to or better than the R value and be approved as part of the normal review process.
- f. The maximum percentage of exterior wall glazing and the insulated glass requirements are to meet State Energy Codes.

All sky lights will be double glazed, except for unheated areas. If passive solar features are included in the design of the building, the glazing area which meets the following criteria may be excluded from the area percentage requirements. The area must be double glazed. The glazing must be untinted, non-reflective glass, oriented within 30 degrees of due south and receive substantial solar exposure. The building must contain a required amount of heat storage capacity based on each square foot of exempt glazing.
- g. Energy saving measures should be included in the design of each building. The following list includes some energy saving measures to promote the efficient use of energy or reduce energy consumption. These measures are included to illustrate some possibilities and need to be evaluated by the owner/developer based on the type of building use, the size and design of the building or use, the machinery or equipment within the building, cost effectiveness and state and local code requirements.
  - 1) heat pumps

- 2) operable windows for natural ventilation
  - 3) skylights in warehouse to reduce the number of light fixtures
  - 4) low wattage lighting
  - 5) dual level lighting switches for exterior offices
  - 6) area or individual office switching for light fixtures
  - 7) infra red heating in warehouse areas with fans to circulate heated air
  - 8) high pressure sodium vapor lights in warehouse area.
  - 9) lighting levels related to task rather than area lighting
  - 10) setback thermostats
  - 11) time clocks for heating/cooling systems
  - 12) low leakage dampers for heating systems
  - 13) lighter interior colors to reduce lighting requirements
  - 14) reflective exterior glass for primarily east and west sides of building
  - 15) energy efficient motors
  - 16) heat recovery to assist in meeting hot water demands
  - 17) zone controls for heating/cooling systems.
- h. The Architectural Committee may offer reasonable suggestions as to possible measures for reducing energy consumption, including, but not limited to, building insulation, glazing or window treatments, low energy heating and cooling equipment or efficient lighting systems.
- i. The owner/developer should review applicable state and local energy codes for additional and specific requirements.
4. The owner/developer of each lot will be required to make a specific proposal for reducing peak hour trips. Individual proposals will also be viewed as integral parts of an overall corporate park traffic system management (TSM) plan.
- a. The methods for reducing peak hour trips could include, but not be limited to, vanpools, ride sharing, staggered work hours, flex-time or combinations thereof.
  - b. How the plan will be implemented including designated parking spaces for vanpool or ride-share vehicles and programs for continued operation.

- c. The Architectural Committee will review the proposed methods for reducing peak hour trips to ascertain the possible reduction in parking spaces and the effect on the overall site plan.
- d. The owner/developer, if requesting a reduction of required parking spaces, would be required to show how the methods would be implemented and the proposed reductions in parking spaces.

#### H. SCREENING OF STORAGE, SERVICE AND LOADING AREAS

1. **OBJECTIVE:** The visual screening of service and loading areas will help to insure the quality image of the Business Park yet allow for necessary accessory facilities.
2. Visual screening of any exterior trash receptacle, storage area, loading area, service area, utility area, mechanical equipment or similar accessory facilities or areas will be required.
  - a. These facilities must be screened from the adjacent streets, Interstate 405, adjoining lots, open spaces or other areas that could adversely affect other lots or the overall appearance, value and quality of the Business Park
  - b. These facilities will not be located in the street building setback area, building setback areas adjoining parks or residential zones.
3. The methods of visual screening could include:
  - a. Landscaping materials of sufficient height and density,
  - b. Earthen berms with sufficient landscaping materials,
  - c. Fencing with sufficient height and of materials to visually obscure,
  - d. The walls or position of buildings on the site,
  - e. Roofing or an enclosure as determined by the Architectural Committee, if no other method is sufficient to visually screen the above cited facilities.
4. Provisions will be made for any necessary vehicle loading areas.

- a. On-street loading or unloading will not be permitted.
  - b. Loading areas are not to be located within the street building setback area or adjacent thereto.
  - c. Loading areas should be located as not to be visually prominent from the rights-of-way.
  - d. The screening of loading areas will be required.
  - e. See Bothell Municipal Code - BMC 17.25.200.B and 17.32.040 for additional loading space requirements.
5. All screening proposals will be reviewed by the Architectural Committee to insure conformance with the design criteria. The Architectural Committee may require additional means to visually screen storage, service or loading areas.
6. The construction of necessary and visually complementary fences and walls may be permitted for the purpose of site security, sound attenuation, separation of activities or the screening of unloading, storage or other areas where visual buffering may be required. Fences, walls and other such installations will be reviewed by the Architectural Committee.
- a. Installation will be undertaken to insure they are as inconspicuous as possible and designed as complementary to the architectural features of the buildings.
  - b. The location or height does not reduce the safety or efficiency for ingress/egress to each Lot.
  - c. May be required to screen storage, loading service or other such areas as further described in other sections.
  - d. If chain link fencing is proposed, it will be designed with appropriate colors or materials to not detract from the visual quality of the Business Park. Plant materials or berms may be required by the Architectural Committee in conjunction with the fencing. Galvanized or other such fencing, by itself, will not be permitted, except for temporary construction site fencing.
  - e. The height and location will be restricted to the minimum necessary regarding security, sight lines or for other safety or protective purposes.

- f. The BMC provisions regarding height and location will prevail.

I. LIGHTING

- 1. **OBJECTIVE:** The different purposes of exterior lighting in the Business Park are for public safety, business identification, security of property and architectural accent. These guidelines are to provide a Business Park that is safe to walk and drive through, architecturally pleasing to look at, easy to locate businesses and provides workable service areas. When planning a project the owner/developer should use fixtures that are architecturally coordinated with the appropriate building, landscaping or sign while minimizing any light spillage on adjacent property or adjacent hillsides.
- 2. Lighting Standards
  - a. Building identification or accent lighting may be permitted including
    - 1) Lighting from the planting beds
    - 2) Architectural pole lighting of a height in scale with the building
    - 3) Building mounted fixture coordinated with the building architecture.
  - b. Lighting for approved signs could be from internal or external sources and limited to illumination of the sign only. See BMC 17.25.210.
  - c. Parking Lots
    - 1) Lighting standards in scale with the building but not to exceed thirty feet in height.
    - 2) The fixtures are to be selected to minimize spillage beyond area to be lighted.
    - 3) All parking lot lighting should be energy efficient high pressure sodium vapor or other fixture to match other exterior lighting.

d. Pedestrian Walkway

- 1) Fixtures that are coordinated with the adjacent landscaping.
- 2) The lighting is directed to minimize spillage beyond the walkways.

e. Service/Storage

- 1) The lighting is directed and related only to the service or storage area.
- 2) Other methods than pole type light fixtures will be encouraged.

f. Lighting fixtures are to be designed to minimize glare and excess lighting toward the hillsides.

3. The Architectural Committee may recommend or require specific lighting fixtures to minimize energy demands, provide for continuity of existing types or to achieve the purposes of this section.

J. UTILITIES

All utilities serving individual lots in the Business Park will be underground. In all cases the Owner/developer should contact the appropriate company or agency responsible for the particular utility to insure compliance for design, availability, fees, inspections and other requirements. Those companies or agencies are:

- a. Electrical - Puget Power
- b. Natural Gas - Washington Natural Gas
- c. Telephone - General Telephone
- d. Water - City of Bothell
- e. Sanitary Sewer - City of Bothell

2. Any utility and operational equipment located on the exterior of the building or above ground are to be screened from off-site view. Screens shall be integrated with the building plans and be



designed so as not to attract attention. Examples of screening are as follows:

- a. Building configuration
  - b. Screening walls of material similar to and compatible with that of the building.
  - c. Suitable landscaping consistent with the safety and other regulations of the utility companies
3. On-site storm retention systems located on individual lots are to meet City of Bothell standards and other applicable requirements to insure proper installation, operation and maintenance by the Owner/Developer. In order to satisfy storm water retention requirements for streets within the Park, each on-site storm retention system shall be designed to accommodate 75.5 cubic feet of storm water runoff per acre of property served thereby, in addition to runoff calculated to be generated by the particular site.
4. Any external structure, device or equipment used in the transmitting or receiving of electronic, microwave or other such measures will be included and identified in the proposed plans and be reviewed by the Architectural Committee in addition to meeting the provisions of other applicable codes.

K. CONSTRUCTION

1. During the development stage of the Business Park there will be completed projects adjacent to projects under construction. To allow the completed projects to do business free from as much distraction and inconvenience from adjacent construction as possible projects under construction must organize the construction site and activities accordingly. Also, the construction activities are not to cause the rights-of-way to be unsightly or create traffic obstructions.
2. Construction guidelines
- a. Trailers or temporary construction buildings will be placed as inconspicuously as practicable, minimize inconvenience to owners or occupants of other building sites, and be removed not later than 30 days after the date of substantial completion for beneficial occupancy of the building(s) in connection with which the trailer or temporary structure was used.

- b. An approved temporary erosion control method will be employed to eliminate any excessive storm damage on adjacent property and control sediments pursuant to BMC.
- c. See applicable BMC Sections for fill requirements.
- 3. Construction projects will be diligently pursued from initial site preparation to substantial completion.
- 4. Storage of construction materials will be undertaken in an organized manner and any hazardous materials will be fenced for safety.
- 5. All construction vehicles will be parked on the site. Construction employee vehicles shall be parked on the site and, if practicable, on all-weather surface to minimize off-site mud and dirt.
- 6. Methods of dust control will be employed whenever adjacent properties are adversely affected.
- 7. All city codes pertaining to street clean-up will be met pursuant to BMC.
- 8. Construction equipment should be maintained to minimize noise. Construction will be limited to the hours between 7 AM and 8 PM Weekdays.

L. GRADING

- 1. **OBJECTIVE:** To insure that all buildings and other impervious surfaces are designed in accordance with the approved grading plan.
- 2. All developments must conform to the grading and related drainage requirements as well as applicable City of Bothell codes and guidelines.

M. SHORELINE MASTER PROGRAM

- 1. All developments located within 200 feet of the ordinary high water mark of North Creek must conform to and comply with the Bothell Shoreline Master Program and applicable sections of the Development Standards.

N. GENERAL PROVISIONS

1. If there is a conflict between the Conditions, Covenants and Restrictions (CC and R's)/Development Standards and the Bothell Municipal Code, the provisions of the Bothell Municipal Code will prevail, except as follows:
  - a. when the CC and R's/Development Standards require landscaping, setbacks or other standards in excess of the BMC provisions, then the CC and R's/Development Standards will prevail; or
  - b. when the BMC provisions were specifically modified through the PUD, plat or other process and identified as follows:
    - 1) Section IVB3d to include zero line setbacks based on written approvals of the adjacent property owner, and
    - 2) Section IVD4c to include provisions for adjoining parking lots where parking setbacks may be reduced and the required landscaping reallocated, then the CC and R's/Development Standards will prevail.
2. The Development Standards may be amended as follows:
  - a. Minor modifications may be approved by the Department of Community Development. Minor modifications mean changes to insure internal consistency, clarifications of the dimensions or requirements or changes based on adopted conditions and consistent with BMC 17.26.230.
  - b. Major modifications require approval of the Planning Commission and City Council.

V. ARCHITECTURAL COMMITTEE

- A. The Architectural Committee will be appointed by The Quadrant Corporation pursuant to the recorded Conditions, Covenants and Restrictions.
- B. The Architectural Committee will review and approve all plans for the development of each lot and tract within Quadrant Business Park-Bothell.

- C. Any approval of plans by the Architectural Committee will be based on meeting or exceeding the requirements in the Development Guidelines. Approval by the City of Bothell is also required.

**VI. DEFINITIONS**

BUSINESS PARK - Quadrant Business Park - Bothell

IMPERVIOUS SURFACE - Materials or structures placed on or above the ground which reduce the rate of water absorption at any location on the development site from that which occurred prior to development. The term impervious surface includes, but is not limited to:

- A. Buildings (not including roofs and overhangs),
- B. Sidewalks and other paved ways;
- C. Parking lots;
- D. Paved streets, except as otherwise provided in BMC 17.25.
- E. Decks, terraces and patios;
- F. Incidental outside storage.

Impervious surface area is measured as the ground area of the entire development site covered by any impervious surface determined by vertical projections to the ground from the widest points of the building (not including roofs and overhangs) or other impervious surface.

In order to encourage flexibility in the location of buildings and other structures, public rights-of-way and primary access roads which are determined by the city to be reasonably necessary to serve the purposes of the development and of Bothell Municipal Code - BMC 17.25 shall not be counted as impervious surface. The determination shall be based upon the following criteria:

- 1. The relationship of the proposed development's buildings and/or open space to adjacent properties;
- 2. The visual impact which will stem from excluding the area;
- 3. The location of and need for the street or right-of-way in relation to other transportation corridors, either existing or as proposed in the Bothell comprehensive plan.

In the event the city specifically requires, approves or constructs any improvement in an area set aside as open space pursuant to an approved open space plan, impervious surface necessitated by such improvement shall be included as open space in the calculation of allowable impervious surface coverage.

OWNER/DEVELOPER - A holder of fee or simple title or contract purchaser in possession of a Lot.

LOT - Means those lots shown on the plat of Quadrant Business Park Division One and any subsequent lots added to the Business Park. See CC and R's.

BUILDING SETBACK - The distance from the property line to the exterior wall of the building or structure, usually described as a minimum distance.

MASTER PLAN - The approved plat and planned unit development for Quadrant Business Park - Bothell.

ARCHITECTURAL COMMITTEE - The Architectural Control Committee as established in the Conditions, Covenants and Restrictions.

IMPROVEMENT - Any structure, building, sign, landscaping treatment, parking area, driveway, storm water retention system and any other improvement on a lot.

LANDSCAPED AREA - Any area that is not covered by an impervious surface. Landscaped areas within or immediately adjacent to developed portions of the Site will be constructed with trees, shrubs or ground covers or utilize existing vegetative materials and be approved. Landscaped areas in undeveloped portions of the lot will be seeded or the existing vegetation maintained.

BMC - Bothell Municipal Code.

CLEAN, LIGHT INDUSTRIAL USES - As defined in the Bothell Municipal Code, Chapter 17, and as amended from time to time.