

CITY COUNCIL MEETING

October 12, 2010

7:00 p.m.

AGENDA



"Where Dreams Can Soar"

The City of Bonney Lake's Mission is to protect the community's livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.

Website: www.ci.bonney-lake.wa.us

SIGN-UP TO SPEAK FOR SPECIFIC ACTION ITEMS ON THE AGENDA: *If you have signed-up prior to the Council meeting to speak with respect to a particular ordinance or resolution appearing on the agenda, you will be recognized to address the Council for up to one minute before the Council takes action on that item. Those wishing to address items appearing on the "Consent Agenda" should do so during the "Citizen Comments" portion of the Agenda. If the Council chooses to discuss the item further after taking comments, they may restrict additional public comment before taking action. Please look for the speaker sign-up sheets near the Council Chamber doorway. (See Item II B. for Citizen Comments on other items of City business.)*

Location: City Hall Council Chambers, 19306 Bonney Lake Blvd., Bonney Lake.

I. CALL TO ORDER

A. Flag Salute

B. Roll Call:

Elected Officials: Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin and Councilmember Jim Rackley.

Expected Staff Members: City Administrator Don Morrison, Public Works Director Dan Grigsby, Police Chief Mike Mitchell, Community Development Director John Vodopich, Chief Financial Officer Al Juarez, Administrative Services Director/City Clerk Harwood Edvalson, Community Services Director Gary Leaf, and City Attorney Jim Dionne.

C. Announcements, Appointments and Presentations:

1. Announcements:

2. Appointments:

3. Presentations:

- a. **Proclamation:** October 2010 - Domestic Violence Awareness Month.

D. Agenda Modifications:

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

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A. Public Hearings:**B. Citizen Comments:**

You may address the City Council on matters of City business for up to 5 minutes. Those commenting about ordinances or resolutions on the "Consent Agenda" should limit their comments to one minute per item. When recognized by the Mayor, please state your name and address for the official record. Designated representatives speaking on behalf of a group may take up to 10 minutes on matters of general City business.

C. Correspondence:**III. COUNCIL COMMITTEE REPORTS:****A. Finance Committee****B. Community Development Committee****C. Public Safety Committee****D. Other Reports****IV. CONSENT AGENDA:**

The items listed below may be acted upon by a single motion and second of the City Council. By simple request to the Chair, any Councilmember may remove items from the Consent Agenda for separate consideration after the adoption of the remainder of the Consent Agenda items.

7-15

A. Approval of Minutes: September 21, 2010 Council Workshop, and September 28, 2010 Council Meeting

B. Accounts Payable Checks/Vouchers: Accounts Payable Checks/Vouchers #59130 thru 59180 in the amount of \$69,656.58; Accounts Payable checks/vouchers #59181 for a hydrant meter deposit refund in the amount of \$500.00; Accounts Payable checks/vouchers #59182 for a utility refund in the amount of \$617.78; Accounts Payable checks/vouchers #59183 thru 59243 in the amount of \$118,059.80; Accounts Payable checks/vouchers #59244 thru 59274 for utility refunds in the amount of \$2,766.03.

C. Approval of Payroll: Payroll for September 16-30, 2010 for checks 29335-29367 including Direct Deposits and Electronic Transfers in the amount of \$621,759.70.

17-24

D. AB10-149 – Ordinance D10-149 – An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Bonney Lake Municipal Code Chapter 18.04, 18.36 And 18.37 To Clarify Uses Allowed In The Downtown Core And Downtown Mixed Zones.

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E. AB10-166 - A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Setting a Public Hearing at 7:00 p.m., or as soon thereafter as possible, During the Regular Council Meeting of October 26, 2010, for the Swiss Park Development Agreement.

Page

V. FINANCE COMMITTEE ISSUES:

27-48

- A. **AB10-157 - Resolution 2074** - A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, authorizing the city to accept a \$114,118 FY2011 Stormwater Capacity Grant from the Washington State Department of Ecology.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:

VII. PUBLIC SAFETY COMMITTEE ISSUES:

VIII. FULL COUNCIL ISSUES:

49-55

- A. **AB10-153 - Resolution 2071** - A Resolution of the City of Bonney Lake, Pierce County, Washington, authorizing the Mayor to sign a Development Agreement with MCA Investments, LLC, Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC, for the Bonney Lake Retail Center.

IX. EXECUTIVE SESSION:

Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

X. ADJOURNMENT

For citizens with disabilities requesting translators or adaptive equipment for communication purposes, the City requests notification as soon as possible of the type of service or equipment needed.

THE COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA.



Proclamation

WHEREAS, in 2009 the City of Bonney Lake reported 133 domestic violence assaults and 19 no contact order violations. While domestic violence offenses are down 43.3% from last year, use of the domestic violence kiosk at City Hall is up. The 2009 Washington State Domestic Violence Fatalities report identified 40 deaths in Washington State of which 10 occurred in Pierce County. The National Coalition Against Domestic Violence found that one in every four women and one in nine men are victims of domestic violence during some time in their lives; and

WHEREAS, domestic violence transcends gender, age, racial, ethnic, religious and socioeconomic borders, and follows a pattern of assault that deprives the abused of their dignity, safety, security and freedom; and

WHEREAS, children who are exposed to domestic violence develop higher levels of behavioral and cognitive problems such as academic problems; aggression; clinginess to caregivers; depression; destructibility; feeling scared; feelings of guilt; feelings of not belonging; low levels of empathy; low self-esteem; nightmares; poor problem-solving skills; post-traumatic stress disorder; suicidal behaviors; truancy; and

WHEREAS, domestic violence costs the nation billions of dollars annually in medical expenses, police and court costs, shelters, transitional housing, foster care, sick leave, absenteeism and non-productivity; and

WHEREAS, the City of Bonney Lake has been proactive in its public outreach efforts to stop the spread of against domestic violence with posters and referral information available on the website, in city building and through the computerized domestic violence kiosk at city hall that allows residents to file for court protective orders without traveling to Tacoma. This is in addition to last year amending Chapter 9.23 of the Bonney Lake Municipal Code to criminalize domestic violence in the presence of children and domestic violence strangulation; and

WHEREAS, Domestic Violence Awareness Month is a time to reflect on the responsibilities of communities and citizens to build healthy, thriving families free from the threat of violence; and

WHEREAS, the home should be a place of peace, safety, and love;

NOW, THEREFORE, I, Neil Johnson, Jr., Mayor of the City of Bonney Lake, Washington, do hereby proclaim:

October 2010 as Domestic Violence Awareness Month

in the City of Bonney Lake and strongly urge the citizens of Bonney Lake to support local agencies, organizations, events and activities aimed at ridding our society of this tragic form of abuse.

Signed this 12th day of October 2010--

Neil Johnson, Jr., Mayor

COUNCIL WORKSHOP

September 21, 2010
5:30 p.m.

MINUTES



“Where Dreams Can Soar”

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Website: www.ci.bonney-lake.wa.us

Audio Time
Stamp ↓

Location: City Hall Council Chambers, 19306 Bonney Lake Blvd, Bonney Lake.

I. Call to Order: Mayor Neil Johnson, Jr. called the Workshop to order at 5:31 p.m.

II. Roll Call: [A1.3]

Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin and Councilmember James Rackley.

[Staff members in attendance were City Administrator Don Morrison, Chief Financial Officer Al Juarez, Public Works Director Dan Grigsby, Police Chief Mike Mitchell, Community Development Director John Vodopich, Community Services Director Gary Leaf, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Jim Dionne and Administrative Specialist Shawn Campbell.]

III. Agenda Items:

5:32:04

A. Council Open Discussion:

Dedication Plaque for Interim Justice Center: City Administrator Morrison submitted to Council several options for a dedication plaque for the Interim Justice Center. He said these plaques are usually bronze and would be placed in the lobby of the Interim Justice Center. Councilmember Rackley stated he wanted to ensure both present and past Councilmembers who have been involved with the Interim Justice Center will be listed on the plaque. Councilmember Decker suggested the past councilmembers return the plaques given them when they completed their terms so the City could place them on the walls around the dedication plaque. Councilmember Hamilton asked about the cost of the plaques. He also said that the font would need to be large enough to read. Councilmember Lewis said he likes having dots between names instead of commas. Council consensus was to get costs and designs for the Gig Harbor and the Hammonton Town Hall sample plaques and return the information to council for a decision.

Midtown Map: Councilmember Carter asked about the progress in the creation of a Midtown map that shows the sewer, roads, sidewalks, easements, and right-of-ways. Director Vodopich said they are working on the map.

Family First Coalition: Councilmember Carter said the Family First Coalition has a meeting on September 27, 2010 at 4:00pm. They also have a fundraiser on November 20, 2010 at the Buckley Eagles Lodge.

Councilmember Carter reported that a dentist at the Rainier School is offering free or at a reduced fee dental care to children that cannot afford to pay.

Bonney Lake YMCA: Councilmember Carter asked for an update on the progress of the YMCA. Mayor Johnson stated that staff is working on a date for a meeting. He said no progress could be made until after the annexation election is complete. Councilmember Carter asked if the projected completion date is still 2017. Mayor Johnson said it is, but added the YMCA would consider moving it forward if the annexation is approved.

National League of Cities Newspaper: Councilmember Carter noted the National Cities newspaper has an article about cities offering citizens prescription drug coverage at a discounted rate. City Administrator Morrison said the city is not currently paying the subscription cost for NLC membership, which is between \$1,500 to \$2,000 a year. Councilmember Carter suggested the other councilmembers read the article and consider joining so that the citizens of Bonney Lake could receive discounts on prescriptions. Councilmember McKibbin asked which budget line the membership would come from. City Administrator Morrison said it would come out of the Council's Budget. Councilmember Carter said in the Kaboom section of the paper several cities received NLC awards for similar services and activities which are currently being offered in the City of Bonney Lake.

5:51:06

- B. **Review of Council Minutes:** September 7, 2010 Council Workshop; and September 14, 2010 Council Meeting.

Councilmember Lewis noted that on the September 14, 2010 minutes, p.1, Chas Rawlings' name was misspelled. The minutes were forwarded to the September 28, 2010 Meeting for action with this correction.

5:52:05

- C. **Discussion:** AB10-149 – Ordinance D10-149 - Updates to Downtown Zoning.

Mayor Johnson said that Chas Rawlings gave the recommendation of the Planning Commission at the September 14, 2010 Council Meeting. City Administrator Morrison stated he submitted a draft ordinance to the Planning Commission, and feels the citizens have a lot of interest in the downtown core zoning. He said he looked at several other cities that use a different approach than what the Planning Commission has recommended. Deputy Mayor Swatman provided City Administrator Morrison's draft ordinance to Council. Deputy Mayor Swatman said if Council has a list of businesses they want in the downtown area, a list should be created. He said he is not confident he knows all the businesses that the City will want in the Downtown in the future, but he does know of uses that would be incompatible with the look and feel wanted for the Downtown area. He asked the City Attorney if there is a way to combine the list and the descriptive language approach to the ordinance. Deputy Mayor Swatman feels the ordinance needs to be easy for developers to use. Director Vodopich said if the Council had a list of business they felt were incompatible with the Downtown area, a list could be created that prohibits those particular types of businesses. City Attorney Dionne stated he recommends using the combination of the list and the proposed language. He said if the City creates a classification system, then it must allow every business that fits within that classification. He feels as long as the zoning does not hinder first amendment rights then the City's approach would be defensible. He advised the language "must be pedestrian friendly" should not be taken out. He said the Council should also create the list of approved and prohibited businesses so Director Vodopich has the criteria to make decisions about businesses in the future. City Attorney Dionne said design standards can be put in place and if a business fits those standards then it would have to be allowed. Councilmember Hamilton asked if the design standards could specify that no

vehicles be allowed in an area. Director Vodopich said the standards could require a parking area, so people have to walk to the businesses.

Councilmember Carter questioned the section on parking garages. She asked whether a business with an elevator must share the elevator with other businesses. Director Vodopich stated that the business would need cross walks within their garage to the elevator.

Councilmember Carter asked about the section requiring a percentage of businesses to be retail. She asked what kind of business would not meet the retail requirements. Deputy Mayor Swatman said they would be considered non-retail, and could go on the second floor. City Attorney Dionne added retail encourages window-shopping. Councilmember Carter said when the Council toured the Greenwood apartments the residents stated it was important to them that the downtown remain a place they could walk to. Residents who live in the downtown area want to be able to continue getting everything they need in this area. Council consensus was to forward the ordinance to the next workshop with the changes that City Attorney Dionne suggested.

6:18:04

D. Discussion: AB10-152 – Ordinance D10-152 – Amendment of Downtown Design Standards.

Director Vodopich said the Police Department requested an exception to be allowed to build a carport for the police boat. The Planning Commission did not allow for the request but decided to allow for accessory dwelling units in the downtown area for existing single-family residences. Deputy Mayor Swatman asked why the council would want to add more accessory buildings in this area. Director Vodopich said the Planning Commission’s thinking is that most of these homes are on the fringe of the downtown core. Councilmember Lewis stated that he is against adding to the downtown core. Council consensus was to take no action on this item.

At 6:21pm Mayor Johnson called a recess until 6:35pm. Mayor Johnson called the meeting to order at 6:38pm

5:33:11

IV. Executive Session: Pursuant to RCW 42.30.110(c), the Council recessed to an executive session with the City Attorney at 6:39 p.m. for 15 minutes to consider the minimum price at which real estate will be offered for lease. The Executive Session was extended at 6:54 p.m. for 10 minutes; was extended at 7:04 p.m. for 5 minutes; was further extended at 7:10 p.m. for 5 minutes; and was extended again at 7:16 p.m. for 5 minutes. The Council returned to Chambers at 7:20 p.m. No action was taken.

6:52:46

V. Adjournment:

At 7:20 p.m. Councilmember Rackley moved to adjourn the Workshop. Councilmember Lewis seconded the motion.

Motion approved 7 – 0.

Harwood T. Edvalson, CMC
City Clerk

Neil Johnson, Jr.
Mayor

Items submitted to Council at the September 7, 2010 Workshop:

- Justice Center – *Dedication Plaque Options* – Don Morrison

CITY COUNCIL MEETING

**September 28, 2010
7:00 P.M.**

MINUTES



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Audio Time
Stamp ↓

Location: City Hall Council Chambers, 19306 Bonney Lake Blvd., Bonney Lake.

I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 6:59 p.m.

A. Flag Salute: Mayor Johnson led the audience in the Pledge of Allegiance.

B. Roll Call:

Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Laurie Carter, Councilmember Dan Decker, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin and Councilmember Jim Rackley.

[Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Chief Financial Officer Al Juarez, Assistant Police Chief Dana Powers, Community Services Director Gary Leaf, Administrative Services Director / City Clerk Harwood Edvalson, and Records & Information Specialist Susan Duis.]

C. Announcements, Appointments and Presentations:

1. Announcements: None.

2. Appointments: None.

3. Presentations: None.

D. Agenda Modifications:

Deputy Mayor Swatman moved to add AB10-159 to Finance Committee Issues, Item B. Councilmember Hamilton seconded the motion.

Deputy Mayor Swatman said this item was reviewed and forwarded by the Finance Committee during their meeting earlier in the evening.

Motion approved 7 – 0.

7:01:42

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings:

1. **Public Hearing: AB10-154 - Resolution 2071** - Regarding a Development Agreement Between the City of Bonney Lake and MCA Investments, LLC,

Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC for the Bonney Lake Retail Center.

Mayor Johnson opened the public hearing at 7:02 p.m.

David Bowen, 22523 SR 410, Bonney Lake, said he spoke for himself and residents Delores McGruder, Mark & Kathy Klinkinger, Mary Miller, Bob Stobie and Roger Watt. He said they support Resolution 2071 and for development in Eastown. He said they look forward to participating in the City's upcoming review of the Eastown development standards.

Seeing no additional speakers, Mayor Johnson closed the public hearing at 7:03 p.m.

B. Citizen Comments:

David Bowen, 22523 SR 410, Bonney Lake, said sometimes audience members cannot hear the Council proceedings. Mayor Johnson asked those attending to raise their hand if they cannot hear what is being said so the audio system can be adjusted.

C. Correspondence: None.

7:05:02

III. COUNCIL COMMITTEE REPORTS:

A. Finance Committee: Deputy Mayor Swatman said the committee met at 5:30 p.m. earlier in the evening and discussed the budget and utility billing code revisions.

B. Community Development Committee: Councilmember Rackley said the committee met on September 20th and discussed the progress of the 192nd St project design and forwarded Resolution 2070 to the current agenda for Council action.

C. Public Safety Committee: Councilmember Hamilton said the committee has not met since the last Council meeting.

D. Other Reports:

Boating Advisory Committee: Councilmember Carter said the Church Lake Boating Advisory Committee held its final meeting and their recommendations were forwarded to the City Attorney's office for review.

Families First Coalition: Councilmember Carter said she and Mayor Johnson attended the Families First Coalition meeting on September 27, 2010. Discussions included the coalition's strategic plan, the upcoming East Pierce Fire & Rescue Open House on October 2nd, and a recent tour of the Rainier State School.

Rainier Communications Commission: Councilmember Rackley said the Rainier Communications Commission met on September 15th and discussed the 2011 budget. City Administrator Morrison said he received calls from Comcast and the RCC regarding the proposed master franchise agreement renewal. He said the renewal agreement will likely come before the Council in the coming months.

Pierce Transit: Mayor Johnson said Pierce Transit will present information at the October 19th Council Workshop about transit services and a proposed tax increase.

7:10:31

IV. CONSENT AGENDA:

- A. **Approval of Minutes:** September 7, 2010 Workshop and September 14, 2010 Meeting.
- B. **Accounts Payable Checks/Vouchers:** Accounts Payable checks/vouchers #59496 thru 59579 (including wire transfer #'s 9112010, 9162010 and 9172010) in the amount of \$594,813.94.
- C. **Approval of Payroll:** Payroll for September 1-15 2010 for Checks 29303-29334 Including Direct Deposits and Electronic Transfers in the amount of \$401,362.62.
- D. **AB10-151 -Resolution 2070** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Amendment No. 1 to the current RH2 contract to design the South Prairie Booster Pump Station.
- E. **AB10-156 – Resolution 2073** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Agreement With Cerium Networks To Purchase, Configure, And Install A Voice Over Internet Protocol Telephone System For \$53,572.69 Plus Tax.

**Councilmember Rackley moved to approve the Consent Agenda.
Councilmember Decker seconded the motion.**

Consent Agenda approved 7 – 0.

7:10:36

V. FINANCE COMMITTEE ISSUES:

- A. **AB10-155 - Resolution 2072** - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Allowing the Bonney Lake Police Department to Expand the Hours of the CSO Crime Analyst from a Part Time Employee to a FTE. The CSO Crime Analyst Will Work 20 Hours for the City of Bonney Lake Police Department and 20 Hours for the PATROL Auto Theft Task Force Where Up to \$50,000 Per Year of this Salary Will be Reimbursed by WATPA Grant Funding Source.

Councilmember Decker moved to approve Resolution 2072. Councilmember Lewis seconded the motion.

Mayor Johnson said the Public Safety Committee reviewed and forwarded the proposed resolution. Deputy Mayor Swatman thanked Police Chief Mitchell and others who developed this innovative way to expand services. Assistant Chief Dana Powers said another officer already works on the task force, and the arrangement will benefit both the department and the community.

Resolution 2072 approved 7 – 0.

- B. AB10-159 – A Motion to Authorize the Mayor to Sign a Temporary Construction Easement Agreement with the Erdman Company. *Added during Agenda Modifications.*

Councilmember Rackley moved to approve AB10-159. Councilmember Decker seconded the motion.

Director Vodopich said due to a miscommunication between the City and the construction company, the company thought the easement had already been signed by the Mayor and has removed several trees. He said the tree removal is part of the project and all trees will be replaced. City Administrator Morrison said the Council could consider allowing this kind of easement to be granted administratively, since they are often time-sensitive. Councilmember Rackley said he feels all easements should come before the Council so councilmembers are aware of them.

Councilmember Carter asked whether a different type of tree could be replanted instead of replacing the Douglas Firs, which are prone to laminated root rot. Director Vodopich said the City code requires a tree-to-tree replacement.

Motion approved 7 – 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: *None.*

7:17:02

VII. PUBLIC SAFETY COMMITTEE ISSUES: *None.*

- A. **AB10-140 - Ordinance 1363** - An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapters 9.52 And 9.54 Of The Bonney Lake Municipal Code, Relating To Property Crimes.

Councilmember Decker moved to approve Ordinance 1363. Councilmember Lewis seconded the motion.

This item was incorrectly referred to as “AB10-136 – Ordinance D10-136” on the Council agenda and attachments. Councilmember Hamilton said the Public Safety Committee forwarded this item, which keeps the City’s code and rates consistent with others.

Ordinance 1363 approved 7 – 0.

VIII. FULL COUNCIL ISSUES: *None.*

IX. EXECUTIVE SESSION: *None.*

7:17:52

X. ADJOURNMENT:

At 7:17 p.m., Councilmember Lewis moved to adjourn the meeting. Councilmember Rackley seconded the motion.

Motion approved 7 – 0.

Harwood Edvalson, CMC
City Clerk

Neil Johnson
Mayor

Items submitted to the Council Meeting of September 28, 2010:

- City of Bonney Lake Staff – *AB10-159 – A Motion to Authorize the Mayor to Sign a Temporary Construction Easement Agreement with the Erdman Company* – Community Development Director John Vodopich.

**City of Bonney Lake, Washington
City Council Agenda Bill (C.A.B.) Approval Form**

<u>Department / Staff Contact:</u> CD / Heather Stinson	<u>Workshop / Meeting Date:</u> 12 Oct 2010	<u>Agenda Bill Number:</u> AB10-149
<u>Ordinance Number:</u> D10-149	<u>Resolution Number:</u>	<u>Councilmember Sponsor:</u>

Agenda Subject: Planning Commission recommendation of updates to Downtown Zoning

Proposed Motion: AB10-149 – Ordinance D10-149 – An Ordinance Of The City Of Bonney Lake, Pierce County, Washington, Amending Bonney Lake Municipal Code Chapter 18.04, 18.36 And 18.37 To Clarify Uses Allowed In The Downtown Core And Downtown Mixed Zones.

Administrative Recommendation: Approve

Background Summary: The attached draft is a combination of the recommendation by Planning Commission and recently updated by the legal counsel.

<u>BUDGET INFORMATION:</u>			
Budget Amount	Required Expenditure	Budget Impact	Budget Balance
Budget Explanation:			

<u>COMMITTEE/BOARD REVIEW:</u>
Subcommittee Review Date: -
Commission/Board Review Date: Planning Commission -16 Jun 2010
Hearing Examiner Date:

<u>COUNCIL ACTION:</u>	
Workshop Date(s): 21 Sept 2010, 5 Oct 2010	Public Hearing Date(s): 2 Jun 2010
Meeting Date(s): 14 Sept 2010	Tabled To Date:

Signatures:

Director Authorization John P. Vodopich, AICP	Mayor	Date City Attorney Reviewed September 28 & October 5, 2010
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ORDINANCE NO. D10-149

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING BONNEY LAKE MUNICIPAL CODE CHAPTERS 18.04, 18.36 AND 18.37 TO CLARIFY USES ALLOWED IN THE DOWNTOWN CORE AND DOWNTOWN MIXED ZONES.

WHEREAS, it is necessary to enact a Code provision clarifying the allowed uses in Downtown Core (DC) and Downtown Mixed (DM) zoning; and

WHEREAS, the Planning Commission conducted a public hearing on June 2, 2010 and issued a recommendation for passage of this Ordinance on June 16, 2010; and

WHEREAS, Washington State Department of Commerce has completed its required review and had no comments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Chapter 18.36 of the Bonney Lake Municipal Code is hereby amended to read as follows:

18.36.010 General intent.

The intent of this zone is to implement the commercial and retail core portion of the downtown plan which forms a part of the community character element of the comprehensive plan. Uses within this area should enhance the pedestrian scale of the downtown core and allow for a compact walking environment in which shopping, dining, and recreational opportunities are easily accessible. (Ord. 1250 § 6, 2007; Ord. 1155 § 1, 2005).

18.36.020 Permitted uses.

A. Ground Floor. It is intended that ground floor uses maintain downtown's commercial and retail vitality and walkability by promoting browsing and window-shopping and attracting customers on a drop-in basis. Ground floor uses should maintain ground floor visibility and have windows facing the sidewalk to display goods and services for sale. Ground floor levels will ideally contain a mix of retail, personal services, eating and drinking establishments, theater and cultural facilities, and financial institutions. Allowable uses are:

1. Antique shops;
2. Automatic Teller Machines (ATM's) with no drive-thru;
3. Bakeries, retail;
4. Banks with no drive-thru;
5. Barber and beauty shops;
6. Bars;
7. Beer and Wine specialty shops;
8. Bookstores;

9. Brewpubs and microbreweries;
10. Coffee shops, cafes;
11. Dry Cleaners;
12. Food markets, delicatessen and meat markets (may sell beer and wine);
13. Galleries;
14. Hardware stores;
15. Horticultural nursery and garden supply, indoor or outdoor;
16. Hotels, motels;
17. Libraries;
18. Massage therapy / spas;
19. Mini daycare center;
20. Nail salons;
21. Pet shop, grooming and supplies;
22. Pharmacies;
23. Photographic studios, processing and / or supply;
24. Printing, copying and mailing services;
25. Retail shops;
26. Restaurants with no drive-thru;
27. Shoe repair;
28. Tailor shops;
29. Tanning salons;
30. Theaters.

B. Upper Floors. Uses on the upper floors should support and enhance the overall activity in the downtown core by including uses allowable on the ground floor as well as residences and uses that attract visitors on an appointment or destination basis. Allowable uses are:

1. Uses permitted on the ground floor, with a conditional use permit.
2. Dancing, music, art, and vocational schools;
3. Family day care homes;
4. Home occupations, provided the provisions of BLMC 18.22.010 are met;
5. Medical-Dental Clinics;
6. Medical Offices;
7. Professional Offices;
8. Religious institutions;
9. Schools, colleges and universities or extension classrooms;
10. Veterinary clinics with no outdoor kennel space or dog runs;
11. Dwelling units at any density. (Ord. 1250 § 6, 2007; Ord. 1155 § 1, 2005).

C. The Community Development Director or designee shall have the authority to determine whether a use is a sufficiently similar use to those listed above for purposes of this chapter, such that the use promotes the intent of the ordinance and should be permitted.

18.36.030 Conditional uses.

A. The following uses are allowed on the ground or upper floors in the Downtown Core zone upon the granting of a conditional use permit as provided in BLMC § 18.52.010. In addition to the criteria for a conditional use permit, the size, configuration, location, and design of the use shall be consistent with the goals, policies, and vision of this Chapter.

1. Uses proposed for the ground floor that are allowed on the upper floors under BLMC § 18.36.020;
2. Bowling Alleys
3. Parking garages as provided in Chapter 18.36.050(C).
4. Professional offices that serve customers, such as travel agencies, insurance agencies, accountants, and realtors.

18.36.040 Setback and bulk regulations.

A. Structures shall be set back at least 20 feet from any single-family residential zone. Exception: Buildings taller than 35 feet shall increase the setback by one foot from any single-family residential zone for every one foot of building height increase over 35 feet, up to a maximum setback of 60 feet. For example, a proposed building of 50 feet in the DC zone shall be set back at least 35 feet from any single-family zone (20 feet plus 15 extra feet for the height increase over 35 feet).

B. The maximum height of buildings shall be 50 feet. Exceptions: Taller buildings, up to a maximum of seven stories in height, may be permitted provided the following criteria are met:

1. Project has approval from the fire marshal.
2. For four story structures, at least 40 percent of the required parking is provided within the structure; for five story structures, at least 50 percent of the required parking is provided with the structure; for six story structures, at least 60 percent of the required parking is provided within the structure; for seven story structures, more than 80 percent of the required parking is provided within the structure.
3. Buildings must comply with the design standards plus include one of the following features that appear to reduce the scale of the building and add visual interest:
 - a. Step back the facade of one or more of the upper floors by at least 10 feet.
 - b. Other building modulation technique or use of a curved facade that meets the intent of the standard per the director.

C. All buildings must maintain a minimum 13-foot floor-to-ceiling height on the ground floor. (Ord. 1250 § 6, 2007; Ord. 1155 § 1, 2005).

18.36.050 Off-street parking and loading requirements.

A. Where so indicated in the downtown plan which forms a part of the comprehensive plan, parking shall be to rear of buildings, centralized and shared among businesses where feasible.

B. For off-street parking and loading requirements, see BLMC 18.22.100 (Off-street parking and loading requirements) and Chapter 18.31 BLMC, Commercial Development Standards. (Ord. 1250 § 6, 2007; Ord. 1155 § 1, 2005).

C. Parking Garages. Parking garages and structures shall comply with the following requirements:

- (1) Driveway openings shall be limited to two per structure and the number of access lanes in each opening shall be limited to two.
- (2) Ground level parked vehicles shall be screened from view from the adjacent rights-of-way or properties by landscaping.
- (3) A safe pedestrian linkage system, such as a marked crosswalk and/or sidewalk, shall be installed between the parking structure and the principal or adjacent uses.
- (4) The upper surface of underground parking structures shall not exceed a height of three and one-half feet above the average grade of the abutting public sidewalk and no parking shall be permitted on top of that portion of an underground parking structure which is above the established grade.
- (5) Above ground parking structures shall not front on Main Street, Sumner Buckley Hwy or SR 410 unless they are visually compatible with the principal use structure and the character of development within the Downtown Plan.
- (6) Parking areas or garages shall be designed to provide for off-street vehicle circulation to adjoining property and parking areas where physically feasible, except that driveways and parking aisles should not cross pedestrian linkages in the downtown core.

Section 2. Section 18.37.010 of the Bonney Lake municipal code is hereby amended to read as follows:

18.37.020 Permitted uses.

A. The following uses shall be allowed outright in all cases:

1. Medical offices, professional offices, corporate offices, Internet service providers.
2. Dance studios, fitness centers, musical instruction, vocational schools.
3. Art galleries, photography studios, museums.
4. Apartments, condominiums, and townhouses at any density.
5. Family day care homes;
6. Home occupations, provided the provisions of BLMC 18.22.010 are met;
7. Medical-Dental Clinics;
8. Religious institutions;
9. Schools, colleges and universities or extension classrooms;
10. Social service organizations;
11. Veterinary clinics with no outdoor kennel space;

B. The following shall be allowed only if they occupy 50 percent or less of the development site's gross building floor area: Any use other than those cited in subsection A of this section, which is permitted in the downtown core district on the ground floor. (Ord. 1250 § 7, 2007; Ord. 1155 § 2, 2005).

Section 3. BLMC Chapter 18.04 is hereby amended to read as follows:

18.04.020 "B".

"Bar" means a portion of a full food menu restaurant premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefrom by law.

"Beer and wine specialty shop" is a shop that sells beer, strong beer and / or wine for off-premises consumption in bottles, cans, or original containers. May offer samples for purposes of sales promotion.

"Boarding home" is any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include adult family homes or independent senior housing.

"Brewpub" means a restaurant-brewery that has a full food menu and sells at least 50 percent of its beer on the premises. The beer is brewed for sale and consumption in the adjacent restaurant and/or bar. The beer is often dispensed directly from the brewery's storage tanks.

"Building" means a structure with a foundation, supports or walls and a roof.

"Building, height" of a structure with a flat roof shall be measured from the grade plane to the highest roof surface. The building height for a sloped roof shall be defined as the average height of the highest roof between the roof eave and the roof ridge to the grade plane, regardless of the shape of the roof. For lots within 200 feet of the shoreline, "building height" shall be determined by using WAC 173-27-030(9).

"Bulk regulation" refers to the relationship of the area of a lot, the setback regulations and the portion of a lot which may be covered by building.

18.04.130 "M".

"Manufactured home" means a structure constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

A. Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;

B. Was originally constructed and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;

C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences;

D. Is built on a permanent chassis and designed solely for the purpose of human habitation.

"Massage therapy/spa" means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or articulations and excludes sexual contact.

“Medical-dental clinic” means an establishment for the treatment of outpatients, and providing no overnight care for patients.

“Microbrewery” means a facility that produces beer and sells it to the public by one or more of the following methods: through the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and in some cases, directly to the consumer through carryouts or on-site taproom sales. Microbreweries shall have a production capacity not to exceed 15,000 U.S. barrels per year and shall have a full food menu.

“Mini-day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons.

“Mobile home” means a single-family prefabricated residential unit manufactured according to the standards of the statutes of the state and federal government, capable of being moved upon the public roads and highways, so designed and equipped as to be served by a sanitary sewer or septic tank system, supported by leveling jacks or blocks.

“Mobile home park” is a tract of land used or designated for the use of two or more mobile homes.

“Modification” means the changing of any portion of a facility such as a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Modular home” means any structure other than a mobile or manufactured home designed primarily for human occupancy, which is either entirely or substantially prefabricated or assembled at a place other than a building site and which has been approved pursuant to RCW 43.22.455 and bears the insignia of the Washington State Department of Labor and Industries.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.

B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.

C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, electrical transmission towers, utility poles, and bridges.

18.04.180 “R”.

“Residence” is a building containing dwelling units or rooming units, including single-family mobile homes or two-family houses, multiple dwellings, boarding or roominghouses.

“Residential care facility” means a facility that cares for at least five, but not more than 15, functionally disabled persons.

“Retail shop” means uses principally engaged in retail sale or rental of consumer or household goods, including ancillary repair services. These retail uses are characterized by face-to-face transactions conducted by both the buyer and seller on the business premises.

Retail businesses that conduct a majority of their sales (over 50%) via the internet or other means of telecommunications are not considered "retail" for the purposes of this section.

"Retirement homes/homes for the aged" includes any home which is maintained for the purpose of providing board and domiciliary care to three or more persons not related by blood or marriage to the operator.

Section 4. If any portion of this Ordinance shall be invalidated by a court of competent jurisdiction, the remainder shall remain in full force and effect.

Section 5. This Ordinance shall take effect thirty (30) days after its passage, subject to prior approval by the Mayor and prior publication for five days as required by law.

PASSED by the City Council and approved by the Mayor this _____ day of _____, 2010.

Neil Johnson, Mayor

ATTEST:

Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

James J. Dionne, City Attorney

Passed:
Valid:
Published:
Effective Date:

**City of Bonney Lake, Washington
City Council Agenda Bill (C.A.B.) Approval Form**

<u>Department / Staff Contact:</u> CD / John P. Vodopich, AICP	<u>Workshop / Meeting Date:</u> 12 Oct 2010	<u>Agenda Bill Number:</u> AB10-166
<u>Ordinance Number:</u>	<u>Resolution Number:</u> 2080	<u>Councilmember Sponsor:</u>

Agenda Subject: Swiss Park Development Agreement

Proposed Motion: A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Setting a Public Hearing at 7:00 p.m., or as soon thereafter as possible, During the Regular Council Meeting of October 26, 2010, for the Swiss Park Development Agreement.

Administrative Recommendation: Set October 26, 2010 as the public hearing date.

Background Summary: Staff has been working on a Development Agreement with Swiss Park for the construction of a restroom/shower facility. A public hearing before Council is required.

<u>BUDGET INFORMATION:</u>			
Budget Amount	Required Expenditure	Budget Impact	Budget Balance
Budget Explanation:			

<u>COMMITTEE/BOARD REVIEW:</u>
Subcommittee Review Date: -
Commission/Board Review Date: -
Hearing Examiner Date:

<u>COUNCIL ACTION:</u>	
Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s):	Tabled To Date:

Signatures:

Director Authorization John P. Vodopich, AICP	Mayor	Date City Attorney Reviewed October 1, 2010
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**City of Bonney Lake, Washington
City Council Agenda Bill (C.A.B.) Approval Form**

<u>Department / Staff Contact:</u> Exec / Brian Hartsell	<u>Workshop / Meeting Date:</u> 12 Oct 2010	<u>Agenda Bill Number:</u> AB10-157
<u>Ordinance Number:</u>	<u>Resolution Number:</u> 2074	<u>Councilmember Sponsor:</u>

Agenda Subject: Acceptance of FY11 Stormwater Capacity Grant

Proposed Motion: AB10-157 - Resolution 2074 - A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, authorizing the city to accept a \$114,118 FY2011 Stormwater Capacity Grant from the Washington State Department of Ecology.

Administrative Recommendation: Approve the proposed Resolution 2074.

Background Summary: The 2010 Washington State Legislature appropriated over \$54 million to the Department of Ecology for a stormwater retrofit and low-impact development grant program. The funding targets local governments to address stormwater management and control, by building staffing capacity, improving local stormwater programs, research, data management, and monitoring. To this end, the non-competitive FY11 Municipal Stormwater Capacity Grants Program is offered by Ecology as one of two financial assistance programs available to National Pollutant Discharge Elimination System (NPDES) Phase II municipal stormwater permittees. Public Works will utilize the funds for public education and outreach activities, illicit discharge detection and elimination program activities, operation and maintenance program activities, and equipment purchases that result directly in improved compliance with permit requirements. The grant agreement is attached.

<u>BUDGET INFORMATION:</u>			
Budget Amount	Required Expenditure	Budget Impact	Budget Balance
Budget Explanation: Our portion of the pass through funds were calculated based on 2009 population figures obtained from OFM and were calculated at \$114,118. No City match is required. Effective date of agreement will be 1 July 2010. Funds must be expended by 30 June 2012. Upon grant acceptance, a project code will be established to track expenditures.			

COMMITTEE/BOARD REVIEW:

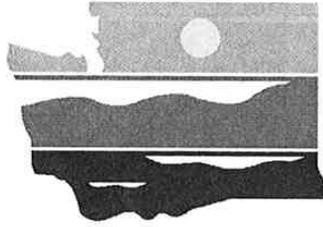
Subcommittee Review Date: Finance Committee - 12 Oct 2010
Commission/Board Review Date: -
Hearing Examiner Date:

COUNCIL ACTION:

Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s):	Tabled To Date:

Signatures:

Director Authorization	Mayor	Date City Attorney Reviewed
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DEPARTMENT OF
ECOLOGY
 State of Washington

FY 2011 MUNICIPAL STORMWATER CAPACITY GRANTS PROGRAM

GRANT AGREEMENT BETWEEN THE

**STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
 AND
 CITY OF BONNEY LAKE**

**GRANT AGREEMENT NUMBER
 G1100020**

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**MUNICIPAL STORMWATER CAPACITY GRANTS PROGRAM
FUNDING AGREEMENT BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF BONNEY LAKE**

THIS is a binding agreement entered into, by, and between the state of Washington Department of Ecology (DEPARTMENT), and the City of Bonney Lake (RECIPIENT). The purpose of this agreement is to provide funds to the RECIPIENT to carry out the requirements described herein.

PART I. GENERAL INFORMATION

Project Title:	Municipal Stormwater Capacity Grant Program
State Fiscal Year:	FY2011
Grant Number:	G1100020
RECIPIENT Name:	City of Bonney Lake
Mailing Address:	P.O. Box 7380 Bonney Lake, WA 98391-0944
RECIPIENT Federal ID Number:	91-0753552
Total Eligible Cost (\$70,000 plus per capita calculated amount):	\$114,118
DEPARTMENT Share:	\$114,118
DEPARTMENT Maximum Percentage:	100%
RECIPIENT Contact:	Brian Hartsell
Telephone Number:	(253) 447-3102
Fax Number:	(253) 862-8538
E-Mail Address:	hartsellb@ci.bonney-lake.wa.us
RECIPIENT Billing Contact:	Terrina Marchant
Telephone Number:	(253) 447-4315
Fax Number:	(253) 852-8538
E-Mail Address:	marchantt@ci.bonney-lake.wa.us

DEPARTMENT Project/Financial Manager: **Tracy Farrell**
Mailing Address: **Water Quality Program**
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone Number: **360- 407-6502**
Fax Number: **360- 407-7151**
E-Mail Address:

The effective date of this grant agreement is **July 1, 2010**. Any work performed prior to the effective date of this agreement is not eligible for reimbursement.

This agreement expires on **June 30, 2012**.

PART II. PERFORMANCE MEASURES

A. Water Quality Goal.

Improved stormwater oversight and water quality protection through the direct development and implementation of a comprehensive stormwater management program.

B. Project Outcomes.

Implementation of Phase I and II municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

C. Post Project Assessment.

The RECIPIENT agrees to submit a brief survey three years after project completion regarding the key project outcomes and the status of environmental results or goals from the project. The DEPARTMENT's Performance Measures Lead will e-mail the RECIPIENT the Post Project Assessment Survey.

The DEPARTMENT may conduct on-site interviews and inspections, and may otherwise evaluate the Project. The DEPARTMENT will enter the information provided into its performance measures database to be provided to the Washington State Legislature, United States Environmental Protection Agency, and other natural resource agencies.

Approximate Post Project Assessment Date: June 30, 2015

PART III. PROJECT DESCRIPTION

The RECIPIENT's stormwater project will address implementation or management of municipal stormwater programs.

PART IV. PROJECT BUDGET

Municipal Stormwater Capacity Grants Program, FY2011	
Elements/Objects	TOTAL ELIGIBLE COST (TEC)*
Task 1 – Project Administration/Management (limited to 10% of total)	\$0
Task 2 – Implementation and management of Stormwater Program	\$114,118
Total	\$114,118
*The DEPARTMENT's Fiscal Office will track to the Total Eligible Project Cost.	
MATCHING REQUIREMENTS (There are no matching requirements)	
DEPARTMENT Share FY 2011 (100% of TEC)	\$114,118

Payment Request Submittals. Payment requests will not be submitted more often than monthly, unless allowed by the DEPARTMENT's Project/Financial Manager. The DEPARTMENT's Project/Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Payment Schedule. Payments will be made on a cost-reimbursable basis.

PART V. SCOPE OF WORK

The RECIPIENT will ensure that this project is completed according to the details of this agreement. The RECIPIENT may elect to use its own forces or it may contract for professional services necessary to perform and complete project related work. The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services. Eligible and ineligible project costs are separate and identifiable for billing purposes. If professional services are contracted, the RECIPIENT will submit a copy of the final contract to the DEPARTMENT's Project/Financial Manager.

Task 1 - Project Administration/Management

- A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.
- B. The RECIPIENT will manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort

will be made to maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT will carry out this project in accordance with any completion dates outlined in this agreement.

- C. The RECIPIENT will submit all invoice voucher submittals and supportive documentation, to the DEPARTMENT's Project/Financial Manager. Copies of all applicable forms will be included with an original A19-1A, and will be submitted to the DEPARTMENT. Blank forms are found in Administrative Requirements for Recipients of Ecology Grants and Loans at <http://www.ecy.wa.gov/biblio/9118.html>

Required Forms:

- Form A19-1A (original signature)
- Form B2 (ECY 060-7)
- Form C2 (ECY 060-9)
- Form D (ECY 060-11)

Where Eligible Costs Have Incurred:

- Form E (ECY 060-12)
- Form F (ECY 060-13)
- Form G (ECY 060-14)
- Form H (F-21)
- Form I (ECY 060-15)

- D. If work conducted results in a report, the RECIPIENT will submit the following to the DEPARTMENT's Project/Financial Manager and in the quantities identified:

- Draft project completion reports – one electronic copy
- Final project completion reports – five copies
- Electronic copy of final project completion report

The RECIPIENT will submit two copies of any document(s) which requires DEPARTMENT approval. Once approval is given, one copy will be returned to the RECIPIENT. If the RECIPIENT needs more than one approved copy, the number of submittals should be adjusted accordingly.

Task 2 – Implementation of Stormwater Planning and Management Needs

- A. The RECIPIENT will address stormwater management needs that protect or restore water quality. The RECIPIENT may conduct work related to implementation of activities required by the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

The following is a list of elements your project may include. Please check all boxes that apply to your project.

- Public education and outreach activities
- Public involvement and participation activities
- Illicit discharge detection and elimination (IDDE) program activities, including:
 1. Mapping or geographic information systems of municipal separate storm sewer systems (MS4s);
 2. Staff training;
 3. Activities to identify and remove illicit stormwater discharges;
 4. Dry weather outfall screening procedures and field activities;

5. Complaint hotline database or tracking system improvements.
- Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 1. Development of an ordinance and associated technical manual;
 2. Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance;
 3. Training for plan review and/or inspection staff.
 - Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 1. Inspecting and/or maintaining the MS4 infrastructure;
 2. Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
 - Annual reporting activities, including developing a summary of identified barriers to the use of low impact development.
 - Establishing and refining stormwater utilities, including stable rate structures.
 - Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan that Ecology approves prior to awarding funding for monitoring.
 - Monitoring, including:
 1. Developing a report to plan for monitoring the next permit cycle;
 2. Monitoring activities to meet Phase I permit requirements;
 - Structural stormwater controls program activities (Phase I permit requirement)
 - Source control for existing development (Phase I permit requirement), including:
 1. Inventory and inspection program;
 2. Technical assistance and enforcement;
 3. Staff training.
 - Equipment purchases that result directly in improved compliance with permit requirements. Allowed costs for equipment purchases must be specific to implementing a permit requirement (such as a vactor truck) rather than general use (such as a general us pick-up truck). Qualified equipment purchases include but are not limited to:
 1. Illicit discharge testing equipment and materials;
 2. Vactor truck or sweeper truck or MS4 maintenance activities;
 3. Electronic devices dedicated to mapping of MS4 facilities and attributes;
 4. Software dedicated to tracking permit implementation activities.

PART VI. SPECIAL TERMS AND CONDITIONS

- A. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project within four months of the signatory date, the DEPARTMENT reserves the right to terminate this agreement.

PART VII. ALL WRITINGS CONTAINED HEREIN

The following contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein:

- This agreement
- Attachment I: General Project Management Requirements for the Municipal Stormwater Capacity Grants Program.
- Attachment II: General Terms and Conditions
- The effective edition, at the signing of this agreement, of the DEPARTMENT's "Administrative Requirements for Ecology Grants and Loans"
- The associated funding guidelines that correspond to the fiscal year in which the project is funded
- The applicable statutes and regulations

No subsequent modifications or amendments of this agreement will be of any force or effect unless signed by authorized representatives of the RECIPIENT and the DEPARTMENT and made a part of this agreement, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the grant budget. The DEPARTMENT or the RECIPIENT may change their respective staff contacts without the concurrence of either party.

The RECIPIENT acknowledges that they have had the opportunity to thoroughly review the terms of this agreement, the attachments, all incorporated or referenced documents, as well as all applicable statutes, rules, and guidelines mentioned in this agreement.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CITY OF BONNEY LAKE

KELLY SUSEWIND, P.E., P.G. DATE
WATER QUALITY PROGRAM MANAGER

DON MORRISON DATE
CITY ADMINISTRATOR

APPROVED AS TO FORM ONLY
ASSISTANT ATTORNEY GENERAL

ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS FOR THE FEDERAL CLEAN WATER ACT SECTION 319 NONPOINT SOURCE FUND

EDUCATION AND OUTREACH

The RECIPIENT must do a regional search for existing materials before producing any new educational flyers or pamphlets. The RECIPIENT must request the use of those materials before time and resources are invested to duplicate materials that are already available.

The RECIPIENT must also check the Washington Waters website http://www.ecy.wa.gov/washington_waters/index.html for useful educational materials. These materials are available for public use and can be downloaded directly from the website.

The RECIPIENT must provide the DEPARTMENT up to two copies and an electronic copy either on floppy disks or CD-ROM of any tangible educational products developed under this grant, such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements or gadgets, such as a refrigerator magnet with a message. If this is not practical, the RECIPIENT must provide a complete description including photographs or printouts of the product.

The RECIPIENT must also supply the DEPARTMENT with the names and contact information of local project leads.

If there are a significant number of people in the community that speak languages other than English, the RECIPIENT must produce all pamphlets, fliers, meeting notices, reports, and other educational and public outreach materials in English and in the other prevalent language.

EQUIPMENT PURCHASE

The total cost of all equipment purchased under this project will not exceed \$114,118. Changes in equipment type must have prior approval from the DEPARTMENT.

FUNDING RECOGNITION

The RECIPIENT must inform the public about DEPARTMENT or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from the DEPARTMENT upon request.

INDIRECT RATE

To acknowledge overhead costs, the RECIPIENT may charge an indirect rate of up to 25 percent based on employees' direct salary and benefit costs incurred while conducting project-related work. The DEPARTMENT's Financial Manager may require a list of items included in the indirect rate at any time.

MINORITY AND WOMEN'S BUSINESS PARTICIPATION

The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

- a) Include qualified minority and women's businesses on solicitation lists.
- b) Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
- c) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e) Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

The RECIPIENT must report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. Please include the following information:

- a) Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
- b) The total dollar amount paid to qualified firms under this invoice.

PAYMENT REQUEST SUBMITTALS

Frequency. The RECIPIENT must submit payment requests at least quarterly but no more often than monthly, unless allowed by the DEPARTMENT's Financial Manager. The DEPARTMENT's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Supporting Documentation. The RECIPIENT must submit all payment request vouchers and supportive documentation to the DEPARTMENT's Financial Manager. Payment request voucher submittals are based on match requirements found in the budget.

Required Forms.

Any Match Combination

Cash Only Match

Where Applicable

Form A19-1A (original signature)	Form A19-1A (original signature)	Form E (ECY 060-12)
Form B1 (ECY 060-3)	Form B2 (ECY 060-7)	Form F (ECY 060-13)
Form C1 (ECY 060-8)	Form C2 (ECY 060-9)	Form H (F-21)
Form D (ECY 060-11)	Form D (ECY 060-11)	Form I (ECY 060-15)

Reporting eligible costs. The RECIPIENT must report all eligible costs incurred on the project, regardless of the source of funding for those costs. This includes costs used as match. All eligible and ineligible project costs must be separate and identifiable.

Reimbursements. Payments will be made on a cost-reimbursable basis.

POST PROJECT ASSESSMENT

The RECIPIENT agrees to submit a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project three years after project completion.

The DEPARTMENT's Water Quality Program Performance Measures Lead will contact the RECIPIENT before the Post Project Assessment date to request this data.

The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the Project, as part of this assessment.

PROCUREMENT

The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services.

PROGRESS REPORTS

The RECIPIENT must submit quarterly progress reports to the DEPARTMENT's Financial Manger and Project Manager. Payment requests will not be processed without a progress report.

Reporting Periods.

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

Reporting Due Date. Quarterly progress reports are due 15 days following the end of the quarter.

Report Content. At a minimum, all progress reports must contain a comparison of actual accomplishments to the objectives established for the period, the reasons for delay if established objectives were not met, analysis and explanation of any cost overruns, and any additional pertinent information specified in this agreement. The recipient must also attach all landowner agreements signed during the respective quarter to each progress report.

REQUIRED DOCUMENT SUBMITTALS

The RECIPIENT must submit the following documents to the DEPARTMENT as requested by the DEPARTMENT's Project Manager or Financial Manager:

- Draft project completion reports – up to 3 copies
- Electronic copy of final project completion report – 1 copy
- Final project completion reports – up to 8 copies
- Final project completion reports of statewide significance – up to 50 copies
- Educational products developed under this agreement – up to 2 copies
- Documents that require DEPARTMENT Approval – 2 copies (one for the DEPARTMENT and one for the RECIPIENT)
- Interlocal agreements – 1 copy for the DEPARTMENT's Financial Manager
- Professional services procurement agreements – 1 copy to the DEPARTMENT's Financial Manager

WATER QUALITY MONITORING

Quality Assurance Project Plan (QAPP). Prior to initiating water quality monitoring activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP). The QAPP must follow Ecology's *Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies*, February 2001 (Ecology Publication No. 01-03-003). The applicant may also reference the *Technical Guidance for Assessing the Quality of Aquatic Environments*, revised February 1994 (Ecology Publication No. 91-78) or more current revision, in developing the QAPP.

The RECIPIENT must submit the QAPP to Ecology's project manager for review, comment, and must be approved before starting the environmental monitoring activities.

The RECIPIENT must use an environmental laboratory accredited by Ecology to analyze water samples for all parameters to be analyzed that require bench testing. Information on currently accredited laboratories and the accreditation process is provided on the Department of Ecology's Environmental Assessment Program's website, available at:

<http://www.ecy.wa.gov/programs/eap/labs/search.html>

The RECIPIENT should manage all monitoring data collected or acquired under this agreement in order to be available to secondary users and meet the "ten-year rule." The ten-year rule means that data documentation is sufficient to allow an individual not directly familiar with the specific monitoring effort to understand the purpose of the data set, methods used, results obtained, and quality assurance measures taken ten years after data are collected.

Monitoring Data Submittal / Environmental Information Management System. Funding recipients that collect water quality monitoring data must submit all data to Ecology through the Environmental Information Management System (EIM). Data must be submitted by following instructions on the EIM website, currently available at:

<http://www.ecy.wa.gov/eim>

The data submittal portion of the EIM website provides information and help on formats and requirements for submitting tabular data. Specific questions about data submittal can be directed to the EIM Data Coordinator, currently available at:

eim_data_coordinator@ecy.wa.gov

If GIS data is collected, Ecology data standards are encouraged. An Ecology Focus Sheet entitled *GIS Data and Ecology Grants* (Publication No. 98-1812-SEA) outlines the standards. Common standards must be used for infrastructure details, such as geographic names, Geographic Information System (GIS) coverage, list of methods, and reference tables.

**ATTACHMENT II: GENERAL TERMS AND CONDITIONS PERTAINING TO
GRANT AND LOAN AGREEMENTS OF THE DEPARTMENT OF ECOLOGY**

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits. Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.
2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.
3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted. Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for

each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer. The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work.

Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys,

drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.
2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the B-4 DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform. Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in

Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the

RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal. In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized

representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all

injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

SS-010 Rev. 04/04

RESOLUTION NO. 2074

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE CITY TO ACCEPT A \$114,118 FY2011 STORMWATER CAPACITY GRANT FROM THE WASHINGTON STATE DEPARTMENT OF ECOLOGY.

WHEREAS, the grant agreement requires the signature of an authorized representative of our local government;

The City Council of the City of Bonney Lake, Washington, does hereby resolve that the Mayor is authorized to sign the grant agreement in connection with the \$114,118 FY2011 Stormwater Capacity Grant from the Washington state Department of Ecology.

PASSED by the City Council this 12th day of Oct, 2010

Neil Johnson Jr., Mayor

ATTEST:

Harwood T. Edvalson, CMC
City Clerk

APPROVED AS TO FORM:

James Dionne, City Attorney

**City of Bonney Lake, Washington
City Council Agenda Bill (C.A.B.) Approval Form**

<u>Department / Staff Contact:</u> Exec / Brian Hartsell	<u>Workshop / Meeting Date:</u> 12 Oct 2010	<u>Agenda Bill Number:</u> AB-10-153
<u>Ordinance Number:</u>	<u>Resolution Number:</u> 2071	<u>Councilmember Sponsor:</u>

Agenda Subject: Development Agreement for the Bonney Lake Retail Center

Proposed Motion: AB10-153 - Resolution 2071 - A Resolution of the City of Bonney Lake, Pierce County, Washington, authorizing the Mayor to sign a Development Agreement with MCA Investments, LLC, Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC, for the Bonney Lake Retail Center.

Administrative Recommendation: Approved proposed resolution 2071.

Background Summary: MCA Investments, LLC, Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC own property fronting SR410 next to Mazatlan Restaurant and in front of their new self-storage center. The group is proposing to develop their property into the Bonney Lake Retail Center, wherein space would be provided for two tenants. Their plan stalled when their site plan conflicted with elements of the Easttown Design Standard—primarily the Standard’s prohibition of parking that fronts State Route 410 and the future 216th Ave E. Section 7 of the standard does indicate that “minor variations” are allowable. This resolution proposes the approval of the attached simple development agreement to enact that “minor variation” provision and thereby allow up to two rows of parking to front the two roads. The agreement itself explains and describes the allowance of the minor variation. The proposed site plan and supporting code are included as exhibits to the attached agreement.

<u>BUDGET INFORMATION:</u>			
Budget Amount	Required Expenditure	Budget Impact	Budget Balance
Budget Explanation:			

COMMITTEE/BOARD REVIEW:

Subcommittee Review Date: Finance Committee - 14 Sep 2010
Commission/Board Review Date: -
Hearing Examiner Date:

COUNCIL ACTION:

Workshop Date(s): 5 Oct 2010 **Public Hearing Date(s):** 28 Sep 2010; AB10-153
Meeting Date(s): **Tabled To Date:**

Signatures:

Director Authorization	Mayor	Date City Attorney Reviewed 8 Sep 2010--Kathleen Haggard
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RESOLUTION NO. 2071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A DEVELOPMENT AGREEMENT WITH MCA INVESTMENTS, LLC, BONLAK INVESTORS, LLC, AND BONNEY LAKE CAPITOL INVESTORS, LLC, FOR THE BONNEY LAKE RETAIL CENTER.

WHEREAS, Chapter 36.70B authorizes local governments to enter into development agreements that set forth the “development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement”; and

WHEREAS, the City desires to enter into a development agreement with MCA Investments, LLC, Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC, the owners of real property at 21514 SR 410, Bonney Lake, WA; and

WHEREAS, RCW 36.70B.200 requires development agreements to be approved by ordinance or resolution after a public hearing; and

WHEREAS, a public hearing was held on September 28, 2010;

NOW THEREFORE, the City Council of the City of Bonney Lake, Washington, does hereby authorize the mayor to sign a Development Agreement with MCA Investments, LLC, Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC, for the Bonney Lake Retail Center.

PASSED by the City Council this 12th day of October, 2010.

Neil Johnson, Jr., Mayor

ATTEST:

Harwood Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

James Dionne, City Attorney

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (“Agreement”) is made between the City of Bonney Lake, Washington (“City”) and MCA Investments, LLC, Bonlak Investors, LLC, and Bonney Lake Capitol Investors, LLC (“Developers”) (hereinafter collectively referred to as “the Parties”), under the authority of RCW 36.70B.170 et seq.

RECITALS

WHEREAS, the Developers intend to construct a commercial retail center, Bonney Lake Retail Center (“Project”), to be occupied by no more than two tenants over its own property located at 21514 SR 410, Bonney Lake, WA (“Property”); and

WHEREAS, the Project is located in the Eastown combined retail-commercial, warehousing and light manufacturing (C-2/C-3) zone; and

WHEREAS, the City is currently in the process of reviewing the Eastown Development Standard, which is part of the Eastown Subarea Plan and overall Comprehensive Plan, in order to determine whether certain standards such as prohibition of parking along SR410 frontage, should be revised; however, revisions are not expected to be finalized before the end of 2010; and

WHEREAS, the current Eastown Development Standards have a provision in Section 7 that states, “Minor variations may be permitted to allow for topographic constraints, flexibility for coordinated design, and creativity;” and

WHEREAS, the parcel size and position of the Property relative to SR 410, combined with the existing Standard precluding parking spaces adjacent to SR 410, would make it impractical for the Developers to build the proposed Project; and

WHEREAS, under RCW 36.70B.170, cities are authorized to enter into development agreements for real property in order to “set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.”

NOW, THEREFORE, the Parties agree as follows:

- A. The Developers shall be granted a Minor Variation to Section 7.4, Parking, of the Eastown Development Standards. Up to two rows of parking may front SR 410 and/or 216th Ave E, as shown on the Site Plan attached as Exhibit A. Inclusion of Site Plan Exhibit A is for illustrative purposes only and does not indicate City approval of the Site Plan. All other provisions of Section 7.4 still apply. The Minor Variation does not excuse compliance with zoning and other regulations set forth in the Bonney Lake Municipal Code, or compliance with all other aspects of the Eastown Subarea Plan not affected by the Minor Variation set forth in this Agreement. The Developers must

adhere to all City planning and permitting requirements, which are unaffected by this Agreement.

- B. The Bonney Lake Retail Center proposed by the Developers may not be occupied by the ineligible business listed in Bonney Lake Municipal Code Section 19.04.150, attached as Exhibit B to this Agreement. These ineligible businesses are fast food restaurants, sandwich, teriyaki and other related eating establishments, with or without drive-through windows; coffee stands; beauty, nail, or hair salons; adult entertainment establishments; kennels; salvage yards; antique shops; convenience stores; gas stations; bars and taverns; thrift shops; self storage units; second hand or antique stores.
- C. Per RCW 36.70B.190, the City shall record this Agreement with the Pierce County Auditor, and this Agreement shall run with the land and bind the Parties' heirs, successors, and assigns for the duration of the Agreement.
- D. This Agreement shall be in effect from the date of its ratification by resolution after public hearing by the Bonney Lake City Council per RCW 36.70B.200 for a period of ten years.

Landowners & Developers

By: _____
Ward Johnson
MCA Investments, LLC; Westmark Construction, Inc.

By: _____
Carl Hogan
Bonlak Investors, LLC

By: _____
Jeff Hogan
Bonney Lake Capitol Investors, LLC

City of Bonney Lake

By: _____
Neil Johnson, Jr., Mayor

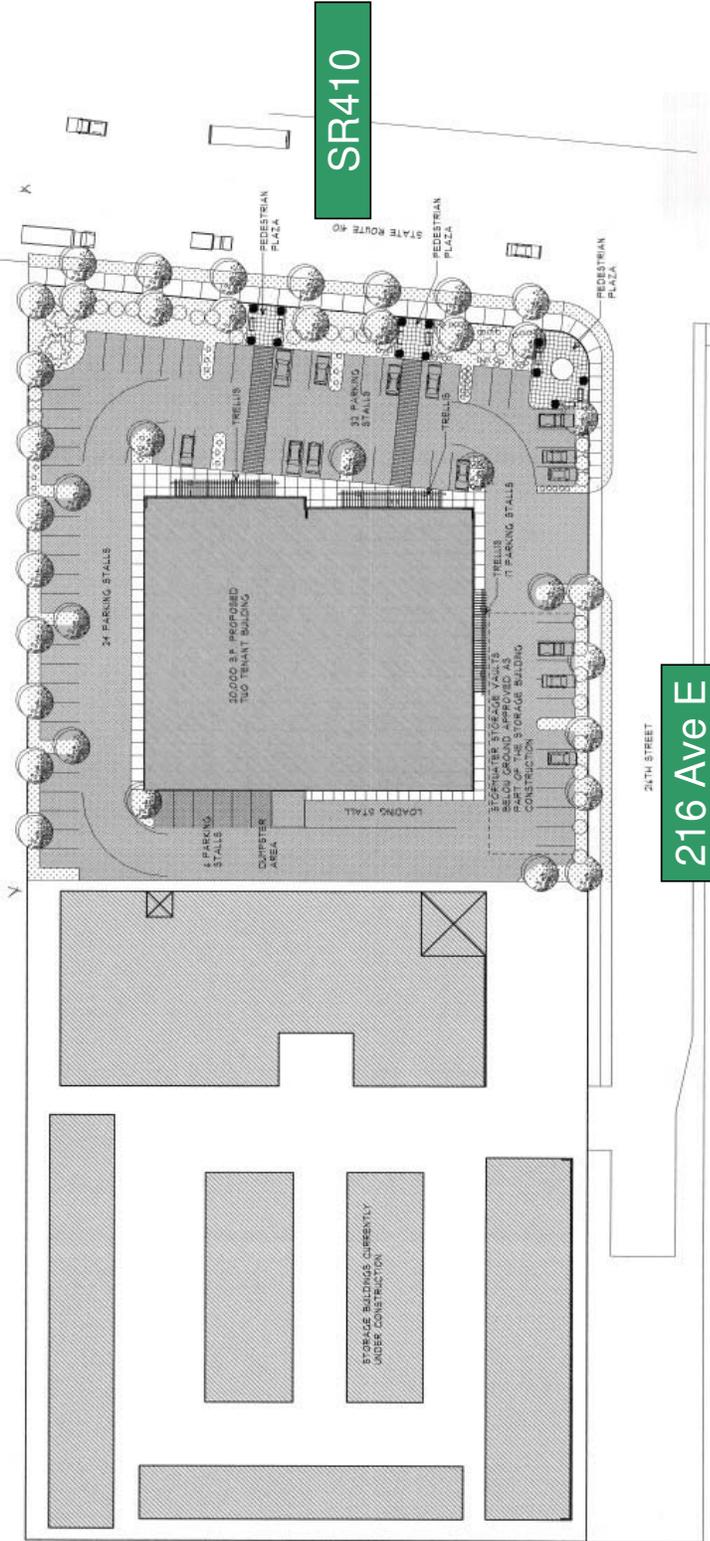
Exhibit "A"

Bonney Lake Retail Building—Preferred Plan

BONNEY LAKE RETAIL BUILDING

21514 SR 410

JUNE 23, 2010



SCHEMATIC SITE PLAN
SCALE 1" = 20'-0"
0' 10' 20' 40'

PROJECT DATA:	
SITE AREA:	4.33 ACRES
PROPOSED BUILDING AREA:	20,000 SF
PARKING PROVIDED:	74 STALLS
BUILDING HEIGHT PROPOSED:	24' - 0"
LEGAL DESCRIPTION: Block 02 Tenants II Range 05 Quarter 22, ELY, 240 FT OF WLY 100 FT OF THE 1/4 CORNER OF GOVT LOT 4 LY 5 OF STATE HWY EVC ADJ. R 1/4 CTD 1/4 ST OF SA DOT #2016 S608000M/21-1950	

James Guerrero
Architects, INC.

7520 Bridgeport Way W.
Lakewood, WA, 98459
Phone: 253.951-6000
Fax: 253.951-7239

REGISTERED
ARCHITECT
WASHINGTON

Exhibit B—Excerpt from BLMC Chapter 19.04

19.04.150 Traffic impact fee (TIF) funding source adjustments.

A. Traffic Impact Fee Funding Source Adjustment Established – Purpose. The purpose of this policy is to encourage and facilitate certain businesses to locate in designated areas of the city where development is desired, and to recruit into the city those types of businesses deemed beneficial to the city and the community and/or which the city currently lacks in sufficient number or volume. Pursuant to RCW 82.02.060(2) and (4) there is hereby established a funding source adjustment from the traffic impact fee set forth in this chapter for development activity which meets the criteria of subsection C of this section.

B. Application for Traffic Impact Fee Adjustment. Any developer applying for or receiving a building permit which meets the criteria set forth in subsection C of this section may apply to the mayor or designee for an adjustment from the traffic impact fee established pursuant to this chapter. Said application shall be on forms provided by the city and shall be accompanied by all information and data the city deems necessary to process the application. A full and complete application must be filed on or before the date of certificate of occupancy in order to be eligible for a potential adjustment to the TIF.

C. Funding Source Adjustment Criteria. To be eligible for the traffic impact fee adjustment established by this section, the applicant shall be a commercial retail business which locates or establishes a commercial retail business that is not considered to be ineligible pursuant to subsection (C)(5) of this section. Qualified applicants must meet each of the following criteria as applicable:

1. Downtown. The applicant must be a retail business, either new or existing, located within the downtown core (DC) or downtown mixed use (DM) zoning district. Any permitted commercial uses in the DC or DM district are eligible to apply for the TIF adjustment. In order to qualify for a TIF adjustment in the downtown, the retail applicant or underlying developer must redevelop a portion of the downtown core or downtown mixed use zone. Said redevelopment shall include, at a minimum, the demolition of an existing structure on the site of the proposed new construction, and the subsequent construction of a new structure of not less than 10,000 square feet in conformance with the downtown plan and accompanying design guidelines.

2. Easttown Zone. The applicant must be a new retail business located within the Easttown combined retail-commercial, warehousing and light manufacturing zone, and not considered to be an ineligible business under subsection (C)(5) of this section. Based on similar store sales or other reliable data, as determined by the city, the applicant must demonstrate that it is likely to generate to the city of Bonney Lake average annual city of Bonney Lake portion sales and use tax revenue of at least \$15,000 per year over the three-year period commencing from date of certificate of occupancy.

3. Midtown and Other Areas Outside Downtown or Easttown. The applicant must be a new retail business located within a C1, C2, or C3 zoning district, and not considered an ineligible business under subsection (C)(5) of this section. Based on similar store sales or other reliable data, as determined by the city, the applicant must demonstrate that it is likely to generate to the city of

Bonney Lake average annual city of Bonney Lake portion sales and use tax revenue of at least \$15,000 per year over the three-year period commencing from date of certificate of occupancy.

4. Special Criteria for Sit-Down Restaurants. The applicant must be a new otherwise eligible sit-down restaurant in which patrons are typically served by wait-staff and orders are not normally placed at a counter or drive-through window, and which employs 18 or more full-time equivalent (FTE) employees, or which generates to the city of Bonney Lake average annual city of Bonney Lake portion sales and use tax revenue of at least \$25,000 per year over the three-year period commencing from date of certificate of occupancy.

5. Ineligible Businesses. The council finds that there are several types of businesses which are either currently well represented in the city, or otherwise do not have a broad public purpose, and thus no TIF incentive is appropriate. The following business types are hereby expressly excluded from application for the TIF adjustment program in all areas outside of the downtown: fast food restaurants, sandwich, teriyaki and other related eating establishments in which orders are normally placed at a counter or drive-through window; coffee stands; beauty, nail, or hair salons; adult entertainment establishments; kennels; salvage yards; antique shops; convenience stores; gas stations; bars and taverns; thrift shops; self storage units; second hand or antique stores.