



CITY COUNCIL MEETING AGENDA

August 3, 2009

SPECIAL MEETING, Miller Creek Conference Room, 3rd Floor

For the purpose of holding an Executive Session to discuss potential litigation per RCW 42.30.110(1i)

6:30 p.m.

Council Meeting, 1st Floor

7:00 p.m.

Transportation Benefit District Board Meeting

7:05 p.m.

Burien City Hall, Council Chambers

400 SW 152nd Street, 1st Floor

Burien, Washington 98166

1. CALL TO ORDER

2. EXECUTIVE SESSION

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

**5. TRANSPORTATION
BENEFIT DISTRICT (TBD
NO. 1) BOARD MEETING**

Recess to convene Transportation Benefit District (TBD No. 1) Board Meeting.

**6. ADJOURNMENT TO
COUNCIL MEETING**

Reconvene Council meeting.

**7. AGENDA
CONFIRMATION**

8. PUBLIC COMMENT

To receive comments on *topics other than public hearing topics*. Individual will please limit their comments to three minutes, and groups to five minutes.

**9. CORRESPONDENCE FOR
THE RECORD**

- a. Email Dated July 16, 2009, from Gene H. Goodwin Regarding Statues in Burien/Interim Arts Space with Response from Michael Lafreniere, Parks and Recreation Director. 3.
- b. Email Dated July 19, 2009, from Jim Branson Regarding Town Square with Response from Dick Loman, Economic Development Manager. 7.
- c. Email Dated July 20, 2009, from Mary Ann Peterson Regarding Air Traffic with Response from Lisa Clausen, Government Relations Specialist. 11.

COUNCILMEMBERS

Joan McGilton, Mayor
Kathy Keene

Sue Blazak, Deputy Mayor
Lucy Krakowiak
Sally Nelson

Rose Clark
Gordon Shaw

CITY COUNCIL AGENDA

August 3, 2009

Page 2

9. CORRESPONDENCE FOR THE RECORD (cont'd.)	d. Written Comments for Public Hearing of July 20, 2009, from Bob Edgar Regarding the Agenda Bill for Proposed Resolution No. 298.	13.
	e. Email Dated July 22, 2009, from Gene Rubbert Regarding S. 148 th St. with Response from Scott Greenberg, Community Development Director.	15.
10. PRESENTATIONS	a. Presentation by Melanie Wu on Highline High School Senior Project - <i>Burien: Past, Present and Future</i> .	
	b. Presentation on Siting of Future Burien Fire Station.	
	c. Presentation by David M. Johnson, CEO, on Navos Project.	
11. CONSENT AGENDA	a. Approval of Vouchers: Numbers 22757 - 22867 in the Amount of \$1,657,820.22.	19.
	b. Approval of Council Meeting Minutes: July 20, 2009.	35.
12. BUSINESS AGENDA	a. City Manager's Report.	41.
	b. Motion to Adopt Ordinance No. 519, Amending the Surface Water Management Code.	61.
	c. Discussion on Ordinance No. 518, relating to Monthly Remittance of Utility Taxes.	97.
	d. Discussion on Resolution No. 301, Authorizing the City Manager to Execute the Proceeds Distribution and Hold Harmless Agreement with the City of Bellevue.	101.
	e. Discussion on New Interim Community Center CIP Project.	115.
	f. Discussion on Cost Sharing Agreement with Army Corps of Engineers for Seahurst Shoreline Restoration Feasibility Study.	131.
	g. Discussion on City Contribution to a Highline Schools Foundation for Excellence "Pay for Play" Scholarship.	151.
13. COUNCIL REPORTS		
14. ADJOURNMENT		

Lisa Clausen

From: Michael Lafreniere
Sent: Thursday, July 16, 2009 1:30 PM
To: 'win4joy@comcast.net'
Subject: RE: Statues in Burien/Interim Arts Space

Mr. Goodwin,

Thank you for contacting the City of Burien regarding the sculptures next to Town Square Park. The sculptures and the area you are referring to are part of the Burien Interim Art Space (or B/IAS) project. For your information, the project is not part of Town Square Park or on public property; it is on private property. The B/IAS project is a temporary art park, open to the public, and created by the community. It is designed and intended to creatively use land that would otherwise be sitting idle. The site is scheduled for construction of the next phase of the Burien Town Square project; at that time the art will be removed and returned to the artists. More information about the project is available at www.interim-art-space.com.

Certainly many people often have a wide range of opinions regarding public art, and I do respect your point of view. As has long been said, art is in the eye of the beholder. It is also the case that we have heard many positive comments about the project from the public. It has also led to some interesting partnerships that are beneficial to the community. For example, students from the Highline School District's Puget Sound Skills Center recently learned to fabricate metal sculptures for display at the site, and members of the local plumbers and pipefitters union stepped forward to work with the students on this effort. There is also art there made by students at Gregory Heights and Cedarhurst elementary schools, and the hubcap art you mentioned was done by students from Highline High School. Due to the uniqueness of the B/IAS concept regarding the use of unused spaces for community art, this project has certainly received considerable press, most all of it positive, and significant regional attention for the city of Burien.

As I clarified earlier, the B/IAS site is not part of the City's new park but is on private property; it is not owned or maintained by the City. The artwork placed there does not require the Council's review or approval. The site is maintained by community volunteers from a local non-profit arts organization. The project is a partnership between a handful of art organizations and the property owner, i.e. the Town Square developer, Urban Partners. The City did not commission the creation of any of the art on the site. The City does however have an "Art in Public Places" fund for public art projects, both permanent and temporary. The City did contribute some funds along with other organizations, including the Town Square developer, Urban Partners, to the arts organization to assist it with its project, principally their efforts to bring the large mother-and-child sculpture (known as "The Passage") to Burien. As I said, this exhibition is expected to be on display through the end of the year. We will relay your comments to the citizen volunteers who have organized the B/IAS project. If you would like to contact them directly, you can do so through their website.

If you have further questions or suggestions, or if you have some art that you would like to contribute to the space, you can contact our Cultural Arts Supervisor, Gina Kallman, at 206-988-3713.

Sincerely,

Michael Lafreniere
Director of Parks, Recreation & Cultural Services
michaell@burienwa.gov
425 SW 144th Street
Burien, WA 98166-1545
tel: (206) 988-3700
www.BurienParks.net
"Innovative Stewards of Public Trust"

From: Joyce and Gene [mailto:win4joy@comcast.net]
Sent: Thursday, July 16, 2009 12:32 AM
To: Council
Subject: Statues in Burien/Interim Arts Space

Whatever were you people thinking?

CFTR 8/3/09

I recently drove through Burien and saw those horrible statues in your town square. The two large statues are exceptionally ugly and offensive to the eye. There is nothing beautiful or inspirational in this work. They are a blight on the landscape.

They are poorly conceived and executed from junk metal, and that is where they belong...in the junkyard.

The smaller nude lady on the other hand is beautifully executed and would be a nice addition to a semi secluded garden or pool setting.....but not displayed in the middle of a busy, dusty town square. Why would you put her there.

Apparently, you have no taste.

Gene H. Goodwin

Lisa Clausen

From: Council
To: Joyce and Gene
Subject: RE: Statues in Burien/Interim Arts Space

Thank you for your message to the Burien City Council. It will be forwarded to the appropriate staff for response and included in the Correspondence for the Record.

L. Clausen
City Manager's Office

From: Joyce and Gene [mailto:win4joy@comcast.net]
Sent: Thursday, July 16, 2009 12:32 AM
To: Council
Subject: Statues in Burien/Interim Arts Space

Whatever were you people thinking?

I recently drove through Burien and saw those horrible statues in your town square. The two large statues are exceptionally ugly and offensive to the eye. There is nothing beautiful or inspirational in this work. They are a blight on the landscape.

They are poorly conceived and executed from junk metal, and that is where they belong...in the junkyard.

The smaller nude lady on the other hand is beautifully executed and would be a nice addition to a semi secluded garden or pool setting.....but not displayed in the middle of a busy, dusty town square. Why would you put her there.

Apparently, you have no taste.

Gene H. Goodwin

Lisa Clausen

From: Dick Loman
Sent: Friday, July 24, 2009 12:13 PM
To: 'james.branson.206@gmail.com'
Cc: Lisa Clausen; Janet Stallman; Mike Martin
Subject: FW: Town Square

Importance: High

MR. Branson. Your e-mail of July 19th to the Burien City Council has been referred to me for reply.

Thank you for your suggestion concerning the use of security cameras at Town Square. The Square has been open to the public now for only a little over a month. If vandalism proves with time to be a problem, surveillance cameras would one of the remedies available to the City.

We understand that further move ins at Town Square are being delayed due to the mortgage lender's recent requirement that at least 51% of available units be sold and in escrow before any buyers needing financing can close their loans and proceed to move in. The developer is a ways off from reaching that goal. Tracy O'Brien is the Project Sales Manager and can be reached at 206-901-0000. Up to date information is available with her at the Sales Office.

Just to clarify, in the attached news story from last November, the statement quoted about "quick" sales of remaining condos was made by Dan Rosenfeld, principal in the development firm of Urban Partners and not by city personnel. Since that time, the market for brand new condominiums throughout the greater Seattle area has soften even further than anyone anticipated.

Thank you.
Richard F. Loman
Economic Development Manager
City of Burien

-----Original Message-----
From: Lisa Clausen
Sent: Monday, July 20, 2009 2:29 PM
To: Dick Loman
Subject: FW: Town Square
Importance: High

Hi Dick,
Are you the appropriate person to address this email to?
Thanks.
Lisa

-----Original Message-----
From: Council
Sent: Monday, July 20, 2009 2:26 PM
To: 'james.branson.206@gmail.com'
Subject: Re: Town Square

CFR- 8/3/09

Thank you for writing to the Burien City Council. Your message will be forwarded to the appropriate City staff for response and included in the Correspondence for the Record.

L. Clausen
City Manager's Office

-----Original Message-----

From: Jim Branson [mailto:james.branson.206@gmail.com]
Sent: Sunday, July 19, 2009 5:43 PM
To: Burien
Subject: Town Square

Dear Mayor McGilton and Council Members,

Vandalism to the new town square might be reduced if someone lived there. In a Highline Times Article from November of 2008, Dick Loman said that one third of all the units were already sold and the rest would sell quickly.

http://www.highlinetimes.com/articles/2008/11/03/news/local_news/news01.txt

According to any public records that I can find, only 2 units have sold.

How many units have actually sold? Does anyone live in the building?

If almost no units have sold, and virtually no one lives in the building, would the City consider installing surveillance cameras to protect the taxpayers investment?

Jim Branson
Seahurst

Lisa Clausen

From: Council
To: james.branson.206@gmail.com
Subject: Re: Town Square

Thank you for writing to the Burien City Council. Your message will be forwarded to the appropriate City staff for response and included in the Correspondence for the Record.
L. Clausen
City Manager's Office

-----Original Message-----

From: Jim Branson [mailto:james.branson.206@gmail.com]
Sent: Sunday, July 19, 2009 5:43 PM
To: Burien
Subject: Town Square

Dear Mayor McGilton and Council Members,

Vandalism to the new town square might be reduced if someone lived there. In a Highline Times Article from November of 2008, Dick Loman said that one third of all the units were already sold and the rest would sell quickly.

http://www.highlinetimes.com/articles/2008/11/03/news/local_news/news01.txt

According to any public records that I can find, only 2 units have sold.

How many units have actually sold? Does anyone live in the building?

If almost no units have sold, and virtually no one lives in the building, would the City consider installing surveillance cameras to protect the taxpayers investment?

Jim Branson
Seahurst

Lisa Clausen

From: Council
To: Maryann Peterson
Subject: RE: Air traffic

Thank you for your message to the Burien City Council. It will be forwarded to the appropriate staff to look into your questions and will be included in the Council's Correspondence for the Record for a future Council meeting.

L. Clausen
City Manager's Office

From: Maryann Peterson [mailto:maryann@plymouthpoultry.com]
Sent: Monday, July 20, 2009 11:36 AM
To: Council
Subject: Air traffic

Greetings,

I'm not sure where to start, so I went straight to the top. At least I think I did.

I've lived in Burien for 15 years now, and I love this town. But....

The 3-rd runway air traffic has gotten obnoxiously loud in our neighborhood. We are in the process of getting our home ready for sale, and it has already devalued far below the amount at which we are currently taxed, to the tune of over \$150K. The increased air traffic will definitely NOT help it's value. Although the city will still get it's money from our inflated property tax assessment, where can I go to figure out the consistently most heavily-used air traffic patterns and times in our area so that I can schedule prospective buyers to visit our home during quiet times, so that we can try to recoup some of our losses? It will also help in our search for a home.

I've already learned the FAA has no intent of sticking to its original 'promise' of only using the runway during periods of adverse weather and heavy traffic, and is not worried about encroaching traffic on previously peaceful neighborhoods. I notice there is a class-action lawsuit in the works, and although I'm not a fan of lawsuits I'm considering getting involved in this one. Perhaps someone could also direct me to a site that explains that further? I have a feeling we won't be able to sell our home, no matter how much we lower the price. It would be nice to be involved in something that might help us, since we'll probably be stuck here for life.

Sincerely,

Mary Ann Peterson
Plymouth Poultry Annex
206-349-1165

Lisa Clausen

From: Council
Sent: Monday, July 27, 2009 5:42 PM
To: 'Maryann Peterson'
Subject: RE: Air traffic

Dear Ms. Peterson:

Regarding your air traffic questions, I have been advised that one step you may take is to call the Port of Seattle's Noise Hotline; the number is found on the Port's Web site. Also, the Port's Noise Program Manager is Stan Shepherd and he can be reached at 206-787-4905.

Regarding your reference to a possible lawsuit, I do not have information on that. Perhaps you can find information online such as through news articles as to who is involved in that.

Please contact us again if you need additional information. Thank you.

Lisa Clausen
Burien City Manager's Office

From: Maryann Peterson [mailto:maryann@plymouthpoultry.com]
Sent: Monday, July 20, 2009 11:36 AM
To: Council
Subject: Air traffic

Greetings,

I'm not sure where to start, so I went straight to the top. At least I think I did.

I've lived in Burien for 15 years now, and I love this town. But...

The 3-rd runway air traffic has gotten obnoxiously loud in our neighborhood. We are in the process of getting our home ready for sale, and it has already devalued far below the amount at which we are currently taxed, to the tune of over \$150K. The increased air traffic will definitely NOT help it's value. Although the city will still get it's money from our inflated property tax assessment, where can I go to figure out the consistently most heavily-used air traffic patterns and times in our area so that I can schedule prospective buyers to visit our home during quiet times, so that we can try to recoup some of our losses? It will also help in our search for a home.

I've already learned the FAA has no intent of sticking to its original 'promise' of only using the runway during periods of adverse weather and heavy traffic, and is not worried about encroaching traffic on previously peaceful neighborhoods. I notice there is a class-action lawsuit in the works, and although I'm not a fan of lawsuits I'm considering getting involved in this one. Perhaps someone could also direct me to a site that explains that further? I have a feeling we won't be able to sell our home, no matter how much we lower the price. It would be nice to be involved in something that might help us, since we'll probably be stuck here for life.

Sincerely,

Mary Ann Peterson
Plymouth Poultry Annex
206-349-1165

CFTR: 8/3/09



CITY OF BURIEN, WASHINGTON

Written Public Comments for Public Hearing of July 20, 2009

For those who do not wish to speak, but would like to make comments, please use this sheet. Your comments will be summarized and become part of the permanent record for this Council meeting. You may leave your completed sheet with the City Clerk. Thank you.

The Agenda Bill for the proposed Resolution #298 provides a summary of the topic to be discussed. However, key information appears to be missing and should be made available to the citizens of Burien:

1. Complete description of the project
2. The cost of the project.
3. All income sources for the project
4. The city's ability to afford the project
5. Safeguards that will be written into the project to prevent cost overruns.

This information should be made available for every project presented to the council for consideration.

Name: Bob Edgar

Address: 12674 Shorewood Dr S.W.

City / Zip Code: Burien 98146

Telephone: _____

Re: Resolution #298:

If the work behind this resolution has been going on for some time, as stated by Council member Nelson, then the Fund Source, Activity Cost, Amount Budgeted should be been part of the public information!

Lisa Clausen

From: Scott Greenberg
Sent: Monday, July 27, 2009 10:35 AM
To: 'cgaux32@clearwire.net'
Cc: Council
Subject: S. 148th Street

Mr. Rubbert: I was given a copy of your e-mail to the City Council for a response. At the April 29th public meeting on the Northeast Redevelopment Area plans, a majority of residents in your neighborhood asked the City to close several streets adjacent to Port owned properties along S. 147th and S. 148th Streets. On June 29, city staff sent a letter to residents in your neighborhood requesting comments on proposed street closures. All responses except one were in favor of the closures as proposed by Burien Public Works, Police and Fire. The closures were then implemented on July 22 in accordance with the letter. The Port of Seattle will soon be communicating with your neighborhood on their plans for upkeep of their properties.

Scott Greenberg, AICP
City of Burien
Community Development Director
 400 SW 152nd St. (Suite 300)
 Burien, WA 98166
 (206) 248-5510 Department Phone
 (206) 248-5519 Direct Phone
www.burienwa.gov

In Burien? Find us on Cable Channel 21 or 540 AM radio
 Online? Follow us on Twitter

OUR VISION: We Are Innovative Stewards of Public Trust"
 ♻️ Before you print think about the environment

From: Gene [mailto:cgaux32@clearwire.net]
Sent: Wednesday, July 22, 2009 10:46 AM
To: Council
Subject: S 148th St

City Council & Citizens of Burien

As I predicted I received the documents I requested on the closure of S 148th St just as the street was closed. I was notified by voice mail on Monday 20 June 2009 that the requested documents were ready. In addition, the last day for comments was Wednesday 15 June 2009 and on Wednesday 22 June 2009 before 10 AM, the street was closed. That leaves a maximum of four working days to review the comments, letters, concerns, and cares of the homeowners and citizens that live in the area. It is amazing how fast the city can move when they want to.

Were any of the concerns of the citizens addressed? As the Port of Seattle (POS) requested this closure, was the city of Burien able to get any concessions from the POS concerning the maintenance of the property as I suggested in my

CFTR : 8/3/09

response? In the past, they have done a poor job at best of property maintenance; I believe the weeds are cut about every three years.

I see this as another indication that the City Council, Mayor, and City Manager have no real concerns for the homeowners of this area. Every time I see something from the City of Burien concerning this area, I suspect a snake in the grass. Again, this time I found it.

Most City Council members received an email from me on this issue. Only two responded, Rose Clark and Lucy Karkowiak. Although I was never able to speak with either of them at least they showed some concern regardless of how minimal it was. I would like to have had a dialog with someone about the process of this road closure it never happened. It appears that our City Council members have joined with the POS. They are much too busy and lack any concern for any of us who live in the "Crotch" of Burien. This was once a thriving neighborhood but it was destroyed by the POS with what appears to be the approval of the city council.

I do remember during elections that some council members came to the neighborhood asking for votes. However, since then I have not seen any elected officials in this area.

Gene Rubbert

816 S 148th ST

Burien WA 98168

Lisa Clausen

From: Council
To: Gene
Subject: RE: S 148th St

Thank you for your message. It will be referred to the appropriate City staff and included in the Correspondence for the Record.

L. Clausen
 City Manager's Office

From: Gene [mailto:cgaux32@clearwire.net]
Sent: Wednesday, July 22, 2009 10:46 AM
To: Council
Subject: S 148th St

City Council & Citizens of Burien

As I predicted I received the documents I requested on the closure of S 148th St just as the street was closed. I was notified by voice mail on Monday 20 June 2009 that the requested documents were ready. In addition, the last day for comments was Wednesday 15 June 2009 and on Wednesday 22 June 2009 before 10 AM, the street was closed. That leaves a maximum of four working days to review the comments, letters, concerns, and cares of the homeowners and citizens that live in the area. It is amazing how fast the city can move when they want to.

Were any of the concerns of the citizens addressed? As the Port of Seattle (POS) requested this closure, was the city of Burien able to get any concessions from the POS concerning the maintenance of the property as I suggested in my response? In the past, they have done a poor job at best of property maintenance; I believe the weeds are cut about every three years.

I see this as another indication that the City Council, Mayor, and City Manager have no real concerns for the homeowners of this area. Every time I see something from the City of Burien concerning this area, I suspect a snake in the grass. Again, this time I found it.

Most City Council members received an email from me on this issue. Only two responded, Rose Clark and Lucy Karkowiak. Although I was never able to speak with either of them at least the showed, some concern regardless of how minimal it was. I would liked to have had a dialog with someone about the process of this road closure it never happened. It appears that our City Council members have joined with the POS. They are much to busy and lack any concern for any of us who live in the "Crotch" of Burien. This was once a thriving neighborhood but it was destroyed by the POS with what appears to be the approval of the city council.

I do remember during elections that some council members came to the neighborhood asking for votes. However, since then I have not seen any elected officials in this area.

Gene Rubbert
 816 S 148th ST
 Burien WA 98168

COMPUTER CHECK REGISTER

CHECK REGISTER APPROVAL

WE, THE MEMBERS OF THE CITY COUNCIL OF BURIEN, WASHINGTON, HAVING RECEIVED DEPARTMENT CERTIFICATION THAT MERCHANDISE AND/OR SERVICES HAVE BEEN RECEIVED OR RENDERED, DO HEREBY APPROVE FOR PAYMENT ON This 3rd day of August, 2009 the FOLLOWING:

CHECK NOS. 22757-22867

IN THE AMOUNTS OF \$1,657,820.22

WITH VOIDED CHECK NOS. _____

Accounts Payable

Checks for Approval



User: liliac
Printed: 07/29/2009 - 3:59 PM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
22757	07/22/2009	General Fund	Miscellaneous	APA/PAW Awards Committee	75.00
Check Total:					75.00
22758	07/22/2009	Town Square CIP	Office Furniture and Equipment	CDW-G	1,031.33
Check Total:					1,031.33
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	76.62
22759	07/22/2009	General Fund	Registration - Trainng/workshp	CITI BANK	225.00
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	163.71
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	163.70
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	17.99
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	479.07
22759	07/22/2009	General Fund	Strawberry Festival	CITI BANK	38.27
22759	07/22/2009	General Fund	Dues/memberships	CITI BANK	5.00
22759	07/22/2009	General Fund	Registration & Training	CITI BANK	40.00
22759	07/22/2009	General Fund	Subscriptions & publications	CITI BANK	47.28
22759	07/22/2009	General Fund	Burien Marketing Strategy	CITI BANK	141.93
22759	07/22/2009	General Fund	Admission and Entrance Fees	CITI BANK	433.86
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	34.98
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	458.86
22759	07/22/2009	General Fund	Admission and Entrance Fees	CITI BANK	497.20
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	59.34
22759	07/22/2009	General Fund	Admission and Entrance Fees	CITI BANK	104.25
22759	07/22/2009	General Fund	Strawberry Festival	CITI BANK	492.75
22759	07/22/2009	General Fund	Miscellaneous	CITI BANK	59.95
22759	07/22/2009	General Fund	Miscellaneous	CITI BANK	14.95
22759	07/22/2009	General Fund	Subscriptions/publications	CITI BANK	19.95
22759	07/22/2009	General Fund	Drug seizure proceeds KCSO	CITI BANK	141.74
22759	07/22/2009	General Fund	Computer Related Supplies	CITI BANK	90.00
22759	07/22/2009	General Fund	Miscellaneous	CITI BANK	30.00
22759	07/22/2009	General Fund	Strawberry Festival	CITI BANK	26.40

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	39.82
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	179.24
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	179.24
22759	07/22/2009	General Fund	Office And Operating Supplies	CITI BANK	265.65
Check Total:					4,526.75
22760	07/22/2009	General Fund	Registration - Trainng/workshp	CTED Bond Cap Allocation Progr	39.00
Check Total:					39.00
22761	07/22/2009	General Fund	Operating Rentals And Leases	IKON Office Solutions	321.93
Check Total:					321.93
22762	07/22/2009	General Fund	Operating Rentals And Leases	Ikon Office Solutions	51.06
22762	07/22/2009	General Fund	Operating Rentals And Leases	Ikon Office Solutions	51.06
22762	07/22/2009	General Fund	Operating Rentals And Leases	Ikon Office Solutions	51.06
22762	07/22/2009	General Fund	Operating Rentals And Leases	Ikon Office Solutions	51.06
Check Total:					204.24
22763	07/22/2009	Equipment Reserve Fund	Machinery/eqpt - Noncapitalize	Network Computing Architects I	90.07
Check Total:					90.07
22764	08/03/2009	General Fund	Dues/memberships	Auto Club of America	134.92
22764	08/03/2009	General Fund	Dues/memberships	Auto Club of America	134.93
Check Total:					269.85
22765	08/03/2009	General Fund	Small Tools & Minor Equipments	ACE Hardware	25.48
22765	08/03/2009	General Fund	Small Tools & Minor Equipments	ACE Hardware	28.69
Check Total:					54.17
22766	08/03/2009	General Fund	Repairs And Maintenance	ADT Security Services	88.88
Check Total:					88.88
22767	08/03/2009	General Fund	Subscriptions/publications	Attorney's Eagle Eye Service	56.94

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	56.94
22768	08/03/2009	General Fund	Operating Rentals And Leases	AIRGAS-NORPAC, INC.	7.80
22768	08/03/2009	General Fund	Operating Rentals And Leases	AIRGAS-NORPAC, INC.	7.80
				Check Total:	15.60
22769	08/03/2009	General Fund	Professional Services	Administrative Office of the C	10.99
				Check Total:	10.99
22770	08/03/2009	General Fund	Dues/memberships	American Planning Association	450.00
				Check Total:	450.00
22771	08/03/2009	General Fund	Quarterly Newsletter	Kenneth Barger	148.96
				Check Total:	148.96
22772	08/03/2009	General Fund	Repairs And Maintenance	Bicycles West	174.07
				Check Total:	174.07
22773	08/03/2009	General Fund	Telephone	SUE BLAZAK	54.95
				Check Total:	54.95
22774	08/03/2009	General Fund	Professional Services	Bouncy House	625.88
				Check Total:	625.88
22775	08/03/2009	Street Fund	Street Maintenance-non-county	The Brickman Group, Ltd.	693.00
22775	08/03/2009	Street Fund	Street Maintenance-non-county	The Brickman Group, Ltd.	7,250.88
				Check Total:	7,943.88
22776	08/03/2009	General Fund	Office And Operating Supplies	Burien Press	65.70
				Check Total:	65.70
22777	08/03/2009	Parks & Gen Gov't CIP	Project Development	James Cary	9,520.85

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	9,520.85
22778	08/03/2009	General Fund	Office/operating Supplies	CITI BANK	35.68
22778	08/03/2009	General Fund	Travel	CITI BANK	46.50
				Check Total:	82.18
22779	08/03/2009	General Fund	Office And Operating Supplies	Clay Art Center, Inc.	948.08
				Check Total:	948.08
22780	08/03/2009	General Fund	Repairs And Maintenance	Citywide Locksmith Services	130.92
22780	08/03/2009	General Fund	Office And Operating Supplies	Citywide Locksmith Services	93.75
22780	08/03/2009	General Fund	Office And Operating Supplies	Citywide Locksmith Services	80.31
22780	08/03/2009	General Fund	Office And Operating Supplies	Citywide Locksmith Services	361.44
22780	08/03/2009	General Fund	Office And Operating Supplies	Citywide Locksmith Services	361.44
				Check Total:	1,027.86
22781	08/03/2009	General Fund	Channel 21 Video Production	COMCAST	57.70
				Check Total:	57.70
22782	08/03/2009	General Fund	Human Svc-family/youth	Consejo Counseling & Referral	2,000.00
				Check Total:	2,000.00
22783	08/03/2009	General Fund	Miscellaneous	Crystal and Sierra Springs	9.07
22783	08/03/2009	General Fund	Miscellaneous	Crystal and Sierra Springs	40.86
22783	08/03/2009	General Fund	Miscellaneous	Crystal and Sierra Springs	40.86
				Check Total:	90.79
22784	08/03/2009	General Fund	Jail Contract	City of Renton	280.00
				Check Total:	280.00
22785	08/03/2009	Street Fund	Utilities - Traffic Signals	City of Seattle	482.64
				Check Total:	482.64
22786	08/03/2009	Surface Water Management Fund	Professional services	Azteca Systems, Inc.	1,995.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	1,995.00
22787	08/03/2009	Town Square CIP	INTERIM CITY HALL	D&L Property Management, LLC	17,159.11
				Check Total:	17,159.11
22788	08/03/2009	General Fund	Human Svc-family/youth	Domestic Abuse Women's Network	2,000.00
22788	08/03/2009	General Fund	Human Svc-family/youth	Domestic Abuse Women's Network	750.00
				Check Total:	2,750.00
22789	08/03/2009	General Fund	Att Svcs - Litigation - 1st So	David Evans & Associates, Inc.	3,341.50
				Check Total:	3,341.50
22790	08/03/2009	Street Fund	Discover Burien	Discover Burien	5,386.00
22790	08/03/2009	Street Fund	Special Event Clean up	Discover Burien	3,331.00
				Check Total:	8,717.00
22791	08/03/2009	Town Square CIP	Construction	DPK Inc.	269,169.58
22791	08/03/2009	Town Square CIP	Construction	DPK Inc.	62,614.41
22791	08/03/2009	Town Square CIP	Construction	DPK Inc.	4,905.74
22791	08/03/2009	Surface Water Mgmt CIP	Construction	DPK Inc.	425.60
				Check Total:	337,115.33
22792	08/03/2009	General Fund	Mis Plan Implementation	Susanne Dubois, Inc.	1,472.50
				Check Total:	1,472.50
22793	08/03/2009	General Fund	Operating Rentals And Leases	Emerald City Water, LLC	147.83
				Check Total:	147.83
22794	08/03/2009	General Fund	Miscellaneous	Environmental Science Center	5,000.00
22794	08/03/2009	General Fund	Instructors Prof Svcs	Environmental Science Center	595.55
				Check Total:	5,595.55
22795	08/03/2009	Surface Water Management Fund	Endangered Species Act Study	Frause Group	1,399.35

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	1,399.35
22796	08/03/2009	General Fund	Instructors Prof Svcs	Alyssa Fritts	360.00
				Check Total:	360.00
22797	08/03/2009	General Fund	Professional Services	Goodbye Graffiti	1,608.56
				Check Total:	1,608.56
22798	08/03/2009	Street Fund	Operating Rentals And Leases	Greenbaum Burien	1,000.00
				Check Total:	1,000.00
22799	08/03/2009	Town Square CIP	Construction Inspection	Harris & Associates	5,614.25
22799	08/03/2009	Town Square CIP	Construction Inspection	Harris & Associates	10,426.06
				Check Total:	16,040.31
22800	08/03/2009	General Fund	Professional Services	Healthforce Occupational Medic	39.00
				Check Total:	39.00
22801	08/03/2009	General Fund	Miscellaneous	Iron Mountain Rec. Management	506.00
22801	08/03/2009	General Fund	Miscellaneous	Iron Mountain Rec. Management	75.00
				Check Total:	581.00
22802	08/03/2009	General Fund	Telephone	Integra Telecom	544.69
22802	08/03/2009	General Fund	Telephone	Integra Telecom	78.67
22802	08/03/2009	General Fund	Telephone	Integra Telecom	78.67
22802	08/03/2009	General Fund	Telephone	Integra Telecom	104.91
22802	08/03/2009	General Fund	Telephone	Integra Telecom	157.35
22802	08/03/2009	General Fund	Telephone	Integra Telecom	131.12
22802	08/03/2009	General Fund	Telephone	Integra Telecom	52.45
22802	08/03/2009	General Fund	Telephone	Integra Telecom	262.25
22802	08/03/2009	General Fund	Telephone	Integra Telecom	131.12
22802	08/03/2009	General Fund	Telephone	Integra Telecom	157.35
22802	08/03/2009	General Fund	Telephone	Integra Telecom	78.67
22802	08/03/2009	General Fund	Telephone	Integra Telecom	78.67

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount	
					Check Total:	1,855.92
22803	08/03/2009	General Fund	Repair/maint-vehicle	Interstate Tire & Automotive	52.05	
					Check Total:	52.05
22804	08/03/2009	Town Square CIP	Office Furniture and Equipment	Island Dog Sign Co.	799.35	
					Check Total:	799.35
22805	08/03/2009	General Fund	Office And Operating Supplies	Gina Kallman	128.19	
22805	08/03/2009	General Fund	Office And Operating Supplies	Gina Kallman	33.56	
22805	08/03/2009	General Fund	Office And Operating Supplies	Gina Kallman	102.92	
					Check Total:	264.67
22806	08/03/2009	General Fund	Police Contract - King Co	King County Sheriff's Office	598,602.33	
					Check Total:	598,602.33
22807	08/03/2009	Street Fund	Street Maint. Contract-kc	KING COUNTY FINANCE	39,797.21	
22807	08/03/2009	Surface Water Management Fund	Swm Billed By King Co Roads	KING COUNTY FINANCE	52,956.39	
22807	08/03/2009	Street Fund	Traffic Signal/control.mainten	KING COUNTY FINANCE	37,275.16	
22807	08/03/2009	Town Square CIP	Construction	KING COUNTY FINANCE	2,633.84	
22807	08/03/2009	Street Fund	Traffic Signal/control.mainten	KING COUNTY FINANCE	4,559.93	
22807	08/03/2009	Transportation CIP	Construction-engineering	KING COUNTY FINANCE	336.75	
22807	08/03/2009	Transportation CIP	Construction-engineering	KING COUNTY FINANCE	125.00	
22807	08/03/2009	Street Fund	Traffic Signal/control.mainten	KING COUNTY FINANCE	5,071.36	
22807	08/03/2009	General Fund	Subscriptions/publications	KING COUNTY FINANCE	174.43	
22807	08/03/2009	General Fund	Publications	KING COUNTY FINANCE	174.43	
					Check Total:	143,104.50
22808	08/03/2009	Town Square CIP	Design	King County Library System	35,712.93	
22808	08/03/2009	Town Square CIP	Construction	King County Library System	252,695.44	
					Check Total:	288,408.37
22809	08/03/2009	General Fund	King Co Pet License Trust Acct	King County Pet License	1,247.00	
					Check Total:	1,247.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
22810	08/03/2009	General Fund	Drug seizure proceeds KCSO	King County Sheriff, Pent. #4	80.00
				Check Total:	80.00
22811	08/03/2009	Surface Water Management Fund	Publications	King County Office of Finance	331.88
				Check Total:	331.88
22812	08/03/2009	General Fund	Instructors Prof Svcs	Kim Klose	52.80
22812	08/03/2009	General Fund	Instructors Prof Svcs	Kim Klose	182.60
				Check Total:	235.40
22813	08/03/2009	Parks & Gen Gov't CIP	Design-Engineering	KPG, Inc.	339.50
22813	08/03/2009	Transportation CIP	Project Development	KPG, Inc.	29,731.89
22813	08/03/2009	Transportation CIP	Project Development	KPG, Inc.	16,320.44
				Check Total:	46,391.83
22814	08/03/2009	General Fund	Fuel/gas/gasoline Consumption	MICHAEL LAFRENIERE	9.32
22814	08/03/2009	General Fund	Fuel/gas/gasoline Consumption	MICHAEL LAFRENIERE	9.34
22814	08/03/2009	General Fund	Fuel/gas/gasoline Consumption	MICHAEL LAFRENIERE	9.34
22814	08/03/2009	General Fund	Fuel/gas/gasoline Consumption	MICHAEL LAFRENIERE	9.34
				Check Total:	37.34
22815	08/03/2009	General Fund	Hearing Exam Nonreimbursed	Donald B. Largen	570.80
				Check Total:	570.80
22816	08/03/2009	General Fund	Lodging	Fernando Llamas	330.96
22816	08/03/2009	General Fund	Meals	Fernando Llamas	386.00
22816	08/03/2009	General Fund	Other Travel	Fernando Llamas	50.00
				Check Total:	766.96
22817	08/03/2009	General Fund	Small Tools & Minor Equipments	McLendon Hardware, Inc.	13.01
				Check Total:	13.01
22818	08/03/2009	General Fund	Sales Tax Auditing Costs	Microflex, Inc.	156.49

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	156.49
22819	08/03/2009	Street Fund	Small Tools & Minor Equipments	Miller Paint Co.	15.66
				Check Total:	15.66
22820	08/03/2009	Street Fund	Special Event Clean up	National Barricade Co. LLC	2,252.31
				Check Total:	2,252.31
22821	08/03/2009	General Fund	Office/operating Supplies	Nexxpost LLC	21.85
				Check Total:	21.85
22822	08/03/2009	General Fund	City Hall Custodial	National Maintenance	1,032.29
				Check Total:	1,032.29
22823	08/03/2009	General Fund	NE Redevelopment Area	OTAK, Inc	17,529.74
				Check Total:	17,529.74
22824	08/03/2009	General Fund	Repairs And Maintenance	Park Place Professional Buildi	490.00
				Check Total:	490.00
22825	08/03/2009	General Fund	Human Svc-family/youth	Pregnancy Aid of So. King Coun	375.00
				Check Total:	375.00
22826	08/03/2009	Transportation CIP	design engineering	Perteet Inc.	81,289.39
				Check Total:	81,289.39
22827	08/03/2009	General Fund	Mileage	Petty Cash Custodian	22.00
22827	08/03/2009	General Fund	Registration - Trainng/workshp	Petty Cash Custodian	34.11
22827	08/03/2009	Surface Water Management Fund	Other Travel	Petty Cash Custodian	16.50
22827	08/03/2009	General Fund	Office And Operating Supplies	Petty Cash Custodian	16.41
22827	08/03/2009	General Fund	Registration - Trainng/workshp	Petty Cash Custodian	4.98
22827	08/03/2009	General Fund	Office And Operating Supplies	Petty Cash Custodian	21.88
22827	08/03/2009	General Fund	Travel	Petty Cash Custodian	12.00
22827	08/03/2009	General Fund	Office/operating Supplies	Petty Cash Custodian	26.98

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
22827	08/03/2009	General Fund	Other Travel	Petty Cash Custodian	12.00
22827	08/03/2009	General Fund	Mileage	Petty Cash Custodian	12.10
22827	08/03/2009	General Fund	Other Travel	Petty Cash Custodian	10.54
22827	08/03/2009	General Fund	Mileage	Petty Cash Custodian	12.10
22827	08/03/2009	Surface Water Management Fund	Office And Operating Supplies	Petty Cash Custodian	9.99
22827	08/03/2009	General Fund	Fuel/gas/gasoline Consumption	Petty Cash Custodian	20.00
22827	08/03/2009	General Fund	Miscellaneous	Petty Cash Custodian	55.75
22827	08/03/2009	General Fund	Office And Operating Supplies	Petty Cash Custodian	8.72
22827	08/03/2009	General Fund	Mileage	Petty Cash Custodian	5.50
22827	08/03/2009	General Fund	Travel	Petty Cash Custodian	18.50
22827	08/03/2009	General Fund	Office/operating Supplies	Petty Cash Custodian	0.87
22827	08/03/2009	General Fund	Travel	Petty Cash Custodian	11.00
22827	08/03/2009	General Fund	Travel	Petty Cash Custodian	14.00
22827	08/03/2009	General Fund	Mileage	Petty Cash Custodian	32.89
22827	08/03/2009	General Fund	Computer Related Supplies	Petty Cash Custodian	5.55
22827	08/03/2009	General Fund	Registration - Trainng/workshp	Petty Cash Custodian	26.04
22827	08/03/2009	Surface Water Management Fund	Other Travel	Petty Cash Custodian	17.60
22827	08/03/2009	Surface Water Management Fund	Other Travel	Petty Cash Custodian	17.60
22827	08/03/2009	General Fund	Cash Over & Short	Petty Cash Custodian	-5.21
Check Total:					440.40
22828	08/03/2009	General Fund	Burien Marketing Strategy	Photography By Steven	410.63
22828	08/03/2009	General Fund	Professional Services	Photography By Steven	410.62
Check Total:					821.25
22829	08/03/2009	General Fund	Channel 21 Video Production	Puget Sound Access	-12,883.75
22829	08/03/2009	General Fund	Channel 21 Video Production	Puget Sound Access	12,883.75
22829	08/03/2009	General Fund	Channel 21 Video Production	Puget Sound Access	-3,250.00
22829	08/03/2009	General Fund	Online Video Streaming	Puget Sound Access	3,250.00
22829	08/03/2009	General Fund	Channel 21 Video Production	Puget Sound Access	1,991.75
22829	08/03/2009	General Fund	Online Video Streaming	Puget Sound Access	650.00
Check Total:					2,641.75
22830	08/03/2009	General Fund	Admission and Entrance Fees	Pacific Science Center	211.00
22830	08/03/2009	General Fund	Admission and Entrance Fees	Pacific Science Center	515.00
Check Total:					726.00
22831	08/03/2009	General Fund	Telephone	QWEST	14.83
22831	08/03/2009	General Fund	Telephone	QWEST	66.72
22831	08/03/2009	General Fund	Telephone	QWEST	66.72

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
22831	08/03/2009	General Fund	Telephone	QWEST	160.49
22831	08/03/2009	General Fund	Telephone	QWEST	86.69
22831	08/03/2009	General Fund	Telephone	QWEST	356.92
22831	08/03/2009	General Fund	Telephone	QWEST	47.88
22831	08/03/2009	General Fund	Telephone	QWEST	101.40
22831	08/03/2009	General Fund	Telephone	QWEST	-15.38
Check Total:					886.27
22832	08/03/2009	General Fund	Repair & Maint/City Hall	Rescue Rooter Inc.	223.93
Check Total:					223.93
22833	08/03/2009	General Fund	Refund Clearing Account -Parks	Mayette Gumapas	42.00
Check Total:					42.00
22834	08/03/2009	General Fund	Refund Clearing Account -Parks	Rosa Juarez	56.00
Check Total:					56.00
22835	08/03/2009	General Fund	Refund Clearing Account -Parks	Saeid Pirjamali	50.00
Check Total:					50.00
22836	08/03/2009	General Fund	Rental Housing License Fee	Jct Trust c/o WPM So.	50.00
22836	08/03/2009	General Fund	Rental Housing License Fee	Jct Trust c/o WPM So.	50.00
Check Total:					100.00
22837	08/03/2009	General Fund	Rental Housing License Fee	Whitener Family	50.00
Check Total:					50.00
22838	08/03/2009	General Fund	Rental Housing License Fee	Warren Lew	50.00
Check Total:					50.00
22839	08/03/2009	Surface Water Management Fund	Printing/binding/copying	Claude McAlpin, III	96.36
22839	08/03/2009	General Fund	Printing	Claude McAlpin, III	44.19
22839	08/03/2009	Street Fund	Printing/binding/copying	Claude McAlpin, III	6.55

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	147.10
22840	08/03/2009	General Fund	Advertising	Robinson Newspapers	49.00
				Check Total:	49.00
22841	08/03/2009	General Fund	Office And Operating Supplies	Seattle Pottery Supply Inc.	153.85
				Check Total:	153.85
22842	08/03/2009	General Fund	Misc. EOC	Sharp Shop, Inc	1,093.91
				Check Total:	1,093.91
22843	08/03/2009	Town Square CIP	Town Square Park Donations	Southcenter Engraving	156.58
				Check Total:	156.58
22844	08/03/2009	Parks & Gen Gov't CIP	Project Development	Shiels Obletz Johnsen	2,581.36
22844	08/03/2009	Town Square CIP	Project Development	Shiels Obletz Johnsen	4,363.82
				Check Total:	6,945.18
22845	08/03/2009	General Fund	Telephone	SPRINT	99.98
				Check Total:	99.98
22846	08/03/2009	Town Square CIP	Office Furniture and Equipment	Spacesaver Northwest, LLC	606.35
				Check Total:	606.35
22847	08/03/2009	General Fund	Professional Services	State Auditor's Office	7,427.80
				Check Total:	7,427.80
22848	08/03/2009	General Fund	Office And Operating Supplies	Suburban Propane	893.49
				Check Total:	893.49
22849	08/03/2009	General Fund	Office And Operating Supplies	Swank Motion Pictures, Inc.	125.24

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
				Check Total:	125.24
22850	08/03/2009	General Fund	Registration & Training	SWKC Chamber of Commerce	20.00
22850	08/03/2009	General Fund	Registration - Trainng/workshp	SWKC Chamber of Commerce	20.00
				Check Total:	40.00
22851	08/03/2009	General Fund	Utilities	Southwest Suburban Sewer Dist.	43.00
				Check Total:	43.00
22852	08/03/2009	Town Square CIP	Office Furniture and Equipment	Tri-Tec	684.09
				Check Total:	684.09
22853	08/03/2009	General Fund	Parks Maintenance	Trugreen-landcare/NW Region	689.85
22853	08/03/2009	Surface Water Management Fund	Maint - 142nd St Pump Station	Trugreen-landcare/NW Region	251.85
				Check Total:	941.70
22854	08/03/2009	General Fund	Comp Plan Implementation Costs	Transportation Solutions, Inc.	2,195.00
				Check Total:	2,195.00
22855	08/03/2009	General Fund	Dues/memberships	ULI-The Urban Land Institute	225.00
				Check Total:	225.00
22856	08/03/2009	General Fund	Operating Rentals And Leases	United Site Services	80.00
				Check Total:	80.00
22857	08/03/2009	General Fund	Professional Services	Pep Productions, Inc.	2,837.50
				Check Total:	2,837.50
22858	08/03/2009	General Fund	Professional Services	Waldron Resources	2,436.08
				Check Total:	2,436.08
22859	08/03/2009	Street Fund	Landscape Maint - Utilities	Water District No. 49	979.15

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
22859	08/03/2009	Street Fund	Landscape Maint - Utilities	Water District No. 49	48.75
22859	08/03/2009	Street Fund	Landscape Maint - Utilities	Water District No. 49	48.75
22859	08/03/2009	Street Fund	Landscape Maint - Utilities	Water District No. 49	48.75
22859	08/03/2009	Street Fund	Landscape Maint - Utilities	Water District No. 49	48.75
Check Total:					1,174.15
22860	08/03/2009	General Fund	Jury & Witness Fees	Amber K. Jackson	12.20
Check Total:					12.20
22861	08/03/2009	General Fund	Jury & Witness Fees	Catherine M. Denny	15.50
Check Total:					15.50
22862	08/03/2009	General Fund	Seasonal Security	Washington Merchant Patrol LLC	3,622.50
Check Total:					3,622.50
22863	08/03/2009	General Fund	Office And Operating Supplies	Walter E. Nelson Co.	14.96
22863	08/03/2009	General Fund	Office And Operating Supplies	Walter E. Nelson Co.	67.29
22863	08/03/2009	General Fund	Office And Operating Supplies	Walter E. Nelson Co.	67.29
22863	08/03/2009	General Fund	Office And Operating Supplies	Walter E. Nelson Co.	37.38
Check Total:					186.92
22864	08/03/2009	General Fund	Admission and Entrance Fees	WSASC	150.00
Check Total:					150.00
22865	08/03/2009	General Fund	Professional Services	Washington State Patrol	150.00
Check Total:					150.00
22866	08/03/2009	General Fund	Jail Contract	Yakima County Department	2,841.04
Check Total:					2,841.04
22867	08/03/2009	General Fund	Telephone	Yes of Course, Inc.	207.49
22867	08/03/2009	General Fund	Telephone	Yes of Course, Inc.	207.50
Check Total:					414.99

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
--------------	------------	-----------	--------------	-------------	--------

Report Total:	1,657,820.22
---------------	--------------



Burien
WASHINGTON

CITY COUNCIL MEETING MINUTES

July 20, 2009

SPECIAL MEETING, Miller Creek Conference Room, 3rd Floor

For the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g)

6:30 p.m.

and

Council Meeting, 1st Floor

7:00 p.m.

Burien City Hall

400 SW 152nd Street

Burien, Washington 98166

To hear Council's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, www.burienwa.gov
- Check out a DVD of the Council Meeting from the Burien Library
- Order an audio CD recording or a DVD of the meeting from the City Clerk, (206) 241-4647

SPECIAL MEETING

Acting Mayor Blazak called the Special Meeting of the Burien City Council to order at 6:30 p.m. for the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g).

Present: Acting Mayor Sue Blazak, Councilmembers Rose Clark, Lucy Krakowiak, Sally Nelson and Gordon Shaw. Mayor Joan McGilton and Councilmember Kathy Keene were excused.

Administrative staff present: Mike Martin, City Manager

No action was taken.

CALL TO ORDER

Acting Mayor Blazak called the Meeting of the Burien City Council to order at 7:00 p.m.

EXECUTIVE SESSION

Held prior to the meeting.

PLEDGE OF ALLEGIANCE

Acting Mayor Blazak led the Pledge of Allegiance.

ROLL CALL

Present: Acting Mayor Sue Blazak, Councilmembers Rose Clark, Lucy Krakowiak, Sally Nelson, and Gordon Shaw. Mayor Joan McGilton and Councilmember Keene were excused.

Administrative staff present: Mike Martin, City Manager; Christopher Bacha, Interim City Attorney; Jenn Rameriz Robson, Management Analyst; Stephanie Jewett, Planner; Steve

Roemer, Park Planner and Maintenance Manager; Doug Lamothe, Interim Public Works Director; Heungkook Lim, Surface Water Management Engineer; and Monica Lusk, City Clerk.

AGENDA CONFIRMATION

Direction/Action

Motion was made by Councilmember Nelson, seconded by Councilmember Krakowiak, and passed unanimously to affirm the July 20, 2009, Agenda.

PUBLIC COMMENT

Eric Stahlfeld, 145 SW 155th Street, Ste. 101

Mr. Stahlfeld, representing Steven Desimone, urged the Council to allow his client's property in the Northeast Redevelopment Area (NERA) to be temporarily zoned for off-site commercial parking as was allowed for BBC Dodge.

CORRESPONDENCE FOR THE RECORD

- a. Email Dated June 18, 2009, from Michael Gale Regarding Council Request to Port of Seattle – Temporary Noise Monitoring.
- b. Email Dated July 2, 2009, from Vera DeRosa Regarding Public Art with Response from Michael Lafreniere, Parks and Recreation Director.
- c. Email Dated July 7, 2009, from Paul Conrath, Burien Arts Board President, Regarding Burien Arts Strawberry Shortcake Booth.
- d. Email Dated July 7, 2009, from Marty Joy Regarding Art Park with Response from Michael Lafreniere, Parks and Recreation Director.

PRESENTATIONS

Presentation on the Urban Forestry Strategic Plan/City Parks

Steve Roemer, Park Planner and Maintenance Manager, noted the Plan will be focused on Eagle Landing Park and will establish and implement an associated Invasives Removal Program, conduct tree re-plantings, improve operations and management, improve forest habitat, and provide an inventory of species and habitat types. The plan is to be completed by December 2009.

CONSENT AGENDA

- a. Approval of Vouchers: Numbers 22504, 22627 – 22756 in the Amount of \$674,727.72. 17
- b. Approval of Council Meeting Minutes: July 6, 2009.
- c. Motion to Adopt Resolution No. 295, Establishing the 2009 Comprehensive Plan Amendment Docket.
- d. Motion to Approve Parks Board Recommendation Naming the 141st Street Stormwater Pond Property "Linde Hill Park."
- e. Adoption of Ordinance No. 515 and Resolution No. 297, Amending the Fee Schedule for Permit Fees and Other Community Development and Land Use Fees.
- f. Motion to Adopt Ordinance No. 514, Relating to Regulation of Firearms.

Direction/Action

Motion was made by Councilmember Nelson, seconded by Councilmember Krakowiak, to approve the July 20, 2009, Consent Agenda. **Motion** passed 4-1. Opposed, Councilmember Shaw.

PUBLIC HEARING

Public Hearing on Proposed Ordinance No. 516, Establishing a Transportation Benefit District Acting Mayor Blazak opened the public hearing at 7:25 p.m.

The following spoke for the establishment of the Transportation Benefit District:
 Michelle Mahail, 120 South 136th Street, Burien
 Gloria Gould-Wessen, 15028 24th Avenue SW, Burien
 Brooks Stanfield, 2459 SW 150th Street, Burien
 Joe Fitzgibbon, 615 SW Ambaum Boulevard, No. 204, Burien

The following spoke against the establishment of the Transportation Benefit District:
 Bruce Rombaugh, 1526 SW 160th Street, Burien
 Don Warren, 15702 13th Avenue SW, Burien
 Chestine Edgar, 1811 SW 152nd Street, Burien
 Roger LeLorm, 13254 2nd Avenue SW, Burien

There being no future comments, Acting Mayor Blazak closed the public hearing at 7:42 p.m.

Discussion on Ordinance No. 516, Establishing a Transportation Benefit District

Direction/Action

Councilmembers agreed to hold the discussion under Business Agenda Item "c" Motion to adopt proposed Ordinance No. 516, establishing the Burien Transportation Benefit District (TBD No. 1).

BUSINESS AGENDA

City Manager's Report

Follow-up

Staff will send a letter to the Port of Seattle asking for placement of a noise monitor at 18003 4th Avenue South as requested by Michael Gale in Correspondence for the Record Item "a," schedule a discussion on Local Revitalization Financing offered by the State for local public infrastructure improvements, provide an update on the 1st Avenue South project, and provide education on multi-purpose facilities.

Review of Council Proposed Agenda Schedule

Follow-up

Staff will schedule a discussion on Local Revitalization Financing offered by the State for local public infrastructure improvements.

Motion to Adopt Proposed Resolution No. 300, Entering Findings of Fact and Conclusions of Law Regarding Preliminary Approval of the RPP Solutions Subdivision (634 South 150th Street)

City Attorney Christopher Bacha explained the quasi-judicial process. Each Councilmember responded that they had no personal or financial interest in the project nor have they had ex-parte contacts with proponents or opponents of the project.

Direction/Action

Motion was made by Councilmember Nelson, seconded by Councilmember Krakowiak, and passed unanimously to adopt Resolution No. 300, granting preliminary plat approval of the RPP Solutions Subdivision, and adopting findings of fact, conclusions and conditions as set forth by the Hearing Examiner.

Motion to Adopt Proposed Ordinance No. 516, Establishing the Burien Transportation Benefit District (TBD No. 1)

Direction/Action

Motion was made by Councilmember Nelson, seconded by Councilmember Krakowiak, to adopt Proposed Ordinance No. 516, establishing the Burien Transportation Benefit District (TBD No. 1). **Motion** passed 4-1. Opposed, Councilmember Shaw.

Motion to Adopt Resolution No. 298, Approving an Interlocal Agreement Between the City of Burien, Washington ("Burien"), and the Burien Transportation Benefit District ("TBD No. 1")

Direction/Action

Motion was made by Councilmember Nelson, seconded by Councilmember Krakowiak, to adopt Proposed Resolution No. 298, approving an Interlocal Agreement between the City of Burien, Washington ("Burien"), and the Burien Transportation Benefit District ("TBD No. 1"). **Motion** passed 4-1. Opposed, Councilmember Shaw.

Motion to Appoint Members to Prepare Pro Statements for the Ballot Measure Establishing a \$25 Annual Vehicle License Fee for Two Years in Order to Fund Two High Priority Projects from the Pedestrian and Bicycle Facilities Plan

Direction/Action

Motion was made by Councilmember Nelson, seconded by Councilmember Krakowiak, to appoint Joe Fitzgibbon, Gloria Gould-Wessen and Tara Grumm to the Pro Committee for Voters' Pamphlet Statements for the Transportation Benefit District \$25 Annual Vehicle License Fee Ballot Measure.

Direction/Action

Motion was made by Councilmember Krakowiak, seconded by Councilmember Shaw, and passed unanimously to amend the motion by adding "and allow solicitation of a Con Committee."

Direction/Action

A vote was taken on the original motion as amended to allow solicitation of a Con Committee. **Motion** passed 4-1. Opposed, Councilmember Shaw.

Discussion on Compliance with National Pollution Discharge Elimination System Permit issued January 15, 2007

Direction/Action

Councilmembers requested placing adoption of the Surface Water Management revisions and the King County Stormwater Pollution Prevention Manual on the August 3, 2009, Business Agenda for consideration.

COUNCIL REPORTS

Councilmember Nelson noted that reports will be submitted for two meetings she would be attending: the Puget Sound Regional Council (PSRC) Executive Board; and, the South Correctional Entity (SCORE).

ADJOURNMENT**Direction/Action**

MOTION was made by Councilmember Nelson, seconded by Councilmember Krakowiak and passed unanimously to adjourn the meeting at 8:44 p.m.

Sue Blazak, Acting Mayor

Monica Lusk, City Clerk



Burien

Washington, USA

400 SW 152nd St., Suite 300, Burien, WA 98166
 Phone: (206) 241-4647 • FAX (206) 248-5539
 www.burienwa.gov

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Mike Martin, City Manager
DATE: August 3, 2009
SUBJECT: City Manager's Report

I. INTERNAL CITY INFORMATION

- A. City Donates Used Office Furniture to Highline School District (Pg. 47)**
 After our move to the new City Hall, we had surplus office furniture remaining at the interim City Hall. Over the past month, we have donated most of the surplus bookcases and filing cabinets to the Highline School District. A letter thanking the City for the donation is attached.
- B. Residential Car Wash Brochure Available (Pg. 49)**
 Ken Srilofung, SWM Technician, has put together a brochure to help educate citizens on how to wash their vehicles in a way that does not harm the environment. Washing vehicles on impervious surfaces sends the dirty, contaminated water into the City's storm drains, which empty into our lakes and streams, as well as Puget Sound. Copies of the brochure are available in the lobby of City Hall and at the Parks Department.
- C. City Offers CFL Bulb Recycling**
 We recently added CFL bulb recycling containers for staff and public use at City Hall and at the Community Center. CFL recycling is also available at Bartell Drugs.
- D. Burien's 2010 Grant Funding Update**
 Over 100 organizations will receive an update on the City of Burien's 2010 grant funding process. The letter dated July 24, 2009 updates groups as to the status of:
- **Human Service Funding** – 2-year cycle, with funding allocations already made for 2009-2010. Next application cycle held in spring/summer of 2010.
 - **Arts & Culture Grants** – An estimated \$20,000 available for 2010, Applications available mid-August and due September 30, 2009.
 - **Neighborhood Matching Grants** – Maximum of \$5,000 available for neighborhood improvement projects, there is no deadline and applications may be submitted at anytime.
 - **Miscellaneous Funding Request** – This newly created category, as of fall 2008, is no longer available due to budget shortfalls.

E. Voluntary Staff Furloughs

As part of the recent budget amendment, budget for staff salaries for 2009 was reduced by \$25,000 - to be accomplished through voluntary staff furloughs. To date, staff has taken 169 furlough hours, saving the city approximately \$8,000. An additional 335 hours have been "pledged" or promised by staff through the end of 2009. Together, this provides approximately \$22,500 in 2009 salary savings, and additional "if needed" promises have been made to reach the final \$2,500 budgeted.

F. Updates from the World of Information Technology (IT)

Things are coming together as we settle into our new digs. We're meeting regularly with the library to iron out the details regarding shared resources. One recent highlight occurred on June 29 when the House Ecology and Parks Committee met in Council Chambers and we were able to offer their TVW camera crew these media services:

- use of the dais and microphones
- access to in-floor audio jacks for their TVW feed
- teleconferencing capability
- large screen PowerPoint display

Other new city hall improvements include:

Server room (behind the scenes) stuff:

- seismic server rack mounts,
- backup power supply synchronized with the rooftop generator.

AV room:

- all sound and cameras can now be controlled by just one person, instead of needing a crew of 3.

City Hall (3rd floor):

- all 3 conference rooms (Miller, Salmon & Walker Creek) hard wired for computer internet access and projection capabilities.

G. Annexation Outreach Update

On July 29th City staff hosted a Burien Proposed Annexation Informational Open House at Burien City Hall. This event was the eighth in a series of open houses planned by staff. This Open House focused on not only what residents could expect in the proposed annexation area but also what current Burien residents could expect if Burien is successful in annexation a portion of North Highline. Approximately 30 people were in attendance.

On Thursday, August 6th at 6:30 p.m. City staff will host the last informational open house at Beverly Park Baptist Church to provide information about what annexation will mean for the people within the proposed annexation area. Beverly Park Baptist Church is located at 11659 1st Ave S. An informational postcard with the open

house information has been mailed out to North Highline residents. Those residents should also be receiving their mail-in ballot and Voter's Pamphlet this week.

Many of the questions and comments raised by the community have been incorporated into the Burien Annexation web page located at www.burienwa.gov/annexation. Interested parties may also receive future open house information by signing up for the Annexation Email List or calling the Burien Annexation Hotline at 206-436-5555.

H. Parks Working With Seattle City Light for Energy Savings

Staff in the Parks Department have been looking into energy conservation rebate programs and recently completed an energy audit of the Moshier Art Center and the Burien Community Center with the assistance of Seattle City Light (SCL). The facilities will be part of a new program by SCL and serve as a pilot project. The program rebates will cover nearly 100% of the cost for replacement and installation of energy efficient lamps, ballasts, exit signs and occupancy sensors. SCL has estimated the anticipated project and cost savings to be follows:

	<u>Project Costs</u>	<u>Rebate</u>	<u>% reduction in kW hours</u>	<u>Annual Svgs.</u>	<u>Payback Period</u>
BCC	\$16,320	\$13,878	58%	\$3,362	8.4 months
MAC	\$6,389	\$6,095	49%	\$1,079	3.6 months

In addition to the cost savings, these measures are projected to save 48.4 tons of CO₂ per year. SCL has said it is planning to use videotape of the Burien project in their promotions of the new program.

I. Revenue Up! (For the Parks Department)

As compared to the same 6-month period (Jan-June) from last year, revenues are up overall for Parks programs by 10%, from \$259,869 to \$285,802. Since 2006, the Department's revenues for the same 6-month period have increased 64%.

J. Bi-Lingual Ceramics Class Held

On July 17 and 24, a special bi-lingual ceramics class at the Moshier Arts Center was held for the Descurriendo Nuestra Cultura Hispanic youth cultural program. Sponsored by Para los Ninos, the cities of Burien and SeaTac, Highline Community College and the Highline School District, this summer's program is being held at Gregory Heights School during the month of July. Students enjoyed their field trip where they were taught by Amaranta Sandys. Ms. Sandys is a native of Mexico City, a White Center artist and a regular instructor at Moshier Art Center.

K. Burien Welcomes German Urban Planner

On July 2, the City hosted a visit by German Urban Planner Thomas Sieverts in collaboration with a program at Seattle's Town Hall and a meeting with Seattle City Council. While in Burien, Mr. Sieverts met with 35 Burien stakeholders, including members of the City Council and the City's advisory boards, business owners, and

other interested residents. Mr. Sieverts led a walk around the city with community members and participated in an outdoor community dinner and conversation with Portland writer Matthew Stadler and B-Town Blog writer Scott Shafer at the B/ IAS site. Following the event Anne Stadler, one of the event planners and mother of writer Matthew Stadler, commended Cultural Arts Supervisor Gina Kallman for her organizational skills and commented that "You Burien folks left an indelible impression on all of us. You are in deed and word 'Innovative Stewards of Public Trust'".

L. Sustainable Burien and Burien Interim Art Space (B/IAS)

Sustainable Burien planted their first P-Patches at the B/IAS site on Sunday, June 28. Volunteers continue to be involved in a variety of ways at the B/IAS project.

M. City Staff Using "One Regional Card for All" (ORCA) Cards

Eligible City employees now have use of the new ORCA Cards for transit services. As part of our Commute Trip Reduction program, the Department of Community Development provides ORCA cards for use on transit systems throughout the 4-county region, including Metro and Sound Transit (including Link light rail). Employees can also add additional services (such as ferry rides) at their own cost. The ORCA cards replaced our old Flex Passes, providing enhanced transit service at a reduced cost to the City.

N. Terra Apartments Status

The Terra Apartments passed electrical final and will be ready for building final in the next couple of days. The Terra was heavily damaged by fire last summer and has now been re-built.

O. Business Recycling Collection Event

On Thursday, July 23, the 2009 Business Recycling Collection Event was held at the WA State Criminal Justice Training Center. 130 Burien, Des Moines, and Normandy Park businesses participated. The total amount of material collected was 25,253 pounds or nearly 13 tons. The average amount of material collected was 195 pounds per business. At the event, Olympic Environmental Resources staff distributed educational materials on King County hazardous waste collection and recycling programs to event participants.

The event included the collection of:

- 10,240 pounds of scrap metals, electronic equipment, and cell phones. The materials will be sorted and processed at various recycling facilities.
- 54 computer monitors. The monitors will be processed and recycled by Ecolights in Seattle (2,160 pounds).
- 3,877 fluorescent lights. These tubes will be processed and recycled through Ecolights Northwest in Seattle (3,877 pounds).
- 14 small TV sets. The TVs will be processed and recycled by Ecolights in Seattle (700 pounds).

- 3 large TV sets. The TVs will be processed and recycled by Ecolights in Seattle (300 pounds).
- 8 used refrigerators and freezers. The ozone depleting chemicals and gas will be removed from these units and disposed of properly by Total Reclaim in Seattle (2,800 pounds).
- 3,920 pounds of pallets and scrap wood. This material will be made into siding material through Glacier Recycle, a wood processor in Auburn.
- 920 pounds of cardboard. The material will be recycled by Sonoco in Sumner.
- 240 pounds of office plastics will be recycled through Smurfit Recycling in Renton.
- 48 toner cartridges. Toner cartridges were delivered to Ecco Recycles in Kent and will be refilled and sold as remanufactured toner cartridges (96 pounds).

II. COUNCIL UPDATES/REPORTS

A. Councilmember Request Follow-up

During the July 20, 2009 Council meeting a question was raised regarding an attachment that was referenced on the Minutes of the June 2, 2009 Regular Meeting of the Board of Commissioners of King County Fire District No. 2. No attachment was included with the minutes that Council members received. Staff contacted the Fire District Office and learned that no members of the public attended the June 2 meeting therefore no Attendance Roster was created. City staff also confirmed that Council members received the entire set of Board minutes for both the June 2 Regular Meeting and the June 25 Special Meeting of Board of Commissioners of King County Fire District No. 2.

B. Article from Councilmember Nelson (Pg. 51)

Councilmember Sally Nelson asked that the attached article relating to "sin tax" be included in this week's packet.

C. South County Area Transportation Board Meeting – July 21, 2009

Councilmember Gordon Shaw participated in the July 21 meeting of the South County Area Transportation Board (SCATBd). The Board received an update on the launch of the Sound Transit Link rail service, and heard a report on a "parking pricing study" that Sound Transit will carry out at the Sounder rail stations between Tukwila and Tacoma. The Board also discussed potential King County Metro Transit service cuts that are under consideration. Related to that issue, the Pierce Transit member of the Board reported that his agency had just recently made strategic service reductions on their lowest performing routes. Concern was expressed that some bus routes in King County don't have many riders but they serve a transit-dependent population so they should not be drastically reduced.

D. Department of Commerce Meeting Reports (Pg. 53)

Councilmember Kathy Keene & Staff attended regional Department of Commerce meetings and have submitted reports for Council's information (attached).

E. Major Projects Status Report (Pg. 57)

Staff has provided Council with the July 2009 Major Projects Status Report (attached).

F. Notices (Pg. 59)

- Notice of meeting of the Burien Transportation Benefit District on Monday, August 3, 2009, at 7:05 p.m. at Burien City Hall.
- Notice of Informational Open House August 6, 2009, at Beverly Park Baptist Church.



Highline School District No. 401

Facilities Services Department
17810 8th Avenue South, Building C
Burien, WA 98148-1788
206.433.2252
Fax 206.433.2103

July 13, 2009

Scott Greenburg, AICP
City of Burien
Community Development
400 SW 152nd St. Suite 300
Burien, WA. 98166

RE: Appreciation for Furniture Donation

Dear Scott,

Thank you for your generous donation of surplus furniture you recently made. Our teacher's and office personnel have put your furniture to good use District -wide. If you should have anything available in the future, please keep us in mind. Again, thank you for thinking of Highline Public Schools.

Sincerely,


Keith Colee
Assistant Director, Facilities Services

-Use a hose nozzle with a trigger and shut it off when you are not using it to conserve water

-Clean or pressure wash car engine only at a commercial car wash

-Use waterless car wash products on the markets such as cloths, rags, etc, and dispose of them in your garbage

More information is available from the Water Quality Program Department of Ecology at:

<http://www.ecy.wa.gov/programs/wq/stormwater/CarWash.html>

Spill & Waste Report

If you see oil and other hazardous materials spill into storm drains, contact City of Burien Spills Hotline at (206) 439-3154 or Department of Ecology Spill Response line at (425) 549-7000

City of Burien

Public Works Department
Surface Water Management Program
400 SW 152nd St, Suite 300
Burien, WA. 98166-3066

Phone: (206) 439-3154
Fax: (206) 248-5539
E-mail: kens@burienwa.gov



City of Burien

Public Works Department
Surface Water Management Program
400 SW 152nd St, Suite 300
Burien WA.
98166-3066
(206) 439-3154

RESIDENTIAL CAR WASH



Did you Know?

-Stormwater drains are built to collect runoff from streets, parking lots and roof drains and not connected to sanitary sewer systems, which have treatment plants

-Without proper prevention measures called Best Management Practices (BMPs) with the use of soaps and other cleaners, all wash water can be discharged into the stormwater drains and into Lake Burien, Salmon Creek, Walker Creek, Miller Creek, and eventually Puget Sound, which can destroy aquatic habitat and life

-Washing cars with soap and sending soapy water into storm drains is prohibited. Discharge of anything other than stormwater into storm drain systems is considered as illicit discharge, which can incur a monetary fine per current Burien Municipal Code (BMC)

-Soaps that are labeled "biodegradable," environmentally friendly" or "nontoxic" are still harmful to aquatic life and water quality; As a result, these are also prohibited from entering the storm drain system in the City of Burien. The "nontoxic" means the soap is less toxic to the user



Lake Burien



Walker Creek

Thank you for taking care of our environment

What can I do if I want to wash my car at home?

Per King County Storm Water Pollution Prevention Manual 2009 requirements, the following are recommended Best Management Practices (BMPs) if you use soaps or other cleaners:

-Wash your car on non-paved areas, such as your lawn or landscaped areas, where the wash water can seep into the ground

-Reroute wash water away from storm drains to vegetated areas using temporary measures such as berms and boom/socks placed at the low point of where your car is parked

-Use a wet vacuum to collect the wash water and dispose it into your sanitary sewer system

Other Tips

-Rinse down the body (not engine) of your car with just water without doing any wash water BMPs. The wash water is diverted from storm drain and will infiltrate

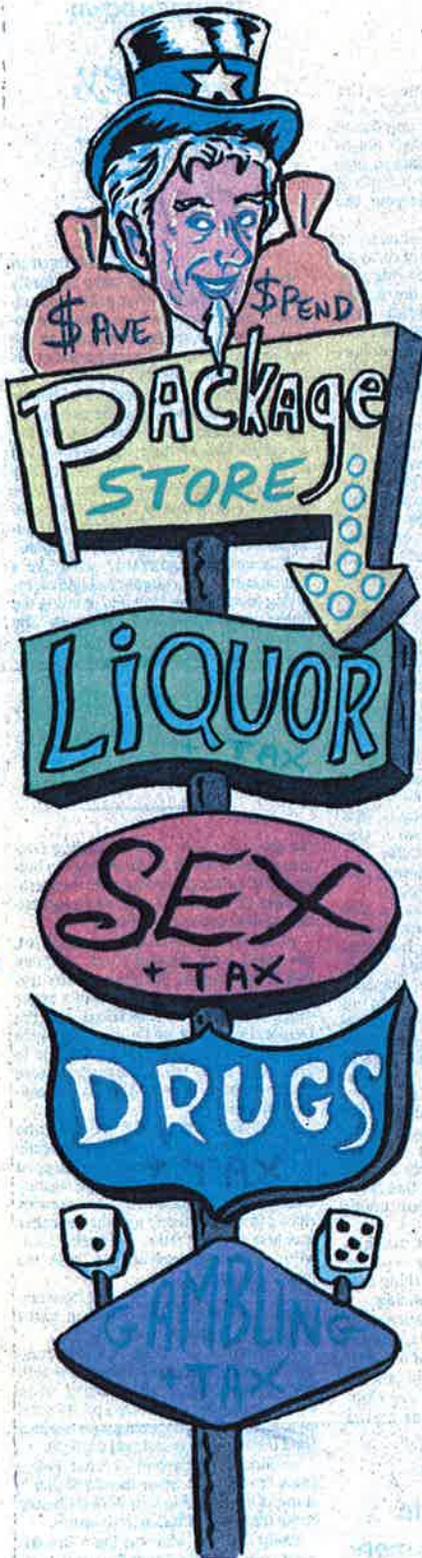
-Wash your car at a commercial car wash facility. The commercial car wash can recycle the wash/soapy water and drain it into sanitary sewer system

Fox: C.M. - Mayor & CC members -
et al. the the -
July Aels

14 WK

Paying With Our Sins

By Nick Gillespie



WASHINGTON
THE Obama administration's drug czar made news last week by saying he wanted to end all loose talk about a "war on drugs." "We're not at war with people in this country," said the czar, Gil Kerlikowke, who favors forcing people into treatment programs rather than jail cells.

Here's a better idea — and one that will help the federal and state governments fill their coffers: Legalize drugs and then tax sales of them. And while we're at it, welcome all forms of gambling (rather than just the few currently and arbitrarily allowed) and let prostitution go legit too. All of these vices, involving billions of dollars and consenting adults, already take place. They just take place beyond the taxman's reach.

Legalizing the world's oldest profession probably wasn't what Rahm Emanuel, the White House chief of staff, meant when he said that we should never allow a crisis to go to waste. But turning America into a Sin City on a Hill could help President Obama pay for his ambitious plans to overhaul health care and invest in green energy. More taxed vices would certainly lead to significant new revenue streams at every level. That's one of the reasons 52 percent of voters in a recent Zogby poll said they support legalizing, taxing and regulating the growth and sale of marijuana. Similar cases could be made for prostitution and all forms of gambling.

In terms of economic stimulation and growth, legalization would end black markets that generate huge amounts of what economists call "dead-weight losses," or activity that doesn't contribute to increased productivity. Rather than spending precious time and resources avoiding the law (or, same thing, paying the law off), producers and consumers could more easily get on with business and the huge benefits of working and playing in plain sight.

Consider prostitution. No reliable estimates exist on the number of prostitutes in the United States or aggregate demand for their services. However, Nevada, one of the two states that currently allows paid sex acts, is considering a tax of \$5 for each transaction. State Senator Bob Coffin argues further that imposing state taxes on existing brothels could raise \$2 million a year (at present, brothels are allowed only in rural counties, which get all the tax revenue), and legalizing prostitution in cities like Las Vegas could swell state coffers by \$200 million annually.

A conservative extrapolation from Nevada to the rest of the country would easily mean billions of dollars annually in new tax revenues. Rhode Island, which has never explicitly banned prostitution, is on the verge of finally doing so — but with the state facing a \$861 million budget shortfall, perhaps fully legalizing the vice (and then taking a cut) would be the smarter play.

Every state except Hawaii and Utah already permits various types of gambling, from state lotteries to racetracks to casinos. In 2007, such activity generated more than \$92 billion in receipts, much of which was earmarked for the elderly and education. Representative Barney Frank, Democrat of Massachusetts, has introduced legislation to repeal the federal ban on online gambling; and a 2008 study by Price-WaterhouseCoopers estimates that legalizing cyberspace betting alone could yield as much as \$5 billion a year in new tax revenues. Add to that

expanded opportunities for less exotic forms of wagering at, say, the local watering hole and the tax figure would be vastly larger.

Based on estimates from the White House Office of National Drug Control Policy, Americans spend at least \$64 billion a year on illegal drugs. And according to a 2006 study by the former president of the National Organization for the Reform of Marijuana Laws, Jan Gettman, marijuana is already the top cash crop in a dozen states and among the top five crops in 39 states, with a total annual value of \$36 billion.

A 2005 cost-benefit analysis of marijuana prohibition by Jeffrey Miron, a Harvard economist, calculated that ending marijuana prohibition would save \$7.7 billion in direct state and federal law enforcement costs while generating more than \$6 billion a year if it were taxed at the same rate as alcohol and tobacco. The drug czar's office says that a gram of pure cocaine costs between \$100 and \$150; a gram of heroin almost \$400; and a bulk gram of marijuana between \$15 and \$20. Those transactions are now occurring off the books of business and government alike.

As the history of alcohol prohibition underscores, there are also many non-economic reasons to favor legalization of vices: Prohibition rarely achieves its desired goals and instead increases violence (when was the last time a tobacco kingpin was killed in a deal gone wrong?) and destructive behavior (it's hard enough to get help if you're a substance abuser and that much harder if you're a criminal too). And by po-

To ease our deficit woes, legalize and tax every vice.

licing vice, law enforcement is too often distracted at best or corrupted at worst, as familiar headlines about cops pocketing bribes and seized drugs attest. There's a lot to be said for treating consenting adults like, well, adults.

But there is an economic argument as well, one that Franklin Roosevelt understood when he promised to end Prohibition during the 1932 presidential campaign. "Our tax burden would not be so heavy nor the forms that it takes so objectionable," thundered Roosevelt, "if some reasonable proportion of the unaccountable millions now paid to those whose business had been reared upon this stupendous blunder could be made available for the expense of government."

Roosevelt could also have talked about how legitimate fortunes can be made out of goods and services associated with vice. Part of his family fortune came from the opium trade, after all, and he and other leaders during the Depression oversaw a generally orderly re-legalization of the nation's breweries and distilleries.

There's every reason to believe that today's drug lords could go legit as quickly and easily as, say, Ernest and Julio Gallo, the venerable winemakers who once sold their product to Al Capone. Indeed, here's a (I hope soon-to-be-legal) bet worth making: If marijuana is legalized, look for the scion of a marijuana plantation operation to be president within 50 years.

Legalizing vice will not balance government deficits by itself — that will largely depend on spending cuts, which seem beyond the reach of all politicians. But in a time when every penny counts and the economy needs stimulation, allowing prostitution, gambling and drugs could give us all a real lift. □

Nick Gillespie is the editor in chief of Reason.com and Reason.tv.

MEMORANDUM

TO: City Councilmembers
 CC: City Manager Mike Martin
 FROM: Councilmember Kathy Keene
 SUBJ: Department of Commerce Meeting

On Monday, July 13, I attended a regional meeting hosted by Rogers Weed, Director of Community, Trade and Economic Development (CTED), which is soon to become the "Department of Commerce." The Department has been holding regional meetings around the state, to gather input from customers in regards to their new agency. The first session was for cities, counties, and private businesses.

Some may ask, what is so important about this agency, and how does it affect Burien? This is the primary state agency that many cities go to for Housing Funds, Public Works Trust Funds (PWTF) and other infrastructure monies that allow us to do big projects that we can't cover with our own city funds. CTED has two nationally renowned programs, the Public Works Trust Fund and the Housing Trust Fund.

Director Weed began the session by talking about the mission statement for the new Commerce Department: "To retain the jobs we have in Washington and attract new ones." He went over the eight principles and four themes that will guide the department's business plan (copy attached). We then began to address six questions posed to us, and a lively discussion ensued.

This was the format for the day as Director Weed held separate sessions for Utilities and then for Community Action Agencies, Housing, and Community Organizations. The government organizations (cities, counties, and utilities) all had the same themes come up: there is not enough money to do infrastructure projects; there is no money left in the Public Works Trust Fund account, and we dislike unfunded mandates!

The Community groups put forward a very good case that you need "community" to allow business to succeed, that in fact community is as much a part of the "infrastructure" as water and sewer lines.

According to Director Weed, the Department of Commerce wants to become the "go to" agency for businesses. For example, if a business doesn't understand what the legislature meant when they passed a bill, if the legislature needs input from business, or if the business community needs to have an advocate in State government... they can all come to Commerce for answers/input; that is how Commerce views its role, at this time.

Notes were taken at every session and will be sent out later. I would be happy to share them with any councilmembers who would like to see them.

MEMORANDUM

Date: July 17, 2009

To: City Councilmembers
Cc: Mike Martin, City Manager

From: Richard Loman, Economic Development Manager

Re: Department of Commerce Meeting

As Councilmember Keene reported in her Memorandum on the same subject, Rogers Weed, the Director of the newly renamed state Department of Community Trade and Economic Development held a two day Business Forum in SeaTac Monday and Tuesday of this week. Tuesday afternoon was devoted exclusively to hearing from economic development practitioners representing the various cities and organizations in King County. Approximately a dozen cities were represented, including George Northcroft from King County.

Simply stated, director Weed sees his responsibility as retaining the jobs we have today and attracting new ones. He sees innovation as the single most important concept in keeping Washington competitive. He sees our biggest challenge as "how to keep our state way out in front". He emphasized that long term planning is important, but the world is changing rapidly and we shouldn't be so rigid in implementation that we miss great growth opportunities.

We had the same spirited conversation Councilmember Keene described in her group. The consensus was that cities in Washington need to have more flexibility from the legislature in order to implement local economic development incentives which are important to each jurisdiction. Statewide, a well defined Tax Increment Financing program was again requested. We all felt more regular, predictable, face to face information sessions directly with the Department of Commerce is needed going ahead.



Department of Commerce

Innovation is in our nature.

COMMERCE CONNECTIONS INVOLVEMENT PLAN

PURPOSE

To reach out to a diverse group of opinion leaders across the state to develop strategies that will help pull Washington out of this national recession and shape the future of a new Department of Commerce.

Context: These are small group conversations. Events will lead up to the agency's development of a new business plan to be presented to the Governor and Legislature this November.

VISION

The Department of Commerce is the widely recognized business champion in state government and a respected leader and partner with the private sector in growing our state's economy for the benefit of all of our citizens.

MISSION

Retain the jobs we have in Washington today and attract new ones.

PRINCIPLES

1. **Government doesn't create most jobs – businesses do.** Over 80% of our state's economy comes from private sector activity. Businesses contribute over half of the revenue the state collects each year. We must have a tight connection to the private sector to be successful.
2. **Government does play a key role in shaping the state's business climate.** The policy created in Olympia has a major impact on almost every aspect of the state's business climate from the tax rates for business to the level of education and training in the workforce.
3. **Strong economies require strong communities.** Companies will not grow and thrive in communities where adequate social services don't exist, where people lack food and housing, where there is not sufficient infrastructure or where there is not an appropriately trained workforce.
4. **A strong, vibrant business community benefits us all.** Where do our governments get the money to build and maintain these strong communities? They get it from taxes paid by citizens and businesses. And those taxes are based on income generated by employment and commerce. The more successful businesses are in our state, the more employment and commerce there will be and the more money there will be to invest in our communities.
5. **Government should not pick winners and losers.** In general, government should avoid policy that backs specific companies or even specific technologies when designing economic policy. The more specific policy gets, the more likely the state is to pick wrong and do more harm than good.
6. **Retaining our state's current businesses and promoting their growth should be our first priority.** In a business, it is almost always easier and cheaper to drive growth from existing customers than it is to attract new ones. As a state, we should be sure that we are taking

care of our existing companies and driving loyalty in them in addition to the work we undertake to attract companies.

7. **Always be opportunistic.** Planning is important and it's always good to have a plan. But it's also important to realize that the world is changing rapidly and not to "fall in love" with your plan and miss an opportunity.
8. **Focus on the function** and form will follow.

THEMES

These are important topics that need to be addressed in the plan we develop.

1. **Innovation:** The Economic Development Commission's recent report highlights innovation as the single most important concept in keeping our state competitive as we move forward. Our state branding is around the phrase "Innovation is in our nature" and it is clear that this is more than a buzzword for us. There are very clear examples of the innovation that has come out of this region for decades. So the key question here is how do we continue to foster innovation in our state and stay out in front of other parts of the world in this critical dimension?
2. **Diverse Industry Needs:** Just as a large corporation is a collection of businesses, each in a different stage of growth and profitability, so our state is a collection of industry sectors that each are in different stages of their life cycle and that each have different priorities and needs when it comes to state support. So any state commerce plan needs to recognize this fact and include a portfolio approach to supporting our overall state economy.
3. **Recovery Act:** We are still in the first stages of a massive economic investment in the country by the Federal Government. Our plan needs to recognize this unique opportunity and ensure that we are taking maximum advantage of this giant pool of capital, particularly in areas like "energy" where there is a great deal of money being allocated based on competitive proposals.
4. **Recession:** The big question here is what opportunities does this dramatic downturn present to re-shape or re-structure the way we do business both as a state government and as a state as a whole?

QUESTIONS TO BE ASKED OF THE GROUP

- Where are the biggest opportunities in the state today? For a future Commerce?
- How does Washington compare to other states and countries?
- How are we doing? On a scale of 1-10, where are we succeeding, where could we do better?
- How do we take advantage of our strengths? Mitigate our weaknesses?
- Are our programs lined up correctly with federal, state, regional and local resources?
- What should we stop doing? What should we start doing?

Major Projects Status

Project

	Highline Christian Church	Date	Status (BLD 05-0078 & BLD 06-0676)
Address	114 SW 150th Street	25-Jul	Education wing interior work underway
Zone	CR	25-Aug	No Status Change
Site Size	1.45 Acres	25-Sep	No Status Change
Project Lead	KG	25-Oct	Education wing 1st floor final approved
Building Sq Ft	63,000	25-Nov	2nd floor finish work underway
Building Stories	2	25-Dec	No Status Change
		25-Jan	No Status Change
		25-Feb	Limited occupancy granted for Ed wing
		25-Mar	No Status Change
		25-Apr	No Status Change
		25-May	No Status Change
		25-Jun	No Status Change
		25-Jul	No Status Change
	Town Square Parcel 1	Date	Status (BLD 06-1750)
Address	460 SW 152nd Street	25-Jul	Framing levels 4 and 5
Zone	DC	25-Aug	Framing levels 5 and 6
Site Size	4.46 Acres	25-Sep	Framing level 6 and interior work underway
Project Lead	JV/DJ	25-Oct	Interior work continuing
Building Sq Ft	255,481	25-Nov	No Status Change
Building Stories	6	25-Dec	No Status Change
		25-Jan	Interior work continuing/decks and awning installation underway
		25-Feb	No Status Change
		25-Mar	Completing final punch list items
		25-Apr	No Status Change
		25-May	Partial Final granted on 5/12
		25-Jun	No Status Change
		25-Jul	Final Cert of Occupancy Granted
	Nugyen Townhomes	Date	Status (BLD 05-1387-1391)
Address	10XX SW 130th Street	25-Jul	#1 bldg interior work underway, 2 & 3 footing work continuing
Zone	RM-24	25-Aug	No Status Change
Site Size	14,337 sq. ft. (0.33 Acres)	25-Sep	No Status Change
Project Lead	SB/CD	25-Oct	Building 1 (Units 7 & 8) final occupancy approved
Units	8	25-Nov	Buildings 2 & 3 foundation work complete
Building Stories	3	25-Dec	No Status Change
		25-Jan	No Status Change (Extensions granted for units 1-6)
		25-Feb	No Status Change
		25-Mar	No Status Change
		25-Apr	No Status Change
		25-May	No Status Change
		25-Jun	No Status Change
		25-Jul	No Status Change
	Shorewood Subdivision (19-lots)	Date	Status (BLD 05-1683 & PLA 04-0228)
Address	Vacant Lot 15XX SW 124th Street	25-Jul	12 permits issued, 4 finalized
Zone	RS-12,000	25-Aug	No Status Change
Site Size	7.07 Acres	25-Sep	12 permits issued, 5 finalized
Project Lead	SB/CD	25-Oct	12 permits issued, 6 finalized
Lots	19	25-Nov	12 permits issued, 7 finalized
		25-Dec	12 permits issued, 8 finalized
		25-Jan	12 permits issued, 8 finalized
		25-Feb	No Status Change
		25-Mar	No Status Change
		25-Apr	No Status Change
		25-May	No Status Change
		25-Jun	No Status Change
		25-Jul	No Status Change

Sunset Townhomes		Date	Status (BLD 08-0362 & 0363)
Address	148 & S 152nd Street	25-Jul	Framing work continuing
Zone	RM-24	25-Aug	Exterior finishes being installed
Site Size	15,077 sq. ft. (0.35 Acres)	25-Sep	Interior work underway
Project Lead	KG/SJ	25-Oct	Interior work continuing
Units	6	25-Nov	No Status Change
		25-Dec	No Status Change
		25-Jan	SW 152nd Street sidewalks poured
		25-Feb	Interior finish work underway
		25-Mar	No Status Change
		25-Apr	Landscaping installed
		25-May	Interior work continuing
		25-Jun	No Status Change
		25-Jul	No Status Change
Moen Townhomes (Powell Homes)		Date	Status (BLD 07-2328 & 2329)
Address	213 SW 154th Street	5-Mar	Permit read to issue
Zone	RM-24	25-Jun	Permit extension granted
Site Size	15,000 sq. ft. (0.34 Acres)	25-Nov	Permit extension granted
Project Lead	KG/SJ	25-Apr	No activity to date
Units	6	25-May	No activity to date
Building Stories	3	25-Jun	No activity to date
		25-Jul	No activity to date
Highline Medical Center (Birch Wing)		Date	Status (BLD 08-0690 & 0695)
Address	16251 Sylvester Rd SW	25-Jul	Demolition and site prep work underway
Zone	O	25-Aug	Shoring and foundation work underway
Site Size	5.62 Acres	25-Sep	Foundation work underway
Project Lead	KG/DJ	25-Oct	Foundation work continuing
Building Sq Ft	79,607 sq. ft.	25-Nov	No Status Change
Building Stories	3	25-Dec	Floor construction underway
		25-Jan	Pouring 3rd story floor
		25-Feb	Roof framed, interior framing underway
		25-Mar	Interior framing continuing
		25-Apr	Interior work underway
		25-May	No Status Change
		25-Jun	Exterior finishes nearing completion, interior work cont.
		25-Jul	Interior work continuing
Navos Apartments		Date	Status (BLD 08-1623)
Address	1115 SW 134th Street	25-Dec	Permit issued 11/26/08, foundation work nearing completion
Zone	RM-24	25-Jan	Framing underway
Site Size	27,958 sq. ft. (0.64 Acres)	25-Feb	Framing complete
Project Lead	KG/SJ	25-Mar	Interior work underway
Units	15	25-Apr	Interior work continuing
Building Stories	2	25-May	Interior work continuing
		25-Jun	No status change
		25-Jul	Project complete, Certificate of Occupancy issued
Environmental Learning Center		Date	Status (BLD 08-1969)
Address	1600 SW Seahurst Park Road	25-May	Permit ready to issue on 5/20/09
Zone	RS-12,000	25-Jun	Permit issued 6/2/09
Site Size	75.82 Acres	25-Jul	Installing foundation forms
Project Lead	KG/SJ		
Building Sq Ft	2,105 sq. ft.		
Building Stories	2		
Miller Creek Junction		Date	Status (BLD 08-0857 - 0871)
Address	215 S 160th Street	25-May	Site grading underway
Zone	CC-2	25-Jun	Foundation & framing work underway on 27 of 46 units
Site Size	3.16 Acres	25-Jul	Foundation work complete on 39 of 46 units, framing continuing
Project Lead	SB/CD		
Units/Commercial	46 units & 16,651 s.f. commercial		
Building Stories	2		



Burien

Washington, USA

400 SW 152nd, Suite 300, Burien, WA 98166
 Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

DATE: July 30, 2009
FOR RELEASE: Immediately
CONTACT: City Clerk's Office, (206) 248-5517

INFORMATIONAL OPEN HOUSE ON ANNEXATION

Members of the Burien City Council may be attending a community informational open house held by the City of Burien for the purpose of discussing Annexation on Thursday, August 6, 2009, from 6:30 to 8:00 p.m. at Beverly Park Baptist Church, 11659 1st Ave S, Seattle, WA 98168.

###

The City of Burien strives to provide alternate communication opportunities. Please contact the City Clerk's office, 206/248-5517, twenty-four hours prior to the meeting, for assistance.

<p>cc: Burien City Council Burien Staff Discover Burien B-Town Blog</p>	<p>Highline Times King County/Burien Public Library Web site: www.ci.burien.wa.us White Center Now</p>
--	--

*** PLEASE PUT ON COMMUNITY CALENDAR BULLETIN BOARD**



Burien

Washington, USA

400 SW 152nd, Suite 300, Burien, WA 98166

Phone: (206) 241-4647 • FAX (206) 248-5539

www.burienwa.gov

DATE: July 28, 2009
FOR RELEASE: Immediately
CONTACT: City Manager's Office, (206) 439-3165

**BURIEN
 TRANSPORTATION BENEFIT DISTRICT (TBD NO. 1) BOARD
 MEETING NOTICE**

The Burien Transportation Benefit District (TBD No. 1) Board will meet for the purpose of selecting a Chair and considering a resolution requesting placement of a \$25 annual vehicle license fee measure on the November 3, 2009, General Election ballot on Monday, August 3, 2009, at 7:05 p.m. at Burien City Hall, Council Chambers, 400 SW 152nd Street.

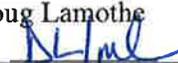
###

The City of Burien strives to provide alternate communication opportunities. Please contact the City Clerk's office, 206/248-5517, twenty-four hours prior to the meeting, for assistance.

cc: Burien City Council Burien Staff Discover Burien Highline Times	Burien Library White Center Now B-Town Blog Web site: www.burienwa.gov
--	---

*** PLEASE PUT ON COMMUNITY CALENDAR BULLETIN BOARD**

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Motion to adopt Ordinance No. 519, amending the Surface Water Management Code		Meeting Date: August 3, 2009
Department: Public Works	Attachments: <u>Proposed Ordinance No.</u> <u>519</u>	Fund Source: N/A Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Doug Lamothe, Interim Director		
Telephone: (206) 439-3156		
Adopted Work Plan Priority: Yes No <input checked="" type="checkbox"/> X	Work Plan Item Description:	
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is to present to the Council for adoption an ordinance amending to the Surface Water Management Code and incorporating the King County Pollution Prevention Manual.		
BACKGROUND (Include prior Council action & discussion): In January of 2007, the State Department of Ecology issued the first National Pollution Discharge Elimination System (NPDES) permit for Phase II communities in Western Washington. The Phase II NPDES permit is intended to implement the Clean Water Act. Certain provisions of the permit must be implemented by the City in August of this year. Although the City already has certain regulations in place that comply with many of the requirements of the Phase II NPDES permit, City staff are updating those regulations to ensure full compliance with the Permit. The draft ordinance is intended to update the provisions of Chapter 13.10 BMC ("Surface Water Management Code") relating to illicit discharge and detection and will provide for adoption of the King County Stormwater Pollution Prevention Manual ("SPPM"). A draft ordinance and the SPPM have been previously presented to the City Council on July 6 and 20 for review. In order to meet the deadline for compliance, the ordinance must be effective by no later than August 16, 2009.		
OPTIONS (Including fiscal impacts): 1. Move to adopt Ordinance No. 519 2. Move to adopt Ordinance No. 519 with modifications 3. Place Ordinance No. 519 on a future council agenda for discussion and/or approval.		
Administrative Recommendation: Adopt Ordinance No. 519 as presented.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: Move to adopt Ordinance No 519 amending the provisions of Chapter 13.10 BMC ("Surface Water Management Code") relating to illicit discharge and detection and providing for adoption of the King County Stormwater Pollution Prevention Manual.		
Submitted by: Doug Lamothe Administration 	Mike Martin City Manager 	
Today's Date: July 20, 2009	File Code: R:/CC/Agenda Bill 2009/072009pw-1 illicit dischg NPDES permit compliance	

CITY OF BURIEN, WASHINGTON
ORDINANCE NO. 519



AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO SURFACE WATER MANAGEMENT; AMENDING CHAPTER 13.10 OF THE BURIEN MUNICIPAL CODE TO CONFORM TO THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT FOR PHASE II COMMUNITIES; AMENDING THE ENFORCEMENT AND PENALTY PROVISIONS THEREOF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City has adopted certain provisions codified at Chapter 13.10 of the Burien Municipal Code (“BMC”) that provide for a surface water management program within the City of Burien; and

WHEREAS, in January of 2007, the State Department of Ecology issued the first National Pollution Discharge Elimination System (“NPDES”) permit for Phase II communities in Western Washington which permit is intended to implement the Clean Water Act; and

WHEREAS, although the City already has certain regulations in place that comply with many of the requirements of the Phase II NPDES permit, certain amendments, such as the adoption of best management practices set forth in the King County Pollutions Prevention Manual, are necessary in order to ensure that the City is in compliance with provisions of the permit that must be implemented by the City in August of this year; and

WHEREAS, the proposed amendments to Chapter 13.10 of the Burien Municipal Code are consistent in scope and subject matter with the surface water management programs of other jurisdictions; and

WHEREAS, this Ordinance is enacted as an exercise of the authority of the City of Burien to protect and preserve the public health and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Repeal and Re-enactment of Section 13.10.010 BMC (Definitions). Section 13.10.010 of the Burien Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

13.10.010 Definitions.

The definitions in this section shall apply in the interpretation and enforcement of this Chapter unless the context clearly requires otherwise.

(1) AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.

(2) “Adjustment” means a Department-approved variation in the application of the requirements of BMC 13.10.140 and the Surface Water Design Manual to a particular project in accordance with BMC 13.10.140(3). “Adjustment” replaces “variance,” which was used in prior editions of the Surface Water Design Manual.

(3) “Applicant” means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement under RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

(4) “Basin” means a geographic area that contains and drains to Miller Creek, Salmon Creek, or Walker Creek, or a geographic area that drains to Lake Burien or Puget Sound.

(5) “Basin plan” means a plan and all implementing regulations and procedures including, but not limited to, capital projects, public education activities and land use management adopted by ordinance for managing surface and surface water within the basin or within individual sub-basins.

(6) “Best management practices” (“BMPs”) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(7) “City” means City of Burien.

(8) “Clean Water Act” means 33 U.S.C. 1251 et. seq., as amended.

(9) “Closed depression” means an area greater than 5,000 square feet at overflow elevation that is low-lying and that has no or such a limited surface water outlet that the area acts as a surface water retention facility.

(10) “Construct or modify” means to install a new drainage pipe or ditch or make improvements to an existing drainage pipe or ditch, for purposes other than maintenance, that either serves to concentrate previously unconcentrated surface and surface water run-off or serves to increase, decrease or redirect the conveyance of surface and surface water run-off. “Construct or modify” does not include installation or maintenance of a driveway culvert installed as part of a single-family residential building permit.

(11) “Conveyance system” means the drainage facilities and features, both natural and constructed, that collect, contain and provide for the flow of storm and surface water from the highest points on the land down to a receiving area. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels and most flow control and water quality treatment facilities.

- (12) "Department" means the Department of Public Works.
- (13) "Developed parcel" means any parcel altered from the natural state by the construction, creation or addition of impervious surfaces.
- (14) "Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance, subdivision, short subdivision, urban planned development, binding site plan, development permit or right-of-way use permit.
- (15) "Director" means the Director of Public Works, or any duly authorized representative of the Director.
- (16) "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.
- (17) "Drainage" means the collection, conveyance, containment or discharge, or any combination thereof, of surface and surface water run-off.
- (18) "Drainage facility" or "stormwater facility" means a constructed or engineered feature that collects, conveys, stores or treats storm and surface water run-off. "Drainage facility" includes, but is not limited to, a constructed or engineered stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility, erosion and sediment control facility and other structure and appurtenance that provides for drainage.
- (19) "Drainage review" means an evaluation by City staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual.
- (20) "Effective impervious area" means the portion of actual impervious area that is connected, or has the effect of being connected as defined in the King County Surface Water Design Manual, directly to the surface water drainage system via surface flow or discrete conveyances such as pipes, gutters or ditches.
- (21) "Erosion and sediment control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation and ensure that sediment-laden water does not leave the site or enter into wetlands or aquatic areas.
- (22) "Financial guarantee" means a form of financial security posted to do one or more of the following: ensure timely and proper completion of improvements; ensure compliance with the Burien Municipal Code; or provide secured warranty of materials, workmanship of improvements and design. "Financial guarantees" include assignments of funds, cash deposit, surety bonds or other forms of financial security acceptable to the Director. "Performance guarantee," "maintenance guarantee" and "defect guarantee" are considered sub categories of financial guarantee.
- (23) "Flood hazard reduction plan" means a plan and all implementing programs, regulations and procedures including, but not limited to, capital projects, public education activities and enforcement programs for reduction of flood hazards and prepared by King County in accordance with RCW 86.12.200.

(24) “Flow control best management practice” means a method or design for dispersing, infiltrating or otherwise reducing or preventing development-related increases in surface and surface water run-off at, or near, the sources of those increases. “Flow control best management practice” includes the methods and designs specified in the Surface Water Design Manual.

(25) “Flow control facility” means a drainage facility designed to mitigate the impacts of increased surface and surface water run-off generated by site development in accordance with the drainage requirements in this Chapter. A “flow control facility” is designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration or infiltration into the ground or to hold run-off for a short period of time and then release it to the conveyance system.

(26) “Full drainage review” means the evaluation required by the City for any proposed project that:

(a) Would result in 2,000 square feet or more of new impervious surface, replaced impervious surface, or new plus replaced impervious surface, but is not subject to Small Project Drainage Review;

(b) Would result in 7,000 square feet or more of land disturbing activity, but is not subject to Small Project Drainage Review; or

(c) Is a redevelopment project on one or more parcels where the total of new plus replaced impervious surface is 5,000 square feet or more and when the valuation of proposed improvements exceeds 50 percent of the assessed value of the existing site improvements, including interior improvements and excluding required mitigation and frontage improvements.

(27) “High-use site” means a commercial, industrial or road intersection site that generates a higher than average number of vehicle turnovers or has other characteristics that generate the potential for chronic oil accumulation. “High use site” includes:

(a) A commercial or industrial site subject to:

(i) an expected daily traffic count greater than 100 vehicles per 1,000 square feet of gross building area;

(ii) petroleum storage or transfer in excess of 1,000 gallons per year, not including routine fuel oil storage or transfer; or

(iii) use, storage or maintenance of a fleet of 25 or more diesel vehicles each weighing over ten tons; or

(b) A road intersection with average daily traffic counts of 25,000 vehicles or more on the main roadway and 15,000 or more vehicles on any intersecting roadway, excluding pedestrian or bicycle use improvement projects.

(28) “Historic site conditions” means those conditions that existed on the site prior to any development in the Puget Sound region. For lands not currently submerged (i.e., outside the ordinary high water mark of a lake, wetland, or stream), historic site conditions shall be assumed to be forest cover unless reasonable, historic, site-specific information is provided to demonstrate a different vegetation cover.

(29) “Hydraulically connected” means connected through surface flow or water features such as wetlands or lakes.

(30) “Illicit discharge” means any direct or indirect non-stormwater discharge to the City’s storm drain system, except as expressly allowed by this Chapter.

(31) “Illicit connection” means any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

(32) “Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions before development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas that are paved, graveled or made of packed or oiled earthen materials or other surfaces that similarly impede the natural infiltration of surface and surface water. An open uncovered flow control or water quality treatment facility is not an “impervious surface”.

(33) “Improvement” means a permanent, human-made, physical change to land or real property including, but not limited to, buildings, streets, driveways, sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities and landscaping.

(34) “Lake management plan” means a plan describing the lake management recommendations and requirements adopted by public rule for managing water quality within individual lake basins.

(35) “Land disturbing activity” means an activity that results in a change in the existing soil cover, both vegetative and nonvegetative, or to the existing soil topography. “Land disturbing activity” includes, but is not limited to, demolition, construction, clearing, grading, filling, excavation and compaction. “Land disturbing activity” does not include tilling conducted as part of agricultural practices, landscape maintenance or gardening.

(36) “Land use code” means restrictions on the type of development for a specific parcel of land as identified by records maintained by the King County department of assessments as modified or supplemented by information resulting from investigation by the division. Land use codes are preliminary indicators of the extent of impervious surface and are used in the initial analysis to assign an appropriate rate category for a specific parcel.

(37) “Large project drainage review” means the evaluation required by the City for any proposed project that:

(a) Would, at full build-out of the project site, result in 50 acres or more of new impervious surface within a drainage sub-basin or a number of sub-basins hydraulically connected across sub-basin boundaries; or

(b) Has a project site of 50 acres or more within a critical aquifer recharge area, as defined in BMC 19.10.084.

(38) “Licensed civil engineer” means a person registered with the State of Washington as a professional engineer in civil engineering.

(39) "Maintenance" means those usual activities taken to prevent a decline, lapse, or cessation in the use of currently serviceable structures, facilities, equipment, or systems, if there is no expansion of the structure, facilities, equipment, or system and there are no significant hydrologic impacts. "Maintenance" includes the repair or replacement of nonfunctional facilities or the replacement of existing structures with different types of structures, if the repair or replacement is required by one or more environmental permits or to meet current engineering standards and the functioning characteristics of the original facility or structure are not changed.

(40) "Master drainage plan" means a comprehensive drainage control plan intended to prevent significant adverse impacts to the natural and constructed drainage system, both on- and off-site.

(41) "Native vegetated surface" means a surface in which the soil conditions, ground cover and species of vegetation are like those of the original native condition for the site, as more specifically set forth in the Surface Water Design Manual.

(42) "Natural discharge location" means the location where run-off leaves the project site under existing site conditions as defined in the Surface Water Design Manual.

(43) "Natural surface water drainage system" means such landscape features as rivers, streams, lakes and wetlands. This system circulates water in a complex hydrological cycle.

(44) "New impervious surface" means the creation of a hard or compacted surface such as roofs, pavement, gravel or dirt or the addition of a more compacted surface such as the paving of existing dirt or gravel.

(45) "New pervious surface" means the conversion of a native vegetated surface or other native surface to a nonnative pervious surface, including, but not limited to, pasture land, grassland, cultivated land, lawn, landscaping or bare soil or any alteration of existing nonnative pervious surface that results in increased surface and surface water run-off as defined in the Surface Water Design Manual.

(46) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(47) "National Pollutant Discharge Elimination System" or "NPDES" means the national program for controlling pollutants from point source discharges directly into waters of the United States under the Clean Water Act.

(48) "Open space" means any parcel, property or portion thereof classified for current use taxation under, or for which the development rights have been sold to the City of Burien or King County. This definition includes lands which have been classified as open space, agricultural or timber lands under criteria contained in the appropriate City or County code or Chapter 84.34 RCW.

(49) "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax lot number by the King County assessor.

(50) "Person" means any individual, firm, company, association, corporation or governmental agency.

(51) "Pollution-generating impervious surface" means an impervious surface considered to be a significant source of pollutants in surface and surface water run-off. "Pollution-generating impervious surface includes those surfaces subject to vehicular use or storage of erodible or leachable materials, wastes or chemicals and that receive direct rainfall or the run-on or blow-in of rainfall. A covered parking area would be included if run-off from uphill could regularly run through it or if rainfall could regularly blow in and wet the pavement surface. Metal roofs are also considered pollution-generating impervious surface unless they are treated to prevent leaching.

(52) "Pollution-generating pervious surface" means a nonimpervious surface considered to be a significant source of pollutants in surface and surface water run-off. "Pollution-generating pervious surfaces" include surfaces subject to the use of pesticides and fertilizers, to the use or storage of erodible or leachable materials, wastes or chemicals or to the loss of soil. "Pollution-generating pervious surface" includes, but is not limited to, the lawn and landscaped areas of a residential or commercial site, golf course, park sports field, and standard grassed modular grid pavement.

(53) "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(54) "Program" means the surface water management program as set forth in this Chapter.

(55) "Project" means any proposed action to alter or develop a site that may also require drainage review.

(56) "Project site" means the portion of a site and any off-site areas subject to proposed project activities, alterations and improvements including those required by this Chapter.

(57) "Rate category" means the classification in this Chapter given to a parcel in the service area based upon the type of land use on the parcel and the percentage of impervious surface area contained on the parcel.

(58) "Redevelopment project" means a project that proposes to add, replace or modify impervious surface for purposes other than a residential subdivision or maintenance on a site that:

(59) Is already substantially developed in a manner that is consistent with its current zoning or with a legal nonconforming use; or

(60) Has an existing impervious surface coverage of 35 percent or more.

(61) "Replaced impervious surface" means an existing impervious surface proposed to be removed and reestablished as impervious surface, excluding impervious surface removed for the sole purpose of installing utilities or performing maintenance. For purposes of this definition, "removed" includes the removal of buildings down to bare soil or the removal of Portland cement concrete slabs or pavement or asphaltic concrete pavement together with any asphalt-treated base.

(62) "Residence" means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term residence

includes the term “residential” or “residential unit” as referring to the type of or intended use of a building or structure.

(63) “Residential parcel” means any parcel which contains no more than three residences or three residential units which are within a single structure and is used primarily for residential purposes.

(64) “Run-off” means that portion of water originating from rainfall and other precipitation that flows over the surface or just below the surface from where it fell and is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and shallow groundwater as well as on ground surfaces. For the purpose of this definition, groundwater means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

(65) “Salmon conservation plan” means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance, capital projects, public education activities and enforcement programs for conservation and recovery of salmon within a water resource inventory area designated by the state under WAC 173-500-040.

(66) “Service area” means the incorporated areas of the City of Burien.

(67) “Shared facility” means a drainage facility designed to meet one or more of the requirements of BMC 13.10.140 for two or more separate projects contained within a basin. Shared facilities usually include shared financial commitments for those drainage facilities.

(68) “Site” means a single parcel, or two or more contiguous parcels that are under common ownership or documented legal control, used as a single parcel for a proposed project for purposes of applying for authority from the City to carry out a proposed project. For projects located primarily within dedicated rights-of-way, “site” includes the entire width of right-of-way subject to improvements proposed by the project.

(69) “Small project drainage review” means the drainage review for a proposed single-family residential project or agricultural project that

(a) Would result in:

(i) 10,000 square feet or less of total impervious surface added on or after January 8, 2001; or

(ii) four percent or less of total impervious surface on a site as specified in the Surface Water Design Manual; and

(b) Meets the small project drainage requirements specified in the Surface Water Design Manual, including flow control best management practices, erosion and sediment control measures and drainage plan submittal requirement; and

(c) Minimum drainage review requirements for all development, redevelopment, or new impervious surface, regardless of size, scope, and nature, that is subject to a City development permit or approval.

(70) “Stormwater pollution prevention plan” means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the

actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

(71) "Surface water compliance plan" means a plan or study and all regulations and procedures that have been adopted by the City or King County to implement the plan or study, including, but not limited to, capital projects, public education activities and enforcement programs for managing surface water quantity and quality discharged from the county's municipal separate storm sewer system in compliance with the National Pollutant Discharge Elimination System permit program under the Clean Water Act.

(72) "Sub-basin" means a geographic area that:

(73) Drains to a stream or water body named and noted on common maps; and

(74) Is contained within the basin of the stream or water body.

(75) "Surface and surface water" means water originating from rainfall and other precipitation that is found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands as well as and shallow ground water.

(76) "Surface and surface water management services" means the services provided by the Department, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and surface water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.

(77) "Surface and surface water management system" means constructed drainage facilities and any natural surface water drainage features that do any combination of collection, storing, controlling, treating or conveying surface and surface water.

(78) "Surface Water Design Manual" means the manual, and supporting documentation referenced or incorporated in the manual, describing surface and surface water design and analysis requirements, procedures and guidance that has been formally adopted by reference in this Chapter.

(79) "Targeted drainage review" means an abbreviated evaluation for certain types of proposed projects that are not subject to full or large project drainage review. Targeted drainage review may be required for some projects in small project drainage review.

(80) "Undeveloped parcel" means any parcel which has not been altered from its natural state by the construction, creation or addition of impervious surface.

(81) "Water quality treatment facility" means a drainage facility designed to reduce pollutants once they are already contained in surface and surface water run-off. Water quality treatment facilities are the structural component of best management practices. When used singly or in combination, water quality treatment facilities reduce the potential for contamination of either surface or ground waters, or both.

Section 2. Repeal and Re-enactment of Section 13.10.020 (Surface Water Manuals Adopted and Amended). Section 13.10.020 of the Burien Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

13.10.020 Surface Water Manuals adopted and amended.

The 2005 King County Surface Water Design Manual and the 2009 King County Stormwater Pollution Prevention Manual, and any future amendments thereto, are hereby adopted by reference as, respectively, the City of Burien Surface Water Design Manual (“SWDM”) and the City of Burien Stormwater Pollution Prevention Manual (“SPPM”), with the following modifications:

Chapter 1, Paragraph 1.1.1 (2005 King County Surface Water Design Manual) is hereby amended to read as follows:

1.1.1 WHEN IS DRAINAGE REVIEW REQUIRED?

All development, redevelopment or new impervious surface regardless of size, scope and nature that is subject to a City development permit or approval shall be subject to, at a minimum, a small site drainage review by the City in accordance with the provisions of this manual. Targeted, full or large site drainage review may be required based on specific project and site characteristics as described in Section 1.1.2.

If any provisions of the Surface Water Design Manual or the Stormwater Pollution Prevention Manual as adopted conflict with any provisions of this Chapter, the provisions of this Chapter will control. Unless the context indicates otherwise, all references to “King County” or “County” in the SWDM and the SPPM shall mean and refer to the City of Burien; references to the King County Department of Development and Environmental Services or its acronym “DDES” shall mean and refer to the City of Burien Department of Public Works and those agencies contracting with the City of Burien to enforce Chapter 13.10 of the Burien Municipal Code; references to the Water and Land Resources Division of the King County Department of Natural Resources or its acronym “WLR” shall mean and refer to the City of Burien Department of Public Works; references to the King County Department of Natural Resources and Parks or its acronym (“DNRP”) shall mean and refer to the City of Burien Department of Public Works; all references to Chapter 9.04 of the King County Code or any specific sections thereof shall mean and refer to Chapter 13.10 of the Burien Municipal Code and the equivalent sections thereof.

Terms and standards that are defined in the SWDM and SPPM by reference to Chapter 21A of the King County Code shall mean and refer to those terms and standards as defined in Title 19 of the Burien Municipal Code; provided that, when such terms have no defined meaning in Title 19 of the Burien Municipal Code, the City adopts and incorporates by reference as part of this Chapter, the

definitions given in Chapter 21A of the King County Code, as now or hereafter amended.

All references in the SWDM to the Storm Water Pollution Prevention Manual shall mean and refer to the SWPPM as adopted by the City of Burien pursuant to this Chapter 13.10 of the Burien Municipal Code.

All references in the SPPM to the Storm Water Design Manual shall mean and refer to the SWDM as adopted by the City of Burien pursuant to this Chapter 13.10 of the Burien Municipal Code

The definition of Critical Drainage Area in Chapter 1 of the SWDM is amended by striking “by administrative rule under the procedures specified in KCC 2.98.”

The reference in Section 1.1.2.4 of the SWDM to Urban Planned Development shall mean and refer to the equivalent such designation under the City of Burien Comprehensive Plan as determined by the City of Burien Community Development Director.

The note following the third sentence of Section 1.1.3 of the SWDM is stricken.

The last paragraph of Section 1.1.4 beginning with “Additional mitigation” is stricken.

The reference in Section 1.2.2 at paragraph 2 of the SWDM to KCC 21A.24.110 shall mean and refer to the applicable provision of Title 19 of the Burien Municipal Code.

All references to Critical Area Review in the SWDM and the SPPM shall mean and refer to Critical Area Review pursuant to Title 19 of the Burien Municipal Code.

References in the SWDM and SWWP to Chapter 16.82 of the King County Code, shall mean and refer to the clearing and grading provisions of the Burien Municipal Code.

Subsection F of Section 1.2.4.3 of the SWDM is omitted.

The reference in Section 1.2.7 to King County Ordinance 12020 shall mean and refer to the financial guarantee requirements of the applicable provisions of the Burien Municipal Code.

The first paragraph of Section 1.4.4 of the SWDM is stricken and replaced with the following:

All variances (“Adjustments”) from Chapter 13.10 BMC, the SWDM, and the SWWP shall be governed by the procedures, standards and requirements set forth at Section 19.65.085 of the Burien Municipal Code, as it now exists or may hereafter be amended. Consistent with these requirements, the general steps of the variance review process for specific types of adjustments are presented as follows:

The reference in Section 1.4.5 of the SWDM to KCC 20.20 shall mean and refer to Section 19.65.085 BMC.

References to offices of King County shall mean and refer to the equivalent offices of the City of Burien.

Except when the context indicates otherwise, references in the SWDM and the SPPM to specific codes or sections of codes of King County, such as the King County critical areas code, shoreline management code, clearing and grading code, and road standards, shall mean and refer to the equivalent codes or sections of codes of the City of Burien.

Section 3. Amendment of Section 13.10.030 BMC (Administration). Section 13.10.030 of the Burien Municipal Code is hereby amended to read as follows (amendments shown in legislative revision marks):

13.10.030 Administration.

(1) Administration.

(a) The Director is authorized to promulgate and adopt administrative rules for the purpose of implementing and enforcing the provisions of this Chapter. Adopted administrative rules will be made available to the public from the Department. This includes, but is not limited to, the Surface Water Design Manual and the Stormwater Pollution Prevention Manual.

(b) The Director is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual and the Stormwater Pollution Prevention Manual.

(2) Inspections. The Director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this Chapter.

(3) Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, monitor for proper function of drainage facilities or whenever the Director has reasonable cause to believe that violations of this Chapter are present or operating on a subject property or portion thereof, the Director may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the Director by this Chapter; provided that, if such premises or portion thereof is occupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

(4) Access. Proper ingress and egress shall be provided to the Director to inspect, monitor or perform any duty imposed upon the Director by this ~~e~~Chapter. The Director shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification the Director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the City in causing such work to be done shall thereby be imposed on the person holding title to the subject property.

Section 4. Amendment of Section 13.10.070 BMC (Implementation, Review and Revision). Section 13.10.070 of the Burien Municipal Code is hereby amended to read as follows (amendments shown in legislative revision marks):

13.10.070 Implementation, review and revision.

The Department shall administer a training program for users of the Surface Water Design Manual and the Stormwater Pollution Prevention Manual. The Director shall also conduct an on-going research program to evaluate the effectiveness of the requirements in meeting the purpose of this ~~C~~chapter. This research program will examine, but not be limited to, hydrologic and hydraulic analysis methods, stream geomorphologic analysis methods, water quality, best management practices and erosion and sediment control measures.

Section 5. Amendment of Section 13.10.110 BMC (Scope). Section 13.10.110 of the Burien Municipal Code is hereby amended to read as follows (amendments shown in legislative revision marks):

13.10.110 Scope.

Compliance with the standards in this ~~C~~chapter, ~~and~~ the Surface Water Design Manual, and the Stormwater Pollution Prevention Manual does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Surface Water Design Manual and the Stormwater Pollution Prevention Manual. Thus, compliance with this manual should not be construed as mitigating all probable and significant surface water impacts, and additional mitigation may be required to protect aquatic biota in streams and wetlands.

Section 6. Amendment of Section 13.10.130 BMC (Drainage Review - When Required - Type). Section 13.10.130 of the Burien Municipal Code is hereby amended to read as follows:

13.10.130 Drainage review - when required - type.

(1) Drainage review is required, regardless of size of the development, when any proposed project is subject to a City development permit or approval and:

- (a) Would result in 2,000 square feet or more of new impervious surface;
- (b) Would involve 7,000 square feet or more of land disturbing activity;
- (c) Would construct or modify a drainage pipe or ditch that is 12 inches or more in size or depth or receives surface and surface water run-off from a drainage pipe or ditch that is 12 inches or more in size or depth;
- (d) Contains or is adjacent to a flood hazard area as defined in BMC 19.10.179.2;
- (e) Is located within a critical drainage area;
- (f) Is a redevelopment project proposing \$100,000.00 or more of improvements to an existing site; or
- (g) Is a redevelopment project on a site in which the total of new plus replaced impervious surface is 5,000 square feet or more and whose valuation of proposed improvements, including interior improvements and excluding required mitigation and frontage improvements, exceeds 50 percent of the assessed value of the existing site improvements.

(2) The drainage review for any proposed project shall be scaled to the scope of the project's size, type of development and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. If drainage review for a proposed project is required under subsection (a) of this section, the Department shall determine which of the following drainage reviews apply as specified in the Surface Water Design Manual:

- (a) Small project drainage review;
- (b) Targeted drainage review;
- (c) Full drainage review; or
- (d) Large project drainage review.

Section 7. Amendment of Section 13.10.140 BMC (Drainage Review - Requirements). Section 13.10.140 of the Burien Municipal Code is hereby amended to read as follows:

13.10.140 Drainage review - requirements.

(1) Every permit or approval application with drainage review must meet each of the following core requirements which are described in detail in the Surface Water Design Manual:

- (a) Core requirement 1: Discharge at the natural location. All storm and surface water run-off from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which run-off is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual;

(b) Core requirement 2: Off-site analysis. The initial application submittal for proposed projects shall include an off-site analysis report that assesses potential off-site drainage impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a Level One downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem specific requirements as specified in the Surface Water Design Manual;

(c) Core Requirement 3: Flow control. Proposed projects that would result in 2,000 square feet or more of new plus replaced impervious surface or 35,000 square feet or more of new pervious surface, ~~or that are redevelopment projects that would result in a total of 5,000 square feet or more of new and replaced impervious surface,~~ shall provide flow control facilities or flow control BMPs, or both, to control surface and surface water run-off generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow control facilities shall meet the area-specific flow control facility requirements and the flow control facility implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Flow control BMPs shall also be applied as specified in the Surface Water Design Manual. Projects subject to area-specific flow control facility requirements shall meet one of the flow control facility performance criteria listed in (i) through (iii) of this subsection (1)(c), as directed by the Surface Water Design Manual:

(i) Level One shall match the predeveloped site's peak discharge rates for the two-year and 10-year return periods;

(ii) Level Two shall meet Level One criteria and also match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the 50 percent of the two-year peak flow through the 50-year peak flow; or

Level Three shall meet Level Two criteria and also match the predeveloped site's peak discharge rate for the 100-year return period;

(d) Core requirement 4: Conveyance system. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual;

(e) Core requirement 5: Erosion and sediment control. All proposed projects that will clear, grade or otherwise disturb the site shall provide erosion and sediment control that prevents, to the maximum extent practicable, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with the temporary erosion and sediment control measures and performance criteria and implementation requirements in the King County Surface Water Design Manual;

(f) Core requirement 6: Maintenance and operation. Maintenance of all drainage facilities in compliance with City maintenance standards is the responsibility of the applicant/property owner as described in the Surface Water Design Manual, except those facilities for which King County is granted an easement or covenant and assumes maintenance and operation as described in the Surface Water Design Manual;

(g) Core requirement 7: Financial guarantees and liability. All drainage facilities constructed or modified for projects, except downspout infiltration and dispersion systems for single family residential lots, must provide adequate liability requirements and financial guarantees consistent with this code;

(h) Core requirement 8: Water quality. Proposed projects that would result in 5,000 square feet or more of new pollution generating impervious surface or 35,000 square feet or more of new pollution-generating pervious surface, or that are redevelopment projects that would result in a total of 5,000 square feet or more of new and replaced pollution-generating impervious surface, shall provide water quality treatment facilities to treat polluted surface and surface water run-off generated by new or replaced pollution-generating impervious surface, new pollution-generating pervious surface and any existing pollution-generating impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. However, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if the Department approves a landscape management plan that controls pesticides and fertilizers leaving the site. Water quality treatment facilities shall meet the area-specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. The facilities specified by these requirements are designed to reduce pollutant loads according to the applicable annual average performance goals listed in (i) through (iv) of this subsection (1)(h) for 95 percent of the annual average run-off volume:

(i) ~~f~~For basic water quality: remove eighty percent of the total suspended solids;

(ii) ~~f~~For enhanced basic water quality: remove fifty percent of the total zinc;

(iii) ~~f~~For sensitive lake protection: remove fifty percent of the total phosphorus; and

(iv) ~~f~~For sphagnum bog protection: remove 50 percent of the total phosphorus and 40 percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than 10 milligrams per liter.

(2) A proposed project required to have drainage review shall meet any of the following special requirements which apply to the site and which are described in detail in the Surface Water Design Manual. The Department shall verify if a proposed project is subject to and must meet any of the following special requirements.

(a) Special Requirement 1: Other adopted area-specific requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, salmon conservation plan, surface water compliance plan, flood hazard reduction plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, salmon conservation plan, surface water compliance plan, flood hazard reduction plan, lake management plan or shared facility plan.

(b) Special Requirement 2: Floodplain/floodway delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other City regulations require study of flood hazards relating to the proposed project, the 100-year floodplain boundaries and floodway shall be determined and delineated on the site improvement plans and profiles and any final maps prepared for the proposed project. The flood hazard study shall be prepared for as specified in the Surface Water Design Manual.

(c) Special Requirement 3: Flood protection facilities. If a proposed project contains or is adjacent to a stream that has an existing flood protection facility, such as a levee, revetment or berm, or proposes to either construct a new or modify an existing flood protection facility, then the flood protection facilities shall be analyzed and designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Agency regulations as found in 44 C.F.R.

(d) Special Requirement 4: Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and run-off from coming into contact with pollutants to the maximum extent practicable. Water quality source controls shall be applied in accordance with the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.

(e) Special Requirement 5: Oil control. If a proposed project is a high-use site or is a redevelopment project proposing \$100,000.00 or more of improvements to an existing high-use site, then oil control shall be applied to all run-off from the high-use portion of the site as specified in the Surface Water Design Manual.

(3)

(a) An adjustment to the requirements contained in this section or other requirements in the Surface Water Design Manual may be proposed. The resulting development shall be subject to all of the remaining terms and conditions of this eChapter and the adjustment shall:

(i) pProduce a compensating or comparable result in the public interest; and

(ii) mMeet this eChapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.

(b) If complying with subsection (3)(a)(i) of this section will deny all reasonable use of a property, the best practicable alternative shall be obtained as

determined by the Director according to the adjustment process defined in the Surface Water Design Manual.

(c) Requests for adjustments that may conflict with the requirements of any other City department shall require review and concurrence with that department.

(d) A request for an adjustment shall be processed in accordance with the procedures specified in the Surface Water Design Manual.

(e) The City may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order to determine compliance with subsection (3)(a) of this section and the approved plans and conditions.

(f) The applicant may appeal an adjustment decision to the Hearing Examiner by following the appeal procedures as specified in Chapter 2.20 BMC.

(4) The drainage review requirements in this section and in the Surface Water Design Manual may be modified or waived by the Director.

Section 8. Repeal and Re-enactment of Section 13.10.230 BMC (Surface Water Contamination). Section 13.10.230 of the Burien Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

13.10.230 Surface water contamination.

At the direction of the Director, the City shall investigate any structure or use which is apparently causing or has been a cause of surface water pollution, and if it is determined that a violation exists, the City may take enforcement action as authorized pursuant to Section 13.10.510 and .420 of this Chapter of the Burien Municipal Code.

Section 9. Repeal and Re-enactment of Section 13.10.240 BMC (Illicit discharges and connections). Section 13.10.240 of the Burien Municipal Code is hereby repealed and re-enacted in its entirety to read as follows:

13.10.240 Illicit discharges and connections.

(1) Prohibited Discharges. It is unlawful for any person to discharge any contaminants into surface and storm water or ground water. Contaminants include, but are not limited, to the following:

- (a) Trash or debris;
- (b) Construction materials;
- (c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, and heating oil;
- (d) Antifreeze or other automotive products;
- (e) Metals in either particulate or dissolved form;
- (f) Flammable or explosive materials;
- (g) Radioactive material;
- (h) Batteries;
- (i) Acids, alkalis, or bases;
- (j) Paints, stains, resins, lacquers, or varnishes;

- (k) Degreasers and solvents;
- (l) Drain cleaners;
- (m) Pesticides, herbicides, or fertilizers;
- (n) Steam cleaning wastes;
- (o) Soaps, detergents, or ammonia;
- (p) Swimming pool backwash;
- (q) Chlorine, bromine, or other disinfectants;
- (r) Heated water;
- (s) Domestic animal wastes;
- (t) Sewage;
- (u) Recreational vehicle waste;
- (v) Animal carcasses;
- (w) Food wastes;
- (x) Bark and other fibrous materials;
- (y) Collected lawn clippings, leaves, or branches;
- (z) Silt, sediment, or gravel;
- (aa) Dyes, except as stated in subsection (3)(a) of this section;
- (bb) Chemicals not normally found in uncontaminated water; and
- (cc) Any hazardous material or waste, not listed above.

(2) Allowable Discharges. Certain discharges may be made directly or indirectly to a public drainage control system. The following types of discharges shall not be considered prohibited discharges for the purposes of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with other discharges, is causing significant contamination of surface water or ground water:

- (a) Spring water;
- (b) Diverted stream flows;
- (c) Uncontaminated water from crawl space pumps, foundation drains, or footing drains;
- (d) Lawn watering with potable water or collected rainwater;
- (e) Pumped groundwater flows that are uncontaminated;
- (f) Materials placed as part of an approved habitat restoration or bank stabilization project;
- (g) Natural uncontaminated surface water or ground water;
- (h) Flows from riparian habitats and wetlands;
- (i) The following discharges from boats: engine exhaust; cooling waters; effluent from sinks; showers and laundry facilities; and treated sewage from Type I and Type II marine sanitation devices;
- (j) Collected rainwater that is uncontaminated;
- (k) Uncontaminated groundwater that seeps into or otherwise enters stormwater conveyance systems;
- (l) Air conditioning condensation;
- (m) Irrigation water from agricultural sources that is commingled with 550 stormwater runoff; and
- (n) Other types of discharges as determined by the Director.

(3) Exceptions.

- (a) Dye testing is allowable but requires verbal notification to the City of Burien Public Works Department at least one day prior to the date of test.
- (b) A person does not violate subsection (1) of this section if that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART as required by this Chapter, but contaminants continue to enter surface and storm water or ground water; or that person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site. A person who, under of this subsection, is not in violation of subsection (1) of this section is liable for any prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs or other discharges that allow contaminants to enter surface and storm water or ground water.
- (c) Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this Chapter in order to avoid an imminent threat to public health or safety, shall be exempt from this section. The Director by public rule may specify actions that qualify for this exception in county procedures. A person undertaking emergency response activities shall take steps to ensure that the discharges resulting from such activities are minimized. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence.

Any connection, identified by the Director, that could convey anything not composed entirely of surface and surface water, directly to surface, storm, or ground waters is considered an illicit connection and is prohibited with the following exceptions: connections conveying allowable discharges, connections conveying discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) permit as issued by the state (other than an NPDES surface water permit) or a state waste discharge permit, and connections conveying effluent from on-site sewage disposal systems to subsurface soils. Presence of prohibited connections as defined herein constitutes a violation of this Chapter as set forth in Sections 13.10.510 and 13.10.520. Water quality analysis or investigation for potential illicit connection and illicit discharge will be conducted by the City or by the state certified laboratory.

Section 10. Repeal and Re-enactment of Section 13.10.250 BMC (Best Management Practices). Section 13.10.250 of the Burien Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

13.10.250 Best Management Practices

(1) Any person causing or allowing discharge to a public drainage facility, natural drainage system, surface and surface water, or ground water shall control contamination in the discharge by implementing appropriate source control best

management practices (“BMPs”). Failure to implement such practices shall constitute a violation of this Chapter. The BMPs shall be applied to any business or residential activity that might result in prohibited discharges as specified in the Stormwater Pollution Prevention Manual or as determined necessary by the Director.

(a) In applying the Stormwater Pollution Prevention Manual, the Director shall first require the implementation of source control BMPs. If these are not sufficient to prevent contaminants from entering surface and storm water or ground water, the Director may require implementation of treatment BMPs as set forth in AKART. The City will provide, upon reasonable request, available technical assistance materials and information.

(b) The Director shall use public education and warnings as the primary method of gaining compliance with this Chapter and shall not use citations, notice and orders, assessment of civil penalties and fines, or other compliance actions as authorized in BMC 18.110, unless the Director determines:

- i. The discharge from a normal single family residential activity, whether singly or combination with other discharges, is causing a significant contribution of contaminants to surface and storm water or ground water; or
- ii. The discharge from a normal single family residential activity poses a hazard to the public health, safety or welfare, endangers any property, or adversely affects the safety and operation of county right-of-way, utilities or other county-owned or maintained property.

(c) Persons implementing BMPs through another federal, state or local program will not be required to implement the BMPs prescribed in the City’s Stormwater Pollution Prevention Manual, unless the Director determines the alternative BMPs are ineffective at reducing the discharge of contaminants. If the other program requires the development of a stormwater pollution prevention plan or other best management practices plan, the person shall make the plan available to the City upon request.

Section 11. Amendment of Section 13.10.260 BMC (Water Quality Standards). Section 13.10.260 of the Burien Municipal Code is hereby amended to read as follows:

13.10.260 Water quality standards.

The City of Burien hereby adopts by reference the water quality standards established under the authority of Chapter 90.48 RCW and contained within Chapter 173-201A WAC as presently written or hereafter amended. Under the authority of Chapter 173-201A WAC, all of the streams and all of the lakes in the City are classified as Class AA and Class Lake respectively.

Section 12. Repeal and Re-enactment of Section 13.10.270 BMC (Operation and Maintenance of Stormwater Facilities). Section 13.10.270 of the Burien Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

13.10.270 Operation and maintenance of stormwater facilities.

(1) Standards for maintenance of stormwater facilities existing on public or private property within the City are contained in the surface water design manual and the Stormwater Pollution Prevention Manual. Any maintenance agreement submitted and approved by the City through the permit process shall supersede maintenance requirements contained in the surface water design manual the Stormwater Pollution Prevention Manual.

(2) No person shall cause or permit any drainage facility on any public or private property to be obstructed, filled, graded, or used for disposal of debris. Any such activity constitutes a violation of this Chapter.

(3) Any modification of an existing drainage facility must be approved and permitted by the City. Failure to obtain permits and approvals, or to violate conditions thereof, for any such alteration constitutes a violation of this Chapter.

(4) The City will maintain all elements of the storm drainage system beginning at the first catch-basin within the public right-of-way, and in easements or tracts dedicated to and accepted by the City. All other facilities, including, but not limited to, nonresidential stormwater facilities and roof downspout drains and driveway drains serving single-family residences, shall be maintained by the property owner.

(5) Maintenance of Nonresidential Stormwater Facilities by Owners.

(a) Any person or persons holding title to a nonresidential property for which stormwater facilities have been required by the City shall be responsible for the continual operation, maintenance, and repair of said stormwater facilities in accordance with the criteria set forth in the surface water design manual the Stormwater Pollution Prevention Manual.

(b) For nonresidential stormwater facilities, failure to meet the maintenance requirements specified in the surface water design manual and the Stormwater Pollution Prevention Manual constitutes a violation of this Chapter and shall be enforced against the owner(s) of the subject property served by the stormwater facility.

(6) City Acceptance of Existing Residential Stormwater Facilities. The City may accept for maintenance those stormwater facilities serving residential developments existing prior to the effective date of the ordinance codified in this Chapter that meet the following conditions:

(a) The stormwater facilities serve more than one individual house or property;

(b) An inspection by the Director has determined that the stormwater facilities are functioning as designed;

(c) The stormwater facilities have had at least two years of satisfactory operation and maintenance, unless otherwise waived by the Director;

(d) An inspection by the Director has determined that the stormwater facilities are accessible for maintenance using existing City equipment;

(e) The person or persons holding title to the properties served by the stormwater facilities must submit a petition containing the signatures of the title holders of more than fifty percent of the lots served by the stormwater facilities requesting that the City maintain the stormwater facilities;

(f) All easements entitling the city to properly access, operate and maintain the subject stormwater facilities have been conveyed to the city and have been recorded with the King County office of records and elections;

(g) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, including provision of maintenance access, as required by the Director.

(7) Disposal of waste from maintenance activities shall be conducted in accordance with the minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC; guidelines published by the Washington State Department of Ecology for disposal of waste materials from stormwater maintenance activities; and where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC.

Section 12. Amendment of Section 13.10.340 BMC (Policy). Section 13.10.340 of the Burien Municipal Code is hereby amended to read as follows (amendment shown in legislative revision marks):

13.10.340 Policy.

(1) It is the finding of the City that developed parcels contribute to an increase in surface and surface water run-off to the surface and surface water management system. This increase in surface and surface water run-off results in the need to establish rates and charges to finance the City's activities in surface and surface water management. Developed parcels shall be subject to the rates and charges of the Program based on their contribution to increased run-off. The factors to be used to determine the degree of increased surface and surface water run-off to the surface and surface water management system from a particular parcel shall be the percentage of impervious surface coverage on the parcel, the total acreage of the parcel and any mitigating factors as determined by the City.

(2) It is the finding of the City that undeveloped parcels do not contribute as much as developed parcels to an increase in surface and surface water run-off into the surface and surface water management system. Undeveloped properties shall be exempt from the rates and charges of the Program.

(3) It is the finding of the City that maintained drainage facilities mitigate the increased run-off contribution of developed parcels by providing on-site drainage control. Parcels served by flow control facilities which were required for development of the parcel or can be demonstrated by the property owner to provide flow control of surface and surface water to the standards in this eChapter shall receive a discount as provided in the rates and charges of the Program, if the facility is maintained at the parcel owner's expense to the standard established by the Department.

(4) It is the finding of the City that improvements to the quality of surface water run-off can decrease the impact of that run-off on the environment. Parcels served by water quality treatment facilities that were required for development of the parcel or that can be demonstrated by the property owner to provide treatment of surface and surface water to the standards in this eChapter shall receive a discount as provided in the rates and charges of the surface water management

program, if the facility is maintained at the parcel owner's expense to the standard established by the Department.

(5) It is a finding of the City that open space properties provide a benefit to the surface and surface water management system by the retention of property in an undeveloped state. Open space properties shall receive a discount from the rates and charges to encourage the retention of property as open space.

(6) The majority of the parcels in the service area are residential. The variance between residential parcels in impervious surface coverage is found to be minor and to reflect only minor differences in increased run-off contributions. The administrative cost of calculating the service charge individually for each residential parcel and maintaining accurate information would be very high. A flat charge for residential parcels is less costly to administer than calculating a separate charge for each parcel and is equitable because of the similarities in impervious surface coverage between residential parcels. Therefore, residential parcels shall be charged a flat charge based upon an average amount of impervious surface.

(7) Very lightly developed nonresidential parcels which have an impervious surface coverage of 10 percent or less of the total parcel acreage are characterized by a very low intensity of development and generally a large number of acres. A greater number of acres of undeveloped land associated with an impervious surface results in significantly less impact to the surface and surface water management system. These parcels shall be charged a flat rate which will encourage the retention of large areas of very lightly developed land.

(8) Lightly to very heavily developed nonresidential parcels which have an impervious surface coverage of more than 10 percent have a substantial impact on the surface and surface water management system. The impact of these parcels on the surface and surface water management system increases with the size of the parcels. Therefore, lightly to very heavily developed properties shall be charged a rate determined by the percent of impervious surface coverage multiplied by the parcel acreage.

(9) The City roads and State highway programs provide substantial annual programs for the construction and maintenance of drainage facilities, and the roads systems and their associated drainage facilities serve as an integral part of the surface and surface water management system. City and State road drainage systems unlike the drainage systems on other properties are continually being upgraded to increase both conveyance capacity and control. It is envisioned that the roads program will work cooperatively with the surface water management program to improve regional surface and surface water management services, as new information is available from basin plans and other sources. City roads and State highways shall not be charged a rate in recognition of the benefit to the surface water management services provided by the drainage facilities associated with the City roads and State highway programs; provided, that those drainage facilities are constructed, operated, and maintained in accordance with this eChapter.

(10) Comprehensive management of surface and surface water run-off must include anticipation of future growth and development in the design and

improvement of the surface and surface water management system. Service charge revenue needs shall be based upon the present and future requirements of the surface and surface water management system, and these needs shall be considered when determining the rates and charges of the Program.

(11) Basin plans are essential to establishing a comprehensive approach to a capital improvement program, maintenance of facilities and regulation of new developments. A plan should analyze the measures needed to control surface and surface water run-off which results from existing and anticipated development within the basin. The measures investigated to control run-off should include land use regulation such as setback requirements or community plan revisions which revise land use densities as well as the use of drainage facilities. A plan also should recommend the quantity and water quality run-off control measures required to further the purposes set forth in this eChapter, and community goals. The institutional requirements and regulations, including but not limited to land use management, funding needs, and incentives for preserving the natural surface water drainage system should be identified in the plan. The proposed ordinances and regulations necessary to implement the plan shall be transmitted to the council simultaneously with the plan.

(12) Areas with development related surface and surface water problems require comprehensive management of surface and surface water.

(13) Additional surface and surface water run-off problems may be caused by new land use development if not properly mitigated both through protection of natural systems and through constructed improvements. The Surface Water Design Manual and the Stormwater Pollution Prevention Manual and this eChapter have been adopted to mitigate the impact of land use development. Further mitigation of these impacts is based on expertise which continues to evolve as new information on our natural systems is obtained and new techniques are discovered. The Program, through reconnaissance studies, basin plans, and other special studies, will continuously provide valuable information on the existing problems and areas of the natural drainage system that need special protection. The City is researching and developing methods to protect the natural drainage system through zoning, buffering and setbacks to alleviate existing problems. Setback and buffering measures allow natural preservation of wetlands and stream corridors to occur, alleviate erosion and water pollution and provide a safe environment for the small mammals and fish which inhabit sensitive areas. Based upon the findings in this subsection, and as information and methods become available, the Director, as appropriate shall draft and submit to the Council, regulations and development standards to allow protection of the surface and surface water management system including natural drainage systems.

(14) The Program will maintain long term fiscal viability and fund solvency for all of its related funds. The Program's approach to financial reporting and disclosure will be comprehensive, open and accessible.

(15) The Program shall prepare an annual, multiyear capital improvement program which encompasses all of the Program's activities related to the acquisition, construction, replacement, or renovation of capital facilities or equipment. All proposed new facilities will be subject to a consistent and rigorous

needs analysis. The Program's capital facilities will be planned and financed to ensure that the benefits of the facilities and the costs for them are balanced over time.

Section 13. Amendment of Section 13.10.500 BMC (Inspection and sampling). Section 13.10.500 of the Burien Municipal Code is hereby amended to read as follows:

13.10.500 Inspection and sampling.

(1) Inspections for compliance with the provisions of this eChapter shall be allowed as follows:

(a) Construction and Development Inspection. The Director or designee shall have access to any site for which a permit as listed in Section 13.10.130 has been issued, during regular business hours, for the purpose of review of erosion control practices and ~~surface-water~~stormwater facilities, and to insure compliance with the terms of such permit. Applicants for any such permit shall agree in writing, as a condition of issuance thereof that such access shall be permitted for such purposes. Inspection procedures shall be as outlined in Section 13.10.500(2).

(b) Inspection for Cause. Whenever there is cause to believe that a violation of this eChapter has been or is being committed the Director or designee is authorized to inspect the property during regular business hours, and at any other time reasonable in the circumstances. Inspection procedures shall be as outlined in Section 13.10.500(2).

(c) Inspection for Maintenance and Source Control Best Management Practices. The Director or designee may inspect ~~stormwatersurface-water~~ facilities in order to ensure continued functioning of the facilities for the purposes for which they were constructed, and to ensure that maintenance is being performed in accordance with the standards of this eChapter and any maintenance schedule adopted during the plan review process for the property. The Director also may enter the site for the purposes of observing source control best management practices. The property owner or other person in control of the site shall allow any authorized representative of the Director or designee access during regular business hours, or at any other time reasonable in the circumstances, for the purpose of inspection, sampling, and records examination.

(2) Inspection Procedure. Prior to making any inspections, the ~~d~~Director or designee shall present identification credentials, state the reason for the inspection and request entry of the owner or other person having charge or control of the property, if available, or as provided below.

(a) If the property or any building or structure on the property is unoccupied, the Director or his designee shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.

(b) If, after reasonable effort, the Director or his designee is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the site or of the surface water drainage system creates an imminent hazard to persons or property, the inspector may enter.

(3) Water sampling and analysis for determination of compliance with this eChapter shall be allowed as follows:

(a) Sample Collection. When the Director has reason to believe that a violation exists or is occurring on a property, the Director shall have the authority to set up on the site such devices as are necessary to conduct sampling, inspection, compliance monitoring, or flow measuring operations.

(b) Sample Analysis. Analysis of samples collected during investigation of potential violations shall be analyzed by a laboratory certified by the State Department of Ecology as competent to perform the required analysis using standard practices and procedures.

(c) Cost of Sample Collection and Analysis. If it is determined that a violation of this eChapter exists on the site, the owner of the property shall pay the City's actual costs for collecting samples and for laboratory analysis of those samples. If it is found that a violation does not exist, the City will pay such charges.

Section 14. Amendment of Section 13.10.510 BMC (Enforcement - Violations). Section 13.10.510 of the Burien Municipal Code is hereby amended to read as follows (amendments shown in legislative revisions marks):

13.10.510 Enforcement - violations.

The provisions set forth in this section shall apply to all violations of this eChapter or the surface water design manual and the Stormwater Pollution Prevention Manual. In addition to the listed enforcement options, the City may also pursue any other lawful civil, criminal, or equitable remedy or relief. At the Director of Public Works' discretion, the choice of enforcement option taken and the severity of any monetary penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, the public resources expended to take enforcement action and ensure compliance with this Chapter, and/or the degree of bad faith of the persons subject to the enforcement action. Enforcement options are cumulative and shall not be deemed exclusive.

(1) Nuisance. Any structure, condition, act or failure to act which violates any provision of this eChapter shall be, and the same is declared to be, unlawful and a public nuisance, and may be abated using the procedures of Chapters 8.45 and 9.75 of this code as currently written or hereafter amended or as otherwise allowed by law.

(2) Violation. Any structure, condition, act or failure to act which violates any provision of this Chapter shall be, and the same is declared to be, unlawful and is subject to the enforcement and penalty provisions of this Section 13.10.510 BMC and Section 13.10.520 BMC.

(23) Order To Cease Activity. The Director or designee shall have the authority to order immediate cessation of any activity that is in violation of this eChapter whether occurring on public or private property.

(a) Posting and Notice. The Director or designee shall prominently post this order at the subject location and shall make reasonable attempts to send this

order on to the property owner, the person in charge of the property, or the person causing the activity to be conducted or the improvement erected or altered.

(b) Effect. When an order to cease activity has been posted on the subject location, it is a violation of this eChapter for any person with actual or constructive knowledge of the order to conduct the activity or do the work covered by the order until such time as the Director or designee has removed or authorized removal of the order. If an order to cease activity is violated, the Director or designee may issue a notice of civil infraction under Section 13.10.510(45).

(c) Appeal. An order to cease activity may be appealed in like manner as a notice of civil infraction under Section 13.10.510(45). If a notice of civil infraction has also been issued and appealed, the appeals shall be consolidated for hearing.

(34) Notice of Violation. If the Public Works Director or assignee determines that any structure, condition, act or failure to act exists that is in violation of this eChapter, he/she may issue a notice of violation. This notice will specifically indicate:

(a) The name and address of the property owner or other person to whom the notice of violation is directed;

(b) The street address or description sufficient for identification of the location where the violation has occurred or is occurring;

(c) A description of the violation and a reference to the provision or provisions of this eChapter being violated; and

(d) A statement of the action required to be taken to correct the violation as determined by the pPublic wWorks dDirector and a date or time by which correction is to be completed.

(e) A statement that a monetary penalty in an amount per day for each violation as specified by Section 13.10.520 shall be assessed against the person to whom the notice of violation is directed for each and every day, or portion of a day, on which the violation continues following the date set for correction.

(f) Notice to Property Owner and Responsible Party. The Public Works Director or designee shall:

(i) Leave a copy of this notice with the occupant or responsible party or post it in a conspicuous place on the subject property; and

(ii) Personally serve or Ssend a copy of the notice by certified mail to the owner of the subject property and/or responsible party; and

(iii) Extension. Upon written request received prior to the correction date or time, the pPublic wWorks dDirector or designee may extend the date set for correction for good cause. The Public Works Director or designee may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.

(45) Notice of Civil Infraction.

(a) General. The Public Works Director or designee may cause a notice of civil infraction to be issued in either of the following circumstances:

(i) There is a violation of a posted order to cease activity; or
 (ii) If, after the time specified in a notice of violation, the corrections specified in the notice of violation have not been completed, and a violation persists; or

(iii) There is reasonable cause to believe that there has been a violation of this Chapter.

(b) Issuance. The notice of civil infraction will be issued to the owner of the property and/or to the responsible party, if the violation exists on private property, or to the party responsible for the activity or condition if the violation exists on public property.

(i) Notwithstanding the provisions of Sections 13.10.510(23) and 13.10.510(34), the Public Works Director or designee may issue a notice of civil infraction without having issued an order to cease activity or a notice of violation when a repeated violation occurs within a six-month period of time or otherwise at the Director's or designee's discretion.

(ii) A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this Chapter.

(c) Content. The following shall be included in the notice of civil infraction.

(i) The name and address of the property owner or other persons to whom the notice of civil infraction is directed;

(ii) The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;

(iii) A description of the violation and a reference to that provision or provisions of this Chapter which has been violated;

(iv) A statement that the monetary penalty in the amount per day for each violation as specified in Section 13.10.520 is assessed against the person to whom the notice of civil infraction is directed for each and every day, or portion thereof, during which the violation continues beyond the date or time established for correction in the notice of violation; and

(v) A statement that the person to whom the notice of civil infraction was directed must complete correction of the violation and may pay the monetary penalty imposed to the city clerk or may appeal the notice of civil infraction as provided in Section 13.10.510(45)(e).

(d) Service of Notice. The Public Works Director or designee shall serve the notice of civil infraction upon the person to whom it is directed, either personally or by mailing a copy of the notice of civil infraction by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address or by posting the notice of civil infraction conspicuously on the affected property or structure. The person who effected personal service shall make proof

of service at the time of service by a written declaration under penalty of perjury declaring the time and date and the manner in which service was made.

(e) Appeal to Hearing Examiner.

(i) A person to whom a notice of civil infraction is directed may appeal the notice of civil infraction, including the determination that a violation exists, or may appeal the amount of any monetary penalty imposed to the Hearing Examiner.

(ii) A person may appeal the notice of a civil infraction by filing a written notice of appeal with the Department of Public Works within the earlier of, seven calendar days from the date of personal service of the notice of civil infraction, and if the notice is not personally served, within ten calendar days from the date the notice was deposited in the United States mail, properly addressed and postage prepaid, and if the notice was posted, within ten calendar days from the date the notice was posted on the property.

(iii) The monetary penalty for a continuing violation does not accrue during the pendency of the appeal; however, the Hearing Examiner may impose a daily monetary penalty from the date of service of the notice of civil infraction if ~~he~~ the hearing examiner finds that the appeal is frivolous or intended solely to delay compliance.

(iv) The hearing before the hearing examiner shall be conducted as follows:

- i. The office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant seventeen calendar days before such hearing.
- ii. The Hearing Examiner shall conduct a hearing on the appeal. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.

(f) Action of Hearing Examiner.

(i) The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the notice of civil infraction with or without written conditions.

(ii) The Hearing Examiner shall consider the following in making his/her determination:

- i. Whether the intent of the appeal was to delay compliance; or
- ii. Whether the appeal is frivolous; or
- iii. Whether there was a written contract or agreement with another party which specified the securing by the other party of the applicable permit or approval from the city; or
- iv. Whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; or
- v. Any other relevant factors.

(g) Notice of Decision. The Hearing Examiner shall mail a copy of his or her decision to the appellant by certified mail, postage prepaid, return receipt requested.

(h) Judicial Review. The decision of the Hearing Examiner may be reviewed pursuant to the standards set forth in Chapter 36.70C RCW in King County Superior Court. The land use petition must be filed within twenty-one calendar days of the issuance of the final land use decision by the Hearing Examiner. For more information on the judicial review process for land use decisions, see Chapter 36.70C RCW.

(i) Criminal Penalty. Any ~~Each day for which there occurs or continues to occur a willful violation of an order issued pursuant to this section for which a criminal penalty is not prescribed by state law is~~ shall constitute a misdemeanor, and any person found guilty thereof shall be subject to a maximum penalty of \$1,000 or 90 days in jail, or by both such fine and imprisonment for each such day that a violation occurs or continues to occur.

(56) Criminal. Any willful violation of the provisions of this eChapter is deemed a misdemeanor unless a more exacting charge is allowed by law.

Section 15. Amendment of Section 13.10.520 BMC (Enforcement - Penalties). Section 13.10.520 of the Burien Municipal Code is hereby amended to read as follows (amendments shown in legislative revision marks):

13.10.520 Enforcement – penalties.

A. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this eChapter shall be liable for all damages to public or private property arising from such violation and for all costs of inspection and sampling in the event the violation constitutes an illicit discharge. If the eCity repairs or replaces the damaged property, the actual cost to the eCity for such repair or replacement shall be assessed against the responsible party and shall be due and payable within ten days of the date of written notice of the same. Delinquent bills may be collected by a civil action in the Burien Municipal eCourt or as otherwise allowed by law. If the City obtains judgment, it shall also be entitled to reimbursement for court costs and reasonable attorney's fees expended in the litigation.

B. Monetary Penalty. The amount of the monetary penalty per day or portion thereof for each violation of this eChapter is as follows:

(1) Except as may be otherwise set forth herein, the monetary penalty assessed shall not exceed \$1,000 per day for each such day that a violation occurs or continues to occur. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil infraction is directed. Any monetary penalty assessed must be paid to the City Clerk within seven calendar days from the date of service of notice of civil infraction or, if an appeal was filed pursuant to Section 13.10.510(45)(e), within seven calendar days of the Hearing Examiner's decision.

(2) The City Attorney, on behalf of the City, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of

which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.

(3) In the event of failure to appear at a hearing provided in Section 13.10.510(45)(e), the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of twenty-five dollars.

(4) In the event of a conflict between this eChapter and any other provision of this code of City ordinances providing for a civil penalty, this eChapter shall control.

C. Payment of a monetary penalty pursuant to this eChapter does not relieve a person of the duty to correct the violation as ordered by the Director of Public Works.

Section 16. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 17. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS _____ DAY OF _____, 2009.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Christopher Bacha, Interim City Attorney
Kenyon Disend, PLLC

Filed with the City Clerk: July 29, 2009

Passed by the City Council:

Ordinance No.: 519

Date of Publication:

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion on Ordinance No. 518, relating to Monthly Remittance of Utility Taxes		Meeting Date: August 3, 2009
Department: Finance	Draft Attachments: 1. <u>Proposed Ordinance No. 518</u>	Fund Source: General Fund
Contact: Tabatha Miller		Activity Cost: N/A
Telephone: (206) 439-3150		Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Adopted Work Plan Priority: Yes No X	Work Plan Item Description: N/A	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for Council to discuss Proposed Ordinance No. 518 amending the Burien Municipal Code (BMC) to allow utility tax taxpayers with less than \$2,500 in estimated gross income on sales and service within the City in a quarter, to file and remit utility taxes quarterly instead of monthly, and allow taxpayers with less than \$1,500 in estimated gross income on sales and services within the City in a year, to file and remit utility taxes annually, instead of monthly or quarterly.</p> <p>BACKGROUND (Include prior Council action & discussion): The City Council adopted Ordinance No. 343, on December 3, 2001 and the utility taxes were imposed the following year on electricity, natural gas, telephone service, cable television and solid waste. The BMC currently requires each and every utility provider subject to utility taxes to remit a return and payment monthly. With the exception of telephone service the utility taxes are collected and remitted by a primary or secondary utility company with a monopoly or significant portion of the utility market in Burien. However, telephone services, including "Cellular telephone service", "Competitive telephone service" and "Pager services" operate in a deregulated competitive and sometimes mobile environment. The result is many providers with diverse portions of the market. For telephone type services, monthly remittances range from as little as \$.02 to over \$20,000, depending on the provider and its market share.</p> <p>The taxpayers' costs associated with gathering the information, completing the tax form, requesting and processing the check, then mailing the check arguable exceeds \$35. Similarly, there is a cost to Burien to open the remittance, process, deposit, then track and record the same. Recognizing these costs, staff recommends amending the BMC, to allow taxpayers with less than \$2,500 in estimated gross quarterly income on sales and service within the City to file quarterly instead of monthly, and taxpayers with less than \$1,500 in estimated gross annual income to file once a year, thereby reducing the processing cost to the taxpayer and to the City.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1. Approve Ordinance No. 518 2. Do not approve Ordinance and provide alternative direction to staff. 		
Administrative Recommendation: Discuss Ordinance No. 518 and consider placement on the August 17 th Consent Agenda for approval.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required at this time.		
Submitted by: Administration 		City Manager 
Today's Date: July 23, 2009		File Code: R:\CC\Agenda Bill 2009\080309ad-2 Utility Tax Filing.docx

CITY OF BURIEN, WASHINGTON



ORDINANCE NO. 518

**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON,
RELATING TO THE MONTHLY REMITTANCE OF UTILITY
TAXES IMPOSED BY SECTION 3.12.040 OF THE BURIEN
MUNICIPAL CODE, AMENDING SECTION 3.12.070 PROVIDING
FOR REMITTANCE AND PAYMENT ON A MONTHLY BASIS
REGARDLESS OF THE AMOUNT OWED, AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, Section 3.12.070 of the Burien Municipal Code provides that the utility tax imposed by section 3.12.040 is due and payable in monthly installments on or before the last day of each month; and

WHEREAS, many utility taxpayers remit less than twenty five dollars per month and the costs associated with a taxpayer completing a tax return, processing a check for payment of utility taxes, and mailing both, exceed the amount of utility taxes remitted; and

WHEREAS, there is a cost associated with city staff receipting and process monthly utility tax returns; and

WHEREAS, providing a dollar amount threshold to filing utility tax returns would save the taxpayer and the city such costs;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amending Section 3.12.070 BMC (Monthly installments). Section 3.12.070 of the Burien Municipal Code is hereby amended to read as follows:

The tax imposed by BMC 3.12.040 shall be due and payable in monthly installments, and remittance therefore shall be made on or before the last day of the month following the end of the monthly period in which the tax is accrued. Unless the estimated gross income subject to the tax is less two thousand five hundred dollars per three-month quarter, in which case the taxpayer may elect to pay quarterly for the preceding three-month period, on or before the thirty-first day of January, the thirtieth day of April, the thirty-first day of July, and the thirty-first day of October, at the office of the city clerk, Burien City Hall, or his or her designee. Furthermore, if the estimated gross income subject to the tax is less than one thousand five hundred dollars annually, the taxpayer may elect to pay annually for the preceding twelve-month period, on or before the thirty-first day of

January. On or before said due date, the taxpayer shall file with the city manager a written return upon such form and setting forth such information as the city manager shall reasonably require relating to the accurate computation and collection of this tax, together with the payment of the amount.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force on September 30, 2009.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS _____ DAY OF _____, 2009.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Christopher Bacha, Interim City Attorney
Kenyon Disend, PLLC

Filed with the City Clerk: July 28, 2009

Passed by the City Council:

Ordinance No. 518

Date of Publication:

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion on Resolution No. 301, Authorizing the City Manager to Execute the Proceeds Distribution and Hold Harmless Agreement with the City of Bellevue		Meeting Date: August 3, 2009
Department: Finance	Draft Attachments: 1. <u>Proposed Resolution No. 301</u> 2. <u>Proceeds Distribution and Hold Harmless Agreement</u> 3. <u>Property Proceeds Distribution</u>	Fund Source: General Fund
Contact: Tabatha Miller		Activity Cost: N/A
Telephone: (206) 439-3150		Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Adopted Work Plan	Work Plan Item Description: N/A	
Priority: Yes No X		
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for Council to discuss Resolution No. 301 authorizing the City Manager to execute the proceeds distribution and hold harmless agreement with the City of Bellevue in order to initiate release of Burien's apportionment of the jail property proceeds.		
BACKGROUND (Include prior Council action & discussion): Bellevue was designated as the lead agency for maintaining and disposing of land abutting 116 th Avenue N.E. just north of NE 12 th St. in Bellevue. The land was provided to the 37 King County JAG cities through the Jail Services Agreement (JSA) with King County in 2002, as part of the cities exit from the King County jail facilities by 2012. As lead agency, Bellevue is holding the proceeds from the sale of the property on behalf of all King County cities. The total amount of proceeds (net sale proceeds plus investment interest revenue) is approximately \$13.1 million. The City of Burien's estimated share of the remaining proceeds is approximately \$152,789.21. Based upon the 2002 JSA with King County, the proceeds must be used for the purpose of providing or contracting for secure jail beds. In compliance with that agreement, Burien's share will be used as part of its capital contribution to the South Correctional Entity (SCORE). The JSA makes Bellevue responsible for returning to King County proceeds distributed to Bellevue and other cities should compliance with the JSA not be met. This places Bellevue in the position that may be financially responsible for what each city does with these proceeds. One Primary purpose of this Agreement is to protect Bellevue so that it does not have any greater liability or costs than any other city solely because of its lead role. The proceeds distribution agreement has been drafted to ensure that each city accept an appropriate share of potential liability if King County makes a claim against Bellevue for return of another cities' proceeds.		
OPTIONS (Including fiscal impacts): 1. Approve Resolution No. 301 authorizing the City Manager to execute a Proceeds Distribution and Hold Harmless Agreement to receive an apportionment of the jail property proceeds. 2. Do not approve Resolution and provide alternative direction to staff.		
Administrative Recommendation: Discuss Resolution No. 301 and consider placement on the August 17 th Consent Agenda for approval.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required at this time.		
Submitted by: 		
Administration		City Manager 
Today's Date: July 23, 2009	File Code: R:\CC\Agenda Bill 2009\080309ad-1 Bellevue Proceeds.docx	

CITY OF BURIEN, WASHINGTON**RESOLUTION NO. 301**

**A RESOLUTION OF THE CITY OF BURIEN, WASHINGTON,
APPROVING THE PROCEEDS DISTRIBUTION AND HOLD
HARMLESS AGREEMENT BETWEEN BURIEN AND THE CITY OF
BELLEVUE PROVIDING FOR DISTRIBUTION TO BURIEN OF ITS
SHARE OF THE PROCEEDS FROM THE SALE OF REAL
PROPERTY LOCATED IN BELLEVUE PURSUANT TO THE JAIL
SERVICES AGREEMENT BETWEEN KING COUNTY AND CITIES,
INCLUDING BURIEN, LOCATED IN KING COUNTY**

WHEREAS, King County entered into a Jail Services Agreement (JSA) with many of the cities located in King County (Contract Cities), including Burien to house and provide jail services for Contract Cities' misdemeanants;

WHEREAS, the JSA provides for the transfer of real property located in Bellevue with tax parcel numbers 2825059291, 2825059292, and 2825059015 (Jail Property) to the City of Bellevue on behalf of the JAG Cities to facilitate the Contract Cities reducing their jail population housed by King County as provided in Section 11 of said JSA;

WHEREAS, Section 12 of the JSA provides that the Jail Property (or the proceeds) will be used to contribute to the cost of building secure capacity, or contracting for secure capacity, and at the sole discretion of the Contract Cities, building or contracting for alternative corrections facilities, sufficient to enable the Contract Cities to meet the final step of the population reduction schedule in the JSA;

WHEREAS, Section 12 of the JSA further provides that in the event the Contract Cities do not meet the objectives set forth in said section, King County would be entitled to return of Proceeds;

WHEREAS, on October 31, 2002, the City of Bellevue and King County entered into a Land Transfer Agreement [City of Bellevue Clerk's Receiving # 33014] conveying the Jail Property to the City of Bellevue on behalf of all cities in King County (JAG Cities) for the purposes described in Section 12 of the JSA;

WHEREAS, JAG Cities, except Kent and Enumclaw, entered into an Interlocal Agreement for Jail Administration (Interlocal Agreement) in part to create rules for administering the obligations related to Sections 11 and 12 of the JSA;

WHEREAS, the obligations of Section 12 of the JSA are incorporated into Section 7.1 of the Interlocal Agreement including its application to all King County Cities;

WHEREAS, on March 16, 2009, the City of Bellevue (Bellevue) sold the Jail Property to Seattle Children's Hospital for \$13 million;

WHEREAS, on March 26, 2008, the Assembly created by the Interlocal Agreement approved the distribution of Jail Proceeds;

WHEREAS, Burien has designated its portion of the Proceeds towards fulfilling its obligations under the JSA through undertakings such as the SCORE facility;

WHEREAS, it is the intent of this Agreement that Bellevue stand in no worse (or better) position than any other JAG City with respect to liability or costs associated with the distribution of and/or possible return of Proceeds to King County because of its unique obligations to King County in Section 12 of the JSA as incorporated into the Interlocal Agreement (unique Section 12 obligations);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City of Burien hereby approves the Proceeds Distribution and Hold Harmless Agreement (Exhibit A) and authorizes the City Manager or his designee to enter into this Interlocal Agreement.

Section 2. Effective Date. This resolution shall take effect immediately upon passage by the Burien City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, AT A REGULAR MEETING THEREOF THIS ____ DAY OF _____, 2009.

CITY OF BURIEN

Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Christopher Bacha, Interim City Attorney
Kenyon Disend, PLLC

Filed with the City Clerk: July 30, 2009
Passed by the City Council:
Resolution No. 301

PROCEEDS DISTRIBUTION AND HOLD HARMLESS AGREEMENT

This Proceeds Distribution and Hold Harmless Agreement (Agreement) is entered into between Burien (JAG City) and the City of Bellevue and is effective upon the date of the last signature below.

RECITALS

- A. Whereas, King County entered into a Jail Services Agreement (JSA) with many of the cities located in King County (Contract Cities) to house and provide jail services for Contract Cities' misdemeanants;
- B. Whereas, the JSA provides for the transfer of real property located in Bellevue with tax parcel numbers 2825059291, 2825059292, and 2825059015 (Jail Property) to the City of Bellevue on behalf of the JAG Cities to facilitate the Contract Cities reducing their jail population housed by King County as provided in Section 11 of said JSA;
- C. Whereas, Section 12 of the JSA provides that the Jail Property (or the proceeds from its sale [Proceeds]) will be used to contribute to the cost of building secure capacity, or contracting for secure capacity, and at the sole discretion of the Contract Cities, building or contracting for alternative corrections facilities, sufficient to enable the Contract Cities to meet the final step of the population reduction schedule in the JSA;
- D. Whereas, Section 12 of the JSA further provides that in the event the Contract Cities do not meet the objectives set forth in said section, King County would be entitled to return of Proceeds;
- E. Whereas, on October 31, 2002, the City of Bellevue and King County entered into a Land Transfer Agreement [City of Bellevue Clerk's Receiving # 33014] conveying the Jail Property to the City of Bellevue on behalf of all cities in King County (JAG Cities) for the purposes described in Section 12 of the JSA;
- F. Whereas, JAG Cities, except Kent and Enumclaw, entered into an Interlocal Agreement for Jail Administration (Interlocal Agreement) in part to create rules for administering the obligations related to Sections 11 and 12 of the JSA;
- G. Whereas, the obligations of Section 12 of the JSA are incorporated into Section 7.1 of the Interlocal Agreement including its application to all King County Cities;
- H. Whereas, on March 16, 2009, the City of Bellevue (Bellevue) sold the Jail Property to Seattle Children's Hospital for \$13 million;
- I. Whereas, on March 26, 2008, the Assembly created by the Interlocal Agreement approved the distribution of Jail Proceeds;

- J. Whereas, some Cities have acted to designate their portion of the Proceeds towards fulfilling their obligations under the JSA through undertakings such as the SCORE facility;
- K. Whereas, it is the intent of this Agreement that Bellevue stand in no worse (or better) position than any other JAG City with respect to liability or costs associated with the distribution of and/or possible return of Proceeds to King County because of its unique obligations to King County in Section 12 of the JSA as incorporated into the Interlocal Agreement (unique Section 12 obligations);
- L. Now therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and as a precondition for receipt of said Proceeds, the JAG City and Bellevue agree:

AGREEMENT

1. Per the Jail Oversight Assembly approved formula noted in the city-by-city proceeds distribution (Attachment A), Bellevue shall pay JAG City, \$ 152,789.21 (representing \$ 153,959.95 - its proportionate share of the Proceeds/Interest minus \$ 1,170.74 its proportionate share of the expenses Bellevue may recoup as provided in Section 7.2 of the Interlocal Agreement) within 30 days of the execution of this Agreement.
2. Upon receipt of said Proceeds, JAG City acknowledges and agrees that Bellevue has lawfully discharged all obligations and duties of Bellevue to that JAG City under the first paragraph of Section 7.2 of the Interlocal Agreement, and that Bellevue is discharged from all of its obligations and duties to that JAG City under the second paragraph of Section 7.2 of the Interlocal Agreement.
3. JAG City will abide by all requirements regarding the use of and goals related to the proceeds as provided in Section 7.1 of the Interlocal Agreement (whether a party to a JSA or not). JAG City will only leave or place a City Inmate in King County Jail after December 31, 2012 (post 2012 inmate housing) if King County confirms in writing that this post 2012 inmate housing does not violate the population reduction schedule referenced in Section 12 of the JSA and incorporated into Section 7.1 of the Interlocal Agreement.
4. Should there be a determination that a JAG City failed to abide by the requirements of Section 7.1 (at-fault JAG City) triggering an obligation for Bellevue to return all or part of the at-fault JAG City's Proceeds and any required interest to King County, said Proceeds shall be paid to Bellevue within 10 working days of written notice unless the at-fault JAG City makes other acceptable arrangements with Bellevue and/or King County or the at-fault JAG City obtains injunctive or other legal relief against King County that absolves Bellevue of any legal obligation to return said Proceeds and interest prior to the expiration of the 10 working day period.

5. Bellevue and JAG Cities maintain that King County may only require return of Proceeds from an at-fault JAG City. However, if there is a determination that there is an obligation to return to King County Proceeds in an amount in excess of the amount distributed to an at-fault JAG City(s) then each non at-fault JAG City shall pay up to the full amount of its Proceeds and any required interest to Bellevue within 10 working days of written notice unless the non at-fault JAG City makes other acceptable arrangements with Bellevue and/or King County or the non at-fault JAG City obtains injunctive or other legal relief against King County that confirms Bellevue has no legal obligation to return said Proceeds and interest prior to the expiration of the 10 working day period. If the obligation to return Proceeds is in excess of the at-fault JAG City's distribution, but less than each JAG City's full Proceeds, the amount due King County from the non at-fault JAG Cities shall be a prorated amount based on the percent of Proceeds received to the total Proceeds minus the amount representing the at-fault JAG City's share. The same prorated formula shall apply to required interest due from non at-fault JAG Cities.
6. Should Bellevue be sued for return of proceeds solely because of its unique Section 12 obligations, the alleged at-fault JAG City(s) shall immediately undertake the defense of Bellevue and pay all expenses and costs (including attorney's fees) associated with said defense whether or not said JAG City maintains it is or is ultimately determined to be not at-fault. Should King County be entitled to its attorney's fees in the suit, the at-fault JAG City shall hold Bellevue harmless and indemnify Bellevue from any liability or costs associated with the obligation to pay King County's attorney's fees.
7. Should Bellevue be the only party sued based on the alleged fault of other JAG Cities, those alleged at-fault JAG Cities agree to stipulate to being named as defendants with the concurrence of Plaintiff and/or not oppose Bellevue's motion to be included in the suit as an indispensable party. The obligations of Paragraph 6 shall apply whether or not the alleged at-fault JAG City is named in the litigation.
8. If King County sues Bellevue for return of proceeds because of Bellevue's alleged violation of Section 12 of the JSA regarding use of proceeds or the reduction in jail population along with other JAG Cities for their violations, each party will undertake its own defense at its own cost.
9. At-fault JAG Cities shall be responsible for costs of whatever form or nature associated with Bellevue's unique Section 12 obligations, including but not limited to staff costs in coordinating and collecting proceeds or attorneys fees, and including administrative costs Bellevue incurs even where timely payment of Proceeds is made. Said costs shall be prorated among at-fault JAG Cities as appropriate.
10. In the event Bellevue incurs liability or costs associated with its unique Section 12 obligations and said liability or costs are not addressed in any other provision of this Agreement, each JAG City shall indemnify, hold harmless and defend Bellevue and

its elected officials, employees agents and representatives from and against any and all claims, demands, causes of action, liabilities, judgments, settlements, damages or costs, including reasonable attorney’s fees of whatever form related to Bellevue’s unique Section 12 obligations in proportion to its share of the proceeds.

11. Each JAG City shall keep its Proceeds in a segregated fund and keep records sufficient to demonstrate that all expenditures of the Proceeds comply with Section 7.1 of the Interlocal Agreement. Said records shall be kept for at least 6 years from the date of the expenditure of the last Proceeds of the JAG City.

12. The JAG City representative who will be responsible for management and expenditure of the fund and for receiving notices related to the obligations under 7.1 of the Interlocal Agreement is (include name, title, address & phone #):

- a. _____

JAG City shall notify Bellevue of any change in this designated representative or contact information.

13. The City of Bellevue as a recipient of \$ 971,638.82 (representing \$ 979,083.98 - its proportionate share of the Proceeds/Interest minus \$ 7,445.16 its proportionate share of the expenses) is also a JAG City and in that capacity shall be bound by the same terms under this Agreement as any other JAG City.

14. This Agreement shall be authorized by each JAG City’s legislative body or other authorizing authority if not within authority of legislative body.

15. General Provisions:

- A. Governing Law; Forum. The Agreement will be governed by the laws of Washington and its choice of law rules. The JAG City consents to the exclusive personal jurisdiction and venue of the federal and state courts located in King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.
- B. Severability. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provision will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

- C. Nonwaiver. Any failure by a party to enforce strict performance of any provision of the Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provision of the Agreement.
- D. No Assignment. Neither the Agreement nor any of the rights or obligations of the JAG City arising under the Agreement may be assigned without Bellevue's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- E. Notices. All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in this agreement.
- F. Legal Fees. In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.
- G. Counterparts. The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

In witness whereof, the parties have executed this Agreement and it shall be effective as of the last date written below.

CITY OF BURIEN

By: _____
Title: _____

Date: _____

CITY OF BELLEVUE

By: _____
Title: _____

Date: _____

**JAG Property Proceeds Distribution, Methodology Approved by the Jail Oversight Assembly on
March 26, 2008**

	Sale Price/Proceeds	Interest/Revenue	Proceeds & Interest/Revenue	Admin/other costs	Cities' Distribution
	\$12,986,694.50	\$113,034.78		\$99,613.08	\$13,000,116.20
Cities	Proportionate distribution based on Avg. of AV & ADP (1)	Proportionate Share of Revenues (2)	Proportionate Share of Proceeds & Interest/Revenues	Proportionate Share of Costs (3)	Final City-by-City Proceeds Distribution
Algona	\$23,168.33	\$201.65	\$23,369.99	\$177.71	\$23,192.28
Auburn	\$801,366.31	\$6,975.01	\$808,341.32	\$6,146.80	\$802,194.52
Beaux Arts	\$2,520.18	\$21.94	\$2,542.11	\$19.33	\$2,522.78
Bellevue	\$970,635.68	\$8,448.31	\$979,083.98	\$7,445.16	\$971,638.82
Black Diamond	\$13,282.47	\$115.61	\$13,398.08	\$101.88	\$13,296.20
Bothell	\$126,754.71	\$1,103.26	\$127,857.97	\$972.26	\$126,885.71
Burien	\$152,631.47	\$1,328.49	\$153,959.95	\$1,170.74	\$152,789.21
Carnation	\$6,301.24	\$54.85	\$6,356.08	\$48.33	\$6,307.75
Clyde Hill	\$42,491.88	\$369.84	\$42,861.73	\$325.93	\$42,535.80
Covington	\$66,049.99	\$574.89	\$66,624.88	\$506.63	\$66,118.25
Des Moines	\$177,128.08	\$1,541.70	\$178,669.78	\$1,358.64	\$177,311.14
Duvall	\$27,973.08	\$243.47	\$28,216.56	\$214.56	\$28,001.99
Enumclaw	\$90,688.23	\$789.34	\$91,477.57	\$695.61	\$90,781.96
Federal Way	\$591,788.18	\$5,150.86	\$596,939.04	\$4,539.25	\$592,399.79
Hunts Point	\$18,431.60	\$160.43	\$18,592.03	\$141.38	\$18,450.65
Issaquah	\$219,690.57	\$1,912.16	\$221,602.73	\$1,685.11	\$219,917.62
Kenmore	\$124,016.44	\$1,079.43	\$125,095.86	\$951.26	\$124,144.61
Kent	\$1,166,452.48	\$10,152.68	\$1,176,605.16	\$8,947.15	\$1,167,658.01
Kirkland	\$425,046.74	\$3,699.56	\$428,746.30	\$3,260.28	\$425,486.02
Lake Forest Park	\$80,748.97	\$702.83	\$81,451.80	\$619.38	\$80,832.42
Maple Valley	\$55,716.09	\$484.95	\$56,201.04	\$427.36	\$55,773.68
Medina	\$76,614.51	\$666.84	\$77,281.36	\$587.66	\$76,693.70
Mercer Island	\$215,059.90	\$1,871.86	\$216,931.76	\$1,649.59	\$215,282.16
Milton	\$1,943.87	\$16.92	\$1,960.79	\$14.91	\$1,945.88
Newcastle	\$53,960.39	\$469.67	\$54,430.06	\$413.90	\$54,016.16
Normandy Park	\$34,419.82	\$299.59	\$34,719.40	\$264.01	\$34,455.39
North Bend	\$26,466.09	\$230.36	\$26,696.45	\$203.01	\$26,493.44
Pacific	\$14,058.03	\$122.36	\$14,180.39	\$107.83	\$14,072.56
Redmond	\$454,343.94	\$3,954.56	\$458,298.50	\$3,485.00	\$454,813.50
Renton	\$1,002,868.14	\$8,728.86	\$1,011,597.00	\$7,692.40	\$1,003,904.60
Sammamish	\$208,156.50	\$1,811.77	\$209,968.27	\$1,596.64	\$208,371.63
SeaTac	\$163,329.98	\$1,421.61	\$164,751.58	\$1,252.81	\$163,498.78
Seattle	\$4,707,346.10	\$40,972.23	\$4,748,318.33	\$36,107.21	\$4,712,211.12
Shoreline	\$385,405.07	\$3,354.52	\$388,759.59	\$2,956.21	\$385,803.38
Skykomish	\$1,617.92	\$14.08	\$1,632.00	\$12.41	\$1,619.59
Snoqualmie	\$67,185.14	\$584.77	\$67,769.91	\$515.34	\$67,254.57
Tukwila	\$287,414.71	\$2,501.63	\$289,916.33	\$2,204.58	\$287,711.75
Woodinville	\$86,231.67	\$750.55	\$86,982.22	\$661.43	\$86,320.79
Yarrow Point	\$17,390.02	\$151.36	\$17,541.38	\$133.39	\$17,407.99
	\$12,986,694.50	\$113,034.78	\$13,099,729.28	\$99,613.08	\$13,000,116.20

NOTES:

(1) The proceeds formula is an average of each city's AV and ADP. Assessed Value (AV) was derived from the King County Assessors Office estimates for 2007. Average Daily Population (ADP) was based on 2005-2007 data provided by each city. The methodology was approved at the March 26, 2008 Jail Oversight Assembly Meeting.

(2) This column includes all interest generated to-date in the account holding the sale property proceeds.

(3) The costs were incurred by the City of Bellevue on behalf of the rest of the cities and are recoupable as provided in Paragraph 7.2 of the Interlocal Agreement.

**Final Version:
July 7, 2009**

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion on New Interim Community Center CIP Project		Meeting Date: August 3, 2009
Department: Parks, Recreation and Cultural Services	Attachments: 1. Staff Memo 2. Executive Summary: Energy Services Proposal 3. Building Floor Plan 4. Project Budget Summary 5. Performance Contracting FAQ	Fund Source: Parks & General Government CIP Activity Cost: \$1.5 million Amount Budgeted: \$1 million Unencumbered Budget Authority: \$913,985
Contact: Michael Lafreniere, Director of Parks, Recreation & Cultural Services		
Telephone: (206) 988-3703		
Adopted Initiative: Yes <input checked="" type="checkbox"/> No	Initiative Description: Repurposing the old Burien Library and other tenant improvements	
PURPOSE/REQUIRED ACTION: The project budget for the renovation of the old Burien Library will require an adjusted CIP and additional funding. The purpose of the agenda item is to brief the Council on the project and the proposed budget.		
BACKGROUND: See attached staff memo.		
OPTIONS : 1. Proceed with project using a combination of \$500,000 in supplemental funds, including: <ul style="list-style-type: none"> • Approve the reallocation of \$190,000 from existing Parks Acquisition & Development CIP; • Internally borrow \$235,000 from General Fund with repayment from \$23,000/year energy savings, and; • Allocate the remaining \$75,000 from Capital Projects Reserve Fund Balance (formerly the Senior Center Reserve Fund) to the Community Recreation Center – Library Remodel CIP. 2. Utilize funds from other Parks and General Government CIP funds. 3. No further action. Mothball old library as is. 4. Hold further discussion.		
Administrative Recommendation: Hold discussion and consider placing on the August 17, 2009, Consent Agenda for approval.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required		
Submitted by: Michael Lafreniere Administration 	Mike Martin City Manager 	
Today's Date: July 27, 2009	File Code: r:\cc\agenda bill 2009\080309pks-2 library remodel discussion.docx	

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

TO: Mayor Joan McGilton
Councilmembers
cc: Mike Martin, City Manager
FROM: Michael Lafreniere, Director of Parks, Recreation & Cultural Services
DATE: July 27, 2009
SUBJECT: New Interim Community Center Improvements / Old Library Repurposing

Without prior architectural design and study, conversion of the old Burien Library into an interim Burien Community Center was estimated for CIP purposes at \$1 million. As a very significant part of the project was going to involve HVAC system changes and potential energy conservation savings resulting from modifications of the 20,000 square foot open space design, I elected to use the State's **Energy Services Performance Contracting** (ESPC) Program administered by the Dept. of General Administration (GA) to assess the options. A full study, design and cost estimate process for the project has now been completed.

Through this program, a pre-qualified energy services company (or "ESCO") is selected to study a facility to determine needed tenant improvements and retrofits that can result in energy savings. McKinstry was the ESCO selected to conduct the study. The cost of converting the building's 20,000 sf of open design into meeting rooms, offices, and installing needed HVAC modifications to meet code requirements for air handling is now estimated at \$1.49 million (including \$733,052 for mechanical, electrical and energy project related costs, \$543,107 for general construction, and @\$213,000 for final design, permits, project management, contingencies, etc.). The Dept. proposes to use the State's ESPC Program to complete the project. If Council concurs, the City would contract the State GA for project administration services, and the State then contracts the ESCO to complete the work. State GA staff review and must approve all billings to ensure compliance with the program and project budget.

Along with needed tenant improvements (walls, doors, etc.), the ESCO has proposed the installation of a Variable Refrigerant Flow System to serve as the primary HVAC system. (VRF systems are used in 50% of medium-sized commercial buildings in Japan.), supplementing the existing system during extreme temperatures. "Performance Contracting" means that this project is guaranteed by the contractor to save over \$20,000 annually in utility bills. (Note: a separate energy conservation project with Seattle City Light will save another \$3,000 at the old Community Center; the total \$23,000 annual savings or \$233,000 over ten years, can be used to offset the additional project cost.) The ESCO's scope is inclusive of completing measure and verification after one year to confirm the savings. If the savings are less than what was projected and guaranteed, the ESCO is responsible for the difference. Other considerations include:

- The project will reduce carbon emissions by over 298K lbs per year.
- Using the ESPC's "design/build" process, the project is estimated to be a \$267,931 better value than completing a "design/bid/build" process over the life of the project.
- Using performance contracting, the budget is GMAX ("guaranteed maximum") and it's likely that bids will come in less than budget. Estimate: \$75K (10% of construction bid scope).
- As the project budget is GMAX and includes over \$62K in contingency, assuming there is no change in project scope (which is unlikely at this stage as we have close to a permit set of Arch drawings), this contingency will not be spent and goes back to owner.
- As the project budget is GMAX, ESPC projects do not generally have change orders (unless it is owner-directed scope changes).

In addition to a Council authorization to complete the work using the State's ESPC Program, the project will require \$500,000 in supplemental funds in order to proceed. With the concurrence of the City's Finance Director and City Manager, the Dept. proposes to shift \$500,000 from other sources to complete the project.



CLIENT City of Burien
 Burien Community Center Tenant
 PROJECT Improvement
 SECTION Executive Summary

PHASE 1.0
 DATE 07 20 09
 PAGE 1 of 3

Section 1 – Executive Summary

1.1 PROJECT HIGHLIGHTS

Recommendation to move to a highly efficient green heating and cooling system at the new City of Burien Community Center

- Improve heating and cooling capacity while reducing energy consumption and improved physical environment.

Economic Benefits of Proposed Project

- Project will be partially paid for through guaranteed energy savings determined by accepted engineering practice.
- Guaranteed maximum construction cost plus contingency. Construction cost is expected to be lower.
- Total annual energy cost savings from current expenditure is 34%.

Environmental Benefits of Proposed Project

- 26% reduced greenhouse gas emissions annually.

Variable Refrigerant Flow System

The building change of use has offered a unique opportunity to provide a highly efficient cooling and heating system while utilizing the existing mechanical infrastructure to provide supplemental heating via gas fired hot water only when it is needed during extreme cold weather. Variable Refrigerant Flow systems provide cooling and heating at greater efficiency than roof-top heat pump units and re-using the existing infrastructure has saved project cost and energy associated with providing back-up electric heating along with the variable refrigerant systems.

Benefit of Using the ESCO Program

This project overall entails repurposing an existing library facility into a community center. Program space modifications include meeting rooms and multipurpose areas. These program changes require higher ventilation loads in conjunction with much greater cooling and heating demands. The existing HVAC system is aged and inefficient and cannot meet the new program requirements. The initial HVAC concept included rooftop heat pumps with electric reheat. Through the ESCO program, a more innovative solution was developed which resulted in additional energy savings over a heat pump approach while reducing the overall construction cost. The proposed system is a Variable Refrigerant Flow System (VRF). This system eliminates the multiple roof top heat pumps, and the associated structural upgrades to the roof. It also eliminates the need for electric re-heat as the existing system can be reprogrammed to serve that need. The VRF also reduces the total amount of refrigerant used in the system resulting in a lower cost mechanical system with higher energy efficiencies.

Beyond the mechanical system, additional energy and utility savings will be realized through the installation of a more efficient lighting system, lighting and HVAC controls and water savings as a result of installing more efficient flush valves and aerators.



CLIENT City of Burien
Burien Community Center Tenant
PROJECT Improvement
SECTION Executive Summary

PHASE 1.0
DATE 07 20 09
PAGE 2 of 3

1.2 OVERVIEW

McKinstry Essention (herein after as McKinstry) is pleased to present this proposal for the implementation of energy efficiency measures at The City of Burien Community Center in Burien, WA.

This proposal follows the outline contained in Section 2 of the Energy Services Agreement. It presents the contractual terms under which McKinstry and The City of Burien will work together over the term of the project. This Proposal describes the scope, costs, guarantees, and other aspects of the project.

The services included in this Proposal include design, construction, and system verification. Although The City of Burien will operate and maintain the new equipment, McKinstry will provide an initial commissioning of the systems installed and will provide commissioning documentation of system operation and performance, proving the ability to realize the necessary savings.

1.3 PROJECT DESCRIPTION

This project includes providing a highly efficient variable flow refrigerant system provide cooling and heating for the required space change of use. As an additional energy and cost saving initiative the variable refrigerant will not need to be supplemented with electric heat. Instead the existing building hot water system will be used only as required to provide supplemental heating. Other project measures are to provide supply air temperature and static pressure reset, provide start stop optimization of the existing system, provide demand control ventilation for both the new and existing HVAC systems, upgrade the existing lighting to all T-8 lamps, install occupancy sensors to control lighting (this is instead of light switches that will be required for space change of use re-zoning), provide water saving Lavatory aerators and provide water saving flushometers.

1.4 SUMMARY OF BENEFITS

Financial Benefits

Section 4 of the proposal provides information related to specific project financials related to this project. The guaranteed maximum project allowable cost is \$640,341. Including sales tax and Engineering & Architectural Services (E&AS) management fees, and before any utility incentives, the final project cost is estimated at \$733,052. The estimated utility rebate from Seattle City Light and Puget Sound Energy is approximately \$9,473.

The improvements are projected to produce over \$20,186 of annual energy savings to the City of Burien. Savings of \$520/yr are projected based on a reduced repair costs and future avoided capital expenditures as agreed upon with City of Burien Library. The Net present value of this project is \$267,931 better than compared against a change use design, bid, build approach

Environmental Summary

The energy savings produced will directly reduce the amount of power produced by the Utility. To compute the environmental impact, McKinstry uses factors from the work developed in 2008 by the NW Power and Conservation Council (www.nwcouncil.org) in their report entitled "Marginal Carbon Dioxide Production Rates of the Northwest Power System" (<http://www.nwcouncil.org/library/2008/2008-08.pdf>).

On average, one car produces 15,000 pounds of CO₂ annually and one acre of trees absorbs 7,333 pounds of CO₂ annually. By implementing this building improvement, CO₂ emissions will be reduced by 298,958 pounds annually, which is equivalent to removing 20 cars from the road or planting 41 acres of trees. This project will also reduce NO_x emissions by 354 and SO₂ emissions by 81 - both of these pollutants contribute to wet and dry acid precipitation and to smog.



CLIENT City of Burien
Burien Community Center Tenant
PROJECT Improvement
SECTION Executive Summary

PHASE 1.0
DATE 07 20 09
PAGE 3 of 3

1.5 MAXIMUM PROJECT COST

McKinstry guarantees that the project cost, related specifically to the project scope defined herein, will not exceed the maximum price of \$640,341. This excludes sales tax, Engineering & Architectural Services (E&AS) management fees, and before any utility incentives.

1.6 CONCLUSION

This project represents an excellent opportunity for City of Burien to provide a high quality community center that includes highly energy efficient systems and provides the greatest possible value to the people of Burien. McKinstry looks forward to working with The City of Burien in making this project a success.



CLIENT City of Burien
 PROJECT Future Community Center Building
 SECTION Directed Engineering Study

DATE 07 20 09
 PHASE 1.0

Building Change of Use – Mechanical System Options

Option 1: Leave system basically as is:

The first option when looking at the new use of the Old Library was to do nothing to the existing system except for optimizing control sequences and schedules as identified in the PFA. It was quickly determined that this would not be an option due to the fact that the new building design and use with the current system would not meet Washington State Ventilation Code Requirements, nor would the existing system have the capacity required for the proposed building use as a Community Center. This makes Option 1, not suitable for the intended use.

Option 1 Conclusion: Not possible / viable

Option 2: Provide rooftop heat pumps.

In response to Option 1 being failed due to code and space criteria, Option 2 was considered as the next least-cost option to pursue. After careful consideration of the size and location of rooftop heat pumps to serve individual spaces, this option was found to be not cost effective due to high structural and architectural costs associated with upgrading the roof structure to support the heat pumps and architectural requirements to screen all of the rooftop equipment. Additional screening of rooftop equipment is required because of residential location.

Option 2 Conclusion: Too Expensive

Option 3: Modify the existing systems

Option 3 was also considered which included modifying and upsizing the existing VAV system ductwork and air handlers. To serve the new space loads of the Community Center, extensive upgrades to ductwork and the main air handlers would be required. This option was determined to not be cost effective.

Option 3 Conclusion: Too Expensive, Not Enough Energy Savings

Option 4: Provide a Variable Refrigerant Flow (VRF) system in Multipurpose Rooms, Reuse existing VAV system in core/office areas.

The final option has been proposed as the recommended option due to lowest cost, effective load capacity and flexibility of the HVAC system. The VRF compressor replaces the rooftop unit AHU-2 and utilizes the existing screen wall. It also serves the majority of the perimeter spaces with ventilated air and has individual heat pump units for additional zone temperature control that are ceiling mounted within the plenum space that serve the individual multipurpose and exercise rooms. The existing system remains in place with the VAV's serving the new spaces normally turned off (they are available as backup heat and cooling to the space if loading exceeds design levels). A detailed sketch of the proposed system is included in the report. The system is also not as heavy as individual heat pumps and does not require significant structural upgrades. Since the compressors utilize the existing AHU-2 screen wall, additional screening is not required. This system is also the highest efficiency option available, even beyond conventional heat pumps due to the ability of the system to share load between internal heat pump units without using the external condenser in situations where different zones are cooling and heating at the same time. Due to energy savings and lowest cost of the system installation, this is the proposed best option to proceed with in this project.



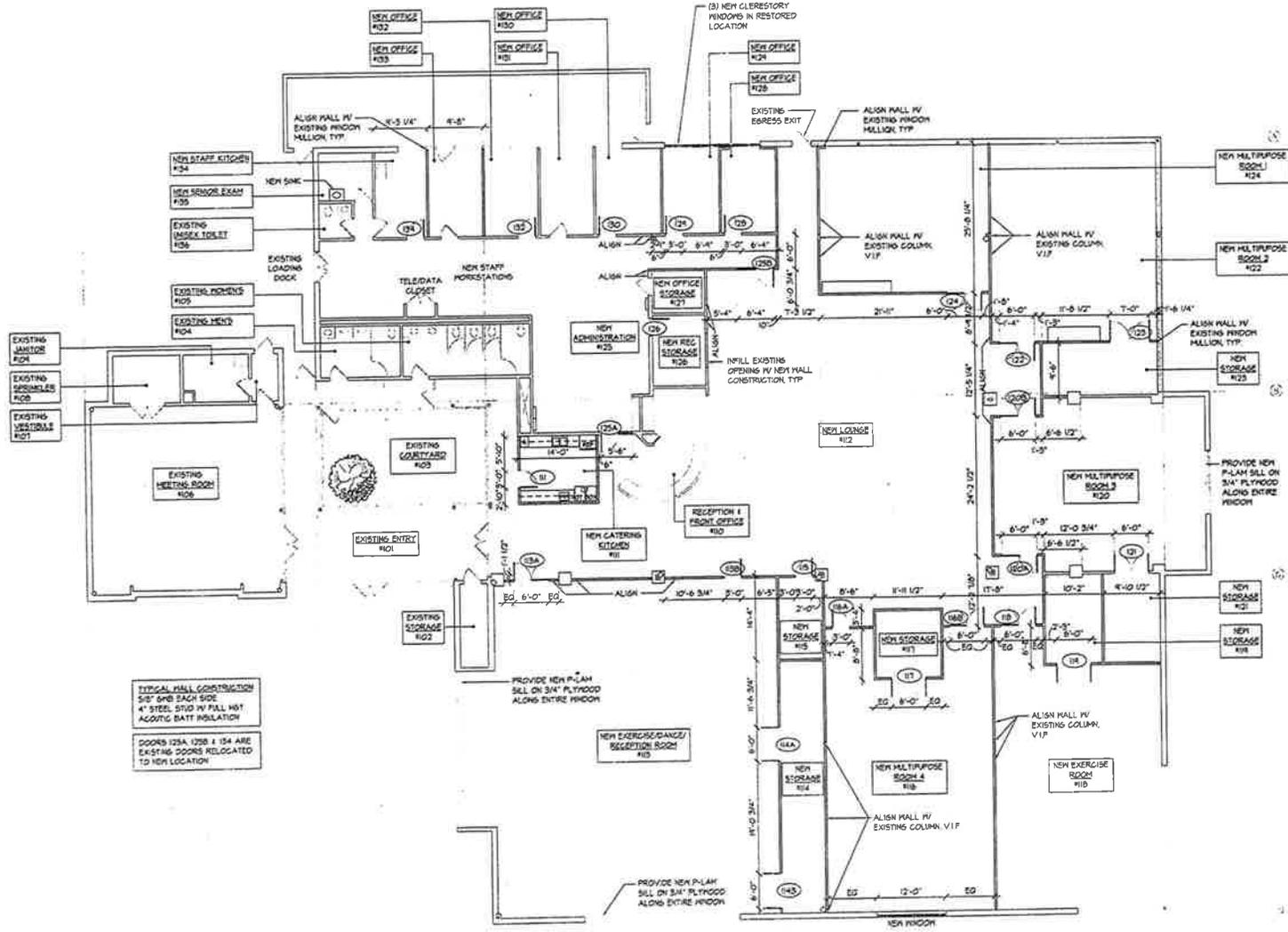
CLIENT City of Burien
PROJECT Future Community Center Building
SECTION Directed Engineering Study

DATE 07 20 09
PHASE 1.0

Option 4 Conclusion: Recommended Option

Modified Baseline:

As the building use is fundamentally changing, the energy calculations require a modified baseline to compare energy savings. The baseline energy calculation is based on the existing Library HVAC operating schedule, but with the Community Center People loads, which are higher than in the Old Library. The proposed energy calculations are based on the new, diversified Community Center HVAC schedules and people loads.



TYPICAL WALL CONSTRUCTION
 5/8" GWS EACH SIDE
 4" STYS. STGD W/ WALL NET
 ACQWIC BATT INSULATION

DOORS 125A, 125B & 124 ARE
 EXISTING DOORS RELOCATED
 TO NEW LOCATION

FLOOR PLAN
 SCALE: 1/8" = 1'-0"

DIRECTED ENGINEERING STUDY
 BURIEN PARKS, RECREATION &
 CULTURAL SERVICES
 14700 SIXTH AVENUE SW
 BURIEN, WASHINGTON

JAMES CARY
 ARCHITECT PC
 1326 Fifth Avenue Suite 440
 Seattle, Washington 98102
 1.206.464.2248 F.0361.67.5148

0808
 29 MAY 2009

FLOOR PLAN
 A2.1

PRELIMINARY - NOT FOR CONSTRUCTION



City of Burien Parks Department
Burien Community Center Remodel

Monthly Budget Report

Reporting Period:
Update as of July 24, 2009

	Budget	Contracted Authority	Project Life to Date Costs	Remaining Budget
1. Construction				
Construction - M/E/P	\$ 733,052.00			\$ 733,052.00
Construction - Architectural	\$ 543,107.00			\$ 543,107.00
Design & Estimating Contingencies / Escalation	\$ -			\$ -
Construction Contingency	\$ -			\$ -
Owner's Contingency	\$ 20,000.00			\$ 20,000.00
Sub-TOTAL	\$ 1,296,159.00	\$ -	\$ -	\$ 1,296,159.00
2. Owner Costs				
Architect Design & Reimbursements	\$ 84,000.00	\$ 16,015.00		\$ 84,000.00
Subconsultant Design	\$ -			\$ -
Builder's Risk Insurance	\$ 5,000.00			\$ 5,000.00
Testing & Inspection	\$ -			\$ -
Permits	\$ 8,000.00			\$ 8,000.00
Utility Connections/Fees	\$ -			\$ -
Project Management (SOJ)	\$ 70,000.00	\$ 70,000.00	\$ 22,180.00	\$ 47,820.00
Project Management (State GA)	\$ -			\$ -
SCL/PSE Rebate (Anticipated)	\$ (9,473.00)			\$ (9,473.00)
Owner's Contingency	\$ 16,700.00			\$ 16,700.00
Sub-TOTAL	\$ 174,227.00	\$ 86,015.00	\$ 22,180.00	\$ 152,047.00
3. Additional Costs				
Public Art	\$ -			\$ -
FF&E	\$ 10,000.00			\$ 10,000.00
Miscellaneous Costs	\$ -			\$ -
Move Costs	\$ 10,000.00			\$ 10,000.00
Sub-TOTAL	\$ 20,000.00	\$ -	\$ -	\$ 20,000.00
BURIEN COMMUNITY CENTER REMODEL TOTAL COSTS	\$ 1,490,386.00	\$ 86,015.00	\$ 22,180.00	\$ 1,468,206.00

What is Energy Services Performance Contracting?

Energy Saving Performance Contracting is:

- The most cost-effective process for completing building energy upgrades
- A means to use utility savings to pay all project costs
- A partnership of the owner, the ESCO (energy service company) and the GA Energy Team

How Energy Saving Performance Contracting works:

- You select one of GA's pre-qualified ESCO's to complete an energy audit of your facility
- The ESCO designs, installs, commissions, and finances the projects you select
- The ESCO guarantees both the maximum project cost and the projected energy savings
- GA energy engineers provide long-term monitoring of project savings

Typical projects include:

- Energy management systems
- Interior and exterior lighting
- Boiler replacement and repair of steam distribution systems
- High-efficiency HVAC systems
- LED traffic systems, wastewater treatment plant pumps and motors, and swimming pool systems

Guarantees

- Guaranteed Project Cost
- Guaranteed Savings
- Guaranteed Equipment Performance

Advantages of ESPC

- Single point of accountability – the ESCO
- No requirement to use the lowest bid
- Owner participates in equipment and subcontractor selection
- Low interest financing available through the Washington State Treasurer
- Verification of annual energy savings through a monitoring program

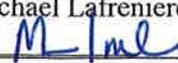
ENERGY SAVINGS PERFORMANCE CONTRACTING ADDS VALUE TO PUBLIC WORKS PROJECTS

Energy Savings Performance Contracting, or simply performance contracting (PC), shares many similarities with conventional public works design and construction practices. However, there are some distinct differences between PC and the design, bid, build (DBB) process. PC can provide many opportunities to an owner installing energy efficiency equipment, which are not otherwise available when using the DBB process.

The advantages to PC for procuring energy efficiency equipment include:

- Third party financing is available, which allows the public building owner to construct projects sooner. Some public works projects can take as long as six years to complete: identify project and request funding in the first biennium; design in the second biennium; and, construct in the third biennium. Using PC a similar project can be completed in eighteen months.
- By using third party financing for procuring energy efficiency equipment the owner reserves scarce capital dollars for more pressing building improvements. Combining third party financing with capital dollars allows the owner to leverage the capital appropriation, essentially doing “more with less.”
- PC maximizes utility financial participation in the project.
- Energy service company (ESCO) selected based on qualifications. Since the ESCO also provides general contracting services the owner is also selecting the highest qualified general contractor, rather than the low bid contractor.
- Building audit findings must meet owner’s cost effectiveness criteria or owner not responsible for ESCO audit costs.
- There is a single point of accountability from audit through design, construction and commissioning, which reduces the uncertainty of identifying a responsible party when design or construction issues arise.
- Subcontractors can be pre-qualified and only the most highly qualified and reliable subcontractors will be invited to bid the work.
- Owner/ESCO can select other than the low bid subcontractor.
- Owner can specify equipment by manufacturer.
- ESCO guarantees equipment performance and assists owner with warranty issues. DBB requires that equipment is free from defects for one year. PC guarantees the project functions as designed, maintains specific comfort conditions, saves energy and saves dollars over the life of the contract with the ESCO.
- No change orders unless the owner elects to increase project scope.
- Open book pricing and construction cost reconciliation assure fairest value for the owner.
- ESCO guarantees construction cost and assumes financial responsibility for cost overruns.
- Commissioning is an integral component of PC, not an extra cost.
- The owner has more control over contractor (ESCO) overhead and profit. O&P is negotiated and multiple markups of subcontractor costs are not allowed.
- ESCO provides a guarantee of energy savings and reimburses owner for any savings shortfalls.
- ESCO’s monitoring and verification (M&V) services provides owner with assurance equipment will perform for the life of the agreement.

Performance contracting is a “value added” process for improving building energy efficiency.

Agenda Subject: Discussion on Cost Sharing Agreement with Army Corps of Engineers for Seahurst Shoreline Restoration Feasibility Study		Meeting Date: August 3, 2009
Department: Parks, Recreation and Cultural Services	Attachments: <u>Federal Cost-Share Agreement w/ Army Corps of Engineers</u>	Fund Source: Parks & General Government CIP Activity Cost: \$242,160 Amount Budgeted: \$1,290,000 Unencumbered Budget Authority: \$1,013,804
Contact: Steve Roemer, Parks Development & Operations Manager		
Telephone: (206) 248-5513		
Adopted Initiative: Yes No X	Initiative Description: Complete feasibility studies and 35% design, for the Seahurst Park North Shoreline Project	
<p>PURPOSE/REQUIRED ACTION: The purpose of this agenda item is to discuss a Federal Cost-Share Agreement with the Army Corps of Engineers (Corps) for the next phase of the Seahurst Park North Shoreline Restoration Project. The proposed project will remove hard shore armoring, replenish depleted beach material, as well as restore natural beach slope and substrate and add large woody debris and riparian vegetation.</p> <p>BACKGROUND: With the assistance of Anchor QEA, the Parks Department has nearly completed the City's feasibility study and arrived at a preferred alternative (locally preferred alternative). The estimated cost of the preferred alternative is \$8.8 million. In order for the Corps to participate in this project, they must first conduct their own feasibility study to 35% design. The Corps' Water Resources Development Act Section 544 Program requires a 50% non-federal match at this stage of the project. Staff has secured funds for biological monitoring, design and construction tasks totaling \$2.135 million. A portion of these funds can be used for cost-sharing purposes. Since the last project update, the Corps has also identified \$1.8 million in federal stimulus funding for eventual design and construction. The attached Cost-Share Agreement for the Corps study was developed jointly and references the cost-sharing estimate. Total cost for this next step is expected to be \$484,320 and the local match is \$242,160. Of the latter, approximately \$160,560 will be cash match (which will come from state grant funds) and the balance is in-kind services. The Parks Department is recommending that the Council approve the Feasibility Cost Share Agreement indicating that the City is willing, as a non-federal sponsor, to support the feasibility phase of the Seahurst Park Phase II Ecosystem Restoration Project with the Corps of Engineers. This would enable the Corps to move forward with their feasibility study.</p> <p>Prior to continuing beyond feasibility, staff will return to Council with a Project Partnership Agreement, which will clarify any additional commitments by the City to proceed through advanced design and construction. Should the project proceed at this point, final design and construction will require a 35% non-federal match.</p> <p>OPTIONS:</p> <ol style="list-style-type: none"> 1. Approve Cost-Share Agreement with Army Corps of Engineers 2. Not Approve CSA; discontinue further project planning 		
Administrative Recommendation: Hold discussion and consider placing on the August 17, 2009, Consent Agenda for approval.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required.		
Submitted by: Michael Lafreniere Administration 		Mike Martin City Manager 
Today's Date: July 30, 2009		File Code: r:\cc\agenda bill 2009\080309pks-1 csa with army corps.docx

AGREEMENT
 BETWEEN
 THE DEPARTMENT OF THE ARMY
 AND
 CITY OF BURIEN
 FOR THE
 SEAHURST PARK PHASE II
 ECOSYSTEM RESTORATION PROJECT

THIS AGREEMENT is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Seattle District and the City of Burien (hereinafter the "Non-Federal Sponsor"), represented by **Steve Roemer, Parks Development and Operations Manager**.

WITNESSETH, THAT:

WHEREAS, the Government received a letter, dated **March 2, 2009**, from the **City of Burien** in which it stated its desire to participate in a feasibility study for ecosystem restoration at Seahurst Park in Burien, Washington, and in which it acknowledged its financial responsibilities for the study and a project, if one is recommended;

WHEREAS, the affected local government has consented to the **City of Burien**, serving as the non-Federal sponsor for the feasibility study;

WHEREAS, Section 544 of the Water Resources Development Act of 2000, Public Law 106-541 (hereinafter "Section 544"), provides that \$40,000,000 in Federal funds are authorized to be appropriated to carry out critical restoration projects in the area of Puget Sound, Washington and adjacent waters of which not more than \$5,000,000 may be used to carry out any one critical restoration project;

WHEREAS, the Government initiated a feasibility study, to be initially Federally funded up to \$100,000, and during this Federally funded portion the Government determined that the costs of the feasibility study would exceed \$100,000;

WHEREAS, the Government and the **City of Burien** desire to enter into an agreement (hereinafter the "Agreement") to complete the feasibility study (hereinafter the "*Study*") as defined in Article I.A. of this Agreement) and to share equally the costs of the *Study* that exceed \$100,000;

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements applicable to the *Study*;

WHEREAS, the Non-Federal Sponsor desires to provide in-kind contributions

(hereinafter the “*non-Federal in-kind contributions*” as defined in Article I.I. of this Agreement) that are necessary to prepare the feasibility report and to receive credit for such contributions toward the amount of its required contribution for the *Study*;

WHEREAS, the Non-Federal Sponsor may provide up to 100 percent of its required contribution for the *Study* as *non-Federal in-kind contributions*;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Study* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful *Study*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I – DEFINITIONS

A. The term “*Study*” shall mean the activities and tasks required to identify and evaluate alternatives and the preparation of a decision document that, when appropriate, recommends a coordinated and implementable solution for ecosystem restoration at Seahurst Park, Burien, Washington. The term includes the *non-Federal in-kind contributions* described in paragraph I. of this Article.

B. The term “*total study costs*” shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement directly related to performance of the *Study* plus the costs of the *Study* incurred by the Government prior to the effective date of this Agreement. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the Government’s costs of plan formulation and evaluation, including applicable economic, engineering, real estate, and environmental analyses; the Government’s costs of preparation of the decision document for the *Study*; the costs of the *non-Federal in-kind contributions* determined in accordance with Article II.B.3. of this Agreement; the Government’s costs of independent technical review and other review processes required by the Government; the Government’s supervision and administration costs; the Non-Federal Sponsor’s and the Government’s costs of participation in the Study Coordination Team in accordance with Article III of this Agreement; the Government’s costs of audit in accordance with Article VI.B and Article VI.C. of this Agreement. The term does not include the first \$100,000 incurred by the Government for the *Study*; and costs of dispute resolution under Article V of this Agreement; any costs incurred as part of the reconnaissance studies or feasibility studies under any other agreement or program; the Non-Federal Sponsor’s costs of negotiating this Agreement; or any

costs negotiating a project cooperation agreement for design and construction of a project or separable element thereof.

C. The term “*period of study*” shall mean the time from the effective date of this Agreement to the date that the decision document for the study is duly approved by the Government or the date that this Agreement is terminated in accordance with Article IX of this Agreement.

D. The term “*financial obligations for the study*” shall mean the financial obligations of the Government and the costs for the *non-Federal in-kind contributions*, as determined by the Government, that result or would result in costs that are or would be included in *total study costs*.

E. The term “*non-Federal proportionate share*” shall mean the ratio of the sum of the costs included in *total study costs* for the *non-Federal in-kind contributions*, as determined by the Government, and the Non-Federal Sponsor’s contribution of funds required by Article II.B.1.b. of this Agreement to *financial obligations for the study*, as projected by the Government.

F. The term “*Federal program funds*” shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

G. The term “*fiscal year*” shall mean one year beginning on October 1 and ending on September 30.

H. The term “*PMP*” shall mean the project management plan, and any modifications thereto, developed by the Government, and agreed to by the Non-Federal Sponsor, that specifies the scope, cost, and schedule for *Study* activities and guides the performance of the *Study* through the *period of study*.

I. The term “*non-Federal in-kind contributions*” shall mean planning, supervision and administration, services, materials, supplies, and other in-kind services that are performed or provided by the Non-Federal Sponsor after the effective date of this Agreement in accordance with the *PMP* and that are necessary for performance of the *Study*.

J. The term “*Section 544 Program Limit*” shall mean the amount of Federal funds authorized to be appropriated for all projects implemented pursuant to Section 544 of the Water Resources Development Act of 2000, Public Law 106-541. As of the effective date of this Agreement, such amount is \$40,000,000.

K. The term “*fiscal year of the Non-Federal Sponsor*” shall mean one year beginning on January 1 and ending on December 31.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the "Congress") and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall conduct the *Study*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies. The Non-Federal Sponsor expeditiously shall perform or provide the *non-Federal in-kind contributions* in accordance with applicable Federal laws, regulations, and policies.

1. The Government shall not issue the solicitation for the first contract for the *Study* or commence the *Study* using the Government's own forces until the Non-Federal Sponsor has confirmed in writing its willingness to proceed with the *Study*.

2. To the extent possible, the Government and the Non-Federal Sponsor shall conduct the *Study* in accordance with the *PMP*.

3. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all products that are developed by contract or by Government personnel during the *period of study*. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the final approval of all *Study* products shall be exclusively within the control of the Government.

4. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all Government contracts, including relevant scopes of work, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations, award of contracts or commencement of work on the *Study* using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Study*, except for the *non-Federal in-kind contributions*, shall be exclusively within the control of the Government.

5. At the time the U.S. Army Engineer, Seattle District (hereinafter the "District Engineer") furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Study*, the District Engineer shall furnish a copy thereof to the Non-Federal Sponsor.

6. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on the solicitations for all contracts for the *non-Federal in-kind contributions*, including relevant scopes of work, prior to the Non-Federal Sponsor's issuance of

such solicitations. To the extent possible, the Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Government with notification of a contract modification is not possible prior to execution of the contract modification, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith the comments of the Government but the contents of solicitations, award of contracts or commencement of work on the *Study* using the Non-Federal Sponsor's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *non-Federal in-kind contributions* shall be exclusively within the control of the Non-Federal Sponsor.

7. At the time the Non-Federal Sponsor furnishes a contractor with a notice of acceptance of completed work for each contract awarded by the Non-Federal Sponsor for the *non-Federal in-kind contributions*, the Non-Federal Sponsor shall furnish a copy thereof to the Government.

B. The Non-Federal Sponsor shall contribute 50 percent of *total study costs* in accordance with the provisions of this paragraph.

1. The Non-Federal Sponsor shall provide a contribution of funds as determined below:

a. If the Government projects at any time that the collective value of the Non-Federal Sponsor's contributions listed in the next sentence will be less than the Non-Federal Sponsor's required share of 50 percent of *total study costs*, the Government shall determine the amount of funds that would be necessary to meet the Non-Federal Sponsor's required share without considering the credit the Government projects will be afforded for the *non-Federal in-kind contributions* pursuant to paragraph B.4. of this Article. The Government shall determine the amount of funds that would be necessary by subtracting from the Non-Federal Sponsor's required share of 50 percent of *total study costs* the collective value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement.

b. The Non-Federal Sponsor shall provide funds in the amount determined by this paragraph in accordance with Article IV.B. of this Agreement. To determine the contribution of funds the Non-Federal Sponsor shall provide, the Government shall reduce the amount determined in accordance with paragraph B.1.a. of this Article by the amount of credit the Government projects will be afforded for the *non-Federal in-kind contributions* pursuant to paragraph B.4. of this Article.

2. The Government, subject to the availability of funds and as limited by paragraph B.5. of this Article and the *Section 544 Program Limit*, shall refund or reimburse to the Non-Federal Sponsor any contributions in excess of 50 percent of *total study costs* if the Government

determines at any time that the collective value of the following has exceeded 50 percent of *total study costs*: (a) the Non-Federal Sponsor's contribution of funds required by paragraph B.1.b. of this Article; (b) the amount of credit to be afforded for the *non-Federal in-kind contributions* pursuant to paragraph B.4. of this Article; and (c) the value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement.

3. The Government shall determine and include in *total study costs* any costs incurred by the Non-Federal Sponsor for *non-Federal in-kind contributions*, subject to the conditions and limitations of this paragraph. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in *total study costs* for *non-Federal in-kind contributions*.

a. Acceptance by the Government of *non-Federal in-kind contributions* shall be subject to a review by the Government to verify that all economic, engineering, real estate, and environmental analyses or other items performed or provided as *non-Federal in-kind contributions* are accomplished in a satisfactory manner and in accordance with applicable Federal laws, regulations, and policies, and to verify that all analyses, services, materials, supplies, and other in-kind services provided as *non-Federal in-kind contributions* are necessary for the *Study*.

b. The Non-Federal Sponsor's costs for *non-Federal in-kind contributions* that may be eligible for inclusion in *total study costs* pursuant to this Agreement shall be subject to an audit in accordance with Article VI.C. of this Agreement to determine the reasonableness, allocability, and allowability of such costs.

c. The Non-Federal Sponsor's costs for *non-Federal in-kind contributions* that may be eligible for inclusion in *total study costs* pursuant to this Agreement are not subject to interest charges, nor are they subject to adjustment to reflect changes in price levels between the time the *non-Federal in-kind contributions* are provided and the time the costs are included in *total study costs*.

d. The Government shall not include in *total study costs* any costs for *non-Federal in-kind contributions* paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

e. The Government shall not include in *total study costs* any costs for *non-Federal in-kind contributions* in excess of the Government's estimate of the costs of the *non-Federal in-kind contributions* if the services, materials, supplies, and other in-kind services had been provided by the Government.

4. The Government, in accordance with this paragraph, shall afford credit toward the amount of funds determined in accordance with paragraph B.1.a. of this Article for the costs

of the *non-Federal in-kind contributions* determined in accordance with paragraph B.3. of this Article. However, the maximum amount of credit that can be afforded for the *non-Federal in-kind contributions* shall not exceed the least of the following amounts as determined by the Government: the amount of funds determined in accordance with paragraph B.1.a. of this Article; the costs of the *non-Federal in-kind contributions* determined in accordance with paragraph B.3. of this Article; or 50 percent of *total study costs*.

5. Notwithstanding any other provision of this Agreement, the Non-Federal Sponsor shall not be entitled to reimbursement of any costs of *non-Federal in-kind contributions* determined in accordance with paragraph B.3. of this Article and included in *total study costs* that exceed the amount of credit afforded for the *non-Federal in-kind contributions* determined in accordance with paragraph B.4. of this Article and the Non-Federal Sponsor shall be responsible for 100 percent of all costs of *non-Federal in-kind contributions* included in *total study costs* that exceed the amount of credit afforded.

C. Notwithstanding any other provision of this Agreement, Federal financial participation in the *Study* is limited by the following provisions of this paragraph.

1. In the event the Government projects that the amount of Federal funds the Government will make available to the *Study* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Study* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total study costs* that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Study* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Study*, future performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article IX.C. of this Agreement.

2. If the Government determines that the total amount of Federal funds provided by Congress for all studies and projects implemented pursuant to Section 544 has reached the *Section 544 Program Limit*, and the Government projects that the Federal funds the Government will make available to the *Study* within the *Section 544 Program Limit* will not be sufficient to meet the Federal share of *total study costs*, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Study* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Study* within the *Section 544 Program Limit*, the parties shall terminate this Agreement and proceed in accordance with Article IX.E. of this Agreement.

3. As of the effective date of this Agreement, **\$6,112,000** of Federal funds have been provided by Congress for the Section 544 Program of which **\$190,000** is currently projected to be available for the *Study*. The Government makes no commitment to request Congress to

provide additional Federal funds for the Section 544 Program or the *Study*. Further, the Government's financial participation in the *Study* is limited to the Federal funds that the Government makes available to the *Study*.

D. Upon conclusion of the *period of study*, the Government shall conduct an accounting, in accordance with Article IV.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

E. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Study* under this Agreement unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

F. This Agreement shall not be construed as obligating either party to implement a project. Whether the Government proceeds with implementation of the project depends upon, among other things, the outcome of the *Study* and whether the proposed solution is consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and with the budget priorities of the Administration.

ARTICLE III - STUDY COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Study Coordination Team. Thereafter, the Study Coordination Team shall meet regularly until the end of the *period of study*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Study Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Study Coordination Team informed of the progress of the *Study* and of significant pending issues and actions, and shall seek the views of the Study Coordination Team on matters that the Study Coordination Team generally oversees.

C. Until the end of the *period of study*, the Study Coordination Team shall generally oversee the *Study*, including matters related to: plan formulation and evaluation, including applicable economic, engineering, real estate, and environmental analyses; scheduling of reports and work products; independent technical review and other review processes required by the Government; completion of all necessary environmental coordination and documentation; contract awards and modifications; contract costs; the Government's cost projections; the performance of and scheduling for the *non-Federal in-kind contributions*; determination of anticipated future requirements for real property and relocation requirements and performance of operation, maintenance, repair, rehabilitation, and replacement of the proposed project including anticipated requirements for permits; and other matters related to the *Study*. This oversight of the *Study* shall be consistent with the *PMP*.

D. The Study Coordination Team may make recommendations to the District Engineer on matters related to the *Study* that the Study Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Study Coordination Team. The Government, having the legal authority and responsibility for performance of the *Study* except for the *non-Federal in-kind contributions*, has the discretion to accept or reject, in whole or in part, the Study Coordination Team's recommendations. On matters related to the *non-Federal in-kind contributions*, that the Study Coordination Team generally oversees, the Study Coordination Team may make recommendations to the Non-Federal Sponsor including suggestions to avoid potential sources of dispute. The Non-Federal Sponsor in good faith shall consider the recommendations of the Study Coordination Team. The Non-Federal Sponsor, having the legal authority and responsibility for the *non-Federal in-kind contributions*, has the discretion to accept or reject, in whole or in part, the Study Coordination Team's recommendations except as otherwise required by the provisions of this Agreement, including compliance with applicable Federal, State, or local laws or regulations.

E. The Non-Federal Sponsor's costs of participation in the Study Coordination Team shall be included in *total study costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article VI.C. of this Agreement to determine reasonableness, allocability, and allowability of such costs. The Government's costs of participation in the Study Coordination Team shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

ARTICLE IV - METHOD OF PAYMENT

A. In accordance with the provisions of this paragraph, the Government shall maintain current records and provide to the Non-Federal Sponsor current projections of costs, financial obligations, the contributions provided by the parties, the costs included in *total study costs* for the *non-Federal in-kind contributions* determined in accordance with Article II.B.3. of this Agreement, and the credit to be afforded for the *non-Federal in-kind contributions* pursuant to Article II.B.4. of this Agreement.

1. As of the effective date of this Agreement, *total study costs* are projected to be **\$484,320**; the value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement is projected to be **\$242,160**; the amount of funds determined in accordance with Article II.B.1.a. of this Agreement is projected to be **\$242,160**; the costs included in *total study costs* for the *non-Federal in-kind contributions* determined in accordance with Article II.B.3. of this Agreement are projected to be **\$81,600**; the credit to be afforded for the *non-Federal in-kind contributions* pursuant to Article II.B.4. of this Agreement is projected to be **\$0.0**; the Non-Federal Sponsor's contribution of funds required by Article II.B.1.b. of this Agreement is projected to be **\$160,560**; and the *non-Federal proportionate share* is projected to be **50 percent**. These amounts and percentage are estimates subject to adjustment by the

Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By Dec.15, 2009 and by each quarterly anniversary thereof until the conclusion of the *period of study* and resolution of all relevant claims and appeals, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total study costs*; the value of the Non-Federal Sponsor's contributions under Article III and Article VI of this Agreement; the amount of funds determined in accordance with Article II.B.1.a. of this Agreement; the costs included in *total study costs* for the *non-Federal in-kind contributions* determined in accordance with Article II.B.3. of this Agreement; the credit to be afforded for the *non-Federal in-kind contributions* pursuant to Article II.B.4. of this Agreement; the Non-Federal Sponsor's contribution of funds required by Article II.B.1.b. of this Agreement; and the *non-Federal proportionate share*.

B. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.B.1.b. of this Agreement in accordance with the provisions of this paragraph.

1. Not less than 60 calendar days prior to the scheduled date for issuance of the solicitation for the first contract for work on the *Study* or commencement of work on the *Study* using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and the funds the Government determines to be required from the Non-Federal Sponsor to meet: (a) the *non-Federal proportionate share of financial obligations for the study* incurred prior to the commencement of the *period of study*; (b) the projected *non-Federal proportionate share of financial obligations for the study* to be incurred for such contract; and (c) the projected *non-Federal proportionate share of financial obligations for the study* using the Government's own forces through the first quarter. Not later than such scheduled date, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, Seattle District" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by presenting the Government with an irrevocable letter of credit acceptable to the Government for such required funds, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

C. Upon conclusion of the *period of study* and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine *total study costs*, each party's

required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, show that the Non-Federal Sponsor's total required share of *total study costs* exceeds the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Seattle District" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

2. Should the interim or final accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total study costs* exceed the Non-Federal Sponsor's total required share thereof, the Government, subject to the availability of funds and as limited by Article II.B.5. of this Agreement and the *Section 544 Program Limit*, shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund or reimbursement.

ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-

Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by OMB Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Study* shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total study costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VII - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto and Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE VIII - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE IX - TERMINATION OR SUSPENSION

A. Prior to conclusion of the *period of study*, upon 30 calendar days written notice to the other party, either party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that either party elects to suspend future performance under this Agreement pursuant to this paragraph, such suspension shall remain in effect until either the Government or the Non-Federal Sponsor elects to terminate this Agreement.

B. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend future performance under this Agreement unless he determines that continuation of performance of the *Study* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Study*.

C. In the event future performance under this Agreement is suspended pursuant to Article II.C.1. of this Agreement, such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total study costs* the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

D. In the event that one or more of the Non-Federal Sponsors elects to terminate its responsibilities under this Agreement, and the remaining Non-Federal Sponsor(s) elects to continue to participate in the *Study*, the Government shall negotiate in good faith with the remaining Non-Federal Sponsor(s) to effect a timely and productive conclusion to that portion of the *Study* pertaining to the area of statutory authority applicable for the remaining Non-Federal Sponsor(s). The Government shall prepare a revised *PMP* and revised estimate of *total study costs* to complete that portion of the *Study* of interest to the remaining Non-Federal Sponsor(s). If the remaining Non-Federal Sponsor(s) elects to complete the *Study*, this Agreement shall be amended to reflect the negotiated revisions to the scope of the *Study* defined in Article I.A. of this Agreement and the estimate of *total study costs* in Article IV.A.1. of this Agreement. Amendments to this Agreement made pursuant to this paragraph shall reflect credits for the contribution of funds and *non-Federal in-kind contributions* provided previously by all of the *Study* sponsors and shall reflect task reductions made as a result of withdrawal of any *Study* sponsor.

E. In the event that this Agreement is terminated pursuant to this Article, the parties shall conclude their activities relating to the *Study* and conduct an accounting in accordance with Article IV.C. of this Agreement. To provide for this eventuality, the Government may reserve a percentage of total Federal funds made available for the *Study* and an equal percentage of the total funds contributed by the Non-Federal Sponsor in accordance with Article II.B.1.b. of this Agreement as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications. Upon termination of this Agreement, all data and information generated as part of the *Study* shall be made available to the parties to the Agreement.

F. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE X - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

City of Burien Parks Development and Operations Manager
c/o Steve Roemer
425 SW 144th St.
Burien, WA 98166

If to the Government:

Chief, Planning Branch
Seattle District, Corps of Engineers
P.O. Box 3755
Seattle, WA 98124-3755

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XI - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

CITY OF BURIEN, WASHINGTON

BY: _____
Anthony O. Wright
Colonel, Corps of Engineers
District Engineer

BY: _____
Tabatha Miller
Finance Director

DATE: _____

DATE: _____

CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal officer of the **City of Burien**, that the **City of Burien** is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the **City of Burien** in connection with the feasibility study for the **Seahurst Park Phase II Ecosystem Restoration Project**, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the **City of Burien** have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
_____ day of _____ 20__.

CITY OF BURIEN, WASHINGTON

Chris Bacha
City Attorney

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

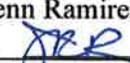
(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CITY OF BURIEN, WASHINGTON

Tabatha Miller
Finance Director

DATE: _____

Agenda Subject: Discussion on City Contribution to a Highline Schools Foundation for Excellence "Pay for Play" Scholarship.		Meeting Date: August 3, 2009
Department: City Manager	Attachments: 1. Letter from Superintendent Welch	Fund Source: 2009 contingency fund in Human Services Funding Activity Cost: N/A Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Jenn Ramirez Robson, Management Analyst		
Telephone: (206) 439-3165		
Adopted Initiative: Yes No X	Initiative Description: n/a	
PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for Council to discuss and consider directing the City Manager to donate \$2,000 from the 2009 contingency fund in Human Services Funding for the purpose of contributing to the Highline Schools Foundation for Excellence Pay-for-Play scholarship account.		
BACKGROUND (Include prior Council action & discussion): On July 16, 2009 the Highline school board announced that it has voted to adopt a "Pay for Play" system, which will charge students a fee for participation in middle school and high school athletics. The Highline school board has resisted instituting a fee for athletics for many years while neighboring districts have done so. However, due to major state funding cuts this year, the board determined that the sports fees were necessary in order to avoid deeper cuts in educational programs. The fees will help cover the rising cost of athletics and enable the district to continue all the athletic programs it currently offers. Without the fee, some sports programs would have to be cut. After the recent move to the new City Hall the City Council had expressed an interest in making a gift to the Highline School District to show their gratitude for the use of the School District Board Room for council meetings over the last several years. Superintendent Welsh sent a letter to the Burien City Council suggesting that the Council may want to consider donating to the Highline Schools Foundation for Excellence Pay-for-Play scholarship program. The scholarship account will help defer the costs for students who wish to play sports but are not able to pay the fees. A donation by the City Council to the Pay-for-Play scholarship account would carry on a strong partnership with the Highline School District. The City Council may also be pleased to know that the Highline School District was able to use approximately \$2,500 worth of office furniture surplus by the City after the recent to the new City Hall.		
OPTIONS (including fiscal impacts): 1. Direct the City Manager to contribute \$2,000 to the Highline Schools Foundation for Excellence Pay-for-Play scholarship account. 2. Do not direct the City Manager to contribute to the Pay-for-Play scholarship account.		
Administrative Recommendation: Direct the City Manager to contribute \$2,000 to the Highline Schools Foundation for Excellence Pay-for-Play scholarship account.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None necessary. Staff is confirming consensus among Council members on this topic.		
Submitted by: Jenn Ramirez Robson Administration 		Mike Martin City Manager 
Today's Date: July 28, 2009		File Code: R:\CC\Agenda Bill 2009\080309cm-1 Pay-for-Play.docx



Highline Public Schools

District 401

Educational Resource and Administrative Center
15675 Ambaum Boulevard Southwest
Burien, Washington 98166
www.hsd401.org • 206.433.0111

RECEIVED

JUL 17 2009

CITY OF BURIEN

Board of Directors

July 16, 2009

Bernie Dorsey

Mayor Joan McGilton
Burien City Council
400 SW 152nd Street, Suite 300
Burien, WA 98166

Susan Goding

Sili Savusa

Dear Mayor McGilton:

Julie Burr Spani

First of all, congratulations on moving into your new facility at the Town Square; your office building is beautiful.

Michael D. Spear

I want to thank you for your interest in making a gift to the district for your use of our Board Room these past several months.

Superintendent

John P. Welch

After giving the matter some thought, I would like to suggest that you give a donation to the Highline Schools Foundation for Excellence, and designate the money to be used for their Pay-for-Play scholarship account. Your donation would help defer costs for those students that wish to play sports but do not have the financial resources.

As a result of budget reductions, the district has established a pay-for-play fee structure for students wishing to participate in middle and high school sports. The Highline Schools Foundation for Excellence will be establishing a fund to assist students if they are unable to pay the fee. A gift from the City of Burien would start this fund and be available for students this fall.

Thank you for your thoughtful offer. It was a pleasure assisting you during the last couple of years.

Sincerely,


John P. Welch
Superintendent

Cc: Mike Martin, Burien City Manager

