



## City of Lake Stevens Vision Statement

*By 2030, we are a sustainable community around the lake with a vibrant economy, unsurpassed infrastructure and exceptional quality of life.*

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### CITY COUNCIL SPECIAL MEETING AGENDA

Lake Stevens Community Center  
12309 – 22<sup>nd</sup> Street NE, Lake Stevens

Tuesday, February 19, 2019 – 7:00 p.m.

**NOTE: WORKSHOP ON VOUCHERS AT 6:45 P.M.**

<b>CALL TO ORDER</b>	7:00 p.m.	Mayor
<b>PLEDGE OF ALLEGIANCE</b>		Mayor
<b>ROLL CALL</b>		
<b>APPROVAL OF AGENDA</b>		Council President
<b>CITIZEN COMMENTS</b>		
<b>COUNCIL BUSINESS</b>		Council President
<b>MAYOR'S BUSINESS</b>		
<b>CITY DEPARTMENT REPORT</b>	Update	
<b>CONSENT AGENDA</b>	*A Second and Final Reading of Ordinance 1041 Approving Rhodora Annexation	Josh M.
<b>PUBLIC HEARING:</b>	*B City Right of Way Vacation 99 <sup>th</sup> Avenue SE and 20 <sup>th</sup> Street SE	Russ
<b>ACTION ITEMS:</b>	*C Approve Resolution 2019-08 Amending Surplus Real Property Inventory	Russ
	*D Approve Real Estate Purchase and Sale Agreement with Tim Kaintz re Nursery Property	Gene
<b>DISCUSSION ITEMS:</b>		

**Lake Stevens City Council Special Meeting Agenda**

**February 19, 2019**

**EXECUTIVE SESSION:**           Collective Bargaining  
                                          Real Property Acquisition

**ADJOURN**

* ITEMS ATTACHED	** ITEMS PREVIOUSLY DISTRIBUTED	# ITEMS TO BE DISTRIBUTED
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**THE PUBLIC IS INVITED TO ATTEND**

**Special Needs**

*The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Human Resources, City of Lake Stevens ADA Coordinator, (425) 622-9400, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.*

**NOTICE: All proceedings of this meeting are audio recorded, except Executive Sessions.**



LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 19, 2019

**Subject:** Second reading of Ordinance No. 1041, Annexing the properties contained within the Rhodora 60% Annexation Petition and adopting Comprehensive Plan Designation and Zoning for the annexed parcels.

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<b>Contact</b>	Joshua Machen, AICP, Planning Manager	<b>Budget</b>	none
<b>Person/Department:</b>	<u>Russ Wright, Community Dev. Director</u>	<b>Impact:</b>	<u></u>

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

Adopt Ordinance No. 1041, annexing the properties contained within the Rhodora 60% Annexation Petition and adopt Comprehensive Plan Designation and Zoning for the annexed parcels, requiring the assumption of a proportionate share of all existing City indebtedness.

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**DISCUSSION:**

On December 12, 2017, the City Council passed Resolution 2017-022 accepting the 10% Rhodora Annexation petition and authorizing the gathering of signatures for the 60% annexation petition. On May 9, 2018, the City submitted the 60% annexation petition with signatures from property owners representing more than 60% assessed valuation of the properties contained within the proposed annexation area to the County Assessor's office. The Snohomish County Assessor's office has validated the 60% petition.

The property is approximately 93 acres and the signed petitioners own over 60% of the land value within the proposed annexation area. The proposed annexation area lies within unincorporated Snohomish County, and may generally be described as an area located just east of Lake Stevens city limits, which is at the parcels located on the northeast corner of South Lake Stevens Road and Machias Cutoff Rd. The proposed annexation extends north along the shore of Lake Stevens approximately 680 feet, then extends to the east to 123rd Avenue then south to Machias Cutoff Road including all the land and subdivisions bounded by 123rd Ave, Machias Cut off and South Lake Stevens Road. Said unincorporated area is within the City of Lake Stevens Urban Growth Area.

In accordance with the adopted resolution 2017-022, the proposed zoning for the Rhodora Annexation area is proposed to be HUR (High Urban Residential) with a land use designation of Medium Density Residential.

On October 1, 2018, the Washington State Boundary Review Board for Snohomish County held a public hearing on the proposed annexation. The Boundary Review Board then issued written findings and decision approving the annexation on October 30, 2018. A timely appeal was filed with the Snohomish County Superior Court on November 29, 2018. On February 5, 2019 the court ruled in favor of the City denying the appeal.

On December 11, 2018, the City Council held a second public hearing on the proposed annexation and adoption of comprehensive plan designations/zoning districts for the Rhodora Annexation. In addition, the

City Council had the first reading of Ordinance #1041. At the recommendation of the City Attorney the ordinance has been simplified to remove any proposed development restrictions. Instead development restrictions will be negotiated with the developer at the time of the submittal of a land use application.

**ATTACHMENTS**

1. Revised Ordinance No. 1041 with Exhibits

**City of Lake Stevens  
Lake Stevens, WA****ORDINANCE NO. 1041**

**AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON ANNEXING APPROXIMATELY ONE HUNDRED AND EIGHT (108) ACRES KNOWN AS THE “RHODORA ANNEXATION,” INTO THE CITY PURSUANT TO RCW 35A.14.120; ASSIGNING ZONING AND COMPREHENSIVE PLAN DESIGNATIONS UPON ANNEXATION; REQUIRING ASSUMPTION OF A PROPORTIONATE SHARE OF CITY INDEBTEDNESS AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, The Lake Stevens City Council (Council) adopted Ordinance No. 937 establishing the 2015 – 2035 Comprehensive Plan that sets planning goals, policies and implementation strategies for the Lake Stevens Urban Growth Area (UGA) pursuant to Chapter 36.70A RCW; and

WHEREAS, the City of Lake Stevens (City) and Snohomish County entered an updated Interlocal Agreement related to Annexation and Urban Development in the Lake Stevens UGA recorded under Auditors File No. 200511100706 on November 10, 2005; and

WHEREAS, the City Council has reviewed the City’s annexation strategy to determine whether it is consistent with current practices, policies and procedures and thus, the City Council adopted Resolution 2016-21; and

WHEREAS, pursuant to RCW 35A.14.120 the City Council adopted resolution 2017-022 accepting a 10% petition, authorizing the circulation of a 60% petition for annexation and designating comprehensive plan and zoning for the proposed “Rhodora” annexation area; and

WHEREAS, pursuant to RCW 35A.14.120, the petitioner obtained the signatures of property owners representing more than 60% of the current total assessed value of all parcels within the proposed annexation area legally described in attached Exhibit A; and

WHEREAS, pursuant to RCW 35A.01.040 the Snohomish County Assessor’s Office on May 10, 2018, certified the 60% petition as sufficient; and

WHEREAS, the annexation area being contiguous with the existing City limits and within unincorporated Snohomish County, and may generally be described as an area of approximately one hundred and eight (108) acres, located just east of Lake Stevens city limits, which is at the parcels located on the northeast corner of South Lake Stevens Road and Machias Cutoff Rd. The proposed annexation extends north along the shore of Lake Stevens approximately 680 feet, then extends to the east to 123rd Avenue then south to Machias Cutoff Road including all the land and subdivisions bounded by 123rd Ave, Machias Cut off and South Lake Stevens Road. Said unincorporated area is within the City of Lake Stevens Urban Growth Area.; and

WHEREAS, on June 12, 2018 a properly noticed public hearing was to be held, but due to a lack of quorum, the hearing was postponed to the following special council meeting on June 19, 2018 and persons who wished to provide testimony were heard. At that hearing the City Council considered the

Rhodora Annexation, land use and zoning designations, and then issued a Notice of Intent to Annex and adopt land use and zoning designations for the annexed parcels by adopting Resolution 2018-018 and;

WHEREAS, on June 29, 2018 the City submitted a Notice of Intent to the Snohomish Boundary Review Board and the Board reviewed said Notice and associated materials and deemed said Notice of Intent complete issuing an effective filing date of July 17, 2018; and

WHEREAS, on August 16, 2018, the jurisdiction of the Washington State Boundary Review Board for Snohomish County was invoked under RCW 36.93.100(3a); and

WHEREAS, on September 25, 2018 a properly noticed public hearing was held to allow for additional public testimony on the proposed annexation prior to a hearing before the Boundary Review Board, pursuant to RCW 35A.14.130 and all persons who wished to provide testimony were heard. At that hearing the City Council considered the Rhodora Annexation, land use and zoning designations, and reaffirmed their previous action to submit a Notice of Intent to Annex to the Boundary Review Board and adopt land use and zoning designations for the annexed parcels by the previous adoption of Resolution 2018-018 and;

WHEREAS, on October 1, 2018, the Washington State Boundary Review Board for Snohomish County held a duly notice public hearing on the “Rhodora” annexation and took public comment from representatives of the City of Lake Stevens, representatives of Snohomish County, parties opposed to the annexation who invoked the jurisdiction of the board, and other parties and public opposed and in favor of the annexation; and

WHEREAS, on October 30, 2018 the Washington State Boundary Review Board for Snohomish County adopted formal written findings approving the “Rhodora” annexation into the City of Lake Stevens finding that the “Rhodora” annexation (1) was consistent with the planning goals set forth in RCW 36.70A.020; (2) satisfied the Urban Growth requirement under RCW 36.70A.110; (3) adequately addressed the annexation factors as set forth in RCW 36.93.170; and (4) furthered the annexation objectives as set forth in RCW 36.93.180; and

WHEREAS, the City Council conducted an additional duly noticed public hearing on December 11, 2018, to consider the proposed annexation and the assignment of zoning and comprehensive plan designation by the adoption of this Ordinance No. 1041,

WHEREAS, on February 5, 2019 the Snohomish County Superior Court dismissed with prejudice an appeal of the “Rhodora” annexation which was filed on November 29, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Annexation. The property described in attached Exhibit A and depicted in attached Exhibit B, is hereby annexed into the City of Lake Stevens.

SECTION 2. The area legally described in attached Exhibits A and B shall be required to assume it’s proportionate share of the general indebtedness of the City of Lake Stevens at the time of the effective date of such annexation.

SECTION 3. The area described in attached Exhibits A and B, shall be designated in the City’s Comprehensive Plan as MDR (Medium Density Residential) and the on the City’s Official Zoning Map as HUR (High Urban Residential) and WR (Waterfront Residential) as depicted in attached Exhibit C.

SECTION 4. Severability. If any section, clause, phrase, or term of this ordinance is held for any reason to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, and the remaining portions shall be in full force and effect.

SECTION 5. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after the date of publication.

SECTION 6. Upon passage of this ordinance a certified copy shall be transmitted to the Clerk of the Snohomish County Council as required by RCW 35A.14.440.

PASSED by the City Council of the City of Lake Stevens this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
John Spencer, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:

First Reading: December 11, 2018  
Second and Final Reading: February 19, 2019  
Date of Publication: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Greg A. Rubstello, City Attorney

Exhibit A

**ANNEXATION DESCRIPTION**

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 29 NORTH, RANGE 6 EAST, W.M., AND OF SECTION 20, TOWNSHIP 29 NORTH, RANGE 6 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON

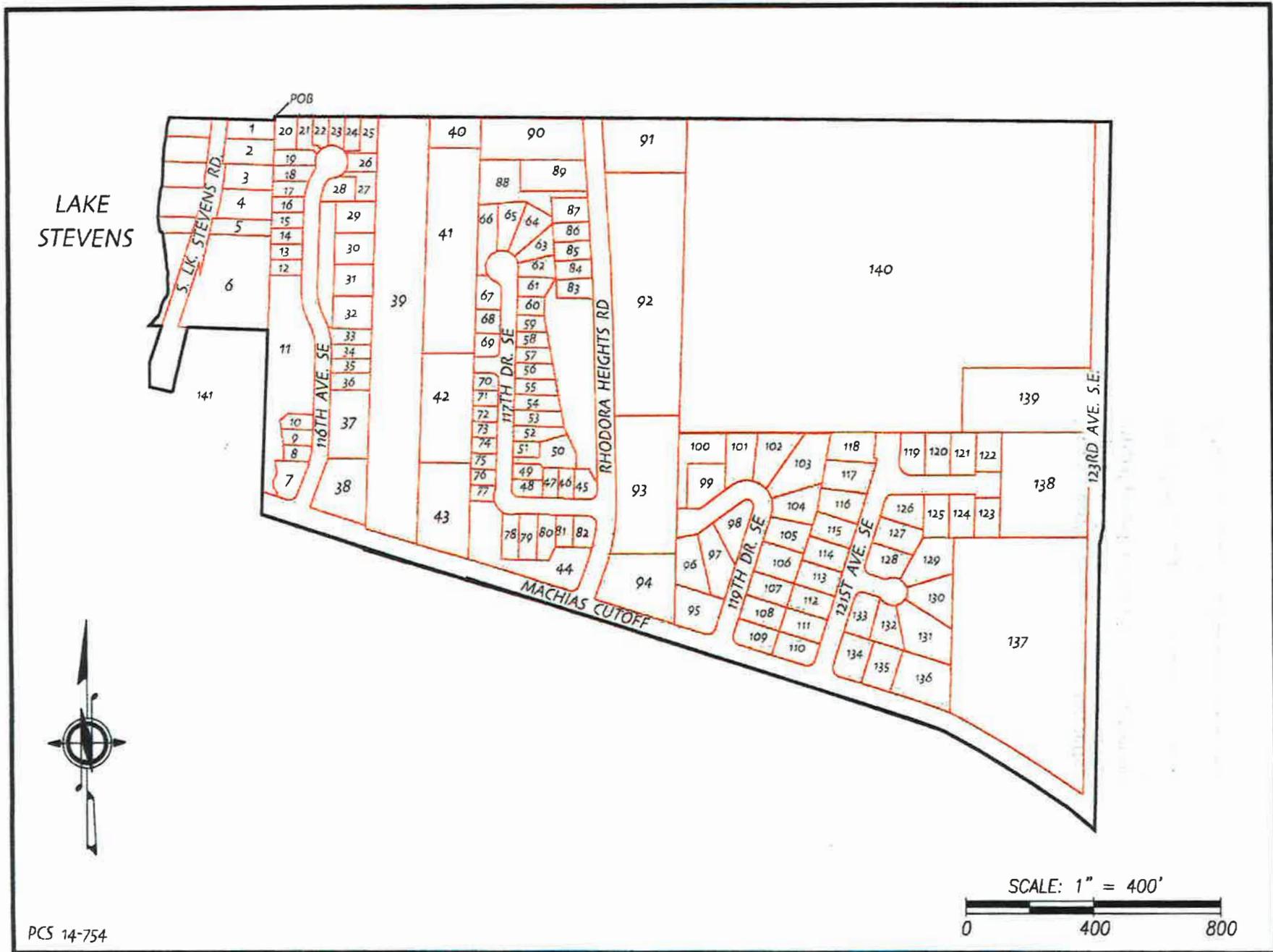
DESCRIBED AS FOLLOWS;

**BEGINNING** AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20;  
**THENCE** SOUTH ALONG THE WEST LINE OF SAID SUBDIVISION 12.60 FEET, MORE OR LESS TO A POINT ON A LINE LYING 1,356.3 FEET SOUTHERLY OF THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 19;  
**THENCE** WESTERLY ALONG SAID LINE TO THE WESTERLY LIMITS OF THE SHORELANDS OF THE UPLAND PROPERTY ATTACHED THERETO;  
**THENCE** SOUTHERLY ALONG SAID SHORELANDS TO THE NORTH LINE OF THE EXISTING LAKE STEVENS CITY LIMITS PER CORRECTED ORDINANCE NUMBER 801;  
**THENCE** EAST ALONG SAID NORTH LINE 39 FEET, MORE OR LESS, TO THE WEST MARGIN OF SOUTH LAKE STEVENS ROAD;  
**THENCE** SOUTHERLY ALONG SAID MARGIN 200 FEET, MORE OR LESS, CONTINUING ALONG THE EXISTING CITY LIMITS;  
**THENCE** SOUTHEASTERLY A DISTANCE OF 74 FEET, MORE OR LESS, TO THE EAST MARGIN OF SOUTH LAKE STEVENS ROAD;  
**THENCE** NORTHERLY ALONG SAID EAST MARGIN A DISTANCE OF 213 FEET, MORE OR LESS;  
**THENCE** EASTERLY A DISTANCE OF 253 FEET, MORE OR LESS, TO THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20;  
**THENCE** SOUTH ALONG SAID WEST LINE A DISTANCE OF 585 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERN MARGIN OF MACHIAS CUT OFF ROAD;  
**THENCE** SOUTHEASTERLY ALONG SAID SOUTHERN MARGIN A DISTANCE OF 2,825 FEET, MORE OR LESS, TO A POINT ON THE EAST MARGIN OF 123<sup>RD</sup> AVENUE SE EXTENDED SOUTHERLY TO INTERSECT WITH THE SOUTHERN MARGIN OF MACHIAS CUT OFF ROAD;  
**THENCE** NORTH ALONG SAID EXTENDED EAST MARGIN A DISTANCE OF 2,243 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 20;  
**THENCE** WEST ALONG SAID NORTH LINE A DISTANCE OF 30 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 20;  
**THENCE** WEST ALONG THE NORTH LINE OF SAID SOUTH HALF A DISTANCE OF 2,610 FEET, MORE OF LESS, TO THE POINT OF BEGINNING;

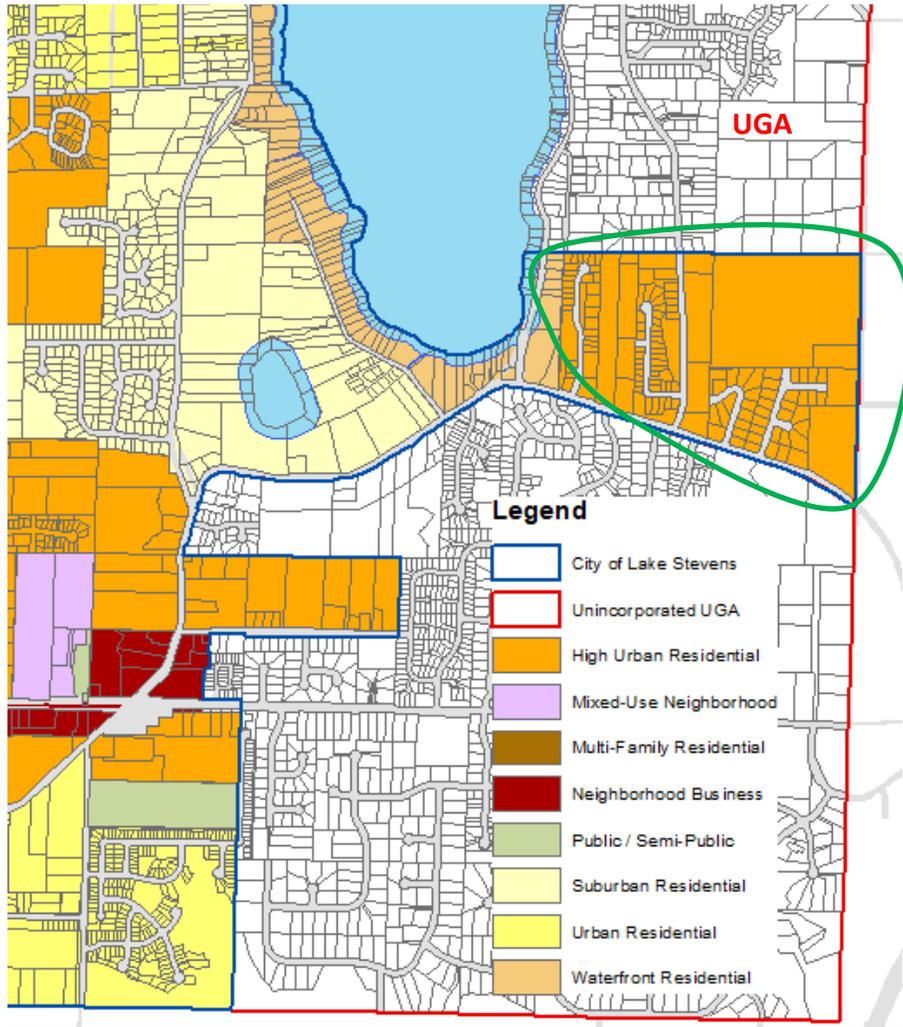
SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

CONTAINING APPROXIMATELY 108 ACRES.

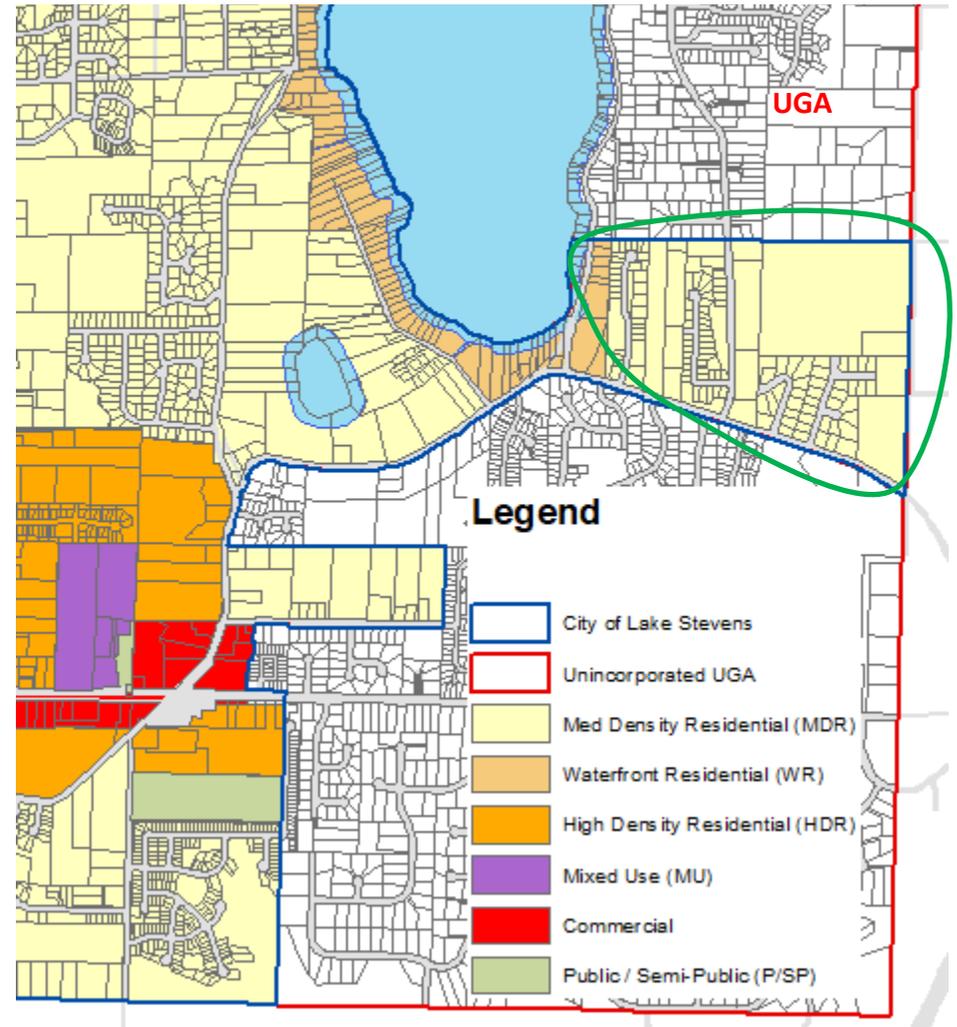
Exhibit B



### Rhodora Zoning



### Rhodora Land Use





LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 19, 2019

**Subject:** City Right-of-Way Vacation 99th AVE SE/20<sup>th</sup> ST SE LUA2019-0021 (Ordinance No. 1049)

<b>Contact</b>	Russell Wright, Community Development	<b>Budget</b>	revenue
<b>Person/Department:</b>	<u>Director</u>	<b>Impact:</b>	<u>neutral</u>

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:** Approve the proposed Right-of-Way Vacation by adoption of Ordinance 1049 (**Attachment 1**).

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**BACKGROUND/HISTORY:**

As the city was reviewing the title status of the two parcels pending sale, Chicago Title notified the city that the remnant of parcel 290619003-0028-01 is still considered ROW as it was transferred to the city from Snohomish County. To clear title, the city is proposing to vacate the remainder of parcel 290619003-0028-01 (approximately 6, 620 square feet) and attach it to the adjoining parcel 290619003-021.

Since the vacated right-of-way is being vacated and attached to a city-owned parcel no valuation or compensation is necessary.

The requested project is a Type V permit subject to a public hearing with City Council. The public hearing was properly published in the newspaper and properly posted.

**ANALYSIS:**

1. The city received a Type V application, identified as File No. LUA2019-0021, and survey on January 24, 2019.
2. The city provided public notice for the land use action and hearing by publication in the Everett Herald; mailing postcards to residents within 300-feet of the properties; and posting the site on January 26, 2019, in accordance with Chapter 14.16B LSMC, Part V.
3. LSMC 14.16C.095 establishes the procedure and decision criteria for right-of-way vacations. The city provided a narrative responding to LSMC 14.16C.095 with the application.
  - a. The city's consultant has provided a survey and legal descriptions for the affected portions of the properties under review (**Ordinance Exhibit A & B**). The Public Works Department has reviewed and accepted the consultants work.
  - b. Decision Criteria (LSMC 14.16C.095):
    - (i) The City Council may vacate any street, alley or any parts thereof, if any portion thereof abuts any body of fresh water, when such vacation is sought to enable the City or State to acquire the property for boat moorage or launching sites, park, viewpoint, recreational, or educational purposes or other public uses. *This criterion is not applicable, as the property does not adjoin any fresh water body.*

- (ii) The City Council shall use the following criteria for deciding upon the petition:
- (a) The vacation will provide a public benefit, and/or will be for a public purpose; *The proposal would provide a public benefit by eliminating maintenance responsibility of unused right-of-way and attach the land to an existing city owned parcel, which then can be used by the city for public purposes or sold.*
  - (b) The right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole. *The proposal would not affect traffic circulation as the right-of-way of 99<sup>th</sup> Ave SE and 20<sup>th</sup> St. SE 18<sup>th</sup> St. SE would continue to have a 30-foot half-street width for 99<sup>th</sup> and a 50-foot half-street width for 20<sup>th</sup>, which is sufficient for the future street plans.*
  - (c) The public need shall not be adversely affected; *The ROW vacation does not affect adversely affect the public need.*
  - (d) The right-of-way is not contemplated or needed for future public use. *The ROW vacation does not affect adversely affect the public need.*
  - (e) No abutting owner will become landlocked or its access will not be substantially impaired. *The vacation will not affect ingress or egress to any property.*
4. The ordinance upon approval will be recorded with Snohomish County along with the record of survey

**CONCLUSIONS:**

1. The proposal meets the procedural and noticing requirements for Type V permits per Chapters 14.16A and 14.16B LSMC; and
2. The proposal meets the criteria to approve a right-of-way vacation per LSMC 14.16C.095.

**RECOMMENDATION**

The Planning and Community Development and Public Works departments recommend that City Council **APPROVE** the proposed Right-Of-Way Vacation (LUA2019-0021) subject to Ordinance 1049.

**APPEALS**

The decision of the City Council on a Type V application is the final decision and may be appealed to Snohomish County Superior Court by filing a land use petition, which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within 21-days as set forth in RCW 36.70C.040. The appeal period shall commence upon the City Council's final decision and not upon expiration of the reconsideration period.

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**APPLICABLE CITY POLICIES:** Lake Stevens Municipal Code 14.16C.095 – Right-of-Way Vacation and Chapter 14.16B LSMC, Part V – Type V Review - Quasi-Judicial, City Council Decisions

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**BUDGET IMPACT:** None, both parcels are owned by the city.

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**ATTACHMENTS:**

1. Ordinance 1049 w/Exhibits

Attachment 1

**CITY OF LAKE STEVENS  
Lake Stevens, Washington  
ORDINANCE NO. 1049**

**AN ORDINANCE OF THE CITY OF LAKE STEVENS PROVIDING FOR A RIGHT-OF-WAY VACATION OF APPROXIMATELY 6,620 SQUARE FEET OF LAND BETWEEN CITY OWNED PARCEL 290619003-021 AND ADJACENT IMPROVED CITY RIGHT-OF-WAY (99<sup>TH</sup> AVE SE AND 20<sup>TH</sup> ST SE) IDENTIFIED AS TAX ASSESSOR PARCEL NUMBER 290619003-0028-01); ADOPTING FINDINGS AND CONCLUSIONS; PROVIDING FOR THE RIGHT OF WAY VACATION AND RECOGNITION OF THE VACATED RIGHT OF WAY BELONGING TO THE ADJACENT CITY PARCEL; AND FURTHER PROVIDING FOR THE RECORDING OF THIS ORDINANCE AND RIGHT OF WAY SURVEY, SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION BY ORDINANCE TITLE**

**WHEREAS**, the City of Lake Stevens is the owner of 99<sup>TH</sup> AVE SE AND 20<sup>TH</sup> ST SE public right-of-way located north and east of the intersection of those two roads; and

**WHEREAS**, the City of Lake Stevens is the owner of Parcel Number 290619003-021, and did petition the City Council to vacate portions of 99<sup>TH</sup> AVE SE AND 20<sup>TH</sup> ST SE identified as Parcel Number 290619003-0028-01 , described and shown in **Exhibit A and legally described in Exhibit B**, in accordance with the provisions of Lake Stevens Municipal Code (LSMC) 14.16C.095; and

**WHEREAS**, Right-of-way vacations are Type V (quasi-judicial) land use permits subject to public notice and a public hearing before the City Council; and

**WHEREAS**, Planning and Community Development staff prepared a staff report for City Council's consideration describing the project and provided an analysis, conclusions and recommendations in coordination with the Public Works Department; and

**WHEREAS**, Public notice for the land use action and hearing was provided by publication in the Everett Herald, mailing postcards to residents within 300-feet of the properties; and posting the site on January 25, 2019, in accordance with Chapter 14.16B LSMC, Part V; and

**WHEREAS**; The Lake Stevens City Council held a public hearing on February 19, 2019 to receive public comment and testimony, in accordance with Chapter 14.16B LSMC, Part V; and

**WHEREAS**, Following the public hearing the City Council upon deliberation has determined the vacation of right of way is in the public interest and should be approved,

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

**Section 1.** The City Council hereby adopts the above recitals as findings and further adopts the following findings and conclusions, in addition to the analysis, conclusions and recommendations contained in the staff report dated February 6, 2019 in support of the proposed request:

**ANALYSIS:**

1. The city received a Type V application and supporting materials on January 24, 2019, identified as File No. LUA2019-0021, which staff deemed complete on January 24, 2019.
2. The city provided public notice for the land use action and hearing by publication in the Everett Herald, mailing postcards to residents within 300-feet of the properties, posting the notice on city campus bulletin boards, publishing on the city website and posting the site on January 26, 2019 in accordance with Chapter 14.16B LSMC, Part V.
3. LSMC 14.16C.095 establishes the procedure and decision criteria for right-of-way vacations. Staff has addressed the decision criteria in the staff report.
  - a. The city's consultant has provided a survey and legal descriptions for the affected portions of the properties under review.
  - b. Decision Criteria pursuant to LSMC 14.16C.095(f):
    - 1) This criterion is not applicable, as the property does not adjoin any fresh water body.
    - 2) Responses to City Council criteria for deciding upon the petition:
      - i. The proposal would provide a public benefit by eliminating maintenance responsibility of unused right-of-way and attach the land to an existing city owned parcel, which then can be used by the city for public purposes or sold.
      - ii. The proposal would not affect traffic circulation as the right-of-way of 99<sup>th</sup> Ave SE and 20<sup>th</sup> ST. SE 18<sup>th</sup> St. SE would continue to have a 30-foot half-street width for 99<sup>th</sup> and a 50-foot half-street width for 20<sup>th</sup>, which is sufficient for the future street plans.
      - iii. The public need will not be adversely affected as a result of the vacation as this area provides not current benefit of use.
      - iv. The City has no planned use of the subject right-of-way for public use.
      - v. No abutting owner will become landlocked nor will any abutting owner have their access impaired.
  - c. The ordinance upon approval will be recorded with Snohomish County along with the record of survey.

**CONCLUSIONS:**

1. The proposal has met the procedural and noticing requirements for Type V permits per Chapters 14.16A and 14.16B LSMC.
2. The proposal meets the criteria to approve a Right-of-Way vacation per LSMC 14.16C.095.

3. The city’s consulting has prepared the legal descriptions and survey.

**Section 2.** The city of Lake Stevens does hereby vacate the portions of 99<sup>TH</sup> AVE SE AND 20<sup>TH</sup> ST SE (parcel number 290619003-0028-01), described and shown in **Exhibit A and B** to the City Lake Stevens, the adjacent landowner, to become part of the City’s parcel; and

**Section 3.** Pursuant to LSMC 14.16C.095 (g) after the effective date of this Ordinance, the City Clerk or designee will confirm that the City has recorded the record of survey for the right-of-way vacation and a certified copy of Ordinance 1049 in the records of the Snohomish County Auditor, provided a conformed copy of the recorded Ordinance to the County Assessor, and returned conformed copies of the same to the Lake Stevens Planning and Community Development Department; and

**Section 4.** Severability. If any section, subsection, sentence, clause, phrase or work of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance; and

**Section 5.** Effective Date. This Ordinance shall take effect five (5) days after passage and summary publication of this Ordinance consisting of the title of this ordinance.

PASSED by the City Council of the City of Lake Stevens this 19 day of February 2018.

\_\_\_\_\_  
John Spencer, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:

First and Final Reading: February 19, 2019

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Greg A. Rubstello, City Attorney

**EXHIBIT A**

**RECORD OF SURVEY FOR  
RIGHT-OF-WAY VACATION**

A PORTION OF SEC 19, TWP 29 N, RGE 6 E, W.M. IN SNOHOMISH COUNTY, WA.

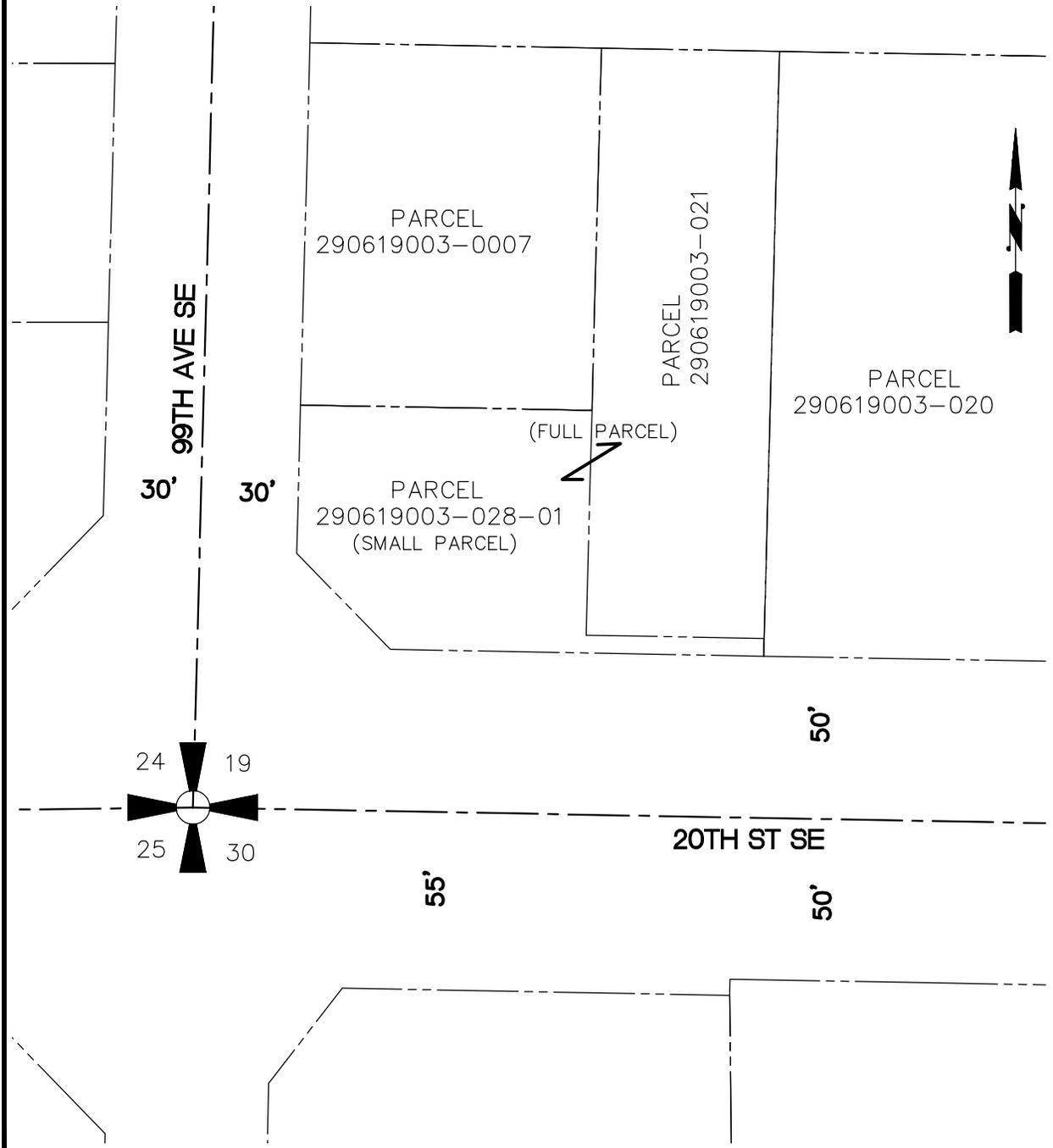


EXHIBIT "A" CITY OF LAKE STEVENS RECORD OF SURVEY FOR RIGHT OF WAY VACTION LEGAL DESCRIPTION	 <b>CHS ENGINEERS</b> 12507 Bel-Red RD., Suite 101, Bellevue, WA 98005 www.chsengineers.com Ph: 425-637-3693	Scale 1"=50'
	Drawn by <u>JPC</u> Project # <u>371821</u> Checked by <u>RL</u> Date <u>2/6/19</u>	Sheet 1 / 1

**EXHIBIT B**  
**LEGAL DESCRIPTION OF RIGHT-OF-WAY VACATION AREA**

## LEGAL DESCRIPTION FULL PARCEL

The South 237 feet of the West 355 feet of the South Half of the Southwest quarter of Government Lot 4, Section 19, Township 29 North, Range 6 East, W.M., in Snohomish County, Washington;

EXCEPT The East 180 feet thereof, and

EXCEPT the North 112 feet of the South 237 feet of the West 120 feet thereof, and

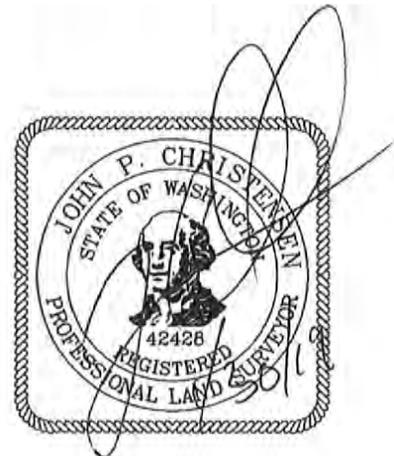
EXCEPT the West 30 feet conveyed to Snohomish County for Road by Deed Recorded under Recording number 176514, and

EXCEPT the South 30 feet conveyed to Snohomish County for road by Deed recorded under Recording Number 32209, and

EXCEPT portion of property herein described Deeded to Snohomish County per Deed Recorded under Recording number 7909270219

EXCEPT That portion of the Southwest quarter of Government Lot 4, Section 19, Township 29 North, Range 6 East, W.M., in Snohomish County, Washington, described as follows: Commencing at the southwest corner of said Section 19; Thence along the south line of said Section 19, South 88° 56' 52" East 175.01 feet to a point on a line parallel to the west line of said Section 19 and 175 feet distant, as measured at right angles; Thence along said parallel line, North 01° 29' 31" East, 30.00 feet to the north right of way of 20<sup>th</sup> Street SE and the True Point of Beginning; Thence continuing North 01° 29' 31" East, 20.00 feet; Thence Parallel to the south line of said Section, North 88° 56' 52" West 115.38 feet; Thence North 44° 10' 51" West 41.42 feet to the east right of way of 99<sup>th</sup> Avenue SE; Thence along said right of way South 01° 29' 31" West 19.17 feet; Thence continuing along said right of way, South 51° 54' 58" East 49.82 feet to the north right of way of said 20<sup>th</sup> Avenue SE; Thence along said right of way South 88° 56' 52" East 105.00 feet to the True Point of Beginning.

Situate in the County of Snohomish, State of Washington.



## LEGAL DESCRIPTION SMALL PARCEL

The South 237 feet of the West 355 feet of the South Half of the Southwest quarter of Government Lot 4, Section 19, Township 29 North, Range 6 East, W.M., in Snohomish County, Washington;

EXCEPT The East 180 feet thereof, and

EXCEPT the North 112 feet of the South 237 feet of the West 120 feet thereof, and

EXCEPT the West 30 feet conveyed to Snohomish County for Road by Deed Recorded under Recording number 176514, and

EXCEPT the South 30 feet conveyed to Snohomish County for road by Deed recorded under Recording Number 32209, and

EXCEPT portion of property herein described Deeded to Snohomish County per Deed Recorded under Recording number 7909270219

EXCEPT That Portion of South 237 feet of the West 355 feet of the South ½ of the SW ¼ of Government Lot 4 of Said Section 19 being more particularly described as follows: Commencing at the Southwest Section Corner of Said Section 19, From Which W ¼ Corner of Said Section Bears N 01° 29' 31" E 2632.60 feet; Thence along the west line SW ¼ Said Section 50.04 feet; Thence N 89° 15' 51" E 120.09 feet to the True Point of Beginning; Thence continuing N 89° 15' 51" E 55.05 feet; Thence N 01° 29' 31" E parallel with the west line of the SW ¼ of said Section 181.51 feet; Thence N 88° 56' 52" W 55.01 feet; Thence S 01° 29' 31" W 183.22 feet to the True Point of Beginning.

EXCEPT That portion of the Southwest quarter of Government Lot 4, Section 19, Township 29 North, Range 6 East, W.M., in Snohomish County, Washington, described as follows: Commencing at the southwest corner of said Section 19; Thence along the south line of said Section 19, South 88° 56' 52" East 175.01 feet to a point on a line parallel to the west line of said Section 19 and 175 feet distant, as measured at right angles; Thence along said parallel line, North 01° 29' 31" East, 30.00 feet to the north right of way of 20<sup>th</sup> Street SE and the True Point of Beginning; Thence continuing North 01° 29' 31" East, 20.00 feet; Thence Parallel to the south line of said Section, North 88° 56' 52" West 115.38 feet; Thence North 44° 10' 51" West 41.42 feet to the east right of way of 99<sup>th</sup> Avenue SE; Thence along said right of way South 01° 29' 31" West 19.17 feet; Thence continuing along said right of way, South 51° 54' 58" East 49.82 feet to the north right of way of said 20<sup>th</sup> Avenue SE; Thence along said right of way South 88° 56' 52" East 105.00 feet to the True Point of Beginning.

Situate in the County of Snohomish, State of Washington.





LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda Date:** February 19, 2018

**Subject:** Resolution No. 2018-08 Amendment to Surplus Real Property Inventory

<b>Contact</b>	Russ Wright, Community Development	<b>Budget</b>	Revenue
<b>Person/Department:</b>	<u>Director and</u>	<b>Impact:</b>	<u>from sales</u>

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL:**

**Approve Resolution 2018-08** – A resolution authorizing the City Council to surplus real property and authorizing the mayor or designee to convey or sell real property pursuant to Chapter 2.98 LSMC.

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**SUMMARY/BACKGROUND:**

Prior to the Lake Stevens' Southwest annexation, Snohomish County acquired several parcels along the 20th Street SE corridor for a road widening project. Lake Stevens Municipal Code (LSMC) 2.98.010 authorizes the City Council to surplus real property when it is not needed for some present or future municipal use and if it can be sold for a reasonable return. Through Resolutions 2016-18 and 2018-07, the city formally surplused these properties.

Staff is requesting that City Council declare the property commonly referred to as the Nursery Property (Assessor Parcel No. 00431400300202) surplus. The Public Works Director and Community Development Director have determined the property is not needed for present or future use and should be returned to the tax rolls.

This site has been identified as a potential location for a Food Bank and Community Services building that will be addressed under a separate action.

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**APPLICABLE CITY POLICIES:** Chapter 2.98 LSMC

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**BUDGET IMPACT:** Revenue from sales will be put in a dedicated capital fund for infrastructure improvements within the 20<sup>th</sup> Street SE Corridor subarea

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**ATTACHMENTS:**

- ▶ Exhibit A: Resolution 2019-08

**RESOLUTION NO. 2019-08**

**A RESOLUTION OF THE CITY OF LAKE STEVENS, WASHINGTON  
AUTHORIZING THE CITY COUNCIL TO SURPLUS ASSESSOR PARCEL NO.  
00431400300202, COMMONLY REFERRED TO AS THE NURSERY  
PROPERTY, ALONG THE 20<sup>TH</sup> STREET SE CORRIDOR AND AUTHORIZING  
THE MAYOR OR DESIGNEE TO CONVEY OR SELL REAL PROPERTY  
PURSUANT TO CHAPTER 2.98 OF THE LAKE STEVENS MUNICIPAL CODE.**

WHEREAS, prior to the Southwest annexation Snohomish County acquired several parcels of real property along 20<sup>th</sup> Street SE corridor as part of a road widening project; and

WHEREAS, the County has transferred and conveyed said parcels or real property identified to the City following the Southwest annexation; and

WHEREAS, Lake Stevens Municipal Code (LSMC) 2.98.010 authorizes the City Council to surplus real property when it is not needed for some present or future municipal use and if it can be sold for a reasonable return; and

WHEREAS, LSMC 2.98.020 authorizes the Mayor to dispose of surplus property for a reasonable return or to benefit the public interest by sealed bid, auction, negotiated sale or special disposition; and

WHEREAS, the City Council has determined that the property identified in Exhibit A is no longer needed for present or future municipal uses; and

WHEREAS, the City Council deems it to be in the public interest to sell or convey real property where the property is no longer useful to the City; and

WHEREAS, any proceeds from the sale of this property will go into a dedicated capital project fund to be spent on infrastructure improvements within the 20<sup>th</sup> Street SE Corridor subarea, including but not limited to road improvements, pedestrian improvements and/or stormwater improvements; and

WHEREAS, for reporting purposes, local governments should use capital project funds to account for the accumulation of resources that are restricted, committed, or assigned for expenditure for capital outlays

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF LAKE STEVENS, WASHINGTON AS FOLLOWS:

Section 1. The City Council hereby authorizes the Mayor or the Mayor's designee to sell or dispose of the property identified in Exhibit A according to the provisions of Chapter 2.98 LSMC including determining fair market value and appropriate process for disposition thereof.

Section 2. The City Council hereby resolves that the proceeds from surplus property sales should be set aside in a capital project fund to pay for public infrastructure improvements including but not limited to

road improvements, pedestrian improvements and/or stormwater improvements within the 20<sup>th</sup> Street SE Corridor subarea.

PASSED by the City Council of the City of Lake Stevens, Washington this 19<sup>th</sup> day of February, 2019.

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John Spencer, Mayor

ATTEST:

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Kathy Pugh, City Clerk

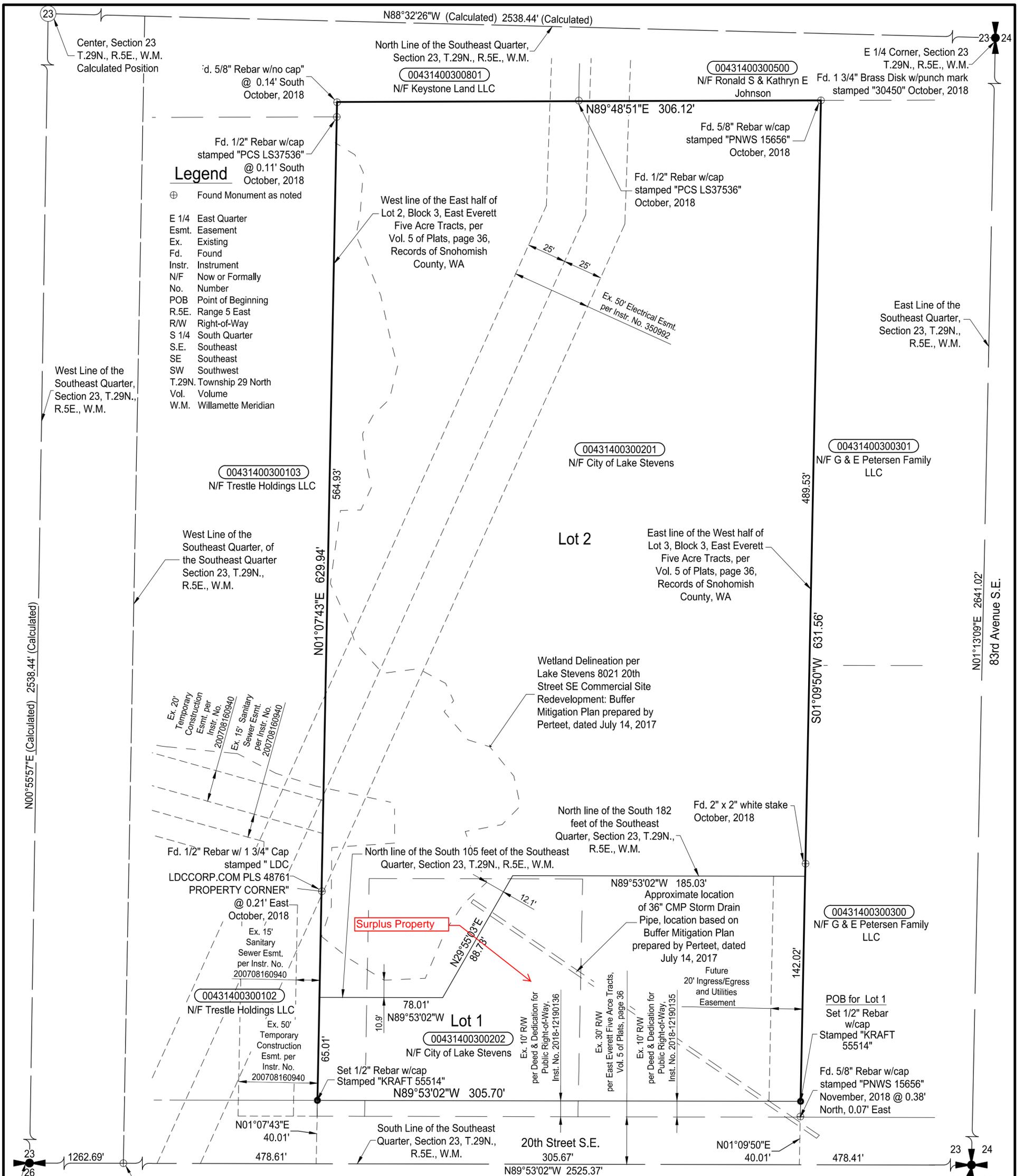
APPROVED AS TO FORM:

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Greg Rubstello, City Attorney

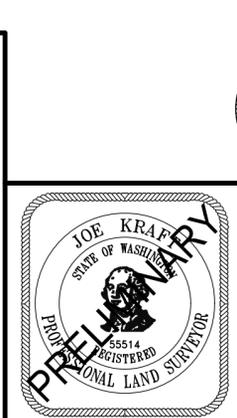
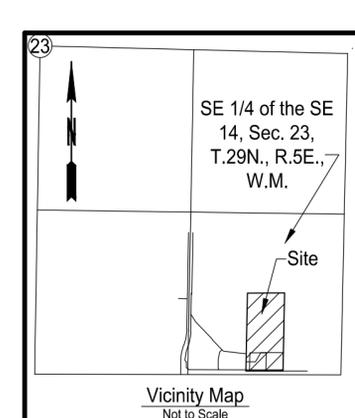
EXHIBIT A

Record of Survey for Assessor Parcel No. 00431400300202



S 1/4 Corner, Section 23  
T.29N., R.5E., W.M.  
Fd. Iron Pipe w/Lead and  
Nail in a monument case  
October, 2018

SW Corner of the Southeast Quarter of  
the Southeast Quarter, Section 23  
T.29N., R.5E., W.M.  
Fd. 1/2" Rebar, North 0.08' & East 0.74'  
October, 2018



City of Lake Stevens  
**Results of Survey for BLA**  
LUA 2018-XXXX  
SE 1/4 of the SE 14, Sec. 23, T.29N., R.5E., W.M.

SE Corner, Section 23  
T.29N., R.5E., W.M.  
Fd. 1 3/4" Brass disk in a  
Monument Case  
October, 2018

Drawn By	Date	Drawing Name	Scale	Job No.	Sheet
JK	11.6.18	32659GY130.dwg	1" = 40'	32659G	2 of 2



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LAKE STEVENS CITY COUNCIL  
**STAFF REPORT**

**Council Agenda**

**Date:** February 19, 2019

**Subject:** Approve Real Estate Purchase and Sale Agreement with Tim Kaintz re Nursery Property

**Contact**

**Person/Department:** Gene Brazel, City Administrator      **Budget Impact:** \$100,000

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**RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Approve Real Estate Purchase and Sale Agreement with Tim Kaintz**

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**SUMMARY/BACKGROUND:** The City previously partnered with the Food Bank and received \$300,000 in grant funding from the state to build a new Food Bank. Recognizing the benefits the community receives from services provided through the Food Bank, the City wishes to continue its partnership with the Food Bank.

The City identified surplus property commonly known as “the Nursery Property” located on 20<sup>th</sup> Street NE adjacent to Trestle Station, that both the Food Bank and the City agree is a suitable location for a new Food Bank facility. Through negotiations Lake Stevens resident Tim Kaintz and the City have agreed upon sale by the City of the Nursery Property to Mr. Kaintz at the very favorable sale price of \$100,000. Included in the Purchase and Sale Agreement is that Mr. Kaintz will then make the property available for construction of a new Food Bank, which will include common areas and meeting rooms that could be utilized for City-supported programs such as the Veterans Commission and Family Center. Under the terms of the agreement the City would have use of these common areas in perpetuity.

With the passage of Resolution 2019-08 Amending the Surplus Real Property Inventory, the Nursery Property is available for sale, and Staff recommends approval of the sale of the Nursery Property to Mr. Kaintz for the stated purposes.

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**APPLICABLE CITY POLICIES:**

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**BUDGET IMPACT: \$100,000**

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**ATTACHMENTS:**

- ▶ Exhibit A: Real Estate Purchase and Sale Agreement

## REAL ESTATE PURCHASE AND SALE AGREEMENT

**THIS REAL ESTATE PURCHASE AND SALE AGREEMENT** (this “Agreement”) is by and between the City of Lake Stevens, a municipal corporation of the State of Washington (“Seller”), and Tim Kaintz, a single man (“Buyer”).

In consideration of the mutual covenants, conditions and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. **Effective Date.** This Agreement is dated and effective as of the date of approval by the Lake Stevens City Council and the execution of this Agreement by all parties.

2. **Property to be Purchased.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the real property, together with any improvements thereon, legally described in Exhibit A attached hereto and incorporated hereon, located at Lake Stevens, Snohomish County, Washington (the “Property”).

3. **Purchase Price.** The purchase price for the Property is One Hundred Thousand Dollars and No/100 (\$100,000.00) (the “Purchase Price”). It is understood and agreed by the Parties that the purchase price is below market value. The restrictions and required covenant set forth in Section 5 of this Agreement are provided as additional consideration to the Seller. The Purchase Price shall be paid to Seller according to the following schedule:

3.1 At closing: \$100,000.00 plus Buyer’s closing costs.

4. **Earnest Money Deposit.** No earnest money deposit is to be paid.

5. **Title to Property.**

5.1 **Conveyance With Covenant.** On the Closing Date, Seller shall convey to Buyer fee simple title to the Property by a duly executed and acknowledged standard form Statutory Warranty Deed (the “Deed”). This sale by Seller is specifically being made on the condition that the Buyer within 10 calendar days of closing, donate and convey the Property to the Lake Stevens Community Food Bank Association, a Washington Non-Profit Charity (“Food Bank”), and that all of the Property, except as herein described, be used by the Food Bank, its assigns and all successors in interest solely for the operations of a Food Bank in securing, sorting, storing, and distributing, fresh and non-perishable food to families and other persons in the community that are hungry and/or in need of assistance. This sale is further conditioned on the following:

- A building for the operations of the Food Bank substantially consistent with the drawings attached hereto as Exhibit B (pages B-1 through B-5), incorporated by this reference herein, be constructed and operating no later than 24 months from the date of the conveyance of the Property to the Food Bank.

- The Food Bank building as shown in drawing (B-5 or its replacement should it be rebuilt in event of a fire or other cause for destruction of the building, shall provide for Seller's exclusive use for the life of the building, approximately 1734 square feet plus shared access to teaching kitchen, restrooms and meeting room as shown on attached drawing B-2. The space shall be used for social services functions or other City related purposes at the Seller's discretion. Prior to securing a building permit for the building, Seller and the Food Bank shall enter into a zero-rent lease agreement providing for the City's exclusive use of the built-out office space, and reasonable use of common areas, including restrooms and parking spaces. Negotiations for the lease agreement shall be conducted in good faith by the parties. The lease agreement shall also provide for Seller's maintenance responsibilities for the office space and fair share of utility costs. Any disagreement on a material term shall be resolved by a neutral arbitrator consistent with the provisions of this Section 5.1. The arbitrator shall be jointly selected by the City and the Food Bank.
- In consideration of the adjoining commercial property owner's financial contribution to the purchase price to be paid to the Seller:
  - For the life of Food Bank building the nine parking stalls indicated in the attached drawing (B-1) are reserved for business on the adjacent commercial property for business purposes.
  - All remaining parking on the Property after hours of Food Bank operations and City of Lake Stevens operations, shall be available for adjacent business purposes on a "first come, first served" basis during all days of the week, generally between the hours of 6:00 p.m. – 12:00 a.m.
  - The Food Bank shall connect its permanent storm water conveyance system to the City Storm water detention facility. The Food Bank shall pay for the cost of the conveyance system. The City shall pay for the cost of the storm water detention system.

These restrictions on use are an essential condition of the agreement to sell on the terms set forth in this agreement, and, in the event that any of these restrictions are breached, the Seller shall serve notice of the alleged breach upon the owner of the Property, by hand delivery or by certified (return receipt) mail. The owner of the Property shall have thirty (30) days in which to cure the alleged breach. In the event the owner of the Property fails to timely cure the breach, title to the property shall automatically revert for no consideration to Seller and/or its successors in interest. Buyer agrees that the title conveyed to Buyer by Seller shall be subject to a covenant running with the land and included in the Deed stating the title restrictions of this Section 5.1.

5.2 **Title Commitment.** Within seven (7) calendar days following the Buyer's approval of this Agreement on February 19, 2019, Seller, at its expense, shall furnish to Buyer a preliminary title insurance commitment (the "Commitment") covering the Property, issued by Chicago Title and Escrow Company (the "Title Company"), together with copies of all recorded

documents listed as special exceptions therein. Buyer shall have twenty (20) calendar days after receipt of the Title Report and exceptions within which to notify Seller in writing of Buyer's disapproval of any exceptions shown in the Title Report; provided, however, Buyer shall not be required to object to any monetary liens or encumbrances. Subject to any monetary liens or encumbrances created by Buyer, Seller shall cause any such monetary liens or encumbrances to be removed on or before the Closing. Failure of Buyer to disapprove any exception within the twenty (20) calendar-day period shall be deemed an approval of the exceptions shown in the Title Report. As to any exceptions to title placed of record or first identified after issuance of the Title Report or revealed by any supplemental report, there shall be a thirty (30) calendar day period after Buyer's receipt of the supplemental Title Report for Buyer to review and approve such exceptions on the same basis as provided above and the closing date shall be extended by such review period to accommodate such review.

5.3 **Right to Cure Title Defects.** If Buyer disapproves a title exception within the time period provided in Section 5.2, Seller shall have seven (7) calendar days following receipt of Buyer's objection to give Buyer written notice specifying which objectionable title exceptions, if any, Seller shall use commercially reasonable efforts to attempt to remove from title on or before the Closing. If Seller gives Buyer such notice, but Seller is unable, despite Seller's commercially reasonable efforts, to remove any such objectionable title defect on or before the Closing, Buyer may elect to either (i) terminate this Agreement, in which event all further rights and obligations of the parties shall cease; or (ii) waive Buyer's previous title objection and to proceed with the purchase of and take the Property subject to such exception, without any reduction in the Purchase Price and otherwise pursuant to the terms of this Agreement. If Seller either: (i) gives Buyer timely notice that Seller has elected not to attempt to remove all of the objected to title exceptions; or (ii) fails to give notice timely to Buyer, Buyer shall have seven (7) calendar days after Buyer's receipt of Seller's notice or the expiration of the seven (7) calendar day time period, as applicable, to notify Seller in writing of Buyer's election to (a) proceed with the purchase of and take the Property subject to such previously disapproved exceptions without any reduction in the Purchase Price and otherwise pursuant to the terms of this Agreement; or (b) terminate this Agreement, in which event the Earnest Money shall be refunded to Buyer and the parties thereafter shall be relieved of any further rights and obligations under this Agreement. If Buyer shall fail to notify Seller timely of its election to proceed under clause (a) above, Buyer shall be deemed to have elected to terminate this Agreement, in which event the parties thereafter shall be relieved of any further rights and obligations under this Agreement, and each party shall bear its own costs incurred under this Agreement.

5.4 **Title Policy.** The parties shall, at Seller's sole expense, cause Title Company to issue to Buyer at Closing a standard form coverage owner's policy of title insurance insuring Buyer's title to the Property in the full amount of the Purchase Price (the "Title Policy"). At Buyer's option and expense, Buyer may require that the title insurance policy to be issued to Buyer at Closing be an ALTA extended coverage owner's policy.

## 6. **Contingency and Permit Periods.**

6.1 **Buyer's Contingency Period.** Buyer shall have Sixty (60) calendar days from the Effective Date (the "Contingency Period") to satisfy itself concerning the condition of soils; the trees, the suitability and condition of the Property; public support for the purchase and

the feasibility of developing the Property for Buyer's intended use; and in addition, to satisfy all legal requirements affecting Buyer's purchase of the Property, including any necessary public hearings, comprehensive plan and code amendment. Buyer shall diligently and continuously work to resolve and satisfy itself with respect to the foregoing matters. If Buyer determines (in its sole and complete discretion) that it is not satisfied with such matters, Buyer may, at any time on or before 5 p.m. (Pacific Time) on the last day of the Contingency Period, rescind this Agreement by giving written notice to Seller. In the event of such rescission, this Agreement thereafter shall be null and void and neither party shall have any obligation to the other. If Buyer does not notify Seller that it is rescinding this Agreement within the time period specified above, then the foregoing conditions shall be deemed waived. During the contingency period, Buyer may enter upon the property for purposes of inspection and testing. Buyer shall reimburse Seller for any damages it causes to the property during any inspection or testing and shall hold Seller harmless from any injuries to Buyer's officials, employees, consultant's or other representatives performing the testing or inspection, incurred on the property during such inspection or testing.

7. **Brokers and Commissions.** There are no Brokers and Commissions involved in this transaction.

8. **Closing.**

8.1 **Closing Date.** This purchase and sale will be closed at the Title Company's Everett, WA. office. The closing ("Closing") will occur no later than February 26, 2019. If Closing does not occur on or before the Closing Date, or any later date mutually agreed to in writing by Seller and Buyer (which date shall then become the "Closing Date"), the escrow agent shall immediately terminate the escrow and return all documents to the party that deposited them.

8.2 **Real Property Prorations.** All revenues and expenses of the Property, including but not limited to, real property taxes, special assessments, rents, water, sewer and utility charges, and other expenses normal to the ownership, use, operation and maintenance of the Property shall be prorated as of 12:01 a.m. on the Closing Date. Seller and Buyer hereby agree that if any of the aforesaid prorations cannot be calculated accurately on the Closing Date, then the same shall be calculated within thirty (30) days after the Closing Date and either party owing the other party a sum of money based on subsequent prorations(s) shall promptly pay said sum to the other party. If payment is not made within ten (10) days after delivery of a bill therefore, the owing party shall pay interest on such amounts at the rate of eight percent (8%) per annum from the Closing Date to the date of payment.

8.3 **Seller's Escrow Deposits.** On or before the Closing Date, Seller shall deposit into escrow the following:

8.3.1 the duly executed and acknowledged Deed;

8.3.2 a duly executed and completed Real Estate Excise Tax Affidavit;

8.3.3 a duly executed non-foreign affidavit pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended; and

8.3.4 all documents and/or funds required to remove all monetary liens, encumbrances or assessments and to pay Seller's closing costs described in Section 8.6.1.

8.4 **Buyer's Escrow Deposits.** On or before the Closing Date, Buyer shall deposit into escrow the following:

8.4.1 cash in the full amount of the purchase price per Section 3.1, together with the Buyer's closing costs described in Section 8.6.2;

8.4.2 a duly executed and completed Real Estate Excise Tax Affidavit.

8.5 **Additional Instruments and Documents.** Seller and Buyer shall each deposit into escrow any other instruments and documents that are reasonably required by the escrow agent or otherwise required to close the escrow and consummate the purchase and sale of the Property in accordance with this Agreement.

8.6 **Closing Costs.**

8.6.1 **Seller's Costs.** At Closing, Seller shall pay (a) the premium for the title policy; (b) the real estate excise taxes applicable to the sale, if any; (c) one-half (1/2) of Title Company's escrow fee; and (d) one-half of the cost of recording the Deed.

8.6.2 **Buyer's Costs.** At Closing, Buyer shall pay (a) one-half (1/2) of the cost of recording the Deed; (b) one-half (1/2) of the Title Company's escrow fee; and (c) the premiums for any title policy endorsements or extended coverage requested by Buyer.

8.7 **Possession.** Buyer shall be entitled to possession upon Closing.

8.8 **Condition Precedent to Buyer's Obligations.** Buyer's obligation to close the purchase of the Property in accordance with the terms of this Agreement is expressly conditioned on, and subject to satisfaction of the following condition precedent, which is intended solely for the benefit of Buyer. If the foregoing condition is not satisfied, Buyer shall have the right, at its sole election, either to waive the condition and proceed with the purchase or in the alternative, to pursue any of the remedies set forth in Section 11.1 of this Agreement.

8.8.1 **Performance by Seller.** Seller shall have timely performed all obligations required by this Agreement to be performed by it. If this condition is not satisfied, Buyer shall have the right, at its sole discretion, either to waive the condition in question and proceed with the purchase or in the alternative, to pursue any of the remedies set forth in Section 11.1 of this Agreement.

8.8.2 **Representations and Warranties.** All of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date, and Seller shall have complied with all of Seller's covenants and agreements contained in or made pursuant to this Agreement. If this condition is not satisfied, Buyer shall have the right, at its sole discretion, either to waive the condition in question and proceed with the purchase or in the alternative, to pursue any of the remedies set forth in Section 11.1 of this Agreement.

8.9 **Condition Precedent to Seller's Obligations.** Seller's obligation to sell the Property at Closing under this Agreement is expressly conditioned on, and subject to satisfaction of the following condition precedent, which is intended solely for the benefit of Seller. If the foregoing conditions are not satisfied, Seller shall have the right, at its sole election, to the remedy set forth in Section 11.2 of this Agreement.

8.9.1 **Performance by Buyer.** Buyer shall have timely performed all obligations required by this Agreement to be performed by it.

9. **Representations and Warranties.**

9.1 **Seller's Representations and Warranties.** Seller represents and warrants to Buyer that the following facts are true as of the parties' mutual execution of this Agreement and as of the Closing Date:

9.1.1 **No Litigation.** Except as disclosed in writing by Seller to Buyer, there is no pending or threatened litigation or administrative action with respect to the Property or to the Seller's interest in the Property.

9.1.2 **Authority of Seller.** This Agreement is a valid and binding obligation of the Seller, enforceable against Seller in accordance with its terms. No authorizations or approvals, whether of organizational bodies, governmental bodies, or otherwise, will be necessary in order for Seller to enter into this Agreement and to perform Seller's obligations as set forth herein. The consummation of the transactions contemplated hereunder will not conflict with or result in the breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Seller or to the Property.

9.1.3 **Non-foreign Status/At-Source Withholding.** Seller represents and warrants none of the individuals constituting the "Seller" are a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 10954, as amended. Seller shall deliver to Buyer at Closing a Certificate of Non-foreign Status setting forth Seller's address and certifying that it is not a foreign person as so defined.

9.1.4 **Other Agreements.** There are no other contracts or agreements in force or effect for the sale of, or a right of first refusal or option for, all or any portion of the Property, and Seller agrees: (a) not to enter into any such contracts or agreements between the date hereof and Closing and (b) to use its best efforts to terminate any such contracts that come to its attention between the date hereof and Closing. There are no contracts or other agreements affecting the Property that will not be terminated at or prior to Closing.

9.1.5 **Encumbrances.** Seller's execution, delivery and fulfillment of its obligations under this Agreement shall not result in any default or violation of any agreement by which Seller is bound or which will result in any lien, charge or encumbrance on the Property.

9.1.6 **Exiting Leases.** There are no existing leases on the Property.

9.1.7 **Environmental.** Seller has not generated, stored, released or disposed of any substance or material on the Property, the generation, storage or disposal of which is regulated under the Comprehensive Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Model Toxics Control Act (Chapter 70.105D RCW), or any comparable law, regulation, ordinance or order of any governmental body, except in compliance with such laws, regulations, ordinance or orders. Seller has obtained (and is in compliance with) all permits, licenses and other authorizations that are required under all federal, state and local environmental requirements customarily known to and followed by owners and operators of land similar to the Property and located in the area in which the Property is located, including any such laws, regulations or ordinances relating to emissions, discharges, releases or threatened releases of materials into the environment or otherwise relating to the use, treatment, storage, disposal, transport or handling of such materials. Neither Seller, nor to the best of Seller's knowledge, any prior owner, occupant or user of the Property has received any notice or other communications concerning any alleged violation of any environmental requirements. To the best of Seller's knowledge, there is not constructed, placed, deposited, stored, disposed of or located on the Property (i) any PCBs or transformers, capacitors, ballasts or other equipment which contains dielectric fluid containing PCBs; or (ii) any underground storage tanks. Any breach of this warranty prior to the Closing Date shall entitle the Buyer to terminate this Agreement. Upon such termination, the escrow will be terminated, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement.

9.1.8 **As-Is.** On closing, subject to the above paragraph, Buyer accepts the property in its "As-Is" condition. All understandings and agreements heretofore made between the parties hereto are merged in this Contract which fully and completely expresses the parties' agreement and the same is entered into after full investigation, neither party relying upon any statement or representation made by the other not embodied in this Contract.

9.1.9 **Completeness of Statements.** To the best of Seller's knowledge, no representation or warranty by Seller in this Agreement or in any written material furnished by Seller to Buyer pursuant to or in connection with this Agreement, contains any untrue statement of a material fact or omits to state a material fact necessary to make any statement herein or therein not misleading.

9.2 **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that the following facts are true as of the date of the parties' mutual execution of this Agreement and as of the Closing Date:

9.2.1 **Pending Actions.** To Buyer's knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, or proceeding pending against Buyer, which if adversely determined, could materially interfere with Buyer's consummation of the transactions contemplated by this Agreement.

9.2.2 **Authority of Buyer.** This Agreement is a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. No

authorizations or approvals, whether of governmental bodies or otherwise, will be necessary in order for Buyer to enter into this Agreement and to perform its obligations as set forth herein. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereunder will conflict with or result in the breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Buyer or to the Property.

10. **Maintenance of Property Pending Closing.** At all times before the Closing, Seller shall manage and operate the Property in a manner consistent with Seller's past practices. Seller agrees: (a) to maintain all usual and necessary business records pertaining to the Property, consistent with Seller's past practices; (b) to maintain the Property in its current condition and state of repair (normal wear and tear and casualty loss excepted); and (c) to maintain its existing property and casualty insurance on the Property. Should the Seller apply for a permit to remove, trim or maintain trees on the subject property prior to closing, and the permit is approved by the City, Buyer agrees not to require replacement of such trees or planting of new trees per the current City regulations.

11. **Default.**

11.1 **By Seller.** If there is an event of default under this Agreement by Seller, including, without limitation, the failure by Seller to satisfy any condition precedent pursuant to Sections 8.8, Buyer will be entitled (a) to seek specific performance of Seller's obligations under this Agreement; or (b) to terminate this Agreement by written notice to Seller and Escrow Agent; and (c) if Buyer elects either option (a) or (b), as hereinbefore set forth, Buyer may obtain payment from Seller of all damages incurred by Buyer as a result of such default. If Buyer terminates this Agreement pursuant to this Section 11.1 the escrow will be terminated, all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement other than that Seller shall pay (i) to Buyer those costs and expenses which Buyer notifies Seller that Buyer has incurred in connection with this Agreement; (ii) all damages incurred by Buyer; and (iii) any costs of terminating the escrow and any cancellation fee for the Commitment.

11.2 **By Buyer.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the escrow will be terminated, all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement other than that Buyer shall pay (i) to Seller those costs and expenses which Seller notifies Buyer that Seller has incurred in connection with this Agreement; (ii) all damages incurred by Seller; and (iii) any costs of terminating the escrow and any cancellation fee for the Commitment.

12. **Miscellaneous.**

12.1 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, personal representatives, successors, and assigns. No assignment of this Agreement by Buyer shall operate to relieve Buyer from any of its liabilities under this Agreement.

12.2 **Notices.** Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service or given by mail or via facsimile. Any notice given by mail must be sent, postage prepaid, by first class, certified or registered mail, return receipt requested. All notices must be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

If to Seller, to: City of Lake Stevens :  
Attn: City Administrator  
Lake Stevens City Hall  
1812 Main Street  
PO Box 257  
Lake Stevens, WA 98258-0257  
Office: 425-377-3230

If to Buyer, to: Tim Kaintz  
PO Box 610  
Lake Stevens, WA 98258  
425-359-4487

Any notice will be deemed to have been given, if personally delivered, when delivered, and if delivered by courier service, one (1) business day after deposit with the courier service, and if mailed, three (3) business days after deposit at any post office in the United States of America, and if delivered via facsimile, the same day as transmission is verified; provided that any verification that occurs after 5 p.m. on a business day, or at any time on a Saturday, Sunday or holiday, will be deemed to have occurred as of 9 a.m. on the following business day.

12.3 **Authority.** The parties each represent and warrant that the persons signing below have the requisite authority to bind them.

12.4 **Amendments.** This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

12.5 **Governing Law; Venue.** This Agreement will be governed by and construed exclusively in accordance with the laws of the State of Washington. Venue for any action arising out of this Agreement shall be in Snohomish County Superior Court.

12.6 **Entire Agreement.** This Agreement and the exhibit hereto constitute the entire agreement between the parties with respect to the purchase and sale of the Property, and supersede all prior agreements and understandings between the parties relating to the subject matter of this Agreement.

12.7 **Attorneys' Fees.** In the event either party hereto finds it necessary to bring an action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach or default hereunder or thereunder, the party prevailing in any such action or proceeding

shall be paid all costs and reasonable attorneys' fees by the other party and in the event any judgment is secured by such prevailing party, all such costs and attorneys' fees shall be included in any such judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury.

12.8 **Time of the Essence.** Time is of the essence of this Agreement.

12.9 **Waiver.** Neither Seller's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.

12.10 **Negotiation and Construction.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

12.11 **Tax Effect.** No party has made or is making any representations to the other concerning any of the tax effects of the transactions provided for in this Agreement. No party shall be liable for or in any way responsible to any other party because of any tax effect resulting from the transactions provided for in this Agreement.

12.12 **Representation.** It is agreed and acknowledged that the firm of Ogden Murphy Wallace P.L.L.C. represented only the Buyer in the drafting of this Agreement, and Seller acknowledges that it is entitled to seek separate legal counsel regarding this Agreement.

12.13 **Survival.** Sections 5.2, 12.1, 12.4, 12.5, 12.7, 12.9, 12.11, 12.12 and 12.13 shall survive the Closing of this Agreement.

12.14 **Counterparts; Scanned or Facsimile Signatures.** This Agreement may be executed in any number of counterparts, and all counterparts shall be deemed to constitute a single agreement. The execution and delivery of one counterpart by any party shall have the same force and effect as if the party had signed all other counterparts. Delivery by facsimile or by e-mail of a .PDF of an executed counterpart shall have the same effect as physical delivery of an original.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the last date set forth below.

**SELLER:**

CITY OF LAKE STEVENS

By: \_\_\_\_\_  
John Spencer, Mayor

Date: \_\_\_\_\_

*Attest:*

By: \_\_\_\_\_  
Kathy Pugh, City Clerk

Date: \_\_\_\_\_

*Approved as to Form:*

City Attorney

By: \_\_\_\_\_  
Greg A. Rubstello

Date: \_\_\_\_\_

**BUYER:**

TIM KAINZ

By: \_\_\_\_\_  
Tim Kaintz

Date: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

The Property is situate in Lake Stevens, Snohomish County, State of Washington and legally described as follows:

EAST EVERETT 5 AC TR DIV A & B BLK 003 D-02 - S 150 FT OF E 135 FT OF W 165 FT  
OFFDT E1/2 OF LOT 2 & W1/2 LOT 3

Snohomish County Assessor's Parcel Number: 00431400300202

# EXHIBIT B



PARKING

5293 SF WAREHOUSE	21000	11.0
2769 SF RETAIL	251000	6.0
978 SF OFFICE	251000	3.0
1734 SF VAMED	251000	4.0
24 PROVIDED • 12 FOR TRESTLE STATION		24 REQ'D

\*BASED ON PRELIMINARY SURVEY

ARCHITECTURAL SITE PLAN  
 1" = 20'-0"

OPTION 4



REVISIONS	BY

**MJ NEAL ASSOCIATES**  
 500.663.6455  
 MJS@LBMNEAL.COM  
 WWW.MJNEAL.COM  
 P.O. BOX 7065  
 WENATCHEE, WA 98807

**PRELIMINARY**

NEW BUILDING FOR:  
**FOOD BANK**  
 8021 20TH ST SE, LAKE STEVENS, WA 98258

Date:	2/19/18
Scale Factor:	1
Drawn:	HE
File:	18465

Sheet  
**A1.1**

*B-1*

B.2

REV	DESCRIPTION

- MAIN FLOOR PLAN KEYNOTES**
1. NEW HALL PER TYPE
  2. ALL OPENING WITH HALL AND FINISH TO MATCH EXISTING
  3. NEW DOOR TO MATCH EXISTING
  4. EXISTING DOOR RELOCATED. SEE DOOR NUMBER ON REVISED PLAN FOR INDICATED DOOR
  5. NEW CARPET IN THIS ROOM
  6. PATCH HALL WHERE EXISTING HALL REMOVED



**MAIN FLOOR PLAN**  
 1/8" = 1'-0"  
 TOTAL FLOOR AREA 7,884 SF  
 UPPER FLOOR 2,795 SF

**WALL LEGEND**

---	HALLS TO BE REMOVED
---	HALLS TO REMAIN
---	HALLS TO REMAIN

**NEW BUILDING FOR:  
 FOOD BANK**  
 8021 20TH ST SE, LAKE STEVENS, WA 98258



509.683.8435  
 M.J.NEAL@MJNEAL.COM  
 1872 10TH AVENUE  
 P.O. BOX 10415  
 KENNETT, WA 98807  
 ©Copyright 2018





REVISIONS	BY



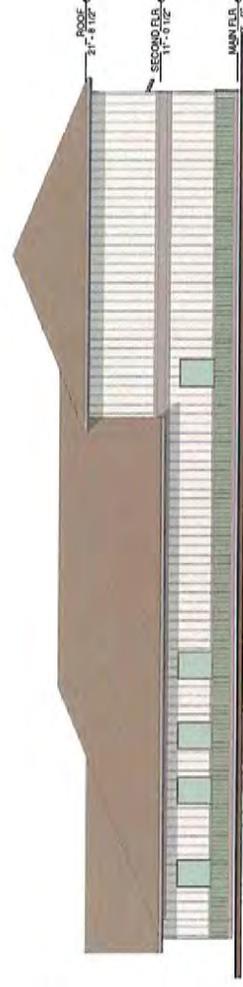
FOR PER. USE  
 MINEAL@MJNEAL.COM  
 1100 1ST ST SE, SUITE 104  
 SEVASTOPOL, WA 98258  
 © Copyright 2019



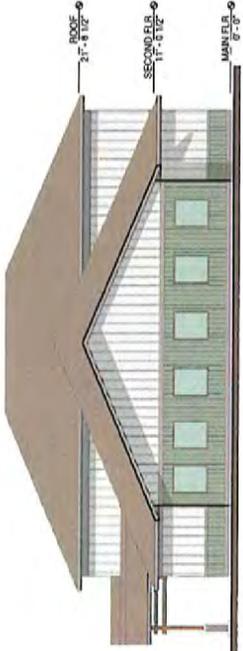
**WEST ELEVATION**  
 118' x 170'



**NORTH ELEVATION**  
 118' x 170'



**EAST ELEVATION**  
 118' x 170'



**SOUTH ELEVATION**  
 118' x 170'

**NEW BUILDING FOR:  
 FOOD BANK**  
 8021 20TH ST SE, LAKE STEVENS, WA 98258

Date:	2/19/2019
Scale Factor:	1
Drawn:	JAE
File:	18-118
Sheet:	A3.1

**B-4**



3D View 2



3D View 1



FOOD BANK

Project # 16465 • 2018-12-18

B-5