DEVELOPER EXTENSION AGREEMENT DOCUMENTS

Water, Sewer, Stormwater, and Street

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

EXTENSION TITLE: Maloney ..Grove 9 Lot Short Plat

DATE: September __3__, 2013

DEVELOPER NAME: John Day Homes

MAILING ADDRESS: PO Box 2930
North Bend, WA 98045

PHONE: (425) 831-4901

CONTACT: John Day (jday@johndayhomes.com)

CITY OF NORTH BEND
A MUNICIPAL CORPORATION OF
THE STATE OF WASHINGTON

MAYOR: Kenneth G Hearing

City Council

David Cook
Alan Gothelf
Ryan Kolodejchuk
Ross Loudenback
Jeanne Pettersen
Jonathan Rosen
Dee Williamson

City of North Bend
211 Main Avenue North
P. O. Box 896
North Bend, WA 98045
(425) 888-1211 FAX (425) 831-6200

City Staff

City Administrator: Londi Lindell
City Attorney: Mike Kenyon
Public Works Director: Frank Page, P.E.

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

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Exhibit A - Preliminary Plat or Site Plan(s)

CHECKLIST
for Constructing Extensions
to the Water, Sewer, Stormwater and Street Systems

Name of Extension: **Maloney Grove Short Plat Subdivision, Phases 1 & 2**

Owner:

Name: John Day Homes
Address: PO Box 2930
North Bend, WA 98045
Phone: (425) 831-4901

Developer

Name: Same as above
Address: Same as above
Phone: Same as above

Developer's Agent

Name: Barry R. Constant, PE
Address: Concept Engineering, Inc.
455 Rainier Boulevard North
Issaquah, WA 98027
Phone: (425) 392-8055

Dates Accomplished:

Water: _____
Sewer: _____
Stormwater _____
Streets _____

A. Approval of Agreement

1. Signed Agreement Submitted (Developer)
2. Administrative, Legal and Engineering Fee and Deposits Paid (Developer)
3. Evidence of Environmental Compliance (Developer)
4. Environmental Significance (City Engineer)
5. Extension Agreement Approved (City)
6. Resolution Accepting Agreement (City)

B. Required Before Plans are Prepared or Approved

1. Preliminary Plat Map or Site Plan (scale 1”=20’) (Developer)
2. Contour map with 2 contour intervals NAVD ’88 Datum (scale 1”=20’) (Developer)
3. Three sets of Extension Construction Plans and Specifications if prepared by Developer’s Engineer (Developer)

C. Required Before Construction by Developer

1. Approval of Developer’s prepared Plans and Specifications (City Engineer)
2. Construction Cost Estimate and Bill of Sale forms (Engineer)
3. Plans and Specifications approved by appropriate outside Agencies as applicable (Engineer)
4. Application for and Receipt of Necessary Permits (Developer)
5. Performance Bond (Developer)
6. Certificate of Insurance (Developer)
7. All Required Easements Obtained, if applicable (Developer)

D. Required Before Construction Begins

1. Submittal of Material and Equipment List (Contractor/Developer)
2. Pre-construction Conference
3. Approval of Material and Equipment List (City Engineer)
4. 48-hours Notice of Start of Construction to City (Contractor/Developer)

E. Required Before any Service is Connected

1. All Extension Fees and Charges Paid (Developer)
2. Other Charges established by City Ordinance Paid (Developer)
3. Approval of Completion of Construction (City Engineer)
4. Executed Bill of Sale Delivered to City (Developer)
5. Resolution Accepting Facilities (City)
6. Substitution of Maintenance Bond for Performance Bond (Developer)

F. To Be done Prior to Warranty Expiration

1. At 11 months after Acceptance, re-inspect all facilities and notify Developer of Deficiencies, if any (City)
2. Follow-up to Correct Deficiencies, if any (City)
3. Expiration of 12 month warranty

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

AGREEMENT TO CONSTRUCT EXTENSIONS TO THE WATER, SEWER, STORMWATER, AND STREET SYSTEMS

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AGREEMENT TO CONSTRUCT EXTENSION TO WATER, SEWER, STORMWATER AND STREET SYSTEMS

The undersigned ("Developer"), hereby enters a binding agreement ("Agreement") with the City of North Bend, King County, Washington ("City"), for permission to construct and install certain water, sewer, stormwater and/or street extensions ("Extensions") in the public right-of-way and/or on private property, and to connect the same to the City's water, sewer, stormwater and street system.

1. GENERAL

A. Upon approval of the City Council and execution of this Agreement, the Developer is hereby authorized to construct extensions to the City's water, sewer, stormwater and/or street systems subject to this Agreement. This Agreement consists of the terms and conditions herein, the General Conditions, and the provisions of all other Extension Documents, all of which are incorporated herein.

B. Developer shall pay all costs of designing, engineering and constructing the Extensions. All construction shall be done to City standards and according to plans approved by the City.

C. Upon final acceptance by the City of the Extensions as set forth herein, the City will provide water service and/or sewer service and/or storm water service through the Extensions to residential customers on the subject property in accordance with applicable laws, rules, regulations, and resolutions and policies of the City.

2. LOCATION OF EXTENSIONS

The Extensions will be installed to serve the property owned by the Developer ("Developer's Property"), which is described as follows:

Maloney Grove Short Plat on King County Assessor Tax Parcels numbered 102308-9070 and 102308-9155.

The Extensions will be installed in the Developer's Property, in property subject to easements in favor of the Developer, and/or in the property of other persons contributing to the costs of the Extensions (said other persons hereby join in this Agreement and are referred to as "Additional Owners") and in such other properties described in this Agreement.

3. DESCRIPTION OF EXTENSION

A. Water Extension

The proposed water extension will consist of approximately __942±____linear feet of __8-inch___ inch water main and other applicable water system facilities and appurtenances located within the Developer's Property as shown on the preliminary plat or site plan attached hereto as Exhibit A. In addition to the above extension within the Developer's Property, the following described water system facilities located outside the Developer's Property are subject to this agreement: *None.*

B. Sewer Extension

The proposed sewer extension will consist of approximately __560±_____ linear feet of 8-inch sewer mains and other applicable sewer system facilities and appurtenances located within the Developer's Property as shown on the preliminary plat or site plan attached hereto as Exhibit A. In addition to the above extension within the Developer's Property, the following described water system facilities located outside the Developer's Property are subject to this agreement: *None.*

C. Stormwater Extension

The proposed stormwater extension will consist of approximately __4,000±____ square feet of LID infiltration trench and other applicable stormwater system facilities and appurtenances located within the Developer's Property as shown on the preliminary plat or site plan attached hereto as Exhibit A. In addition to the above extension within the Developer's Property, the following described water system facilities located outside the Developer's Property are subject to this agreement: *None.*

D. Street Extension

The proposed street extension will consist of approximately ___715±_____ linear feet of street and alleys, including installation of new side-walks, curbs, gutters, asphalt concrete surfacing, street lights and pavement marking and striping of all new surfacing located within the Developer's Property as shown on the preliminary plat or site plan attached hereto as Exhibit A. In addition to the above extension within the Developer's Property, the following described water system facilities located outside the Developer's Property are subject to this agreement: *None.*

E. Modifications to Described Extensions

The City may require that the above-described water, sewer, stormwater and street extensions be modified (including changes in design and location) during the preparation of construction plans and specifications as deemed necessary by the City. The construction plans and specifications, when approved by the City, shall be deemed the documents describing the water, sewer, stormwater and street extensions to be authorized for construction by the Developer under this Agreement.

4. EXTENSION FEES, DEPOSITS, AND CHARGES

Extension fees, costs and charges shall be paid by the Developer to the City at such rates as determined by the City for the following:

A. <u>City Administrative Services</u>

1. Review and revisions, if necessary, to the Agreement and preparation of resolutions accepting Agreement and amending the City's Comprehensive Plan (if required).

2. General consultation with the Developer regarding the requirements of the City, the procedures for the Developer to make the Extensions, and the administration of the Agreement.

3. Preliminary review of the proposed development and preliminary determination of the water, sewer, stormwater and street facilities required to extend services to the Developer's Property.

B. <u>City Basic Engineering</u>

1. Preparation of construction plans and specifications or review and approval of construction plans and specifications prepared by the Developer's engineer.

2. Preparation of the construction cost estimate and bill of sale forms.

3. Submittal of comprehensive plan amendments, contract plans and specifications to the appropriate regulatory agencies for approval.

4. Review of this Agreement for purposes of State and County permits, where applicable.

5. Consultation with the Developer during the period of the Agreement regarding design of the Extensions, the City's specifications, and other City requirements.

6. Review for environmental compliance.

C. City Construction Engineering Services

1. Schedule and conduct pre-construction conference.

2. Review of construction stakes provided by Developer's engineer and surveyor as described in Paragraph 6 of the General Conditions.

3. Daily inspection of the construction in progress as required to ensure that the construction of the Extensions are in accordance with the approved construction plans and specifications.

4. Inspection of the tests required by the specifications and inspection of any re-testing which may be necessary.

5. Final inspection of the completed Extension and preparation of the inspection report setting forth any deficiencies that may exist.

6. Re-inspection of deficient work.

7. Final review of the completed Extensions and examination of the required documents to ensure that the City has legal title to the necessary easements and/or rights-of-way, review and approval of the Developer's warranty and bill of sale, and preparation of a final recommendation of acceptance of the completed Extensions.

8. Revision of plans to conform to construction records.

D. Reimbursement for City's Legal Services

1. Review and revisions, if necessary, to the Agreement and preparation of resolutions accepting Agreement and amending the City's Comprehensive Plan (if required).

2. Services necessary to obtain required comprehensive plan approvals.

3. Preparation of easements as required.

4. Preparation and/or review of the Developer's Performance Bond, Insurance Certificate, and other performance guarantees and security.

5. Preparation of reimbursement agreement, if required.

6. Any other legal services required by the City in conjunction with this Agreement and administration of the Extensions.

E. Additional City Legal, Engineering, and Other Professional Services

1. Revision of the contract plans and specifications and work occasioned by the need, request or act of the Developer related thereto or review and approval of revisions prepared by Developer's engineer.

2. Additional legal and/or engineering fees may be charged on a time-and-expense basis where a special contract is required and/or special problems arise with such third parties as King County, Boundary Review Board, State of Washington, or others, in order for the City to enter into this Agreement and/or comply with SEPA or NEPA which requires the representation of the City's legal counsel and/or Engineering Consultant.

3. Any other work reasonably required by the City in conjunction with this Agreement and/or administration of the Extensions.

F. Other Costs

1. All other fees and additional charges as required by governmental agencies.

G. Connection Charges and Reimbursement Amount

1. Connection Charges

The City has established charges for connection to the water, sewer, and storm water systems. The amounts of the charges are established by ordinance and are subject to amendment based on adjustments in the cost of providing new facilities, the actual cost of facilities and improvements previously constructed and changes in the City's Comprehensive Plan which may alter the nature, extent and cost of these facilities.

2. Reimbursement Amount

Where the property being served through an extension of the City's water, sewer, stormwater or streets is served in whole or in part by an existing

extension constructed by others and transferred to the City and a reimbursement agreement is in effect at the time of development application, the developer shall pay a reimbursement representing the fair and equitable share of the existing extension to which all or a portion of the developer's property may be connected.

The reimbursement for existing facilities is established by resolution of the City based on the actual cost of construction of the facility and a proration of the cost of that facility so the properties which are benefited may connect to the facility. The reimbursement will vary for each existing facility based on its cost and the benefitting property.

3. Service Charges

The Developer acknowledges and agrees that the City may impose service charges and other taxes and fees as allowed by law upon property owners/residents for water, sewer, stormwater and street services. Nothing in this Agreement shall be construed to restrict or prohibit the City's imposition of such charges, fees or taxes.

5. CALCULATION OF COSTS, FEES, AND CHARGES

A. Administrative Services

The initial deposit for the City administration services set forth in Section 4.A. shall be: $500.00

B. Other Services

Fees and charges for all other services and reimbursements described in Sections 4.B. through 4.E. will be invoiced by the City on an actual time and expense basis. The term "time and expense basis" shall mean the City's actual cost for services rendered by the City staff or its contractors or consultants.

C. Other Costs and Charges

Payment for the fees, charges, and costs described in Sections 4.F and 4.G shall be based on actual incurred costs or in such amount as is established by City ordinance for such fee, cost, or charge.

6. PAYMENT OF FEES AND CHARGES

A. Developer Deposit

The Developer shall deposit with the City upon execution of this Agreement the amount of the City's initial estimate of certain fees, costs and charges associated with this Agreement. Should the actual amount of these fees, costs or charges exceed the amount deposited, the City may, at the end on the month in which the fees, costs and charges exceed the deposit, provide an updated written estimate to the Developer. Within fifteen (15) days of receiving the new estimate, the Developer shall deposit with the City an amount equal to the difference between the City's new estimate and the amount previously deposited by the Developer. Deposits not made within fifteen (15) days shall bear interest at 12% per month or portion thereof until paid. No Extension shall be connected to the City's systems until all fees, charges, and other costs due under this Agreement are paid in full by the Developer.

The City's initial estimate for the fees, costs and charges set forth below is set forth below. The Developer shall deposit the total amount indicated upon execution of this Agreement:

			Phase 1
1.	Administrative Deposit	$	500.00
2.	Basic Engineering Services Deposit	$	0.00
3.	Construction Engineering Deposit	$	10,000.00
4.	Legal Services Deposit	$	500.00
5.	Additional Services Deposit	$	0.00
6.	Construction Cash Deposit	$	0.00
7.	Other Costs	$	0.00
	TOTAL DEPOSIT	$	11,000.00

B. Connection Charge and Reimbursement Estimate

All connection charges and reimbursement amounts shall be paid by the Developer to the City prior to the issuance of any building permit, in accordance with the current City of North Bend Taxes, Rates and Fees Schedule. Acceptance of the completed Extensions by the City and provision of services to the Developer's property shall be in accordance with this Agreement and applicable North Bend Municipal Code requirements.

A preliminary estimate of the Connection, Impact and Reimbursement Fees is attached as Exhibit B, which is subject to the City Adopted Taxes Rates and Fees Schedule. The fees are subject to change by the City.

7. PRELIMINARY ENGINEERING

In order to receive City review and approval of the Extensions, the Developer shall furnish two (2) copies of the preliminary plat map, topographic map and proposed roads profile sheets in electronic format prior to the City's ordering of the engineering plans from its Engineer. The contour elevation and road profile elevations shall be referenced to NAVD '88 datum. In the event the Developer's engineer prepares the construction plans and specifications, the above information shall be a part of the extension construction plans to be reviewed and approved by the City's Engineer.

The final plat map shall be to the scale of 1-inch = 20 feet. The contour map shall have a scale of 1-inch = 20 feet and contour intervals of two (2) feet or less. The road profile sheets shall be to the scale of 1-inch = 20 feet.

The Developer shall provide a minimum of one benchmark, datum being NAVD '88, on the project site; and the elevation and location of the benchmark shall be indicated on the maps furnished by the Developer.

8. EVIDENCE OF INSURANCE

The Developer shall provide the City with written evidence of insurance covering public liability and injury and property damage to third parties, in which the City and its Engineer shall be named insured's, to the extent provided in Paragraph 10 of the General Conditions. The Developer agrees to defend, indemnify and hold the City and its Engineer harmless from any and all claims, demands, actions, and/or liabilities of every kind and nature as may be made against the City by reason of or arising out of the acts and/or omissions of the Developer, its agents, and/or contractors, subcontractors and suppliers and related to or in conjunction with the Extensions or this Agreement, including costs and attorneys' fees incurred by the City in investigating and defending against any such claim.

9. CONSTRUCTION CASH DEPOSIT

The Developer agrees to have the contractor install the Extensions pursuant to this Agreement and may provide the City with a cash deposit in lieu of a performance bond prior to beginning construction of said Extensions. No construction shall be commenced until said cash deposit is furnished. This cash deposit shall be conditioned upon the contractor's strict compliance with the City's conditions and standards for the Extensions and shall insure the City against any damage to its existing system as a result of the contractor's failure to comply.

Said deposit will be refunded to the developer upon satisfactory completion of the Extensions and connection of the Extensions to the existing system. The Developer shall be responsible for and pay the costs of repair of any damage it may cause to City

systems. In the event of the contractor's failure to comply, the City may, in addition to any other rights it may have, retain the total amount of the cash deposit as liquidated damages or such portion of said deposit as may be necessary to defray such costs.

10. PERFORMANCE BOND

The Developer shall furnish to the City a Performance Bond between the Developer and the City upon the form approved by the City and in an amount equal to the Engineer's estimated cost of the Extensions in existing public rights-of-way, prior to beginning construction of the Extensions.

The performance bond shall assure and guarantee compliance with this Agreement, the satisfactory completion of all Extensions and payment of all fees required herein and restoration of any impacted pre-existing City facilities in accordance with the terms of this Agreement and shall hold the City harmless from any claims, therefrom and shall be in the form(s) contained in this Agreement.

11. EASEMENTS

Any required easements shall be obtained by the Developer at its sole cost and expense, name the City as grantee, and a copy of such easement in a form acceptable to the City shall be delivered to the City prior to the time the Developer commences construction hereunder. Upon completion of construction and prior to acceptance of the Extensions by the City, a title insurance policy in a sum not less than $5,000 per 500 feet of easement, insuring the City's clear title to the easement shall be provided to the City by Developer.

12. PERMITS

All the necessary permits from any governmental agency shall be obtained by the Developer directly and the City shall be provided with a copy of all permits obtained by the Developer before construction commences. The City shall not be required to appeal the denial of any such permit and the risk of obtaining and complying with all permits and approvals rests solely with the Developer.

13. GRADING OF ROADS

The Developer shall grade all roads to the design sub grade elevation prior to the start of construction on any utility and shall advise the City in writing of any changes which may be contemplated during construction.

If the Developer changes the sub grade elevation of the road after completion of the extension of any part thereof, the Developer shall be responsible for all costs incurred to raise or lower the utility as required as a result of said change in sub grade elevation.

14. MAINTENANCE OF CORRECT GRADES ON SEWER PIPELINES

The Developer and his contractor shall maintain the correct grades between manholes and shall check all the intermediate grade stakes by means of a taut grade wire between at least three intermediate grade stakes. In the event that the grade stakes do not line up, the work shall be stopped until the situation is corrected. The contractor shall make certain that all sewers slope toward the connection to the existing sewer and run at a constant grade between manholes.

15. CONNECTION TO THE CITY'S SYSTEM

Not less than 48 hours prior to the time that connection to the City's system is desired, written agreement for permission to make the actual connection to the City's system shall be made by the Developer or his contractor. All connections to the existing system and all testing of the new line shall be at a time and in the manner specified by the City and shall be conducted in the presence of the City authorized representative. Where connections to the City's water or sewer system would, in the opinion of the City, create unacceptable disruption to service, such connection shall be made by live tap.

16. CONDITION PRECEDENT

City's obligation to allow connection of the Extensions to the City's system, or to provide water, sewer, stormwater service or street extensions to the Developer's property shall not arise until Developer has complied with all terms and conditions of this Agreement, and all applicable ordinances, resolutions and requirements of the City, including payment of all fees and charges.

The City shall not be obligated to provide water, sewer, stormwater, or street services to any property if the construction of the Extensions has not been completed and title accepted by the City.

17. FINAL ACCEPTANCE

Following the City Engineer's final inspection and approval of the Extensions as having been completed in accordance with the plans and specifications of this Agreement, the Developer shall convey ownership to all or such portions of the Extensions to the City as directed by the City.

Prior to such acceptance, the Developer shall execute and deliver to the City a Bill of Sale for the Extensions (or portion thereof) in the form furnished by the City containing the warranty set forth in the General Conditions, Paragraph 23, entitled "Warranties of

Developer." For plans prepared by the Developer's engineer, the Developer shall also provide the City with as-built record drawings on mylar and on computer disk in AutoCAD format, certified by a licensed professional land surveyor.

Upon acceptance of ownership by the City, the Extensions shall be the property of the City and subject to the control, use, and operation of the City and all regulations applicable to service and charges as established by the City from time to time.

Such acceptance by the City shall not relieve the Developer of the obligations for the succeeding 12 months to correct defects in design, labor and/or materials as provided in this Agreement nor the Developer's obligation to defend, indemnify and hold harmless the City as provided herein. Prior to acceptance of the Extension by the City, the Developer shall furnish a maintenance bond in the form contained in this Agreement which shall continue in force from the date of acceptance and transfer of ownership for a period of one (1) year. The maintenance bond shall be in an amount equal to ten percent (10%) of the cost of said extension, or Five Thousand Dollars ($5,000.00), whichever is greater.

18. LIMITATION OF PERIOD FOR ACCEPTANCE

A. Completion

The Extensions shall be complete and accepted within one year of date of execution of this Agreement by the City.

B. Failure to Commence Construction

In the event the Developer, after the receipt of approved construction plans, has not commenced construction, and if the City determines, in its absolute discretion, that it is necessary that the Extensions be completed in order that the City can provide water, sewer, stormwater and/or street service to the Developer's Property, then the City may give the Developer and Additional Owners notice (by certified mail to the addresses shown herein) that construction of the water, sewer, stormwater, and street improvements must be commenced within sixty (60) calendar days of mailing said notice. If construction is not commenced within the time specified in said notice, the City may terminate this Agreement by written notice to the Developer and Additional Owners. In such event, the City shall retain all payments and deposits made by the Developer to the City and the City may, at its discretion, proceed with construction of the water, sewer, stormwater and/or street improvements.

If a delay in the City's preparation of the plans or the City's review of the Developer's prepared plans is occasioned by failure of the Developer to provide necessary data or information to the City's engineer for a period of sixty (60) days after notice of the need for such data or information, then the City may terminate this Agreement by written notice to the Developer.

C. Failure to Complete Construction

If the Extensions are not completed and accepted within one year from the date this Agreement is executed by the City, the Developer's rights under this Agreement shall cease unless the City consents to the renewal of the Agreement or the City and Developer enter a new agreement. In either event, the Developer may be required to pay additional administrative fees and additional legal, engineering, and inspection costs as determined by the City.

In the event no new agreement or renewal of this Agreement is entered, the City, in its sole discretion, may proceed to require completion of construction under the provision of the Developer's Performance Bond for any extensions in existing rights-of-way.

21. WARRANTY OF AUTHORITY

The undersigned Developer and Additional Owners warrant that they constitute the exclusive owners of all of the Developer's Property and upon request of the City agree to provide title insurance, at the City's option and at the Developer's sole cost and expense, establishing to the satisfaction of the City that the parties executing this agreement constitute the owners of all the real property described herein and have the authority to execute this agreement with respect to said real property.

22. ATTORNEY FEES

In the event that this Agreement is referred or placed into the hands of attorneys by the City for review and/or enforcement of any portion, or if suit is instituted with respect to this Agreement then the Developer and Additional Owners shall pay the City's reasonable attorneys' fees, court costs, and all other expenses in connection therewith as may be incurred by the City.

SIGNED this ___ day of_____, 2013.

Developer: _____

By: _____

Additional Owners:

_____

_____

_____

CITY OF NORTH BEND

King County, Washington
By:_____
Ken Hearing, Mayor

EXHIBIT A

Maloney Grove
9 Lot Shot Plat

EXHIBIT B

Preliminary Estimate of
Connection, Impact and Reimbursement Fees

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

PERFORMANCE BOND

CITY OF NORTH BEND

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____ _____ as Principal, and _____, as Surety, are held and firmly bound unto the City of North Bend in the full sum of _____ DOLLARS ($_____), lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the conditions of this obligation are such that the Principal has entered or will enter into an agreement in writing with the City of North Bend, dated ___ day of _____, 20____ for:

Contract No.: _____
Contract Title: _____
_____
_____
_____

and the terms, conditions and covenants specified in said agreement, including all of the contract documents therein referred to, are hereby referred to ad made a part hereof as fully and completely as though set forth in detail herein;

NOW, THEREFORE, if the Principal shall faithfully perform all the provisions and requirements of the agreement, including all of the contract documents, according to the terms and conditions thereof and shall hold the City of North Bend harmless from any loss or damage to any person or property by reason of any negligence on the part of the Principal or of any subcontractor in the performance of said work, and shall pay all laborers, mechanics, subcontractors and material men and all persons who shall supply such person or persons or subcontractors with provisions and supplies for carrying on of such work, and shall further indemnify and save harmless the City from any defect or defects in any of the workmanship or materials entering into any part of the work as defined in the agreement which shall develop or be discovered within 365 days after the final acceptance of such work, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect, and the City shall have the right to sue on this bond for any breach of the contract on this bond; provided, however, that the provisions of this bond shall not apply to any money loaned or advanced to the Principal or any subcontractor or other person in the performance of any such work.

IT IS FURTHER DECLARED AND AGREED that nothing of any kind or nature whatsoever that will not discharge the Principal shall operate as a discharge or a release of liability of the Surety, any law, rule of equity or usage relating to the liability of sureties to the contrary notwithstanding, and the Surety waives notice of any alteration, or extension of time, made by the City.

SIGNED AND SEALED this ____ day of _____, 20____.

Principal: _____ Surety: _____

By: _____ By: _____

Title: _____ Title: _____

Address: _____ Address: _____

City/Zip: _____ City/Zip: _____

Phone: _____ Phone: _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Signature) (Print name: _____) NOTARY PUBLIC in and for the State of Washington
My appointment expires _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Signature) (Print name: _____*)* NOTARY PUBLIC in and for the State of Washington
My appointment expires _____

Note: A power of attorney must be provided which appoints the Surety's true and lawful attorney-in-fact to make, execute, seal and deliver this performance bond.

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

MAINTENANCE BOND

CITY OF NORTH BEND

MAINTENANCE BOND

Know all men by these presents, that we, _____, as Principal and _____, as Surety, are held and firmly bound unto the City of North Bend in the full sum of _____ ($_____) lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the conditions of this obligation are such that the Principal has entered or will enter into an agreement in writing with the City of North Bend, dated ____ day of _____, 20___ for:

Contract No.: _____

Contract Title: _____
_____
_____
_____

AND WHEREAS, the City requires a guarantee from the Principal against defective materials and workmanship in connection with said maintenance.

NOW, THEREFORE, the Principal does hereby covenant and agree that it/he shall make any and all repairs or replacements which are necessary during the period of _____, by reason of defective materials or workmanship in connection with said contract. If such defective materials or workmanship occur within said period, the City shall give the Principal and Surety written notice thereof within fifteen (15) days after discovery. When each such replacement is made to the satisfaction of the City the obligation of the Principal and Surety shall be discharged as to such replacement.

Any such repairs or replacements which are made pursuant hereto shall in like manner be subject to the terms and conditions hereof.

All suites at law or in equity to recover on this bond must be instituted within 365 days after the expiration of the maintenance period provided for herein.

SIGNED this ____ day of _____, 20____.

Principal: _____ Surety: _____

By: _____ By: _____

Title: _____ Title: _____

Address: _____ Address: _____

City/Zip: _____ City/Zip: _____

Phone: _____ Phone: _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Print: _____)
NOTARY PUBLIC in and for the State of Washington
My appointment expires _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Print: _____)
NOTARY PUBLIC in and for the State of Washington
My appointment expires _____

Note: A power of attorney must be provided which appoints the Surety's true and lawful attorney-in-fact to make, execute, seal and deliver this maintenance bond.

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

UTILITIES EASEMENT

FILED FOR RECORD AT REQUEST OF:

OFFICE OF THE CITY ATTORNEY
CITY OF NORTH BEND
P O BOX 896
NORTH BEND, WA 98045

WHEN RECORDED RETURN TO:

CITY CLERK
CITY OF NORTH BEND
P O BOX 896
NORTH BEND, WA 98045

EASEMENT AGREEMENT

This Agreement is entered into as of the ____ day of _____, 20__, by and between _____("Grantor") and the City of North Bend ("Grantee").

1. Recitals.

a. The Grantor is the owner of that certain real property legally described on Exhibit "A" attached and incorporated by this reference ("Parcel A").

Commonly known as: _____

Assessor's tax parcel number: _____
(if available)

Abbreviated legal description: _____
(with lot, block, plat or section, township and range).

b. The Grantee is the owner of that certain real property legally described on Exhibit "B" attached and incorporated by this reference ("Parcel B").

c. This Agreement sets forth the terms and conditions under which the Grantor will grant the Grantee an easement.

2. Grant of Easement. For valuable consideration, receipt and sufficiency of which is acknowledged, the Grantor warrants, grants and conveys to the Grantee, a perpetual and exclusive easement over, across and under that portion of Parcel A which is legally described on Exhibit "C" attached and incorporated by this reference ("Easement").

3. Purpose of Easement. The Easement is granted for the purpose of the installation, operation and maintenance of _____. Grantee and its agents, designees and/or assigns shall have the right at such times as deemed reasonably necessary by Grantee, to enter upon Parcel A to inspect, construct, reconstruct, operate, maintain, repair, and replace the _____.

4. General Provisions.

a. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their successors, heirs, assigns, and personal representatives and all persons claiming by, through or under the parties hereto. The Easement created shall be appurtenant, shall touch and concern the real property described herein, and shall run with the land.

b. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction over and venue of any suit arising out of or related to this Agreement shall be exclusively in the state and federal courts of King County, Washington.

c. Attorneys' Fees. In the event that any suit or other proceeding is instituted by either party to this Agreement arising out of or pertaining to this Agreement or the relationship of the parties, including but not limited to filing suit or requesting an arbitration, mediation, or other alternative dispute resolution process (collectively, "Proceedings"), and appeals and collateral actions relative to such a suit or Proceeding, the substantially prevailing party as determined by the court or in the Proceeding shall be entitled to recover its reasonable attorneys' fees and all costs and expenses incurred relative to such suit or Proceeding from the substantially non-prevailing party, in addition to such other relief as may be awarded.

d. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to this matter. It may not be modified except in writing signed by the party against whom enforcement of the modification is sought.

e. Waiver. The waiver by a party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by that party. No waiver shall be valid unless in writing and signed by the party against whom enforcement of the waiver is sought.

f. Severability. If for any reason any portion of this Agreement shall be held to be invalid or unenforceable, the holding of invalidity or enforceability of that portion shall not affect any other portion of this Agreement and the remaining portions of this Agreement shall remain in full force and effect.

g. Notices. Any notice required or desired to be given under this Agreement shall be deemed given if in writing delivered to the party, or sent by certified mail to the address listed below for that party:

GRANTOR:

GRANTEE:

DATED this ____ day of _____, 20__.

GRANTOR: _____

GRANTEE: _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Print: _____)
NOTARY PUBLIC in and for the
State of Washington
My appointment expires _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
NOTARY PUBLIC in and for the
State of Washington
My appointment expires _____

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

BILL-OF-SALE

FILED FOR RECORD AT REQUEST OF:

CITY CLERK
CITY OF NORTH BEND
P O BOX 896
NORTH BEND, WA 98045

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of the sum of One Dollar ($1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, the undersigned Seller(s) _____, do(es) by these presents hereby convey, set over, assign, transfer and sell to the **City of North Bend** (the "City"), King County, Washington, a municipal corporation, the following described water distribution system, wastewater collection system, storm drainage system, curbs, and/or street paving hereto and warrants against defects in labor or materials appearing within one year from the date hereof:

Commonly known as:

Seller warrants that he/she, they, it, is/are the sole owner(s) of all the property above described and has/have full power to convey all rights herein conveyed and agree to hold the City of North Bend harmless from any and all claims which might result from execution of this document.

Seller warrants that the property above described is free from all liens and encumbrances and Seller warrants and will defend the property hereby sold to City and its successors and assigns against the lawful claims and demands of all persons.

By accepting and recording this instrument, the City accepts and agrees to maintain the water distribution system, wastewater collection system, storm drainage system, curbs, and street paving as part of the City's water distribution system, wastewater collection system, storm drainage system, and street system in the same manner as though it had been constructed by the City.

IN WITNESS WHEREOF the Seller(s) has/have executed these presents this ____ day of _____, 20____.

Seller: _____ Purchaser: _____
_____
_____ APPROVED AS TO FORM:
_____

_____
City Attorney

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Print: _____)
NOTARY PUBLIC in and for the State of Washington
My appointment expires _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

_____
(Print: _____)
NOTARY PUBLIC in and for the State of Washington
My appointment expires _____

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

STANDARDS FOR PREPARATION OF PLANS AND SPECIFICATIONS

CITY OF NORTH BEND

STANDARDS FOR PREPARATION OF DEVELOPER EXTENSION CONSTRUCTION PLANS AND SPECIFICATIONS

1. GENERAL……
2. DESIGN BY DEVELOPER'S ENGINEER……..
3. DESIGN CRITERIA……
4. EASEMENTS/RIGHTS-OF-WAY…….
5. CONSTRUCTION DRAWING FORMATS……..

CITY OF NORTH BEND

STANDARDS FOR PREPARATION OF DEVELOPER EXTENSION CONSTRUCTION PLANS AND SPECIFICATIONS

1. GENERAL

The following standards are to be followed in the design of extensions to the water, sewer, storm sewer systems, and streets of the City, and the preparation of plans and specifications for the construction of these extensions. These standards are to be followed except where specific deviations are approved by the City. Construction materials and procedures and construction details shall comply with the latest revisions to following associated standards:

Streets – WSDOT/APWA Standard Specifications for Road, Bridge, and Municipal Construction (latest edition)
Water – AWWA
Sewer – Washington State Dept. of Ecology's Criteria for Sewage Works Design
Storm Drainage – King County Surface Water Design Manual (latest edition)

2. DESIGN BY DEVELOPER'S ENGINEER

The Developer shall have the right to select its own Engineer to design and prepare the plans or have the City Engineer perform such design and preparation. The Developer's Engineer shall only have authority to design and prepare the plans for the extension to the City's water, sewer, storm sewer system, and streets. The design shall conform in all respects to City specifications and must be approved by the City Engineer prior to commencement of construction. It is the responsibility of the Developer to ensure that the plans prepared by Developer's Engineer conform in all respects to City specifications. Failure by the City to discover errors, omissions, or discrepancies in the plans shall not relieve the Developer of this responsibility.

Provisions should also be made for the ownership of design plans as follows;

The originals of all plans prepared by Developer's Engineer and as modified to reflect as-built conditions shall be delivered to the City upon completion of construction and shall become the property of the City. Neither Developer nor Developer's Engineer shall have any rights of ownership, copyright, trademark or patent to the plans.

The selection of the Developer's Engineer may be provided for as follows;

Should Developer elect to use its own Engineer to design and prepare the plans, at the time of development and submission of this agreement to the City for execution, the Developer

shall notify the City in writing of the person or firm proposed to do the work. Nothing contained in this agreement shall create any contractual rights between the City and any person or firm employed by Developer to design and prepare the plans.

The reliance of the Developer's Engineer or any information provided by the City for design purposes will be addressed as follows:

In the event Developer elects to use its own Engineer to design and prepare the plans, the City shall make available to the Developer such information as it may have regarding existing utilities and obstructions. Such information is not guaranteed that is made available to the Developer for such value as it may have. Incompleteness or errors in this information shall not be the cause of claim against the City Engineer of the City nor shall it relieve the developer of responsibility for repairing any damage its activities may cause to such utilities. It shall be Developer's responsibility to contact all necessary utilities and determine what existing utilities and obstructions may exist.

When the Developer proposes to design and to prepare construction plans using his own engineer, a pre-design conference with the City's Engineer is recommended, but not required, to ensure there is a clear understanding of the City Standards and the specific improvements required to extend the City water, sewer, storm drainage and street systems to serve the Developer's property.

3. DESIGN CRITERIA

The design of extensions shall be consistent with the City's approved Comprehensive Plans, the regulations and standards of the Department of Health, King County Fire Marshal, and all other applicable State, County, and Local agency standard regulations. Specific criteria established by the City are as follows:

Water System

1. Minimum size for all water mains shall be 8-inches except where the water main is permanently dead ended with no future potential for extension, is less than 300 feet in length, and does not include a fire hydrant.
2. All water service lines shall be 1" or larger. Dual services are ***not*** allowed.
3. Water mains shall be located at a uniform 10 feet north and east of centerline. Fittings will be used when necessary to maintain, as closely as possible, the uniform offset from centerline.
4. Wherever possible, valves shall be clustered at the tee or crosses of connecting intersecting water lines.
5. All fittings, fire hydrants and other appurtenances shall be located on the plans by street centerline station and offset or easement baselines.

6. All water mains 4 inches and larger shall be ductile iron pipe. The ductile iron pipe shall be class 52 except where trench, backfill and loading dictate a stronger class pipe.
7. The locations and size of oversized mains or special structures such as a pressure reducing stations shall be designated by the City Engineer.
8. Water lines shall be looped and dead-end lines avoided if possible.
9. Water lines shall be extended to the boundaries of the property being served providing access to all adjacent properties that will require future service.
10. All water service lines are to be installed at 90° to the water main and street centerline.

Sewer System

1. Minimum size for all sewer pipe shall be 8-inches except where line is less than 150 feet and will not be extended.
2. Minimum slope on all sewer pipe shall comply with Department of Ecology standards except for 8-inch. Minimum slope for 8-inch sewer pipe shall be 0.005 feet/foot except where a lesser slope is specifically approved by the City Engineer.
3. All sewer pipe invert elevations at manholes shall be computed to the center of the manhole.
4. Where the combined slope of the sewer line entering or exiting a manhole is less than 0.05 feet per foot, a drop of 0.l foot shall be provided between the invert of the enter and existing sewer pipes.
5. The location and size of oversized sewer lines shall be designated by the City Engineer.
6. All sewer manholes shall be located at street centerline or 6-foot south or west of street centerline.
7. Location of all sewers shall not exceed a horizontal distance or more than 10 feet from street centerline.
8. Sewer lines shall be designed such that the invert elevation of the side sewer stub at the property line is at least 4 feet deep and below the lowest expected floor elevation of the structure to be served such that the slope of the service line from the property line to the building is at least 0.02 feet/foot. The invert elevation of the connection plus the rise of the side sewer to the property line shall be based on its length and minimum slope of 0.02 feet/foot plus 1.0 foot. The design elevation of the side sewer stub shall be shown on the construction plan.
9. Sewer lines shall be extended to the boundaries of the property being served providing access for future service of adjacent properties.
10. All side sewer service lines shall be 6” or larger. Dual services are ***not*** allowed.
11. Clean-outs for all side sewers shall be located at the property line of the lots being served and at bends and 100-foot intervals on the private properties.

Storm Water System

Mainline Storm Water System:

1. Minimum size for all storm drain pipe shall be 12-inches, except those pipes which connect curb inlets to main storm drains may have a minimum diameter of 8-inches, and a maximum length of 60 linear feet if conflicts with other utilities prevent the use of 12-inch diameter pipe.
2. Minimum slope of storm drains shall be 0.005, except that larger diameter pipe may be installed at a smaller slope if approved by the City Engineer.
3. Maintain uniform line and grade between all catch basins.
4. Install catch basins at all changes of line, grade, change in pipe size or material, at all pipe intersections and at ends of all storm drain pipe, except driveway culverts and at maximum drain spacing of 300 feet. Maximum length of overland drainage shall be 300 feet.
5. Extend mainline storm sewers to boundary of project to serve adjacent upstream properties.
6. Design location of pipe shall be along south and west street curbs, except as required to match existing utilities.
7. Minimum depth of cover over top of pipe shall be 2 feet, unless otherwise approved by the City Engineer.
8. Extend service lines to property line where under future paving, curbs or sidewalks.
9. Notice pipe size, length, slope and invert elevations in profile on each run between catch basins.
10. Drainage facilities must be designed in accordance with the latest version of the King County Surface Water Design Manual.
11. In areas where open ditches are allowed, they shall be constructed with minimum depth of 3 feet, minimum side slope of one and one-half feet horizontal to one vertical, with driveway culverts 12 inch minimum diameter.
12. Culvert ends shall be beveled and shall be protected with quarry spall armor for full depth of ditch, or pipe ends shall be vertical with concrete headwalls.

Footing and Downspout Drain:

1. Minimum diameter shall be 6 inches to property line.
2. Minimum slope shall be one percent.
3. Provide 3 foot minimum depth at property line, or deeper if required by lot topography.
4. Provide individual drain for each house or lot.
5. All drain lines shall enter the storm system at catch basins

On-Site Detention:

On-site detention of stormwater shall be designed and installed in accordance with the latest version of the King County Surface Water Design Manual for all development or redevelopment.

Streets

1. Right of way width shall be in accordance with the street's classification.
2. All intersections shall be 90 degree, unless approved by the City Engineer.
3. Street Extensions shall be laid out to promote efficient vehicular circulation.
4. All right of way shall be extended to property lines to avoid land locking adjacent parcels, unless otherwise approved through the platting process.
5. Maximum permitted road grade is 15%.
6. Adequate transverse slope must be provided for surface water drainage.
7. Maximum dead end street length is 300 feet.

4. EASEMENTS/RIGHT-OF-WAY

Whenever water, sewer, and/or storm water lines are located outside of public street rights-of-way, easements shall be of sufficient width to allow for future replacement of the facility without damage to permanent adjacent improvements. In general, if the water, sewer, and/or storm water line is located in the center of the easement, its minimum width shall be 15 feet. Special circumstances may require additional widths such as for deep sewer lines.

5. CONSTRUCTION DRAWING FORMATS

The City desires to maintain a consistent format to its construction drawings and, therefore, requires that all construction drawings conform to the following format unless exceptions are approved in advance by the City's Engineer.

The following format and requirements are minimum for normal type system extensions. Unusual or special facilities or construction requirements may dictate additional drawings and drawing requirements.

A. Sheet size: 24" x 36" mylar

B. Water, Sewer, and Storm Water and Street Plan: a separate construction plan is required at a scale of 1" = 20', showing all existing or proposed utilities, existing or proposed street surfacing and improvements, street centerline and stationing, street right-of-way margins, street names, legal identifications of properties such as lot number or tax lot number, section subdivision lines, all property lines and all easements.

Water Plan - show the following:

1. Size, material, location and length of each water main. Length measured between fittings or appurtenances.

2. Station and offset to all fittings and valves and listing of each fitting and the type of connection, e.g., flanges (FL), mechanical joint (MJ), etc.
3. Station and offset to all appurtenances such as fire hydrants, blow off and air/vacuum release assemblies.
4. Details showing how the connection to the existing water system is to be made and how the new mains are to be tested and sampled for analysis prior to connection.
5. Location of all water services and whether the service is a double or single.

Sewer Plan - show the following:

1. Station and offset to each manhole. Number each manhole consecutively in the new sewer system based on an agreed upon numbering system. Begin at the connection to existing system and proceed upstream. Breach lines shall use the subnumber of the manhole on the line number.
2. Show the size, material, slope, and length of each sewer line between manholes.
3. Show the location of all side sewer stubs and the invert elevation at the end of the stub.
4. Show details as necessary to direct the contractor in making connections to the existing system and to protect existing facilities during construction of the new sewers.
5. All other work and materials required for the construction of the extension shall be clearly shown and concisely illustrated on the plan.

Street/Storm Water Plan - show the following:

1. Station and offset to each catch basin. Number each catch basin consecutively in the new storm water system based on an agreed upon numbering system. Begin at the connection to existing system and proceed upstream. Breach lines shall use the subnumber of the catch basin on the line numbered.
2. Show the size, material, slope, and length of each storm water line between catch basins.
3. Show details as necessary to direct the contractor in making connections to the existing system and to protect existing facilities during construction of the new storm water system
4. All other work and materials required for the construction of the extension shall be clearly shown and concisely illustrated on the plan.
5. Right-of-way width, pavement width, sidewalk and landscaping location.
6. Location of storm drainage facilities.
7. Radius and tangent points of all curves.
8. Grading plan showing location and extent of all cuts and fills.
9. Specification of pavement, gutter, curb, and sidewalk materials.

C. Water, Sewer, or Storm Water Profile – Profiles of proposed sewer mains shall be provided on the associated plan drawing of the sewer mains. Profile shall be shown directly under the plan layout of the pipe. Profiles of proposed storm pipes shall be similarly provided on

the associated plan drawing of the street/storm systems. A separate drawing showing the vertical profile of proposed water mains may be required where the vertical location of the water line is critical to its construction. The scale of these drawings shall be 1" = 20' horizontal and 1" = 5' vertical.

Sewer profile—show the following:

1. For each manhole, show the rim elevation, invert elevation of all sewer entering or leaving the manhole, and the manhole number and location (street station and offset).
2. Show the sewer line profile and the existing and proposed ground lines. Identify the size, material, slope, and horizontal length of the sewer line on the profile.
3. Above the ground line indicate the profile location by street name or other right-of-way designation.
4. Show all crossing utility and designate special materials or construction procedures that may be required.
5. Provide a legend to clearly illustrate the composition of the profile.

Water Profile - The water profile, if required, shall follow the sewer format except that invert elevations of the water main shall be shown at each location where critical to its construction and at all fittings, valves and appurtenances.

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

GENERAL CONDITIONS

CITY OF NORTH BEND

GENERAL CONDITIONS
FOR JOBS CONSTRUCTED BY DEVELOPERS

1. SCOPE . . . . . .
2. DEFINITIONS . . . . . .
3. PLANS AND SPECIFICATIONS; OMMISSIONS AND DISCREPANCIES. . . . . .
4. STATUS OF CITY ENGINEER. . . . . .
5. SURVEYS, PERMITS, LAWS, AND REGULATIONS. . . . . .
6. CONSTRUCITON STAKING. . . . . .
7. INSPECTION AND TESTING . . . . . .
8. PLANS AND SPECIFICATIONS ACCESSIBLE . . . . . .
9. OWNERSHIP AND DRAWINGS . . . . . .
10. INSURANCE . . . . . .
11. MATERIAL AND EQUIPMENT; MATERIAL AND EQUIPMENT LIST. . . . . .
12. SHOP DRAWINGS . . . . . .
13. CUTTING AND FITTING . . . . . .
14. LABOR, MATERIALS, EQUIPMENT, FACILITIES, AND WORKMEN . . . . . .
15. SAMPLES. . . . . .
16. DETERMINATION OF “OR EQUAL” . . . . . .
17. ROYALTIES AND PATENTS . . . . . .
18. PAYMENT OF PREVAILING WAGES . . . . . .
19. PROTECTION OF WORK AND PROPERTY AND SAFETY. . . . . .
20. EXISTING UTILITIES OR OBSTRUCTIONS. . . . . .
21. REPLACING IMPROVEMENTS. . . . . .
22. SUPERINTENDENCE AND SUPERVISION . . . . . .
23. WARRANTIES OF DEVELOPER. . . . . .
24. CORRECTION OF DEFECTS OCCURRING WITHIN WARRANTY PERIOD. . . . . .
25. INDEMNITY . . . . . .
26. SUBLETTING AND SUBCONTRACTING . . . . . .
27. SEPARATE CONTRACT; INTERFERENCE WITH OTHER DEVELOPERS . . . . . .
28. LOSS OF MARKERS . . . . . .
29. ATTORNEY’S FEES. . . . . .

GENERAL CONDITIONS
FOR EXTENSIONS CONSTRUCTED BY DEVELOPERS

1. SCOPE

Set forth below are general conditions to all applications for extension of the City's water, sewer, storm sewer systems, and streets by Developers. Reference to or requirements for non-applicable conditions for any particular application will be construed to have no meaning relative to the performance of such work. All other conditions shall be strictly followed.

2. DEFINITIONS

The following terms, as used in this contract, shall be defined and interpreted as follows:

A. "Application" or "This Application": The application for permission to construct an extension to the water system and/or sewer system and/or storm sewer system and/or streets executed by the Developer and the City of which these General Conditions are an integral part.

B. "Extension Documents": The Extension Documents shall consist of the following. In cases of conflict in provisions, the first mentioned shall have precedence:
   1. Addenda to the Developer Extension Agreement
   2. City Engineer approved amendments to the City standards
   3. Design and format standards (as adopted under current City code)
   4. Special Provisions (if additional conditions are required)
   5. Plans and written instructions
   6. General Conditions and referenced specifications

C. "City": City of North Bend, King County, Washington

D. "Developer": The person, partnership, firm, or corporation having filed an application with the City to cause the installation of water, sewer, storm sewer and/or street improvements to become a part of the City system. The term shall also include the Developer's agents, employees, and subcontractors. For purposes of notice, the Developer address is shown in the application.

   "Developer Engineer:" The engineering firm, and that firm's representatives, which may be approved by the City to act as the Engineer for the work to be performed under this agreement.

E. "City Engineer": The consulting engineer or his/her duly authorized personnel acting as agents for the City in the administration of this Application, for the benefit of the City in accordance with the Extension Documents.

F. "Extension": The system of water mains and appurtenances or other water system improvements to be constructed in whole or in part pursuant to this Application; and/or the system of sewer mains and appurtenances or other sewer system improvements to be constructed in whole or in part pursuant to this Application; and/or the system of storm sewer mains and appurtenances or other storm sewer system improvements to be constructed in whole or in part pursuant to this Application; and/or street improvements to be constructed in whole or in part pursuant to this Application.

G. "Plans": The plans shall man all official drawings or reproductions of drawings made or to be made pertaining to the work provided for in the Application or to any structure connnected therewith.

H. "Special Provisions"—the following Special Provisions shall be utilized:
Division 2 through 9 of the STANDARD SPECIFICATIONS FOR ROAD, BRIDGE AND MUNICIPAL CONSTRUCTION, latest edition, issued by the Washington State Department of Transportation and American Public Works Association, Washington State Chapter and amendments to Division 1, hereinafter referred to as the Standard Specifications.
Also, incorporated into these specifications by reference are:
AWWA - American Water Works Association
ANSI- American National Standards Institute
ASTM- American Society of Testing Materials

I. "Specifications": The specifications shall mean the prescribed directions, requirements, explanations, terms, and provisions pertaining to the various features of work to be done or manner or method of performance and the manner and method of measurements and payments. They also include directions, requirements, and explanations as set forth in the plans.
"Reference Specifications": Reference specifications shall mean the technical specifications of other agencies incorporated or referred to herein.

J. "Or Equal": Any manufactured article, material, method, or work which, in the opinion of the City Engineer, is equally desirable or suitable for the purposes intended in these specifications and the Contract as compared with similar articles specifically mentioned herein.

K. "Supplemental Drawings and Instructions": The City Engineer may furnish with reasonable promptness, at his sole discretion upon written request by the

Developer, additional instructions by means of drawings or documents necessary, in the opinion of the City Engineer, for the proper execution of the work. All such drawings and instructions shall be consistent with the Contract Documents.

L. "Shop Drawings": All shop details, structural steel, pipe, machinery, equipment, schedules, bending diagrams, reinforcing steel, and other detail drawings furnished by the Developer, as required and provided for in the specifications.

3. PLANS AND SPECIFICATIONS; OMISSIONS AND DISCREPANCIES

The Developer shall carefully study and compare all drawings and specifications and other instructions and shall, prior to ordering material or performing work, report in writing to the City Engineer any error, inconsistency, or omission in respect to design, construction or cost which he/she may discover. If the Developer, in the course of this study or in the accomplishment of the work, finds any discrepancy between the drawings, or any such errors or emissions in respect to design, construction, or cost in drawings or in the layout as given by points and instructions, it shall be his/her duty to inform the City Engineer immediately in writing, and the City Engineer shall promptly check the same. Any work done after such discovery will be done at the Developer's risk.

4. STATUS OF CITY ENGINEER

A. The City Engineer shall have general supervision and direction of the work, provided, however, nothing contained herein or elsewhere in the Extension Documents shall be construed as requiring the City Engineer to direct the method or manner of performing any work by the Developer under this contract. The City Engineer has the authority to stop work whenever, in his/her opinion, such stoppage may be necessary to ensure proper execution of the contract. The City Engineer may also reject all work and materials which in his/her opinion, do not conform to the contract.

B. It is understood and agreed by and between the parties hereto that the work (except the method or manner of performing the work) included in the application is to be done under the general supervision and to the complete satisfaction of the City Engineer, or his/her duly authorized representative, who shall use his/her reasonable discretion and professional experience as to the true interpretation and meaning of the application, plans, specifications, and estimates and as to all questions arising as to proper performance of the work.

C. The City Engineer shall use his/her reasonable discretionary and professional experience to decide any and all questions which may arise as to the quality or acceptability of materials furnished and work performed and all questions as to be

acceptable fulfillment and performance of the Application on the part of the Developer. The decision of the City Engineer in such matters shall be final.

D. The City Engineer may direct the sequence of conducting work when it is in locations where the City is doing work either by contract or by its own forces or where such other work may be affected by the contract, in order that conflict may be avoided and the work under these specifications be harmonized with that under other contracts, or with other work being done in connection with, or growing out of, operations of the City. Nothing herein contained, however, shall be taken to relieve the Developer of his/her obligations or liabilities under the application.

E. Neither the City Engineer nor his/her representatives have the authority to waive the obligation of the Developer to perform work in accordance with the Extension Documents. However, the City Engineer shall have the authority to authorize minor field changes. Failure or omission on the part of the City Engineer or his/her representatives to condemn unsuitable, inferior, or defective work and/or labor or material or equipment furnished under the application shall not release the Developer or his/her bond from performing the work in accordance with the Extension Documents.

5. SURVEYS, PERMITS, LAWS, AND REGULATIONS

A. The Developer shall furnish all property boundary surveys unless otherwise specified. Permits, permission under franchises, licenses, and bonds of a temporary nature necessary for the prosecution of the work, and inspection fees in connection therewith shall be secured and paid for by the Developer. Where the City is required to secure such permits, permission under franchises, and licenses and bonds and to pay the fees, the costs incurred by the City shall be reimbursed to the City by the Developer.

B. The Developer shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work required by the Extension Documents. If the Developer observed that the Extension Documents, or any part thereof are inconsistent or at variance therewith, he/she shall promptly notify the City Engineer in writing, and any necessary changes shall be made as provided in the Application for changes in the work. If the Developer performs any work contrary to such laws, ordinances, rules and regulations, or prior to obtaining permits, permission under franchises, licenses, and/or bonds as required to be furnished by or obtained by the City, he/she does so at his/her own risk.

6. CONSTRUCTION STAKING

The Developer shall, at Developer's sole expense, furnish all construction points, stakes, and instructions necessary to control the horizontal and vertical placement of all facilities to be constructed by the Developer pursuant to the Application. Construction points, stakes and instructions to be provided by Developer shall meet the following minimum requirements:

Water Extension

1. Horizontal location of all water mains at 50 foot stations offset 10 feet from the water main locations.

2. Two directional 10 foot offsets to locate all pipe intersections, cast iron bends, valves, hydrants, blow off assemblies, and air and vacuum assemblies.

3. A stake at the edge of the public right-of-way or easement adjacent the water main marking the horizontal locations of all water service meter box assemblies.

4. Sufficient horizontal and vertical reference marks to accurately locate and construct all other water facilities and structures such as pressure reducing stations.

Sewer Extension

1. One complete set of grade stakes and suitable offset stakes at each manhole. The Developer shall provide to the City one (1) set of grade sheets (cut sheets) showing hub to sewer invert.

2. A stake at each property corner and a stake along the property line 20 feet off-set from the edge of the public right-of-way at each location where a side sewer stub is to be installed.

3. Sufficient horizontal and vertical reference marks and stakes to accurately locate and construct all other sewer facilities and structures to be constructed.

Storm Water Extension

1. One complete set of grade stakes and suitable offset stakes at each storm drain and intermediate grade stakes at an offset acceptable for construction at 50 foot intervals between storm drains. The Developer shall provide to the City one (1) set of grade sheets (cut sheets) showing hub to storm water invert.

2. Sufficient marks to locate all surface features such as manhole covers, valve box covers, storm drain grades, and all other surface features requiring exposure to the surface of the roadway.

3. Double 20-foot offsets for each corner of storm structures such as vaults or tanks.

The Developer shall perform all property surveys necessary for placement of the construction stakes including surveys of easements. The Developer shall provide to the City drawings showing the bearing and dimensions of all property lines, ties to adjacent subdivisions and section control and the calculated closure of all control traverses. Al surveying and construction staking shall be performed by a professional land surveyor licensed in the State of Washington.

7. INSPECTION AND TESTS

A. Inspection of the work by the City and its authorized agents shall be strictly for the benefit of the City, and nothing contained herein shall be construed to relieve the Developer of his/her obligations under this Application.

B. The City Engineer and his/her representatives shall, at all times, have access to the work for the purpose of inspecting and testing wherever it is in preparation or progress, and the Developer shall provide proper facilities for such access and for such inspection and testing.

C. If any work should be covered up without approval or consent of the City Engineer; it must, if required by the City Engineer, be uncovered for inspection at the Developer's expense.

D. Re-examination of questioned work may be ordered by the City Engineer; and, if so ordered, the work shall be uncovered by the Developer. If such work is found by the City Engineer to be in accordance with the Extension Documents, the City shall pay the cost of re-examination and replacement. If such work is found not in accordance with the Extension Documents, the Developer shall pay such costs.

E. The Developer shall make tests of the work as required by the City Engineer at the Developer's expense and shall maintain a record of such test.

F. For a performance test to be observed by the City Engineer, the Developer shall make whatever preliminary tests are necessary to assure that the material and/or equipment are in accordance with the specifications. If, for any reason, the test observed by the City Engineer is unsatisfactory, the Developer shall pay all costs incurred by the City Engineer for the inspection and supervision of all further testing.

G. Where work is performed other than during the normal 40-hours work week, the Developer shall pay additional costs of City for inspection and supervision.

H. Where the specifications, City Engineer's instructions, laws, ordinances, or any government authority require any work to be specifically tested or inspected, the Developer shall give the City Engineer timely notice of the date fixed for such inspection. Required certificates of inspection by authorities other than the City Engineer shall be secured by the Developer and copies provided to the City Engineer.

I. Inspection during construction will be provided as deemed necessary by the City Engineer.

J. Written notice of deficiencies, adequately describing the same, shall be given to the Developer upon completion of each inspection, and the Developer shall correct these deficiencies within seven (7) days of notice thereof, or as_agreed upon in writing by both parties, and before final inspection will be made by the City Engineer.

K. A representative of the Developer or the Developer's contractor shall arrange a time with and accompany the City Engineer on the final inspection and subsequent inspections, if required, thereafter.

L. Deficiencies discovered at the final inspection shall be corrected within seven (7) days notice thereof or as agreed upon by both parties and, in no instance shall service be provided until said deficiencies are corrected and the extension passes re-inspection.

M. All costs incurred by the City for inspection, including the fees and charges of its City Engineer, except as specifically provided for in this section, shall be paid by the Developer, and a deposit for this may be required in advance by the City.

N. Neither inspection nor acceptance by the City shall relieve the Developer of any responsibility or liability, whether to the City or others, provided in the Extension Documents.

8. **PLANS AND SPECIFICATIONS ACCESSIBLE**

A. The Developer shall be furnished three (3) copies of plans and specifications and shall keep at least one (1) copy of the same constantly accessible at the construction site.

B. Where shop drawings are required to be submitted for acceptance, one (1) copy of the approved shop drawings shall be kept constantly accessible at the construction site.

9. **OWNERSHIP OF DRAWINGS**

All drawings, specifications and copies thereof prepared or furnished by the City Engineer are his/her property. They are not to be used on other work and, with the exception of the signed Application, are to be returned to him/her upon completion of the work.

10. **INSURANCE**

The Developer shall carry liability and property damage insurance covering all work performed under this Agreement, including that done by subcontractors. This insurance shall name the City and its employees as co-insureds and shall be primary coverage with any insurance carried by the City classified as additional coverage. Unless otherwise specified, the insurance shall be carried as follows: Bodily Injury, each person - $3,000,000, each accident; Property Damage, each accident - $3,000,000.

11. MATERIAL AND EQUIPMENT; MATERIAL AND EQUIPMENT LIST

A. Material and equipment shall be new and as specified in the extension documents, or if not specified, shall be of a quality approved by the City Engineer. All materials and equipment furnished are warranted by the Developer for a period of one (1) year as new and as in compliance with the plans and specifications, if specified therein, and as suitable for the intended purpose. In addition thereto, the Developer shall furnish the City with copies of the supplier's warranty. In the event of fraud or bad faith by the Developer, the two year limitation of warranty shall not apply.

B. The Developer shall file two (2) copies of materials and equipment list with the City Engineer prior to proceeding with construction. This list shall include the quantity, manufacturer and model number, if applicable, of materials and equipment to be installed under the Application. This list will be checked by the City Engineer as to conforming with the plans and specifications. The City Engineer will pass upon the list with reasonable promptness, making required corrections.

The Developer shall make any required corrections and file two (2) corrected copies with the City Engineer within one week after receipt of required corrections. The City Engineer's review and acceptance of the lists shall not relieve the Developer from responsibility for deviations from the drawings and specifications or warranty for suitability for the intended purpose unless the Developer has in writing called the City Engineer's attention to such deviations at the time of submittal and secured the City Engineer's written approval for such deviation.

12. SHOP DRAWINGS

The Developer shall check and verify all field measures. He/she shall submit with such promptness as to cause no delay in his/her own work or in that of any other contractor two (2) copies, checked and approved by the Developer, of all shop or setting drawings and schedules (all collectively herein referred to as "shop drawings" required for the work of the various trades in the performance of the work or where requested by the City Engineer and shall verify all field various trades in the performance of the work or where requested by the City Engineer and shall verify all field measurements or conditions to which the shop drawings are applicable. The City Engineer shall pass upon them with reasonable promptness making required corrections, including those related to design and artistic effect. The Developer shall make any corrections required by the City Engineer and, within one week after receipt of the required corrections, shall file with the City Engineer two (2) corrected copies and furnish such other copies as may be needed by the City Engineer. The City Engineer's acceptance of such drawings or schedules shall not relieve Developer from responsibility for deviation from drawings or specifications, unless the Developer has, in writing, called the City Engineer's attention to such deviation at the time of submission and secured the City Engineer's written approval, nor shall it relieve the Developer from responsibility for errors in shop drawings or schedules.

13. CUTTING AND FITTING

The Developer shall do all cutting and fitting of his/her work that may be required to make its several parts come together properly and fit it to receive or be received by work of other developers or contractors shown or reasonably implied by the drawings and specifications for the completed structure, and the Developer shall restore all surfaces damaged by cutting and fitting as the City Engineer may direct.

14. LABOR, MATERIALS, EQUIPMENT, FACILITIES, AND WORKMEN

A. The Developer shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completions of the work, except as otherwise stipulated in the Extension Documents.

B. The Developer shall at all times enforce strict discipline and good order among his/her employees and shall not employ on the work any person unfit or not skilled in the work assigned to him/her. Employees or agents of the Developer, who, in the opinion of the City Engineer, may impair the quality of the work shall forthwith be discharged by the Developer upon the written request of the City Engineer.

C. During the term of this application, neither party shall employ nor hire any employee of the other party, nor of the City Engineer, without the written consent of the other party. Neither party shall use any work performed or any information obtained from any employee hired in violation of this provision in making a claim against the other party.

D. Necessary sanitation conveniences for the use of workmen on the job, properly secluded from public observation, shall be provided and maintained by the Developer.

15. SAMPLES

The Developer shall furnish for approval all samples as directed by the City Engineer. The finished work shall be in accordance with approved samples. Approval of samples by the City Engineer does not relieve the Developer of performance of the work in accordance with the Extension Documents.

16. DETERMINATION OF "OR EQUAL"

The City Engineer shall make the determination regarding questions of "or equal" for any supplies or materials proposed by the Developer. The Developer shall pay to the City the cost of tests and evaluation by the City Engineer to determine acceptability of alternatives proposed by the Developer, in accordance with the established rates of the City Engineer for time and expense work.

17. ROYALTIES AND PATENTS

The Developer shall defend, indemnify and hold the City harmless for all claims and/or suits brought against the City by reason of infringement of patent rights or licenses on any material, machine, appliance, or process that he/she may use on the work or incorporate into the finished job. Such indemnity shall include the costs of defense by an attorney selected by Developer and approved by the City.

18. PAYMENT OF PREVAILING WAGES

Developer does not have to pay prevailing wages on projects without City funding.

19. PROTECTION OF WORK AND PROPERTY AND SAFETY

A. Developer shall continuously maintain adequate protection of the work from damage and shall protect City's property from injury or loss arising in connection with and during the existence of this Agreement. Developer shall make good any such damage, injury, or loss, except as may be directly due to errors in the Extension

Documents or caused by the negligence of agents or employees of the City. He/she shall provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority or local conditions.

B. Developer shall bear the risk of loss or damage for all finished or partially finished work until accepted by the City.

C. Developer shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building codes. Developer shall erect and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for protection of workmen and the public, shall post danger signs warning against known or unusual hazards; and ~~he/she~~ shall designate a responsible member of his/her organization on the construction site whose duty shall be the prevention of accidents. The name and position of such person so designated shall be reported in writing to the City Engineer by the Developer.

20. EXISTING UTILITIES OR OBSTRUCTIONS

A. Developer shall not enter upon or place materials on other private premises except by written consent of the individual owners, and he/she shall save the City harmless from all suits and actions of every kind and description that may result from his/her use of private property.

B. Underground utilities of record shall be shown on the construction plans insofar as it is possible to do so. These, however, are shown for convenience only, and City assumes no responsibility for improper locations or failure to show utility locations on the construction plans. Any underground utilities found during the course of construction either not properly shown on the plans or not shown at all shall be recorded as to the nature, size, depth and orientation on the as-built drawings.

C. Developer shall take adequate precautions to protect existing lawns, trees, and shrubs, outside rights-of-way, sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereto caused by his/her operations to the satisfaction of the City Engineer, except as otherwise provided in the Extension Documents.

21. REPLACING IMPROVEMENTS

Whenever it is necessary in the course of construction to remove or disturb culverts, driveways, roadways, pipelines, monuments, property stakes, or other existing improvements, without limiting the generality thereof and whether on private or public

property they shall be replaced to a condition equal to or better than that existing before they were so removed and disturbed.

22. SUPERINTENDENCE AND SUPERVISION

The Developer shall keep on the construction site during the progress of the work a competent superintendent and any necessary assistants, all satisfactory to the City Engineer. The superintendent shall not be changed except with the consent of the City Engineer unless the superintendent proves to be unsatisfactory to the Developer and ceases to be in his/her employ. The superintendent shall represent the Developer in his/her absence, and all directions given to the superintendent shall be as binding as though given to the Developer. Instructions to the Developer shall be confirmed in writing upon his/her request in each case. The Developer shall give efficient supervision to the work, using his/her best skill and attention.

23. WARRANTIES OF DEVELOPER

Upon completion of the Extensionsand approval thereof by the City and simultaneously with the acceptance of the title by the City, the Developer warrants to the City for a period of one (1) year as follows:

A. That the Developer is the owner of the property and the same is free and clear of all encumbrances and that the Developer has good right and authority to transfer title thereto to the City and will defend the title of the City against the claims of all third parties claiming to own the same or claiming an encumbrance against the same; and

B. That the Extensions are in proper working condition, order, and repair as designed and that they are adequate and fit for the intended purpose of use as water, sewer, storm sewer, and/or street system, and as integral parts of the water, sewer, storm sewer, and/or street system of the City; and

C. That all parts of the Extensions shall remain in proper working condition, order and repair as designed except where abused or neglected by the City; and the Developer shall repair or replace, at its own expense, any work or material which may prove to be defective during the period of this warranty. The Developer shall obtain warranties and guaranties from its subcontractors and/or suppliers where such warranties or guaranties are specifically required herein and shall deliver copies to the City upon completion of the work. When corrections of defects occurring within the warranty period are made, the Developer shall further warrant corrected work for one year after acceptance by the City.

In the event of fraud or bad faith by the Developer regarding Sections A, B & C above, the one year limitation of warranty shall not apply.

24. CORRECTION OF DEFECTS OCCURRING WITHIN WARRANTY PERIOD

When defects occurring within the warranty period are discovered, the Developer shall work to remedy any such defects within seven (7) days of mailing notice of discovery thereof by the City, or as agreed upon in writing, and shall complete such work within a reasonable time as determined by the City. In emergencies, where damage may result from delay and where loss of service may result, corrections may be made by the City immediately upon discover; in which case the cost thereof shall be borne by the Developer. In the event the Developer does not commence and/or accomplish corrections within the time specified, the work shall be otherwise accomplished and the cost of same shall be paid by the Developer.

The Developer shall be responsible for any expenses incurred by the City resulting from defects in the Developer's work including actual damages, cost of materials, and labor expended by the City in making emergency repairs, and cost of engineering, inspection, and supervision by the City or City Engineer, as well as reasonable attorney's fees to be fixed by the court in any action which the City may commence against the Developer to enforce the provisions hereof.

25. INDEMNITY

The Developer shall indemnify, defend, and hold harmless the City, the City Engineer and all of the City's agents and employees from and against all losses and claims, demands, payments, suits, actions, recoveries, and judgments of every nature and description brought and recovered against the City and/or City Engineer by reason of any act or omission of the Developer, or the Developer's subcontractors, agents, and/or employees arising directly or indirectly from the performance of the work under the application or in guarding of the work. The Developer shall, after reasonable notice of any such suit or action, defend and pay the expense of defending any such suit which may be commenced against the City or City Engineer arising therefrom.

26. SUBLETTING AND SUBCONTRACTING

The Developer is fully responsible and liable to the City for the acts and omissions of its employees and for its subcontractors and all other persons either directly or indirectly employed or contracted with by subcontractors. Consent to subcontracting part of the work shall in no way release the Developer from responsibility under the Agreement, and he/she will be held in all respects accountable for the same as if no consent had been given. Nothing contained in the Extension Documents shall create any contractual relation between any subcontractor and the City.

27. SEPARATE CONTRACT; INTERFERENCE WITH OTHER DEVELOPERS

The City reserves the right to perform the work with its own forces or to let contracts for work under similar general conditions in connection with this project or other projects. The Developer shall afford the City and other contractors reasonable opportunity for the execution of their respective work with theirs.

28. LOSS OF MARKERS

The City shall not be responsible for costs to relocate service ends in the event of removal or destruction by parties other than the City itself of the service markers.

29. ATTORNEY'S FEES

a. Policy. The parties hope there will be no disputes arising out of their relationship. To that end, each commits to cooperate in good faith and to deal fairly in performing its duties under this agreement in order to accomplish their mutual objectives and avoid disputes. But if a dispute arises, the parties agree to resolve all disputes by the following alternate dispute resolution process: (a) the parties agree to seek a fair and prompt negotiated resolution, but if this is not successful, (b) all disputes shall be resolved by binding arbitration, provided that within twenty (20) days of the initial arbitration demand, the parties agree to attempt to resolve any dispute by nonbinding third-party mediation (but without delaying the arbitration hearing date). If the mediation is not successful within forty-five (45) days of the initial arbitration demand, the parties agree to proceed with the binding arbitration; provided that the mediator shall make a final written recommendation for resolution of the dispute (the "Recommendation") which shall be delivered to the arbitrator. The parties confirm that by agreeing to this alternate dispute resolution process, they intend to give up their right to have any dispute decided in court by a judge or jury.

b. Binding Arbitration. Any claim between the parties, including but not limited to those arising out of or relating to this agreement and any claim based on or arising from an alleged tort, shall be determined by arbitration in Seattle commenced in accordance with RCW 7.04.060. There shall be one arbitrator agreed upon by the parties, or if the parties cannot agree on the identity of the arbitrator within ten (10) days of the arbitration demand, the arbitrator shall be selected by the administrator of the American Arbitration Association (AAA) office in Seattle from its Large, Complex Case Panel (or have similar professional credentials). The arbitrator shall be an attorney with at least fifteen (15) years' experience and shall reside in the Seattle/King County metropolitan area. Whether a claim is covered by this agreement shall be determined by the arbitrator. All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding hereunder. The mediator identified in part (b) section "a" shall be selected by the same manner as selecting an arbitrator described above.

c. Procedures. The arbitration shall be conducted in accordance with the AAA Commercial Arbitration Rules in effect on the date hereof, as modified by this agreement. There shall be no dispositive motion practice. As may be shown to be necessary to ensure a fair hearing: the arbitrator may authorize limited discover; and may enter pre-hearing orders regarding (without limitation) scheduling, document exchange, witness disclosure and issues to be heard. The arbitrator shall not be bound by the rules of evidence or of civil procedure, but rather may consider such writings and oral presentations as reasonable business people would use in the conduct or their day-to-day affairs and may require the parties to submit some or all of their case by written declaration or such other manner of presentation as the arbitrator may determine to be appropriate. The parties intend to limit live testimony and cross-examination to the extent necessary to ensure a fair hearing on material issues.

d. Hearing – Law – Appeal Limited. The arbitrator shall take such steps as may be necessary to hold a private hearing within ninety (90) days of the initial demand for arbitration and to conclude the hearing within three (3) days, and the arbitrator's written decision shall be made not later than fourteen (14) calendar days after the hearing. The parties have included these time limits in order to expedite the proceeding, but they are not jurisdictional, and the arbitrator may for good cause afford or permit reasonable extensions or delays, which shall not affect the validity of the award. The written decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator shall apply substantive law. Absent fraud, collusion or willful misconduct by the arbitrator, the award shall be final, and judgment may be entered in any court having jurisdiction thereof. The arbitrator may award injunctive relief or any other remedy available from a judge, including the joinder of parties or consolidation of this arbitration with any other involving common issues of law or fact or which may promote judicial economy, but shall not have the power to award punitive or exemplary damages.

e. Provisional Remedies. Pending selection of the arbitrator, either party may request the AAA to appoint unilaterally an arbitrator for the limited purpose of awarding temporary or preliminary relief. This award may be immediately entered n any federal or state court having jurisdiction over the parties even though the decision on the underlying dispute may still be pending. Once appointed, the arbitrator may, upon request of a party, issue a superseding order to modify or reverse such temporary or preliminary relief or may confirm such relief pending a full hearing on the merits of the underlying dispute. Any such initial or superseding order of temporary or preliminary relief may be immediately entered in any federal or state court having jurisdiction over the parties even though the decision on the underlying dispute may remain pending. Such relief may be granted by the arbitrator only after notice to and opportunity to be heard by the opposing party unless the party applying for such relief demonstrated that its purpose would be rendered futile by giving notice.

f. Attorneys' Fees and Costs. The arbitrator shall award attorneys' fees and costs to the prevailing party, but only if the award to the prevailing party exceeds the Recommendation. Neither party is entitled to payment of its attorneys' fees by the other party for disputes resolved prior to a final decision of the arbitrator.

Nothing in this Agreement shall alleviate the Developer's responsibility to reimburse the City for attorney expenses in the normal course of this Agreement.

WATER, SEWER, STORMWATER, AND STREET EXTENSION DOCUMENTS

CERTIFICATE OF INSURANCE