

RESOLUTION NO. 1482

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON RATIFYING AN AGREEMENT WITH MARINE VIEW VENTURES, INC. FOR ACQUISITION OF EXCLUSIVE EASEMENTS ON PORTIONS OF TAX PARCEL NOS. 0420078019 AND 0420078024 FOR RIGHT OF WAY, SLOPE EASEMENT, AND STORM DRAINAGE IN LIEU OF CONDEMNATION

WHEREAS, it is necessary for the City to acquire a portion of tax parcel 0420078019 for right of way and slope easement, and the remaining undivided interest on tax parcel no. 0420078024 for right of way and storm drainage facilities for the 70<sup>th</sup> Avenue Road Improvement Project; and

WHEREAS, Marine View Ventures, Inc. owns parcel no. 0420078019 and has an undivided 23.03% interest in tax parcel no. 0420078024; and

WHEREAS, Marine View Ventures, Inc. is a tribally chartered corporation wholly owned by the Puyallup Tribe of Indians; and

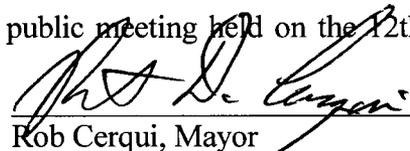
WHEREAS, the Tribe's charter prohibits the Tribe from selling or conveying tribal property, therefore, the Tribe has agreed to grant the City exclusive perpetual easement rights instead; and

WHEREAS, in lieu of condemnation, the City Attorney's office has negotiated an agreement with Marine View Ventures for acquisitions of the necessary property and property rights for a total of \$94,211.40, which constitutes just compensation based on the City's appraisal. A copy of the purchase and sale agreement is attached hereto as Exhibit A (the "Agreement"); now, therefore

BE IT RESOLVED that the City Council hereby ratifies and approves the Agreement with Marine View Ventures, Inc. attached hereto as Exhibit A and authorizes the City Manager to pay the amounts and perform the actions necessary to acquire the property in accordance with the Agreement.

BE IT FURTHER RESOLVED that this purchase is being made under immediate threat of the City's exercise of the right of eminent domain.

ADOPTED by the City Council at an open public meeting held on the 12th day of June, 2012.

  
Rob Cerqui, Mayor

Attest:

  
Carol Etgen, City Clerk

## PURCHASE AND SALE AGREEMENT

1. **Date and Parties.** THIS PURCHASE AND SALE AGREEMENT ("AGREEMENT"), is dated, for reference purposes only, the 15<sup>th</sup> day of ~~April~~<sup>May</sup>, 2012, and is made and entered into by and between Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe ("MVV") and City of Fife, a Washington municipal corporation ("City").

2. **Property to be Conveyed.**

2.1 MVV is the owner of the real estate located in Pierce County, Washington legally described as:

LOT 1 PIERCE COUNTY SHORT PLAT NUMBER 200607275002,  
ACCORDING TO PLAT THEREOF RECORDED JULY 27, 2006, RECORDS  
OF PIERCE COUNTY AUDITOR.

EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF FIFE  
BY STATUTORY WARRANTY DEED RECORDED AUGUST 3, 2007  
UNDER RECORDING NUMBER 200708030274.

(Tax Parcel No. 0420078019)

TOGETHER WITH AN UNDIVIDED INTEREST IN TRACT A, PIERCE  
COUNTY SHORT PLAT NUMBER 200607275002, ACCORDING TO PLAT  
THEREOF RECORDED JULY 27, 2006, RECORDS OF PIERCE COUNTY  
AUDITOR.

(Tax Parcel No. 0420078024).

2.2 It is necessary for the City to acquire an Easement for Right of Way and Utilities ("ROW Easement") on the portion of Lot 1 legally described in Exhibit A attached hereto, a Slope Easement on the portion of Lot 1 legally described in Exhibit B attached hereto, and an Easement for Right of Way, Utilities and Storm Drainage Facilities ("Tract A Easement") on all of MVV's right, title, and interest in Tract A as owner of Lot 1, as legally described in Exhibit D. The three easements are collectively referred to herein as the "Easements." The Easements are necessary for road and utility improvements to 70<sup>th</sup> Avenue East (the "Project"), and a portion of the Tract A Easement is necessary for the future extension of 66<sup>th</sup> Avenue East.

2.3 MVV agrees to sell and convey and the City agrees to purchase and accept conveyance of the Easements on the terms and conditions set forth in this Agreement.

3. **Purchase Price.** As consideration for the conveyance of the Easements, and for any damages and loss of value to MVV's property as a result of the Project and the acquisition of the Easements, the City shall pay MVV the sum of \$94,211.40 cash, payable at Closing. The City has previously paid \$84,074.44 pursuant to the Possession and Use Agreement for the Easement area recorded under Auditor's Recording No. 201108250674. Therefore the sum of \$84,074.44 shall be credited to the purchase price at Closing. The allocation and breakdown of the purchase price is attached hereto as Exhibit E. The ("Closing" shall mean the closing of the transaction contemplated by this Agreement as provided in Paragraph 11). In addition, the City shall pay at Closing an additional amount not to exceed \$750.00 pursuant to RCW 8.25.020 for various expenditures actually and reasonably incurred by MVV in the process of evaluating the City's offer. MVV acknowledges that it is receiving just compensation for the Easements, and for any damages and loss of value to MVV's property as a result of the Project and the acquisition of the Easements. Based on relative square footage of the lots in the Short Plat and the Declaration of Easements and Covenants recorded under Recording Number 200612150815, the parties agree that for compensation purposes MVV's percentage interest in Tract A as owner of Lot 1 is 23.03%. There is no earnest money required for this Agreement. Both parties acknowledge that there is legally sufficient consideration for entering into this Agreement.

4. **Relocation of Signs.** As part of the Project, the City, at the City's cost, shall relocate any permanent sign of MVV within the ROW Easement or Slope Easement area or that must be relocated in order to carry out the Project.

5. **Legal Description.** Upon consent of the parties, Closing Agent may insert, attach, or correct the legal description of the Easements as required to consummate the conveyance thereof in accordance with the intent of the Agreement.

6. **Conveyance.** MVV shall convey the Easements in the forms set forth in Exhibits F, G, and H respectively. Subject to Paragraph 9 below, title to the Easements shall be free of all liens, encumbrances or defects, except as expressly approved by the City in writing. The City expressly approves the encumbrances listed in Exhibit I attached hereto. The Parties agree to execute at Closing a termination of the Possession and Use Agreement recorded under recording number 201108250674, said termination to be recorded after recording of the Easements. Encumbrances to be discharged by MVV may be paid out of the Purchase Price at date of Closing. If requested by the City, MVV shall use its best efforts to provide at Closing a duly executed quit claim deed from APP Associates, LLC, conveying all of APP Associates, LLC's interest in Tract A to the City; however, the City acknowledges that MVV does not have the authority to compel APP Associates, LLC to provide a deed. In the event a duly executed quit claim deed from APP Associates, LLC is not provided at Closing, the amount due at Closing attributable to the Tract A in the amount of \$5,136.96 shall be retained in escrow by the Closing Agent, and shall be released to MVV at such time after Closing as the duly executed quit claim deed from APP Associates, LLC is provided to the Closing Agent for recording.

7. **Title Insurance.** Fees for standard coverage owner's title insurance policies shall be paid by the City. The title policies to be issued shall contain no exceptions other than the usual general exceptions provided for in the specified title policy form, plus encumbrances or defects approved by the City in Paragraph 6 above.

8. **Included Items.** This transaction includes any landscaping, improvements and appurtenances, if any, on or within the Easements, with the exception of signs that will be relocated pursuant to Section 4 above.

9. **Storm Drainage Facility.** As part of the Project, the City will construct and maintain a larger storm drainage facility on Tract A and Lots 4 and 5 of the Short Plat that will serve the Project as well as the storm drainage from the remaining lots in the Short Plat. At Closing the parties shall execute and record a storm water acceptance agreement, substantially in the form attached hereto as Exhibit J. In addition, MVV also agrees at Closing, to execute an amendment to the Declaration of Easements and Covenants substantially in the form attached hereto as Exhibit K, and the Minor Amendment to Short Plat attached hereto as Exhibit L.

10. **City Council and MVV Board Approvals.** This Agreement is subject to ratification by the Fife City Council and the MVV Board of Directors. This matter shall be submitted to the City Council and MVV Board of Directors for ratification at their first respective regular meetings after signature by both Parties.

11. **Closing.** Closing shall occur within 30 days after ratification by the City Council and the MVV Board of Directors in the office of Chicago Title Insurance Company, Tacoma, Washington, ("Closing Agent"), or such other place or location as the parties may mutually agree. The City and MVV will, on demand, deposit in escrow all instructions and moneys necessary to complete the purchase in accordance with this Agreement. Closing shall be deemed to have occurred when all documents are recorded and the sale proceeds are available to MVV. The parties agree to fully cooperate in good faith to meet the Closing date.

12. **Closing Costs & Pro-Rated Items.** The City shall pay the escrow fee, closing fee, reconveyance fees, any real estate excise tax due, and the recording fees. Property taxes for 2012 on tax parcel no. 0420078019 which include taxes for the undivided interest of Lot 1 in Tract A, shall be paid in full by MVV at Closing.

13. **Possession.** The City is already entitled to possession of the Easements pursuant to the Possession and Use Agreement.

14. **Environmental Representations and Warranties.** MVV warrants that it has not caused or permitted the Easements to be used as a site for generation, manufacture, refining, transportation, transfer, treatment, storage, handling, disposing or processing of hazardous substances, or other dangerous or toxic materials or solid waste except in



MVV

THE CITY

compliance with applicable federal, state and local laws or regulations. MVV has not caused or permitted and has no knowledge of the release of any hazardous substance on any of the Easements at any time.

15. **Obligations to Survive Closing.** It is mutually agreed by the Parties that any provision contained in this Agreement which shall by its nature or terms impose any obligation or duty upon any party hereto, or give any right or benefit to any party hereto, continuing beyond the date of conveyance of the Easements, will not be cancelled, but will instead survive such conveyance and will continue in full force and effect until all such obligations and duties are fully performed and all such rights and benefits are fully realized.

16. **Attorneys' Fees and Expenses.** In the event any Party brings a lawsuit to enforce or defend any rights herein, the prevailing party shall be awarded all costs and expenses and reasonable attorney fees.

17. **Dispute Resolution and Waiver of Sovereign Immunity.** The parties agree that any dispute arising out of or concerning this Agreement that cannot be resolved by consultation and discussion between the parties shall be resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") which shall be conducted in Fife, Tacoma, or at another location agreed to by the parties. Enforcement of any arbitration award may be brought in Pierce County Superior Court, with the expressed stipulation that in such an enforcement action the court shall have only the power to enforce any arbitration award and shall not have the power to review or amend the final resolution of the arbitration proceedings. MVV voluntarily enters into a limited waiver of its sovereign immunity from suit on the following terms and conditions: MVV consents to participate in and be bound by the award in an arbitration proceeding conducted under this section and consents to the jurisdiction of the Pierce County Superior Court but only for the limited purpose of enforcement of an arbitration award as provided and limited by this section. MVV agrees that it will not raise sovereign immunity as a defense in any such action that is brought and conducted as provided in this section. This limited waiver is given only in favor of the City of Fife.

18. **Governing Law.** This Agreement shall be governed by the laws of the State of Washington.

19. **Acceptance of Lot 1 into Trust.** The City agrees to support MVV's or the Puyallup Tribe's application to the Bureau of Indian Affairs to accept Lot 1 into trust status subject to the Easements, and shall raise no objections during the fee to trust process provided MVV has complied with all terms and conditions of this Agreement. MVV acknowledges that under the Puyallup Indian Land Claim Settlement Agreement, paragraph VII(D), the City is not required to provide utility services to trust lands unless the Tribe or its members request such services and there is a mutually satisfactory agreement regarding payment for such services. Accordingly, if MVV wishes to maintain continuity of utility service to Lot 1, the

City will require that such an agreement be reached prior to or simultaneously with the time Lot 1 is placed into trust.

20. **Successors and Assigns.** This Agreement and all of the terms and provisions set forth herein shall inure to the benefit of and be binding upon the Parties, their heirs, successors, legal representatives and assigns.

21. **Further Acts.** In addition to the acts specifically required in this Agreement, the Parties agree to perform or cause to be performed at and after Closing any and all further acts as may be reasonably necessary to consummate the transaction described herein.

22. **Conveyance in Lieu of Condemnation.** This conveyance is being made under immediate threat of and in lieu of condemnation.

23. **Remedies.** Both parties acknowledge that specific performance of this Agreement is an appropriate remedy should either party fail to perform under the terms of the Agreement.

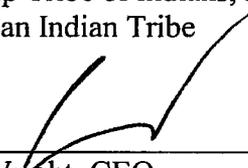
24. **Complete Agreement.** The Agreement and any addenda and exhibits to it state the entire understanding of MVV and the City regarding this transaction. There are no verbal or written agreements which modify or affect the Agreement.

25. **Time of the Essence.** Time is of the essence as to each provision of this Agreement.

26. **Facsimile Transmission.** Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the escrow agent, the parties will confirm facsimile transmitted signatures by signing an original document.

27. **Counterpart Signatures.** The Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.

**MVV:**  
Marine View Ventures, Inc. a tribally chartered  
business enterprise wholly owned by the  
Puyallup Tribe of Indians, a federally recognized  
American Indian Tribe

  
\_\_\_\_\_  
Chad Wright, CEO

Purchase and Sale Agreement  
Page 5 of 6

**THE CITY:**  
City of Fife, Washington

By: \_\_\_\_\_  
David K. Zabell, City Manager

  
\_\_\_\_\_  
MVV

\_\_\_\_\_  
THE CITY

ATTEST:

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Carol Etgen, City Clerk

APPROVED AS TO FORM:

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Gregory F. Amann  
Assistant City Attorney

EXHIBIT 'A'  
RIGHT-OF-WAY ACQUISITION  
PIERCE COUNTY TAX PARCEL NUMBER 0420078019

THAT PORTION OF LOT 1 OF SHORT PLAT FILED UNDER RECORDING NO. 200607275002, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER SAID SECTION 7; THENCE SOUTH 00°53'51" WEST ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 452.03 FEET; THENCE NORTH 88°26'25" WEST 50.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE SOUTH 00°53'51" WEST ALONG THE WESTERLY RIGHT-OF-WAY MARGIN OF 70<sup>TH</sup> AVENUE EAST 148.49 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 45.00 FEET; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY MARGIN AND THENCE ALONG THE NORTHERLY RIGHT-OF-WAY MARGIN OF 26<sup>TH</sup> STREET EAST, SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 71.21 FEET THROUGH A CENTRAL ANGLE OF 90°39'44"; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY MARGIN NORTH 50°01'26" EAST 46.31 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 30.28 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°06'09" EAST 10.00 FEET TO A LINE PARALLEL WITH AND 50.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 115.02 FEET; THENCE LEAVING SAID PARALLEL LINE NORTH 89°06'09" WEST 10.00 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WEST OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST 18.00 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 88°26'25" EAST ALONG SAID NORTH LINE 10.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 977 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

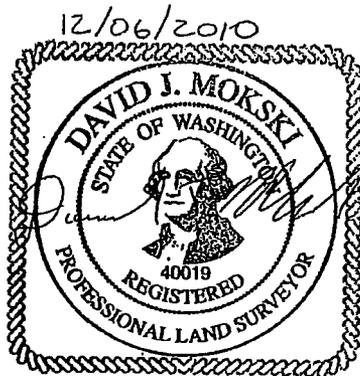


EXHIBIT 'B'  
SLOPE EASEMENT  
PIERCE COUNTY TAX PARCEL NUMBER 0420078019

THAT PORTION OF LOT 1 OF SHORT PLAT FILED UNDER RECORDING NO. 200607275002, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 20-NORTH, RANGE 4 EAST OF THE W.M., PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER SAID SECTION 7; THENCE SOUTH 00°53'51" WEST ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 452.03 FEET; THENCE NORTH 88°26'25" WEST 50.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE CONTINUING NORTH 88°26'25" WEST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 10.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 88°26'25" WEST ALONG SAID NORTH LINE 7.00 FEET TO A LINE PARALLEL WITH AND 67.50 FEET WESTERLY OF SAID EAST LINE; THENCE SOUTH 00°53'51" WEST ALONG SAID PARALLEL LINE 28.08 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°06'09" EAST 7.00 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WESTERLY OF SAID EAST LINE; THENCE SOUTH 00°53'51" WEST ALONG SAID PARALLEL LINE 105.02 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°06'09" EAST 10.00 FEET TO A LINE PARALLEL WITH AND 50.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 115.02 FEET; THENCE LEAVING SAID PARALLEL LINE NORTH 89°06'09" WEST 10.00 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 18.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,347 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.

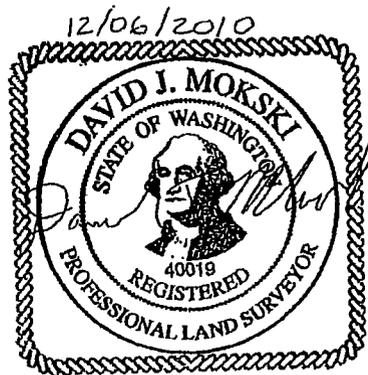
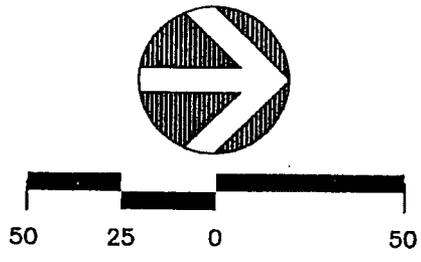
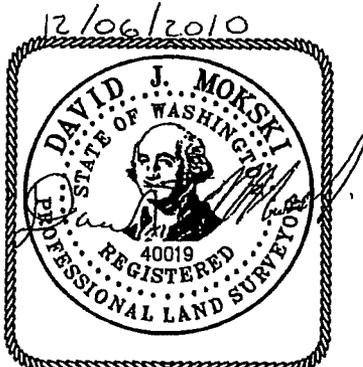
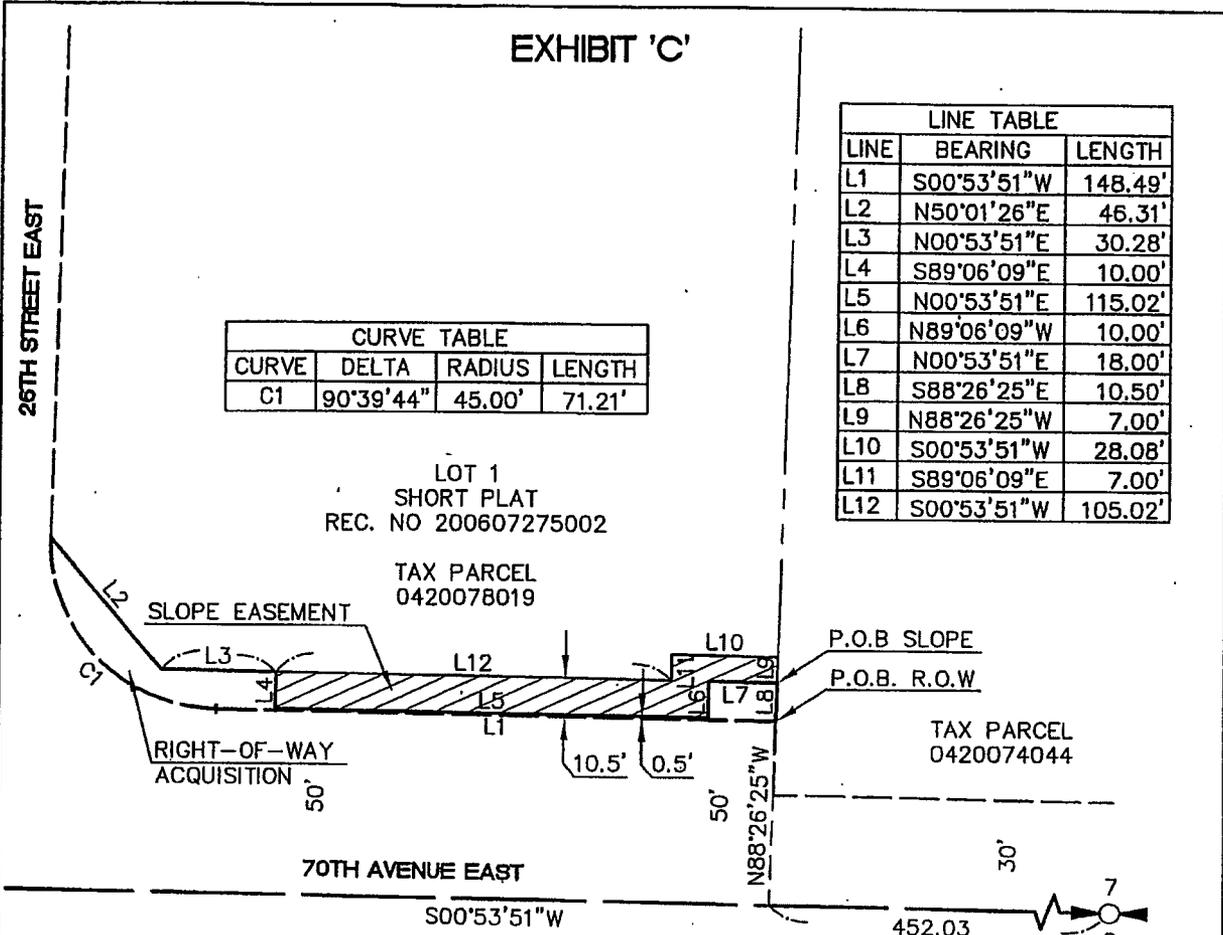


EXHIBIT 'C'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°53'51"W	148.49'
L2	N50°01'26"E	46.31'
L3	N00°53'51"E	30.28'
L4	S89°06'09"E	10.00'
L5	N00°53'51"E	115.02'
L6	N89°06'09"W	10.00'
L7	N00°53'51"E	18.00'
L8	S88°26'25"E	10.50'
L9	N88°26'25"W	7.00'
L10	S00°53'51"W	28.08'
L11	S89°06'09"E	7.00'
L12	S00°53'51"W	105.02'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	90°39'44"	45.00'	71.21'



**DAVID EVANS AND ASSOCIATES INC.**  
 3700 Pacific Hwy. East, Suite 311  
 Fife, Washington 98424  
 Phone: 253.922.9780

PROJECT	RIGHT OF WAY ACQUISITION AND SLOPE EASEMENT EXHIBIT FOR:						SHEET
TITLE	APP ASSOCIATES, LLC						
	PIERCE COUNTY TAX PARCEL NO. 0420078019						
DWG. REF.	PROJECT	SCALE	DRAWN BY	DESIGN BY	APPROVED BY	AMENDMENT NO.	DATE
	FIFE0165	1"=50'	AED	---	DJMO	0.0	12-09-10

**EXHIBIT D**

THE UNDIVIDED INTEREST OF LOT 1 IN STORM DRAINAGE TRACT "A,"  
IN PIERCE COUNTY SHORT PLAT NUMBER 200607275002, ACCORDING  
TO PLAT THEREOF RECORDED JULY 27, 2006, RECORDS OF PIERCE  
COUNTY AUDITOR.

(Tax Parcel No. 0420078024).

## EXHIBIT E

### Easement in Undivided Interest in Tract A:

22357 s.f. x \$11.50 =	\$257,105.50
\$257,105.50 x 23.03% =	\$59,211.40
Total Compensation for Easement in Undivided interest in Tract A:	\$59,211.40
Amount Paid for Possession and Use:	-\$54,074.44
<hr/> <b>Total Amount due at Closing</b>	<hr/> <b>\$5,136.96</b>

### Easement Portion of Lot 1:

977 s.f. in Easmt for right of way and util. x \$11.50 =	\$11,235.50
1347 s.f. for slope easement x \$11.50 x 50% =	7,745.24
Value of pavement, curb, and landscaping taken =	\$14,900.00
Damages =	\$1,000.00
Total Compensation for Portion of Lot 1 (rounded):	\$35,000.00
Amount Paid for Possession and Use:	-\$30,000.00
<hr/> <b>Total Amount due at Closing</b>	<hr/> <b>\$5,000.00</b>

## EXHIBIT F

**After Recording Please Return To:**  
VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424

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### EASEMENT FOR RIGHT OF WAY AND UTILITIES

**Grantor:** MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe.

**Grantee:** CITY OF FIFE, a Washington municipal corporation.

**Abbreviated Legal Description:** Portion Lot 1 of Short Plat recorded under 200607275002. Complete legal description is set forth in Exhibit A attached hereto.

**Tax Parcel Nos.:** 0420078019

1. MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe ("Grantor"), record owner of the property hereinafter described, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), and other valuable consideration, does hereby grant and convey to the City of Fife ("Grantee"), under the imminent threat of the City of Fife's exercise of its rights of Eminent Domain, an exclusive perpetual easement over, under, upon and across, the real property situated in Pierce County, State of Washington, legally described in Exhibit A and identified as "Right of Way Acquisition" in Exhibit B attached hereto (the "Easement").

2. The purpose of the Easement is to allow the Grantee, its employees, agents, and contractors the exclusive right and privilege to construct, inspect, repair, operate, replace, and maintain public right of way, utilities, and appurtenances in the Easement area including, but not limited to, roadway, curbs, gutters, sidewalks, landscape strips, lighting and signal equipment, overhead and underground electric, communications, sewer, storm drainage, and water pipes, mains, poles, pump stations, wires, vaults, junction boxes, conduits, transformers, and bollards.

3. The Grantee shall not to assign or convey this Easement, or any portion thereof without the prior written consent of Grantor, which consent may be withheld at Grantor's sole discretion, provided Grantee shall have the right to authorize concurrent use of the Easement by utility franchisees of the Grantee and other utilities authorized to locate utilities within the Grantee's right of way.

4. This Easement shall terminate automatically if, after completion of the 70<sup>th</sup> Avenue Improvement Project (Item 1 of the City of Fife 2012-1017 Six Year Transportation Improvement Program), Grantee fails to use the Easement for any of the purposes for which it was granted for a period of two consecutive years. (i.e. if the Grantee uses the Easement at any time during the two year period, for any purpose for which the Easement was granted, then the automatic termination provision shall not apply).

5. This Easement shall be governed by the laws of the State of Washington. The parties agree that any dispute arising out of or concerning this Easement that cannot be resolved by consultation and discussion between the parties shall be resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") which shall be conducted in Fife, Tacoma, or at another location agreed to by the parties. Enforcement of any arbitration award may be brought in Pierce County Superior Court, with the expressed stipulation that in such an enforcement action the court shall have only the power to enforce any arbitration award and shall not have the power to review or amend the final resolution of the arbitration proceedings. Grantor voluntarily enters into a limited waiver of its sovereign immunity from suit on the following terms and conditions: Grantor consents to participate in and be bound by the award in an arbitration proceeding conducted under this section and consents to the jurisdiction of the Pierce County Superior Court but only for the limited purpose of enforcement of an arbitration award as provided and limited by this section. Grantor agrees that it will not raise sovereign immunity as a defense in any such action that is brought and conducted as provided in this section. This limited waiver is given only in favor of the Grantee.

Dated this 15<sup>th</sup> day of ~~April~~<sup>May</sup>, 2012

**GRANTEE:**

Accepted by CITY OF FIFE, WASHINGTON

By: \_\_\_\_\_  
David K. Zabell, City Manager

**GRANTOR:**

Marine View Ventures, Inc., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe

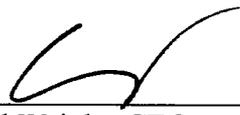
By  \_\_\_\_\_  
Chad Wright, CEO

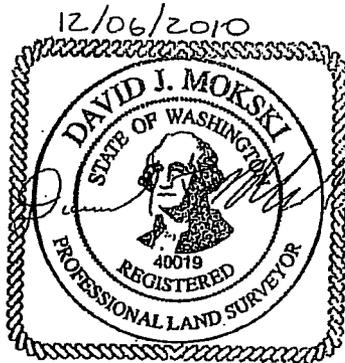


EXHIBIT 'A'  
RIGHT-OF-WAY ACQUISITION  
PIERCE COUNTY TAX PARCEL NUMBER 0420078019

THAT PORTION OF LOT 1 OF SHORT PLAT FILED UNDER RECORDING NO. 200607275002, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER SAID SECTION 7; THENCE SOUTH 00°53'51" WEST ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 452.03 FEET; THENCE NORTH 88°26'25" WEST 50.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE SOUTH 00°53'51" WEST ALONG THE WESTERLY RIGHT-OF-WAY MARGIN OF 70<sup>TH</sup> AVENUE EAST 148.49 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 45.00 FEET; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY MARGIN AND THENCE ALONG THE NORTHERLY RIGHT-OF-WAY MARGIN OF 26<sup>TH</sup> STREET EAST, SOUTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 71.21 FEET THROUGH A CENTRAL ANGLE OF 90°39'44"; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY MARGIN NORTH 50°01'26" EAST 46.31 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 30.28 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°06'09" EAST 10.00 FEET TO A LINE PARALLEL WITH AND 50.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 115.02 FEET; THENCE LEAVING SAID PARALLEL LINE NORTH 89°06'09" WEST 10.00 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WEST OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST 18.00 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 88°26'25" EAST ALONG SAID NORTH LINE 10.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 977 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.



# EXHIBIT B

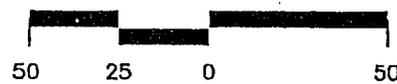
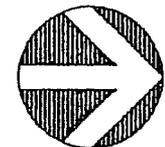
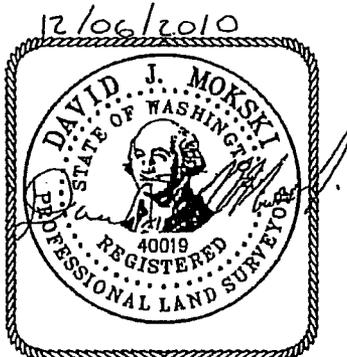
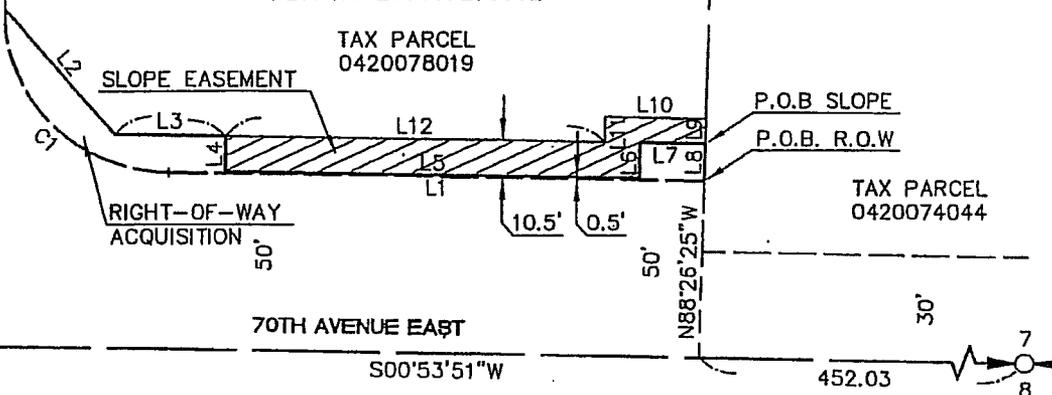
26TH STREET EAST

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	90°39'44"	45.00'	71.21'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°53'51"W	148.49'
L2	N50°01'26"E	46.31'
L3	N00°53'51"E	30.28'
L4	S89°06'09"E	10.00'
L5	N00°53'51"E	115.02'
L6	N89°06'09"W	10.00'
L7	N00°53'51"E	18.00'
L8	S88°26'25"E	10.50'
L9	N88°26'25"W	7.00'
L10	S00°53'51"W	28.08'
L11	S89°06'09"E	7.00'
L12	S00°53'51"W	105.02'

LOT 1  
SHORT PLAT  
REC. NO 200607275002

TAX PARCEL  
0420078019



**DAVID EVANS  
AND ASSOCIATES INC.**  
3700 Pacific Hwy. East, Suite 311  
Fife, Washington 98424  
Phone: 253.922.9780

PROJECT	RIGHT OF WAY ACQUISITION AND SLOPE EASEMENT EXHIBIT FOR:						SHEET
TITLE	APP ASSOCIATES, LLC						1
	PIERCE COUNTY TAX PARCEL NO. 0420078019						OF
DWG. REF.	PROJECT	SCALE	DRAWN BY	DESIGN BY	APPROVED BY	AMENDMENT NO.	DATE
	FIFE0165	1"=50'	AED	- - -	DJMO	0.0	12-09-10

## EXHIBIT G

**After Recording Please Return To:**  
VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424

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### SLOPE EASEMENT

**Grantor:** MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe.

**Grantee:** CITY OF FIFE, a Washington municipal corporation.

**Abbreviated Legal Description:** Portion Lot 1 of Short Plat recorded under 200607275002. Complete legal description is set forth in Exhibit A attached hereto.

**Tax Parcel Nos.:** 0420078019

1. MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe (“Grantor”), record owner of the property hereinafter described, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), and other valuable consideration, does hereby grant and convey to the City of Fife (“Grantee”), under the imminent threat of the City of Fife’s exercise of its rights of Eminent Domain, a non-exclusive slope easement over, upon and across the real property legally described in Exhibit A and identified as “Slope Easement” in Exhibit B attached hereto, situated in Pierce County, State of Washington.

2. The purpose of this Slope Easement is to allow the Grantee, its officers, employees, agents and contractors the right to import fill, grade, compact, cut and slope the easement area at such depth and compaction as the Grantee deems necessary for street purposes. The Grantor may use the Slope Easement area for any use not inconsistent with the rights of the Grantee granted herein.

3. In the event the Grantor, its successors, or assigns shall excavate, fill and/or place an embankment upon the area covered by this Slope Easement to the level of the grade of the street abutting thereon, this Slope Easement shall terminate automatically. This Easement shall also terminate automatically if, after completion of the 70<sup>th</sup> Avenue Improvement Project (Item 1 of the City of Fife 2012-1017 Six Year Transportation Improvement Program), Grantee fails to use the Slope Easement for any of the purposes for which it was granted for a period of two consecutive years. (i.e. if the Grantee uses the Slope Easement at any time during the two year period, for any purpose for which the Slope Easement was granted, then the automatic termination provision shall not apply).

4. The Grantee shall not assign or convey this Slope Easement without the prior written consent of Grantor, which consent may be withheld at Grantor's sole discretion.

5. This Slope Easement shall be governed by the laws of the State of Washington. The parties agree that any dispute arising out of or concerning this Slope Easement that cannot be resolved by consultation and discussion between the parties shall be resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") which shall be conducted in Fife, Tacoma, or at another location agreed to by the parties. Enforcement of any arbitration award may be brought in Pierce County Superior Court, with the expressed stipulation that in such an enforcement action the court shall have only the power to enforce any arbitration award and shall not have the power to review or amend the final resolution of the arbitration proceedings. Grantor voluntarily enters into a limited waiver of its sovereign immunity from suit on the following terms and conditions: Grantor consents to participate in and be bound by the award in an arbitration proceeding conducted under this section and consents to the jurisdiction of the Pierce County Superior Court but only for the limited purpose of enforcement of an arbitration award as provided and limited by this section. Grantor agrees that it will not raise sovereign immunity as a defense in any such action that is brought and conducted as provided in this section. This limited waiver is given only in favor of the Grantee.

Dated this 15<sup>th</sup> day of ~~April~~<sup>May</sup>, 2012

GRANTEE:

Accepted by CITY OF FIFE, WASHINGTON

By: \_\_\_\_\_  
David K. Zabell, City Manager

GRANTOR:

Marine View Ventures, Inc., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe

By  \_\_\_\_\_  
Chad Wright, CEO

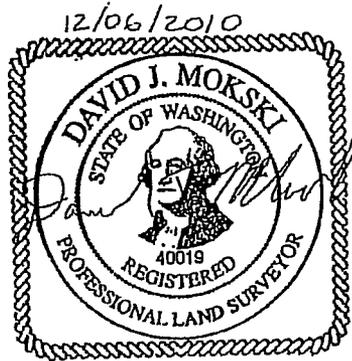


EXHIBIT A  
SLOPE EASEMENT  
PIERCE COUNTY TAX PARCEL NUMBER 0420078019

THAT PORTION OF LOT 1 OF SHORT PLAT FILED UNDER RECORDING NO. 200607275002, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 20-NORTH, RANGE 4 EAST OF THE W.M., PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER SAID SECTION 7; THENCE SOUTH 00°53'51" WEST ALONG THE EAST LINE OF SAID SECTION 7 A DISTANCE OF 452.03 FEET; THENCE NORTH 88°26'25" WEST 50.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE CONTINUING NORTH 88°26'25" WEST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 10.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 88°26'25" WEST ALONG SAID NORTH LINE 7.00 FEET TO A LINE PARALLEL WITH AND 67.50 FEET WESTERLY OF SAID EAST LINE; THENCE SOUTH 00°53'51" WEST ALONG SAID PARALLEL LINE 28.08 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°06'09" EAST 7.00 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WESTERLY OF SAID EAST LINE; THENCE SOUTH 00°53'51" WEST ALONG SAID PARALLEL LINE 105.02 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°06'09" EAST 10.00 FEET TO A LINE PARALLEL WITH AND 50.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 115.02 FEET; THENCE LEAVING SAID PARALLEL LINE NORTH 89°06'09" WEST 10.00 FEET TO A LINE PARALLEL WITH AND 60.50 FEET WESTERLY OF SAID EAST LINE; THENCE NORTH 00°53'51" EAST ALONG SAID PARALLEL LINE 18.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,347 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.



# EXHIBIT B

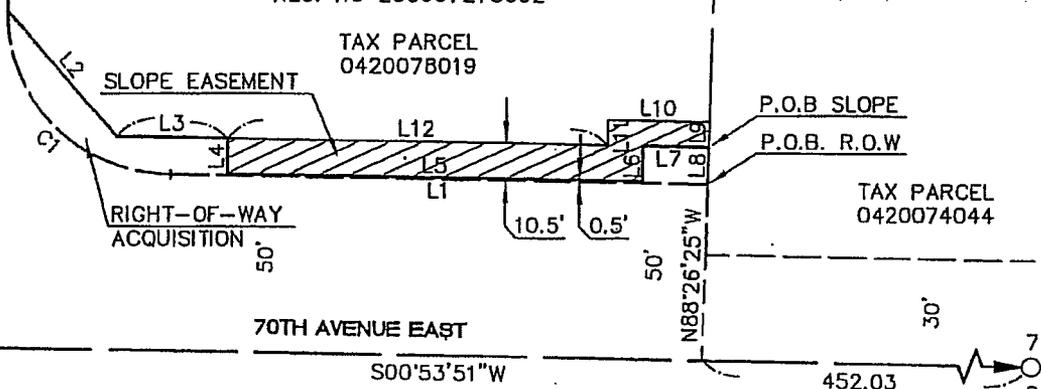
26TH STREET EAST

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	90°39'44"	45.00'	71.21'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°53'51"W	148.49'
L2	N50°01'26"E	46.31'
L3	N00°53'51"E	30.28'
L4	S89°06'09"E	10.00'
L5	N00°53'51"E	115.02'
L6	N89°06'09"W	10.00'
L7	N00°53'51"E	18.00'
L8	S88°26'25"E	10.50'
L9	N88°26'25"W	7.00'
L10	S00°53'51"W	28.08'
L11	S89°06'09"E	7.00'
L12	S00°53'51"W	105.02'

LOT 1  
SHORT PLAT  
REC. NO 200607275002

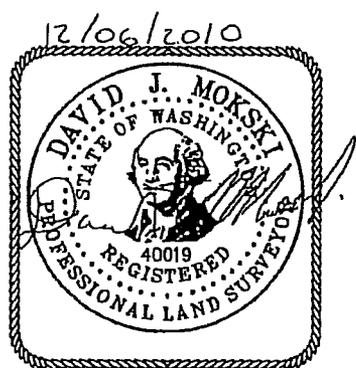
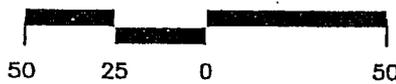
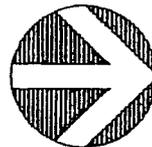
TAX PARCEL  
0420078019



70TH AVENUE EAST

S00°53'51"W

452.03



**DAVID EVANS  
AND ASSOCIATES INC.**  
3700 Pacific Hwy. East, Suite 311  
Fife, Washington 98424  
Phone: 253.922.9780

PROJECT	RIGHT OF WAY ACQUISITION AND SLOPE EASEMENT EXHIBIT FOR:						SHRKT
TITLE	APP ASSOCIATES, LLC						1
	PIERCE COUNTY TAX PARCEL NO. 0420078019						07
DWG. BNF.	PROJECT	SCALE	DRAWN BY	DESIGN BY	APPROVED BY	AMENDMENT NO.	DATE
	FIFE0165	1"=50'	AED	---	DJM	0.0	12-09-10

## EXHIBIT H

**After Recording Please Return To:**

VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424

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### EASEMENT FOR RIGHT OF WAY, UTILITIES, AND STORM DRAINAGE FACILITIES

**Grantor:** MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe.

**Grantee:** CITY OF FIFE, a Washington municipal corporation.

**Abbreviated Legal Description:** Tract A of Short Plat recorded under 200607275002. Complete legal description is set forth in Exhibit A attached hereto.

**Tax Parcel Nos.:** 0420078024

1. MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe (“Grantor”), record owner of the property hereinafter described, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), and other valuable consideration, does hereby grant and convey to the City of Fife (“Grantee”), under the imminent threat of the City of Fife’s exercise of its rights of Eminent Domain, an exclusive perpetual easement over, under, upon and across, the real property situated in Pierce County, State of Washington, legally described in Exhibit A (the “Easement”).

2. The purpose of the Easement is to allow the Grantee, its employees, agents, and contractors the exclusive right and privilege to construct, inspect, repair, operate, replace, and maintain public right of way, utilities, storm drainage facilities, and appurtenances in the Easement area including, but not limited to, roadway, curbs, gutters, sidewalks, landscape strips, lighting and signal equipment, detention facilities, overhead and underground electric,

communications, sewer, storm drainage, and water pipes, mains, poles, pump stations, wires, vaults, junction boxes, conduits, transformers, and bollards.

3. The Grantee shall not to assign or convey this Easement, or any portion thereof without the prior written consent of Grantor, which consent may be withheld at Grantor's sole discretion, provided Grantee shall have the right to authorize concurrent use of the Easement by utility franchisees of the Grantee and other utilities authorized to locate utilities within the Grantee's right of way, and shall have the right to enter agreements with other property owners to accept storm water into Grantee's storm drainage facilities within the Easement area.

4. Grantor and Grantee acknowledge that Grantor only has a partial undivided interest in the property described in Exhibit A, and that the easement rights granted herein apply and extend only to Grantor's partial undivided interest in the property described in Exhibit A attached hereto.

5. This Easement shall terminate automatically if, after completion of the 70<sup>th</sup> Avenue Improvement Project and the 66<sup>th</sup> Avenue Extension Project (Items 1 and 13 of the City of Fife 2012-1017 Six Year Transportation Improvement Program), Grantee fails to use the Easement for any of the purposes for which it was granted for a period of two consecutive years. (i.e. if the Grantee uses the Easement at any time during the two year period, for any purpose for which the Easement was granted, then the automatic termination provision shall not apply). Grantor acknowledges that the 66<sup>th</sup> Avenue Extension Project has not been funded at the time this Easement is entered and may take many years to complete.

6. This Easement shall be governed by the laws of the State of Washington. The parties agree that any dispute arising out of or concerning this Easement that cannot be resolved by consultation and discussion between the parties shall be resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") which shall be conducted in Fife, Tacoma, or at another location agreed to by the parties. Enforcement of any arbitration award may be brought in Pierce County Superior Court, with the expressed stipulation that in such an enforcement action the court shall have only the power to enforce any arbitration award and shall not have the power to review or amend the final resolution of the arbitration proceedings. Grantor voluntarily enters into a limited waiver of its sovereign immunity from suit on the following terms and conditions: Grantor consents to participate in and be bound by the award in an arbitration proceeding conducted under this section and consents to the jurisdiction of the Pierce County Superior Court but only for the limited purpose of enforcement of an arbitration award as provided and limited by this section. Grantor agrees that it will not raise sovereign immunity as a defense in any such action that is brought and conducted as provided in this section. This limited waiver is given only in favor of the Grantee.

Dated this 15<sup>th</sup> day of <sup>May</sup>~~February~~, 2012



**EXHIBIT A**

THE UNDIVIDED INTEREST OF LOT 1 IN STORM DRAINAGE TRACT "A,"  
IN PIERCE COUNTY SHORT PLAT NUMBER 200607275002, ACCORDING  
TO PLAT THEREOF RECORDED JULY 27, 2006, RECORDS OF PIERCE  
COUNTY AUDITOR.

(Tax Parcel No. 0420078024).

## EXHIBIT I

The Following Special Exceptions as set forth in the Fifth Commitment from Chicago Title Company Order No. 4363240 dated March 22, 2012 are accepted:

4. Matters disclosed by Pierce County survey recorded under recording number 9004250090.

5. Sanitary Sewer Agreement, including the terms and provisions thereof, recorded May 11, 1999 under recording number 9905110487.

6. Covenants, conditions, restrictions, easements, maintenance provisions, notes and dedications, and other matters set forth in Pierce County Short Plat Number 200607275002, as amended by Minor Amendment to Short Plat recorded April \_\_\_\_, 2012 under recording number \_\_\_\_\_.

7. Covenants, conditions, restrictions, easements and liabilities for assessments contained in instrument, but omitting any covenants or restrictions, if any, based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law:

Recorded: December 15, 2006  
Recording Number: 200612150815

As amended by Amendment to Declaration of Easements and Covenants recorded April \_\_\_\_, 2012 under recording number \_\_\_\_\_.

8. Storm Water Acceptance Agreement and the terms, conditions, and provisions contained therein recorded September 15, 2011 under recording number 201109150354.

9. City of Fife Second Sanitary Sewer Service Area Agreement, including the terms and provisions thereof, recorded May 28, 2009, recording number 200905280396.

## EXHIBIT J

**After Recording Please Return To:**  
VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424

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### STORM WATER ACCEPTANCE AGREEMENT

**Grantor:** CITY OF FIFE, a Washington municipal corporation.

**Grantee:** MARINE VIEW VENTURES, INC., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe.

**Abbreviated Legal Description:** Lots 1, 4, and 5 and Tract A of Short Plat Recorded under 200607275002

**Tax Parcel Nos.:** 0420078019, 0420078022, 0420078023, 0420078024

1. **Date and Parties.** THIS STORM WATER ACCEPTANCE AGREEMENT ("AGREEMENT"), is dated, for reference purposes only, the 15<sup>th</sup> day of ~~April~~<sup>April</sup>, 2012, and is made and entered into by and between City of Fife, a Washington municipal corporation (the "City") and Marine View Ventures, Inc., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe ("MVV").

2. **Recitals.**

2.1 The City owns or has exclusive easements rights in the property legally described as follows:

LOTS 4 AND 5 AND TRACT A OF PIERCE COUNTY SHORT PLAT NUMBER  
200607275002, ACCORDING TO PLAT THEREOF RECORDED JULY 27, 2006,  
RECORDS OF PIERCE COUNTY AUDITOR

2.2 MVV owns the property legally described as follows ("MVV Property").

LOT 1 PIERCE COUNTY SHORT PLAT NUMBER 200607275002, ACCORDING TO PLAT THEREOF RECORDED JULY 27, 2006, RECORDS OF PIERCE COUNTY AUDITOR.

EXCEPT THOSE PORTIONS THEREOF CONVEYED TO THE CITY OF FIFE BY STATUTORY WARRANTY DEED RECORDED AUGUST 3, 2007 UNDER RECORDING NUMBER 200708030274.

2.3 Tract A of Pierce County short plat number 200607275002, according to plat thereof recorded July 27, 2006, records of Pierce County Auditor (the "Short Plat") contains a storm water detention pond designed to serve Lots 1-5 of the Short Plat.

2.4 The City has acquired the fee interest in Lots 4 and 5 of the Short Plat and fee and exclusive easements interests in Tract A of the Short Plat in order to construct a larger storm drainage facility with the capacity to serve the 70<sup>th</sup> Avenue Improvement Project, other future road improvements, as well as the storm drainage from Lots 1-3 of the Short Plat, presently serviced by the storm water detention pond on Tract A. A diagram of the proposed drainage facility on Tract A and Lots 4 and 5 is attached hereto as Exhibit A ("the Drainage Facility").

2.5 The purpose of this Agreement is to commit a portion of the capacity of the Drainage Facility to accommodate storm water drainage from Lot 1 of the Short Plat.

3. **Acceptance of Storm Water.** The City has allocated 45,227 cubic feet of storm water detention volume ("Allocated Volume") in the Drainage Facility to storm drainage from Lots 1-3 of the Short Plat based on currently applicable design standards and agrees to accept the conveyance of storm water from and off of Lot 1 of the Short Plat to the Drainage Facility for purposes of storm water detention up to Lot 1's respective proportionate share of the Allocated Volume.

4. **Maintenance.** Conveyance of storm water from Lot 1 to the Drainage Facility shall be by the existing storm drainage pipe as shown in Exhibit A. Owner of Lot 1 shall be responsible for maintenance of all storm drainage pipes and other storm drainage facilities on Lot 1, and for the storm drainage pipe conveying storm drainage from Lot 1 across Lots 2 and 3 to the point of intercept on Lot 4 with the Drainage Facility as shown in Exhibit A. Owner of Lot 1 shall also be responsible for any replacement or upgrade to the storm drainage pipe required by applicable law for any redevelopment of Lot 1. The City shall be responsible for maintenance of the Drainage Facility in accordance with City standards. Until the Drainage Facility is constructed, the City shall maintain the existing storm pond on Tract A which will continue to serve Lot 1 of the Short Plat until the Drainage Facility is constructed. The owner of Lot 1 shall have the right to enter Lot 4 upon reasonable advance notice to the City for the purpose of inspecting, repairing or replacing the storm drainage pipe serving Lot 1 to the point of intercept on Lot 4, provided any such repair or replacement shall be in accordance with City standards and regulations.

5. **Covenant Running with the Land.** This Agreement and all of the terms and provisions set forth herein shall run with the land and inure to the benefit of and be binding upon the parties, their heirs, successors, legal representatives and assigns.

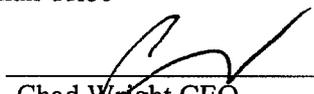
6. **Limits.** This Agreement provides storm drainage detention capacity only, and does not relieve the owner of Lot 1 from payment of applicable storm water utility charges, or compliance with applicable storm water, water quality, or environmental laws or regulations regarding Lot 1. After Lot 1 is placed into trust status, the owner of Lot 1 shall continue to comply with all water quality standards applicable within the City of Fife as to storm water draining from or off of Lot 1.

7. **Relocation.** The City reserves the right to relocate the Drainage Facility or relocate storm drainage from Lot 1 to another City drainage facility so long as the City, at the City's cost and expense, continues to provide for conveyance of storm drainage from Lots 1 from the West boundary of Lot 3 of the Short Plat with a detention volume equal to Lot 1's respective proportionate share of the Allocated Volume.

8. **Dispute Resolution and Waiver of Sovereign Immunity.** The parties agree that any dispute arising out of or concerning this Agreement that cannot be resolved by consultation and discussion between the parties shall be resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") which shall be conducted in Fife, Tacoma, or at another location agreed to by the parties. Enforcement of any arbitration award may be brought in Pierce County Superior Court, with the expressed stipulation that in such an enforcement action the court shall have only the power to enforce any arbitration award and shall not have the power to review or amend the final resolution of the arbitration proceedings. MVV voluntarily enters into a limited waiver of its sovereign immunity from suit on the following terms and conditions: MVV consents to participate in and be bound by the award in an arbitration proceeding conducted under this section and consents to the jurisdiction of the Pierce County Superior Court but only for the limited purpose of enforcement of an arbitration award as provided and limited by this section. MVV agrees that it will not raise sovereign immunity as a defense in any such action that is brought and conducted as provided in this section. This limited waiver is given only in favor of the City of Fife.

**MVV:**

Marine View Ventures, Inc., a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe

By  \_\_\_\_\_  
Chad Wright, CEO

**THE CITY:**

City of Fife, Washington

By: \_\_\_\_\_  
David K. Zabell, City Manager

**ATTEST:**

\_\_\_\_\_  
Carol Etgen, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gregory F. Amann  
Assistant City Attorney

STATE OF WASHINGTON    )  
  )  
County of Pierce            )        ss.

I certify that I know or have satisfactory evidence that David K. Zabell is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Fife to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

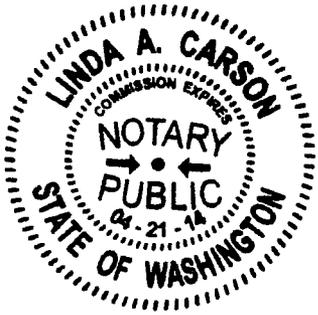
\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON    )  
  )  
County of Pierce            )        ss.

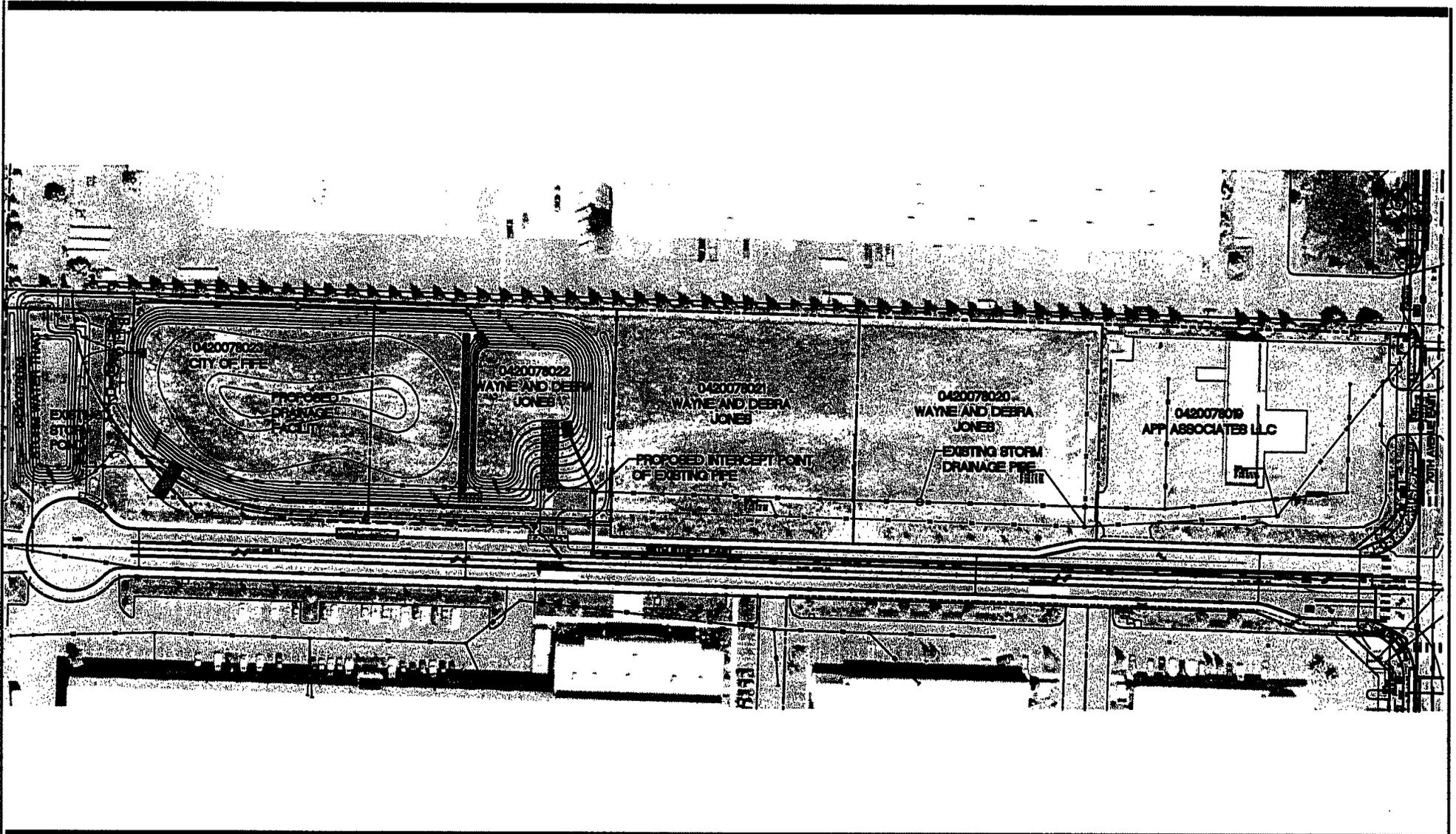
I certify that I know or have satisfactory evidence that Chad Wright is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the CEO of Marine View Ventures, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 5-15-2012.

  
\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: Linda A Carson  
My appointment expires: 4-21-14



# EXHIBIT " A "



PROJECT ENGINEER	A. TERALIX		
DRAWN BY	A. TERALIX, G. WELSH		
CHECK BY	S. EICKEL, J. KIRKMAN, B. MORSE		
ENGINEER BY	L. OUCHATY, M. CLARK		
DATE PLOTTED	JANUARY 2015		
FILE	CARDLOCK_POND_PARCEL.DWG	DATE	PERMISSION



**City of Fife**  
**Department of Public Works**  
 5411-23rd Street East  
 Fife, Washington 98424

PLANS PREPARED BY  

**DAVID EVANS AND ASSOCIATES** INC.  
 6700 Pacific Hwy, Suite 500  
 Fife, Washington 98424  
 Phone: 360.822.0700

**CITY OF FIFE**  
**70TH AVENUE EAST - PHASE 2**  
**RIGHT OF WAY EXHIBIT FOR CARD LOCK**  
**JONES AND APP ASSOCIATES LLC**

EXHIBIT **EXH1**  
 1 of 194

## EXHIBIT K

**After Recording Please Return To:**  
VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424

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### AMENDMENT TO DECLARATION OF EASEMENTS AND COVENANTS

**Grantors:** Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe; Wayne and Debra Jones, husband and wife; City of Fife, a Washington municipal corporation.

**Grantees:** Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe; Wayne and Debra Jones, husband and wife; City of Fife, a Washington municipal corporation.

**Legal Description:** Lots 1-5 and Tract A of Short Plat recorded July 27, 2006 under Piece County Auditor's No. 200607275002

**Tax Parcel Nos.:** 0420078019, 0420078020, 0420078021, 0420078022, 0420078023, 0420078024

**Reference:** Amends 200612150815

THIS AMENDMENT TO EASEMENTS AND COVENANTS ("AGREEMENT"), is dated, for reference purposes only, the 15<sup>th</sup> day of ~~April~~<sup>May</sup>, 2012, and is made and entered into by and among Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe ("MVV"), City of Fife, a Washington municipal corporation (the "City"), and Wayne and Debra Jones, husband and Wife ("Jones").

#### Recitals

Whereas, MVV owns Lot 1 of the short plat recorded July 27, 2006 under Pierce County Auditor's Recording No. 200607275002, except those portions thereof conveyed to the City of Fife by statutory warranty deed recorded August 3, 2007 under recording number 200708030274; and

Whereas, for purposes of this Agreement, the short plat recorded July 27, 2006 under Pierce County Auditor's Recording No. 200607275002, shall be referred to as the "Short Plat," and

Whereas, Jones owns Lot 2 and 3 of the Short Plat except those portions thereof conveyed to the City of Fife by statutory warranty deed recorded August 3, 2007 under recording number 200708030274; and

Whereas, the City has acquired the fee interest in Lots 4 and 5 of the Short Plat and fee and exclusive easements interests in Tract A of the Short Plat in order to construct a larger storm drainage facility with the capacity to serve the 70<sup>th</sup> Avenue Improvement Project, other future road improvements, as well as the storm drainage from Lots 1-3 of the Short Plat; and

Whereas, the purpose of this Amendment is to amend the utility easement to reflect the City's ownership of Lots 4 and 5 and ownership/exclusive easement interest in Tract A of the Short Plat and to remove the common area provisions.

NOW, THEREFORE, in consideration of the above recitals, the Declaration of Easements and Covenants recorded December 15, 2006 under Pierce County Auditor's Recording No. 200612150815 (the "Declaration") is hereby amended as follows:

1. Section 1 of the Declaration is hereby amended to read as follows:

1. Utility Easements.

a. MVV hereby grants and conveys to Jones for the benefit of Lots 2-3 a perpetual non-exclusive easement over, across, under and through the south ten (10) feet and the north ten (10) feet of Lot 1 for the purpose of installing underground utility lines, including connection to the storm drainage facility on Lots 4 and 5 and Tract A in accordance with the Storm Water Acceptance Agreements recorded under Recording Nos. 201109150354 and \_\_\_\_\_ (hereafter "Utility Easements").

b. Jones hereby grants and conveys to MVV for the benefit of Lot 1 a perpetual non-exclusive easement over, across, under and through the south ten (10) feet and the north ten (10) feet of Lots 2-3 for the purpose of installing underground utility lines, including connection to the storm drainage facility on Lots 4 and 5 and Tract A in accordance with the Storm Water Acceptance Agreements recorded under Recording Nos. 201109150354 and \_\_\_\_\_ (hereafter "Utility Easements").

c. The Utility Easements granted herein include the reasonable right of access as necessary for the installation, maintenance and repair of such lines. Each Lot shall be responsible to pay for all costs associated with installing its own utility lines and tying into the storm drainage facility in accordance with this Agreement and the Storm Water Acceptance Agreements recorded under Recording Nos. 201109150354 and \_\_\_\_\_.

2. Section 2 of the Declaration is hereby deleted in its entirety.

3. Section 3 of the Declaration is hereby amended to read as follows:

3. General Maintenance Covenant for Individual Lots. Except as otherwise provided herein, the present and future owners of Lots 1 through 5 and Tract A shall be responsible for the costs to maintain their respective lots and improvements in good condition and repair. There are no common areas in the Short Plat and no Lot owner shall have the right to charge any other Lot owner any common area management or maintenance fees.

4. Section 4 of the Declaration is hereby deleted except that the percentages set forth in 4(B) are retained for purposed of determining proportionate costs in Section 5 of the Declaration.

5. A new Subsection 7(F) is hereby added to the Declaration to read as follows:

F. MVV voluntarily enters into a limited waiver of its sovereign immunity from suit on the terms and conditions set forth in Subsection 7(E). MVV agrees that it will not raise sovereign immunity as a defense in any such action that is brought and conducted as provided in Subsection 7(E). This limited waiver is given only in favor of the owners of Lots 1-5.

IN WITNESS WHEREOF, this Amendment to Declaration of Easements and Covenants is executed as of the day and year first above written.

**JONES:**

**THE CITY:**

City of Fife, Washington

\_\_\_\_\_  
Wayne Jones

By: \_\_\_\_\_  
David K. Zabell, City Manager

\_\_\_\_\_  
Debra Jones

ATTEST:

**MVV:**

\_\_\_\_\_  
Carol Etgen, City Clerk

Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe

APPROVED AS TO FORM:

By  \_\_\_\_\_  
Chad Wright, CEO

\_\_\_\_\_  
Gregory F. Amann  
Assistant City Attorney

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that David K. Zabell is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Fife to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

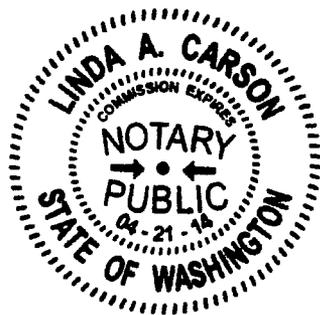
DATED: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that Chad Wright is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the CEO of Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 5-15-2012.



Linda A. Carson  
NOTARY PUBLIC  
Print Name: Linda A. Carson  
My appointment expires: 4-21-14

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that Wayne Jones is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that Debra Jones is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

## EXHIBIT L

**After Recording Please Return To:**  
VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424

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### MINOR AMENDMENT TO SHORT PLAT

**Grantors:** Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe; Wayne and Debra Jones, husband and wife; City of Fife, a Washington municipal corporation.

**Grantees:** Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe; Wayne and Debra Jones, husband and wife; City of Fife, a Washington municipal corporation; the public.

**Legal Description:** Lots 1-5 and Tract A of Short Plat recorded July 27, 2006 under Pierce County Auditor's No. 200607275002

**Tax Parcel Nos.:** 0420078019, 0420078020, 0420078021, 0420078022, 0420078023, 0420078024

**Reference:** Amends 200607275002.

THIS MINOR AMENDMENT TO SHORT PLAT ("AMENDMENT"), is dated, for reference purposes only, the 15<sup>th</sup> day of ~~April~~<sup>May</sup>, 2012, and is made and entered into by and among Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe, City of Fife, a Washington municipal corporation, and Wayne and Debra Jones, husband and Wife.

City of Fife Short Plat No. 04-00008, recorded July 27, 2006 under Pierce County Auditor's Recording No. 200607275002 (the "Short Plat") is hereby amended as follows:

1. The Plat Note on page 2 of the Short Plat is hereby amended to read as follows:

Lot 1 in the Plat shall have a 1/5<sup>th</sup> undivided interest in Tract "A." Lot 4 of the Plat shall have a 2/5<sup>ths</sup> undivided interest in Tract "A." Lot 5 of the Plat shall have a 2/5<sup>ths</sup> undivided interest in Tract "A."

IN WITNESS WHEREOF, this Amendment to Short Plat is executed as of the day and year first above written.

City of Fife, Washington

\_\_\_\_\_  
Wayne Jones

By: \_\_\_\_\_  
David K. Zabell, City Manager

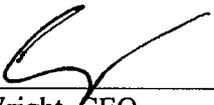
\_\_\_\_\_  
Debra Jones

ATTEST:

Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe

\_\_\_\_\_  
Carol Etgen, City Clerk

APPROVED:

By  \_\_\_\_\_  
Chad Wright, CEO

\_\_\_\_\_  
Community Development Director

APPROVED AS TO FORM:

\_\_\_\_\_  
Gregory F. Amann  
Assistant City Attorney

STATE OF WASHINGTON    )  
  )  
County of Pierce         )       ss.

I certify that I know or have satisfactory evidence that David K. Zabell is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Fife to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

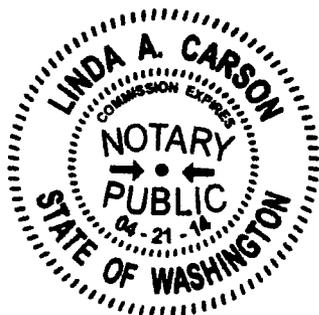
DATED: \_\_\_\_\_.

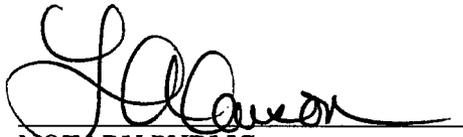
\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that Chad Wright is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the CEO of Marine View Ventures, Inc. a tribally chartered business enterprise wholly owned by the Puyallup Tribe of Indians, a federally recognized American Indian Tribe, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 5-15-2012.



  
NOTARY PUBLIC  
Print Name: Linda A Carson  
My appointment expires: 4-21-14

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that Wayne Jones is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 )  
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that Debra Jones is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_