Agenda

City Council
Regular Session

MONDAY
June 21, 2004

8:00 – 10:00 p.m.
Council Chambers

			Page
1.	Call to Order		
2.	Roll Call, Flag Salute		
	(a) Proclaiming July Parks and Recreation Month		2-1
	(b) Commending Chief Lucarelli's years of service		
3.	Communications: Written and Oral		
	Note: *Three-minute limit per person, or five minutes if representing the official position of a recognized organization. A maximum of three persons is permitted to speak to each side of any one topic. Additional presentations may be heard at Agenda Item 13, including three additional persons speaking to topics heard at Agenda Item 3.*		
4.	Reports of Community Council, Boards and Commissions		
5.	Report of the City Manager		
	(a) Management Brief providing update on Factoria Area Transportation Study (FATS)	TRAN Goran Sparrman/ Kevin McDonald	5-1
6.	Council Business		

City Council meetings are wheelchair accessible. American Sign language (ASL) interpretation is available upon request. Please phone 452-6805 at least 48 hours in advance.

City of Bellevue

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7.	Approval of the Agenda		
8.	Consent Calendar		
	(a) Minutes of May 24, 2004 Extended Study Session Minutes of June 1, 2004 Special Session Minutes of June 7, 2004 Regular Session		
	(b) Motion to approve payment of claims for the period May 29 through June 11, 2004 and payroll for the period May 16 through May 31, 2004	FIN	8-1
	(c) Resolution No. 7010 authorizing execution of a two-year agreement with two optional one-year extensions with SBC TeleComm Inc. to provide local and long distance phone service	ITD	8-3
	(d) Motion to award Bid No. 0426 to renovate and expand the playgrounds at Wilburton Hill Park, Downtown Park, and Norwood Village Park to L W Sundstrom, Inc. as the lowest responsible bidder, in the amount of $399,410.00 (CIP Plan Nos. NEP-1 and P-R-11)	PARKS	8-6
	(e) Resolution No. 7011 authorizing an agreement with the Bellevue Breakfast Rotary Club (BBRC) to govern the relationship of the parties with respect to the design, construction, use, and operation of the new Accessible Water Play Area at Crossroads Community Center and authorizing the City Manager to expend funding for the design, construction, testing, permitting, and project management (CIP Plan No. P-AD-58) *(Discussed with Council June 14, 2004)*	PARKS	8-12
	(f) Resolution No. 7012 authorizing the City Manager to execute a Memorandum of Understanding with Pacific Science Center which defines strategies for implementation, design, and funding and addresses the capital construction, maintenance and operating costs for the Mercer Slough Environmental Educational Center	PARKS	8-22

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(g)	Ordinance No. 5527 authorizing the City Manager to execute a Homeland Security Subgrant Agreement with King County to accept grant funds for purchase of a bomb truck for Bellevue Police Department; establishing a project within the Operating Grants and Donations Fund; appropriating additional revenues to the Operating Grants and Donations Fund; authorizing the expenditure of said grant funds; and authorizing interfund loans	POLICE	8-34
(h)	Motion to award Bid No. 0427 to construct a missing link of sidewalk along the west side of 116th Ave NE, from NE 21st St to 450-feet northerly, to Mer-Con, Inc., as low bidder, in the amount of $55,996.00 (CIP Plan No. PW-W/B-56)	TRAN	8-39
(i)	Resolution No. 7014 authorizing amending the Agreement with HDR Engineering, Inc. for the NE 10th Street Extension/Overlake Hospital Medical Center (OHMC) Expansion Traffic Operations Analysis to include a greater number of alternatives (Contract No. 35434) *(Council approved OHMC Master Plan/NE 10th extension EIS on May 3, 2004)*	TRAN	8-43
(j)	Motion to award Bid No. 0424 for 143rd Avenue SE and SE 10th Place water extension project to install approximately 590 lineal feet of new watermain to improve service reliability *in the Lake Hills neighborhood* to Earthwork Enterprises, as lowest responsible bidder, in the amount of $123,952.20	UTIL	8-46
(k)	Motion to award Bid No. 0428 for asphalt/concrete restoration (patches) to AA Asphalting, Inc. as lowest responsible bidder, in the amount of $180,838.25	UTIL	8-50

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(l)	Maintenance services contracts		8-52
	(1) Resolution No. 7015 authorizing execution of the first of three potential renewals of a maintenance services contract with Davey Tree for special tree maintenance and removal services, for a total potential contract amount of $105,000.00	UTIL	8-57
	(2) Resolution No. 7016 authorizing execution of the first of three potential renewals of a maintenance services contract with Asplundh Tree Experts for heavy duty tree maintenance and removal, for a total potential contract amount of $105,000.00	UTIL	8-58
	(3) Resolution No. 7017 authorizing execution of a maintenance services contract and three potential renewals with Graffiti Busters for graffiti removal and abatement services, for a total potential contract amount of $140,000.00	UTIL	8-59
	(4) Resolution No. 7018 authorizing execution of a maintenance services contract and three potential renewals with Stripe Rite, Inc. for street thermoplastic maintenance, for a total potential contract amount of $140,000.00	UTIL	8-60
	(5) Resolution No. 7019 authorizing execution of a maintenance services contract with Stripe Rite, Inc for annual pavement marking maintenance services in an amount not to exceed $61,137.82	UTIL	8-61
	(6) Resolution No. 7020 authorizing execution of a maintenance services contract and one potential two-year renewal with Accurate Auto Body for auto body repair and paint services for light and medium duty equipment, for a total potential contract amount of $500,000.00	UTIL	8-62
	(7) Resolution No. 7021 authorizing execution of a maintenance services contract and one potential two-year renewal with Geo.Heiser Body Company for auto body repair and paint services for heavy	UTIL	8-63

duty equipment, for a total potential contract amount of $100,000.00

(8) Resolution No. 7022 authorizing execution of a four-year maintenance Agreement with Bravo Environmental Services, LLC for wastewater mainline root sawing services in an amount not to exceed $434,160.70 — UTIL — 8-64

(m) Resolution No. 7023 authorizing staff to enter into a purchase agreement with Northern Video Systems for water system security enhancements (CIP Plan No. W-95) — UTIL — 8-65

(n) Resolution No. 7024 authorizing the City Manager to execute a signed Settlement Agreement authorizing payment of $70,000.00 in settlement of a claim filed by Robert and Nancy Getz (Claim No. 03-048-01) — LEGAL — 8-70

9. Public Hearings

10. Land Use

11. Other Ordinances, Resolutions and Motions

(a) Resolution No. 7013 authorizing execution of an Agreement Regarding Environmental Conditions and all other necessary documents with LS Holdings, LLC reflecting the parties' plans to deal with potential contamination under the City rights-of-way adjacent to the Lincoln Square site — LEGAL, Lori Riordan — 11-1

(b) Ordinance No. 5528 repealing chapters of Bellevue City Code; adopting a new Chapter 23.05 relating to Construction Code administration; adopting new Chapters 23.10, 23.50, 23.60, and amending Sections 23.16.010 and 23.16.035 — PCD, Mike Brennan/ Gregg Schrader — 11-5

(This item was discussed with Council at the June 14, 2004 Extended Study Session)

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(c) Ordinance No. 5529 repealing sections of the Bellevue City Code ; adopting a new Chapter 23.11.46 relating to the fire code; adopting and amending the international fire code; and establishing an effective date *(Discussed at the June 14th Extended Study Session)*	FIRE Chief Lucarelli/ Steve Nuttall	11-54
(d) Ordinance No. 5530 repealing Chapter 23.30 of the Bellevue City Code; adopting new Chapter 23.30 codifying and amending the state electrical code; adopting certain figures and drawings; and establishing an effective date *(Discussed at the June 14th Extended Study Session)*	PCD Mike Brennan/ Gregg Schrader	11-74
(e) Cable Communications and Franchise Terms *(Council discussed these items at June 1 and June 14, 2004 Meetings)*	TRAN David Kerr	11-113
(1) Ordinance No. 5531 repealing Bellevue City Code (BCC) Chapter 5.30 and adopting a new Chapter 5.30 governing Cable Communications and cable franchises		11-116
(2) Ordinance No. 5532 repealing Ordinance Nos. 1859 and 2023 and Chapter 14.20 of the Bellevue City Code (BCC) relating to Franchise Terms & Conditions and adopting a new BCC Chapter 14.20		11-163
(f) Contracts relating to construction at the New City Building	CMO/PCD Matt Terry/ Carla Weinheimer	11-178
(1) Resolution No. 7025 authorizing execution of a contract amendment with The Seneca Real Estate Group for construction management services from $49,800 to a new amount of $270,950		11-191
(2) Resolution No. 7026 authorizing execution of a contract amendment with Cultural Development Authority of King County for project management of		11-192

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public art installations from $19,474 to a new total amount of $75,794

(3) Resolution No. 7027 authorizing execution of a contract amendment with McClaren Wilson & Lawrie, Inc. for design services for the public safety functions in the New City Building from $75,000 to a new total amount of $120,000 — 11-193

(4) Resolution No. 7028 authorizing execution of a contract amendment with SRG Partnership for graphic design services from $6,704,587 to a new total amount of $6,779,662 — 11-194

(5) Resolution No. 7031 authorizing execution of a contract with GeoEngineers, Inc. for geotechnical services in the amount of $94,000 — 11-195

(6) Resolution No. 7032 authorizing execution of a contract with BRC Acoustics, Inc. for audio-visual services in the amount of $80,600 — 11-196

(7) Resolution No. 7029 authorizing execution of a contract amendment with TechPMgroup, LLC for service delivery infrastructure project management services from $48,800 to a new total amount of $177,915 — 11-197

(8) Resolution No. 7030 authorizing execution of a contract amendment with RLF Enterprises, Ltd for technology systems project management services from $188,000 to a new total amount of $935,186 — 11-198

12. Unfinished Business

13. Continued Oral Communications

14. New Business

15. Executive Session

16. Adjournment

WELCOME TO YOUR BELLEVUE CITY COUNCIL MEETING

Most City Council business is conducted in public, and citizens are most welcome to watch and listen.

In order to hold a meeting, a *quorum* of at least four Councilmembers must be present. The Council operates under its own Rules and Procedures, and conducts its meetings according to Robert's Rules of Order.

Councilmembers may add items to the meeting's *agenda* for discussion or action, with a majority vote of those present, at the time when the agenda is approved. Before any agenda item can be acted upon, the Mayor will call for a *motion* to take action on that item. After the motion is *seconded*, the Council discusses the arguments for and against the motion.

Sometimes a Councilmember will propose a different course of action on a subject on the agenda. This is called a *substitute motion* and also requires a second. After discussion, the substitute motion is voted upon first. If a majority of the Councilmembers vote for the substitute motion, it passes and the matter is completed. If the substitute motion fails to obtain a majority, the Council returns to the original motion and continues to discuss and vote on it.

Other times, a Councilmember may wish to change a pending motion in some way. This is called an *amendment*. It also requires a second and is voted upon before a vote is taken on the main motion. If the amendment passes, the main motion is then voted upon "as amended". If the amendment does not receive a second or a majority vote, the main motion, as originally proposed, is voted upon.

The *Consent Calendar* portion of the agenda allows the Council to act on several items of business with one motion and vote. Items on the Consent Calendar are usually recurring "housekeeping" matters, legislation that follows-up decisions from previous meetings, and other issues for which no debate or dissenting votes are expected.

When necessary, the Council may recess to an *executive session*. During these closed sessions, the Councilmembers are limited, by law, to discussing only such items as personnel issues, property acquisition and disposition, and quasi-judicial matters*; or to receiving advice from legal counsel on pending or potential litigation. The Mayor or Deputy Mayor will announce both the reason for any executive session and the anticipated time when the Council will return.

* "Quasi-judicial" matters are those in which the Councilmembers sit as "judges" to decide issues involving specifically-identified property or other rights between individuals or parties. This is as opposed to the Council's usual role of acting in a legislative or policy-making capacity.

Item No. 2(a)

CITY OF BELLEVUE

PROCLAMATION

Whereas; The City of Bellevue is dedicated to fostering a healthy community through an integrated system of exceptional parks, open space, recreational, cultural, and human services programs; and

Whereas; Parks and recreational activities not only provide opportunities for young people to live, grow, and develop into contributing members of society, but also create friendships and enrich life experiences for older members of our community; and

Whereas; Playgrounds, nature trails, and open spaces, along with community and sports centers, make Bellevue an attractive and desirable place in which to live, work, and play; and

Whereas; Greenways and open spaces both offer a welcome respite from our fast-paced lifestyles and preserve our natural environment; and

Whereas; Parks and recreational opportunities touch the lives of individuals, families, groups, and the entire community by positively impacting the social, economic, health, and environmental quality of our city; and

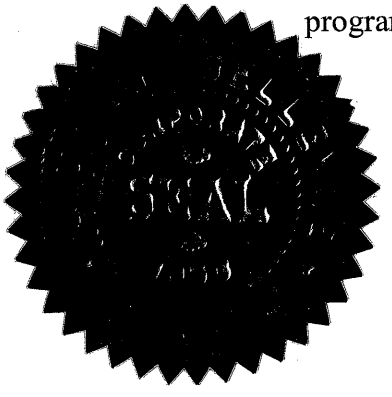
Whereas; July annually marks the nationwide celebration of the country's parks and recreational opportunities; and

Whereas; Bellevue works hard to maintain its reputation as a "*City in a Park*";

Now, therefore, I, Connie B. Marshall, Mayor of the City of Bellevue, Washington do hereby proclaim **July 2004** as:

PARKS and RECREATION MONTH

in Bellevue, and encourage all citizens to take the time to enjoy the many benefits available to them through Bellevue's broad array of recreational programs and diverse system of parks and open spaces.



Connie B. Marshall
Mayor

City of Bellevue

Item No. 5(a)

Management Brief

TO: Mayor Connie Marshall and Bellevue City Councilmembers

FROM: Kevin McDonald, AICP, Senior Transportation Planner KDM
kmcdonald@ci.bellevue.wa.us, 452-4558

DATE: June 14, 2004

SUBJECT: Factoria Area Transportation Study (FATS) Update

CC: Steve Sarkozy, City Manager
Goran Sparrman, Transportation Director

The Factoria Area Transportation Study (FATS) update is well underway. This management brief will provide Council with a status report on this project.

Background and Scope

On January 20, 2004, Council initiated the FATS update. FATS is a comprehensive analysis of the short-term and the long-range transportation system needs in the Factoria area. FATS is to take into account the existing and potential land uses anticipated under the Comprehensive Plan and the Land Use Code, including the Council's 2002 decision to allow up to 51,000 square feet of retail and 685 units of housing on the Factoria Mall site. As a specific direction from Council, FATS is to determine the transportation system's capacity to support a proposed additional 100,000 square feet of retail development on the Factoria Mall site.

As a fully funded project through the Capital Investment Program (CIP Plan No. PW-R-145), Council authorized the City Manager to enter into a contract with Perteet Engineering, Inc. as the prime consultant to provide technical support to implement the FATS update scope of work.

Generally, the FATS update scope includes extensive public involvement, a comprehensive transportation system analysis, and a land use and urban design component to create a well-integrated, transit supportive, pedestrian oriented mixed use neighborhood.

The FATS update final report will document the transportation system issues and will provide recommendations for infrastructure improvements to address those issues.

The FATS Update Team

A strong, multidisciplinary team is contributing to this comprehensive transportation study.

- Perteet Engineering is doing the traffic modeling, transit planning, non-motorized transportation analysis, and urban design.

- Langton/Speith, through Sarah Langton conducts the business outreach and facilitates business and community meetings.

- EnviroIssues contributes to the neighborhood outreach and has developed and maintains the fatsupdate.com web site.

- Callison Architects assist with the urban design component.

- Feet First, a Puget Sound pedestrian advocacy organization works with the community to identify ways to improve the walking environment.

- King County Metro provides information on transit facilities and services and is participating in the community involvement.

Both the Transportation Commission and the Planning Commission are involved in the FATS update, and have assigned Ron Matthew and Jennifer Robertson to serve as project liaisons to their respective commissions.

The Factoria community is an integral component of the FATS update team. Beginning with the initial questionnaire in January through the Factoria neighborhood walk on June 12, residents and business representatives numbering well over 100, are actively participating in the process. They've told us about the area's transportation system problems and have offered thoughtful suggestions for projects to improve mobility for everyone.

On the staff side, lead staff in the Transportation Department are working together with the Planning and Community Development Department staff to guide the process and to ensure that the FATS update achieves the Council's objectives.

Public Outreach and Events

The FATS update has been underway for about six months. It is right on schedule and has engaged the community through a number of public outreach events:

- Questionnaire: In early January, residents and businesses in the Factoria area responded to a questionnaire designed to gather information on the transportation issues that the city should address in the FATS update. We received about 80 responses. Key issues were related to pedestrian and bicycle facilities, traffic safety and congestion, and transit service.

- Community Meeting #1: About 30 people attended the first FATS update community meeting held in Factoria Mall on March 2. Following a brief presentation, those in attendance talked with staff and consultants regarding transportation and urban design issues. They also filled out comment forms that have been compiled and are posted on the project web site. Issues brought up at the community meeting were similar to those from the questionnaire, plus vehicle access to commercial properties and urban design.

- Transportation Commission Briefing May 13: Staff provided a progress report on the project, covering past events, ongoing work, and planned activities

- Neighborhood Newsletter: The May 2004 edition of *Neighborhood News* contained an article on the FATS update. Included in the article was an invitation to neighborhood groups to invite staff to make a FATS presentation as part of their regularly scheduled neighborhood meetings.

- Business Workshop #1: On March 20, about 25 property owners, business owners and employers engaged in a facilitated discussion of Factoria transportation issues and potential projects. Traffic, transit service and pedestrian crossings of Factoria Boulevard were extensively discussed.

- Business Workshop #2: Property and business owners met again on June 11. Twenty participants worked in small groups to create a preliminary list of transportation projects and land use concepts encompassing the areas of traffic, transit, pedestrian and bicycle facilities and urban design. Project will be further refined and detailed with input from area residents during a second community meeting.

- Neighborhood Walking Audit: On Saturday morning, June 12, about 15 residents and one dog participated in a Factoria neighborhood walk. Walkers chose from two routes and worked with the facilitators from Feet First and city staff to point out traffic conflicts and pedestrian system problems, and helped identify means to improve the walking environment.

- Community Meeting #2. Planning for this meeting is underway and it is scheduled for July 13. The agenda includes presenting and discussing preliminary alternatives to address transportation system issues identified through the public involvement process and traffic modeling. Attachment 2 is the meeting flier.

Traffic Modeling

The heart of the FATS update is to identify and analyze transportation system alternatives that address issues identified through public involvement. Much of the work to date has been conducted behind the scenes as the consultants input land use and traffic data to a traffic model for 2030. First, the citywide 2030 base-year model had to be developed as a separate project. Now a more detailed subset of that model for the Factoria area is being

created. When modeling is complete, the FATS update transportation analysis will:

- Review existing and planned land use patterns – including proposed Factoria Mall expansion - and provide recommendations for adequate and safe transportation facilities and services for pedestrians, bicyclists, transit riders and motorists.

- Review and assess completed 1996 FATS projects to determine their effect on improving mobility. The FATS update will reevaluate recommendations identified in the 1996 FATS but not implemented.

- Consider recommendations referred to the FATS update from the Eastgate/I-90 Corridor Study (completed in March 2003), together with regional projects with potential influence on Factoria, including: I-90 Eastgate direct access; I-405 corridor program; and Sound Transit Phase 2.

Fatsupdate.com

The FATS project web site was launched on April 20. Fatsupdate.com contains information about the project, including background, maps, media coverage, photos, announcements of upcoming meetings and summary notes from past meetings, plus a comment form that can be electronically submitted directly to staff.

Timeline

Council directed that the FATS update be concluded by early 2005. The project is on track to produce the final report and recommendation according to the approved timeline – the graphic of which is Attachment 1 to this management brief.

Conclusion

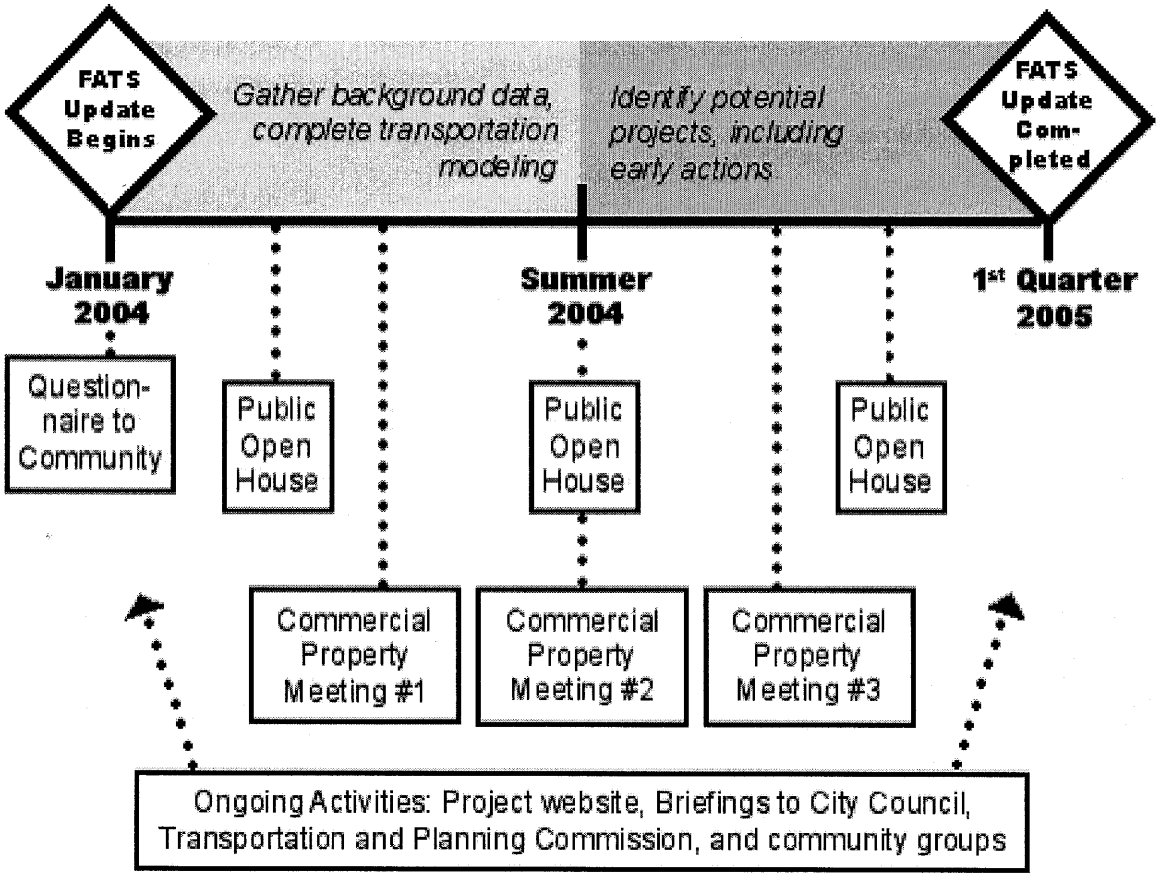
From my perspective as the FATS update project manager, I am encouraged by the level of interest and enthusiasm demonstrated by members of the community as they attend open houses and workshops, and by the creativity the FATS update team brings to the project. Relatively intense public focus on transit and non-motorized facilities will soon be balanced with a modeling of the entire transportation system through 2030. The community meeting on July 13 will bring together each piece of the Factoria area transportation system puzzle – traffic, transit, and non-motorized facilities - with the essential urban design elements that will help all components work together.

Please feel free to contact me directly if you have any questions or comments on the FATS update.

Attachments:

1. Timeline Graphic
2. Community Meeting #2 Flier

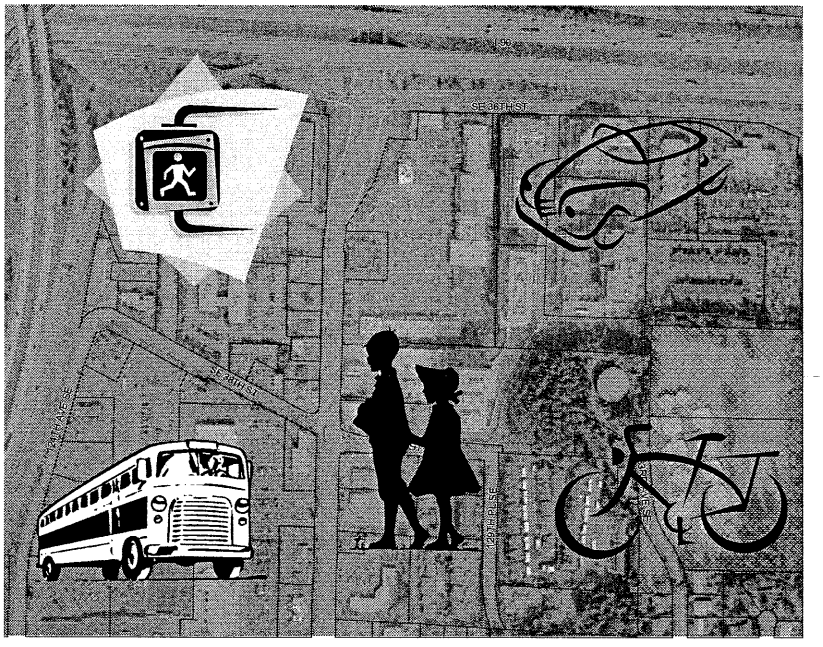
ATTACHMENT 1



FATS Update Timeline

FATS COMMUNITY MEETING

Factoria Area Transportation Study (FATS) Update



Please join us on:

TUESDAY, JULY 13

6:30 TO 8:00 PM

Arrive at 6:30 for a short presentation, followed by a review of several potential transportation solutions that respond to public concerns about traffic, transit, pedestrian and bicycle facilities and urban design.

Factoria Mall
Community Meeting Room

Streets and Intersections
Possibilities for projects that may further improve safety and reduce congestion.

Transit
Factoria area transit services and amenities that may help ease congestion.

Pedestrian and Bicyclists
Improved sidewalks and crosswalks that can make it easier to get around Factoria without a car.

Urban Design
Design features in new projects that would support transit use, improve pedestrian mobility, and enhance the character of Factoria.

For more information:

Kevin McDonald at 425-452-4558
kmcdonald@ci.bellevue.wa.us
Check out the project website:
fatsupdate.com

Transportation Solutions for You

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Extended Study Session

May 24, 2004
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak, Davidson, Degginger, and Lee

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:09 p.m. by Mayor Marshall, who presided. There was no executive session.

2. Oral Communications

(a) Doug Mathews, Planning Commission, reported on the Comprehensive Plan update process. Proposed revisions to the plan include policies regarding innovative types of housing, guidelines for new large homes in existing neighborhoods, and detached ADUs (accessory dwelling units). Draft transportation policies address neighborhood protection from transportation impacts. Mr. Mathews said the Planning Commission recently held an open house and panel discussion regarding shoreline regulations. The Commission's public hearing on the Comprehensive Plan will be held Wednesday, July 7, at First United Methodist Church (1934 108th Avenue NE).

(b) Grant Ringel, Bellevue Downtown Association Chair, expressed support for the New City Building redevelopment project. He encouraged Council to review the entire project in terms of identifying potential budget cuts rather than focusing only on landscaping, water features, and similar "soft" project components.

(c) Walter Scott expressed concern that the New City Building will not have adequate parking facilities. He submitted his calculations and analysis in writing

(d) Roxanne Shepherd, Arts Commission, described her extensive research and reading on public art and her conclusion that public art is an essential component of a healthy urban community. She recalled previous Council direction to the Arts Commission to develop an integrated, thoughtful sequence of thematically connected art for the new building

rather than a menu of art pieces from which to choose. She urged Council to support the full recommendation for art in the new building. Ms. Shepherd encouraged Council to not use existing public art funds for the New City Building project.

(e) Arlen Collins recalled that the recent process to update the Downtown Implementation Plan identified the need for Bellevue to become a livable city. He emphasized the importance of landscaping and art in the New City Building project in terms of making the site livable and memorable for many years to come.

(f) Loyd Jacobs noted his previous communications to Council regarding the New City Building. He asked Council to give special consideration to his suggestion to increase the project budget by three percent to address safety in the parking garage and incorporate his recommended entrance #14.

(g) Anna Littlewood encouraged Council to approve the full proposed art concept for the New City Building.

Mayor Marshall noted that Agenda Item 3(g) has been postponed to the June 1 Special Meeting.

3. Study Session

(a) Council New Initiatives

No new initiatives were introduced.

(b) Limited public hearing on potential 501(c)(3) leases for the New City Building (NCB), as required by the Tax Equity and Fiscal Responsibility Act (TEFRA), reserving the City's right to lease portions of the NCB to charitable institutions described in Section 501(c)(3) of the Internal Revenue Code.

Finance Director Jan Hawn explained that bonds to finance the New City Building redevelopment project will be tax-exempt and are therefore subject to the Tax Equity and Fiscal Responsibility Act (TEFRA). The City is required to hold a public hearing if it wishes to reserve the right to lease portions of the New City Building to charitable institutions described in Section 501(c)(3) of the Internal Revenue Code.

➲ Deputy Mayor Noble moved to open the public hearing, and Mr. Lee seconded the motion.

➲ The motion to open the public hearing carried by a vote of 7-0.

No one came forward to comment on the issue.

➲ Deputy Mayor Noble moved to close the public hearing, and Mr. Lee seconded the motion.

➲ The motion to close the public hearing carried by a vote of 7-0.

(c) New City Building

(1) Scope and Budget Direction

City Manager Steve Sarkozy noted Council's ongoing discussions to set the scope and budget for the New City Building redevelopment project. Council is scheduled to set the maximum allowable construction cost (MACC) at its June 1 Special Meeting.

➲ Councilmember Chelminiak moved to establish the New City Building project scope and budget using a holistic/package approach rather than reviewing by line item. Mr. Degginger seconded the motion.

Dr. Davidson prefers to vote on each of the items that are optional and/or have been discussed the most by Council.

Responding to Deputy Mayor Noble, Mr. Chelminiak confirmed that he proposes restoring $94,000 of the CIP gateway funding and using $206,000 of CIP gateway funding for the new building. Mr. Noble moved to amend the motion to utilize the full $300,000 in CIP gateway funding for the New City Building. The motion was not seconded.

Following additional brief discussion, Mr. Chelminiak withdrew his motion. Council decided to review the list of budget reconciliation items and vote on each item.

➲ Deputy Mayor Noble moved to restore $450,000 in CIP public art funding, and Mr. Lee seconded the motion.

Dr. Davidson does not support the motion. He suggested restoring $250,000 in public art funding to the CIP and using $200,000 for the new building project.

Mr. Lee supports the motion, as recommended by the Arts Commission.

➲ The motion to restore $450,000 in CIP public art funding carried by a vote of 6-1, with Dr. Davidson dissenting.

➲ Deputy Mayor Noble moved to retain public art funding for the new building as budgeted at $893,138, and Dr. Davidson seconded the motion.

→ Mr. Degginger moved to amend the motion to reduce the public art budget for the new building by $192,542. Mr. Chelminiak seconded the motion.

Responding to Councilmember Balducci, Mayor Marshall and Mr. Sarkozy clarified that Council will vote on each project component, reconcile the project budget by reconsidering specific items if necessary, and then vote on a final project package.

Mr. Lee does not support the motion amendment.

Mr. Chelminiak explained he was trying to reduce public art costs to one percent of the overall construction costs.

→ The motion to amend the main motion by reducing the public art budget for the new building by $192,542 failed by a vote of 2-5, with Mr. Chelminiak and Mr. Degginger in favor.

➲ The motion to retain public art funding for the new building as budgeted at $893,138 carried by a vote of 6-1, with Mr. Degginger dissenting.

➲ Councilmember Degginger moved to restore $94,000 in CIP gateway funding and to utilize the remaining $206,000 for a gateway treatment at the New City Building. Mr. Chelminiak seconded the motion.

Mr. Lee suggested using all or the majority of CIP gateway funding for the new building.

Mr. Noble feels the entire building site is a gateway and suggested utilizing the full $300,000 for the new building.

➲ The motion to restore $94,000 in CIP gateway funding and to utilize the remaining $206,000 for a gateway treatment at the New City Building carried by a vote of 4-3, with Dr. Davidson, Mr. Lee, and Mr. Noble dissenting.

➲ Deputy Mayor Noble moved to delete $103,350 budgeted for the pneumatic tube, and Mr. Lee seconded the motion.

Mr. Chelminiak proposed a friendly amendment to delete $103,350 from the project budget but to allow staff to explore other options that could serve the same function as the pneumatic tube.

Dr. Davidson suggested a substitute motion to not delete the pneumatic tube line item. There was no second.

➲ The motion to delete $103,350 budgeted for the pneumatic tube failed by a vote of 3-4, with Mayor Marshall, Mr. Degginger, and Mr. Lee in favor.

Mayor Marshall clarified that the pneumatic tube line item will remain in the project budget.

➲ Deputy Mayor Noble moved to add $295,950 to the budget for landscaping on the south side of the site, and Mr. Degginger seconded the motion.

➲ The motion to add $295,950 to the budget for landscaping on the south side of the site carried by a vote of 7-0.

Deputy Mayor Noble moved to add $482,300 to the project budget for bathroom upgrades. There was no second. Councilmember Balducci suggested the bathrooms could be upgraded in the future but upgrades are not necessary at this time.

➲ Deputy Mayor Noble moved to add $257,726 to the budget to add a pavilion water feature, and Ms. Balducci seconded the motion.

Dr. Davidson considers the project a city hall in a park and feels it would be most cost effective to add the water feature now. Mr. Lee is in favor of water features on the site. Mr. Degginger supports a water feature at what will be the most visible and frequented portion of the site.

➲ The motion to add $257,726 to the budget to add a pavilion water feature carried by a vote of 7-0.

➲ Deputy Mayor Noble moved to retain the stair tower graphic budgeted at $206,700, and Ms. Balducci seconded the motion.

Dr. Davidson is in favor of a stair tower graphic but would like to see additional artwork alternatives for consideration.

➲ The motion to retain the stair tower graphic budgeted at $206,700 carried by a vote of 7-0.

Mayor Marshall noted Council consensus to direct staff to develop alternative graphic concepts for the stair tower.

Deputy Mayor Noble moved to retain $74,481 in the project budget for the 50-foot trellis. The motion was not seconded. The item will remain in the project budget.

There was no motion to delete one garage screen. Both garage screens will remain in the project budget.

➲ Deputy Mayor Noble moved to add $350,000 to the project budget for a SE corner water feature, and Mr. Lee seconded the motion.

Mr. Lee summarized his ongoing advocacy for a water feature at the SE gateway corner of the site. He feels the feature is critical to make the site more attractive and mitigate traffic noise.

Dr. Davidson expressed support for the water feature and noted that most citizens will see only the outside of City Hall.

Ms. Balducci explained she will not support the motion. With all of the artwork and landscaping planned for the site, she feels the water feature is an extra amenity that, while attractive, could detract from other features on the site.

➲ The motion to add $350,000 to the project budget for a SE corner water feature failed by a vote of 3-4, with Dr. Davidson, Mr. Lee, and Mayor Marshall in favor.

Mr. Lee explained that a water feature would be particularly important in the winter when trees and flowers are not blooming. He feels a water feature would draw pedestrians to the site.

Mayor Marshall suggested phasing in the water feature by providing the plumbing now to add a water feature in the future.

➲ Mr. Lee moved to add plumbing for a SE corner water feature to the project budget, for the future installation of a water feature. Mrs. Marshall seconded the motion.

Dr. Davidson spoke in favor of the motion.

PCD Director Matt Terry opined that the water feature, including plumbing, could be done now or later. While it would be more cost effective to install the entire feature now, the cost of plumbing in the future is not likely to be prohibitive.

➲ The motion to add plumbing for a future SE corner water feature to the project budget failed by a vote of 3-4, with Dr. Davidson, Mr. Lee, and Mrs. Marshall in favor.

Council took no action regarding the option to change terra cotta siding to metal panel for a portion of the building. The project scope and budget will retain terra cotta as the preferred exterior cladding.

➲ Deputy Mayor Noble moved to delete the trellis and $271,240 from the project budget. Mr. Lee seconded the motion.

Mr. Noble commented that the trellis on the main plaza, while attractive, is not a necessary project component. He noted most people will access the new building using the underground parking garage rather than the plaza.

Ms. Balducci feels that rejecting the trellis threatens the integrity of the overall design concept for the plaza. Therefore, she will not support the motion.

➲ The motion to delete the trellis and $271,240 from the project budget failed by a vote of 1-6, with Mr. Lee in favor.

Responding to Councilmember Lee, Mr. Terry briefly reviewed the City's response to Walter Scott, who has suggested there will not be adequate parking facilities at the New City Building. Mr. Terry said Mr. Scott's analysis is based on information prepared by the City's consultant two years ago. This information has been updated and modified since that time. Mr. Scott's recommendation erroneously assumes that all employees would be on the site at the same time. However, police personnel in particular are not typically on site for the majority of their shifts. Mr. Terry said the City expects the parking demand for employee vehicles to decrease somewhat given the proximity of the building to the Transit Center. Also, the City is currently exploring an

alternative in which most fleet vehicles will be parked at a remote location. Mr. Terry said the new building will have more visitor parking than the current City Hall.

Dr. Davidson reiterated his interest in discussing the feasibility of establishing a foundation to raise funds to provide a water feature or fountain at the New City Building.

➲ Deputy Mayor Noble moved to approve the New City Building project scope and budget of $101,550,000, and Mayor Marshall seconded the motion.

Mr. Degginger expressed support for the motion.

Mr. Lee will not support the motion. He is pleased with Council's process to date to define the project scope but feels critical elements have been left out of the overall package.

➲ The motion to approve the New City Building project scope and budget of $101,550,000 carried by a vote of 6-1, with Mr. Lee opposed.

At 8:14 p.m., Mayor Marshall declared a short break. The meeting reconvened at 8:22 p.m.

(2) Limited Tax General Obligation Bonds

Finance Director Jan Hawn described the proposed ordinance to authorize the issuance and sale of Limited Tax General Obligation (LTGO) bonds for the New City Building. The bond sale is scheduled for June 24.

Responding to Mayor Marshall, Ms. Hawn said the $101.6 million bond was based on the City Manager's recommended project budget of $100.4 million. With Council's revised project budget of $101.55 million, the bond amount will increase by approximately $1 million to $102.6 million. Ms. Hawn will provide recalculated numbers for Council's review.

➲ Dr. Davidson moved to direct staff to proceed with the bond issue and bond ordinance, and Mr. Noble seconded the motion.

➲ The motion to direct staff to proceed with the bond issue and bond ordinance carried by a vote of 6-1, with Mr. Lee opposed.

Mayor Marshall noted that Council consideration of Resolution No. 6997 will take place later in the meeting.

(d) Regional Issues

Diane Carlson, Director of Intergovernmental Relations, introduced Kjristine Lund, Executive Director of the RTID (Regional Transportation Investment District), and Chris Picard, Transportation Planner, Washington State Department of Transportation (WSDOT) to provide an update on RTID activities.

Ms. Lund noted that major funders in the region issued a statement last week indicating they are not interested in supporting a regional transportation measure on the November ballot. The RTID Executive Board approved a draft proposal on April 29 and will further refine its plan at its June 3rd and 10th meetings. Proposed King County projects are listed on page 3 of the Regional Issues packet. Ms. Lund said approximately $40 to 50 billion in unmet transportation needs have been identified for the region, which includes Snohomish and Pierce counties. Mr. Picard briefly reviewed the 12 King County projects identified within the draft RTID plan.

Councilmember Degginger questioned the inclusion of three local projects in the RTID proposal. Ms. Lund explained that King County is divided into three areas for purposes of RTID planning. The three local projects were recommended by the three representatives of these geographical areas. Mr. Picard said all three local projects work in association with freeway projects and will reduce freeway-related congestion.

Mayor Marshall spoke to Bellevue City Council's preference that RTID fund projects for the major corridors of I-405, I-90, and SR 520.

Deputy Mayor Noble commented on the importance of adequate transportation facilities for the region's future and continued economic development. He is concerned that it is not sound public policy to not present a ballot measure this fall based on the anticipated reaction of a particular interest group.

Mr. Chelminiak suggested a ballot measure will be more favorable once King, Pierce, and Snohomish counties have adopted a project list.

Dr. Davidson fears political debates and competing priorities will hamper progress on RTID planning and implementation.

Mayor Marshall thanked Bellevue citizens for supporting transportation expenditures in the past. She feels public education is an important component in moving forward with needed projects.

Mayor Marshall asked staff to return next week for Council to take action on the proposed letter to the RTID Executive Committee.

Moving on, Ms. Carlson referred Council to page 6 of the Regional Issues packet and requested Council's consideration of the homeland security draft interest statement.

Barb Graff, Emergency Preparedness Manager, explained that the Emergency Management Advisory Committee (EMAC) has been in existence for approximately nine years. More recently, EMAC has functioned as the Region 6 Homeland Security Council. The City of Seattle has proposed changing the governance body that oversees the distribution of federal homeland security grant funds. Ms. Graff responded to brief questions of clarification.

➲ Deputy Mayor Noble moved to approve the Homeland Security Regional Governance Interest Statement, and Mr. Lee seconded the motion.

➲ The motion to approve the Homeland Security Regional Governance Interest Statement carried by a vote of 7-0.

Ms. Carlson referenced page 11 of the Regional Issues packet and requested Council action on the draft letter to the City's congressional delegation regarding a reauthorization of TEA-21. Referring to the third paragraph of the draft letter, Mayor Marshall suggested revising "Overlake transportation study" to "Overlake Hospital Medical Center transportation study."

➲ Deputy Mayor Noble moved to approve the letter regarding TEA-21 reauthorization, as amended by Mayor Marshall. Dr. Davidson seconded the motion.

➲ The motion to approve the letter regarding TEA-21 reauthorization carried by a vote of 7-0.

(e) First Public Hearing on the 2005-2006 Budget and 2005-2011 Capital Investment Program (CIP) Plan

Mr. Sarkozy explained that this is the first of three public hearings to be held on the 2005-2006 Budget and the 2005-2011 Capital Investment Program (CIP) Plan.

➲ Deputy Mayor Noble moved to open the public hearing, and Dr. Davidson seconded the motion.

➲ The motion to open the public hearing carried by a vote of 7-0.

(1) Eden Toner, Eastside Heritage Center, thanked the City for its past partnership in Bellevue 50Fest events. She described a program held in April with the Parks Department that provided history sessions at the Winters House for local schoolchildren. Additional community history presentations are planned as well as the annual Strawberry Festival in June.

(2) Stu VanderHook, Eastside Heritage Center, thanked Council for its ongoing support and partnership. He invited the public to the Strawberry Festival on June 26 in Old Bellevue.

(3) David Brown, Executive Director of Pacific Northwest Ballet, said PNB is the only major arts organization with a presence in both Seattle and Bellevue. More than 48 percent of PNB's students live on the Eastside. In October 2002, PNB School opened a new 24,000 square foot facility in Bellevue. Mr. Brown said PNB will submit a proposal requesting $100,000 toward its capital campaign.

➲ Deputy Mayor Noble moved to close the public hearing, and Dr. Davidson seconded the motion.

➲ The motion to close the public hearing carried by a vote of 7-0.

Mr. Sarkozy said the second public hearing on the budget and CIP Plan will be held on July 12.

(f) 2005-2006 Operating Budget and 2005-2011 CIP Plan

(1) Planning and Community Development Department

Planning and Community Development Director Matt Terry provided a presentation regarding the department's budget issues, excluding development services. Although development services represents the larger portion of the department's budget and work force, a full presentation of this function will be combined with citywide development services on July 6. PCD's programs include comprehensive planning, development services, neighborhood outreach, housing, code compliance, and economic development. Mr. Terry said PCD staffing has decreased by 10 full-time positions since 2002 due to the slowed economy.

In terms of performance measures, Mr. Terry said 72 percent of survey respondents are satisfied with the City's planning for the future, which is an increase of five percent from the previous survey. Similarly, 90 percent of respondents rate the Neighborhood Outreach Program as good or excellent.

Mr. Terry reviewed the following policy issues facing the department during the 2005-2006 budget biennium:

- Bel-Red/Overlake development plan and high-capacity transit planning (estimated cost of $800,000 for two-year planning program),
- Eastgate Subarea Plan update (estimated cost of $125,000 for land use and urban design elements),
- Transportation concurrency review (recommend delaying this work until 2007),
- Meydenbauer Bay Park Area Master Plan (joint Parks/PCD effort; funding via Parks Master Plan budget),
- Neighborhood Investment Strategy ($200,000 for feasibility analysis to continue efforts in West Lake Hills),
- Cultural Compass Plan implementation (report due this summer; financial impacts are unknown at this time,
- Critical Areas Notebook (pre-approved mitigation options/strategies for residents, estimated cost of $75,000-280,000),
- Overlake Hospital Medical Center Expansion and NE 10th Street Extension (proposing to include NE 10th Street project in CIP update, cost range of $3-8 million with possible grant offsets),
- Meydenbauer Center expansion (significant staff workload impact), and
- Downtown Implementation Plan (DIP) projects.

Mr. Terry discussed the need to identify funding for the NE 10th Street Extension project.

➲ Deputy Mayor Noble moved to refer the NE 10th Street Extension project to the Transportation Commission for review and a recommendation regarding prioritizing and accelerating the project in the CIP update. Dr. Davidson seconded the motion.

Responding to Mr. Chelminiak, Mr. Sarkozy suggested the Transportation Commission can be asked to formulate a recommendation for Council regarding the relative priority of this project, funding, and timing.

- The motion to refer the NE 10th Street Extension project to the Transportation Commission for review and a recommendation carried by a vote of 7-0.

- Deputy Mayor Noble moved to extend the meeting to 10:30 p.m., and Mayor Marshall seconded the motion.

- The motion to extend the meeting to 10:30 p.m. carried by a vote of 7-0.

Mr. Terry explained that hospitals are one of the types of facilities exempt from transportation impact fees. The City is obligated to pay the impact fee for such facilities. The budgetary impact for the Overlake Hospital Medical Center expansion is yet to be defined but is roughly estimated at $200,000 to $1 million.

Mr. Terry recalled that initial funding of $1.3 million is included in the current CIP Plan toward the implementation of DIP projects. He reminded Council that money was previously reallocated from DIP transportation projects to the NE 10th Street extension project. Additional funding will be needed to pursue DIP transportation projects.

[Agenda Interruption]

(c) New City Building

(3) Resolution No. 6997 authorizing execution of an amendment to the professional services agreement with SRG Partnership in the amount of $227,000 for additional design and consulting services for the NCB.

Mr. Terry opened discussion regarding a proposed amendment in the amount of $227,000 for additional design and consulting services for the New City Building. He noted an independent evaluation by The Seneca Group (Page 3-48 of Council packet) regarding the contract amendment. Mr. Terry said staff recommends approval of the contract amendment.

Mr. Degginger expressed concern about the risks identified in the letter from the structural engineers on pages 3-57 through 3-59 of the Council packet. Mr. Terry explained that this is a relatively common practice. He said it is important to ensure the architect, contractor, and subcontractors are adequately staffed to produce construction documents in a timely manner to accelerate the project. The contract requires the general contractor to review and accept all drawings prepared by SRG Partnership. Mr. Terry said weekly meetings are held between the City, contractor, and architect to ensure that issues raised by the design team and structural engineer are fully addressed by the contractor. While these measures cannot eliminate risk, the project team is working to minimize risk as much as possible.

Mr. Terry noted the comparison of possible project schedules on page 3-46 of the Council packet. This contract amendment to accelerate the project for completion by November 2005 will save the City an estimated $712,000 over the original January 2006 completion date.

Responding to Councilmember Lee, Mr. Terry said the design project budget includes $750,000 for additional consultants. The requested contract amendment falls within this approved budget line item.

Mr. Chelminiak noted that the City Manager's recommended project scope and budget, approved earlier in the evening with modifications by Council, assumes an early completion date of November 2005.

Mr. Noble expressed confidence in SRG Partnership and their positive working relationship with the City to date.

➲ Deputy Mayor Noble moved to approve Resolution No. 6997, and Dr. Davidson seconded the motion.

➲ The motion to approve Resolution No. 6997 carried by a vote of 7-0.

[Agenda Resumed]

(f) 2005-2006 Operating Budget and 2005-2011 CIP Plan

(2) Reserve Policies

Due to the time, Council decided to postpone staff's presentation on reserve policies.

Jonathan Swift, Budget Manager, briefly explained the City's Rainy Day Reserve Fund, which was created in 1984. No draws have ever been made from this fund. Council revised the Rainy Day Reserve policy in 1992 by directing investment interest from this fund to the General Fund.

Responding to Mr. Degginger, Mr. Swift said the Rainy Day Reserve Fund is essentially the reserve for the General Fund. Mr. Degginger requested a history of expenditures from the Council Contingency fund.

At 10:30 p.m., Mayor Marshall declared the meeting adjourned.

Michelle Murphy
Deputy City Clerk

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CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Special Meeting

June 1, 2004
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak, Davidson, Degginger, and Lee[1]

ABSENT: None.

1. Executive Session

The meeting was called to order at 6:04 p.m. by Mayor Marshall, who presided. Mrs. Marshall explained that an Executive Session will be held at the end of the evening's agenda to discuss one item of property disposition.

Mayor Marshall announced that Agenda Item 4(e) will be addressed immediately following Agenda Item 3(b) to ensure the most efficient use of staff time.

2. Oral Communications

(a) Mike O'Herron said he was the regional president for Millennium Digital Media until recently, and he now serves as a consultant. Millennium has approximately 450 subscribers in Bellevue. Mr. O'Herron said the City charges a flat franchise fee of $10,000. He asked Council to consider a franchise fee of $5,000 for companies with a smaller customer base. Similarly, he requested lower threshold requirements for performance bonds for franchises with a smaller customer base.

(b) Kathy Putt, speaking on behalf of Comcast Cable, referred Council to packet materials for Agenda Item 4(d) including a letter regarding Comcast's concerns about proposed Bellevue City Code changes. She noted that Comcast's main competitor is satellite TV service, which is not regulated at the federal or local level. Ms. Putt said any costs associated with requirements imposed by the City will be passed on to customers.

3. City Manager's Report

[1] Mr. Lee left the meeting at 7:00 p.m. immediately following the vote on Ordinance No. 5523.

(a) Letter to RTID Executive Board

City Manager Steve Sarkozy opened discussion regarding Bellevue's priorities for Regional Transportation Investment District (RTID) planning. Diane Carlson, Director of Intergovernmental Relations, requested Council approval of the draft letter to the RTID Executive Board outlining Bellevue's priority for projects benefiting I-405, I-90, and SR 520 [Page 3-2 of the Council packet].

Deputy Mayor Noble commented on the ongoing challenge for a couple of years now to reach regional consensus on transportation projects. He suggested articulating Bellevue's advocacy of the I-90 project but cautioned against asking that the I-90 project be included in the RTID Plan because it could detract from achieving regional consensus on RTID projects.

Dr. Davidson is disappointed that the I-90 project is seen by some as an Eastside, rather than regional, project. Mr. Chelminiak concurred.

Mayor Marshall spoke to Council's ongoing interest in regional projects through RTID funding. She explained that the proposed center lane conversion to high-capacity transit on I-90 could be funded as a Sound Transit Phase 2 project. She clarified that HOV lanes are considered to be under the authority of the Washington State Department of Transportation.

➲ Mr. Degginer moved to approve the draft letter to the RTID Executive Board provided in Council's desk packet, which is amended from the original Council packet version to request that the I-90 project be included in the RTID Plan. Mr. Chelminiak seconded the motion.

→ Deputy Mayor Noble made a substitute motion to delete the request that the I-90 project be included in the RTID Plan, and Mr. Lee seconded the motion.

→ The substitute motion to delete the request that the I-90 project be included in the RTID Plan failed by a vote of 2-5, with Mr. Lee and Mr. Noble in favor.

➲ The motion to approve the draft letter to the RTID Executive Board provided in Council's desk packet, as amended to request that the I-90 project be included in the RTID Plan, carried by a vote of 6-1, with Mr. Noble dissenting.

(b) Summer Water Supply Conditions

Mr. Sarkozy asked staff to provide an update on the summer water supply. Brad Miyake, Utilities Director, noted packet materials beginning on page 3-4 of the Council packet. Summer water supply conditions have gone from good to fair due to dry conditions since February as well as higher than average water consumption. Dr. Davidson commented that water shortages are becoming an annual occurrence.

4. Study Session

[Agenda Interruption]

(e) Resolution No. 7000 authorizing approval of a final settlement of a claim filed against the City of Bellevue for property damage to the Nguyen residence caused by a broken City water main.

Mr. Miyake explained that a water main at an elevation higher than the Nguyen home broke, allowing water into their basement. The claim may be settled in full by payment of $25,760.91.

➲ Mr. Lee moved to approve Resolution No. 7000, and Mr. Noble seconded the motion.

➲ The motion to approve Resolution No. 7000 carried by a vote of 7-0.

[Agenda Resumed]

(a) Council Business/New Initiatives

Councilmember Balducci said she and Mayor Marshall recently conducted interviews of Transportation Commission candidates.

➲ Ms. Balducci moved to appoint Lise Northey and Daryl Wendle to the Transportation Commission to serve four-year terms concluding on May 31, 2008. Mr. Noble seconded the motion.

➲ The motion to appoint Lise Northey and Daryl Wendle to the Transportation Commission to serve four-year terms concluding on May 31, 2008, carried by a vote of 7-0.

Mr. Degginger congratulated Issaquah High School's boys baseball team for winning the state championship.

Mr. Lee reminded Councilmembers about the *Voices of Tomorrow* function on Friday, June 4, and the Asian Cultural Festival at Bellevue Square on Saturday, June 5.

Mr. Noble reminded Council about the Eastside Human Services Forum's breakfast on June 8.

Mr. Chelminiak invited the public to the opening of the Bellevue Farmers Market on June 17 in the parking lot of First Presbyterian Church on Bellevue Way.

(b) Ordinance No. 5523 amending Ordinance No. 5426 to change the Capital Investment Program project name from Public Safety Center (CIP-PS-57) to New City Building (CIP-PS-57); amending the 2003-2009 CIP Plan to increase the appropriation to CIP-PS-57 in the full amount of the bond proceeds set forth in Ordinance No. 5524; authorizing transference of bond proceeds from the New City Building Project Fund to CIP-PS-57; adopting the NCB Comprehensive Finance Plan; and authorizing execution of Part II of the Agreement between the City and Lease Crutcher Lewis, General Contractor/Construction Manager, that

establishes the Guaranteed Contract Cost and authorizes performance of the remaining work on and completion of the New City Building.

Planning and Community Development Director Matt Terry reviewed Council's actions to date to set a project scope and budget for the New City Building redevelopment project. On May 24, Council approved a final project scope and budget of $101,550,000. Council made four changes to the City Manager's recommended scope and budget as follows:

1. Restored proposed funding of $450,000 to the CIP Public Art Fund, thereby increasing the New City Building project budget.
2. Restored $94,000 in CIP gateway funding and voted to utilize the remaining $206,000 for a gateway treatment at the New City Building.
3. Added landscaping enhancements to the south side of the building.
4. Restored the pavilion water feature to the project scope and budget.

Mr. Terry said Ordinance No. 5523 establishes a scope and budget for the New City Building redevelopment project of $101,550,621. Section 3 of the ordinance adopts a comprehensive finance plan for the project. The ordinance changes the project name from Public Safety Center to New City Building, amends the 2003-2009 CIP Plan to increase the appropriation to the project, authorizes the City Manager or his designee to proceed with the sale of bonds to finance the project, and authorizes the City Manager or his designee to issue the Notice to Proceed with Construction of the project. Bond issuance costs are itemized on page 4B-3 of the Council packet.

Mr. Terry explained that under the GC/CM (general contractor/construction manager) process, the general contractor will award subcontract bids to the lowest responsible bidders except in instances in which the general contractor, Lease Crutcher Lewis, wishes to perform the work itself. In these cases, the City will coordinate the bid process. Council will be asked to approve a number of contracts in the future in which the City is self-performing. A special Council meeting has been scheduled for June 24 to approve the sale of the bonds. Staff will provide a presentation in July regarding the process for addressing change orders if they arise. Mr. Terry said monthly status reports will be provided to Council and emerging issues will be discussed with Council as staff becomes aware of them.

➲ Deputy Mayor Noble moved to adopt Ordinance No. 5523, and Mr. Lee seconded the motion.

Mr. Lee noted he did not agree with all of Council's decisions last week regarding the project scope and budget. However, he feels Ordinance No. 5523 fulfills a longtime vision for a civic center in downtown Bellevue. Mr. Lee commended Council's courage in moving forward with the project. He noted that the final project budget is $1 million less than the preliminary project budget set by Council.

Mr. Degginger asked to receive copies of the minutes of the project's weekly construction meetings.

Responding to Dr. Davidson, Mr. Terry said the new building will have a drop-off zone at the front door as well as a safe pedestrian zone for entering the building from the parking garage.

➲ The motion to adopt Ordinance No. 5523 carried by a vote of 7-0.

Mr. Sarkozy commended Council for addressing long-term facility needs and providing a vision for the building and site.

Dr. Davidson feels this action demonstrates the success of long-term comprehensive planning.

Mayor Marshall thanked Mr. Terry and staff for their hard work on this project.

(c) Resolution No. 6999 authorizing a three-month extension to the City's professional services agreement with Preston Gates Ellis LLP for bond counsel services. This extension would authorize the completion of the professional services in conjunction with the New City Building Limited Tax General Obligation (LTGO) bonds, as well as finalize the Water & Sewer Revenue Refunding bonds, which are both currently works in progress.
(This item was discussed at the May 24, 2004, Extended Study Session. An RFP will be issued for these bond services for a new contract to be effective in September 2004.)

Finance Director Jan Hawn noted that the professional service agreement with Preston Gates Ellis expired on May 31. Staff requests a three-month extension of the contract under its existing terms.

➲ Councilmember Balducci moved to approve Resolution No. 6999, and Mr. Noble seconded the motion.

➲ The motion to approve Resolution No. 6999 carried by a vote of 6-0, with Mr. Lee absent.

(d) Cable TV and Franchise Code Changes

Nora Johnson, Transportation Assistant Director, opened discussion regarding Bellevue City Code changes affecting cable television and other franchise agreements. Comcast Cable's franchise agreement expires in late July. Staff would like to implement the desired code change before that time. The goals of the code changes are to enhance customer service standards and to provide Council with the appropriate tools to govern franchise activities.

David Kerr, Franchise Manager, explained that draft customer service standards were distributed to both Comcast and Millennium Digital Media earlier this year for comment. However, it became apparent that a number of provisions in the cable communications code should be updated as well as additional sections of the code related to franchises. The code updates will also address franchise enforcement and compliance, internal consistency of city codes and policies, regulatory conformity, and the clarification of duties and obligations.

Mr. Kerr said the code updates affect two sections: Chapter 5.30 regarding cable communications and Chapter 14.20 covering franchise terms and conditions. The proposed updates were distributed to both cable providers and their responses are provided in Council's desk packet.

Mr. Kerr explained that the updates propose to increase the franchise fee from $5,000 to $10,000 to more accurately reflect the cost of staff time to negotiate franchise negotiations. Seattle charges $20,000 and Portland's fee is $10,000. Tacoma is currently considering increasing its fee of $5,000.

Mayor Marshall noted the request by Millennium Digital Media for a lower franchise fee given their smaller customer base. Mr. Kerr noted the potential that Millennium could sell its franchise or merge with another company that could then significantly expand its operations as an overbuilder (second cable) franchise. He explained that Millennium's smaller customer base does not limit the complexity of renewing a cable franchise.

Mr. Degginger asked staff to develop a two-tiered fee structure for Council consideration. Mr. Chelminiak would like to consider the approach suggested by Millennium. Mayor Marshall asked staff to develop options and an analysis of the tradeoffs for different fee approaches.

Ms. Balducci noted Comcast's position that federal law allows the company to pass on franchise fee costs to its customers. Mr. Kerr will ask the City Attorney's Office to prepare a legal interpretation of this issue.

Responding to Dr. Davidson, Mr. Kerr confirmed that the City is currently involved in a dispute with Comcast regarding what the City considers underreporting and the underpayment of franchise fees.

Mr. Kerr noted Comcast is concerned the definition of "transfer" could apply to the sale of partial assets. Continuing to review the letter from Comcast dated May 27, 2004, from Kathy Putt [provided in Council's desk packet], Mr. Kerr said Comcast is required to provide cable service to all residents if an easement is provided. Sections 5.30.220(D) and 5.30.230 impose interest charges and a sliding scale late fee for late payments or underpayments of franchise fees. Mr. Kerr said reporting requirements are added primarily to support the implementation of customer service standards. Comcast's comments on continuity of service provisions refer to a code section that has not been revised.

Moving to subscriber fees and rates, Mr. Kerr said the intent of this provision is to address the bundling of services. Comcast provides cable, Internet, and local phone services under the authority of its cable franchise. Customers receive discounts for subscribing to multiple services. Mr. Kerr explained that Comcast could offer deep discounts on cable service for those subscribing to Internet and/or phone services and thereby reduce or eliminate the franchise fee applicable to the cable service only. The cable act regulates against rate discrimination, and the bundling of services essentially results in a form of rate discrimination.

Responding to Mr. Degginger, Mr. Kerr said the regulation of service bundling has not been tested in court. However, many franchises have anti-bundling language. Comcast has indicated it will refuse to accept such a provision in a franchise agreement.

Mr. Kerr described a performance evaluation provision that will require Comcast to conduct a customer survey and provide the results to the City.

Mr. Kerr noted the January 16, 2004 [incorrectly dated 2003], letter from Comcast which primarily addresses customer service standards. These standards require automatic credit to customers for any cable outages. They also require Comcast to investigate whether there is an outage in an area based on one customer complaint rather than the current practice of requiring three customers to call within a two-hour period before investigating.

Mr. Kerr said the City decided to pursue customer service standards after a survey indicated that 73 percent of respondents who called Comcast with a problem were on hold for more than 10 minutes. Similarly, 79 percent considered customer service standards a high franchise renewal priority. The standards are designed to focus on concrete and measurable customer service issues.

Revisions to Chapter 14.20 address franchise terms including bond requirements, facility relocation, penalties for late payments, civil penalty provisions, and termination/revocation. This section applies to non-cable franchises as well including Olympic Pipe Line Company and Puget Sound Energy.

Mr. Kerr reviewed the next steps in the process:

- Council action on proposed code changes (BCC 5.30 and 14.20) scheduled for June 7.
- Consideration of proposed Comcast franchise renewal targeted for June 28.
- Council action on Comcast franchise renewal is scheduled for July 6.
- Staff will begin working on the franchise renewal for Millennium Digital Media in October 2004.
- Olympic Pipe Line franchise extension expires in March 2005.

Mr. Degginger expressed concern that the language in BCC Sections 14.20.270 and 14.20.280 regarding termination/revocation requirements is vague and unclear. He noted that Section 14.20.270 provides no criteria for revocation based on safety issues. Mr. Degginger feels the sections need to be rewritten to be more specific about expectations, procedures, and consequences. He noted that safety does not appear to be addressed in the code, particularly in Section 14.20.080 (Consideration of Applications). Mr. Kerr noted that the City is pre-empted by federal regulations and legislation from regulating pipeline safety and operations.

Councilmember Balducci commented on the odd situation of negotiating with a utility that is also regulated by the City. She questioned how customer service standards will be enforced. Mr. Kerr said a City phone number is already provided on cable bills and he does not anticipate a significant increase in complaints. Ms. Johnson said there are no plans to add staff to respond to cable customer complaints.

In further response to Ms. Balducci, Mr. Kerr said the customer service standards are consistent with those in Seattle and the region so they should not contribute to increased costs for consumers.

Mayor Marshall would like a future discussion regarding the non-regulation of satellite TV services. She questioned whether this should be added to Council's federal legislative agenda. Mr. Degginger noted these companies do not use the public right-of-way. Mrs. Marshall asked staff to explore options in reference to Millennium's request that performance bond requirements be scaled according to the size of a company's customer base.

Mayor Marshall thanked staff for their hard work on this complicated issue.

At 8:03 p.m., Mayor Marshall declared recess to Executive Session and announced that the meeting will conclude following that session.

The meeting was adjourned at 9:00 p.m.

Myrna L. Basich
City Clerk

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CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Regular Session

June 7, 2004
8:00 p.m.

Council Chambers
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak, Davidson, Degginger, and Lee

ABSENT: None.

1. Call to Order

The meeting was called to order at 8:06 p.m. by Mayor Marshall, who presided.

2. Roll Call, Flag Salute

Upon roll call by the City Clerk, all Councilmembers were present. Councilmember Chelminiak led the flag salute, which he dedicated to the memory of President Ronald Reagan.

(a) Proclamation – Mountains to Sound Greenway Discovery Days

Parks and Community Services Director Patrick Foran announced the first Mountains to Sound Greenway Discovery Days scheduled for June 11-13, which is intended to become an annual event along the I-90 greenway corridor. Discovery Days will celebrate the history, landscape, culture, and recreational opportunities along the 100-mile route. There will be free kayak and canoe rentals at Enatai Beach on Saturday and Sunday courtesy of The Boeing Company and the Mountains to Sound Greenway Trust. For more information log on to mtsgreenway.org or cityofbellevue.org.

Mayor Marshall read a proclamation recognizing June 11-13 as Mountains to Sound Greenway Discovery Days and encouraging citizens to participate in the celebrations and events.

(b) Proclamation – 24-Hour Relay Challenge

Helena Stephens, Teen Services Program Administrator, introduced relay directors for this year's 24-Hour Relay Challenge to be held June 19 and 20. The group invited Councilmembers to participate in the opening and closing ceremonies and to visit during the relay. There are 63 community businesses and organizations already involved in sponsoring this event. To date 20 teams have registered and a team registration meeting is set for June 8.

Mayor Marshall read a proclamation declaring June 19 and 20, 2004, as Bellevue's 24-Hour Relay Challenge Days.

Mr. Foran introduced Shelley Marelli, the City's new Assistant Director of Parks and Community Services.

3. Communications: Written and Oral

(a) Wilson Geegh noted he represents the Sierra Club on the HOV committee, of which Mr. Noble is also a member. He commented on Sound Transit's proposal to reroute bus route 560, which could mean it would no longer serve 112th Avenue bus stops. He explained that Sound Transit originally took over Metro's route 340, which had four more stops on 112th Avenue. Mr. Geegh asked Council to be aware of the implications when an express bus route replaces a local bus.

4. Reports of Community Councils, Boards and Commissions: None.

5. Report of the City Manager

Ed Oberg, Deputy City Manager, asked staff to provide an update on the West Lake Hills Neighborhood Investment Strategy (NIS) project. Cheryl Kuhn, Neighborhood Outreach Manager, recalled that approximately 50 neighborhood improvement projects were approved for implementation in 2002-2003. Most have been completed or are underway. One of the community's highest priorities is the revitalization of Lake Hills Shopping Center. City staff met with the center's owner and architects on May 20 to discuss a preliminary development plan based on a concept devised by Lake Hills community members and stakeholders last spring. The next step will be for the owner to respond to questions raised by the City and submit a formal application.

In response to a priority to establish safer and more attractive arterials, sidewalk and road improvements are underway. The final design of improvements to Lake Hills Boulevard and 143rd Avenue SE is nearing completion. Landscaping improvements to Main Street and 148th Avenue have been completed, and improvements continue on the Lake Hills Connector.

Ms. Kuhn recalled that the community requested improvements to neighborhood appearance and identity. Recent accomplishments in this area include the Lake Hills gateway and neighborhood identity project, which was initiated in March. Ms. Kuhn displayed the top five photos selected by vote among 50 photos submitted as representative of the Lake Hills neighborhood.

6. Council Business

Mr. Chelminiak participated in Bike to Work Day. He thanked Seattle's Best Coffee, Old Country Buffet, and Safeway for their donations to this event. Mr. Chelminiak attended meetings of the Port of Seattle, Probation Advisory Board, Planning Commission, and the Disability Board.

Mr. Lee attended a D-Day memorial event in Kent and the Asian Cultural Festival at Bellevue Square.

Deputy Mayor Noble reminded Councilmembers about the Eastside Human Services Forum breakfast on June 8.

Mr. Degginger said he and Councilmembers Balducci, Chelminiak, and Lee participated in a softball game with senior residents. Mr. Degginger attended meetings of the Cascade Water Alliance, Planning Commission, and the Neighborhood Enhancement Program (NEP) in the Cougar Ridge/Eastgate area.

Ms. Balducci praised staff for their key role in winning the softball game. She reported briefly on the Disability Board meeting.

Dr. Davidson meetings of the Metropolitan Water Pollution Abatement Advisory Committee (MWPAAC) and the Environmental Services Commission.

Councilmembers Balducci and Lee participated in a West Lake Sammamish Parkway workshop attended by approximately 200 residents. Ms. Balducci will attend the public meeting scheduled for June 8 to further discuss the project/

Mayor Marshall congratulated high school seniors in the community. She thanked Paul Bader and Tanya Fordyce, Executive Assistants to City Council, for their ongoing hard work. Mrs. Marshall announced the Tanya was married over the weekend and her name is now Tanya Avner.

Mrs. Marshall described her involvement in interviewing candidates for the Arts Commission. She recommended the appointment of Betina Finley, Bill Ptacek, and Valentina Kiselev to the Commission.

➲ Ms. Balducci moved to appoint Betina Finley, Bill Ptacek, and Valentina Kiselev to four-year terms ending May 31, 2008, on the Bellevue Arts Commission. Mr. Lee seconded the motion.

➲ The motion to appoint Betina Finley, Bill Ptacek, and Valentina Kiselev to four-year terms ending May 31, 2008, on Bellevue Arts Commission carried by a vote of 7-0.

7. Approval of the Agenda

➲ Deputy Mayor Noble moved to approve the agenda, and Mr. Degginger seconded the motion.

➲ The motion to approve the agenda carried by a vote of 7-0.

8. Consent Calendar

Mayor Marshall noted a revised agenda memo for Agenda Item 8(q) regarding the ordinary high water mark study in Council's desk packet. The revision addresses an issue raised by a citizen regarding the Shoreline District Overlay.

➲ Deputy Mayor Noble moved to approve the Consent Calendar, as amended by the agenda memo for item 8(q) in Council's desk packet. Mr. Degginger seconded the motion.

➲ The motion to approve the Consent Calendar, as amended, carried by a vote of 7-0, and the following items were approved:

(a) Minutes of May 10, 2004 Extended Study Session
Minutes of May 17, 2004 Study Session
Minutes of May 17, 2004 Regular Session

(b) Motion to approve payment of claims for the period May 7 through May 28, 2004, and payroll for the period May 6 through May 20, 2004.

(c) Resolution No. 7001 authorizing participation in the Regional Disaster Plan for Public and Private Organizations in King County.

(d) Resolution No. 7002 authorizing execution of an amendment to the maintenance service contract with D&J Phipps, Inc., dba Evergreen Sports Turf & Landscaping Services to extend the contract terms from two years to four years and the total contract amount to a total of $102,976 for the four-year term for landscaping maintenance of all Fire Department facilities.

(e) Resolution No. 7003 authorizing execution of a Memorandum of Understanding to amend the 2004-2006 labor agreement with the Public, Professional & Office-Clerical Employees and Drivers Local Union No. 763 representing Utilities and Parks employees.

(f) Resolution No. 7004 authorizing execution of a 2004-2006 successor labor agreement with the Public, Professional & Office-Clerical Employees and Drivers Local Union No. 763 representing PCD Inspectors, Plans Examiners, and Clearing/Grading Reviewers.

(g) Resolution No. 7005 authorizing execution of a 2004-2006 successor labor agreement with the Public, Professional & Office-Clerical Employees and Drivers Local Union No. 763 representing Police Clerical and Communications Employees.

(h) Motion to reject all bids for Bid No. 0416, High Density Storage Unit for the New City Building.

(i) Motion to award Bid No. 0417 to construct the Paxton House site improvements to RK Construction Inc. as lowest responsible bidder in the amount of $174,319.70.

(j) Resolution No. 7006 authorizing submittal of grants of up to $1,395,400 from the Interagency Committee for Outdoor Recreation (IAC) to help offset costs associated with the 2003 purchase of the Henrichs and Kim properties on Meydenbauer Bay, and to assist with the cost of developing the 112th Avenue Trail in the Mercer Slough.

(k) Motion to award Bid No. 0354 to replace the existing sidewalk on the west side of 156th Ave. SE, Lake Hills Blvd. to Main Street, and perform spot repair work on the existing sidewalk on the west side of 156th Ave. NE, Main Street to NE 6th Street, to Kemper Construction as low bidder in the amount of $226,863.50. (CIP Plan No. NIS-1)

(l) Motion to award Bid No. 0420 for the construction of 148th Avenue SE Roadway Improvements to R.W. Scott Construction as low bidder in the amount of $3,147,472.45. (CIP Plan No. PW-R-117)

(m) Motion to award Bid No. 0414 for construction of sidewalks and landscaped medians on 108th Avenue SE and roadway channelization changes at the intersection of 107th/108th Avenue SE near SE 21st Street to Dennis R. Craig Construction as low bidder in the amount of $223,868.70. (CIP Plan Nos. PW-M-7 and PW-W/B-56)

(n) Resolution No. 7007 adopting the City of Bellevue's 2005-2010 Transportation Improvement Program (TIP).

(o) Resolution No. 7008 authorizing execution of a consultant agreement with Kristen Betty & Associates, Inc. to provide on-call construction inspection for the construction of various roadway improvements as identified in the CIP Plan.

(p) Motion to award Bid No. 0421 for NE 20th Street Water Main Improvements, west of 92nd Avenue NE, to Bonner Brothers Construction as low bidder in the amount of $98,567.88. (CIP Plan No. W-16)

(q) Resolution No. 7009 authorizing execution of an amendment to the existing professional services agreement with The Watershed Company for the development of a study to examine the Ordinary High Water Mark on Lake Sammamish.

9. Public Hearings: None.

10. Land Use: None.

11. Other Ordinances, Resolutions and Motions

Mr. Foran explained that Ordinance Nos. 5525 and 5526 respond to Council's priority to acquire high-quality properties for parks and open space. The ordinances approve agreements with King County and the State of Washington to partially reimburse the City for key acquisitions over the past two years. Ordinance No. 5525 provides partial reimbursement from the State for the purchase of the McTavish property. Mr. Foran thanked the Trust for Public Land for acquiring an option on this property and holding it until City funding was available. He noted that the preservation of this land precluded a development targeted for the site.

Ordinance No. 5526 represents an amendment to a King County agreement with the City to provide reimbursement for two acquisitions recently completed along Meydenbauer Bay and a future acquisition within the Richards Valley/Kelsey Creek greenway. The City now owns 800 feet of waterfront property along Meydenbauer Bay. Reimbursement through both ordinances totals approximately $2.25 million.

(a) Ordinance No. 5525 authorizing approval of Capital Contract No. 04-99300-001 to authorize acceptance of funds from the State of Washington, Department of Community, Trade and Economic Development in the amount of $740,625 to offset costs associated with the purchase of the McTavish property; amending the 2003-2009 Capital Investment Program (CIP) Plan to increase the appropriation to the CIP Fund by $740,625; and amending the project budget for CIP Plan No. P-AD-15, Property Acquisition, to reflect the unanticipated revenues.

➲ Deputy Mayor Noble moved to adopt Ordinance No. 5525, and Mr. Degginger seconded the motion.

➲ The motion to adopt Ordinance No. 5525 carried by a vote of 7-0.

(b) Ordinance No. 5526 authorizing execution of an Amendment to the Interlocal Agreement with King County governing the allocation of additional funds made available from the Conservation Futures Fund to offset $1,000,000 in costs associated with the purchase of the Kim and Henrichs properties and allocating $500,000 to Bellevue's Greenway Project and amending the 2003-2009 Capital Investment Program Plan by increasing the Fund appropriation by $1,000,000 within CIP Plan No. P-AD-15, Property Acquisition, to reflect unanticipated revenues.

➲ Deputy Mayor Noble moved to adopt Ordinance No. 5526, and Mr. Lee seconded the motion.

➲ The motion to adopt Ordinance No. 5526 carried by a vote of 7-0.

Mayor Marshall thanked Mr. Foran and Lorrie Peterson, Property Manager, for their hard work on the acquisitions.

12. Unfinished Business: None.

13. Continued Oral Communications: None.

14. New Business: None.

15. Executive Session: None.

16. Adjournment

At 8:56 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich
City Clerk

kaw

Item No. 8(b)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT
Motion to approve payment of claims for the period May 29, 2004 through June 11, 2004 and payroll for the period May 16, 2004 through May 31, 2004.

FISCAL IMPACT
Approval of payment:

Claims Warrant Numbers, including settlements of damage claims	Amounts
00105570 – 00106231	$3,744,427.26

Direct Deposit & Payroll Warrant Numbers	Amounts
3121 – 3153 00055187 – 00055440	$3,762,101.58

STAFF CONTACT
Earle Stuard (425)452-6894

POLICY CONSIDERATION
All claims presented against the City by persons furnishing materials, rendering services, or performing labor must be audited and certified by an auditing officer that the materials have been furnished or the labor performed as described, and that the claims are just, due and unpaid obligations against the City, before payment can be made, as required by RCW 42.24.080 and RCW 42.24.090. Bellevue City Code Chapter 4.40, Audit of Claims section, further provides that all claim vouchers be audited and certified by the City Council Auditor. Settlement of damage claims must also be audited by the City Council Auditor, Bellevue City Code 4.36.030.

BACKGROUND
Robert Morseburg, the Council Auditor, has submitted the audit report for the above claims and has found no exceptions, and Earle Stuard, Assistant Finance Director, has certified that the payroll is true and correct to the best of his knowledge.

EFFECTIVE DATE

If approved, this motion becomes effective immediately upon Council adoption.

OPTIONS

1. Accept the motion to approve payment of claims for the period May 29, 2004 through June 11, 2004 and payroll for the period May 16, 2004 through May 31, 2004.
2. Refer the report to Staff for further clarification.

RECOMMENDATION

Accept option 1.

MOTION

I move to approve payment of claims for the period May 29, 2004 through June 11, 2004 and payroll for the period May 16, 2004 through May 31, 2004.

ATTACHMENTS

Item No. 8(c)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:
Resolution No. 7010 authorizing the City Manager to enter into an agreement with SBC TeleComm Inc. to provide local and long distance phone service.

FISCAL IMPACT

Funding for these services is budgeted and available in the Information Technology Fund. Current annual spending for these services is $143,000. Under the new agreement these services will cost $109,000 annually, resulting in annual savings of $34,000. The new agreement is for two years, with two additional one year options. We are requesting approval of $436,000 over the potential 4 year life of the agreement.

STAFF CONTACT
David Kelly (425) 452-7195

POLICY CONSIDERATION
Council approval of this resolution responds to Council direction and priorities to look for cost savings and efficiencies wherever possible and the City's core value of stewardship.

BACKGROUND
In March of 2003 the City issued an RFP for local and long distance phone services. The goal of the RFP was to lower the cost, improve service, and improve the City's ability to manage these services. The winner of that RFP process, Focal Communications, however went into Chapter 11 bankruptcy protection prior to completing an agreement. Consequently, the City decided to enter into a one year agreement with our incumbent provider, AT&T, who finished second in the RFP process, and then re-issue an RFP this year.

In February of this year, an RFP was re-issued for the following services: Local dial tone, long distance service, conferencing services, 800 number service, and local business line services. We had 10 responses to the RFP. The Network Services manager and supervisor evaluated all respondents and measured them on four different criteria. The Gartner Group, a independent technology consultant organization, was also consulted regarding the technical and economic feasibility of each respondent. The selected vendor is SBC Telecomm, a large financially stable company, with roots as a regional Bell operating company (RBOC). SBC Telecomm had the best overall mix of price (2nd best pricing package), service/support, financial stability, and disaster recovery capabilities. The vendor with the best overall pricing package did not score high in the other selection criteria, rating 4th overall.

EFFECTIVE DATE
If adopted, the resolution will become effective on June 21st.

OPTIONS

1. Adopt the resolution listed above.
2. Reject this recommendation and remand to ITD to work out agreements with other providers or to seek other terms.

RECOMMENDATION

Move to adopt Resolution No. 7010.

MOTION

Move to adopt Resolution No. 7010.

ATTACHMENTS

Proposed Resolution No. 7010

AVAILABLE IN COUNCIL OFFICE

SBC contract documents

1186-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7010

A RESOLUTION authorizing the execution of an Agreement with SBC TeleComm Inc. to provide local and long distance phone service for a period of two years with two additional one year options, for a total amount not to exceed $436,000.00 over the potential four year life of the Agreement.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute an Agreement with SBC TeleComm Inc. to provide local and long distance phone service for a period of two years with two additional one year options, for a total amount not to exceed $436,000.00 over the potential four year life of the Agreement, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 8(d)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT: Motion to award **Bid No. 0426** to renovate and expand the playgrounds at **Wilburton Hill Park, Downtown Park, and Norwood Village Park** to LW Sundstrom, Inc. as the lowest responsible bidder.

FISCAL IMPACT: Awarding this bid will obligate the City to $399,410, including tax. These three park playground projects are funded by the Neighborhood Enhancement Program funds (NEP-1) and Parks Renovation funds (P-R-11). There are sufficient funds to complete these three projects.

STAFF CONTACT: Patrick Foran, 5377; Glenn Kost, 5258; Patricia Lambert, 4109

POLICY CONSIDERATIONS

Bellevue City Code 4.28 provides for the fair and equitable treatment of persons in the purchasing process. Because of the amount of the purchase, City Council approval is required.

BACKGROUND

In 2003, the Neighborhood Enhancement Program involved the citizens of three neighborhoods in nominating and voting for neighborhood improvements. The Wilburton Neighborhood voted as their top choice to renovate and expand the Wilburton Hill Park children's play area. At the same time, the West Bellevue and Woodridge neighborhoods each voted to use NEP funds to expand the Downtown Park and Norwood Village Park playgrounds respectively. The Parks Renovation fund is supplementing the allocations at Norwood Village and the Downtown Park to complete renovations to the existing play areas.

Staff has worked closely with area residents and project proponents to develop plans that were compatible with the area and supported by the neighborhood.

SCOPE OF WORK AND TIMING

The **Wilburton Hill Park** playground project includes the renovation of existing play equipment, the addition of play equipment for older children, new safety surfacing, site amenities, and landscaping.

The **Downtown Park** playground project includes repairing the existing castle, adding additional play equipment, site amenities, and new safety surfacing.

The **Norwood Village Park** playground project includes replacing some of the existing equipment to meet current ADA standards, adding equipment for the older children, and providing new safety surfacing.

Work will begin in September to allow for full use of existing facilities throughout the summer months. Completion is expected by the end of the year.

BID ANALYSIS

Advertisements for bids were published on May 18 and May 25, 2004, in the Seattle Daily Journal of Commerce and King County Journal. Bid documents and plans were also placed on-line through Builders Exchange for easy access via computer. Bids were opened June 10. The engineer's estimate was $340,000, which included the base bid and Washington State Sales Tax. The bid amounts are as follows:

Bidder	Total Bid Amount
1. LW Sundstrom, Inc., Ravensdale, WA	$399,410.00
2. A-1 Landscaping & Construction, Inc., Snohomish, WA	$451,248.00
3. Saybr Contractors, Inc., Puyallup, WA	$453,901.54

Bid prices were higher than estimated due in part to a large number of projects of this size and scope currently available to bid, the fact that many small contractors are busy at this time of the year, and a reluctance to commit bonding capacity for a project that won't start until after Labor Day, thus precluding bidding on summer construction projects. We believe, however, that the low bid represents a fair price for the work specified, and funds are available to complete the work.

After reviewing the Contractor's bid, his background, references, and previous projects, we believe that LW Sundstrom, Inc. is capable of performing this work per the plans and specifications.

To the best of staff's knowledge, this project can be constructed within the bid amount proposed by LW Sundstrom, Inc., and within the time specified. It may be necessary to authorize minor changes because of unknown circumstances. Only additional work that is necessary for the complete and proper development of the project will be authorized.

EFFECTIVE DATE
If adopted by Council, this motion will become effective immediately.

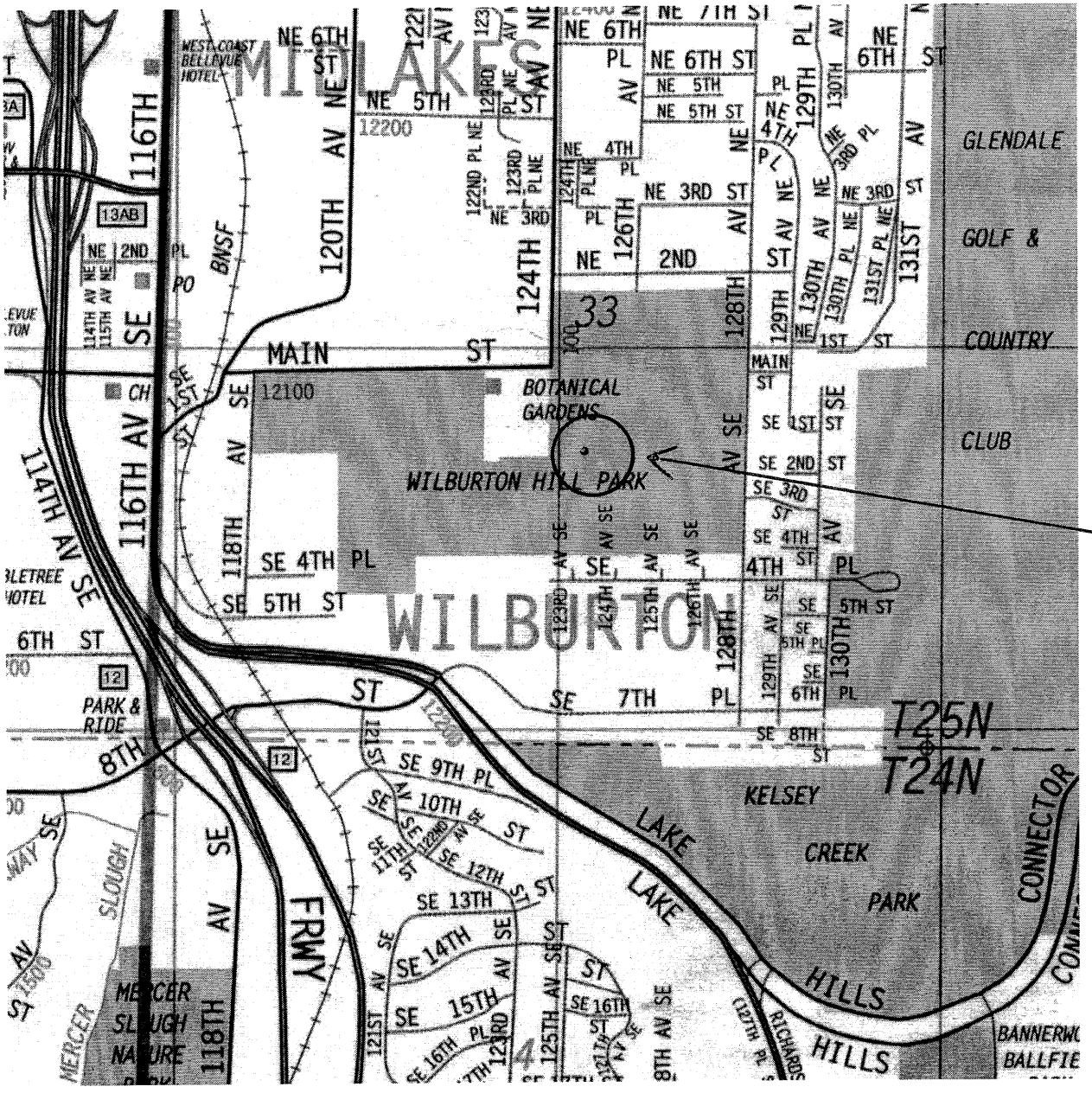
OPTIONS

1. Award **Bid No. 0426,** to renovate and expand the playgrounds at **Wilburton Hill Park, Downtown Park, and Norwood Village Park** to LW Sundstrom, Inc., as the lowest responsible bidder, in the amount of $399,410, which includes Washington State Sales Tax.
2. Reject all bids, redesign the projects, and re-bid at a later date.
3. Reject all bids and abandon the projects.

RECOMMENDATION
Award **Bid No. 0426** to renovate and expand the playgrounds at **Wilburton Hill Park, Downtown Park, and Norwood Village Park** to LW Sundstrom, Inc., as the lowest responsible bidder, in the amount of $399,410, which includes the base bid and Washington State Sales Tax.

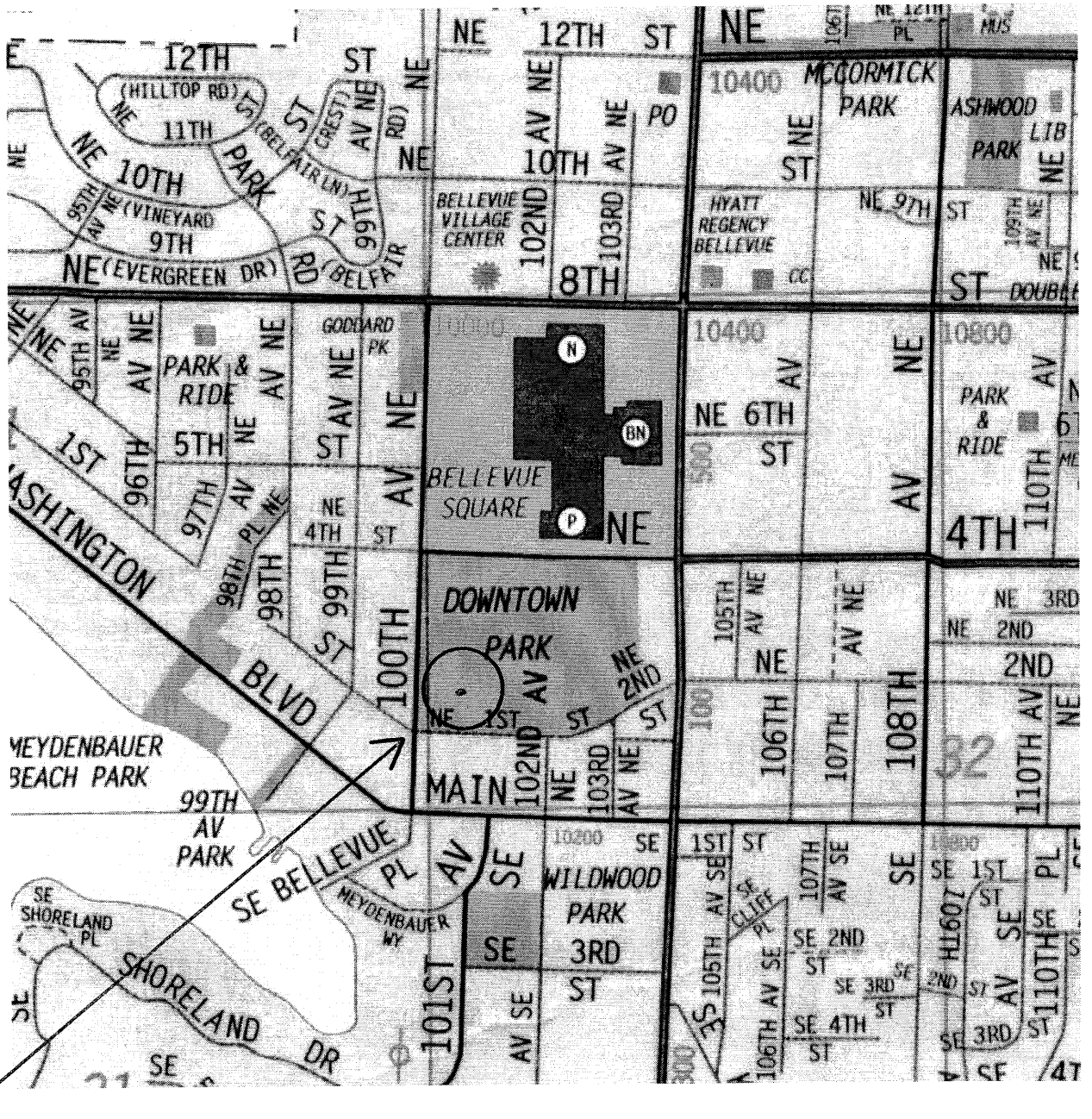
MOTION
Move to award **Bid No. 0426** to renovate and expand the playgrounds at **Wilburton Hill Park, Downtown Park, and Norwood Village Park** to LW Sundstrom, Inc., as the lowest responsible bidder, in the amount of $399,410, which includes the base bid and Washington State Sales Tax.

ATTACHMENTS
Vicinity Maps
CIP Project Description



Project Site

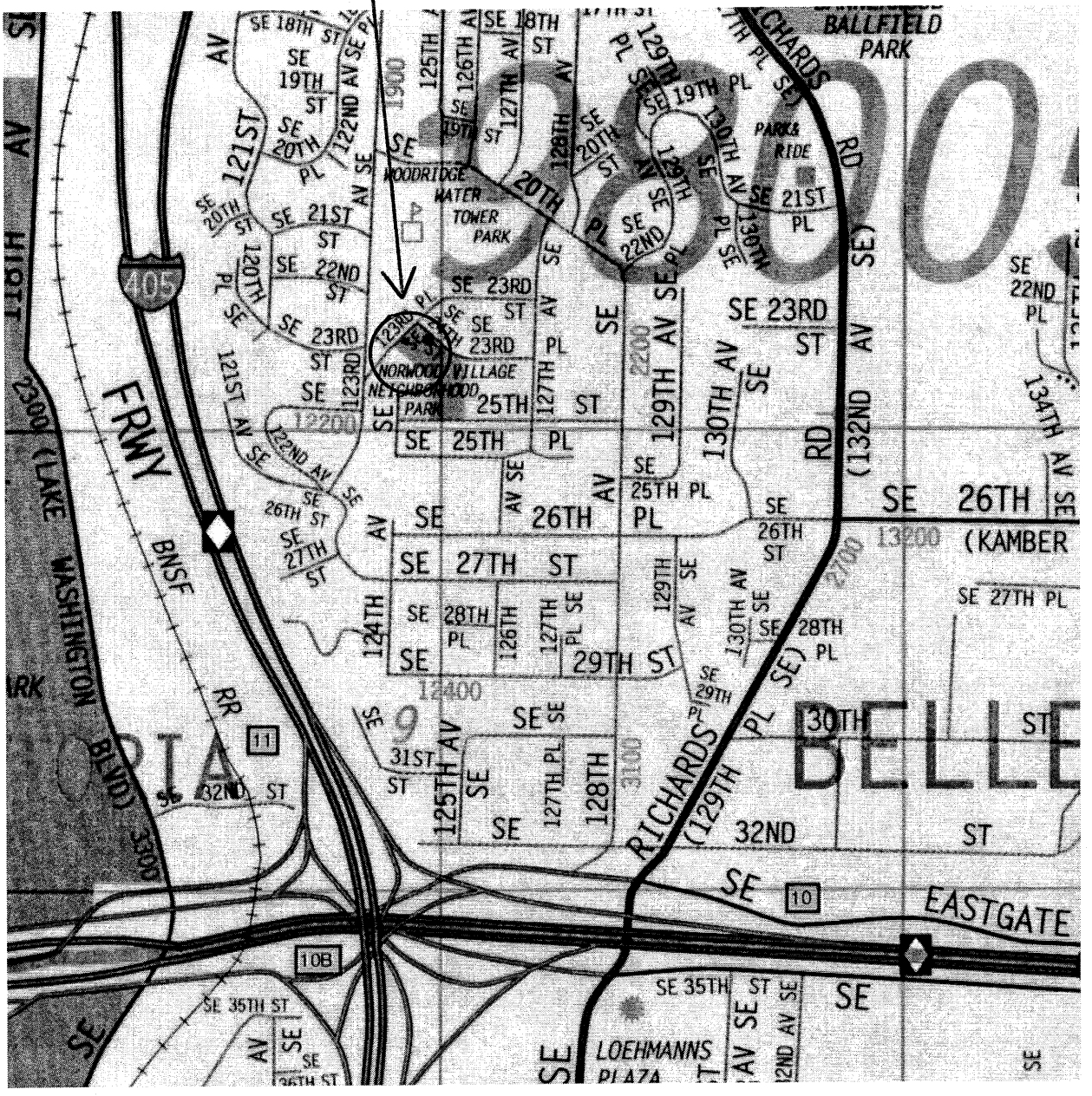
Wilburton Hill Park



Project Site

Downtown Park

Peoject Site



Norwood Village Park

2003-2009 Adopted CIP: Park Redevelopment

CIP PLAN NUMBER: P-R-11 **CIP FUND/PROJECT NUMBER:** 3680-785

PROJECT NAME: Renovation & Refurbishment of Park Facilities

PROJECT LOCATION: Various park facilities

DEPT/PROGRAM: Parks & Community Services/Resource Management

STATUS: Ongoing

ACTUAL/ESTIMATED START DATE: Ongoing **ESTIMATED COMPLETION DATE:** Ongoing

PROJECT DESCRIPTION/SCOPE: This project consists of major repairs to renovate and/or refurbish various park facilities including all buildings and equipment on land for which Parks and Community Services has maintenance responsibility, and those facilities primarily occupied and controlled by the department. Minimal trail development would also be authorized to allow public access to currently undeveloped areas such as the Mercer Slough and Somerset Park. Typical projects will include dock repairs, replacement of playground equipment, roof repairs, furnace repairs, ballfield and parking lot lighting, signage, painting, pavement repairs, and other major maintenance items.

PROJECT JUSTIFICATION/BENEFITS: The project will address improvements beyond normal maintenance requirements, as well as safety issues identified by Parks staff and the City's Risk Manager. The City has placed high priority on reducing potential liability situations, completing major refurbishment projects in all of its facilities, and increasing public access into unimproved areas. These repairs and renovations will preserve the quality of park facilities, reduce potentially dangerous conditions, and allow the public minimal access into undeveloped park properties.

ENVIRONMENTAL IMPACTS: Renovation and refurbishment projects are generally exempt from State Environmental Protection Act (SEPA) except where additional work stations to add staff in the facility will be provided through the related improvements. Those projects which involve provision of work space for additional employees will be reviewed during the design phase.

CHANGES TO PREVIOUSLY APPROVED CIP PROJECT DESCRIPTION:

Capital Cost/Revenue: Project cost and revenue have been increased by $4,544,000 for ongoing renovation work through 2009.

PROJECT BUDGET:

$000

	Through 2002	2003	2004	2005	2006	2007	2008	2009	2003-2009 Total	Project Total
TOTAL CAPITAL COST:	12,716	1,650	1,884	1,847	1,940	2,032	1,903	2,003	13,259	25,975
REVENUE:										
Gen CIP Revenue	1,853	1,650	1,884	987					4,521	6,374
Developer Contributions	9									9
REET	9,645			860	1,940	2,032	1,903	2,003	8,738	18,383
Private Contributions	15									15
1978 Park Bonds	154									154
1985 Park Bonds	331									331
Forward Thrust Bonds	7									7
Mercer Slough Funds	71									71
Residual Equity Trans	144									144
Sale of Bid Specs	4									4
FEMA Grant	410									410
HUD Grant	73									73
TOTAL REVENUE	12,716	1,650	1,884	1,847	1,940	2,032	1,903	2,003	13,259	25,975
M&O COSTS:										

Capital Costs Beyond 2009: Ongoing

Item No. 8(e)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT: Resolution No. 7011 authorizing an Agreement to partner with the Bellevue Breakfast Rotary Club (BBRC) to build an Accessible Water Play Area at Crossroads Community Center.

FISCAL IMPACT: Total project costs are estimated at $1,400,000. The BBRC will raise an estimated $1,000,000 towards the capital construction costs. The City pays for the design, construction testing, permitting and project management, estimated at $400,000. Sufficient funds exist in the 2003-2009, CIP P-AD-58. When completed, the City is responsible for the operation and maintenance costs estimated at $55,000 annually, which have been programmed in the 2003-2009 CIP.

STAFF CONTACT: Patrick Foran, 452-5377
Glenn Kost, 452-5258
Pam Fehrman, 452-4326

POLICY CONSIDERATION

The *Comprehensive Plan*, Parks, Open Space and Recreation Element, states:

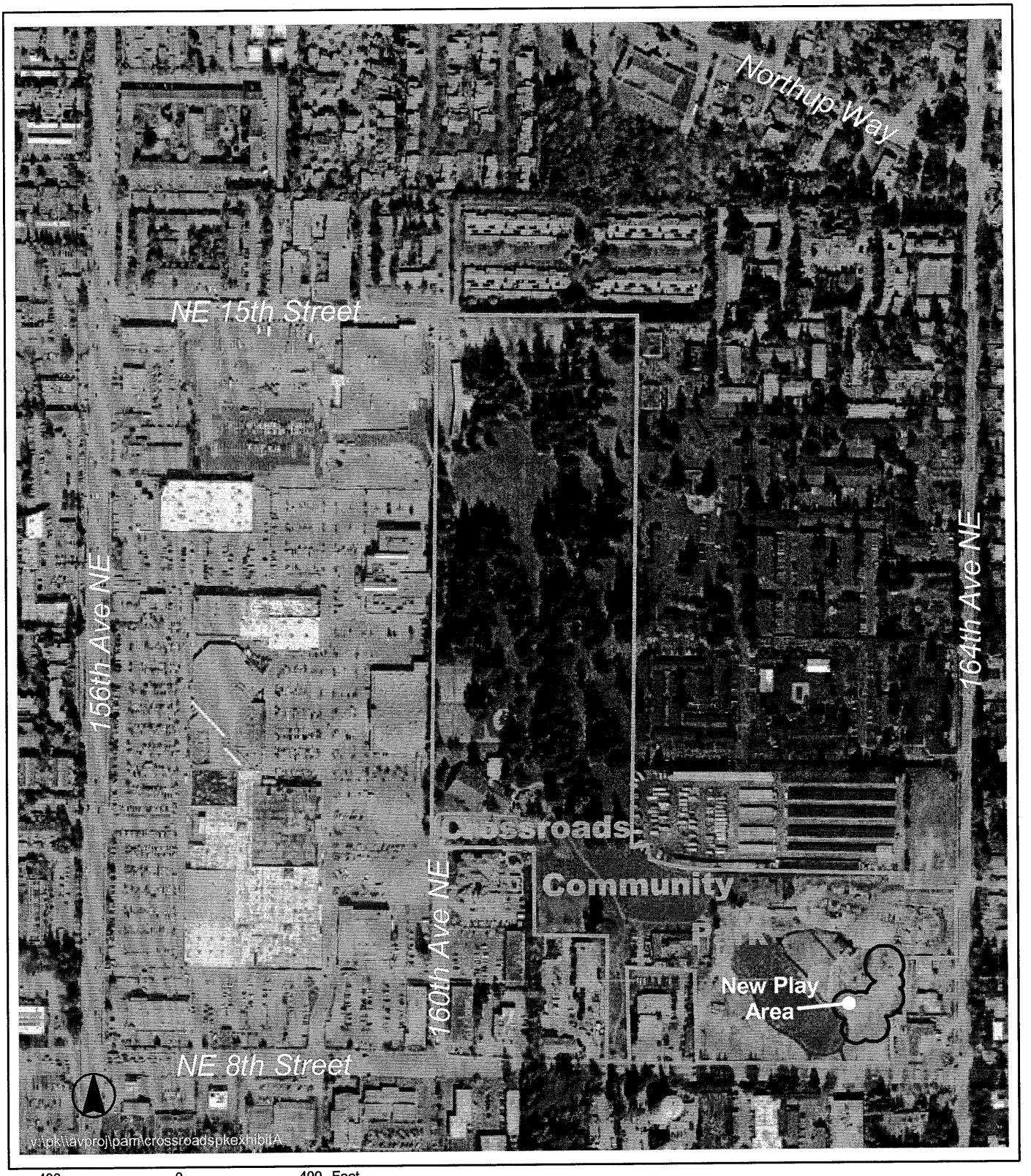
- Goal #4: "To develop, operate, and maintain parkland and cultural and recreation facilities in a manner that is responsive to the site and the needs of the community."
- Goal #7: "To provide and promote partnerships to offer a variety of community services and programs that enhance the quality of life for Bellevue residents."
- Policy PA-15: "Develop partnerships with not-for-profit organizations in planning, developing and utilizing facilities."

THE PROJECT PROPOSAL

As Council will recall, last summer, the BBRC approached the City seeking a project to benefit the community and to celebrate Rotary International's 100th anniversary in 2005.

Working closely with the Parks & Community Services Department, the BBRC proposed a partnership project to build an accessible water play area at Crossroads Community Park, due to its international theme, the park's location in a diverse and economically challenged neighborhood and because the project is consistent with the Council-adopted Master Plan.

Crossroads Community Park is one of the City's most popular parks. The 35-acre park is centrally located within a dense commercial and multi-family neighborhood. The Crossroads neighborhood is one of the most densely populated, ethnically diverse and economically challenged neighborhoods within the City of Bellevue. In 1998 the City Council adopted an updated Master Plan and approved capital funds to implement portions of the updated Master Plan.



400 0 400 Feet

Exhibit A
Crossroads Community Park

City of Bellevue
Parks & Community Services Department
Plot Date: 5/2004

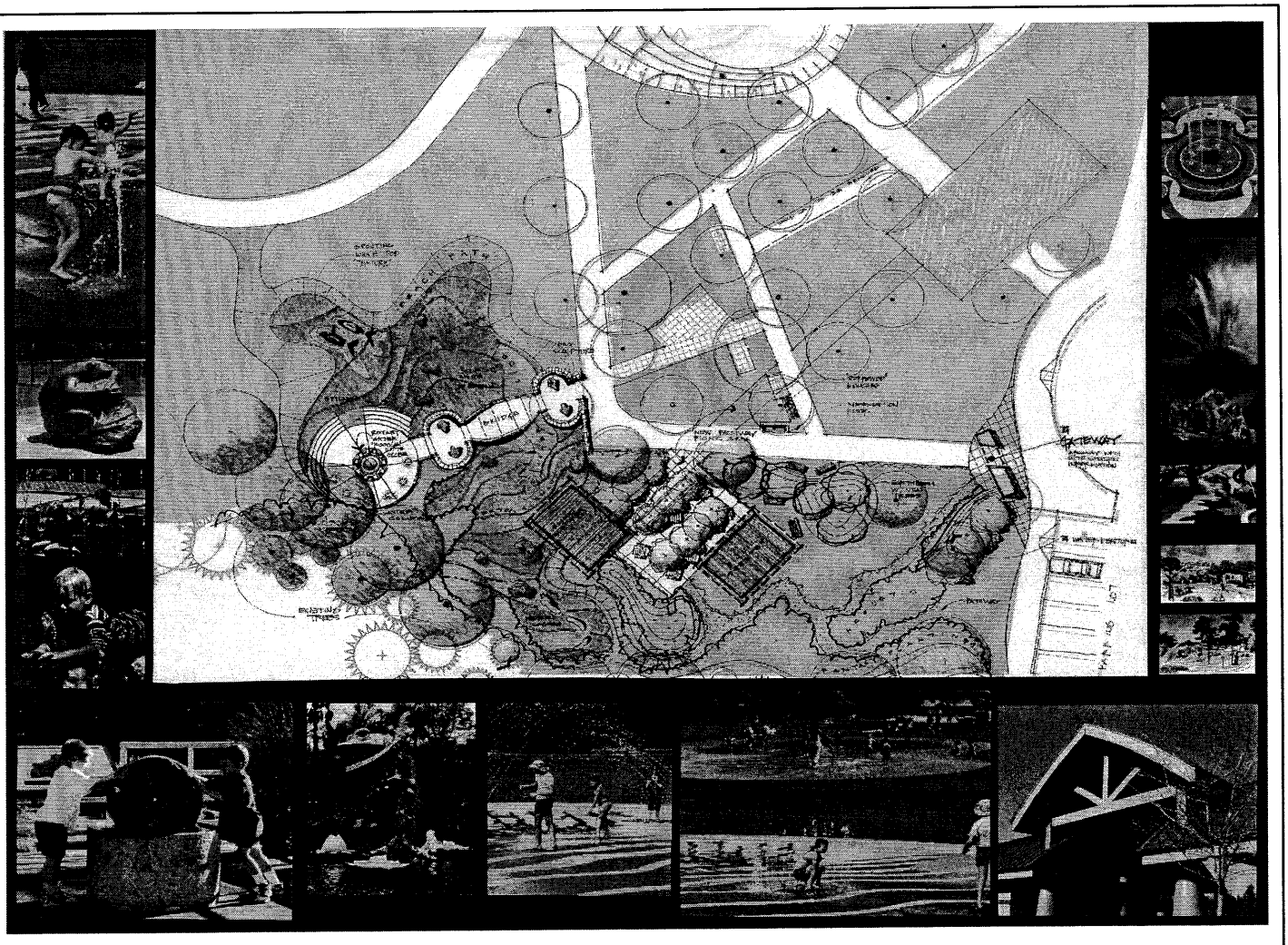


Exhibit B
Conceptual Design

New Water Playground
Crossroads Community Park

City of Bellevue
Parks & Community Services Department
5/2004

Memorandum of Understanding

between the

City of Bellevue

and the

Bellevue Breakfast Rotary Club

Section I. Intent of Agreement

This Memorandum of Understanding ("MOU") sets forth the principles governing the relationship between the City of Bellevue ("the City") and the Bellevue Breakfast Rotary Club ("BBRC") with respect to the funding, design, construction, use and operations of the new accessible water playground at Crossroads Community Park.

Section II. Project Description

The BBRC and the City are committed to building a new water playground at Crossroads Community Park for the community. Crossroads is a 35-acre community park owned and operated by the City (Exhibit A). Playground accessibility is the central design goal of the new water playground. Play concepts will focus on: the commonality and central role that water plays in all cultures; and exploring the diverse and intriguing ways that various ethnic groups communicate meaning and share a sense of identity with one another through language, song and rhythm as identified in the project's conceptual design (Exhibit B). The completed new play area will cover an area of approximately 30,000 – 35,000 square feet. The estimated construction costs are $1,000,000 dollars.

A. The BBRC is committed to raising funds to construct the new water playground at Crossroads Community Park.

B. The City will construct the water playground and provide the soft costs, including architecture, engineering, inspection, permitting, and project administration to complete the project.

C. The City and the BBRC will work together in accordance with the principles outlined in this MOU. Both parties agree to alter the scope of the project depending on the results of the BBRC's fund raising to the extent feasible.

Section III. Funding

The estimated construction cost of the project is $1,000,000 dollars. In recognition of the mutual promises set forth herein;

A. The BBRC agrees to raise $1,000,000 dollars towards the capital cost of the project.

   i. If the BBRC is unable to fulfill its funding commitment described above, the parties will work toward a mutually agreed upon solution including but not limited to phased development. The initial phase of development for the conceptual design (Exhibit B) requires a minimum estimated construction cost of $500,000 dollars.

   ii. The City and BBRC will make all reasonable efforts to fulfill the specific purposes of this project, but if the specified purposes are not feasible, BBRC and the City will agree upon a substitution for like purposes.

B. All construction-related contributions must be provided to the City prior to award of the construction bid.

C. All funds raised for this project shall be donated to the City of Bellevue for the purposes of constructing the project.

   i. Any funding donated toward the project shall be nonrefundable, except for unused funding at the completion of the project.

D. The City represents that it is a duly organized and existing municipal corporation of the State of Washington, and that the donated funds will be used to the extent possible only for the project outlined within this MOU.

Section IV – Ownership

The City of Bellevue is and shall be the sole owner of the property associated with this project. The premises, all structures, and any improvements shall remain the property of the City of Bellevue. This Agreement does not grant an interest in the property in any way whatsoever.

Section V – Assignment

Neither party shall assign its rights and/or obligations under this Agreement without the written approval of the other party.

Section VI. Design and Construction Responsibilities

A. The parties will meet periodically to establish and maintain a project schedule and to provide updates for fund raising, design and or construction.

B. Both parties will work together to develop a marketing and communication plan that communicates the mission and breadth of the partnership.

C. The City is responsible for design and construction, and shall have final authority to approve the construction plans and documents.

   i. The design will incorporate a Rotary Wheel in the base of Koogle.

D. The City shall produce permitted construction documents for the project improvements.

E. The City shall solicit public bids for the construction of the project, and have final authority to award a construction contract.

F. Construction management will be the responsibility of the City. The BBRC may participate in all scheduled construction meetings on site.

Section VII. Facility Use, Maintenance, Operation and Security

The City will operate and manage the facility open to the public, as identified in the Bellevue Municipal Code, Parks and Recreation Facilities Code 3.43.

A. The City will have sole authority to manage, sublease, or rent the facility for public or private use.

B. The City has the final authority for all signage. Prominent signage shall include acknowledgement of BBRC as a major contributor of this project in recognition of the 100th anniversary of Rotary International.

C. The City will provide, at its expense, all ongoing operation and maintenance for the new facility and site. The City shall make any necessary replacements or repairs, so that the site is in reasonably good order, condition and repair, consistent with other facilities operated by the City.

Section VIII. Term of Agreement

The term of this Agreement is for five years unless terminated sooner as agreed to in writing, by both parties.

A. At the expiration of the term of the Agreement, the BBRC shall have no further monetary interest in the facility.

B. At the completion of the project, any excess money donated to the City and not used towards the completion of the project shall be returned to the BBRC.

Section IX. Indemnification

A. The City shall protect, defend, indemnify and save harmless the BBRC, its officers, employees and agents from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from negligent acts or omissions of the City, its officers employees or agents in performing the Agreement.

B. The BBRC shall protect, defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from negligent acts or omissions of the BBRC, its officers, employees or agents in performing the Agreement.

Section X. Amendments

This Agreement constitutes the final and completely integrated Agreement between parties concerning its subject matter and it may be signed in counterparts without affecting the validity of this provision. No modification of this Agreement is valid unless in writing and signed by both parties. Either party may request modifications in the scope of permissible activities, terms, or conditions of this MOU. Proposed modifications which are mutually agreed upon shall be incorporated by written amendment to this MOU. Should any provision of this Agreement be deemed invalid, the remaining provisions shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have caused this Memorandum of Understanding to be executed on their behalf.

BELLEVUE BREAKFAST ROTARY CLUB

By: _____

Printed Name: Brian Evison

Title: BBRC President 2003-2004

By:

Printed Name: Norm Johnson

Title: Centennial President 2004-2005

CITY OF BELLEVUE

By: _____

Printed Name **Ed Oberg**

Title: **Deputy City Manager**

Approved as to form:

By:

City Attorney

2003-2009 Adopted CIP: Park Acquisition & Development

CIP PLAN NUMBER: P-AD-58 **CIP FUND/PROJECT NUMBER:** 3680-824

PROJECT NAME: Crossroads Park and Community Center

PROJECT LOCATION: Crossroads Superblock – Park land north of NE 8th Street and west of 164th Avenue NE

DEPT/PROGRAM: Parks & Community Services/Planning, Design & Project Management

STATUS: Approved and Begun

ACTUAL/ESTIMATED START DATE: 1998 **ESTIMATED COMPLETION DATE:** 2005

PROJECT DESCRIPTION/SCOPE: Phase Two development of Crossroads Park will include, as part of the approved master plan, an addition to the community center to accommodate additional educational, cultural, and social activity space; non-programmed community meeting space; and administrative work space. Phase Two construction also includes a new picnic shelter, pathways and parking improvements.

PROJECT JUSTIFICATION/BENEFITS: The Crossroads neighborhood is the most ethnically and culturally diverse in Bellevue. The area is also one of the most densely populated. As identified in the *Parks and Open Space System Plan*, additional developed, usable open space is needed in the Crossroads area. Crossroads Park development is listed in the system plan as a short- and long-term capital recommendation. The development of the recently acquired land will make the valuable City property usable by the community for a variety of active and passive recreation and make the existing park site more visible to the community by completing the park frontage along NE 8th Street. In addition, the existing community center at Crossroads can no longer meet the needs of the community. Additional educational, cultural, social activity, and non-programmed community meeting space is needed, as well as additional administrative work space.

ENVIRONMENTAL IMPACTS: Overall environmental impacts are minimal. Following park development, traffic at the park site will likely be less than the pre-existing traffic conditions due to the conversion from commercial uses to park uses, although the community center expansion will likely create additional traffic in the area of the center. A traffic analysis will be required prior to development. Temporary impacts include some vegetation removal, grading, and noise and dust associated with construction.

PROJECT BUDGET:

$000

	Through 2002	2003	2004	2005	2006	2007	2008	2009	2003-2009 Total	Project Total
TOTAL CAPITAL COST:	2,912	150	1,226	552					1,928	4,840
REVENUE:										
Sale of Bid Specs	1									1
Gen CIP Revenue	666									666
REET	2,245	150	1,226	552					1,928	4,173
TOTAL REVENUE	2,912	150	1,226	552					1,928	4,840
M&O COSTS:		9	9	154	158	162	167	171		

Capital Costs Beyond 2009: NA

1185-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7011

A RESOLUTION authorizing the City Manager or his designee to execute an Agreement with the Bellevue Breakfast Rotary Club which governs the relationship of the parties with respect to the design, construction, use and operation of the new Accessible Water Play Area at Crossroads Community Center; and authorizing the City Manager or his designee to expend funding for the design, construction, testing, permitting and project management.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute an Agreement with the Bellevue Breakfast Rotary Club which governs the relationship of the parties with respect to the design, construction, use and operation of the new Accessible Water Play Area at Crossroads Community Center; and authorizing the City Manager or his designee to expend funding for the design, construction, testing, permitting and project management, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 8(f)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT: Resolution No. 7012 authorizing the City Manager, or his designee, to execute on behalf of the City, the Memorandum of Understanding (MOU) with the Pacific Science Center (PSC) for the Mercer Slough Environmental Education Center (MSEEC).

FISCAL IMPACT: The revised Memorandum of Understanding deals with both the capital construction, and maintenance and operations costs of the MSEEC. The City's portion of the capital construction cost is $1.0 million, and is funded in Parks CIP P-AD-69. The balance of the project's capital costs is funded by a $3.0 million HUD Community Development Block Grant and $200,000 from the Pacific Science Center. The City will be responsible for the maintenance and operations of the entire facility upon project completion during the 2007–2008 biennium. The incremental budget impact of maintaining the MSEEC depends on the final scale of site development, and will be partially offset by enhanced revenues.

STAFF CONTACT: Patrick Foran , 452-5377
Glenn Kost, 452-5258
Ken Kroeger, 452-4124

POLICY CONSIDERATION

The *Comprehensive Plan*, Parks, Open Space and Recreation Element, states:

- Goal #4 - To develop, operate, and maintain parkland and cultural and recreation facilities in a manner that is responsive to the site and the needs of the community.
- Goal #7 - To provide and promote partnerships to offer a variety of community services and programs that enhance the quality of life for Bellevue residents.
- Policy EN-9 - Promote and lead education and involvement programs to raise the public awareness about environmental issues, advocate respect for the environment, and demonstrate how individual actions and the cumulate effects of a community's actions can have significant effects on the environment.
- Policy PA-15 - Develop partnerships with not-for-profit organizations in planning, developing and utilizing facilities.
- Policy PA-17 - Provide geographically dispersed community centers, using City-owned facilities as well as partnerships with school districts and other non-profit agencies, to meet residents' needs for indoor recreation, athletic instruction, arts, meeting space, and special activities.

DIRECTION NEEDED FROM COUNCIL

X Action
____ Discussion
____ Information

BACKGROUND - MASTER PLAN

At 320 acres, the Mercer Slough is the largest urban wetland park in the region. It supports a wide diversity of plant and animal life. The Slough provides blueberries for people and habitat for an incredible variety of animal species.

The idea for an environmental education center at the Mercer Slough was first conceived more than 30 years ago. An extensive public process was conducted in developing a master plan and completing the Environmental Impact Statement (EIS) for the Mercer Slough. From 1986 through 1990, the Park Board reviewed the progress of the EIS and master plan. The MSEEC was included in the master plan for the Mercer Slough Nature Park, which was adopted at the June 6, 1990 City Council Meeting (*Resolution No. 5279*).

Currently located along Bellevue Way SE, just south of the Metro Park and Ride Lot, the MSEEC will become the heart of the Mercer Slough Nature Park (Slough). This facility will be available to the public, and will serve as the focal point for educational activities within the Slough. The MSEEC will serve a dual role as the keystone of interpretive facilities for the City of Bellevue at the Slough, while also serving as the focal point for PSC's Eastside educational programs.

This project builds on the partnership we've had with the PSC for a number of years at the Sullivan House, located on the eastern edge of Mercer Slough.

Parks presented the Revised MOU Agreement between the City and PSC at the June 14, 2004 City Council Study Session.

PARTNERSHIP

As discussed during the June 14 Study Session, the revised MOU between the City and PSC defines the strategies for implementation, design, funding, and partnership agreement (*see attached May 31, 2004 MOU*). In summary, the current MOU states:

1. $1 million CIP (P-AD-69)contribution and Land provided by COB.
2. $3.0 million provided by HUD funding.
3. $200,000 has been raised through PSC fundraising.
4. COB retains ownership of Land and Buildings and PSC owns and operates exhibits and equipment for their programs.
5. The current design for the MSEEC includes four structures totaling approximately 12,000 square feet and associated site features (*see Attached Master Plan and Site Plan*). These structures include: Visitors Center, Multi-purpose Building, and (2) Classrooms/Wetlabs.
6. The parties have agreed to proceed with a phased development with funding that is currently available. The PSC is not obligated to provide more funds than currently available and the City is not obligated to provide more than the current $1,000,000 capital contribution which is currently appropriated in the City CIP. If a phased development is necessary, phase one will include, at a minimum the Visitors Center and the

   Multipurpose building for City use and one classroom building for PSC use. Combining the Visitors Center and Multipurpose building will be considered if it results in overall project savings and still accomplishes the City's program goals.

7. The City will take over full responsibility for total project management.
8. The City will be responsible for the maintenance and operations cost of the entire facility.
9. If the environmental review process does not commence by the end of the first quarter of 2005 the parties agree to reassess the viability of the project including the option to redirect the HUD funds to other projects of benefit to the PSC and the City.
10. PSC retains the exclusive right for seven years following the opening of the MSEEC to proceed with the second classroom building under the same terms as this agreement. If after seven years the PSC has not proceeded with the second classroom the City may, at its sole discretion, proceed to construct and operate the classroom alone or with another partner or modify the plan to utilize the space for other purposes appropriate with the mission of the MSEEC.

EFFECTIVE DATE

If approved, this resolution will become effective immediately.

OPTIONS

1. Adopt Resolution No. 7012, authorizing the City Manager, or his designee, to execute on behalf of the City, the Memorandum of Understanding (MOU) with the Pacific Science Center (PSC) for the Mercer Slough Environmental Education Center (MSEEC).
2. Do not adopt Resolution No. 7012 and provide alternative direction to staff.

RECOMMENDATION

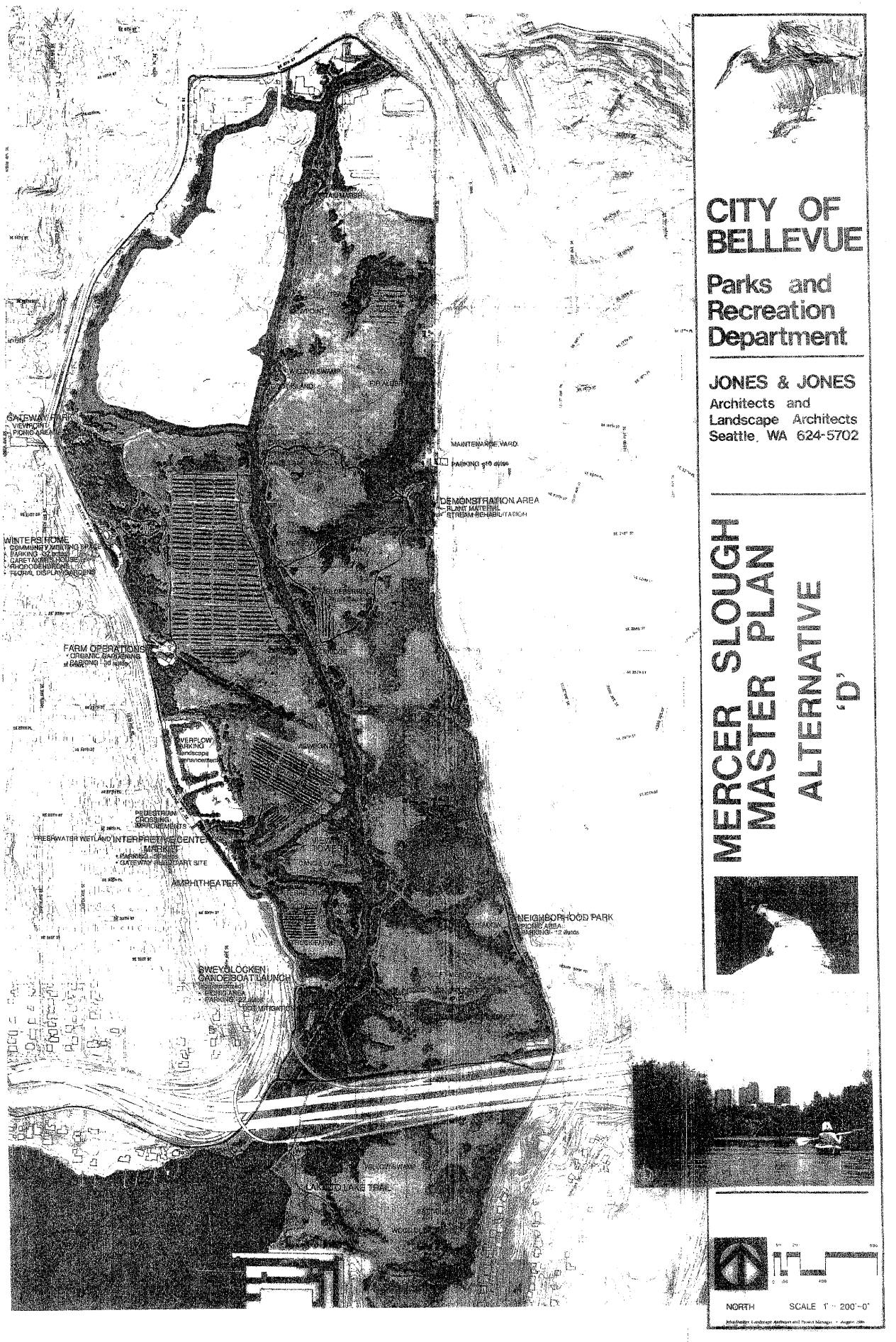
Adopt Resolution No. 7012, authorizing the City Manager, or his designee, to execute on behalf of the City, the Memorandum of Understanding (MOU) with the Pacific Science Center (PSC) for the Mercer Slough Environmental Education Center (MSEEC).

MOTION

Move to adopt Resolution No. 7012, authorizing the City Manager, or his designee, to execute on behalf of the City, the Memorandum of Understanding (MOU) with the Pacific Science Center (PSC) for the Mercer Slough Environmental Education Center (MSEEC).

ATTACHMENTS

- May 31, 2004 Revised Memorandum of Understanding
- CIP P-AD-69 Project Description
- Mercer Slough Master Plan
- Mercer Slough Environmental Education Center Site Plan (Updated - June 2004)
- Proposed Resolution No. 7012



CITY OF BELLEVUE

Parks and Recreation Department

JONES & JONES
Architects and
Landscape Architects
Seattle, WA 624-5702

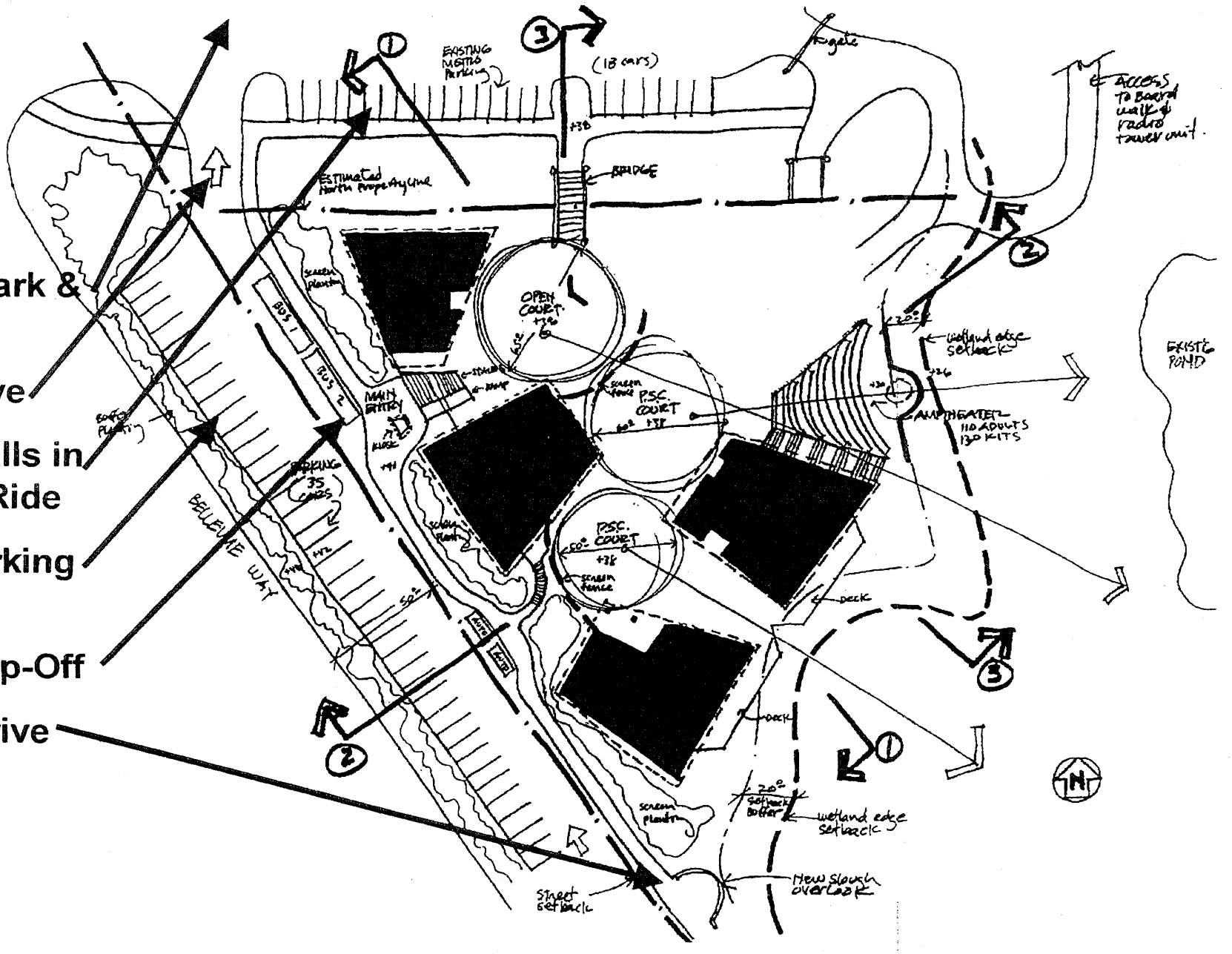
MERCER SLOUGH MASTER PLAN

ALTERNATIVE 'D'

NORTH SCALE 1" = 200'-0"

Conceptual Site Plan

- Metro Park & Ride
- Exit Drive
- COB stalls in Park & Ride
- New Parking Area
- Bus Drop-Off
- Entry Drive



2003-2009 Adopted CIP: Park Acquisition & Development

CIP PLAN NUMBER: P-AD-69 **CIP FUND/PROJECT NUMBER:** 3680-837

PROJECT NAME: Bellevue Challenge Grant

PROJECT LOCATION: Citywide

DEPT/PROGRAM: Parks & Community Services/Planning, Design & Project Management

STATUS: Approved and Begun

ACTUAL/ESTIMATED START DATE: 1999 **ESTIMATED COMPLETION DATE:** 2004

PROJECT DESCRIPTION/SCOPE: This project establishes a targeted opportunity fund challenging potential donors to invest in the community. The Bellevue Challenge Grant will create a foundation for the solicitation of non-traditional funding sources by providing funding to enable the City to act as a project broker to promote partnerships and collaborations. Seed or incentive money for a portion of a project would create a catalyst to leverage the City's investment to meet a much broader range of needs. $1.0 million has been identified as seed money for a partnership with the Pacific Science Center in support of the construction of the Mercer Slough Environmental Education Center.

PROJECT JUSTIFICATION/BENEFITS: The Bellevue Challenge Grant project facilitates the Department's efforts in seeking and accepting alternative funding for a variety of targeted projects. Parks could be built responding to community interests, meeting a broad range of park development needs. One example would be providing the infrastructure (water, power) necessary for Bellevue Botanical Garden expansion in order to accept a major donation for constructing and maintaining a full garden area. With a minimal City investment, major new pieces could be added to the park and open space system, creating the opportunity to complete the system at a fraction of the capital cost. By applying a small amount of funds to cover infrastructure construction in the case of the garden or legal costs for the donation of a waterfront property, the value of the donation outweighs the cost of the match.

ENVIRONMENTAL IMPACTS: Projects funded will determine environmental review. State Environmental Protection Act (SEPA) review is required for development. Environmental review may be required for some acquisitions.

PROJECT BUDGET:

$000

	Through 2002	2003	2004	2005	2006	2007	2008	2009	2003-2009 Total	Project Total
TOTAL CAPITAL COST:	23	500	500						1,000	1,023
REVENUE:										
Gen CIP Revenue	23	500	500						1,000	1,023
TOTAL REVENUE	23	500	500						1,000	1,023
M&O COSTS:										

Capital Costs Beyond 2009: NA

City of Bellevue

Post Office Box 90012 • Bellevue, Washington • 98009-9012

Phone: 452-5377

Date: May 31, 2004

To: Bryce Seidl, President & CEO
Pacific Science Center

From: Patrick Foran, Director
Parks & Community Services Department

Subject: Memorandum of Understanding: Mercer Slough Environmental Education Center

This Memorandum of Understanding between the City of Bellevue and the Pacific Science Center states the vision, focus, project description, and conceptual design of the Education Center. It also outlines the roles of the City and Pacific Science Center regarding ownership, funding, design and construction, operation and management, and phasing.

I. VISION

The Education Center will become the heart of Mercer Slough Nature Park. It will be a facility available to the public, and the focal point for educational activities with the Slough. It will provide regional appeal with a range of programs and facilities to support awareness and learning.

II. FOCUS

The Education Center will provide a place for interpretation, education, and research of freshwater ecosystems, wetland ecology, effects of urban development, and local habitat for species such as salmon. It is the keystone of interpretive facilities and programs for the City of Bellevue, and it is the East Side focal point for the Pacific Science Center, an independent, not-for-profit educational foundation.

III. PROJECT DESCRIPTION

The Mercer Slough Environmental Education Center will be an educational "village" of classrooms, a Visitors Center and a Multipurpose Building connected by covered walkways and courtyards. From this "village," trails will radiate out into the surrounding Mercer Sough Nature Park. The facilities and activities presented at the Education Center will provide a base of information and operations for the outdoor education opportunities for both the City of Bellevue and the Pacific Science Center.

IV. ABBREVIATIONS

PSC - Pacific Science Center
The City - City of Bellevue
EEC - Environmental Education Center
JUA- Joint Use Agreement

Parks & Community Services Department • 11511 Main Street • Bellevue, WA 98004
Phone: 425-452-6881 • Fax: 425-452-2814

V. CONCEPTUAL DESIGN

The project will include three or four structures totaling approximately 12,000 square feet and associated site features:

Visitors Center & Restrooms Building*
- Exhibits providing education and information about Bellevue's heritage of environmental stewardship and its programs and services
- Women's and men's restroom facilities
- Audio/Visual technology stations and equipment

Multi-purpose Meeting Room*
- Large open space with views of Slough
- Used as meeting and/or classroom space
- Movable seating and non-sloping floor
- Kitchenette

* These two building elements might be combined if it results in overall project savings and still accomplishes the design program goals for these spaces.

Classrooms Building with Wet Labs
- Two classrooms allowing for flexible use of the space(s) for large or small groups
- Locker and storage space
- Restrooms with shower
- Two wet labs
- Mud room
- Outdoor deck

Additional Classroom Building
- Two classrooms allowing for flexible use of the space(s) for large or small groups
- Office

Site Features
- Bus drop-off and new parking spaces
- Use of existing 15 parking spaces
- Trail connections to parking and Slough
- Amphitheater and Courtyards
- Kiosks and signage
- Walkways

VI. OWNERSHIP

A. The City maintains ownership of the land and buildings.
B. PSC owns, operates, and maintains equipment and supplies specific to PSC programs.
C. The City owns, operates, and maintains exhibit area and equipment.

VII. FUNDING

A. Funds are raised by both the City and PSC and designated for Mercer Slough Environmental Education Center's planning and construction.

B. The City will provide the land and $1 million to the planning and construction of the EEC.

C. $3.0 million of Federal Housing and Urban Development (HUD)funds have been obtained and are dedicated to the planning and construction of EEC project.

D. The PSC has further secured approximately $637,000 in corporate donations and pledges that are dedicated to the planning and construction of the EEC of which $437,000 have been expended for pre-development and fundraising costs. PSC has no further obligation regarding raising additional contributions for EEC. If the City determines that more funds are needed to construct the project, PSC will cooperate with the City in any fundraising efforts.

VIII. PHASING

If there are insufficient funds to proceed with the full development plan, a phased approach will be taken. At a minimum, phase one will include:

- One classroom building for the exclusive use by PSC which will include
  - Bathroom facilities for 60 campers/students
  - Two classrooms with sinks, counters and storage for 24 campers/student each
  - Office space for up to eight people with a resource area
  - Storage areas with square footage equivalent to that at PSC's current Mercer Slough location
  - Outdoor sink
  - Nearby retention pond
- An additional one or two buildings that provide sufficient square footage to accomplish the City's program goals for both the Visitors Center and the Multipurpose buildings
- All site features necessary to support the operation of phase one of the EEC.

However, in order for phase one to proceed, PSC and City agree that the overriding principle is that the parties will work cooperatively to ensure that the minimum needs for success of each party will be met with the available funds.

In addition, PSC will retain the exclusive right for seven (7) years, following the opening of the EEC, to proceed with the second classroom building under the same terms as this agreement. If after seven (7) years the PSC has not proceeded with the second classroom the City may, at its sole discretion, proceed to construct and operate the classroom alone or with another partner or modify the plan to utilize the space for purposes appropriate to the mission of the EEC.

IX. TERM

A. This Agreement will terminate the earlier of the signing of the JUA or 18 months from the date of this Agreement.
B. The JUA shall be for a term of twenty (20) years.
C. At the expiration of the twenty (20) year term, the Pacific Science Center and the City may, with mutual agreement, extend the JUA for up to two additional five (5) year terms.

X. SIGNAGE & RECOGNITION

By mutual agreement, the City and PSC will develop a permanent signage and recognition program that features PSC and the City as founders and partners in the vision for the EEC. In addition, the City and PSC will develop a recognition program that acknowledges individual and corporate donations through appropriate methods based on the relative level of contribution. This would include a permanent acknowledgement of the contribution from Puget Sound Energy.

The City and PSC will jointly develop a public relations strategy regarding the development and construction of the project. No press releases, advertising or marketing of the EEC will occur without the express approval of both the City and PSC.

XI. DESIGN & CONSTRUCTION

The City will be responsible for the Planning, Design, Permitting, Environmental Determinations and Construction of the EEC.

A design team consisting of PSC, the City and consultants will work cooperatively to complete the design of the EEC. The City will have final authority for the overall site and facility design. PSC will have final authority for design of the structures and area to be programmed by PSC with the exception of building massing and selection of exterior building materials.

XII. OPERATION & MANAGEMENT

A. Facility

The City has overall management responsibility for the park and the EEC with the exception of spaces allocated for exclusive use by PSC. PSC will control and have exclusive use of the Classroom building(s). The City will control and have exclusive use of the remainder of the EEC except that PSC may utilize other public meeting spaces within the EEC on a priority basis after City requirements, and scheduled according to City reservation and pricing policies. It is understood that PSC will vacate the Sullivan House operation once the EEC is operational and PSC starts to utilize the classroom building(s).

B. Programs & Exhibits

Programming will have a community-wide focus, attracting users from Bellevue and beyond. PSC will provide programs with a focus on environmental education and natural sciences, related to the ecology of this region. The City programs and exhibits

will be complementary and focus on natural and cultural interpretation and also provide visitor information on the City of Bellevue and the Bellevue park system.

C. Maintenance

The City will be responsible for the maintenance, utilities, normal repair and replacement of the building and site infrastructure and building systems.

The City will be responsible for the basic, ongoing janitorial services necessary to keep the overall site and the EEC, including the classroom building(s), safe, clean, and sanitary for public use. PSC acknowledges and agrees that the City may require that PSC be responsible for some day to day cleaning and light janitorial responsibilities arising out of their use of the EEC. The specific responsibilities will be identified in the JUA.

PSC shall reimburse costs incurred by the City to repair or replace facilities, normal wear and tear excluded, or equipment damaged during programs managed by PSC, or that arise out of requests by PSC over and above basic general maintenance and operations of the EEC.

D. Additional Partners

The City and PSC may collaborate with additional partners. Prior to implementing a new partnership each party will consult with and inform the other party of the potential partnership. PSC may not sub-lease or assign its rights under this agreement without the consent of the City.

XIII. JOINT USE AGREEMENT

Prior to the opening of the EEC the parties will develop a Joint Use Agreement. The JUA will include provisions that define operations procedures and policies for the management of the EEC. The City will explore the feasibility of utilizing its' new registration system to assist the PSC in the registration for PSC programs.

It is the intent of the JUA to provide a coordinated approach to program delivery that preserves the identity of each organization, while creating a seamless service delivery model for the public. The JUA will ensure access while optimizing revenue and reducing operational costs for both parties.

IX. REDIRECTION OF HUD FUNDS

If the environmental permitting process has not commenced by the first quarter of 2005, the City and PSC will work cooperatively to reassess the projects viability and evaluate project alternatives that may include redirecting HUD grants to other projects of both the City and PSC.

PACIFIC SCIENCE CENTER		CITY OF BELLEVUE	
Bryce Seidl President & CEO	Date	Steve Sarkozy City Manager	Date

1183-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7012

A RESOLUTION authorizing the City Manager or his designee to execute a Memorandum of Understanding (MOU) Agreement with the Pacific Science Center (PSC) which defines the strategies for implementation, design, funding and addresses the capital construction, maintenance and operations costs for the Mercer Slough Environmental Education Center (MSEEC).

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a Memorandum of Understanding (MOU) Agreement with the Pacific Science Center (PSC) which defines the strategies for implementation, design, funding and addresses the capital construction, maintenance and operations costs for the Mercer Slough Environmental Education Center (MSEEC), copy of said Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 8(g)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance No. 5527 authorizing the City Manager to execute a Homeland Security Subgrant Agreement with King County to accept grant funds for the purchase of a Bomb Truck for the Bellevue Police Department; establishing a project within the Operating Grants and Donations Fund; appropriating additional revenues to the Operating Grants and Donations Fund; authorizing the expenditure of said grant funds; and authorizing interfund loans.

FISCAL IMPACT

The current Bomb Squad truck is a retrofitted vehicle from 1978 that was formerly a Fire Department medic van and is in need of replacement. The new truck will cost approximately $185,000 and is fully funded by the Homeland Security Subgrant. The new vehicle has an expected life of 20 years and the estimated annual maintenance and operations costs are $3,500 (in 2003 dollars), which is less than the costs of maintaining the current vehicle. It will also have, at a minimum, a two-year warranty against defects in materials and workmanship. Upon receipt of the vehicle, the Police Department will begin setting aside replacement reserves which will cost approximately $9,200 annually. The annual maintenance and operations costs, as well as the replacement reserves, are included within the Police Department's current budget and there is no impact on the General Fund.

STAFF CONTACT

Jim Montgomery, Police Chief 452-6059

POLICY CONSIDERATION

Should the City of Bellevue sign an agreement to accept funds from a homeland security subgrant that would reimburse the City for the purchase of a new Police Department Bomb Truck? The Police Department's current Bomb Truck is worn and obsolete and is not able to effectively provide the same technology and safety as a new truck that would be funded by this grant. With the passage of this ordinance, Council will be directing the City Manager to execute a Subgrant Agreement with King County. The ordinance will also establish a project within the Operating Grants and Donations Fund, amend the budget for the Operating Grants and Donations Fund by appropriating additional revenues to those funds, authorize expenditures of said funds, and authorize interfund loans. Staff will be bringing a contract to the Council for the actual purchase of the vehicle at a later date.

BACKGROUND

The most common type of terrorist act is by the use of explosives; terrorists use explosive devices 80% of the time. The City of Bellevue Police Department Bomb Squad responds to an average of three incidents per month, and the truck is deployed only for legitimate bomb threats. The Squad is one of only five bomb squads within King County that maintains a federal accreditation with the Federal

Bureau of Investigation (FBI). The Bellevue Bomb Squad formed in 1971 and soon became the first FBI accredited bomb squad in the State of Washington. The Squad consists of six certified bomb technicians. It handles explosives related incidents for the cities of Bellevue, Kirkland, Redmond, Mercer Island, and Issaquah. These communities have an approximate combined population of 240,000 people. The Bellevue Bomb Squad is also available to assist with incidents in the unincorporated areas of East King County and to provide mutual aid to the City of Seattle's Bomb Squad during large-scale events.

The Federal government recognizes the importance of maintaining highly trained and well equipped bomb squads. In recent years, the FBI acknowledged the importance of Bellevue's Bomb Squad to the Region's safety by providing a large amount of equipment to the Squad including bomb suits, disruptor devices, x-ray equipment, hand-held radiation monitors, and COBRA kits, which are Chemical/Biological/Radiological wireless laptop systems for communicating with other bomb squads and the FBI Bomb Data Center in Washington, DC. This equipment significantly increased the effectiveness of the Squad.

The current truck used by the Bellevue Bomb Squad is worn and obsolete. The 1978 Ford was a Bellevue Fire Department van in the late 1970s and was then converted to a bomb truck during the 1980s after being decommissioned by the Bellevue Fire Department. This conversion saved significant public funds at the time; however, was only meant to be a short term solution for providing the Bomb Squad with a vehicle. After approximately 20 years of additional service, the former Fire Department van is no longer a viable bomb response vehicle. In addition to its age, the amount of equipment required to effectively respond to Weapons of Mass Destruction/terrorism incidents has outgrown the storage and transportation capabilities of the current bomb truck. Lack of storage space has forced the Squad to store a significant amount of equipment on the floor of the truck, creating hazards for the Squad and the equipment, and decreasing the amount of space in which the Squad can work as it deploys its equipment at the scene of an incident.

The Police Department identified the replacement of this vehicle as a priority for homeland security funding in January 2004. In February 2004, King County sent out a request for proposals (RFP) for $1.7 million in funding from the Homeland Security Grant Program. The Homeland Security Grant Program is a formula grant program through which the federal government allocates funds to the states, a percentage of which are then mandated to be passed through to individual regions within the states. Washington State is split into 9 homeland security regions, of which King County is Region 6. The Region 6 Council is empowered to distribute homeland security funds within King County. This group is also known as the Emergency Manager's Advisory Committee (EMAC), a committee established by King County ordinance and staff supported by the County. Bellevue's Emergency Manager, Barb Graff, serves as the Vice Chair of EMAC. After setting aside some of the state pass-through funding for regional projects and agencies, EMAC made $1.7 million available to the cities, special districts, and hospitals of King County through a competitive grant process. Working in collaboration with the City Manager's Office, and with the support of the Bellevue Grants Team, the City of Bellevue submitted a proposal for funding to replace the bomb truck on March 5, 2004. It received notification that its proposal was successful on April 6, 2004.

EFFECTIVE DATE

If approved, this ordinance becomes effective five days after passage and legal publication – June 30, 2004

OPTIONS

1. Move to adopt Ordinance No. 5527 authorizing the City Manager to execute a Homeland Security Subgrant Agreement with King County that will reimburse the City for the purchase of a truck for the Bellevue Bomb Squad.
2. Do not adopt Ordinance No. 5527 and provide alternate direction to staff.

RECOMMENDATION

Staff recommends Option 1.

MOTION

Move to adopt Ordinance No. 5527 authorizing the City Manager to execute a Homeland Security Subgrant Agreement with King County that will reimburse the City for the purchase of a truck for the Bellevue Bomb Squad.

ATTACHMENTS

Proposed Ordinance No. 5527

0706-ORD
06/03/04

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5527

AN ORDINANCE authorizing the execution of a Homeland Security Subgrant Agreement with King County to accept grant funds for the purchase of a Bomb Truck for the Bellevue Police Department; establishing a project within the Operating Grants and Donations Fund; amending the budget for the Operating Grants and Donations Fund by appropriating additional revenues to those funds; authorizing expenditures of said funds; and authorizing interfund loans.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute that certain Homeland Security Subgrant Agreement with King County for the purchase of a Bomb Truck for the Bellevue Police Department, a copy of which Contract is hereby given Clerk's Receiving No. _____.

Section 2. The appropriate administrative officials of the City are hereby authorized to receive monies and to expend the same as authorized in said Agreement.

Section 3. At the time of execution of said Agreement and acceptance of said funds, a project shall be established within the Operating Grants and Donations Fund into which all said monies shall be deposited.

Section 4. The City Manager or his designee shall have the responsibility for the administration of said grant monies and shall have all authority necessary to enter into agreements regarding the use thereof.

Section 5. The approximate amount and source of revenue for the grant proposal and acceptance are:

King County, Office of Emergency Management FFY03 Supplemental State Homeland Security Grant Program	$184,744.00

Section 6. Upon execution of said Agreement, the budget for the Operating Grants and Donations Fund shall be amended by appropriating to that fund anticipated revenue in excess of estimated revenue in the amount of the grant proposal and acceptance herein authorized to the Operating Grants and Donations Fund, currently anticipated in the following amount:

Description	Amount Appropriated
Operating Grants and Donations Fund	$184,744.00

Provided however, if the actual revenue received from the source specified in said grant agreement should be more or less than the amount set forth herein, the appropriations shall be adjusted to equal the amount actually received.

Section 7. The Finance Director or his designee is authorized to make interfund loans from an appropriate City fund to the Operating Grants and Donations Fund in whatever amounts, for whatever duration or under whatever terms are appropriate and necessary to cover cash flow shortages in the Operating Grants and Donations Fund that may be created by this grant.

Section 8. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____ _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

_____
Siona D. Windsor, Assistant City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____

8-38

Item No. 8(h)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:
Motion to Award Bid No. 0427, CIP Plan No. PW-W/B-56, 116th Ave. Sidewalk, to Mer-Con, Inc. as low bidder. This project will construct a missing link of sidewalk along the west side of 116th Ave. NE, from NE 21st St. to 450-feet northerly.

FISCAL IMPACT:
Awarding this bid will obligate the City to $55,996.00 for the construction of a sidewalk on 116th Ave. NE. This amount is 10% below the Engineer's Estimate. Sufficient funding exists within the Pedestrian Access Improvements (CIP Plan No. PW-W/B-56) program budget to complete this project.

STAFF CONTACT:
Goran Sparrman, 452-4338/David Berg, 452-6468/Mike Mattar, 452-4318/Mike Rodni, 452-4586

POLICY CONSIDERATION:
CIP Plan No. PW-W/B-56, Pedestrian Access Improvements, supports the goals of the City's Comprehensive Plan by protecting the public health, safety, and welfare of Bellevue citizens residing near and walking and driving along 116th Ave NE.

BACKGROUND:
The 116th Ave. NE Sidewalk is a subproject under the Pedestrian Access Improvements Program (CIP Plan No. PW-W/B-56). This program funds smaller walkway/bikeway safety, access, system completion and repair projects throughout the City. Currently, on the west side of 116th Ave. between SE 8th St. and NE 24th St., there is one missing link of sidewalk. That missing link is between NE 21st St. and 450-feet northerly. This project will construct that missing link of sidewalk to provide full sidewalk connectivity on the west side of 116th Ave., between SE 8th St. and NE 24th St. Preparation of the Plans, Specifications and Estimates for this project were done by City staff.

Following verification of bid submittals, the bids received were as follows:

Engineer's Estimate	**$62,402.60**
Mer-Con, Inc.	$55,996.00
Bonner Brothers Construction	$64,012.50
Kemper Construction	$65,013.10
Progressive Builders	$65,267.50
Dennis Craig Construction	$67,667.25
Precision Earthworks	$76,545.00
Road Construction NW	$79,905.00

To the best of our knowledge and professional judgement, all factors that normally contribute to construction expenses have been accounted for in the Plans, Specifications and Estimates. Based on our experience, projects of this type may result in some field changes. All claims are

rigorously reviewed and only those that are clearly necessary to accomplish the intent of the contract but have somehow not been provided for, will be paid.

EFFECTIVE DATE:
If adopted this motion becomes effective immediately upon adoption.

OPTIONS:
1. Award of the bid to Mer-Con, Inc. as low bidder.
2. Award the bid to the next lowest bidder if the low bidder is not responsive.
3 Reject all bids and provide alternate direction to staff.

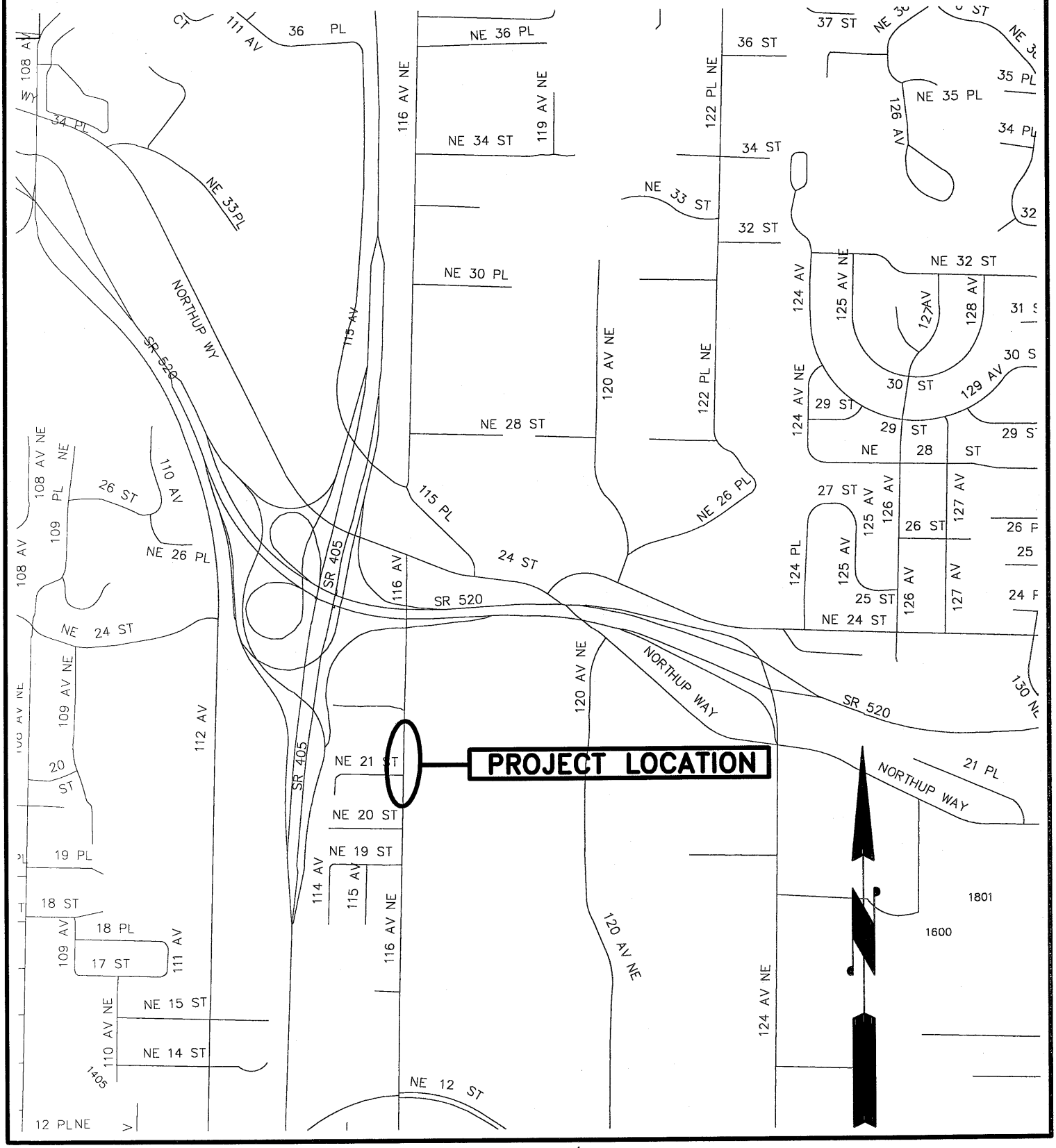
RECOMMENDATION:
Award Bid No. 0427 to Mer-Con, Inc. as low bidder. This firm is qualified to perform this work and is willing to do so.

MOTION:
Move to award Bid No. 0427 to Mer-Con, Inc. this 21st day of June, 2004.

ATTACHMENTS:
Vicinity Map
CIP Project Description

116th AVE. NE SIDEWALK
VICINITY MAP

(NO SCALE)



2003-2009 Adopted CIP: Transportation – Walkways/Bikeways

CIP PLAN NUMBER: PW-W/B-56 **CIP FUND/PROJECT NUMBER:** 3680-541

PROJECT NAME: Pedestrian Access Improvements

PROJECT LOCATION: Citywide

DEPT/PROGRAM: Transportation/Transportation Improvements

STATUS: Ongoing

ACTUAL/ESTIMATED START DATE: Ongoing **ESTIMATED COMPLETION DATE:** Ongoing

PROJECT DESCRIPTION/SCOPE: This CIP program includes two separate subprograms. The School Access Improvements Subprogram funds minor construction and improvement of local paths, sidewalks, and trails on rights-of-way or easements connecting neighborhoods and schools. Individual projects are implemented in coordination with schools and neighborhoods. The Walkways/Bikeways Improvements Subprogram funds smaller walkway/bikeway safety, access, system completion and repair projects throughout the City.

PROJECT JUSTIFICATION/BENEFITS: The two subprograms identified here allow the City to address safety concerns, emergent needs/opportunities and citizen requests for sidewalks, paths or trails which are not addressed through larger CIP projects. Those larger projects are intended to construct system connections identified in the Pedestrian and Bicycle Transportation Plan, and are typically on arterial streets. Many of the safety concerns and citizen requests, as well as emergent needs/opportunities, however, are for sidewalks and trails on or near neighborhood streets accessing schools, transit, and other activities.

ENVIRONMENTAL IMPACTS: These projects are usually small and limited in scope, so environmental issues are minimal and are addressed as appropriate on a location-by-location basis.

CHANGES TO PREVIOUSLY APPROVED CIP PROJECT DESCRIPTION:

Capital Cost/Revenue: Capital costs have increased $650,000 to reflect continued funding in 2008 and 2009.

PROJECT BUDGET:

$000

	Through 2002	2003	2004	2005	2006	2007	2008	2009	2003-2009 Total	Project Total
TOTAL CAPITAL COST:	1,662	761	325	325	325	325	325	325	2,711	4,373
REVENUE:										
Gen CIP Revenue	622	482	325	325	325				1,457	2,079
ISTEA Grant	100	159							159	259
Transp Funding	940					325	325	325	975	1,915
TEA-21 Grant		120							120	120
TOTAL REVENUE	1,662	761	325	325	325	325	325	325	2,711	4,373
M&O COSTS:										

Capital Costs Beyond 2009: Ongoing project

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:
Resolution No. 7014 authorizing City Manager to approve additional funding toward the existing Agreement with HDR Engineering, Inc. for the NE 10th Street Extension / Overlake Hospital Medical Center (OHMC) Expansion Traffic Operations Analysis (Contract No. 35434).

FISCAL IMPACT:
This action obligates the City to an increase of $14,350 for professional engineering services with HDR Engineering, Inc. for the NE 10th Street Extension / OHMC Expansion Traffic Operations Analysis. This project is jointly funded between the City and OHMC. The City's share of this project is funded by the 2004 Transportation general fund operating budget.

Original Contract	$45,800
Supplement #1	14,350
New Contract Total Amount	**$60,150**

STAFF CONTACT:
Goran Sparrman 452-4388 / Kris Liljeblad 452-2866 / Steve Sindiong 452-4448

POLICY CONSIDERATION:
On April 5, 2004, Council authorized the City Manager to enter into an Inter Agency Agreement between the City, OHMC, Group Health Cooperative (GHC) and the Washington State Department of Transportation (WSDOT) for the Overlake Hospital expansion, NE 10th Street extension, and I-405 improvements. The agreement provides that the City and OHMC will equally fund the Traffic Operations Analysis being conducted by HDR Engineering, Inc. (Contract No. 35434). The Traffic Operations Analysis work is being conducted to provide input to the broader OHMC Master Plan / NE 10th Street Extension Environmental Impact Statement, which was authorized by Council at its May 3, 2004 meeting.

BACKGROUND:
The City entered into a Three Party Agreement with OHMC and HDR Engineering, Inc. in March 2004 to conduct the Traffic Operations Analysis, as part of the overall NE 10th Street Extension / OHMC Expansion. The purpose of the project is to analyze traffic operations of various alternatives, and to determine impacts related to ingress/egress to the OHMC campus, internal campus circulation, impacts to operations on local roadways and freeway access points, and to identify potential mitigation measures. The results of the study are to be used toward the OHMC Master Plan / NE 10th Street Extension SEPA EIS which is currently underway. The Operations Analysis began prior to the development of the scope of work for the EIS.

As the scope of work was developed for the EIS, it became apparent through the planning process that more alternatives would need to be evaluated than had been previously anticipated. Decisions at the Executive Team level have added alternatives that now include freeway ramp connections at NE 12th Street, as well at both NE 10th Street and NE 12th Street. The increase in

the number of alternatives required an increase in the scope of work and budget for the Operations Analysis.

EFFECTIVE DATE:
If approved, this resolution becomes effective immediately upon Council adoption.

OPTIONS:
1. Adopt Resolution No. 7014 authorizing the City Manager or his designee to approve additional funding toward the existing agreement with HDR Engineering, Inc. for the NE 10th Street Extension / OHMC Expansion Traffic Operations Analysis;
2. Do not adopt Resolution No. 7014. The alternatives for both the EIS and Operations Analysis would need to be reduced. Expansion of the OHMC campus, extension of NE 10th Street, and improvements to I-405 could be jeopardized.

RECOMMENDATION:
1. Adopt Resolution No. 7014 authorizing the City Manager or his designee to approve additional funding toward the existing agreement with HDR Engineering, Inc. for the NE 10th Street Extension / OHMC Expansion Traffic Operations Analysis.

MOTION:
Move to adopt Resolution No. 7014 authorizing the City Manager or his designee to approve additional funding toward the existing agreement with HDR Engineering, Inc. for the NE 10th Street Extension / OHMC Expansion Traffic Operations Analysis.

ATTACHMENTS:
- Resolution No. 7014 authorizing the City Manager to approve additional funding toward the existing agreement with HDR Engineering, Inc. for the NE 10th Street Extension / OHMC Expansion Traffic Operations Analysis.

AVAILABLE IN COUNCIL OFFICE:
- NE 10th Street Extension / OHMC Expansion Traffic Operations Analysis – Three Party Agreement between Bellevue, OHMC and HDR Engineering, Inc.

1173-RES
6/16/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7014

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to the three-party agreement with Overlake Hospital Medical Center and HDR Engineering, Inc. for the NE 10th Street Extension/OHMC Expansion Traffic Operations Analysis to provide for additional funding for a total contract amount of $60,150.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to the three-party agreement with Overlake Hospital Medical Center and HDR Engineering, Inc., (Clerk's Receiving No. 35434), for the NE 10th Street Extension/OHMC Expansion Traffic Operations Analysis, a copy of which amendment has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 8(j)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Motion to award Bid No. 0424, 143rd Avenue SE and SE 10th Place Water Extension, CIP Plan No. W-16, Utility Capital Investment Program fund 4690, to Earthwork Enterprises of Mukilteo, Washington, as low bidder in the amount of $123,952.20.

FISCAL IMPACT

Awarding this bid commits the City to a contract of $123,952.20. This contract will be funded from the Utilities CIP Plan No. W-16, Small Diameter Water Main Replacement. There is adequate budget remaining to fund this contract.

STAFF CONTACT

Brad Miyake, 4895/Wes Jorgenson, 4887

POLICY CONSIDERATION

It is the policy of the Utility, as set forth in the adopted Utilities Water Comprehensive Plan, to invest resources as necessary to construct, maintain and renew water system infrastructure and equipment so that the Utility customers are provided with consistent, reliable service. It is the Utility's practice to replace small diameter asbestos cement watermain installed in the late 1940's and 1950's to reduce the possibility of watermain breaks as well as to increase fire flow.

CIP Plan No.W-16 has been designated to do this.

BACKGROUND

This project will install approximately 590 LF of new watermain in 143rd Avenue SE between SE 10th Place and SE 13th Place. This watermain will connect to the existing watermains in SE 10th Place and SE 13th Place. This project will extend new 8" diameter watermain along a portion of 143rd Avenue previously served by an undersized dead-end pipe and provide a loop between existing pipelines which will improve service reliability.

Bids were opened on May 18, 2004 and were as follows:

Earthwork Enterprises, Mukilteo	$123,952.20
Westwater Construction, Auburn	$140,472.56
Bonner Brothers Construction, Redmond	$141,568.40
West Coast Construction, Woodinville	$143,183.20
TC Borden Underground, Puyallup	$149,377.74
Americon, Inc., Maple Valley	$163,311.26
Mer-Con, Maple Valley	$189,827.38

Engineer's Estimate $136,796

To the best of staff's knowledge, all factors that normally contribute to construction expense have been accounted for in the plans and in the Engineer's Estimate. It is our experience that construction projects of this type usually result in some amount of field changes. Such claims are rigorously reviewed and only those that are clearly necessary to accomplish the intent of the contract, but have somehow not been provided for, will be paid.

EFFECTIVE DATE

If adopted, the award of this bid will become effective immediately.

OPTIONS

1. Award Bid No. 0424, 143rd Avenue SE and SE 10th Place Water Extension, CIP Plan No. W-16, Utility Capital Investment Program fund 4690, to Earthwork Enterprises of Mukilteo, Washington, as low bidder in the amount of $123,952.20.
2. Award of contract to other bidder, if low bidder is rejected.
3. Reject all bids and re-bid at a later date.

RECOMMENDATION

Adopt Option No. 1, which awards Bid No. 0424, 143rd Avenue SE and SE 10th Place Water Extension, CIP Plan No. W-16, Utility Capital Investment Program fund 4690, to Earthwork Enterprises of Mukilteo, Washington, as low bidder in the amount of $123,952.20.

This contractor has satisfactorily performed similar projects for the City in the past.

MOTION

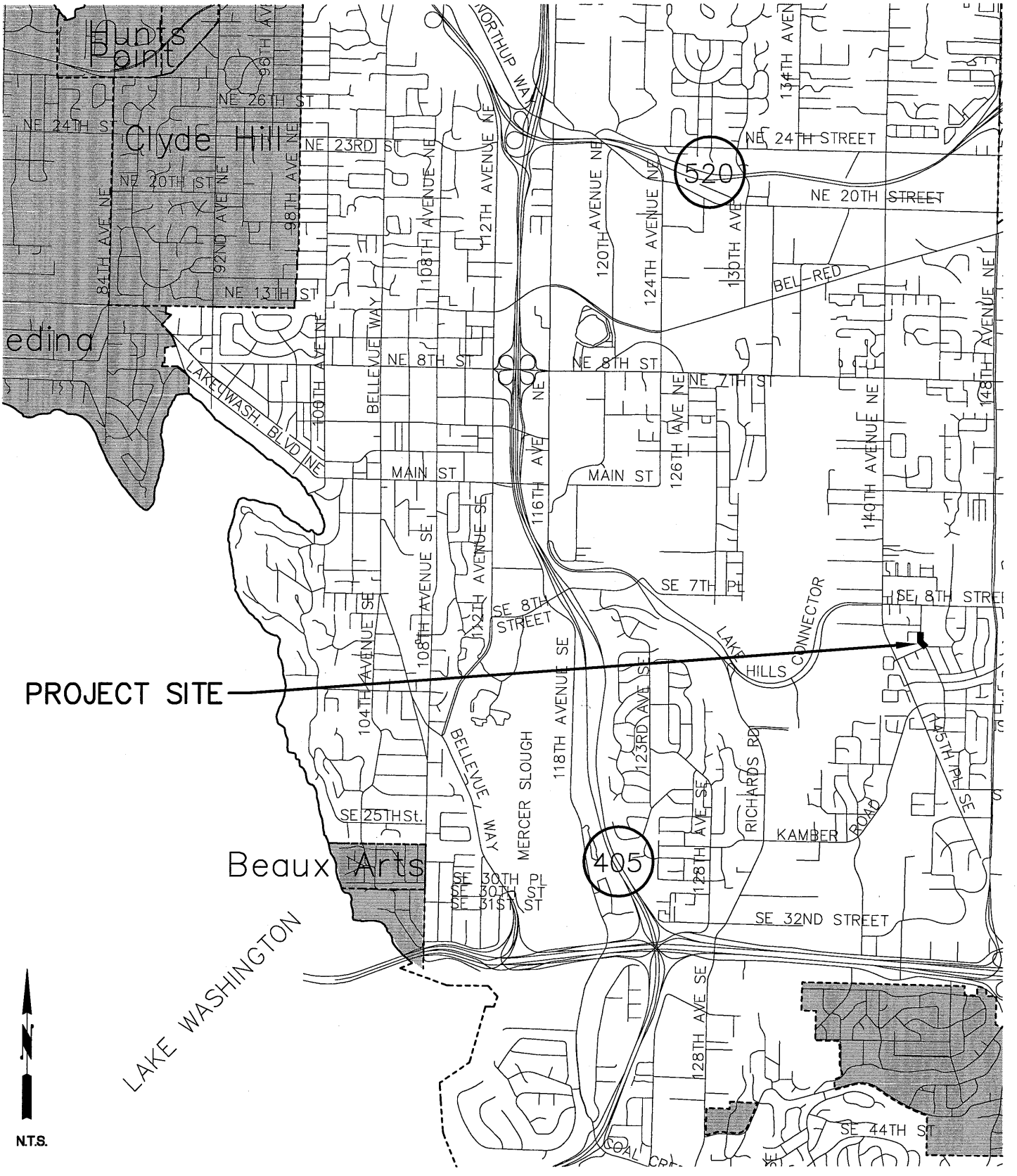
Move to award Bid No. 0424, 143rd Avenue SE and SE 10th Place Water Extension, CIP Plan No. W-16, Utility Capital Investment Program fund 4690, to Earthwork Enterprises of Mukilteo, Washington, as low bidder in the amount of $123,952.20.

ATTACHMENTS

Vicinity Map
CIP Project Description

LM/llm/D3/04-0080/last revised date: 5/21/04 8:05 AM

COUNCIL-VIC-2003.DWG
MAY 12, 2004



---------- CITY OF BELLEVUE CITY LIMITS

VICINITY MAP

WATER MAIN EXTENSION
143RD AVE SE AND SE 10TH PL
C.I.P. W-16

2003-2009 Adopted CIP: Water

CIP PLAN NUMBER: W-16 **CIP FUND/PROJECT NUMBER:** 4690-401

PROJECT NAME: Small Diameter Water Main Replacement

PROJECT LOCATION: Replacement of small diameter water mains located throughout the water distribution system

DEPT/PROGRAM: Utilities/Utility Improvements

STATUS: Ongoing

ACTUAL/ESTIMATED START DATE: Ongoing **ESTIMATED COMPLETION DATE:** Ongoing

PROJECT DESCRIPTION/SCOPE: This ongoing program consists of designing and installing new ductile iron water mains each year to replace existing small diameter lines (primarily asbestos–cement lines). To achieve a performance goal of 1,000 gpm. fireflow through the system by 2015, the program replaces approximately 2.3 miles per year. Pipe is prioritized for replacement based on several factors including degree of fireflow deficiency, break history, and scheduled street improvements.

PROJECT JUSTIFICATION/BENEFITS: This program was established to replace aging pipes that have experienced breaks and/or leaks or show signs of potential loss of strength. The Water Utility has about 300 miles of asbestos-cement pipe which were installed from the late 1940s through the early 1960s. This pipe is generally smaller diameter than required by today's standards, and is the pipe most likely to fail in the water system.

This program will enhance the level of service by increasing fireflow availability while at the same time reducing the possibility of water main breaks which can result in property damage, and will reduce unanticipated system service interruptions.

ENVIRONMENTAL IMPACTS: The water mains being replaced are eight inches in diameter or less and are generally exempt from environmental review unless they are in or adjacent to sensitive areas. The status of environmental review of specific projects is undetermined.

CHANGES TO PREVIOUSLY APPROVED CIP PROJECT DESCRIPTION:

Capital Cost/Revenue: The program budget has been increased by $3,335,000 for the addition of CIP program years 2008 and 2009. Project costs are continuing to ramp up over time in anticipation of increased need to rehabilitate and replace aging system components. Although project needs within the Coal Creek Utility District assumption area have not been fully quantified, an initial estimate of anticipated costs has been added to the program budget. Project costs have also been adjusted for inflation.

PROJECT BUDGET:

$000

	Through 2002	2003	2004	2005	2006	2007	2008	2009	2003-2009 Total	Project Total
TOTAL CAPITAL COST:	12,087	1,155	1,155	1,255	1,667	1,763	2,080	2,212	11,287	23,374
REVENUE:										
Sale of Maps & Pubs	1									1
Sale of Bid Specs	8									8
Water Utility Revenue	12,078	1,155	1,155	1,255	1,667	1,763	2,080	2,212	11,287	23,365
TOTAL REVENUE	12,087	1,155	1,155	1,255	1,667	1,763	2,080	2,212	11,287	23,374
M&O COSTS:										

Capital Costs Beyond 2009: This program will continue through 2015, at minimum.

Item No. 8(K)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Motion to award Bid No. 0428, Asphalt/Concrete Restoration, to AA Asphalting, Inc. as low bidder in the amount of $180,838.25.

FISCAL IMPACT

This agreement commits the City to a contract in an amount not to exceed $180,838.25 for calendar year 2004. The cost for these services has been anticipated and is included in the following 2004 Operating Budgets:

Wastewater Utility Fund	$40,000.00
Water Utility Fund	$74,838.25
Surface Water Utility Fund	$16,000.00
Transportation General Fund	$50,000.00
Total	$180,838.25

STAFF CONTACT

Brad Miyake, 452-4895
Denny Vidmar, 452-2759

POLICY CONSIDERATION

The City contracts for maintenance services when it is cost-effective, the work requires specialized equipment or expertise, and/or there are other factors that render it impractical for City staff to perform the work. This proposed contract is consistent with that policy and the City's contracting and purchasing practices.

BACKGROUND

Utility, street, and sidewalk repairs require the installation of permanent asphalt and concrete patches. These patches are needed to meet City and County requirements, reduce the probability of damages/claims, and meet customer service goals.

Competitive bids were solicited and the low bid was selected. Six (6) contractors participated in the selection process with three (3) submitting bids. Bids ranged from:

AA Asphalting, Inc.	$180,838.25 (low bid)
Benjamin Asphalt, Inc,	$328,972.00

Road Construction NW, Inc.	$361,345.00
Engineers Estimate	**$198,000.00**

AA Asphalting, Inc. was found to have the lowest bid and also meet the City's contract requirements.

EFFECTIVE DATE

If adopted, the award of this bid will become effective immediately..

OPTIONS

1. Award Bid No. 0428, Asphalt/Concrete Restoration, to AA Asphalting, Inc. as low bidder in the amount of $180,838.25.

2. Reject Bid No. 0428 and provide alternate direction to staff.

RECOMMENDATION

Award Bid No. 0428, Asphalt/Concrete Restoration, to AA Asphalting, Inc. as low bidder in the amount of $180,838.25.

MOTION

Move to award Bid No. 0428, Asphalt/Concrete Restoration, to AA Asphalting, Inc. as low bidder in the amount of $180,838.25.

ATTACHMENTS

None.

Item No. 8(1)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolutions Nos. 7015 through 7022 authorizing the City Manager to execute eight Maintenance Services Contracts between the City of Bellevue and various vendors.

FISCAL IMPACT

The eight agreements commit the City to contracts with a full potential value, including optional renewals, not to exceed $1,585,298.52.

	General Fund – Transportation Operating Budget	Mechanical Equipment Rental Fund Operating Budget	Wastewater Utility Fund Operating Budget	Totals
Immediate Contracts Value	$201,137.82	$300,000	$434,160.70	$ 935,298.52
Full Potential Value (incl. Future Optional Renewals)	$551,137.82	$600,000	$434,160.70	$1,585,298.52

The 2004 Operating Budgets indicated above contain sufficient funds set aside for these services in 2004. Some of these contracts, including renewals, could extend beyond 2004, up to 2008 (see Attachment 1 for details). Contract renewals would not require further Council action; however, funding for these contracts in future years is subject to budget approval.

STAFF CONTACT

Brad Miyake, 452-4895
Goran Sparrman, 452-4338
Denny Vidmar, 452-2759
Laurie Gromala, 452-6013

POLICY CONSIDERATION

The City contracts for maintenance services when it is cost-effective, the work requires specialized equipment or expertise, and/or there are other factors that render it impractical for City staff to perform the work. The proposed contracts are consistent with that policy and the City's contracting and purchasing practices.

BACKGROUND

General

As indicated below and on Attachment 1, five contracts are new and three contracts are renewals.

In all cases, vendors were selected using an open, fair, transparent, and competitive process consistent with the City Contracting Policies. Formal Requests for Proposals (RFPs) were developed and vendors were invited by direct contact and newspaper advertisement. Comparative quotes were received and a scoring matrix was used to determine the most qualified vendor.

In each case involving a contract renewal, 1) the vendor is in compliance with the terms and conditions of the contract; 2) the vendor has provided excellent service to the City in the past; 3) outsourcing the service remains cost-effective and the quoted unit prices are consistent with industry standards; and 4) sufficient funds have been set aside for the contract. The three vendors involved have agreed to renew their contracts without increasing unit prices.

Tree Maintenance & Removal – Special Services: Davey Tree (contract renewal)

This contract provides for the maintenance and removal of small trees located in City right-of-way. The contractor employs a certified arborist, is equipped to handle smaller tree maintenance and removal services, is located in Bellevue, and is available to respond immediately in the event of an emergency.

This agreement commits the City to a contract in an amount not to exceed $35,000 for one year. This is the first of three optional one-year renewals of a contract originally entered into in 2003. This renewal and potential subsequent renewals have a full potential value of $105,000.

Tree Maintenance & Removal – Heavy Duty: Asplundh Tree Experts (contract renewal)

This contract provides for the maintenance and removal of large trees in City right-of-way that impose a public safety hazard. The contractor has the equipment and capability to provide specialized heavy duty services such as high-lift aerial platforms, cranes, and logging equipment which are necessary to safely maintain or remove larger trees. The contractor is also certified by Puget Sound Energy to perform these tasks in and around power lines.

This agreement commits the City to a contract in an amount not to exceed $35,000 for one year. This is the first of three optional one-year renewals of a contract originally entered into in 2003. This renewal and potential subsequent renewals have a full potential value of $105,000.

Graffiti Removal & Abatement: Graffiti Busters (new contract)

This contract provides for the removal and abatement of graffiti on City property and right-of-way. The timely removal or abatement of such vandalism is crucial to maintain the aesthetic beauty of our public areas. Studies have shown that the failure to quickly remove such vandalism can cause the problem to escalate. Public criticism increases dramatically if graffiti is allowed to linger, and the feeling of public safety may be jeopardized.

This agreement commits the City to a contract in an amount not to exceed $35,000 for calendar year 2004. This agreement contains an option for three one-year renewals. With renewals, the full potential value of this contract is $140,000.

Streets Thermoplastic Maintenance: Stripe Rite, Inc. (new contract)
This contract provides for the removal and restoration of traffic markings such as crosswalks, traffic arrows, speed hump markings and informational legends. Properly maintained markings are crucial to the safety of the motoring public as well as pedestrians utilizing the City's streets.

This agreement commits the City to a contract in an amount not to exceed $35,000 for calendar year 2004. This agreement contains an option for three one-year renewals. With renewals, the full potential value of this contract is $140,000.

Annual Pavement Marking Maintenance: Stripe Rite, Inc. (contract renewal)
This contract provides for citywide traffic striping maintenance to insure that traffic markings are clearly visible and easily identified by motorists.

This agreement commits the City to a contract in an amount not to exceed $61,137.82 for calendar year 2004. This is the last of four optional one-year renewals of a contract originally entered into in 2000.

Auto Body Repair/Paint Services – Light/Medium Duty Equipment: Accurate Body (new contract)
This contract provides for auto body repairs of light/medium duty equipment such as sedans, small pick-up trucks, and vans.

This agreement commits the City to a two-year contract in an amount not to exceed $125,000 for each calendar year (2004 and 2005). This agreement contains an option for one two-year renewal. With renewal, the full potential value of this contract is $500,000.

Auto Body Repair/Paint Services – Heavy Duty Equipment: Geo. Heiser Body Company, Inc. (new contract)
This contract provides for auto body repairs of heavy duty equipment such as fire trucks and dump trucks.

This agreement commits the City to a two-year contract in an amount not to exceed $25,000 for each calendar year (2004 and 2005). This agreement contains an option for one two-year renewal. With renewal, the full potential value of this contract is $100,000.

Wastewater Mainline Root Sawing: Bravo Environmental Services, LLC (new contract)
Root intrusions into the City's wastewater (sewer) mainlines is a major cause of blockages, backups, overflows and claims. It is cost effective to apply preventive maintenance to these mainlines by annually sawing these roots rather than replacing the affected mainlines earlier than scheduled.

As the wastewater system ages, the number of failures and repairs is increasing. To meet these increasing demands, the City is outsourcing root sawing. This is part of the City's strategy to reduce failures and claims.

This agreement commits the City to a four-year contract in an amount not to exceed $434,160.70 for calendar years 2004 through 2007.

EFFECTIVE DATE

If adopted, this Resolution will become effective immediately. The effective date of the contracts will be June 22, 2004.

OPTIONS

1. Adopt all Resolutions Nos. 7015 through 7022 authorizing the City Manager to execute eight Maintenance Service Contracts between the City of Bellevue and various vendors.

2. Adopt selected Resolutions and provide alternate direction to staff regarding the rejected Resolutions.

3. Reject all Resolutions Nos. 7015 through 7022 and provide alternate direction to staff.

RECOMMENDATION

Adopt all Resolutions Nos. 7015 through 7022, authorizing the City Manager to execute eight Maintenance Service Contracts between the City of Bellevue and various vendors.

MOTION

Move to adopt Resolutions Nos. 7015 through 7022, authorizing the City Manager to execute eight Maintenance Service Contracts between the City of Bellevue and various vendors.

ATTACHMENTS

Proposed Resolutions Nos. 7015 through 7022

AVAILABLE IN COUNCIL OFFICE

Copies of relevant Maintenance Services Contracts.

Attachment 1
Maintenance Services Contracts
June 21, 2004 Consent Calendar

Contracted Service	Vendor	Contract Renewal			New Contract		Year of Expiration (if renewed)	Full Potential Value (incl. future optional renewals)	Funding Source
		Year of Original Contract	Value of this Renewal	Number of 1-Year Optional Renewals Remaining (not incl. this renewal)	Value of this Approval	Number of Optional Renewals			
Tree Maintenance & Removal – Special Services	Davey Tree	2003	$35,000 for one year	2	NA	NA	2007	$105,000	Transportation Operating Budget
Tree Maintenance & Removal – Heavy Duty	Asplundh Tree Experts	2003	$35,000 for one year	2	NA	NA	2007	$105,000	Transportation Operating Budget
Graffiti Removal & Abatement	Graffiti Busters	NA	NA	NA	$35,000 for one year	3	2008	$140,000	Transportation Operating Budget
Streets Thermoplastic Maintenance	Stripe Rite, Inc.	NA	NA	NA	$35,000 for one year	3	2008	$140,000	Transportation Operating Budget
Annual Pavement Marking Maintenance	Stripe Rite, Inc.	2000	$61,137.82	0	NA	NA	2005	$61,137.82	Transportation Operating Budget
Auto Body Repair/Paint Services – Light/Medium Duty Equipment	Accurate Body	NA	NA	NA	$125,000 per year for two years	One 2-Year Renewal	2008	$500,000	Mechanical Equipment Rental Fund
Auto Body Repair/Paint Services – Heavy Duty Equipment	Geo. Heiser Body Company, Inc.	NA	NA	NA	$25,000 per year for two years	One 2-Year Renewal	2008	$100,000	Mechanical Equipment Rental Fund
Wastewater Mainline Root Sawing	Bravo Environmental Services, LLC	NA	NA	NA	$434,160.70 for four years	0	2008	$434,160.70	Wastewater Fund Operating Budget
							Total	$1,585,298.52	

1166-RES
6/14/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7015

A RESOLUTION authorizing execution of the first of three potential renewals of a maintenance services contract with Davey Tree for a total potential contract amount of $105,000.00 for special tree maintenance and removal services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute the first of three potential renewals of a maintenance services contract with Davey Tree for a total potential contract amount of $105,000.00 for special tree maintenance and removal services, a copy of which renewal Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1164-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7016

A RESOLUTION authorizing execution of the first of three potential renewals of a maintenance services contract with Asplundh Tree Experts for a total potential contract amount of $105,000.00 for tree maintenance and heavy-duty tree removal services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute the first of three potential renewals of a maintenance services contract with Asplundh Tree Experts for a total potential contract amount of $105,000.00 for tree maintenance and heavy-duty tree removal services, a copy of which renewal agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1165-RES
6/14/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7017

A RESOLUTION authorizing execution of a maintenance services contract and three potential renewals with Graffiti Busters for a total potential contract amount of $140,000.00 for graffiti removal and abatement services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a maintenance services contract and three potential renewals with Graffiti Busters for a total potential contract amount of $140,000.00 for graffiti removal and abatement services, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1170-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7018

A RESOLUTION authorizing execution of a maintenance services agreement and three potential one-year renewals with Stripe Rite, Inc. for a total potential contract amount of $140,000.00 for street thermoplastic maintenance services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a maintenance services agreement and three potential one-year renewals with Stripe Rite, Inc. for a total potential contract amount of $140,000.00 for street thermoplastic maintenance services, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1163-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7019

A RESOLUTION authorizing execution of a maintenance services contract with Stripe Rite, Inc. in an amount not to exceed $61,137.82 for annual pavement marking maintenance services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a maintenance services contract with Stripe Rite, Inc. in an amount not to exceed $61,137.82 for annual pavement marking maintenance services, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1169-RES
6/14/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7020

A RESOLUTION authorizing execution of a maintenance services agreement and one potential two-year renewal with Accurate Auto Body for a total potential contract amount of $500,000.00 for auto body repair and paint services of light and medium duty equipment.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a maintenance services contract and one potential two-year renewal with Accurate Auto Body for a total potential contract amount of $500,000.00 for auto body repair and paint services of light and medium duty equipment, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1167-RES
6/14/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7021

A RESOLUTION authorizing execution of a maintenance services contract and one potential two-year renewal with Geo. Heiser Body Company, Inc. for a total potential contract amount of $100,000.00 for auto body repair and paint services of heavy duty equipment.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a maintenance services contract and one potential two-year renewal with Geo. Heiser Body Company, Inc. for a total potential contract amount of $100,000.00 for auto body repair and paint services of heavy duty equipment, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1171-RES
6/15/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7022

A RESOLUTION authorizing execution of a four-year maintenance Agreement with Bravo Environmental Services, LLC in an amount not to exceed $434,160.70 for wastewater mainline root sawing services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a four-year maintenance Agreement with Bravo Environmental Services, LLC in an amount not to exceed $434,160.70 for wastewater mainline root sawing services, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 8(m)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 7023 authorizing staff to enter into a purchase agreement for security equipment, part of CIP Plan No. W-95, Water System Security Enhancements, Utility Capital Investment Program Fund 4690, with Northern Video Systems, in the amount of $99,242.15 plus 8.8% Washington State Sales Tax.

FISCAL IMPACT

Authorizing this purchase commits the City to a contract of $99,242.15 plus 8.8% Washington State Sales Tax. This contract will be funded from the Utilities CIP Plan No. W-95, Water System Security Enhancements. There is adequate budget remaining to fund this contract.

STAFF CONTACT

Brad Miyake, 4895/Wes Jorgenson, 4887

POLICY CONSIDERATION

It is the policy of the Utilities Department to identify and implement capital projects via the CIP, to ensure that water utility customers receive consistent, reliable service, and that public health is protected by ensuring that water quality standards are maintained.

CIP Plan No. W-95 has been designated to do this.

BACKGROUND

On May 3, 2004, Council had affirmed an Emergency Declaration of the City Manager authorizing staff to waive the contract bidding process for purchase of equipment for water system security purposes. In addition, this resolution authorized staff to enter into a purchase agreement for security equipment with Statewide Security Systems of Redmond, Washington in the amount of $81,984.15, as part of CIP Plan No. W-95, Water System Security Enhancements, Utility Capital Investment Program Fund 4690.

Since the adoption of this resolution, Statewide Security Systems indicated that there had been an oversight in their quote and that they could not provide the specified equipment at the originally quoted price. Legal and Purchasing have reviewed the declared oversight and determined that it is a valid and legitimate claim and that the vendor cannot be obligated to provide the equipment at the original quote. Consequently, their quote was deemed non-responsive and has been withdrawn. Northern Video Systems, the vendor with the second low quote of $99,242.15 plus 8.8% Washington State Sales Tax, has confirmed their quote and has signed the purchase agreement to provide the security equipment as set forth in the City of Bellevue Specifications, Proposal Number ITQ-03-04.

As noted in the previous agenda memo, staff has provided a fair and competitive procurement process in accordance with BCC 4.28.090. Staff reviewed qualifications of over one hundred vendors at the 2003 International Security Conference in Las Vegas as well as local vendors in the Seattle area. The vendor list was narrowed down to five finalists based on the following pre-qualifications:

- In business a minimum of 15 years.
- Proven track record in the security business.
- Familiarity with the majority of equipment that is specified on the bid list and sufficient staff to provide technical assistance.
- Able to provide installation/startup assistance if required by City.
- Able to supply all the specified equipment on the bid list.
- Interview by a City of Bellevue technical representative.

Quotes were received from five pre-qualified vendors.

In order to implement security system improvements at utility sites vulnerable to access by unauthorized persons, necessary security equipment will be purchased by the Utility and installed by City Operations and Maintenance staff. This purchase involves procurement of these materials.

These parts will be installed at utility sites throughout the city.

EFFECTIVE DATE

If adopted, this Resolution will become effective immediately.

OPTIONS

1. Adopt Resolution No. 7023 authorizing staff to enter into a purchase agreement for security equipment, part of CIP Plan No. W-95, Water System Security Enhancements, Utility Capital Investment Program Fund 4690, with Northern Video Systems, in the amount of $99,242.15 plus 8.8% Washington State Sales Tax.

2. Reject Resolution No. 7023 and provide alternate direction to staff.

RECOMMENDATION

Adopt Resolution No. 7023 authorizing staff to enter into a purchase agreement for security equipment, part of CIP Plan No. W-95, Water System Security Enhancements, Utility Capital Investment Program Fund 4690, with Northern Video Systems, in the amount of $99,242.15 plus 8.8% Washington State Sales Tax.

MOTION

Move to adopt Resolution No. 7023 authorizing staff to enter into a purchase agreement for security equipment, part of CIP Plan No. W-95, Water System Security Enhancements, Utility Capital

Investment Program Fund 4690, with Northern Video Systems, in the amount of $99,242.15 plus 8.8% Washington State Sales Tax.

ATTACHMENTS

CIP Project Description
Proposed Resolution No. 7023

AVAILABLE IN COUNCIL OFFICE

Purchase Agreement

RWS/llm
D3/04-0090
last revised date: 6/14/04 7:30 a.m.

2003-2009 Adopted CIP: Water

CIP PLAN NUMBER: W-95 **CIP FUND/PROJECT NUMBER:** 4690-472

PROJECT NAME: Water System Security Enhancements

PROJECT LOCATION: Various locations thoughout the water service area

DEPT/PROGRAM: Utilities/Utility Improvements

STATUS: New

ACTUAL/ESTIMATED START DATE: 2003 **ESTIMATED COMPLETION DATE:** 2004

PROJECT DESCRIPTION/SCOPE: This project will install new security measures to protect the City's water system.

PROJECT JUSTIFICATION/BENEFITS: Events of September 11, 2001 made us aware of an increased threat to public safety, specifically terrorist threat to the City's water system. This project is a response to these concerns and it is one of several initiated by various departments in the City to safeguard our citizens and employees.

This project provides critical measures to make the City's water system more secure. The proposed measures also increase the Utility's ability to respond to other threats to the water system such as earthquakes and storms.

ENVIRONMENTAL IMPACTS: Since the work will be performed within the existing water system, no significant impacts are anticipated

PROJECT BUDGET:

$000

	Through 2002	2003	2004	2005	2006	2007	2008	2009	2003-2009 Total	Project Total
TOTAL CAPITAL COST:		275	275						550	550
REVENUE:										
Water Utility Revenue		275	275						550	550
TOTAL REVENUE		275	275						550	550
M&O COSTS:										

Capital Costs Beyond 2009: NA

1168-RES
6/15/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7023

A RESOLUTION authorizing execution of purchase agreement with Northern Video Systems in the amount of $99,242.15 plus 8.8% Washington State sales tax for water system security enhancements, part of CIP Plan No. W-95.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute a purchase agreement with Northern Video Systems in the amount of $99,242.15 plus 8.8% Washington State sales tax for water system security enhancements, part of CIP Plan No. W-95, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 8(n)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT: Resolution No. 7024, authorizing the City Manager to execute a Settlement Agreement and all other necessary documents and take all steps necessary to implement settlement in the pending claim filed by Robert and Nancy Getz, Claim No. 03-048-01.

FISCAL IMPACT: The Settlement Agreement requires the City to make two payments totaling $70,000.00. One check of $46,874.78 is to be made payable to Robert and Nancy Getz and Leo Shishmanian, and a second check of $23,225.22 is to be made payable to Robert and Nancy Getz, Leo Shishmanian and the Center for Medicare and Medicaid.

Payment of this settlement will be made from the General Self-Insurance Fund. There is sufficient funding available to pay this settlement.

STAFF CONTACT:

Marilyn K. Nitteberg (425) 452-6829
Richard L. Andrews (425) 452-6829

POLICY CONSIDERATION:

Pursuant to Bellevue City Code 4.36.030, settlement and payment of claims exceeding $20,000 requires the authorization of the City Council.

BACKGROUND:

This action arose out of claim filed by Robert and Nancy Getz. On July 11, 2001, Mr. Getz tripped on blackberry vines that were growing out from City property and over the sidewalk as he was hurrying to catch a bus. Mr. Getz suffered a broken hip that required surgery, including a pin. Mr. Getz incurred approximately $23,225.22 in medical bills. Medicare has paid for medical bills of Mr. Getz related to this claim and has asserted a lien for repayment against the settlement amount. Leo Shishmanian is the attorney representing Mr. Getz in this claim.

EFFECTIVE DATE:

This Resolution will be effective immediately upon its adoption.

OPTIONS:

1. Approve Resolution No. 7024, authorizing the City Manager or designee to execute all necessary documents to implement the settlement according to the terms set forth in the Settlement Agreement.

2. Do not approve Resolution No. 7024, and instead refer the matter to Staff with directions.

RECOMMENDATION:

Approve Resolution No. 7024, authorizing the City Manager or designee to execute all necessary documents to implement the settlement according to the terms set forth in the Settlement Agreement.

MOTION:

I move adoption of Resolution No. 7024, authorizing the City Manager or designee to execute all necessary documents to implement the settlement according to the terms set forth in the Settlement Agreement.

ATTACHMENTS:

Resolution No. 7024.

Settlement Agreement (in Council Office).

EFFECTIVE DATE:

This Resolution will be effective immediately upon its adoption.

1172-RES
6/15/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7024

A RESOLUTION authorizing the City Manager or his designee to execute, on behalf of the City, a signed Settlement Agreement authorizing payment in the total amount of $70,000.00, in settlement of a claim filed by Robert and Nancy Getz, Claim No. 03-048-01.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute, on behalf of the City, a signed Settlement Agreement authorizing a total payment in the amount of $70,000.00, in settlement of a claim filed by Robert and Nancy Getz, Claim No. 03-048-01, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 11 (a)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT: Resolution No. 7013, authorizing the City Manager to execute an Agreement Regarding Environmental Conditions and all other necessary documents with LS Holdings, LLC ("LS Holdings") relating to potential contamination under the Right-of-way migrating from the adjacent Lincoln Square project property.

FISCAL IMPACT: The Agreement memorializes the understanding between the City and LS Holdings regarding possible contamination migrating from the Lincoln Square Holdings property under City Right-of-Way along Bellevue Way NE and NE 6th Streets. The Agreement itself does not involve expenditure of any funds. If the City discovers contamination under the Rights-of-Way and is required by the State Department of Ecology to clean up that contamination, the City will bear the costs of any initial clean-up. The City has a cause of action under the state Model Toxics Control Act ("MTCA") against any "potentially responsible party," and could recover the costs of clean-up from any or all solvent current and former property owners of the Lincoln Square property if the City can show that the contamination migrated from that site.

STAFF CONTACT:

Lori M. Riordan (425) 452-6829
Richard L. Andrews (425) 452-6829

POLICY CONSIDERATION:

Whether the City should agree with LS Holdings that any responsibility that LS Holdings may be determined to have for migration of contamination under the City's rights-of-way be limited to clean-up in the least disruptive and most cost-effective manner. This Agreement is expected to clear the way for LS Holdings to secure financing to complete the Lincoln Square project.

BACKGROUND:

LS Holdings is the current owner of property located on the northeast corner of Bellevue Way NE and NE 6th Street. A service station was located on part of the property and operated by a prior owner (604 Bellevue Way NE). Petroleum products leaking from underground storage tanks contaminated the soil on the site and the State Department of Ecology required remedial action to be taken to clean up the site. In 1998 Ecology issued a "No further action" letter to a representative of the property owner indicating that Ecology had determined that "the release of petroleum into the soil no longer poses a threat to human health or the environment" so no further remedial action would be required. The letter did not release the property owner from future responsibility for clean-up should additional contamination be discovered. The clean-up required by Ecology did not extend beyond the property borders of the site. It is unknown whether any contamination has migrated from the site to areas beneath the Right-of-Way.

A large mixed-use development ("Lincoln Square") was begun on the property in 2000 by a prior owner. The site work involved substantial excavation for construction of an underground parking garage. Work on the project was suspended in 2001 for a variety of reasons until the property was acquired by LS Holdings. LS Holdings acquired the property in 2003, and proposes to modify the project and complete it. LS Holdings' lender indicates that in order for LS Holdings to secure the financing necessary to complete the project, it will require that LS Holdings reach agreement with the City regarding the City's plans to dispose of any contamination discovered to have migrated from the site to the City's Rights-of-Way. The City, as owner and occupier of the rights-of-way, would be the party required by DOE to clean up the contamination. This means that the City in all likelihood would contract and pay for the clean-up and would then have the option of pursuing contribution from any or all past or present owners of the Lincoln Square site.

The terms of the proposed Agreement include the following understanding between the parties:

- The parties acknowledge that the property currently assembled as the Lincoln Square building site was previously discovered to be contaminated;
- The contamination occurred prior to LS Holdings' ownership of the property;
- The site was previously remediated;
- It is possible that some contamination could have migrated from the site to locations under the City's Rights-of-Way, but no evidence has been discovered to date to show that migration of contamination has occurred;
- The City does not currently have plans to pursue possible remediation of the Rights-of-Way;
- If the City later discovers contamination and any agency such as the State Department of Ecology requires the contamination to be remediated, the parties agree that the remediation will be the least-disruptive and most cost-effective permitted by the agency with jurisdiction;
- Both parties reserve their rights to contest liability and responsibility for clean-up costs;
- If the City is required to remediate and seeks contribution from any other potentially responsible parties, LS Holdings will cooperate with the City in identifying and locating those potentially responsible parties;
- The City agrees not to appeal any determination as to the proportionate share of responsibility assigned to LS Holdings nor any determination as to the appropriate level of clean-up of the City's property;
- The City's and LS Holdings maintenance records will be marked to identify the possibility of contamination and the potential areas to which petroleum products may have migrated;
- Any contamination discovered will be disposed of at a facility permitted to accept petroleum-contaminated materials.

EFFECTIVE DATE:

This Resolution will be effective immediately upon its adoption.

OPTIONS:

1. Approve Resolution No. 7013, authorizing the City Manager or designee to execute all necessary documents to implement the Agreement Regarding Environmental Conditions.

2. Do not approve Resolution No. 7013, and instead refer the matter to Staff with directions.

RECOMMENDATION:

Approve Resolution No. 7013, authorizing the City Manager or designee to execute all necessary documents to implement the Agreement Regarding Environmental Conditions.

MOTION:

I move adoption of Resolution No. 7013, authorizing the City Manager or designee to execute all necessary documents to implement the Agreement Regarding Environmental Conditions.

ATTACHMENTS:

Resolution No. 7013.

Agreement (in Council Office).

1184-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7013

A RESOLUTION authorizing the City Manager or his designee to execute an Agreement Regarding Environmental Conditions and all other necessary documents with LS Holdings, LLC reflecting the parties plans to deal with potential contamination under the City Rights-of-Way adjacent to the Lincoln Square site.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute a Agreement Regarding Environmental Conditions and all other necessary documents with LS Holdings, LLC, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

Item No. 11(b)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance No. 5528, repealing Chapters 23.05, 23.10, 23.50 and 23.60 of the Bellevue City Code; adopting a new Chapter 23.05 relating to construction code administration; adopting a new Chapter 23.10 adopting and amending the state building and related codes; adopting a new Chapter 23.50 adopting and amending the state mechanical and related codes; adopting a new Chapter 23.60 adopting and amending the state plumbing and related codes; amending Sections 23.16.010 and 23.76.035 of the Bellevue City Code; and establishing an effective date.

FISCAL IMPACT

The adoption of the new model Building Codes named in State Building Code replace codes currently administered by the Department of Planning and Community Development. There are no additional requirements or programs imposed by this code change requiring additional staff or budget resources.

Over the past twelve months, staff has dedicated a significant amount of time to training and updating public information in preparation for the transition to new building, fire, and electrical codes. Additionally, the Department has expended approximately $14,000 from its 2003/2004 budget for purchase of new code books and related reference documents. Sufficient funding is included in the Department's 2003/2004 budget to cover these costs.

STAFF CONTACT

Mike Brennan, Deputy Director Development Services	425-452-4113
Gregg Schrader, Building Official	425-452-6451

POLICY CONSIDERATION

Should the City adopt the State Building Code, with certain local amendments, in compliance with RCW 19.27?

BACKGROUND

During the Washington State Legislative Session in 2003, the Legislature voted to make broad changes to the State Building Code by adopting the 2003 editions of the International Building and Fire Codes (with some exceptions) to replace the 1997 editions of the Uniform Codes. The new state code, based on the International Codes with some state-wide amendments, becomes effective on July 1, 2004. Bellevue is required to adopt the model construction and fire codes named in the State Building Code, although local amendments that provide at least as much protection as the state provisions, and to provide for local administration, are allowed. Staff is proposing a limited number of amendments to address local concerns.

The local amendments embodied in the attached ordinance were developed in cooperation with officials representing the nine cities participating in the Building Officials Partnership (Bellevue, Bothell, Issaquah, Kenmore, Kirkland, Mercer Island, Sammamish, Snoqualmie, and Woodinville). Numerous meetings were held over the past six-months to resolve philosophical differences, identify effective life-safety strategies, and create efficiencies by developing common code adoption language. For example, participants systematically reviewed all existing code amendments, compared those against the new

code, and discarded those that were no longer necessary. Similarly, where differences between jurisdictions existed, common positions were identified and consensus achieved. This effort was very successful and will result in greater clarity and a more logical and regional approach to code enforcement. Additionally, it will answer many of the concerns voiced in the past regarding lack of consistency between various jurisdictions. This is another accomplishment from the expanding regional cooperation between building and fire officials to improved consistency in code administration, it is making a positive difference for our mutual customers.

The more significant changes resulting both from the change from the Uniform codes to the International Codes, and from the suggested local amendments, were discussed with the Council in a study session on June 14th. Council directed staff to return for final action on the attached ordinances relating the administrative, building, mechanical and plumbing codes, without change.

At the June 14th study session, one concern was raised about the right of entry language included in Section 23.05.080.F. This section details the powers and duties of the Building Official, and is substantially similar to language in our existing administrative provisions. State law and court direction guides the manner in which this right of entry is exercised. The authority to enter structures without notice or consent of the owner or occupant is rarely used, and when exercised, is undertaken after consultation with the City Attorney's office. No change to this provision is proposed.

Additional concerns were raised at the June 14th study session relating to adoption of the International Fire Code. Responses to those concerns are addressed in a separate memorandum.

It has been our collective goal to minimize the number of amendments and to have them as consistent as possible. While there will undoubtedly be a few bumps along the way, a tremendous amount of effort has been exerted to ensure that we are ready for this transition.

EFFECTIVE DATE

If approved, this ordinance becomes effective on June 30, 2004.

OPTIONS

1. Adopt Ordinance No. 5528, repealing Chapters 23.05, 23.10, 23.50 and 23.60 of the Bellevue City Code; adopting a new Chapter 23.05 relating to construction code administration; adopting a new Chapter 23.10 adopting and amending the state building and related codes; adopting a new Chapter 23.50 adopting and amending the state mechanical and related codes; adopting a new Chapter 23.60 adopting and amending the state plumbing and related codes; amending Sections 23.16.010 and 23.76.035 of the Bellevue City Code; and establishing an effective date.

2. Reject Ordinance No. 5528 and provide alternative direction to staff.

RECOMMENDATION

Adopt Ordinance No. 5528, repealing Chapters 23.05, 23.10, 23.50 and 23.60 of the Bellevue City Code; adopting a new Chapter 23.05 relating to construction code administration; adopting a new Chapter 23.10 adopting and amending the state building and related codes; adopting a new Chapter 23.50 adopting and amending the state mechanical and related codes; adopting a new Chapter 23.60 adopting and amending the state plumbing and related codes; amending Sections 23.16.010 and 23.76.035 of the Bellevue City Code; and establishing an effective date.

MOTION

Move to adopt Ordinance No. 5528, repealing Chapters 23.05, 23.10, 23.50 and 23.60 of the Bellevue City Code; adopting a new Chapter 23.05 relating to construction code administration; adopting a new Chapter 23.10 adopting and amending the state building and related codes; adopting a new Chapter 23.50 adopting and amending the state mechanical and related codes; adopting a new Chapter 23.60 adopting and amending the state plumbing and related codes; amending Sections 23.16.010 and 23.76.035 of the Bellevue City Code; and establishing an effective date.

ATTACHMENTS

Proposed Ordinance No. 5528

AVAILABLE IN COUNCIL OFFICE

N/A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5528

AN ORDINANCE repealing Chapters 23.05, 23.10, 23.50 and 23.60 of the Bellevue City Code; adopting a new Chapter 23.05 relating to construction code administration; adopting a new Chapter 23.10 adopting and amending the state building and related codes; adopting a new Chapter 23.50 adopting and amending the state mechanical and related codes; adopting a new Chapter 23.60 adopting and amending the state plumbing and related codes; amending Sections 23.16.010 and 23.76.035 of the Bellevue City Code; and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 23.05 of the Bellevue City Code is hereby repealed.

Section 2. A new Chapter 23.05 of the Bellevue City Code is hereby adopted as follows:

Chapter 23.05
Construction Code Administration

Sections:

23.05.010 Purpose.
23.05.020 Scope.
23.05.030 Exemption from state notice requirements.
23.05.040 Applicability.
23.05.050 Existing structures.
23.05.060 Definitions.
23.05.070 Authority.
23.05.080 Duties and powers of building official.
23.05.090 Permits required.
23.05.100 Permit issuance.
23.05.105 Construction documents.
23.05.110 Temporary structures and uses.
23.05.120 Fees.
23.05.130 Inspections.
23.05.140 Certificate of occupancy.
23.05.150 Service utilities.
23.05.160 Board of appeals.
23.05.170 Violations.
23.05.180 Stop work order.
23.05.190 Unsafe structures and equipment.
23.05.200 Partial invalidity.

23.05.010 Purpose.

The purpose of this chapter is to provide for the administration, organization and enforcement of the technical codes adopted by the city. The purpose of the technical codes is to establish minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

23.05.020 Scope.

This chapter establishes the administrative, organizational and enforcement rules and regulations for the technical codes which regulate site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within the corporate limits of the city.

23.05.030 Exemption from state notice requirements.

Project permit applications pursuant to the technical codes are exempt from the requirements of RCW 36.70B.110 and 36.70B.130 and any local provisions implementing those sections, except when an applicant has chosen to include technical permits, e.g., building, mechanical, plumbing permits, in a consolidated permit review process pursuant to the provisions of RCW 36.70B.120.

23.05.040 Applicability.

A. General. This chapter applies to the administration of the technical codes, as adopted by the city in other chapters of this Title 23. Provisions in the appendices of the technical codes shall not apply unless specifically adopted.

B. Conflicting provisions.

1. Where there is a conflict between the provisions or requirements of this chapter, or the technical codes, and other codes or laws, this chapter, or the technical codes as the case may be, shall govern.

2. Where conflicts occur between the technical codes, those provisions providing the greater safety to life shall govern, or if life safety is not at issue, the more restrictive provision shall govern.

3. Where, in any specific case, different sections of the technical codes specify different materials, methods of construction or other requirements, the hierarchy of the codes named in RCW 19.27.031, now or as hereafter amended, shall govern. In the event that the conflict is between provisions for which such hierarchy of codes is not determinative, the most restrictive provision shall govern.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern.

C. Other laws. The provisions of this chapter and the technical codes shall not be deemed to nullify any provisions of local, state or federal law.

D. Adoption by reference. Where state laws or regulations, or other city ordinances or code provisions, are adopted by reference in this chapter or the technical codes, such reference shall be deemed to be to the law, regulation, ordinance or provision as subsequently amended after the date of adoption of this chapter, unless specifically provided otherwise.

E. Codes referenced within the technical codes adopted by the city shall not apply unless specifically adopted by the city in other chapters of this Title 23. References to codes not adopted by the city shall be deemed to refer to the most applicable provision of codes or standards adopted by the city, as determined by the building official.

23.05.050 Existing structures.

A. Compliance with Technical Codes. Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.

B. Additions, Alterations or Repairs.

1. Additions, alterations or repairs may be made to a building, structure, or its building service equipment without requiring the existing building, structure, or its building service equipment to comply with all the requirements of the technical codes, provided the addition, alteration or repair conforms to the requirements of the technical codes for a new building, structure, or new building service equipment. Additions, alterations or repairs shall not be made to an existing building, structure, or building service equipment which will cause the existing building, structure, or building service equipment to be in violation of the provisions of the technical codes nor shall such additions, alterations or repairs cause the existing building, structure, or building service equipment to become unsafe.

2. Building service equipment which was lawful under the technical codes current at the time such equipment was installed may be used, maintained or repaired if the use, maintenance or repair is in accordance with the original design and a hazard to life, health or property has not been created by such building service equipment.

C. Existing Occupancy. The legal occupancy of any structure existing on the date of adoption of this chapter and the technical codes shall be permitted to continue without change, except as is specifically covered in this chapter and the technical codes, the *International Fire Code*, or if continued use poses a danger to

life health and safety of the occupants and the public, as is determined by the building official or fire official.

D. Change in Use. No change will be made in the character of occupancies or use of any building that would place the building in a different division of the same group or occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this chapter and the technical codes for such division or group of occupancy.

EXCEPTION: The character of the occupancy of existing buildings may be changed subject to the approval of the building official, and the building may be occupied for purposes in other groups without conforming to all the requirements of this chapter and the technical codes for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

No change in the character of occupancy of a building shall be made without a certificate of occupancy, as required in BCC 23.05.140. The building official may issue a certificate of occupancy pursuant to the intent of the above exception without certifying that the building complies with all provisions of this code.

23.05.060 Definitions.

For the purpose of this chapter, certain terms, phrases, words and their derivatives shall have the meanings set forth in this section. Where terms are not defined, they shall have their ordinarily accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

"Addition" means an extension or increase in floor area or height of a building or structure.

"Alter" or "alteration" means a change or modification of a building, structure or building service equipment.

"Approved," as to materials, types of construction, equipment and systems, means and refers to approval by the building official as the result of investigation and tests conducted by the building official, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.

"Approved agency" means an established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when the agency has been approved by the building official.

"Building" means a structure used or intended for supporting or sheltering a use or occupancy.

"Building code" means the International Building Code promulgated by the International Code Council, as adopted by the city in Chapter 23.10 BCC.

Building, Existing. "Existing building" means a building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

"Building official" means the officer or other designated authority charged with the administration and enforcement of this chapter and the technical codes, or a regularly authorized deputy thereof.

"Building permit applications" means an application for a permit required pursuant to Chapter 23.10 BCC.

"Building service equipment" means and refers to the plumbing, mechanical and electrical equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, firefighting and transportation facilities essential to the occupancy of the building or structure for its designated use.

"Complete response" means an adequate response to all requests from city staff in sufficient detail to allow the application to be processed.

"Construction documents" means plans, specifications, computations and other data required to be submitted for any application required by this chapter or the technical codes.

"Dangerous buildings code" means the Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials, as adopted by the city in Chapter 23.10 BCC.

"Department" means the Department of Planning and Community Development unless otherwise specified.

"Director" means the Director of the Department of Planning and Community Development unless otherwise specified.

"Electrical code" means the National Electrical Code promulgated by the National Fire Protection Association, as adopted by the city in Chapter 23.30 BCC.

"Energy code" means the Washington State Energy Code promulgated by the Washington State Building Code Council, as adopted by the city in Chapter 23.10 BCC.

"Housing code" means the Uniform Housing Code promulgated by the International Conference of Building Officials, as adopted by the city in Chapter 23.10 BCC.

"International Fire Code" means the International Fire Code promulgated by the International Code Council, as adopted by the city in Chapter 23.11 BCC.

"Listed" and "listing" are terms referring to equipment or materials included in a list by an approved testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of current production of listed equipment or materials. The published list shall state that the material or equipment complies with approved nationally recognized codes, standards or tests and has been tested or evaluated and found suitable for use in a specified manner.

"Mechanical code" means the International Mechanical Code promulgated by the International Code Council as adopted by the city in Chapter 23.50 BCC.

"Occupancy" means the purpose for which a building, or part thereof, is used or intended to be used.

"Owner" means any person, agent, firm or corporation having a legal or equitable interest in the property.

"Permit" means an official document or certificate issued by the building official authorizing performance or a specified activity.

"Person" means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

"Plumbing code" means the Uniform Plumbing Code promulgated by the International Association of Plumbing and Mechanical Officials, as adopted by the city in Chapter 23.60 BCC.

"Protective parking devices" means those devices regulated by Chapter 23.18 BCC.

"Repair" means the reconstruction or renewal of any part of an existing building, structure or building service equipment for the purpose of its maintenance.

"Shall" as used in this chapter, is mandatory.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

"Structural observation" means the visual observation of the structural system, for general conformance to the approved plans and specifications, at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspections required by the technical codes.

"Technical codes" means and refers to all codes adopted pursuant to Chapters 23.10, 23.30, 23.50 and 23.60 BCC; Protective Parking Devices, Chapter 23.18 BCC; and Posting Notice of Construction Hours, BCC 9.18.044.

"Valuation" or "value," as applied to a building and its building service equipment, means and shall be the estimated cost to replace the building and its building service equipment in kind, based on current replacement costs.

"Ventilation code" means the Washington State Ventilation and Indoor Air Quality Code promulgated by the Washington State Building Code Council, as adopted by the city under Chapter 23.10 BCC.

23.05.070 Authority.

A. Enforcement Agency. The Department of Planning and Community Development shall be responsible for enforcement of the technical codes under the administrative and operational control of the building official, who shall be appointed by the Director.

B. General. Whenever the term or title "administrative authority," "responsible official," "building official," "chief inspector," "code enforcement officer" or other similar designation is used in this chapter or in any of the technical codes, it shall be construed to mean the building official designated by the Director.

C. Deputies. In accordance with the prescribed procedures of the city and with the concurrence of the Director, the building official shall have the authority to appoint a deputy building official, related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

23.05.080 Duties and Powers of Building Official.

In addition to the duties and powers set forth in other sections of this chapter and the technical codes, the building official shall have the following duties and powers:

A. General. The building official is hereby authorized and directed to enforce the provisions of this chapter and the technical codes. The building official shall have the authority to render interpretations of this chapter and the technical codes and to adopt policies and procedures supplemental to this chapter and the technical codes as deemed necessary in order to clarify the application of their provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this chapter and the technical codes.

B. Applications and permits. The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings, structures and building service equipment, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this chapter and the technical codes.

C. Notices and orders. The building official shall issue all necessary notices or orders to ensure compliance with this chapter and the technical codes.

D. Inspections. The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise at the applicant's expense.

E. Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this chapter and the technical codes.

F. Right of entry. Where it is necessary to make an inspection to enforce the provisions of this chapter and the technical codes, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this chapter and the technical codes which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this chapter and the technical codes, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

G. Liability. The building official charged with the enforcement of this chapter and the technical codes, acting in good faith and without malice in the discharge of his duties, shall not thereby be rendered personally liable for damage that may accrue to persons or property as a result of an act or omission in the discharge of the assigned duties.

H. Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

I. Used materials and equipment. The use of used materials and building service equipment is permitted when approved by the building official.

J. Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this chapter and the technical codes, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this chapter and the technical codes impractical and the modification is in compliance with the intent and purpose

of this chapter and the technical codes and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department. The building official is authorized to charge an additional fee to evaluate any proposed modification under the provisions of this section.

K. Alternative materials, design and methods of construction and equipment. The provisions of this chapter and the technical codes are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this chapter and the technical codes, provided that any such alternative has been approved. An alternative material, design or method of construction may be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this chapter and the technical codes, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability and safety. The building official is authorized to charge an additional fee to evaluate any proposed alternate under the provisions of this section.

L. Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in technical codes, shall consist of valid research reports from approved sources.

M. Tests. Whenever there is insufficient evidence of compliance with the provisions of this chapter and the technical codes, or evidence that a material or method does not conform to the requirements of the technical codes, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the city. Test methods shall be as specified in technical codes or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

23.05.090 Permits Required.

A. Technical codes other than the electrical code -- Required. Any person who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this chapter and the technical codes, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

B. Technical codes other than the electrical code -- Work exempt from permit. Certain work is exempt from the permit requirements of this chapter and the technical codes. Exemptions from permit requirements of this chapter and the technical codes shall not be deemed to grant authorization for any work to be done

in any manner in violation of the provisions of this chapter, the technical codes or any other laws or ordinances of the city. An exemption from the permit requirements of one technical code does not exempt work from the permit requirements of other technical codes or other laws or ordinances of the city. Permits shall not be required for the following:

1. Emergency repairs. Where equipment replacements and equipment repairs must be performed in an emergency situation posing a significant and immediate risk to life and safety, or a significant and immediate risk of loss to property, the permit application shall be submitted within the next working business day to the building official.

2. Repairs. Application or notice to the building official is not required for ordinary repairs to structures. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

3. The following work otherwise governed by Chapter 23.10:

a. One-story detached accessory structures used as tool and storage sheds, tree supported play structures, playhouse and similar uses, provided the floor area does not exceed 200 square feet (11.15 m2).

b. Fences not over 8 feet (2438 mm) high.

c. Oil derricks.

d. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.

e. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2 to 1.

f. Sidewalks, decks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route or means of egress.

g. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

h. Temporary motion picture, television and theater stage sets and scenery.

i. Prefabricated swimming pools accessory to structures regulated by the IRC or accessory to Group R-3 and Group U occupancies regulated by the IBC, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.

j. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

k. Swings, slides and other similar playground equipment.

l. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of structures regulated by the IRC or of Group R-3 and Group U occupancies regulated by the IBC.

m. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

n. Work primarily within public right of way.

o. Public utility towers and poles owned by public utilities. Note: communication towers owned by private companies are not exempt.

4. The following work otherwise governed by Chapter 23.50:

a. Portable heating, cooking, or clothes drying appliances.

b. Portable ventilation equipment.

c. Portable cooling unit.

d. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this chapter and the technical codes.

e. Replacement of any part which does not alter its approval or make it unsafe.

f. Portable evaporative cooler.

g. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

h. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected.

5. The following work otherwise governed by Chapter 23.60:

a. The stopping and/or repairing of leaks in drains, water, soil, waste or vent pipe provided, however, that should any concealed trap, drain pipe, water, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this chapter and the technical codes.

b. The clearing of stoppages.

c. Reinstallation or replacement of pre-fabricated fixtures that do not involve or require the replacement or rearrangement of valves or pipes.

C. The Electrical Code – Required. In accordance with chapter 19.28 RCW, an electrical permit is required for the following installations:

1. The installation, alteration, repair, replacement, modification or maintenance of all electrical systems, wire and electrical equipment regardless of voltage.

2. The installation and/or alteration of low voltage systems defined as:

a. NEC, Class 1 power limited circuits at 30 volts maximum.

b. NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.41(A).

c. NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.41(A).

3. Telecommunications Systems.

a. All installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets.

b. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections.

c. The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

d. In R1 and R2 occupancies as defined in the building code, permits and inspections are required for all backbone installations, all penetrations of

fire resistive walls, ceilings and floors; and installations of greater than ten outlets in common areas.

e. Definitions of telecommunications technical terms will come from Chapter 19.28 RCW, the currently adopted WAC rules, EIA/TIA standards, and the National Electrical Code.

D. The Electrical Code – Work Exempt from Permit. Certain work is exempt from the permit requirements of this chapter and the electrical code. Exemptions from permit requirements of this chapter and the electrical code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter, the technical codes or any other laws or ordinances of the city. An exemption from the permit requirements of one technical code does not exempt work from the permit requirements of other technical codes or other laws or ordinances of the city. Permits shall not be required for the following:

1. Emergency repairs. Where equipment replacements and equipment repairs must be performed in an emergency situation posing a significant and immediate risk to life and safety, or a significant and immediate risk of loss to property, the permit application shall be submitted within the next working business day to the building official.

2. An electrical permit shall not be required for the following:

a. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by the National Electrical Code.

b. Repair or replacement of fixed motors, transformers or fixed approved appliances or devices rated 50 amperes or less which are like-in-kind in the same location.

c. Temporary decorative lighting; when used for a period not to exceed 45 days and removed at the conclusion of the 45 day period.

d. Repair or replacement of current-carrying parts of any switch, conductor or control device which are like-in-kind in the same location.

e. Repair or replacement of attachment plug(s) and associated receptacle(s) rated 50 amperes or less which are like-in-kind in the same location.

f. Repair or replacement of any over current device which is like-in-kind in the same location.

g. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.

h. Removal of electrical wiring.

i. Telecommunication Systems.

i. Telecommunication outlet installations within the individual dwelling units of group R1 and R2 occupancies as defined by the building code.

ii. All telecommunications installations within R3 and R4 occupancies as defined in the building code;

iii. The installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross-connected equipment;

j. Listed wireless security systems where power is supplied by a listed Class 2 plug in transformer installed in R3 and R4 occupancies.

k. The installation, alteration or repair of electrical wiring, apparatus or equipment for the generation, transmission, distribution or metering of electrical energy or in the operation of signals for the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

E. Application for permit -- general. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required by the submittal requirements established by the city.

5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Give such other data and information as required by the building official.

F. Application for permits governed by Chapter 23.10 -- Other filings required.

1. At the time of filing a building permit application, the applicant shall submit all information required to be submitted, together with any application form and application fee therefor, for any of the following approvals which may be applicable to the proposed project:

a. Design Review, Land Use Code, Part 20.30F;

b. Administrative conditional use permit, Land Use Code, Part 20.30E;

c. Conditional use permit, shorelines conditional use permit, planned unit development, Land Use Code, Parts 20.30B, 20.30C and 20.30D;

d. Variance or shorelines variance, Land Use Code, Parts 20.30G, 20.30H and shorelines substantial development permit, Land Use Code, Part 20.25E;

e. Clearing and grading permit, Chapter 23.76 BCC.

2. No building permit application will be accepted for filing by the building official for any proposed project for which any of the approvals referred to in subsection A of this section is required unless the building permit application is accompanied by all information required to be filed for such required approvals.

3. The filing of a complete building permit application for a proposed project, which is in compliance with applicable state law and the codes, ordinances and regulations of the city in effect at the time of such filing, shall establish a vested right, if a building permit is issued, to proceed with construction of the proposed project in accordance with such then existing codes, ordinances and regulations; provided, however, such proposed project may nonetheless be conditioned or denied by the city under the State Environmental Policy Act. For the purpose of this subsection, a "complete building permit application" means an application which contains all information required to be submitted by any applicable provisions of this chapter and the technical codes, including, but not limited to, all information required to be submitted by subsection A of this section.

4. No application for design review, administrative conditional use permit, planning commission design review, planned unit development, conditional use permit, variance, shorelines variance, shorelines substantial development permit or a clearing and grading permit shall be accepted by the city for filing unless it is accompanied by a complete building permit application.

G. Applications for permits governed by Chapter 23.10; Optional method of obtaining prior approvals – vested rights.

1. Notwithstanding the provisions of subsection F above, an applicant may apply for a design review approval, an administrative conditional use permit,

planned unit development approval, a conditional use permit, a shorelines conditional use permit, a variance, a shorelines variance, a shorelines substantial development permit or a clearing and grading permit prior to filing an application for a building permit, upon the following terms and conditions:

a. The filing of an application for any of the approvals referred to in this chapter prior to the filing of a valid and complete application for a building permit shall not establish or create a vested right to proceed with construction of any proposed project in accordance with the codes, ordinances or regulations existing at the time of the filing of such application or at any time thereafter prior to the filing of a valid and complete building permit application.

b. An applicant who elects to take advantage of the provisions of this section shall be deemed to have specifically acknowledged, by submitting the application for the approvals referred to in subsection G.1 of this section, that the acceptance and processing of such application shall in no way establish or create a vested right to proceed with construction of any proposed project in accordance with the codes, ordinances or regulations existing at the time of filing of such application, or at any time thereafter prior to the filing of a valid and complete building permit application, except as provided in Land Use Code Section 20.40.500.

2. An applicant who elects to take advantage of the provisions of this section may at any time elect to file a complete building permit application, notwithstanding that the approval applied for under this section has not previously been obtained.

H. Time limitation of application.

1. Applications for which no permit is issued within one year following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law by the building official. The building official may, prior to expiration, extend the time for action by the applicant for a period not exceeding 180 days.

2. Applications may be canceled for inactivity if an applicant fails to respond to the department's written request for revisions, corrections, actions or additional information within 90 days of the date of request. The building official may extend the response period beyond 90 days if within the original 90 day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the department.

3. In addition to the extension allowed in subsection H.1 above, the building official may extend the life of an application if any of the following conditions exist:

a. Compliance with the State Environmental Policy Act is in progress; or

b. Any other city review is in progress; provided the applicant has submitted a complete response to city requests or the building official determines that unique or unusual circumstances exist that warrant additional time for such response, and the building official determines that the review is proceeding in a timely manner toward final city decision; or

c. Litigation against the city or the applicant is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such application.

In no event may the building official extend the application for a period of more than 180 days following the conclusion of the applicable condition described in this subsection H.3.a.

23.05.100 Permit Issuance

A. Issuance.

1. The application and construction documents filed by an applicant for permit shall be reviewed by the building official. Such plans may be reviewed by other departments of the city to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this chapter and the technical codes and other pertinent laws and ordinances, and that the fees specified in BCC 23.05.120 have been paid, and the applicant is the correct person to whom a permit may be issued as defined in this chapter, the building official shall issue a permit therefor to the applicant.

2. When a permit is issued when plans are required, the building official shall endorse in writing or stamp the plans and specifications "Approved." Approved construction documents shall not be changed, modified or altered without authorizations from the building official, and all work regulated by this chapter and the technical codes shall be done in accordance with the approved construction documents.

3. The building official may issue a permit for the construction of foundations or any other part of a building or structure, or building service equipment before the construction documents for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter and the technical codes. The holder of such partial permit shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire building, structure or building service will be granted.

B. To Whom Permit Issued. Permits shall be issued only to a person, firm or corporation who demonstrates to the satisfaction of the building official that he/she is properly licensed, or exempt, as required by Chapter 18.27 RCW, now or as hereafter amended, or to a person doing work at his/her own residence or place of

business or other property owned by him/her, provided further, no such person, firm or corporation shall employ any unlicensed person, firm or corporation to perform the work authorized by the permit.

C. Retention of Plans. One set of approved construction documents shall be retained by the building official for the period required by law, and one set of approved construction documents shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

D. Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or the technical codes or of any other ordinance of the city. Permits presuming to give authority to violate or cancel the provisions of this chapter, the technical codes, or other ordinances of the city, shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure which is in violation of this chapter, the technical codes, or of any other ordinances of the city.

E. Expiration of Permit.

1. Every permit issued by the building official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one year from the date of such permit, or if work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days.

2. Permits issued under which work is continuously performed and the necessary periodic inspections are made, shall be extended beyond the one-year period by the building official for a period of no more than one year. No more than two one-year extensions shall be granted.

F. Suspension or revocation.

1. The building official may revoke or suspend the permit provided for in this section whenever:

a. The permittee requests such revocation or suspension;

b. The work does not proceed in accordance with the construction documents, as approved, or is not in compliance with the requirements of this section, the technical codes or other city ordinances;

c. Entry upon the property for the purpose of investigation or inspection has been denied;

d. The permittee has made a misrepresentation of a material fact in applying for such permit;

e. The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, street, utilities in the street, or the work endangers or will endanger the public, the adjoining property, street or utilities in the street;

f. The permit has not been acted upon within the time allowed for extensions pursuant to this section;

g. The related building permit has expired without renewal, or has been revoked or canceled.

2. Upon suspension or revocation of the permit, all work thereupon shall cease, except as authorized by the building official.

G. Assurance Device for Permits. Before issuing any permit provided for in this section, the city may, in the discretion of the building official, require the applicant to execute and file with the city an assurance device pursuant to Land Use Code Section 20.40.490 in such reasonable sum and with the securities as the responsible administrative official may specify, conditioned that the applicant will pay any and all damages that may be recovered against the city by any person on account of injury to persons or property occasioned by or in any manner resulting from the issuance of the permit or by reason of any act or thing done pursuant thereto, or from the occupancy or disturbance of any street or sidewalk in the city and also to save and keep the city free from all such damages and costs as may be incurred in defending any such claim, and/or further conditioned that the applicant will pay to the city the cost of repairing any and all damage which may be done by the applicant or his agents to the streets, utilities or property of the city during or pursuant to the work covered by such permit.

H. Placement of permit. The permit or copy shall be kept on the site of the work until the completion of the project. Approved plans and manufacturer's installation instructions, as required by the technical codes, shall be available on the job site at the time of inspection.

23.05.105 Construction Documents.

A. Submittal documents.

1. General. Construction documents, special inspection and structural observation programs, and other data and information as required by the submittal requirements established by the city for each permit shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the State of Washington. Where the building official, in his/her discretion, deems necessary,

he/she may require additional construction documents for any application, which may be required to be prepared by a registered design professional.

EXCEPTION. The building official is authorized to waive the submission of construction documents and other data if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this chapter or the technical codes.

2. Electrical Engineer. Electrical plans for the following installations shall be prepared by, or under the direction of, a consulting electrical engineer registered under Chapter 18.43 RCW, and Chapters 180-29, 246B-320, and 388-97 WAC. All electrical plans must bear the engineer's stamp and signature.

a. All educational facilities, hospitals and nursing homes;

b. All services or feeders rated one thousand six hundred amperes or larger;

c. All installations identified in the National Electrical Code requiring engineering supervision;

d. As required by the building official for installations which by their nature are complex, hazardous or pose unique design problems.

B. Information on construction documents. Construction documents and other information required to be provided shall conform to standards and specifications established by the city. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this chapter, the technical codes and relevant laws, ordinances, rules and regulations, as determined by the building official.

C. Use of Consultants. Whenever review of an application requires retention by the city for professional consulting services for other than normal plan review, the applicant shall reimburse the city the cost of such professional consulting services. This fee shall be in addition to the normal plan review and permit fees. The city may require the applicant to deposit an amount with the city estimated in the discretion of the building official to be sufficient to cover anticipated costs to retaining professional consultant services and to ensure reimbursement for such costs.

D. Design professional in responsible charge. When it is required that documents be prepared by a qualified registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design

professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. Where structural observation is required by IBC Section 1709, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur (see also duties specified in IBC Section 1704).

E. Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period. Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge, or the applicant, if no design professional is required, shall list the deferred submittals on the construction documents for review by the building official. Where a design professional is required, documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and been found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the design and submittal documents have been approved by the building official. The building official is authorized to charge an additional plan review fee to evaluate the deferred submittal under.

F. Amended construction documents. Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents. The building official may authorize minor filed changes subject to the approval of the field inspector.

23.05.110 Temporary Structures and Uses.

A. Temporary permits -- technical codes other than the electrical code. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause. Additional permits may be required under the technical codes or other city codes and regulations, including the Land Use Code. All temporary installations allowed under this section shall be made in accordance with the requirements of this chapter and the technical codes; provided, that the building official may permit deviations which will not permit hazards to life or property; and further provided, that whenever such hazards are deemed by the building official to exist, the building official may at once rescind or cancel the permit

covering such installation and disconnect, or order the disconnection of all energy to such equipment.

B. Temporary permits -- electrical code. If the building official finds that the safety of life and property will not be jeopardized, permits may be issued for temporary electrical installations for use during the construction of buildings or for carnivals, conventions, festivals, fairs, the holding of religious services, temporary lighting of streets, or other approved uses. Permission to use such temporary installation shall not be granted for a greater length of time than ninety days, except that a permit for a temporary installation to be used for constructing of a building may be issued for the period of construction. Should such temporary lighting be over the street area, the proper authorization for such use of the street must first be obtained. Additional permits may be required under the technical codes or other city codes and regulations, including the Land Use Code. All temporary electrical installations allowed under this section shall be made in accordance with the requirements of this chapter and the technical codes; provided, that the building official may permit deviations which will not permit hazards to life or property; and further provided, that whenever such hazards are deemed by the building official to exist, the building official may at once rescind or cancel the permit covering such installation and disconnect, or order the disconnection of all energy to such equipment.

C. Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this chapter and the technical codes as necessary to ensure the public health, safety and general welfare.

D. Termination of approval. The building official is authorized to terminate any temporary permit issued under this section and to order the activity, use or structure authorized under the permit to be discontinued.

23.05.120 Fees.

The fee for each permit shall be as set forth in the fee ordinance, as now or hereafter amended.

23.05.130 Inspections.

A. General. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter, the technical codes, or of other ordinances of the city. Inspections presuming to give authority to violate or cancel the provisions of this chapter, the technical codes, or of other ordinances of the city shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the city shall be liable for expense entailed in the removal or replacement of any material required to

allow inspection. When the installation of an electrical system is complete, an additional and final inspection shall be made. Electrical systems and equipment regulated by the National Electrical Code shall not be connected to the energy source until authorized by the building official.

B. Preliminary inspections. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

C. Required inspections. The building official, upon notification, shall make the following inspections:

1. Footing and foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

2. Concrete slab and under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, slab insulation, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

3. Lowest floor elevation. In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in IBC Section 1612.5 or IRC Section R323 shall be submitted to the building official.

4. Exterior wall sheathing inspection. Exterior wall sheathing shall be inspected after all wall framing is complete, strapping and nailing is properly installed but prior to being covered.

5. Roof sheathing inspection. Roof sheathing shall be inspected after all roof framing is complete. No roof coverings shall be installed until inspections are made and approved.

6. IMC/UPC/GAS/NEC rough in inspection. Rough-in mechanical, gas piping, plumbing and electrical shall be inspected when the rough in work is complete and if required, under test. No connections to primary utilities shall be made until the rough in work is inspected and approved.

7. Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

8. Lath inspection and gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

EXCEPTION. Gypsum board that is not part of a fire-resistance rated assembly or a shear assembly.

9. Fire-resistant penetration inspections. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

10. Energy efficiency inspection.

a. Envelope.

i. Wall Insulation Inspection: To be made after all wall insulation and air vapor retarder sheet or film materials are in place, but before any wall covering is placed.

ii. Glazing Inspection: To be made after glazing materials are installed in the building.

iii. Exterior Roofing Insulation: To be made after the installation of the roof insulation, but before concealment.

iv. Slab/Floor Insulation: To be made after the installation of the slab/floor insulation, but before concealment.

b. Mechanical.

i. Mechanical Equipment Efficiency and Economizer: To be made after all equipment and controls required by this chapter and the technical codes are installed and prior to the concealment of such equipment or controls.

ii. Mechanical Pipe and Duct Insulation: To be made after all pipe and duct insulation is in place, but before concealment.

c. Lighting and Motors.

i. Lighting Equipment and Controls: To be made after the installation of all lighting equipment and controls required by this chapter and the technical codes, but before concealment of the lighting equipment.

ii. Motor Inspections: To be made after installation of all equipment covered by the Energy Code, but before concealment.

11. Electrical. The building official may require special inspection of equipment or wiring methods where the installation requires special training, equipment, expertise, or knowledge. Where such special inspection is required, it shall be performed by an independent third party acceptable to the building official. The special inspection person/agency shall be designated and approved prior to beginning the installation of wiring or equipment. A written report from the designated special inspection agency indicating that the installation conforms to the appropriate codes and standards shall be received by the building official prior to that installation being approved. All costs for such testing and reporting shall be the responsibility of the permit holder.

D. Re-inspection. The building official may require a structure or portions of work to be re-inspected. A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete, when corrections called for are not made, when the approved plans and permit are not on site, or when the building is not accessible.

E. Other inspections. In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this chapter, the technical codes and other laws that are enforced by the department of building safety.

F. Special inspections. In addition to the inspections specified above, the building official is authorized to make or require special inspections for any type of work related to the technical codes by an approved agency at no cost to the city.

G. Final inspection. The final inspection shall be made after all work required by the building permit is completed.

H. Inspection agencies. The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

I. Inspection requests. It shall be the duty of the permit holder or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this chapter and the technical codes.

J. Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this chapter and the technical codes. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

23.05.140 Certificate of Occupancy

A. Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this chapter, the technical codes, or of other ordinances of the city. Certificates presuming to give authority to violate or cancel the provisions of this chapter, the technical codes or other ordinances of the city shall not be valid.

B. Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this chapter, the technical codes, or other laws that are enforced by the city, and finds compliance with the terms of all applicable permits, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.

2. The address of the structure.

3. The name and address of the owner.

4. A description of that portion of the structure for which the certificate is issued.

5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this chapter and the technical codes for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

6. The name of the building official.

7. The edition of the technical code under which the permit was issued.

8. The use and occupancy, in accordance with the provisions of Chapter 3 of the International Building Code.

9. The type of construction as defined in Chapter 6 of the International Building Code.

10. The design occupant load.

11. If an automatic sprinkler system is provided, whether the sprinkler system is required.

12. Any special stipulations and conditions of the permit.

C. Temporary or phased occupancy. The building official is authorized to issue a temporary or phased certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official is authorized to require in addition to the completion of life safety building components, any or all accessibility components. The building official shall set a time period during which the temporary or phased certificate of occupancy is valid. The building official is authorized to require that a performance bond or other assurance device be posted with the city which shall be refundable upon inspection, final approval and a request in writing for the refund. It shall be the duty of the applicant to request the refund.

D. Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this chapter wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this chapter or the technical codes.

23.05.150 Service Utilities.

A. Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this chapter and the technical codes for which a permit is required, until approved by the building official.

B. Temporary connection. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

C. Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or building service equipment regulated by this chapter and the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property, or when such utility connection has been made without the required approval. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or building service equipment shall be notified in writing, as soon as practical thereafter.

23.05.160 Board of appeals.

The board of appeals created in Chapter 3.50 BCC will hear and decide appeals of interpretations of the technical codes made by the building official, as provided in Chapter 3.50 BCC; provided, however, that appeals of interpretations made by the building official in proceedings authorized under Chapter 1.18 BCC shall be heard together with the underlying action by the Hearing Examiner presiding over the proceeding.

23.05.170 Violations.

A. Unlawful acts. It shall be unlawful for any person to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this chapter or the technical codes, or cause same to be done, in conflict with or in violation of any of the provisions of this chapter or the technical codes.

B. Civil Violation. Any violation of any of the provisions of this chapter or of the technical codes constitutes a civil violation as provided for in Chapter 1.18 BCC, for which a monetary penalty may be imposed as provided therein.

C. Criminal Penalty. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any of the provisions of this chapter or the technical codes shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Chapter 10.92 BCC.

D. Separate Offense. Each day or portion thereof upon which a violation occurs constitutes a separate offense for purposes of subsections B and C of this section.

E. Destruction of Notice. It shall be unlawful for any person to remove, mutilate, destroy or conceal any notice issued and posted by the building official pursuant to the provisions of this chapter or the technical codes.

23.05.180 Stop Work Order.

A. Authority. Whenever the building official finds any work being performed in a manner contrary to the provisions of this chapter, the technical codes, or other pertinent laws or ordinances implemented through the enforcement of this chapter or the technical codes, or in a manner that violates the terms and conditions of any permit issued by the city, the building official is authorized to issue a stop work order.

B. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. If, with reasonable diligence the stop work order cannot be given to any such person, the stop work order may be posted on the site. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

C. Investigation Fee. The building official is authorized to assess a special investigation fee for the issuance of a stop work order.

D. Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

23.05.190 Unsafe Structures and Equipment.

A. Buildings or structures regulated by this chapter and the technical codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings.

B. Building service equipment regulated by such codes, which constitutes a fire, electrical or health hazard, or an unsanitary condition, or which is otherwise dangerous to human life is, for the purpose of this section, unsafe. Use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

C. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or otherwise unable to sustain the design loads which are specified in the building code are designated as unsafe building appendages.

D. Unsafe buildings, structures or appendages and building service equipment are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the dangerous buildings code or such alternative procedure as may be adopted by the city. As an alternative, the building official or other employee or official of the city as designated by the governing body may institute other appropriate action to prevent, restrain, correct or abate the violation.

23.05.200 Partial invalidity.

In the event that any part or provision of this chapter or the technical codes is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

Section 3. Chapter 23.10 of the Bellevue City Code is hereby repealed.

Section 4. A new Chapter 23.10 of the Bellevue City Code is hereby adopted as follows:

Chapter 23.10
BUILDING CODE

Sections:

23.10.010 Adoptions.
23.10.020 Amendment Adoption -- International Building Code.
23.10.035 International Building Code Section 403.9 amended – Elevators.
23.10.040 International Building Code Section 403.10 amended -- Standby Power.
23.10.045 International Building Code Section 403.15 Added -- Smoke Control.
23.10.050 International Building Code Section 405.9 amended -- Standby Power.
23.10.060 International Building Code Table 503 amended -- Allowable Height and Building Areas.
23.10.065 International Building Code Section 707.2 amended -- Shaft Enclosure Required.
23.10.070 International Building Code Section 707.14.1 amended -- Elevator Lobby.
23.10.075 International Building Code Section 1605.3.1.1 amended -- Load reduction.
23.10.080 International Building Code Section 1608.1 amended – General.
23.10.085 International Building Code Section 1704.1 amended – General.
23.10.090 International Building Code Section 1704.12 amended -- Exterior insulation and finish systems (EIFS).
23.10.095 International Building Code Table 2306.4.1 amended.
23.10.100 International Building Code Section 3304.1 amended -- Excavation and fill.
23.10.105 Amendments Adopted -- International Residential Code.
23.10.110 International Residential Code Table R301.2(1) amended -- Climatic and Geographic Design Criteria.

23.10.010 Adoptions.

The following codes, all as amended, added to or excepted in this chapter, together with all amendments and additions provided in this title of this code, are adopted and shall be applicable within the city:

A. International Building Code.

1. Code Adoption. The 2003 edition of the International Building Code published by the International Code Council, as adopted and amended by the State Building Code Council in Chapter 51-50 WAC, excluding chapter 1 "Administration", is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

2. Scope. The provisions of the *International Building Code* as adopted, amended, added to and excepted in this chapter shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and

occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

EXCEPTION. Detached one and two family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade in height with separate means of egress and their accessory structures shall comply with the International Residential Code.

B. International Residential Code

1. Code Adoption. The 2003 edition of the International Residential Code published by the International Code Council, as adopted and amended by the State Building Code Council in Chapter 51-51 WAC, excluding chapter 1 "Administration" is adopted, together with Appendix Chapter G "Swimming Pools, Spas and Hot Tubs" and shall be applicable within the city, as amended, added to and excepted in this chapter.

2. Scope. The provisions of the *International Residential Code* as adopted, amended, added to and excepted in this chapter, shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, including adult family homes, foster family care homes and family day care homes licensed by the Washington state department of social and health services.

C. Washington State Energy Code.

1. Code Adoption. Washington State Energy Code, as provided in RCW 19.27A.010(6) and as adopted and amended by the State Building Code Council in Chapter 51-11 WAC is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

2. Scope. The Washington State Energy Code sets forth minimum requirements for the design of new buildings and structures that provide facilities or shelter for residential occupancies by regulating their exterior envelopes and the selection of their HVAC, service water heating systems and equipment for efficient use and conservation of energy.

D. Ventilation and Indoor Air Quality Code.

1. Code Adoption. The Washington State Ventilation and Indoor Air Quality Code, as provided in RCW 19.27A and adopted and amended by the State Building Code Council in Chapter 51-13 WAC, is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

2. Scope. The Washington State Ventilation and Indoor Air Quality Code sets forth minimum requirements for ventilation in all occupancies, including the design of new construction.

E. Abatement of Dangerous Building Code.

The 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings Code published by the International Council of Building Officials, except for Section 205 and Chapters 5, 6, 7, 8 and 9 is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

F. Uniform Housing Code.

The 1997 edition of the Uniform Housing Code as published by the International Conference of Building Officials, except Sections 104, 201.1, 201.2, 203, 302, and Chapters 12, 13, 14, 15 and 16 is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

All codes, standards, rules and regulations adopted by this section are adopted by reference thereto as though fully set forth in this chapter. Not less than one copy of each code, standard, rule or regulation, in the form in which it was adopted, and suitably marked to indicate amendments, additions, deletions and exceptions as provided in this chapter, shall be filed in the city clerk's office and be available for use and examination by the public.

23.10.020 Amendment Adoption -- International Building Code.

The following amendments, additions and exceptions to the International Building Code are adopted and shall be applicable within the city.

23.10.035 International Building Code Section 403.9 amended -- Elevators.

International Building Code Section 403.9 is amended to read as follows:

403.9 Elevators. Elevator operation and installation shall be in accordance with Chapter 30 and WAC 51-50-3001, 3002, 3003, 3004, 3005, and 3006. Elevators on all floors shall open into elevator lobbies that are separated from the remainder of the building, including corridors and other means of egress, by walls extending from the floor to the underside of the fire-resistance-rated floor or roof above. Such walls shall not be of less than one-hour fire-resistance-rated construction as required for a fire partition in accordance with Section 708. Openings through such walls shall conform to Section 715.

EXCEPTIONS:

1. In office buildings, separations are not required from a street-floor elevator lobby provided the entire street floor is equipped with an automatic sprinkler system in accordance with Section 903.3.1.1.

2. Elevators not required to be located in a shaft in accordance with Section 707.2.

3. Elevator lobbies are not required when elevators are located within an atrium complying with the provisions of Section 404.

4. In fully sprinklered office buildings, corridors may lead through enclosed elevator lobbies if all areas of the building have access to at least one required means of egress without passing through the elevator lobby.

5. In fully sprinklered buildings where elevator and stair shafts are pressurized in accordance with Section 909, elevator lobbies need not be provided. The pressurized stair shafts shall comply with the standards for elevator shaft pressurization in WAC 51-50-0909 Section 909.6.3.

23.10.040 International Building Code Section 403.10 amended -- Standby Power

International Building Code Section 403.10 is hereby amended to read as follows:

403.10 Standby power. A standby power system complying with Section 2702 shall be provided for standby power loads specified in Section 403.10.2.

Standby power shall be provided for elevators in accordance with Section 3003.Fuel-fired emergency generator sets and associated fuel storage, including optional generator sets, located more than 75 feet above the lowest level of Fire Department vehicle access requires the approval of the Fire Code Official.

403.10.1 Special requirements for standby power systems. If the standby system is a generator set inside a building, the system shall be located in a separate room enclosed with 2-hour fire-resistance-rated fire barrier assemblies. System supervision with manual start and transfer features shall be provided at the fire command center.

403.10.2 Standby power loads. The following are classified as standby power loads:

1. Power and lighting for the fire command center required by Section 403.8;

2. Electrically powered fire pumps;

3. Ventilation and automatic fire detection equipment for smokeproof enclosures.

4. Smoke control system.

23.10.045 International Building Code Section 403.15 Added -- Smoke Control.

A new section 403.15 is hereby added to the International Building Code as follows:

403.15 Smoke control. A smoke control system meeting the requirements of Section 909 shall be provided in buildings that exceed ten stories, or contain a use requiring defend-in-place firefighting operations in which occupants of some area cannot readily evacuate that area. This includes Group I and LC Occupancies where in the judgment of the Building Official, occupants having limited capacity for self-preservation are located on floors more than 75' above the lowest level of Fire Department vehicle access. A smoke control system for a defend-in-place use may be a performance-based design to protect that use without providing smoke control throughout the entire building, but shall otherwise comply with Section 909.

EXCEPTION. Smoke control may be omitted when approved by the Building Official.

23.10.050 International Building Code Section 405.9 Amended -- Standby Power.

International Building Code Section 405.9 is hereby amended as follows:

405.9 Standby power. A standby power system complying with Section 2702 shall be provided standby power loads specified in Section 405.9.1.

Fuel-fired emergency generator sets and associated fuel storage, including optional generator sets, located more than 30 feet below the lowest level of exit discharge requires the approval of the Fire Code Official.

405.9.1 Standby power loads. The following loads are classified as standby power loads.

1. Smoke control system.
2. Ventilation and automatic fire detection equipment for smokeproof enclosures.
3. Fire pumps

Standby power shall be provided for elevators in accordance with Section 3003.

405.9.2 Pick-up time. The standby power system shall pick up its connected loads within 60 seconds of failure of the normal power supply.

23.10.060 International Building Code Table 503 amended – Allowable Height and Building Areas.

International Building Code Table 503, Allowable Height and Building Areas, is amended to read as follows:

TABLE 503 – ALLOWABLE HEIGHT AND BUILDING AREAS

Height limitations shown as stories and feet above grade plane.
Area limitations as determined by the definition of "Area, building," per floor.

TABLE 503
ALLOWABLE HEIGHT AND BUILDING AREAS

Height limitations shown as stories and feet above grade plane.
Area limitations as determined by the definition of "Area, building," per floor.

		TYPE OF CONSTRUCTION								
		TYPE I		TYPE II		TYPE III		TYPE IV	TYPE V	
		A	B	A	B	A	B	HT	A	B
GROUP	Hgt(feet) Hgt(S)	UL	160	65	55	65	55	65	50	40
A-1	S A	UL UL	5 UL	3 15,500	2 8,500	3 14,000	2 8,500	3 15,000	2 11,500	1 5,500
A-2	S A	UL UL	11 UL	3 15,500	2 9,500	3 14,000	2 9,500	3 15,000	2 11,500	1 6,000
A-3	S A	UL UL	11 UL	3 15,500	2 9,500	3 14,000	2 9,500	3 15,000	2 11,500	1 6,000
A-4	S A	UL UL	11 UL	3 15,500	2 9,500	3 14,000	2 9,500	3 15,000	2 11,500	1 6,000
A-5	S A	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL
B	S A	UL UL	11 UL	5 37,500	4 23,000	5 28,500	4 19,000	5 36,000	3[d] 18,000	2 9,000
E	S A	UL UL	5 UL	3 26,500	2 14,500	3 23,500	2 14,500	3 25,500	1 18,500	1 9,500
F-1	S A	UL UL	11 UL	4 25,000	2 15,500	3 19,000	2 12,000	4 33,500	2 14,000	1 8,500
F-2	S A	UL UL	11 UL	5 37,500	3 23,000	4 28,500	3 18,000	5 50,500	3 21,000	2 13,000
H-1	S A	1 21,000	1 16,500	1 11,000	1 7,000	1 9,500	1 7,000	1 10,500	1 7,500	NP NP
H-2	S A	UL 21,000	3 16,500	2 11,000	1 7,000	2 9,500	1 7,000	2 10,500	1 7,500	1 3,000
H-3	S A	UL UL	6 60,000	4 26,500	2 14,000	4 17,500	2 13,000	4 25,500	2 10,000	1 5,000
H-4	S A	UL UL	7 UL	5 37,500	3 17,500	5 28,500	3 17,500	5 36,000	3 18,000	2 6,500
H-5	S A	3 UL	3 UL	3 37,500	3 23,000	3 28,500	3 19,000	3 36,000	3 18,000	2 9,000
I-1	S A	UL UL	9 55,000	4 19,000	3 10,000	4 16,500	3 10,000	4 18,000	3 10,500	2 4,500
I-2	S A	UL UL	4 UL	2 15,000	1 11,000	1 12,000	NP NP	1 12.000	1 9,500	NP NP
I-3	S A	UL UL	4 UL	2 15,000	1 11,000	2 10,500	1 7,500	2 12,000	2 7,500	1 5,000
I-4	S A	UL UL	5 60,500	3 26,500	2 13,000	3 23,500	2 13,000	3 25,500	1 18,500	1 9,000
M	S A	UL UL	11 UL	4 21,500	4 12,500	4 18,500	4 12,500	4 20,500	3 14,000	1 9,000
R-1	S A	UL UL	11 UL	4 24,000	4 16,000	4 24,000	4 16,000	4 20,500	3[d] 12,000	2 7,000
R-2[a]	S A	UL UL	11 UL	4 24,000	4 16,000	4 24,000	4 16,000	4 20,500	3 12,000	2 7,000
R-3[a]	S A	UL UL	11 UL	4 UL	4 UL	4 UL	4 UL	4 UL	3 UL	3 UL
R-4	S A	UL UL	11 UL	4 24,000	4 16,000	4 24,000	4 16,000	4 20,500	3 12,000	2 7,000
S-1	S A	UL UL	11 48,000	4 26,000	3 17,500	3 26,000	3 17,500	4 25,500	3 14,000	1 9,000
S-2[b,c]	S A	UL UL	11 79,000	5 39,000	4 26,000	4 39,000	4 26,000	5 38,500	4 21,000	2 13,500
U[c]	S A	UL UL	5 35,500	4 19,000	2 8,500	3 14,000	2 8,500	4 18,000	2 9,000	1 5,500

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m2.
UL = Unlimited, NP = Not permitted.
a. As applicable in Section 101.2.
b. For open parking structures, see Section 406.3.
c. For private garages, see Section 406.1.
d. For Group B or Group R, Division 1 Occupancies, the permitted increase of one story allowed by Section 504.2 may be increased to two stories and the maximum building height may be increased by 20 feet when all of the following conditions are met:
1. An automatic fire-extinguishing system complying with Section 903.3.1.1 is installed throughout with the installation of quick response sprinkler heads in all areas where the use of these heads is allowed.
2. Vertical exit enclosures are constructed as smokeproof enclosures or pressurized stair enclosures in accordance with Section 909.20.
3. Standby power is supplied for light, emergency, and any exit enclosure pressurization systems used, as provided in Sections 403.10 and 909.20.6.2, and the adopted edition of the National Electrical Code.
4. Fire Department access shall be in accordance with the International Fire Code, 2003 Edition, and the Bellevue Fire Department Development Standards.
5. Structural Observation is provided during construction in accordance with Sections 1702 and 1709.1.

23.10.065 International Building Code Section 707.2 Amended -- Shaft Enclosure Required.

International Building Code Section 707.2, Exception 2.1 is hereby amended to read as follows:

2.1. Where the area of the floor opening between stories does not exceed twice the horizontal projected area of the escalator or stairway and the opening is protected by a draft curtain and closely spaced sprinklers in accordance with NFPA 13. In other than Group M, this application is limited to openings that do not connect more than four stories in buildings not required to have smoke control systems and two stories for buildings required to have smoke control systems.

23.10.070 International Building Code Section 707.14.1 Amended -- Elevator Lobby.

International Building Code Section 707.14.1 is hereby amended to read as follows:

707.14.1 Elevator lobby. Elevators opening into a fire-resistance-rated corridor as required by Section 1016.1 shall be provided with an elevator lobby at each floor containing such a corridor. The lobby shall separate the elevators from the corridor by fire partitions and the required opening protection. Elevator lobbies shall have at least one means of egress complying with Chapter 10 and other provisions within this code. See Section 403.9 for high-rise elevator lobby requirements.

EXCEPTIONS:

1. In office buildings, separations are not required from a street-floor elevator lobby provided the entire street floor is equipped with an automatic sprinkler system in accordance with Section 903.3.1.1.

2. Elevators not required to be located in a shaft in accordance with Section 707.2.

3. Where additional doors are provided in accordance with Section 3002.6. Such doors shall be tested in accordance with UL 1784 without an artificial bottom seal.

4. In other than Group I-3, and buildings more than four stories above the lowest level of fire department vehicle access, lobby separation is not required where the building, including the lobby and corridors leading to the lobby is protected by an automatic sprinkler system installed throughout in accordance with Section 903.3.1.1 or 903.3.1.2

23.10.075 International Building Code Section 1605.3.1.1 Amended -- Load reduction.

International Building Code Section 1605.3.1.1 is hereby amended to read as follows:

1605.3.1.1 Load Reduction. It is permitted to multiply the combined effect of two or more variable loads by 0.75 and add to the effect of dead load. The combined load used in design shall not be less than the sum of the effects of dead load and any one of the variable loads.

Increases in allowable stresses specified in the appropriate materials section of this code or referenced standard shall not be used with the load combinations of Section 1605.3.1 except that a duration of load increase shall be permitted in accordance with Chapter 23.

23.10.080 International Building Code Section 1608.1 Amended -- General.

International Building Code Section 1608.1 is hereby amended to read as follows:

1608.1 General. Design snow loads shall not be less than 25 psf, but the design roof load shall not be less than that determined by Section 1607.

23.10.085 International Building Code Section 1704.1 Amended -- General.

International Building Code Section 1704.1 is hereby amended by deleting exception 3 in its entirety.

23.10.090 International Building Code Section 1704.12 Amended -- Exterior insulation and finish systems (EIFS).

International Building Code Section 1704.12 is hereby amended to read as follows:

1704.12 Exterior insulation and finish systems (EIFS). Special inspections shall be required for all EIFS applications, to consist of inspection and certification by the

manufacturer, or another agency approved by the building official, as having been installed per the manufacturer's installation recommendations.

Exception: When requested in writing by the architect-of-record, and approved by the building official, special inspections shall not be required for EIFS applications installed over masonry or concrete walls.

23.10.095 International Building Code Table 2306.4.1 Amended.

International Building Code Table 2306.4.1 footnote (i) is hereby amended to read as follows:

i. In Seismic Design Category D, E or F, where shear design values exceed 490 pounds per lineal foot (LRFD) or 350 pounds per lineal foot (ASD) all framing members receiving edge nailing from abutting panels shall not be less than a single 3-inch nominal member or thicker, or two 2-inch nominal members fastened together in accordance with Section 2307.1 (LRFD) or Section 2306.1 (ASD) to transfer the design shear value between the framing members. Plywood joint and sill plate nailing shall be staggered in all cases. See Section 2305.3.10 for sill plate side and anchorage requirements.

23.10.100 International Building Code Section 3304.1 Amended -- Excavation and Fill.

International Building Code Section 3304.1 is hereby amended to include the following new subsections:

3304.1.5. Excavation and Shoring Near Improved Public Places. No person, firm or corporation shall excavate and/or install shoring in excess of four feet, measured vertically, on private property within any area between the vertical prolongation of the margin of an improved public place and a 100 percent slope line (45 from a horizontal line) from the existing elevation of the margin of the traveled surface of an improved public place to the proposed elevation of the private property (See plate No. 1) without first obtaining a permit from the building official to do so, and no work shall commence toward such excavation and shoring until a permit therefor has been issued by the building official. Improved public place means any street, alley, easement for water, sewer or storm drainage, or similar parcel of land which is deeded, dedicated or otherwise permanently made available to the City or public for city or public use.

The permit required hereunder is in addition to any permits required under Chapter 23.76 BCC. No person, firm or corporation shall leave any excavation for which a permit is required within four feet of any public place, or in such other place as the building official determines to be hazardous, without providing adequate barricades and warning devices to protect the public, or shall fail to maintain the lateral support of any public place.

3304.1.6. Assignment of Savings on Applications for Permits. If the building official determines that there is a possibility of injury, damage or expense to the City arising from an applicant's work or proposed use of any public place, the applicant shall execute and file an assignment of savings. The amount of the assignment of savings shall be determined by the building official at the time of approving the application based on the estimated amount and extent of the potential injury, damage, or expense to the City. The applicant shall file the same with the building official before receiving a permit. The City may use such assignment of savings to pay for any injury, damage or expense the City may sustain in conjunction with the permitted work. The balance of the assignment of savings, if any after such deductions, shall be returned to the applicant. If the assignment of savings is insufficient, the applicants will be liable for the deficiency. Upon notice to the applicant, the building official may at any time increase or reduce the amount required deposit or waive same as conditions warrant.

3304.1.7 Expiration. Every permit issued by the building official under the provisions of BCC 23.10.118 shall be subject to all provisions of BCC 23.05.160.

3304.1.8 Fees. The fee for each permit shall be as set forth in the fee ordinance, as now or hereafter amended.

3304.1.9 Compliance. All solder piles and other materials used for shoring purposes shall be removed from public places and adjacent property as part of and prior to completion of the construction project in accordance with the plans approved by the building official or as modified with his approval, unless the permit provides otherwise.

23.10.105 Amendments Adopted -- International Residential Code

The following amendments, additions and exceptions to the International Building Code are adopted and shall be applicable within the city.

23.10.110 International Residential Code Table R301.2(1) Amended -- Climatic and Geographic Design Criteria.

International Residential Code Table R301.2(1) is hereby amended to read as follows:

Climatic and Geographic Design Criteria
IRC Table R301.2(1)

Roof and Ground Snow Load	Wind Speed[e] (mph)	Seismic Design Category[g]	Subject to damage from				Winter Design Temp[f] (degrees)	Ice Shield Under-layment Required[i]	Flood Hazards[h]	Air Freezing Index[j] (degrees)	Mean Annual Temp[k] (degrees)
			Weathering[a]	Front Line Depth[b]	Termite[c]	Decay[d]					
25	85	D2	Moderate	12"	Slight to Moderate	Slight to Moderate	22	No	March 12, 1974 entry into National Flood Insurance Program. Current maps dated November 9, 1999	170	51

For SI: 1 pound per square foot = 0.0479 kN/m², 1 mile = 1.609km/h.

a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.

b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

c. The jurisdiction shall fill in this part of the table with "very heavy," "moderate to heavy," "slight to moderate," or "none to slight" in accordance with Figure R301.2(6) depending on whether there has been a history of local damage.

d. The jurisdiction shall fill in this part of the table with "moderate to severe," "slight to moderate," or "none to slight" in accordance with Figure R301.2(7) depending on whether there has been a history of local damage.

e. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure category shall be determined on site-specific basis in accordance with Section R301.2.1.4.

f. The outdoor design dry-bulb temperature shall be selected from the columns of 97½-perecent values for winter from Appendix D of the *International Plumbing Code.* Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.

g. The jurisdiction shall fill in this part of the table with the Seismic Design Category determined from Section R301.2.2.1.

h. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the currently effective FIRM and FBFM, or other flood hazard map adopted by the community, as may be amended.

i. In accordance with Sections R905.2.7.1, R905.4.3, R905.5.3, R905.6.3, R905.73.3 and R905.8.3, for areas where the average daily temperature in January is 25°F (-4°C) or less, or where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."

j. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Date

Center data table "Air Freezing Index-USA Method (Base 32° Fahrenheit)" at www.ncdc.noaa.gov/fpsf.html.

k. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32° Fahrenheit)" at www.ncdc.noaa.gov/fpsf.html.

Section 5. Chapter 20.50 of the Bellevue City Code is hereby repealed.

Section 6. A new Chapter 20.50 of the Bellevue City Code is hereby adopted as follows:

Chapter 23.50
MECHANICAL CODE

Sections:

23.50.010 Adoptions.
23.50.020 Other authorities.

23.50.010 Adoptions.

The following codes, all as amended, added to or excepted in this chapter, together with all amendments and additions provided in this title of this code, are adopted and shall be applicable within the city:

A. International Mechanical Code.

1. Code Adoption. The 2003 edition of the International Mechanical Code published by the International Code Council, as adopted and amended by the State Building Code Council in Chapter 51-52 WAC, excluding chapter 1 "Administration" is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

2. Scope. This code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the *International Fuel Gas Code*.

EXCEPTIONS:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

2. The standards for liquefied petroleum gas installations shall be the 2001 Edition of NFPA 58 (Liquefied Petroleum Gas Code) and the 2002 Edition of ANSI Z223.1/NFPA 54 (National Fuel Gas Code).

B. National Fuel Gas Code (NFPA 54). The 2002 Edition of the National Fuel Gas Code published by the National Fire Protection Association, as amended by the State Building Code Council in Chapter 51-52 WAC, is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

C. Liquefied Petroleum Gas Code (NFPA 58). The 2001 Edition of the Liquefied Petroleum Gas Code published by the National Fire Protection Association, as amended by the State Building Code Council in Chapter 51-52 WAC, is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

D. International Fuel Gas Code. The 2003 edition of the International Fuel Gas Code published by the International Code Council, as amended by the State Building Code Council in Chapter 51-52 WAC, excluding chapter 1 "Administration", together with Appendix Chapter A "Sizing and Capacities of Gas Piping", is adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

23.50.020 Other authorities.

In addition to the International Mechanical Code, provisions of chapter 480-93 WAC regarding gas pipeline safety may also apply to single meter installations serving more than one building. The provisions of chapter 480-93 WAC are enforced by the Washington utilities and transportation commission.

Section 7. Chapter 23.60 of the Bellevue City Code is hereby repealed.

Section 8. A new Chapter 23.60 of the Bellevue City Code is hereby adopted as follows:

Chapter 23.60
PLUMBING CODE

Sections:

23.60.010 Uniform Plumbing Code.
23.60.020 Scope.

23.60.010 Uniform Plumbing Code.

The 2003 edition of the Uniform Plumbing Code published by the International Code Council, as adopted and amended by the State Building Code Council in Chapter 51-56 and 51-57 WAC, excluding chapter 1 "Administration" is adopted, together with Appendix Chapters H "Grease Interceptors", and L "Alternate Plumbing Systems" excluding sections L5 through L7 and "Lawn Sprinkler Head" from table 6-

4 of Appendix L; and shall be applicable within the city, as amended, added to and excepted in this chapter.

23.60.020 Scope.

The provisions of the *2003 Uniform Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. Where there is a conflict between the Uniform Plumbing Code and the City of Bellevue Utilities Codes Title 24 or Utilities Engineering Standards related to water, sewer or storm drain improvements located more than 24" outside a building, the City of Bellevue Utilities Codes and Standards shall prevail.

Section 9. Section 23.16.010 of the Bellevue City Code is hereby amended to read as follows:

23.16.010 Fences required - Specifications.

The following requirements shall apply to all outdoor swimming pools, spas and hot tubs heretofore or hereafter constructed or presently under construction within the city. Each such pool, spa, or hot tub shall be enclosed with a pool or yard fence, not less than four feet high, of strength and design sufficient to resist the penetration of children, designed as a guardrail per the edition of the International Building Code or the International Residential Code adopted pursuant to Chapter 23.10 BCC, whichever shall apply to the primary use and structure with which the pool, spa, or hot tub is associated. A residence on the premises may be part of either of said fences. Any doors or gates in said fences, other than residential doors, shall be of the self-closing and self-latching type, with the opening device operable from the inside or located at least 54 inches from highest grade at the gate.

Exceptions:

A. Where access to the pool is subject to regulations for barrier-free facilities, provision for access to the pool shall be designed to comply with the barrier-free regulations.

B. Upon approval of the building official, a fence and gate may be replaced with a locking cover to assure supervised use of the spa or hot tub. Any outdoor swimming pool, spa or hot tub which was constructed prior to adoption of the International Building Code or the International Residential Code under Chapter 23.10 BCCunder this chapter need not comply with the terms of this section if such swimming pool, hot tub or spa is enclosed with pool or yard fence which complies with the city code provision regarding enclosures which was in effect at the time the enclosure was constructed.

Section 10. Section 23.76.035 of the Bellevue City Code is amended to read as follows:

23.76.035 Expiration of permits and applications.

A. An application for a clearing and grading permit for which no permit is issued within one year following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law. The director may, prior to expiration, extend the time for action by the applicant for a period not exceeding 180 days.

B. An application for a clearing and grading permit may be cancelled for inactivity if an applicant fails, without reasonable justification, to respond to the department's written request for revisions or corrections within 90 days. The director may extend the response period beyond 90 days if the applicant provides and adheres to a reasonable schedule for submitting the full revisions.

C. In addition to the extension allowed in subsection A above, the director may extend the life of an application if any of the following conditions exist:

1. Compliance with the State Environmental Policy Act is in progress; or

2. Any other city review is in progress; provided the applicant has submitted a complete response to city requests or the director determines that unique or unusual circumstances exist that warrant additional time for such response, and the director determines that the review is proceeding in a timely manner toward final city decision; or

3. Litigation against the city or the applicant is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such application.

In no event may the director extend the application for a period of more than 180 days following the conclusion of the applicable condition described in this subsection E.3.a.

D. Clearing and grading permits expire as follows:

1. If a building permit is issued for the same site, the clearing and grading permit shall automatically expire or be extended when the building permit expires or is extended.

2. If a building permit is not issued for the same site, the clearing and grading permit shall expire as follows:

a. The permit shall expire if the authorized work is not begun within one year from the date of permit issuance, or if work is abandoned for over 180 days.

b. If the authorized work is continually performed, the permit shall expire one year from the date of issuance unless a different time frame is specified on the permit or an extension is granted. Two one-year extensions may be granted by the director provided that conditions which were relevant to issuance of the permit have not changed substantially and no material detriment to the public welfare will result from the extension.

Section 11. This ordinance shall take effect and be in force five (5) days after its adoption and legal publication.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan, Assistant City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____

Item No. 11(c)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance No. 5529, adopting the new model fire code named in the State Building Code Act with local amendments.

FISCAL IMPACT

The adoption of the new model fire code named in the State Building Code Act replaces codes currently administered by the Fire Department. There are no additional requirements or programs imposed by this code change requiring additional staff or budget resources.

Over the past twelve months, staff has dedicated a significant amount of time to training and updating public information in preparation for the transition to new building, fire, and electrical codes. Additionally, the Department has expended approximately $7,500 from its 2003/2004 budget for purchase of new codebooks and related reference documents. Sufficient funding is included in the departments 2003/2004 budget to cover these costs.

STAFF CONTACT

Steve Nuttall, Fire Marshal 425-452-6874
Peter R. Lucarelli, Fire chief 425-452-6895

POLICY CONSIDERATION

The state legislature recently revised the State Building Code Act (RCW 19.27), and requires cities and counties to begin administering the International Building Codes, including the International Fire Code on July 1, 2004. Local jurisdictions may amend State code provisions as long as they do not result in a code less stringent than the state's adoption. The attached ordinance adopts the State Fire Code with certain local amendments that fall within those parameters. Included within this ordinance is a continuation of the existing rule requiring sprinklers in newly constructed commercial structures exceeding 10,000 square feet. There are no provisions for requiring sprinklers for single-family residential properties based upon square footage.

BACKGROUND

During the Washington State Legislative Session in 2003, the Legislature voted to make broad changes to the State Building Code by adopting the 2003 editions of the International Building and Fire Codes (with some exceptions) to replace the 1997 editions of the Uniform Codes. The new state code, based on the International Codes with some statewide amendments, becomes effective on July 1, 2004. Bellevue is required to adopt the model construction and fire codes named in the State Building Code, although local amendments that provide at least as much protection as the state provisions, and to provide for local administration, are allowed. Staff is proposing a limited number of amendments to

address local concerns. These local amendments were developed in conjunction with several eastside jurisdictions, as described in more detail below.

This year for the first time, fire officials representing the nine cities participating in the Zone 1 Fire Marshal Group (Bellevue, Bothell, Issaquah, Kirkland, Mercer Island, Redmond, Sammamish, Shoreline, and Woodinville) created a common approach for the adoption the new fire code. Numerous meetings were held over the past year to resolve philosophical differences, identify effective life-safety strategies, and create efficiencies by developing common code adoption language. For example, participants systematically reviewed all existing code amendments, compared those against the new code, and discarded those that were no longer necessary. Similarly, where differences between jurisdictions existed, common positions were identified and consensus achieved. This effort was very successful and will result in greater clarity and a more logical and regional approach to code enforcement. Additionally, it will answer many of the concerns voiced in the past regarding lack of consistency between various jurisdictions. The regional effort resulted in a recommendation to consider establishing a consistent automatic fire sprinkler threshold for newly constructed buildings at 5,000 square feet for both commercial and residential properties. For Bellevue, this would mean a reduction from the existing 10,000 square feet for commercial buildings and the establishment of a new requirement for residential buildings. To date, several jurisdictions have adopted this amendment while others continue to study the issue. We have attached a memorandum answering questions raised at the June 7 study session.
It has been our collective goal to minimize the number of amendments and to have them as consistent as possible. While there will undoubtedly be a few bumps along the way, a tremendous amount of effort has been exerted to ensure that we are ready for this transition.

EFFECTIVE DATE

If approved, this ordinance becomes effective on June 30, 2004.

OPTIONS

1. Adopt Ordinance No. 5529.

2. Reject Ordinance No. 5529 and provide alternative direction to staff.

RECOMMENDATION

Adopt Ordinance No. 5529

MOTION

Move to adopt Ordinance No. 5529 to incorporate the codes named in the State Building Code, with State and local amendments, into the Bellevue City Code.

ATTACHMENTS

Proposed Ordinance No. 5529

City of Bellevue
Post Office Box 90012 • Bellevue, Washington • 98009 9012

June 16, 2004

TO: Connie Marshall, Mayor
Bellevue City Council Members

FROM: Steve Nuttall, Fire Marshal

SUBJ: Response to Council Questions – Residential Sprinklers

Several questions were raised during the June 7, 2004 Council meeting regarding residential sprinklers. Please note the following information:

What is the current status of our regional partners regarding moving the sprinkler threshold to 5,000 square feet?

A number of jurisdictions have reviewed and approved the 5,000 square foot threshold while several others have deferred for future study or consideration. There has been a variety of solutions, ranging from Redmond, which adopted lower thresholds for commercial properties and is studying further lowering residential below 5,000 square feet to others that have simply adopted the 5,000 square foot requirement. The matrix below is the status of our regional partners and others recently identified. A comprehensive list showing thresholds for fire sprinkler installations for all cities, counties, and fire districts in the state has not been compiled so it is difficult to make a comparison outside our region. The status shown in the matrix is based upon information received from staff at each identified jurisdiction.

Jurisdiction	Current Status – June 16, 2004
Bothell	Deferred pending further study later in the year.
Issaquah	Passed 5,000
Kirkland	Scheduled for consideration in July.
Mercer Island	Passed 5,000 square feet
North Bend	Recommended "Pass" for 5,000 square feet to full council by Council Public Safety Committee
Redmond	Council directed staff to create multi-jurisdictional "ad-hoc" committee to determine whether consideration should be given to reducing threshold below 5,000 square feet. Council passed commercial threshold of 3,000 square feet.
Sammamish	Passed 5,000 square feet
Shoreline	Passed 5,000 square feet (first reading)
Woodinville	Passed 5,000 square feet
Maple Valley	Passed 5,000 commercial and maintained existing 10,000 residential based upon sprinklers required for residential greater than 3,600 due to lack of fire flow. **Note**: Not part of regional group but identified recently by Master Builders in communication to Council
King County	King County Fire Marshal directed by executive staff to initiate 18- month study to determine appropriateness of 5,000 sprinkler threshold.

One comment suggested that the majority of cities in Washington were not currently considering changes to fire sprinkler requirements. Although it is difficult to get an accurate assessment of every jurisdiction throughout the state, it is clear that the regional effort on the eastside although laudable, is not the way most agencies approach the code adoption process. Most agencies operate independently for purposes of local code adoption and are not required to consider either existing or newly proposed sprinkler requirements. The regional effort was designed to create consistency and the threshold developed was the most logical based upon current practice and identified fire resource deployment. This concept, combined with several report recommendations suggesting the regions fire protection delivery system will be subject to extensive resource needs for structures larger than 5,000 square feet and the life and property safety benefits were the primary drivers for the proposal.

What is the rationale for 5,000 square feet?

The 5,000 square foot threshold was a consensus number arrived at by the regional partners based upon existing requirements currently used around the region and several independent studies. In essence, it is assumed that structure fires in buildings greater than 5,000 square feet will require widespread use of resources beyond first alarm capability and will require resources from outside the community. We also anticipated the amount of personnel and equipment needed to control a fire in a structure greater than 5,000 square feet will reduce the regions capacity to respond to other emergencies for significant periods. The basis for this argument has its technical foundation in national studies that demonstrate the amount of personnel needed to flow the necessary water (based upon volume), achieve rescue, and conduct general firefighting operations in a structure of this size.

Fire sprinkler proponents would offer that sprinklers offer opportunities for more effective use of fire and emergency service resources. Sprinkler systems do not necessarily reduce the number of calls for firefighters, but they do reduce the severity of the fire, thereby reducing the danger to firefighters and the complexity of response. This allows fire response resources to be more readily available for other calls for assistance. For example, we can anticipate that one unit will generally handle a report of a fire in a sprinklered structure within a relatively short period. Conversely, a working fire in an un-sprinklered structure will likely result in many firefighters performing in very risky situations, the need to request mutual aid from neighboring communities, a long "out-of-service" time for responding fire companies and an associated investigation and follow-up that will likely include hundreds of hours in dedicated staff time.

What is the relationship between smoke detectors and fire sprinklers?

Sprinklers are generally considered to offer a package of protection that is far broader than what can be achieved by other interventions, i.e., smoke detection. With residential sprinklers, homeowners are protecting not only lives, but also the property,

the furnishings, and all the intangibles of residential security and peace of mind. Working smoke detectors are effective tools for alerting the occupants to a potential fire, but are unable to react in a way to extinguish a fire before it becomes large. Since January 1 of this year, the Bellevue Fire Department has responded to 21 residential structure fires with an estimated loss of $1.9 million dollars[1]. Working smoke detectors alerted the occupants in 6 cases, or 26% of the time.

What are the estimated costs for sprinklers?

The industry expectation is that the costs of a residential fire sprinkler system in newly constructed housing will generally fluctuate between $1 - $2 per square foot. Recent analysis of an actual installation cost for sprinklers in a Bellevue home resulted in a $1.80 per square foot charge. System prices can fluctuate depending upon the design desires of the homeowner, specialty components such as copper pipe, and the complexity of the building architecture. A recent review of 19 newly constructed homes in Bellevue greater than 5,000 square foot indicated the lowest asking price of approximately $900,000.00. Using $1.80 as an estimated installation price, we can assume the sprinkler system cost to equate to 1% or less of the purchase price of these homes.

Bellevue has historically made great efforts to support the installation of automatic sprinklers by providing incentives in the form of fire code alternatives and by developing various innovations such as merging the domestic and fire sprinkler system water from a combined meter. This saves both meter costs and any ongoing costs associated with meter upgrades. In addition, a 2001 joint task force of city departments reviewed possible sprinkler incentives and introduced several additional cost saving opportunities.

It should be noted that newly constructed multifamily housing, for example downtown residential buildings, are not affected by the 5,000 square foot rule as this type of structure is required to include fire sprinklers based upon both existing and proposed model building and fire codes.

I hope that these comments have answered the questions and issues identified during the June 7 meeting. Please feel free to contact me should I be of further assistance in this matter.

Steve Nuttall

Steve Nuttall
Fire Marshal

cc: Peter R. Lucarelli, Fire Chief

[1] A single January incident at a large home resulted in an estimated fire loss of $1.5 million.

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5529

AN ORDINANCE repealing Sections 23.11.010, 23.11.020, 23.11.103, 23.11.104, 23.11.1095, 23.11.120, 23.11.141 and 23.11.781 of the Bellevue City Code; adopting a new Chapter 23.11.46 relating to the fire code; adopting and amending the international fire code and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Sections 23.11.010, 23.11.020, 23.11.103, 23.11.104, 23.11.1095, 23.11.120, 23.11.141 and 23.11.781 of the Bellevue City Code are hereby repealed.

Section 2. Chapter 23.11 of the Bellevue City Code is hereby amended as follows:

Chapter 23.11
FIRE CODE

23.11.010 Adoptions.

The International Fire Code, 2003 Edition and Appendix B and C all published by the International Code Council, as amended, added to or excepted in this chapter is adopted by reference thereto as though fully set forth herein. Not less than one copy of such code, appendix and standards, in the form in which it was adopted and suitably marked to indicate amendments, additions, deletions and exceptions as provided herein, shall be filed in the City Clerk's office and shall be available for use and examination by the public.

23.11.020 Repealed sections.

Sections 23.11.010, 23.11.020, 23.11.103, 23.11.104, 23.11.1095, 23.11.120, 23.11.141 and 23.11.781 of the Bellevue City Code are hereby repealed.

23.11.030 Amendment adoption – International Fire Code.

The following amendments, additions, deletions and exceptions to the International Fire Code, 2003 Edition are adopted and shall be applicable within the city.

23.11.040 Amendment adoption – International Fire Code.

Section 105.1.1 of the International Fire Code as adopted by this chapter is amended to read as follows:

105.1.1 Permit Fees. A fee of fifty dollars ($50.00) shall be charged annually for each type of operational permit (as defined in International Fire Code Section 105.6).

23.11.101 International Fire Code Section 503.4 amended – Obstruction and control of fire apparatus access.

Section 503.4 of the International Fire Code as adopted by this chapter is amended to read as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times.

503.4.1 Entrances to roads, trails or other access ways which have been closed with gates and barriers in accordance with Section 503.4.8 shall not be obstructed by parked vehicles.

503.4.2 Towing Notification. At each entrance to property where fire lanes have been designated, signs shall be posted in a clearly conspicuous location and shall clearly state that vehicles parked in fire lanes may be impounded, and the name, telephone number, and address of the towing firm where the vehicle may be redeemed.

503.4.3 Property Owner Responsible. The owner, manager or person in charge of any property upon which designated fire lanes have been established shall prevent the parking of vehicles or placement of other obstructions in such fire lanes.

503.4.4 Violation – Civil Infraction. Any person who fails to mark or maintain the marking of a designated fire lane as prescribed in this chapter or who parks a vehicle in, allows the parking of a vehicle in, obstructs or allows the obstruction of a designated fire lane commits a civil infraction to which the provisions of R.C.W. 7.80 shall apply. The penalty for parking a vehicle in, allowing the parking of a vehicle in, obstructing or allowing the obstruction of a designated fire lane shall be fifty dollars ($50.00).

503.4.5 Impoundment. Any vehicle or object obstructing a designated fire lane, whether on public or private property, is hereby declared a hazard and may be abated without prior notification to its owner by impoundment pursuant to the applicable state law.

503.4.6 The fire chief, or his authorized designee, is authorized to take such lawful action, including impoundment or the writing and issuance of citations for civil infractions, as may be required to enforce the provisions of this section.

503.4.7 It is hereby declared a violation of this section to stop, park a vehicle or otherwise obstruct any fire station facility housing emergency response apparatus.

503.4.8 Closure of access ways. The chief is authorized to require the installation and maintenance of gates or other approved barricades across roads, trails or other access ways, not including public streets, alleys or highways.

23.11.102 International Fire Code Amended

The International Fire Code is hereby amended to delete the reference to Section 1003.2.2 of the Uniform Fire Code and to include the following new section:

511.1 Building Radio Coverage. Except as otherwise provided no person shall maintain, own, erect, or construct, any building or structure or any part thereof, or cause the same to be done which fails to support adequate radio coverage for City emergency services workers, including but not limited to firefighters and police officers.

Exceptions:

1. This section shall not apply to single family residential buildings; any building constructed of wood frame; any building thirty-five (35) feet high or less; as long as none of the aforementioned buildings make primary use of metal or concrete construction or contain below grade storage or parking areas. For purposes of this section, parking structures are included in the definition of building, and stair shafts are included in the definition of all parts of a building, but elevators may be excluded.

2. Buildings constructed prior to the implementation of this section shall not be required to comply with public safety radio coverage provisions of this section. However, should exempted structures undergo renovation, restoration, or significant modification to the original structure, exemption from the provisions of this Ordinance shall not apply.

511.1.1 Adequate Radio Coverage. A minimum signal strength of three (3) micro volts available in all areas of the building when transmitted from the Regional 800 MHz. Radio System. For purposes of this section 90% building coverage is considered to be all areas of the building.

511.1.2 Minimum Signal Strength. A minimum signal strength of one-half (.5) micro volts received by the Regional 800 MHz. Radio System when transmitted from any area of the building.

511.1.3 Frequency Range. The frequency range which must be supported shall be 806 MHz to 824 MHz and 851 MHz. to 869 MHz. in all areas of the building. Measurements in-buildings for the purpose of this ordinance shall be to a portable radio with a half-wave antenna, worn on the belt. The City's Radio System Manager may designate alternate methods of measuring the signal level, which satisfy appropriate levels of public safety grade coverage.

511.1.4 Annual Testing and Proof of Compliance. Each owner shall submit at least one field test, or as determined by the Fire Code Official, whenever structural changes occur to the building that would materially change the original field performance tests by a consultant approved by the Fire Code Official. The performance test shall include at minimum a floor plan and the signal strength in various locations of the building.

511.2.2 Annual Test. Each owner shall submit on an annual basis to the Fire Code Official required test data demonstrating that adequate radio coverage level is available and maintained in all required areas of the building, or that the installed amplification system functions properly. The annual submittal shall insure that no structural changes have occurred to the building that would materially change the original field tests.

511.3 Amplification Systems Allowed. Buildings and structures which cannot support the required level of radio coverage shall be equipped with a radiating cable system and/or an internal multiple antenna system with FCC type accepted bi-directional 800 MHz amplifiers, or systems otherwise approved by the City Radio System Manager in order to achieve the required adequate radio coverage. The installed system or systems shall be capable of operating on an independent battery system for a period of at least twelve (12) hours without external power input. The battery system shall automatically charge in the presence of external power input.

511.3.1 Approval Prior to Installation. No amplification system capable of operating on frequencies used by the Regional 800 MHz. Radio System shall be installed without prior coordination and approval of the radio system licensee (The Eastside Public Safety Communications Agency) and any such system must comply any standards adopted by the King County Regional Communications Board.

511.4 Field Testing. Police and Fire Personnel shall at any time have the right to enter onto the property to conduct its own field-testing to be certain that the required level of radio coverage is present.

2.11.102.3 International Fire Code Section 102.3 amended -- Change of Use or Occupancy

Section 102.3 of the International Fire Code as adopted by this chapter is amended to read as follows:

102.3 Change of use or occupancy. The provisions of the *International Building Code* shall apply to all buildings undergoing a change of occupancy.

2.11.102.4 International Fire Code Section 102.4 amended -- Application of Building Code.

Section 102.4 of the International Fire Code as adopted by this chapter is amended to read as follows:

102.4 Application of building code. The design and construction of new structures shall comply with the *International Building Code.* Repairs, alterations and additions to existing structures shall comply with the *International Building Code*.

2.11.102.5 International Fire Code section 102.5 amended – Historic Buildings.

Section 102.5 of the International Fire Code as adopted by this chapter is amended to read as follows:

102.5 Historic buildings. The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings when such buildings or structures do not constitute a distinct hazard to life or property shall be in accordance with the provisions of the *International Building Code.*

2.11.102.6 International Fire Code Section 102.6 amended – Referenced codes and standards.

Section 102.6 of the International Fire Code as adopted by this chapter is amended to read as follows:

102.6 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 45. Such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference as determined or modified by the fire code official.

2.11.104.10 International Fire Code Section 104.10.1 amended – Assistance from other agencies.

Section 104.10.1 of the International Fire Code as adopted by this chapter is amended to read as follows:

104.10.1 Assistance from other agencies. Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires or the enforcement of this code as requested by the fire code official.

2.11.104.10 International Fire Code Section 104.11.2 amended – Obstructing Operations.

104.11.2 Obstructing operations. No person shall obstruct the operations of the fire department in connection with extinguishment, investigation, or control of any fire, or actions relative to other emergencies, or disobey any lawful command of the fire chief or officer of the fire department in charge of the emergency, or any part thereof, or any lawful order of a police officer assisting the fire department.

2.11.308.3.1.1 International Fire Code Section 308.3.1.1 amended -- Liquefied-petroleum-gas-fueled cooking devices.

Section 308.3.1.1 of the International Fire Code as adopted by this chapter is amended to read as follows:

308.3.1.1 Liquefied-petroleum-gas-fueled cooking devices. LP-gas burners having an LP-gas container with a water capacity greater than 2.5 pounds [nominal 1 pound LP-gas capacity] shall not be located on combustible balconies or within 10 feet of combustible construction.

Exception: One- and two-family dwellings.

308.3.1.2 Flaming Food and Beverages Preparation:

308.3.1.2.1 General. The preparation of flaming foods or beverages in places of assembly and drinking or dining establishments shall be in accordance with Section 308.3.1.2.

308.3.1.2.2 Dispensing. Flammable or combustible liquids used in the preparation of flaming foods or beverages shall be dispensed from one of the following:

1. A 1-ounce container or a container not exceeding 1 quart capacity with controlled-pouring device that will limit the flow to a 1-ounce serving.

308.3.1.2.3. Containers not in use. Containers shall be secured to prevent spillage when not in use.

308.3.1.2.4. Serving of flaming food. The serving of flaming foods or beverages shall be done in a safe manner and shall not create high flames. The pouring, ladling or spooning of liquids is restricted to a maximum height of 8 inches above the receiving receptacle.

308.3.1.2.5. Location. Flaming foods or beverages shall be prepared only in the immediate vicinity of the table being served. They shall not be transported or carried while burning.

308.3.1.2.6 Fire protection. The person preparing the flaming foods or beverages shall have a wet cloth immediately available for use in smothering the flames in the event of an emergency.

2.11.308.3.7 International Fire Code Section 308.3.7 amended – Group A occupancies.

Section 308.3.7 of the International Fire Code as adopted by this chapter is amended to read as follows:

308.3.7 Group A occupancies. Open-flame devices shall not be used in a Group A occupancy.

Exceptions:

1. Open-flame devices are allowed to be used in the following situations, provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants:

1.1. Where necessary for ceremonial or religious purposes in accordance with Section 308.3.5.

1.2. On stages and platforms as a necessary part of a performance in accordance with Section 308.3.6.

1.3. Where candles on tables are securely supported on substantial noncombustible bases and the candle flames are protected.

2. Heat-producing equipment complying with Chapter 6 and the *International Mechanical Code*.

3. Gas lights are allowed to be used provided adequate precautions satisfactory to the fire code official are taken to prevent ignition of combustible materials.

4. Except where approved by the Fire Code Official (see also 308.3.1.2)

2.11.314.4 International Fire Code Section 314.4 amended – Vehicles.

314.4 Vehicles. Liquid- or gas-fueled vehicles, fueled equipment, boats or other motorcraft shall not be located indoors except as follows:

1. Batteries are disconnected.

2. Fuel in fuel tanks does not exceed one-quarter tank or 5 gallons (whichever is less).

3. Fuel tanks and fill openings are closed and sealed to prevent tampering.

4. Vehicles, boats or other motorcraft equipment are not fueled or defueled within the building.

2.11.508.5 International Fire Code Section 508.5 amended – Fire Hydrant Systems.

Section 508 of the International Fire Code as adopted by this chapter is amended to read as follows:

508.5 Fire hydrant systems. Fire hydrant systems shall comply with Sections 508.5.1 through 508.5.6.

508.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 150 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirement shall be 300 feet.

2. For Group R-3 and U occupancies equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet.

2.11.602 International Fire Code amended – Definitions.

Section 602 of the International Fire Code is hereby amended to include the following definition:

602 Definitions: Power Tap. A listed device for indoor use consisting of an attachment plug on one end of a flexible cord and two or more receptacles on the opposite end, and has overcurrent protection.

2.11.603 International Fire Code Section 603 amended.

Section 603.1.7 of the International Fire Code as adopted by this chapter is hereby amended as follows:

All references to the ICC Electrical Code are hereby replaced with: the electrical code as adopted by the City.

2.11.604 International Fire Code Sections 604.1 and 604.2.15.2 amended.:

Sections 604.1 and 604.2.15.2 of the International Fire Code as adopted by this chapter are hereby amended as follows:

All references to the ICC Electrical Code are hereby replaced with: the electrical code as adopted by the City.

2.11.605 International Fire Code Sections 605.1, 605.3, 605.4 and 605.9 amended.

Sections 605.1.605.3, 605.4, and 605.9 of the International Fire Code as adopted by this chapter are hereby amended as follows:

All references to the ICC Electrical Code are hereby replaced with: the electrical code as adopted by the City.

2.11.606.15 International Fire Code Section 606.15 amended.

Section 606.15 of the International Fire Code as adopted by this chapter is hereby amended as follows:

All references to the ICC Electrical Code are hereby replaced with: the electrical code as adopted by the City.

2.11.803.1 International Fire Code Section 803.1 amended – General Requirements.

Section 803.1 of the International Fire Code as adopted by this chapter is amended to read as follows:

803.1 General requirements. The provisions of Sections 803.1.1 through 803.1.3 shall be applicable to all occupancies covered by Sections 803.2 through 803.7.

803.1.1 Explosive and highly flammable materials. Furnishings or decorations of an explosive or highly flammable character shall not be used.

803.1.2 Fire-retardant coatings. Fire-retardant coatings shall be maintained so as to retain the effectiveness of the treatment under service conditions encountered in actual use.

803.1.3 Obstructions. Furnishings or other objects shall not be placed to obstruct exits, access thereto, egress there-from or visibility thereof.

803.1.4 Atrium Furnishings

803.1.4.1.Potential heat. Potential heat of combustible furnishings and decorative materials within atria shall not exceed 9,000 Btu per pound when located with an area that is more than 20 feet below ceiling-level sprinklers.

803.1.4.2. Decorative materials. Decorative material in atria shall be noncombustible, flame resistant or treated with a flame retardant.

2.11.901.7 International Fire Code Section 901.7 amended – Systems Out of Service.

Section 901.7 of the International Fire Code as adopted by this chapter is amended to read as follows:

901.7 Systems out of service. Where a fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service. Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

2.11.903.2 International Fire Code Section 903.2 amended – Automatic Sprinklers.

Section 903.2 of the International Fire Code as adopted by this chapter is amended to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 10,000 square feet;

2. The fire area has an occupant load of 100 or more; or

3. The fire area is located on a floor other than the level of exit discharge.

4. Where the combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet.

2.11.903.4.2 International Fire Code Section 903.4.2 amended – Alarms.

Section 903.4.2 of the International Fire Code as adopted by this chapter is amended to read as follows:

903.4.2 Alarms. Approved audible and visible alarm notification appliances shall be provided for every automatic sprinkler system in accordance with Section 907 and

throughout areas designated by the Fire Code Official. Sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

> Exception: With approval of the Fire Code Official, audible and visible alarm notification appliances may be omitted for approved residential sprinkler systems in 1 or 2 dwelling units if not otherwise specifically required.

International Fire Code Section 903.4.3 amended – Floor Control Valves.

Section 903.4.3 of the International Fire Code as adopted by this chapter is amended to read as follows:

903.4.3 Floor control valves. Approved supervised indicating control valves shall be provided at the point of connection to the riser on each floor.

> Exception: When approved by the Fire Code Official in NFPA 13D and NFPA 13 R systems.

2.11.905.3 International Fire Code Section 905.3 amended – High Rise Building Standpipes.

A new section 905.3.7 is hereby added to the International Fire code as follows:

905.3.7 High Rise Building Standpipes. Standpipe risers shall be combination standpipe/sprinkler risers using a minimum pipe size of 6 in. One to 2 ½ inch hose connections shall be provided on every intermediate floor level landing in every required stairway and elsewhere as required by NFPA 14. Where pressure reduction valves (PRV) are required, each hose connection shall be provided with its own PRV as necessary. The system shall be designed to provide a minimum flow of 300 gpm at a minimum pressure of 150 psi (maximum 200 psi) at each standpipe connection, in addition to the flow and pressure requirements contained in NFPA 14.

2.11.905.8 International Fire Code Section 905.8 amended – Dry Standpipes.

Section 905.8 of the International Fire Code as adopted by this chapter is amended to read as follows:

905.8 Dry standpipes. Dry standpipes when approved by the fire code official may be installed in other than high rise buildings.

2.11.906.1 International Fire Code Section 906.1 amended – Portable Fire Extinguishers

Section 906.1 of the International Fire Code as adopted by this chapter is amended to read as follows:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations.

1. In all Group A, B, E, F, H, I , M, R-1, R-2, R-4 and S occupancies.

2. Within 30 feet of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

2.11.1404.5 International Fire Code Section 1404.5 amended -- Fire Watch

Section 1404.5 of the International Fire Code as adopted by this chapter is amended to read as follows:

1404.5 Fire watch. When required by the fire code official for building construction or demolition that is hazardous in nature, qualified personnel shall be provided to serve as an on-site fire watch. Fire watch personnel shall be provided with at least one approved means for notification of the fire department and their sole duty shall be to perform constant patrols and watch for the occurrence of fire.

Section 3. Section 23.11.102 of the Bellevue City Code is hereby amended to read as follows:

Fire Sprinkler Threshold Amendment – Amend BCC Section 23.11.102 to read:

23.11.102 Uniform Fire Code Section 1003.2.2 amended – Automatic fire extinguishing systems.

Section 1003.2.2 of the Uniform Fire code as adopted by this chapter is amended to read as follows:

All newly constructed buildings with a gross floor area of 5,000 or greater square feet, regardless of type or use, as well as zero lot line townhouses within an aggregate area of all connected townhouses 5000 square feet or greater, shall be protected with automatic fire sprinkler systems complying with National Fire Protection Association standard 13. Additions to existing buildings that result in a gross floor area greater than 5,000 square feet must be retrofitted with an automatic sprinkler system. Subject to the approval of the fire chief, a phasing plan of up to five years is permitted.

> Exception: Additions to group R division 3 occupancies of up to 500 square feet are permitted without compliance with this section. This is a one-time exemption and this exemption must be recorded with King County Records and Elections.

Floor Area, Gross: For the purpose of this section, gross floor area shall be defined as the floor area whether above or below grade within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of the interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

For the purposes of this section, fire barriers of any type do not constitute separate buildings and gross floor area shall not include limited access areas such as vented crawl spaces and attics.

Section 4. There is hereby created a new section to Chapter 23.11 of the Bellevue City Code to read as follows:

23.11.46 Marinas

4601.1 Scope. Marina facilities shall be in accordance with this chapter.

4601.1.1 Plans and approvals. Plans for marina fire-protection facilities shall be approved prior to installation. The work shall be subject to final inspection and approval after installation.

4601.1.2 Permits. Permits are required to use open-flame devices for maintenance or repair on vessels, floats, piers or wharves.

4602.1 Definitions. The following words and terms shall, for the purpose of this chapter and as used elsewhere in this code, have the meanings shown herein.

A. "Float" means a floating structure normally used as a point of transfer for passengers and goods, or both, for mooring purposes.

B. "Marina" means any portion of the ocean or inland water, either naturally or artificially protected, for the mooring, servicing or safety of vessels and shall include artificially protected works, the public or private lands ashore, and structures or facilities provided within the enclosed body of water and ashore for the mooring or servicing of vessels or the servicing of their crews or passengers.

C. "Pier" means a structure built over the water, supported by pillars or piles, and used as a landing place, pleasure pavilion or similar purpose.

D. "Vessel" means watercraft of any type, other than seaplanes on the water, used or capable of being used as a means of transportation. Included in this definition are non-transportation vessels such as houseboats and boathouses.

E. "Warf" means a structure or bulkhead constructed of wood, stone, concrete or similar material built at the shore of a harbor, lake or river for vessels to lie alongside of, and piers or floats to be anchored to.

2.11.4603 General Precautions

4603.1 Combustible Debris. Combustible debris and rubbish shall not be deposited or accumulated on land beneath marina structures, piers or wharves.

4603.2 Sources of Ignition. Open-flame devices used for lighting or decoration on the exterior of a vessel, float, pier or wharf shall be approved.

4603.3 Flammable or Combustible Liquid Spills. Spills of flammable or combustible liquids at or upon the water shall be reported immediately to the fire department or jurisdictional authorities.

4603.4 Rubbish Containers. Containers with tight-fitting or self-closing lids shall be provided for the temporary storage of combustible trash or rubbish.

4603.5 Electrical Equipment. Electrical equipment shall be installed and used in accordance with its listing and Section 605 as required for wet, damp and hazardous locations.

4604.1 General. Marinas, piers, wharves, floats with facilities for mooring or servicing fire or more vessels, and marine motor vehicle fuel-dispensing stations shall be equipped with fire-protection equipment in accordance with Section 4604.

4604.2 Standpipes. Marinas shall be equipped throughout with standpipe systems in accordance with NFPA 303.

4604.3 Access and water supply. Piers and wharves shall be provided with fire apparatus access roads and mater-supply systems with on-site fire hydrants when required and approved by the fire code official.

4604.4 Portable Fire Extinguishers. One fire extinguisher for ordinary (moderate) hazard type, shall be provided at each required hose station. Additional fire extinguishers, suitable for the hazards involved, shall be provided and maintained in accordance with Section 906.

4604.5 Communications. A telephone not requiring a coin to operate or other approved, clearly identified means to notify the fire department shall be provided on the site in a location approved by the code official.

2.11.4605 Marine Motor Vehicle Fuel-Dispensing Stations

4605.1 Fuel- Dispensing. Marine motor vehicle fuel-dispensing stations shall be in accordance with Chapter 22 of the Bellevue City Code.

Section 3. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____ _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Patrice C. Cole
Patrice C. Cole, Assistant City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance No. 5530, repealing Chapter 23.30 of the Bellevue City Code; adopting a new Chapter 23.30 adopting and amending the state electrical code; adopting certain figures and drawings; and establishing an effective date.

FISCAL IMPACT

The adoption of the 2002 National Electrical Code updates a code currently administered by the Department of Planning and Community Development. There are no additional requirements or programs imposed by this code change requiring additional staff or budget resources.

Over the past twelve months, staff has dedicated a significant amount of time to training and updating public information in preparation for the transition to new building, fire, and electrical codes. Additionally, the Department has expended approximately $14,000 from its 2003/2004 budget for purchase of new code books and related reference documents. Sufficient funding is included in the department's 2003/2004 budget to cover these costs.

STAFF CONTACT

Mike Brennan, Deputy Director Development Services	425-452-4113
Gregg Schrader, Building Official	425-452-6451

POLICY CONSIDERATION

The City has elected to include electrical inspection as a component of our comprehensive building inspection program. Under State Law, we are obligated to have in place codes and standards that are equivalent to the electrical inspection program administered by the Washington State Department of Labor and Industries. Adoption of these amendments will maintain the required equivalency for Bellevue's electrical program.

BACKGROUND

Bellevue adopted an electrical code under the provisions of RCW 19.28.010, which allows cities and towns to adopt and amend the National Electrical Code as amended by the State, as long as it does not result in a code less stringent than the state's adoption. The attached ordinance adopts the 2002 National Electrical Code with certain local amendments that fall within those parameters.

The 2002 NEC amendments reflect changes developed jointly by the cities of Bellevue, Kirkland, Mercer Island and Renton, our neighboring cities with electrical programs. In 2003, staff from the four cities began working together toward a goal of a common adopting ordinance. It has been our collective goal to minimize the number of amendments and to have them as consistent as possible, a goal we

achieved with this effort. While there will undoubtedly be a few bumps along the way, a tremendous amount of effort has been exerted to ensure that we are ready for this transition.

EFFECTIVE DATE

If approved, this ordinance becomes effective on June 30, 2004.

OPTIONS

1. Adopt Ordinance No. 5530, repealing Chapter 23.30 of the Bellevue City Code; adopting a new Chapter 23.30 adopting and amending the state electrical code; adopting certain figures and drawings; and establishing an effective date.

2. Reject Ordinance No. 5530 and provide alternative direction to staff.

RECOMMENDATION

Adopt Ordinance No. 5530, repealing Chapter 23.30 of the Bellevue City Code; adopting a new Chapter 23.30 adopting and amending the state electrical code; adopting certain figures and drawings; and establishing an effective date.

MOTION

Move to adopt Ordinance No. 5530, repealing Chapter 23.30 of the Bellevue City Code; adopting a new Chapter 23.30 adopting and amending the state electrical code; adopting certain figures and drawings; and establishing an effective date..

ATTACHMENTS

Proposed Ordinance No. 5530

AVAILABLE IN COUNCIL OFFICE

N/A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5530

AN ORDINANCE repealing Chapter 23.30 of the Bellevue City Code; adopting a new Chapter 23.30 adopting and amending the state electrical code; adopting certain figures and drawings; and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 23.30 of the Bellevue City Code is hereby repealed.

Section 2. A new Chapter 23.30 of the Bellevue City Code is hereby adopted as follows:

Chapter 23.30
ELECTRICAL CODE

Sections:

23.30.010	Short title.
23.30.015	National electrical code.
23.30.020	Conflicts.
23.30.025	Purpose.
23.30.030	Scope.
23.30.100	National Electrical Code Article 100 Amended – Definitions.
23.30.110.2	National Electrical Code Article 110.2 Amended – Approval.
23.30.110.3	National Electrical Code Article 110.3 Amended -- Examination, Identification, Installation and Use of Equipment.
23.30.110.12	National Electrical Code Article 110.12 Amended -- Mechanical Execution of Work.
23.30.110.16	National Electrical Code Article 110.16 Amended -- Flash Protection.
23.30.110.22	National Electrical Code Article 110.22 Amended -- Identification of Disconnecting Means.
23.30.210.8	National Electrical Code Article 210.8 Amended -- Ground Fault Circuit-Interrupter Protection for Personnel.
23.30.210.11	National Electrical Code Article 210.11 Amended -- Branch Circuits Required.
23.30.215.10	National Electrical Code Article 215.10 Amended -- Ground-Fault Protection of Equipment.
23.30.220.35	National Electrical Code Article 220.35 Amended -- Optional Calculations for Determining Existing Loads.
23.30.225.32	National Electrical Code Article 225.32 Amended – Location.
23.30.230.2	National Electrical Code Article 230.2 Amended -- Number of Services.

23.30.230.28 National Electrical Code Article 230.28 Amended -- Service Mast as Support.
23.30.230.43 National Electrical Code Article 230.43 Amended -- Wiring Methods for 600 Volts, Nominal, or Less.
23.30.230.70 National Electrical Code Article 230.70 Amended – General.
23.30.230.90 National Electrical Code Article 230.90 Amended -- Service Equipment - Overcurrent Protection.
23.30.230.95 National Electrical Code Article 230.95 Amended -- Ground - Fault Protection of Equipment.
23.30.230.202 National Electrical Code Article 230.202 Amended -- Service-Entrance Conductors.
23.30.250.32 National Electrical Code Article 250.32 Amended -- Two or More Buildings or Structures Supplied from a Common Service.
23.30.250.50 National Electrical Code Article 250.50 Amended -- Grounding Electrode System.
23.30.250.56 National Electrical Code Article 250.56 Amended -- Resistance of Rod, Pipe and Plate Electrodes.
23.30.250.104 National Electrical Code Article 250.104 Amended -- Bonding or Piping Systems and Exposed Structural Steel.
23.30.250.184 National Electrical Code Article 250.184 Amended -- Solidly Grounded Neutral Systems.
23.30.300.4 National Electrical Code Article 300.4 Amended -- Protection Against Damage.
23.30.300.11 National Electrical Code Article 300.11 Amended -- Securing and Supporting.
23.30.310.12 National Electrical Code Article 310.12 Amended -- Conductor Identification.
23.30.314.15 National Electrical Code Article 314.15 Amended -- Damp, Wet or Hazardous (Classified) Locations.
23.30.314.29 National Electrical Code Article 314.29 Amended -- Boxes and Conduit Bodies to be Accessible.
23.30.334.10 National Electrical Code Article 334.10 Amended -- Uses Permitted.
23.30.334.12 National Electrical Code Article 334.12 Amended -- Uses Not Permitted.
23.30.358.12 National Electrical Code Article 358.12 Amended -- Uses Not Permitted.
23.30.394.12 National Electrical Code Article 394.12 Amended -- Uses Not Permitted.
23.30.410.30 National Electrical Code Article 410.30 Amended -- Cord-Connected Lampholders and Luminaires.
23.30.422.10 National Electrical Code Article 422.10 Amended -- Branch-Circuit Rating.
23.30.450.27 National Electrical Code Article 450.27 Amended -- Oil-Insulated Transformers Installed Outdoors.
23.30.514.11 National Electrical Code Article 514.11 Amended -- Circuit Disconnects.

23.30.517.31	National Electrical Code Article 517.31 Amended -- Emergency Systems.
23.30.520.44	National Electrical Code Article 520.44 Table Deleted -- Ampacity of Listed Extra-Hard-Usage Cords and Cables.
23.30.527.4(G)	National Electrical Code Article 527.4(G) Amended – Splices.
23.30.553.4	National Electrical Code Article 553.4 Amended -- Location of Service Equipment.
23.30.553.6	National Electrical Code Article 553.6 Amended -- Feeder Conductors.
23.30.553.7	National Electrical Code Article 553.7 Amended -- Wiring Methods.
23.30.55.1	National Electrical Code Article 555.1 Amended – Scope.
23.30.555.5	National Electrical Code Article 555.5 Amended – Transformers.
23.30.555.7	National Electrical Code Article 555.7 Amended -- Location of Service Equipment.
23.30.555.9	National Electrical Code Article 555.9 Amended -- Electrical Connections.
23.30.555.10	National Electrical Code Article 555.10 Amended -- Electrical Equipment.
23.30.555.13	National Electrical Code Article 555.13 Amended -- Wiring Methods and Installation.
23.30.555.19	National Electrical Code Article 555.19 Amended – Receptacles.
23.30.555.21	National Electrical Code Article 555.21 Amended -- Gasoline Dispensing Stations -- Hazardous (Classified) Locations.
23.30.600.3	National Electrical Code Article 600.3 Amended – Listing.
23.30.600.10	National Electrical Code Article 600.10 Amended -- Portable or Mobile Signs.
23.30.600.21	National Electrical Code Article 600.21 Amended -- Ballasts, Transformers, and Electronic Power Supplies.
23.30.600.30	National Electrical Code Article 600.30 Amended – Applicability.
23.30.680.4	National Electrical Code Article 680.4 Amended -- Approval of Equipment.
23.30.680.12	National Electrical Code Article 680.12 Amended -- Maintenance Disconnecting Means.
23.30.680.13	National Electrical Code Article 680.13 New -- Field Installed Equipment.
23.30.680.4	National Electrical Code Article 680.4 Amended – General.
23.30.680.70	National Electrical Code Article 680.70 Amended – General.
23.30.700.9	National Electrical Code Article 700.9 Amended -- Wiring, Emergency Systems.
23.30.760.10	National Electrical Code Article 760.10 Amended -- Fire Alarm Circuit Identification.
23.30.010	Short title.

This chapter shall be known as the electrical code of the City of Bellevue, which is hereinafter referred to as the "City of Bellevue electrical code", "electrical code" or as "this chapter".

23.30.015 National Electrical Code.

The 2002 edition of the National Electrical Code (NFPA 70), including Annex B and C, but excluding Article 80; the 1999 edition of Centrifugal Fire Pumps (NFPA 20); Health Care Facilities (NFPA 99); the 2002 edition of Emergency and Standby Power Systems (NFPA 110); and the National Electrical Safety Code (NESC C2-2002), but excluding Appendixes A and B are adopted and shall be applicable within the city, as amended, added to and excepted in this chapter.

23.30.020 Conflicts.

A. The requirements of this chapter shall govern where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), Health Care Facilities (NFPA 99), and Emergency and Standby Power Systems (NFPA 110).

B. The National Electrical Code shall govern where there is any conflict between Centrifugal Fire Pumps (NFPA 20), Health Care Facilities (NFPA 99), Emergency and Standby Power Systems (NFPA 110), or the National Electrical Safety Code (NESC C2-2002) and the National Electrical Code (NFPA 70).

23.30.025 Purpose.

A. General. The purpose of the City of Bellevue electrical code, as amended and adopted in this chapter, is the practical safeguarding of persons, property and buildings from hazards arising from the use of electricity. The electrical code contains provisions considered necessary for safety. Compliance therewith and proper maintenance will result in an installation essentially free of hazard, but not necessarily efficient, convenient or adequate for good service or future expansion of electrical service. It is not intended to create a special relationship with any individual, or individuals, or to identify and protect any particular class of persons.

B. Intent. The City of Bellevue electrical code is not intended as a design specification nor an instruction manual for untrained persons.

23.30.030 Scope.

A. The electrical code covers the installation of electric conductors, electric equipment and additions, alterations, modifications, or repairs to existing electrical installations for the following:

1. Electric conductors, electric equipment, and electrical raceways installed within or on public and private buildings, property or other structures.

2. Signaling and communications conductors and equipment, telecommunications conductors and equipment, fiber optic cables, and raceways installed within or on public and private buildings, property or other structures.

3. Yards, lots, parking lots, and industrial substations.

4. Temporary electrical installations for use during the construction of buildings.

5. Temporary electrical installations for carnivals, conventions, festivals, fairs, traveling shows, the holding of religious services, temporary lighting of streets, or other approved uses.

6. Installations of conductors and equipment that connect to a supply of electricity.

7. All other outside electrical conductors on the premises.

8. Optional standby systems derived from portable generators.

B. Exception. All wires and equipment that fall within section 90.2(b)(5) of the National Electrical Code, 1981 edition, are exempt from the requirements of this chapter.

23.30.100 National Electrical Code Article 100 amended — Definitions.

Article 100 of the National Electrical Code is amended and supplemented by the addition of the following definitions to read as follows:

"Certified electrical product" means an electrical product to which a laboratory, accredited by the State of Washington, has the laboratory's certification mark attached.

"Certification mark" is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

"City" means the City of Bellevue.

"Chapter" unless elsewhere specified means this chapter 23.30, unless expressly used for separate reference.

"Electrical equipment" includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006(8). Any conduit/raceway of a type listed for electrical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

"Electrical products certification laboratory" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

"Electrical products evaluation laboratory" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

"Field evaluated" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

"Field evaluation mark" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with appropriate standards or that the product has been evaluated for specific end uses.

"Fished Wiring" is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

"Industrial control panel" means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a manufacturing process in a food processing or industrial plant.

"Installation" includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925.

"Identification plate" is a phenolic or metallic plate or other similar material engraved in block letters at least 1/4" (6mm) high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting colors. Screws, rivets, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

"Labeled" means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

"Laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

"Like-in-kind" means having similar characteristics such as voltage requirement, current draw, circuit overcurrent and short circuit characteristics, and function within the system. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

"Listed" means equipment has been listed and identified by a laboratory approved by the State of Washington for the appropriate equipment standard per this chapter.

"Low voltage" means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.41(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.41(A).

(d) Circuits of Telecommunications systems as defined in chapter 19.28 RCW.

"NRTL" means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 CFR 1910.7

"Point of contact" for utility work, means the point at which a customer's electrical system connects to the serving utility system.

"Stand-alone amplified sound or public address system" is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

"Telecommunications installations" is as defined in RCW 19.28.400 for both regulated carriers and unregulated local service providers.

"Under the control of a utility" for the purposes of RCW 19.28.091 is when electrical equipment is owned by the utility or when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or:

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

"Utility system" means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact.

"Utilization voltage" means the voltage level employed by the utility's customer for connection to lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

"WAC" means Washington Administrative Code.

23.30.110.2 National Electrical Code Article 110.2 amended — Approval.

Article 110.2 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Article 110.2:

All materials, devices, appliances, and equipment, not exempted in state law chapter 19.28. RCW, must conform to applicable standards recognized by the Building Official, be listed, or field evaluated by an accredited electrical products testing laboratory. Equipment must not be energized until such standards are met, unless specific permission has been granted by the Building Official.

23.30.110.3 National Electrical Code Article 110.3 amended — Examination, Identification, Installation, and Use of Equipment.

Article 110.3 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 110.3(C), to read as follows:

(C) Industrial control panels and utilization equipment. Control panels and utilization equipment installed in industrial plants will be determined to meet the minimum electrical safety standards for installations by one of the following methods:

(a) Listing and Labeling by an accredited electrical products testing laboratory.

(b) Field evaluation by and accredited electrical products testing laboratory;

(i) If the equipment usage is changed to other than industrial utilization equipment or electrical modifications are made to the equipment, the equipment must be successfully listed or field evaluated by a laboratory approved by the department.

(ii) The equipment must be permanently installed at the owner's facility and inspected per the requirements of this Chapter

(c) Normal inspection as part of the electrical inspection process included with the general wiring inspection of a building, structure, or other electrical installation for compliance with codes and rules adopted under this chapter. Normal inspection will only be made for equipment using listed components and wired to the requirements of the NEC.

Use of industrial control panel(s) or equipment before its evaluation or final inspection, must be authorized by the Building Official or designated representative prior to is being energized.

23.30.110.12 National Electrical Code Article 110.12 amended — Mechanical Execution of Work.

Article 110.12 of the National Electrical Code is amended and supplemented by the addition of new subsections to be known as 110.12(D) and 110.12(E), to read as follows:

(D) **Abandoned Conductors and Cables.** Electrical conductors or cables shall not be abandoned in place. Unused electrical conductors, or cables, regardless of voltage, and communication cables not in use shall be removed from the building or structure back to the originating panel board unless otherwise authorized by the Building Official or designated representative.

(E) **Old, Used or Damaged Material and Equipment.** Old, used or damaged electrical equipment, conductors or materials shall not be reinstalled or used in any new work without prior approval of the Building Official or designated representative.

23.30.110.16 National Electrical Code Article 110.16 amended — Flash Protection.

Article 110.16 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the first paragraph, to read as follows:

> The flash protection marking must be an identification plate or label meeting ANSI Standards Z535.4-1998 or be of a type approved by the Building Official or designated representative. The plate or label may be installed at the factory or in the field. The plate or label may be mounted using adhesive.

23.30.110.22 National Electrical Code Article 110.22 amended — Identification of Disconnecting Means.

A. Article 110.22 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the first paragraph, to read as follows:

In other than dwelling units, an identification plate or label is required unless the disconnect is a circuit breaker or fused switch installed within a panelboard and its purpose is indicated by the panelboard schedule. The identification plate or label must include the identification designation of the circuit source panelboard that supplies the disconnect.

B. Article 110.22 of the National Electrical Code further is amended and supplemented by the addition of the following text to the end of the second paragraph, to read as follows:

The marking must be in the form of an identification plate or label that is substantially yellow in color. The words **"CAUTION - SERIES COMBINATION RATED SYSTEM"** must be on the plate or label in letters at least 13 mm (1/2") high.

23.30.210.8 National Electrical Code 210.8 amended — Ground Fault Circuit-Interrupter Protection for Personnel.

A. Article 210.8(B) of the National Electrical Code is amended and supplemented by the addition of new subsections (4) and (5), to read as follows:

(4) Outdoors.

(5) Crawl spaces - at or below grade.

B. Article 210.8 of the National Electrical Code is further amended and supplemented by the addition of new subsection to be known as 210.8(C) to read as follows:

(C) All Occupancies.

(1) All 125-volt, single phase, 15 and 20 ampere receptacles installed within 1.8 m (6 ft) of any sink, fixed water source, or a normally wet or damp location shall be provided with ground fault circuit-interrupter protection for personnel.

EXCEPTION: The laundry receptacle when installed within the dedicated wall space occupied by the clothes washer.

(2) All luminaires (lighting fixtures) permitted to be installed within the zone defined in Article 410.4(D) shall be ground-fault circuit-interrupter protected and shall be fully enclosed.

23.30.210.11 National Electrical Code 210.11 amended — Branch Circuits Required.

Article 210.11 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 210.11(C)(4), to read as follows:

(4) **Unfinished spaces.** In addition to the number of branch circuits required by other parts of this section, at least one additional branch circuit shall be provided for unfinished spaces adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. The circuits must

terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

23.30.215.10 National Electrical Code 215.10 amended — Ground-Fault Protection of Equipment.

Article 215.10 of the National Electrical Code is amended and supplemented by the addition of a new paragraph following the first paragraph of Article 215.10 to read as follows:

Equipment ground fault protection systems shall be performance tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test shall include all system feeders. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record shall include test details including, but not limited to all trip settings and measurements taken during the test. The equipment being tested shall be labeled identifying the date of the test, the firm performing the test, and all settings for the equipment tested.

23.30.220.35 National Electrical Code 220.35 amended — Optional Calculations for Determining Existing Loads.

Article 220.35 of National Electrical Code is amended and supplemented by the addition of the following text to the end of Subsection (1) Exception to read as follows:

In addition to the 30-day demand data, the following information must be provided:

(a) The date of the measurements

(b) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the measurements.

(c) A diagram of the electrical system identifying the point(s) of the measurements.

23.30.225.32 National Electrical Code 225.32 amended — Location.

A. Article 225.32 of the National Electrical Code is amended and supplemented by the addition of a new paragraph following the first paragraph of Article 225.32 to read as follows:

Feeder disconnects, panelboards, subpanels, and similar electrical equipment must be installed so that they are readily accessible and may not be installed in bathrooms, clothes closets, or shower rooms. All indoor feeder disconnects, panelboards and subpanels and similar electrical equipment must have adequate working space and be adequately illuminated.

B. Article 225.32 of the National Electrical Code is further amended and supplemented by the addition of new subsections to be known as Subsection 225.32(1) and 225.32(2), to read as follows:

(1) **Outside locations**: Where the feeder disconnecting means is installed outside of a building or structure it must be on the building or structure supplied. The building disconnecting means may supply only 1 building or structure unless the secondary building(s) or structure(s) has a separate building disconnecting means meeting the requirements of this subsection. The disconnecting means must have an identification plate with at least 1/2" high letters identifying:

(a) The building or structure served; and

(b) Its function as the building or structure main disconnect(s).

(2) **Inside location**: Where the feeder disconnecting means is installed inside the building or structure, it must be located so that the feeder raceway or cable extends no more than 15' inside the building or structure.

23.30.230.2 National Electrical Code Article 230.2 amended — Number of Services.

A. Article 230.2 of the National Electrical Code is amended and supplemented by the addition of a new paragraph following the first paragraph to read as follows:

Each portion of a building or structure separated by one or more Fire Walls that comply with Section 705 of the International Building Code may be considered a separate building. Fire Walls shall not be less than 2 hr fire-resistance rated. The extent and location of such Fire Walls shall provide a complete separation.

B. Article 230.2 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 230.2(A)(6), to read as follows:

(6) Transient voltage surge suppressor.

23.30.230.28 National Electrical Code Article 230.28 amended — Service Mast as Support.

Article 230.28 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the first paragraph to read as follows:

Where a raceway-type service mast is used as support for service-drop conductors the following conditions must be met:

(1) Raceway type service mast shall be a minimum of 2 inch rigid metal conduit.

(2) An approved roof flashing shall be installed on each mast where it passes through a roof. Plastic, non-hardening mastic shall be placed between lead-type flashings and the conduit. Approved neoprene type roof flashings may be permitted.

(3) Masts shall be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.

(4) Utilization of couplings for a mast shall not be permitted above the point the mast is braced, secured, or supported.

(5) Except as otherwise required by the serving utility, service mast support guys shall be installed if the service drop attaches to the mast more than 600 mm (24 in.) above the roof line or if the service drop is greater than 100' in length from the pole or support. Masts for support of other than service drops shall comply with this requirement as well.

(6) Intermediate support masts shall be installed in an approved manner with methods identical or equal to those required for service masts

(7) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it may be permissible to use other alternate mast support methods such as heavy gauge, galvanized, electrical channel material that is secured to 2 or more wooden studs with 5/16" diameter or larger galvanized lag bolts.

(8) Conductors shall extend a minimum of 450 mm (18 in.) from all mastheads to permit connection to the connecting overhead wiring.

23.30.230.43 National Electrical Code 230.43 amended — Wiring Methods for 600 Volts, Nominal, or Less.

Article 230.43 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Article 230.43, to read as follows:

Wiring methods for service conductors not exceeding 600 volts, nominal, within a building or structure is limited to the following methods: Rigid metal conduit; Intermediate metal conduit; Wireways; Busways; Auxiliary gutters; Rigid nonmetallic conduit; Cablebus; or Mineral-insulated, metal-sheathed cable (type MI).

EXCEPTION: With the approval of the Building Official existing electrical metallic tubing used for service entrance conductors may be permitted to remain, provided it meets all of the following conditions:

(a) It was installed prior to October 1984

(b) It is properly grounded

(c) The conduit is installed in a non-accessible location

(d) It is the proper size for the installed conductors.

23.30.230.70 National Electrical Code 230.70 amended —General

A. Article 230.70 of the National Electrical Code is amended and supplemented by the addition of new subsections to be known as 230.70(A)(1)(a) and 230.70(A)(1)(b), to read as follows:

(a) Outside location: The service disconnect means shall be installed on the building or structure it serves. The service disconnection means shall be labeled with a plate with 1/2 inch letters providing the following information:

(i) the building or structure served; and

(ii) Its function as the building or structure main service disconnect(s).

(b) Inside location: Where the service disconnect is installed inside the building or structure, it shall be located so that the service raceway extends no more than 15 feet inside the building or structure served. Service disconnecting means, panel boards, subpanels and similar electrical equipment shall be adequately illuminated.

B. Subsection (2) of Article 230.70(A) of the National Electrical Code is amended and supplemented to read as follows:

(2) Bathrooms. Service disconnection means, panel boards, subpanels and similar electrical equipment shall not be installed in bathrooms, clothes closets, or shower rooms.

23.30.230.90 National Electrical Code 230.90 amended — Service Equipment - Overcurrent Protection.

Article 230.90 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Article 230.90(A) Exception No. 3 to read as follows:

> Where the service conductors have a lesser ampacity than the overcurrent protection or the equipment rating that they terminate in or on, an identification plate showing the ampacity of the conductors must be installed on the service equipment.

23.30.230.95 National Electrical Code 230.95 amended — Ground-Fault Protection of Equipment.

Article 230.95 of the National Electrical Code is amended and supplemented by the addition of the following paragraph to follow the first paragraph to read as follows:

Equipment ground fault protection systems shall be performance tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test shall include all system feeders. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record shall include test details including, but not limited to all trip settings and measurements taken during the test. The equipment being tested shall be labeled identifying the date of the test, the firm performing the test, and all settings for the equipment tested.

23.30.230.202 National Electrical Code 230.202 amended — Service-Entrance Conductors.

Article 230.202 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Article 230.202 Subsection (B) to read as follows:

Wiring methods for service conductors exceeding 600 volts, nominal, within a building or structure is limited to the following methods: Rigid metal conduit; Intermediate metal conduit; Busways; Schedule 80 rigid nonmetallic conduit; Cablebus; metal-clad cable that is exposed for its entire length.

23.30.250.32 National Electrical Code 250.32 amended — Two or More Buildings or Structures Supplied from a Common Service.

Article 250.32 of the National Electrical Code is amended by the deletion of subsection 250.32(B)(2) in its entirety.

23.30.250.50 National Electrical Code 250.50 amended — Grounding Electrode System.

Article 250.50 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 250.50(1), to read as follows:

(1) At each new building or structure served a concrete-encased grounding electrode consisting of at least 6.0 m (20 ft) of bare copper conductor not smaller than #4 AWG meeting the requirements of Article 250-52(A)(3) shall be required as part of the grounding electrode system. Other electrodes of bare or zinc coated steel reinforcing bars or rods meeting the requirements of 250.52(A)(3) may be used if approved by the Building official prior to installation. All electrodes shall be inspected prior to covering, concealing or the placing of concrete.

EXCEPTION: Job site construction trailers, mobile homes and manufactured homes, when not installed on a permanent foundation.

23.30.250.56 National Electrical Code 250.56 amended — Resistance of Rod, Pipe and Plate Electrodes.

Article 250.56 of the National Electrical Code is amended and supplemented by amending the last sentence of Article 250.56 and the addition of a new Exception, to read as follows:

Where multiple rod, pipe, or plate electrodes are installed to meet requirements of this section, they shall not be less than 4.9 m (16 ft) apart.

EXCEPTION: Temporary power services of 100 amperes or less.

23.30.250.104 National Electrical Code 250.104 amended — Bonding of Piping Systems and Exposed Structural Steel.

Article 250.104 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the first paragraph of Article 250.104(A), to read as follows:

Hot and cold metal water piping systems are not required to be bonded together if, at the time of inspection, the inspector can determine the metal water piping systems are mechanically and electrically joined by 1 or more metallic mixing valves. Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by the equipment manufacturer's instructions.

23.30.250.184 National Electrical Code 250.184 amended — Solidly Grounded Neutral Systems.

A. Article 250.184(A) of the National Electrical Code is amended and supplemented by the addition of new subsections to be known as subsection 250.184(A)(1) and subsection 250.184(A)(2), to read as follows:

(1) Existing installations.

a. The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(i) The existing system uses the concentric shield as a neutral conductor;

(ii) Each individual conductor contains a separate concentric shield sized to no less than 33½% of the ampacity of the phase conductor for 3-phase systems or 100% of the ampacity of the phase conductor for single-phase systems;

(iii) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(iv) Existing cable (i.e. existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

(1) A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the 2001 NETA maintenance test specifications; and

(2) A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the Building Official or designated representative in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical engineer and that the cable shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of 7 years from the date of testing. Cable will not be required to be tested at a shorter interval.

b. A concentric shield used as a neutral conductor in a multi-grounded system fulfills the requirements of an equipment grounding conductor.

(2) New installations.

(a) New installations shall not include extensions of existing circuits.

(b) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

B. Article 250.184 of the National Electrical Code is further amended and supplemented by the deletion of the text of Subsection 250.184(B) and replacing it with the following text to read as follows:

(B) The neutral of a solidly grounded neutral system may be grounded at more than one point.

(1) Multiple grounding is permitted at the following locations:

(a) Services;

(b) Underground circuits where the neutral is exposed; and Overhead circuits installed outdoors.

(2) Multiple grounding is not allowed:

(a) For new systems where singlepoint and multigrounded circuits form a single system (e.g. where a singlepoint circuit is derived from a multigrounded circuit); or

(b) In new single phase (i.e. single phase to ground) installations.

C. Article 250.184 of the National Electrical Code is further amended and supplemented by the deletion of the text of Subsection 250.184(D) and replacing it with the following text to read as follows:

(D) Where a multigrounded neutral system is used, the following will apply for new balanced phase to phase circuits and extensions, additions, replacements; and repairs to all existing systems of 1 kV and over:

(1) For existing systems:

(a) The cable's concentric shield must be used as the neutral and all the requirements for neutral conductors described in WAC 296-46B-250-6(a) must be met; or

(b) The cable's concentric shield must be effectively grounded to a separate bare copper neutral conductor at all locations where the shield is exposed to personnel contact.

(2) For new systems a separate copper neutral must be installed and the cable's concentric shield is effectively grounded to the separate neutral at all locations where the shield is exposed to personnel contact.

(3) In addition to (1) and (2) of this subsection, the following is required:

(a) A minimum of 2 made electrodes, separated by at least 6', must be installed at each existing and new transformer and switching/overcurrent location and connected to the neutral conductor at that location;

(b) At least 1 grounding electrode must be installed and connected to the multigrounded neutral every 400m (1,300 ft.). The maximum distance between adjacent electrodes must not be more than 400m (1,300 ft.);

(c) In a multigrounded shielded cable system, the shielding must be grounded at each cable joint that is exposed to personnel contact;

(d) All exposed noncurrent carrying metal parts (e.g. mounting brackets, manhole covers, equipment enclosures, etc.) must be effectively grounded to the neutral conductor; and

(e) An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the design of the multiple grounding installation has been reviewed by the electrical engineer and the design is in accordance with the requirements of chapter 19.28 RCW, this chapter, and normal standards of care. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

23.30.300.4 National Electrical Code 300.4 amended — Protection Against Damage.

Article 300.4 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Subsection (B)(1), to read as follows:

The bushings or grommets used to protect the cable must be of a two piece interlocking type.

23.30.300.11 National Electrical Code 300.11 amended — Securing and Supporting.

Article 300.11 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Article 300.11(A), to read as follows:

Where permitted by the Building Official raceways, cables, or boxes may be supported by wires independent of the ceiling support system under the following conditions:

(i) The support wires must be independent of the ceiling support systems and be capable of securing and supporting the raceways, cables or boxes without reducing the integrity of the suspended ceiling system;

(ii) The independent support wires shall be a minimum #12 AWG and adequate to carry the weight and are securely fastened to the building structure and to the ceiling grid;

(iii) Raceways and/or cables are not larger than ¾" trade size;

(iv) No more than 2 raceways or cables may be supported by an independent support wires and are secured to the support wires by fittings designed and manufactured for the purpose;

(v) Where support wires are installed exclusively for telecommunications cables, Class 2, or Class 3 cables the maximum number of cables allowed shall not be more than 1½ inch diameter when bundled together.

23.30.310.12 National Electrical Code Article 310.12 amended — Conductor Identification.

Article 310.12 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 310.12(D), to read as follows:

(D) Each cable operating at over 600 volts and installed on customer owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

23.30.314.15 National Electrical Code Article 314.15 amended — Damp, Wet, or Hazardous (Classified) Locations.

Article 314.15 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 314.15(C), to read as follows:

(C) Single conductors, cables, taps, or splices installed in open bottom junction boxes or handholes shall be suitable for direct burial. Open bottom junction boxes manufactured specifically for electrical use shall be permitted to be used as an electrical junction box to enclose single conductors, cables, taps, or splices rated for wet locations, under the following conditions:

(1) In vehicular traffic areas the box shall be rated for not less than HS-20 loading required under the latest edition of the American Association of State Highway and Transportation Officials (AASHTO) publication entitled "Standard Specifications for Highway Bridges". Covers shall be provided with a bolted, hinged, or slide-on lid embossed with the identification "ELECTRIC" or "ELECTRICAL."

(2) In incidental vehicular traffic areas (e.g., parks, sports fields, sidewalks, grass lawns, etc.) the box shall be rated for not less than HS-10 loading. Covers shall be provided with a bolted, hinged, or slide-on lid embossed with the identification "ELECTRIC" or "ELECTRICAL."

(3) In non-vehicular traffic areas (e.g. flower beds, patio decks, etc.) the box shall be designed and approved for the purpose. Covers shall be provided with a lid embossed with the identification "ELECTRIC" or "ELECTRICAL."

(4) All conductors must be installed in approved electrical raceways that enter vertically from the open bottom of the enclosure. These raceways must be fitted with a bushing, terminal fitting, or seal incorporating the physical protection characteristics of a bushing, and project not less than 5 cm (2") above the bottom surface material. The bottom surface material must be pea gravel or sand a minimum of 5 cm (2") thick or more if required by the box manufacturer.

23.30.314.29 National Electrical Code Article 314.29 amended — Boxes and Conduit Bodies to be Accessible.

Article 314.29 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the first paragraph of Article 314.29, to read as follows:

Boxes and conduit bodies shall not be cover with insulation material and shall remain visible and outside of or above the insulation material.

23.30.334.10 National Electrical Code Article 334.10 amended — Uses Permitted.

Article 334.10 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Subsection (2) of Article 334.10, to read as follows:

Where the building or structure exceeds three floors above grade, type NM, NMC and NMS cables shall be concealed within walls, floors, and ceilings that provide a

thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

23.30.334.12 National Electrical Code Article 334.12 amended — Uses Not Permitted.

Article 334.12 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 334.12(A) (11), to read as follows:

(11) In Type I or Type II non-combustible construction as defined by the Building Official.

3.30.358.12 National Electrical Code Article 358.12 amended — Uses Not Permitted.

Article 358.12 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 358.12(7), to read as follows:

(7) Installed in direct contact with the earth or in concrete on or below grade.

23.30.394.12 National Electrical Code Article 394.12 amended — Uses Not Permitted.

Article 394.12 of the National Electrical Code is amended and supplemented by the addition of a new Exception to Article 394.12(5), to read as follows:

Exception: In hollow spaces containing existing knob-and-tube wiring may be allowed to remain provided that all of the following conditions are met:

(i) The wiring shall be surveyed by an appropriately licensed electrical contractor who must certify in writing to the Building Official that the wiring is in good condition with no evidence of improper overcurrent protection, conductor insulation failure or deterioration, and with no improper connections or splices. The electrical inspector must inspect all repairs, alterations, or extensions to the electrical system;

(ii) The insulation shall meet Class I specifications as identified in the Uniform Building Code, with a flame spread factor of 25 or less as tested using ASTM E84-81a. Foam insulation may not be used with knob-and-tube wiring;
(iii) All knob-and-tube circuits shall have overcurrent protection in compliance with NEC Table 310.16, 60 degree centigrade, Column C. Overcurrent protection shall be circuit breakers or Type S fuses.

23.30.410.30 National Electrical Code Article 410.30 amended — Cord-Connected Lampholders and Luminaires.

Article 410.30 of the National Electrical Code is amended and supplemented by the addition of a new subsection to be known as subsection 410.30(C)(1)(3), to read as follows:

(3) The flexible cord connection must comply with the following:

(1) Connection to a suspended pendant box must utilize an integral threaded hub;

(2) The length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device must not exceed 1.8m (6 ft);

(3) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

(4) The flexible cord must be a minimum #14 AWG copper;

(5) The flexible cord ampacity must be determined in NEC Table 400.5(A) column A;

(6) The flexible cord must be hard or extra hard usage; and

(7) A vertical flexible cord supplying electric discharge luminaires must be secured to the luminaire support as per NEC 334.30(A).

23.30.422.10 National Electrical Code Article 422.10 amended — Branch-Circuit Rating.

Article 422.10 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of Article 422.10(A), to read as follows:

Water heaters with a rated circuit load in excess of 3,500 watts at 208 or 240 volts shall be provided with branch circuit conductors not smaller than #10 AWG copper or equal. Overcurrent protection shall comply with NEC 422.11(E).

23.30.450.27 National Electrical Code Article 450.27 amended — Oil-Insulated Transformers Installed Outdoors.

Article 450.27 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the last paragraph of Article 450.27 to read as follows:

Oil-Insulated transformers located adjacent to building(s) or structures shall comply with the following:

(1) Transformers shall not be located closer than 2.5 m (8 ft) to any part of a building or structure constructed of combustible material including any eaves, overhangs or decks;

(2) Transformers shall not be located closer than 900 mm (2 ft) to any part of a building or structure constructed of non-combustible material including any eaves, overhangs or decks and must be outside a line extended vertically from the ends of the eaves, overhangs or rooflines of the building or structure;

(3) Transformers shall not be located closer than 2.5 m (8 ft) to any part of doors, windows, stairways, ventilation openings, other types of openings of all buildings or structures;

(4) Transformers shall be located such that any oil leaking from the transformer will flow away from the building or structure and will not pool; and

(5) Transformers located in areas subject to vehicular traffic shall be provided with adequate guarding.

(6) Enclosures for total underground oil filled transformers shall not be located closer than 2.5 m (8 ft) to any part of a doorway, window, stairway or fire escape. Adequate space must be maintained above the enclosure so that a boom may be used to lift the transformer from the enclosure.

23.30.514.11 National Electrical Code Article 514.11 amended — Circuit Disconnects.

Article 514.11 of the National Electrical Code is amended and supplemented by the addition of the following text to the last paragraph of Article 514.11(A), to read as follows:

The disconnecting means shall disconnect all conductors of the circuit supplying all station dispensers and or pumps (including the grounded conductor) simultaneously from the source(s) of supply.

For multi-circuit installations, an electrically held normally open contactor operated by a push-button or other suitable device may serve as the disconnecting means. The push button or disconnecting device shall not function as the resetting mechanism for the electrically held contactor. The resetting means shall meet the following:

(1) Located at least 4.5 m (15 ft) or out of sight of the pushbutton; and

(2) Protected by a suitable cover or guard; and

(3) Identified with an approved identification plate that is substantial black in color.

The disconnecting means shall be labeled with an identification plate, with letters at least 1" high, as the emergency disconnecting means.

The disconnecting means or operator must be:

(1) Substantially red in color; and

(2) For attended facilities – Must be readily accessible and must be located outdoors and within sight of the pump or dispensing equipment it controls; or

(3) For unattended facilities – must be readily accessible and must be located within sight, but at least 20' from the pump or dispensing equipment it controls.

23.30.517.31 National Electrical Code Article 517.31 amended — Emergency Systems

Article 517.31 of the National Electrical Code is amended and supplemented by the addition of the following new text to follow the last paragraph of Article 517.31, to read as follows:

In health care facilities, the following methods must be used to determine adequate capacity and ratings of equipment providing electrical power for the essential electrical systems.

(1) Systems in new facilities:

(a) Emergency system: The emergency branch must consist of 2 branches known as:

(i) Life safety system: The feeder conductors and equipment used to supply electrical power to the life safety branch must be determined by summation of the connected loads as determined by article 220 NEC and may not be subjected to any reduction due to the diversity of the loads. Feeder and equipment will be subject to a 125% multiplier for continuous loads in accordance with article 220 NEC.

(ii) Critical branch system: The feeder conductors and equipment must be calculated in accordance with article 220 NEC, including a level of diversity as determined by such article.

(b) Equipment branch: The feeder conductors and equipment used to supply electrical power to the equipment branch of the essential electrical system

must be calculated in accordance with article 220 NEC, including a level of diversity as determined by such article.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential system of a health care facility must meet or exceed the summation of the loads determined in (a) and (b) of this subsection with no additional demand factors applied. Momentary X-ray loads may be ignored if the generator is rated at least 300% of the largest momentary X-ray load connected.

(2) Existing essential systems in facilities to which additional load is to be added:

(a) Existing loads: The existing loads of the separate branches of the essential electrical system may be determined by NEC Article 220.35(1).

(b) Added loads: Added loads to the separate branches of the essential electrical system must be determined by subsection (a) of this section.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential electrical system must meet or exceed the summation of the loads determined by (a) and (b) of this subsection with no additional demand factors applied.

23.30.520.44 National Electrical Code Article 520.44 Table deleted — Ampacity of Listed Extra-Hard-Usage Cords and Cables.

Article 520.44 Table of the National Electrical Code is deleted and all references to Table 520.44 in NEC Article 520. The Ampacity of conductors shall be determined as provided in NEC Article 400.

23.30.527.4(G)National Electrical Code Article 527.4(G) amended — Splices.

Article 527.4(G) of the National Electrical Code is amended and supplemented by amending the first sentence of Article 527.4(G), to read as follows:

(G) On constructions sites, a box shall be required for splices or junction connections where splices of conductors are less than 2.5 m (8 ft) from grade or floor level or where subject to contact from personnel.

23.30.553.4 National Electrical Code Article 553.4 amended — Location of Service Equipment.

Article 553.4 of the National Electrical Code is amended and supplemented by amending Article 553.4 to read as follows:

The service equipment for floating buildings and similar facilities shall have a readily accessible service rated disconnect located on the shoreline within sight of the

shoreline connection of the dock, wharf or similar structure to which the floating building or similar facility is moored.

23.30.553.6 National Electrical Code Article 553.6 amended — Feeder Conductors.

Article 553.6 of the National Electrical Code is amended and supplemented by the addition new text to follow the first paragraph of Article 553.6, to read as follows: Floating buildings or similar facilities shall have a disconnecting means located within sight of each floating building or similar facility. The disconnecting means shall be installed adjacent to but not in or on, the floating building or similar facility.

23.30.553.7 National Electrical Code Article 553.7(B) amended — Wiring Methods.

Article 553.7(B) of the National Electrical Code is amended and supplemented by the addition new text to follow the first paragraph of Article 553.7(B), to read as follows:

Where flexible cables or cords are used they shall comply with Article 555.13(2). Conductors operating in excess of 600 volts, nominal, shall not be installed on floating portions of a floating building or similar facility.

23.30.555.1 National Electrical Code Article 555.1 amended — Scope.

Article 555.1 of the National Electrical Code is amended and supplemented by amending the last paragraph of Article 555.1 to read as follows:

Private, non-commercial docking facilities constructed or occupied for the use of the owner or residence of the associated single family dwelling are covered by this article.

23.30.555.5 National Electrical Code Article 555.5 amended — Transformers.

Article 555.5 of the National Electrical Code is amended and supplemented by amending the last paragraph of Article 555.5 to read as follows:

Transformers and enclosures shall be specifically approved for the intended location. The bottom of enclosures for transformers shall be located a minimum of 12" above the deck of a dock.

23.30.555.7 National Electrical Code Article 555.7 amended — Location of Service Equipment.

Article 555.7 of the National Electrical Code is amended and supplemented by amending the last paragraph of Article 555.7 to read as follows:

The service equipment for floating docks or marinas shall be located adjacent to and within sight but not on or in, the floating structure.

23.30.555.9 National Electrical Code Article 555.9 amended — Electrical Connections.

Article 555.9 of the National Electrical Code is amended and supplemented by the addition of new exception to read as follows:

Exception: Connections approved for wet locations.

23.30.555.10 National Electrical Code Article 555.10 amended — Electrical Equipment Enclosures.

Article 555.10 of the National Electrical Code is amended and supplemented by the addition of the following text to follow the first sentence of Subsection (B), to read as follows:

(B) Location. All enclosures must be corrosion resistant, gasketed enclosures must be arranged with a weep hole to discharge condensation.

23.30.555.13 National Electrical Code Article 555.13 amended —Wiring Methods and Installation.

Article 555.13 of the National Electrical Coded is amended and supplemented by amending the first paragraph of Subsection (B)(1) of Article 555.13 to read as follows:

(1) Overhead Wiring. Overhead wiring shall be installed to avoid possible contact with masts and other parts of boats being moored, stored, service or moved.

23.30.555.19 National Electrical Code Article 555.19 amended — Receptacles.

Article 555.19 of the National Electrical Code is amended and supplemented by the addition of the following text to follow the first sentence of Article 555.19 to read as follows:

Shore Power Receptacles that provide shore power for boats must be rated not less than 20 amperes and must be single outlet type and must be of the locking and grounding type or pin and sleeve type.

23.30.555.21 National Electrical Code Article 555.21 amended — Gasoline Dispensing Stations – Hazardous (Classified) Locations.

Article 555.21 of the National Electrical Code is amended and supplemented by the addition of new subsections to follow the first sentence of Article 555.21 to be known as Article 555.21(A) and 555.21(B), to read as follows:

(A) Boundary classifications.

(1) Class I, Division 1. The area under the dispensing unit is a Class I, Division 1 location. If a dock has one or more voids, pits, vaults, boxes, depressions, or similar spaces where flammable liquid or vapor can accumulate below the dock surface and within 20' horizontally of the dispensing unit, then the area below the top of the dock and within 20' horizontally of the dispensing unit is a Class I, Division 1 location.

(2) Class I Division 2. The area 18" above the water line and within 20' horizontally of the dispensing unit is a Class I, Division 2 location. If a dock has one or more voids, pits, vaults, boxes depressions, or similar spaces where flammable liquid or vapor can accumulate below the dock surface and within 20' horizontally of the dispensing unit, then the area to 18" above the top and adjacent to the sides of the dock and within 20' horizontally of the dispensing unit is a Class I, Division 2 location.

(B) Portable power cable. Portable power cable will be allowed as a permanent wiring method in Class 1, Division 2 locations when protected from physical damage.

23.30.600.3 National Electrical Code Article 600.3 amended — Listing.

Article 600.3 of the National Electrical Code is amended and supplemented by the addition of the following new text to follow the first paragraph, to read as follows:

Electric signs within the scope of Underwriters Laboratories Standards for Electric Signs UL 48, shall be listed. Electric signs not covered under the Standards for Electric Signs UL 48 shall be required to be installed in conformance with this Code or be field evaluated by an accredited electrical products testing laboratory.

23.30.600.10 National Electrical Code Article 600.10 amended — Portable or Mobile Signs.

Article 600.10 of the National Electrical Code is amended and supplemented by the addition of a new Subsection (C) to Article 600.10, to read as follows:

(c) Wet or Damp Location. Portable or mobile signs in wet or damp locations shall comply with 600.10(C)(1) and (C)(2). Each portable or mobile sign shall have a receptacle outlet, which complies with 406.8(B), installed within 1.8 m (6 ft) of the sign.

Article 600.10 of the National Electrical Code is further amended and supplemented by the addition of a new Subsection (E) to read as follows:

(E) Supply. Extension cords shall not be permitted to supply portable or mobile signs.

23.30.600.21 National Electrical Code Article 600.21 amended — Ballasts, Transformers, and Electronic Power Supplies.

Article 600.21of the National Electrical Code is amended and supplemented by the addition of a new Subsection (G), to read as follows:

(G) Outside Awnings. Luminaires installed in outdoor awnings shall be of a type that is suitable for wet locations and be connected by a wiring method suitable for wet locations. Fluorescent luminaires shall be installed so that no part of the luminaire is located closer that 6" to the awning fabric. Incandescent luminaires shall be installed so that no part of the luminaire is located closer than 18" to the awning fabric. Luminaires installed in outside awnings shall be controlled by a disconnect installed in conformance with 600.6.

23.30.600.30 National Electrical Code Article 600.30 amended — Applicability.

Article 600.30 of the National Electrical Code is amended and supplemented by amending Article 600.30 to read as follows:

Applicability. Part II of this article shall apply to all field-installed skeleton tubing and neon circuit conductors. These requirements are in addition to the requirements in Part I.

23.30.680.4 National Electrical Code Article 680.4 amended — Approval of Equipment.

Article 680.4 of the National Electrical Code is amended and supplemented by the addition of the following new text to follow the first paragraph, to read as follows:

Electrical components which have failed and require replacement shall be replaced with identical products unless the replacement part is no longer available; in which case, a like-in-kind product may be substituted provided the mechanical and grounding integrity of the equipment is maintained.

23.30.680.12 National Electrical Code Article 680.12 amended — Maintenance Disconnecting Means.

Article 680.12 of the National Electrical Code is amended and supplemented by the addition of a new Subsection (A) to read as follows:

(A) Location. The maintenance disconnect for a swimming pool, hot tub, spa, or swim spa shall not be located closer than 5' from the inside wall of the pool, hot tub, spa, or swim spa.

23.30.680.13 National Electrical Code Article 680.13 new — Field Installed Equipment.

Article 680 of the National Electrical Code is amended and supplemented by the addition of new Section to be known as Section 680.13 to read as follows:

680.13 Field Installed Equipment. Field installed electrical equipment for a swimming pool, hot tub, spa or swim spa shall not be located closer than 5' from inside wall of the swimming pool, hot tub, spa or swim spa. The 5' separation may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The 5' separation shall be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to the equipment.

Field installed electrical equipment must meet the following additional requirements:

(1) Heaters are listed as a "swimming pool heater or a spa heater";

(2) Pumps are listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump";

(3) Other equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.
(4) The field assembly or installation of "recognized components" shall not be permitted.

23.30.680.4 National Electrical Code Article 680.40 amended —General.

Article 680.40 of the National Electrical Code is amended and supplemented by the addition of a new Subsection (A) and a new Subsection (B), to read as follows:

(A) Modular, Self-Contained Spa or Hot Tubs. Equipment assemblies for self-contained spas or hot tubs shall be installed within 1.5 m (5 ft.) from the inside wall of the spa or hot tub. Equipment assemblies shall be listed or field evaluated as a unit with the spa or hot tub

(B) Packaged Spa or Hot Tub Equipment Assemblies. Equipment assemblies (skid pack) pre-packaged by a factory shall not be installed closer than 1.5 m (5 ft.) from the inside wall of the spa or hot tub and shall be listed as a package unit.

23.30.680.70 National Electrical Code Article 680.70 amended — General.

Article 680.70 of the National Electrical Code is amended and supplemented by the addition of the following text to the end of the first paragraph, to read as follows:

Hydromassage bathtubs must be listed as a unit and bear a listing mark which reads "Hydromassage bathtub."

23.30.700.9 National Electrical Code Article 700.9 amended — Wiring, Emergency Systems.

Article 700.9 of the National Electrical Code is amended and supplemented by amending Article 700.9(A) to read as follows:

(A) Identification. All boxes and enclosures larger than 150 mm (6 in.) by 150 mm (6 in.) (including transfer switches, generators and power panels) for emergency circuits shall be permanently marked with an identification plate that is orange in color so they will be readily identified as a component of the emergency circuit or system. All other device and junction boxes for emergency systems and circuits must be orange in color, both inside and outside.

23.30.760.10 National Electrical Code Article 760.10 amended — Fire Alarm Circuit Identification.

Article 760.10 of the National Electrical Code is amended and supplemented by the addition of new text to follow the end of the first paragraph, to read as follows:

Device and junction boxes for fire alarm systems other than the surface raceway type shall be red in color, both inside and outside. Power-limited fire protective signaling circuit conductors shall be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power-limited fire protective signaling circuit.

Section 3. The figures and drawings attached hereto as Attachment 1 are hereby adopted.

Section 4. This ordinance shall take effect and be in force five (5) days after its adoption and legal publication.

PASSED by the City Council this ____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

_____
Lori Riordan, Deputy City Attorney

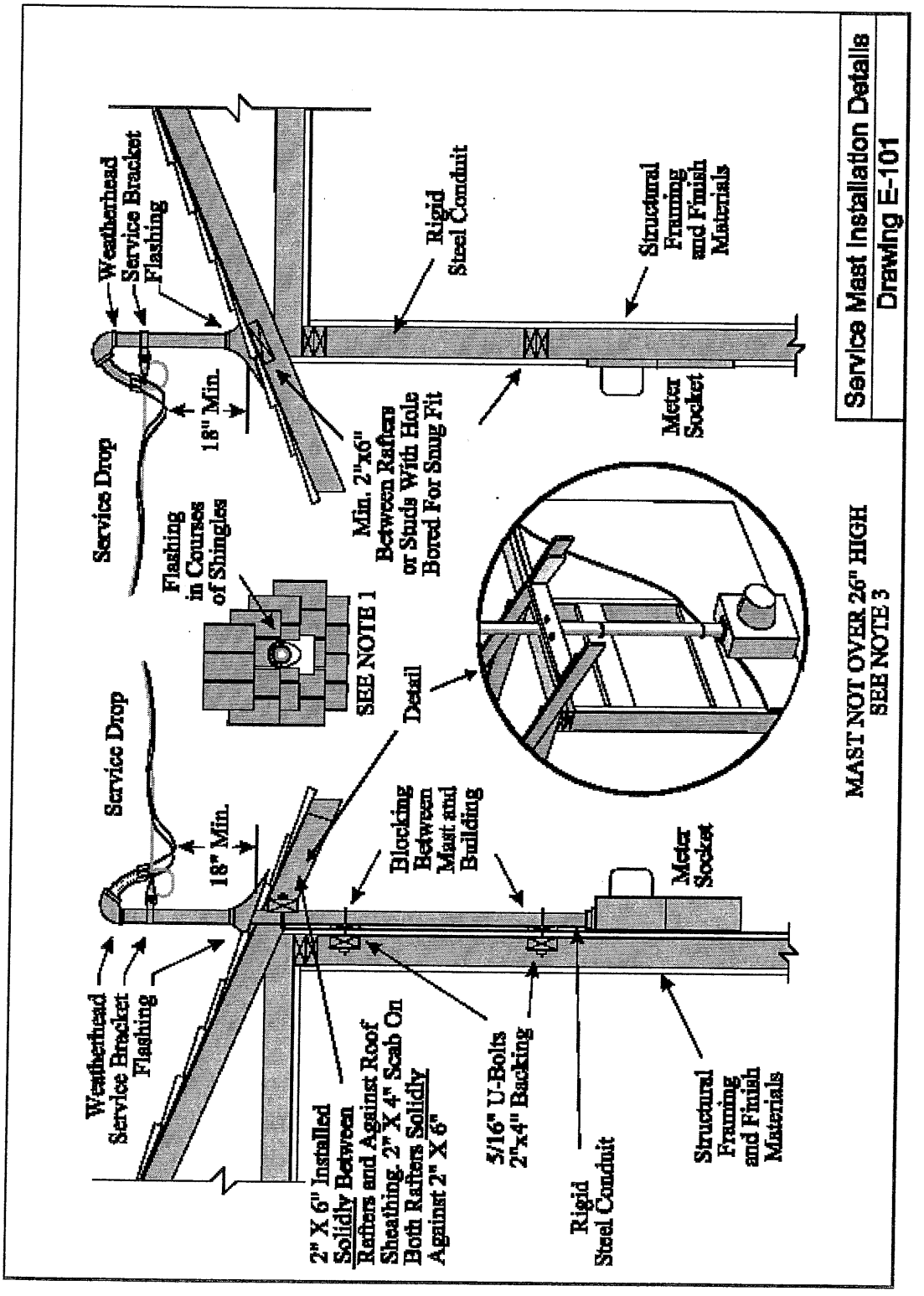
Attest:

_____
Myrna L. Basich, City Clerk

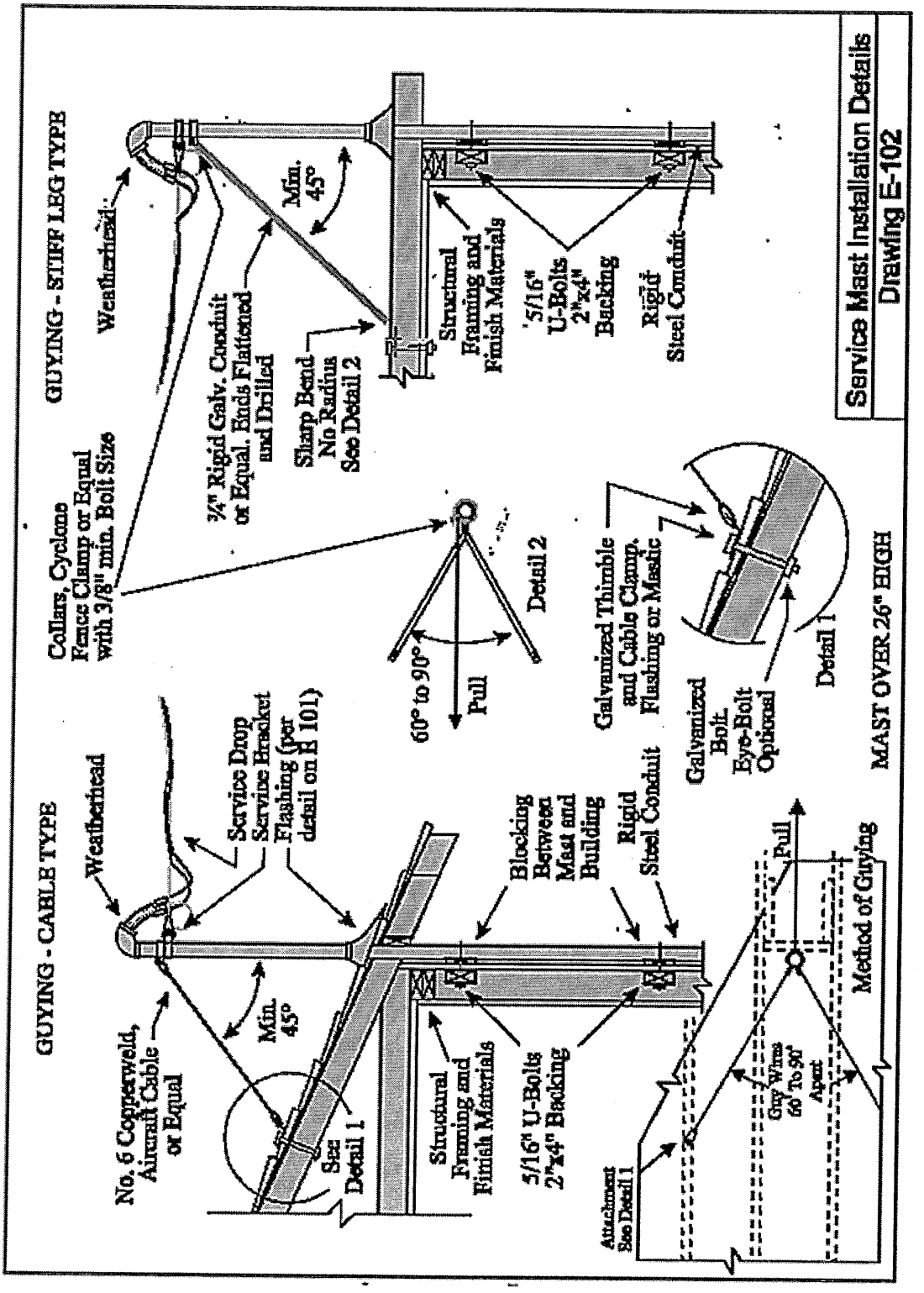
Published _____

ATTACHMENT 1
FIGURES AND DRAWINGS

Drawing E-101



Drawing E-102



Drawing E-103

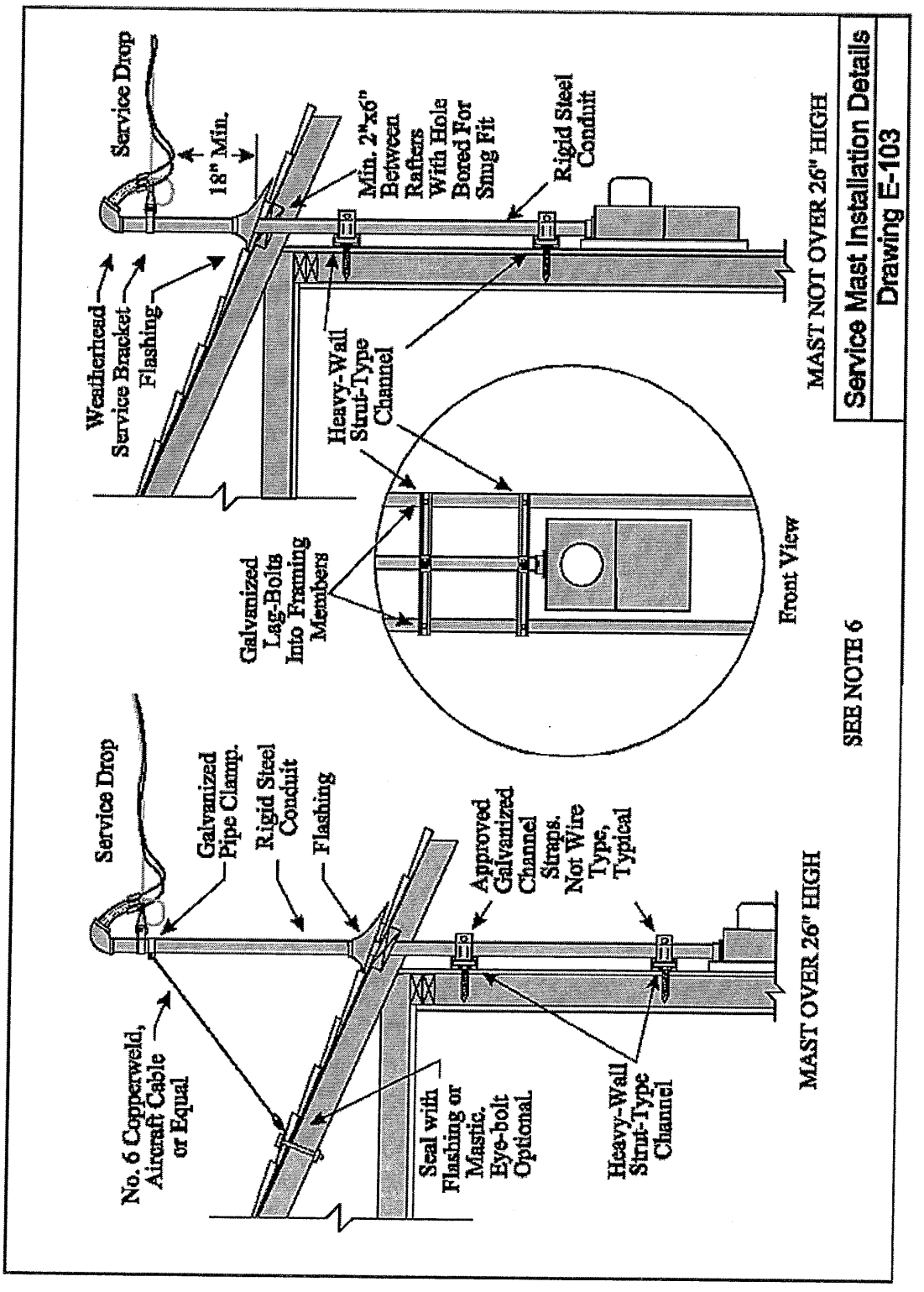


Figure 450-1 and 450-2

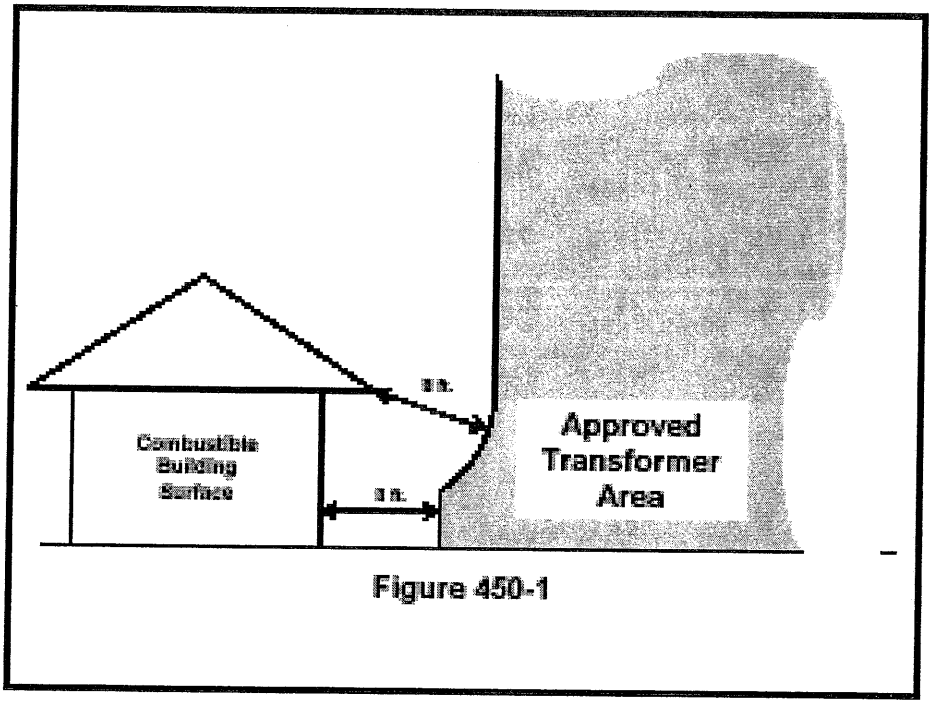


Figure 450-1

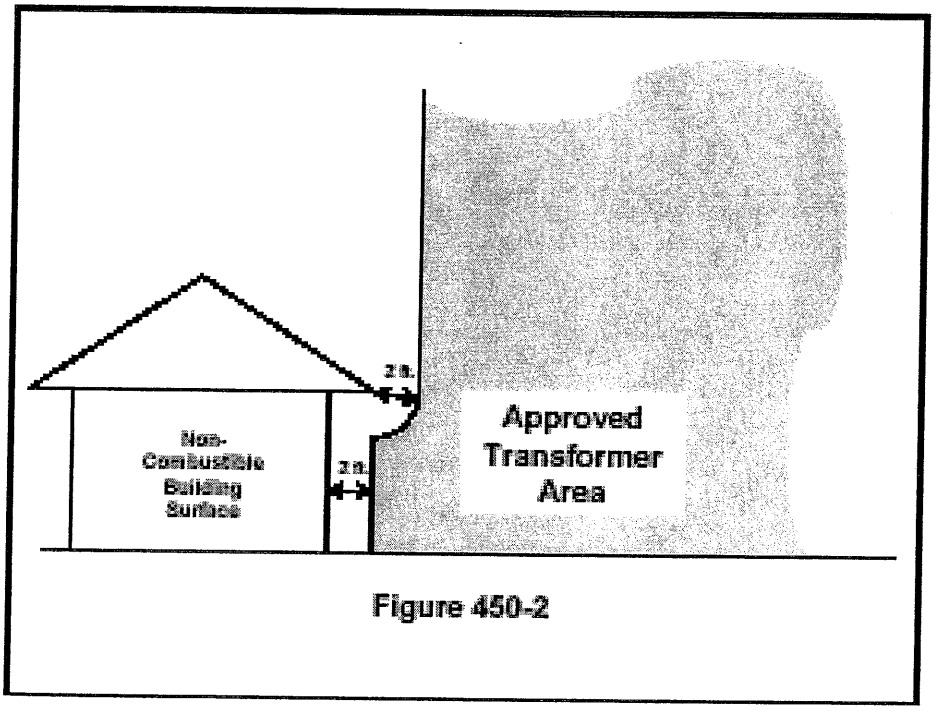


Figure 450-2

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance No. 5531 repealing Bellevue City Code Chapter 5.30 Cable Communications and adopting a new Bellevue City Code Chapter 5.30

Ordinance No. 5532 repealing Bellevue City Code Chapter 14.20 Franchise Terms and Conditions and adopting a new Bellevue City Code Chapter 14.20

FISCAL IMPACT:

Adoption of these code changes will provide for recovery of city costs for processing franchise applications and will implement a penalty structure for late payment of franchise fees. The application fees will be a minimum of $5,000 plus actual costs over that minimum. Due to the low number of applications filed on an annual basis, this fee change is not expected to have a significant impact on revenue. Penalty rates will be set at five to twenty percent of the quarterly franchise fee, consistent with the city's tax code penalty provisions.

STAFF CONTACT:

Goran Sparrman, 452-4338; Nora Johnson, 452-4167; David Kerr, 452-6139

POLICY CONSIDERATIONS:

The City of Bellevue grants and manages franchises with utilities and other providers using the rights of way and other public ways. Franchise agreements are necessary to ensure that utility and other service providers have the necessary rights to operate within the City of Bellevue. Bellevue City Code Chapter 5.30 provides specific provisions for cable TV franchises. Bellevue City Code Chapter 14.20 provides the basic terms and conditions for granting all other franchises.

BACKGROUND:

Bellevue City Code, Chapter 5.30, Cable Communications.

This chapter was last updated in 1994, concurrent with the last major cable TV franchise renewal. Since the codes were last revised there have been sweeping changes in federal law that governs and controls cable TV franchising and regulation, including the 1996 Telecommunications Act.

Bellevue City Code, Chapter 14.20, Franchise Terms and Conditions.

This chapter was adopted in 1961 with minor updates to a few of the sections in 1972 and 1974. It provides the general terms and conditions for all non-cable TV franchises, including utility services and pipeline franchises. The City's franchise policies and practices have evolved in the ensuing years, particularly as they relate to telecommunications providers and the enactment of the 1996 Telecommunications Act. Additionally, the City now has a greater recognition that some changes should be

made to the City's approach to franchising with pipeline companies, including: addressing the term of the franchise; necessary insurance provisions; enforcement and penalty provisions; and a process for franchise revocation. Finally, Chapter 14.20 currently contains some cable TV-related provisions that are in conflict with the existing provisions of Chapter 5.30 and/or the proposed changes to Chapter 5.30.

Council Consideration

At Council Study Session on June 1, 2004, staff proposed the repeal of existing Chapters 5.30 and 14.20 and that they be replaced with the new proposed Chapters 5.30 and 14.20. Council directed staff to make changes and modifications to the proposed codes.

At Council Study Session on June 14, 2004, staff proposed changes to the proposed Chapters 5.30 and 14.20 responsive to Council's previous direction and comments.

At the June 14, 2004 Study Session, Council provided the following direction: that Section 5.30.460(C)(6) , providing automatic credits for cable service interruptions, be modified; that the term "grossly" be deleted from the phrase "willful pattern of grossly inadequate service" in Section 5.30.340(A)(9) and 14.20 270(A)(9) ; and that the term "gross negligence" be deleted from Section 5.30.310.

Below are the changes to those proposed codes in response to Council's feedback on June 14. These are in addition to those previously presented to Council during the review and discussion process.

Proposed changes to Section 5.30.460(C)(6):

> 5.30.460(C)(6). ~~Under normal operating conditions all~~ When the grantee can determine with certainty that a subscribers~~~~ has been affected by an outage or service interruption, attributable to grantee's equipment, for one or more hours, the grantee shall, at a minimum, provide ~~receive~~an automatic credit for the duration of the outage or such other compensation as the grantee and the subscriber shall mutually agree. ~~for the appropriate portion of the day(s) or if the duration of the outage is undetermined then for the entire day and for every day thereafter until service is restored.~~
>
> The section would now read:
>
> 5.30.460(C)(6). When the grantee can determine with certainty that a subscriber has been affected by an outage or service interruption, attributable to grantee's equipment, for one or more hours, the grantee shall, at a minimum, provide an automatic credit for the duration of the outage or such other compensation as the grantee and the subscriber shall mutually agree.

Other changes:

> Section 5.30.340(A)(9) and 14.20.270 (A)(9): Staff deleted the term "grossly" from the phrase "a willful pattern of ~~grossly~~ inadequate service".

- The phrase would now read "a willful pattern of inadequate service".

Section 5.30.310: Staff deleted the term "gross negligence" from the sentence "except that no such requirement shall apply where such indemnified liabilities are occasioned solely by the negligence~~, gross negligence~~ or intentional misconduct of the City or its officials, boards, commissions, agents and employees while acting on behalf of the City.

- The sentence would now read: "except that no such requirement shall apply where such indemnified liabilities are occasioned solely by the negligence or intentional misconduct of the City or its officials, boards, commissions, agents and employees while acting on behalf of the City.

Council directed that new proposed Chapters 5.30 and 14.20 with these changes as provided below, be brought to Council on June 21, 2004 for final action.

EFFECTIVE DATE:
If adopted, these ordinances become effective on July 21, 2004.

OPTIONS:
1) Adopt Ordinance No. 5531 repealing Bellevue City Code Chapter 5.30 and adopting a new Bellevue City Code Chapter 5.30

   Adopt Ordinance No. 5532 repealing Bellevue City Code Chapter 14.20 and adopting a new Bellevue City Code Chapter 14.20

2) Reject Ordinances Nos. 5531 and 5532 and provide alternative direction for staff.

RECOMMENDATION:
Staff recommends Option 1. Adopt Ordinance Nos. 5531 and 5532.

MOTION:
Move to adopt Ordinance No. 5531 repealing Bellevue City Code 5.30 and adopting a new Bellevue City Code Chapter 5.30

Move to adopt Ordinance No. 5532 repealing Bellevue City Code 14.20 and adopting a new Bellevue City Code Chapter 14.20.

ATTACHMENTS:
Proposed Ordinance No. 5531
Proposed Ordinance No. 5532

AVAILABLE IN COUNCIL OFFICE:
N/A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5531

AN ORDINANCE repealing Ordinance No. 4673 and Bellevue City Code Chapter 5.30 and adopting a new Chapter 5.30 governing cable communications and cable franchises.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 4673 and Bellevue City Code Chapter 5.30 are hereby repealed.

Section 2. A new Bellevue City Code Chapter 5.30 is hereby adopted as follows:

Chapter 5.30

CABLE COMMUNICATIONS

Sections

5.30.010 Title.
5.30.020 Purpose.
5.30.030 Applicability.
5.30.040 Definitions.
5.30.050 Requirement of a franchise.
5.30.060 General franchise characteristics.
5.30.070 Franchise as a contract.
5.30.080 Subject to authority.
5.30.090 Extent of grantee's obligations.
5.30.100 No waiver of terms.
5.30.110 Franchise term.
5.30.120 Service area.
5.30.130 Annexations and incorporations.
5.30.140 Force majeure.
5.30.150 Publication costs.
5.30.160 Filing of applications.
5.30.170 Content of applications.
5.30.180 Franchise renewals.
5.30.190 Application fee.
5.30.200 Consideration of applications.
5.30.210 Acceptance.
5.30.220 Franchise fee.
5.30.230 Periodic audit.
5.30.240 Reports.

5.30.250 Books and records.
5.30.260 Filings.
5.30.270 Permanent franchise performance and payment bond.
5.30.280 Letter of credit.
5.30.290 Insurance.
5.30.300 Acceptability and cancellation of surety.
5.30.310 Indemnification.
5.30.320 Liquidated damages.
5.30.330 Civil penalties and additional relief.
5.30.340 Revocation and termination.
5.30.350 Procedures for termination.
5.30.360 Foreclosure.
5.30.370 Receivership.
5.30.380 Purchase or transfer of cable system required by city.
5.30.390 Removal of cable communications system.
5.30.400 Transfer of ownership or control.
5.30.410 Continuity of service.
5.30.420 Transitional operation.
5.30.430 Subscriber fees and rates.
5.30.440 Performance evaluation.
5.30.450 Parental control.
5.30.460 Cable subscriber service standards.
5.30.470 Additional consumer protection.
5.30.480 Technical standards.
5.30.490 Inspection and performance tests.
5.30.500 Standby power.
5.30.510 Emergency audio alert system.
5.30.520 Construction and installation work.
5.30.530 Location of structures, lines and equipment.
5.30.540 Public drops.
5.30.550 Institutional services.
5.30.560 Access and local programming.
5.30.570 Leased access.
5.30.580 Moving of buildings.
5.30.590 Trimming trees.
5.30.600 Delays in construction.
5.30.610 Repair of damages.
5.30.620 Tampering or unauthorized connections.
5.30.630 Equal opportunity employment.
5.30.640 Interconnection.
5.30.650 Cooperation.
5.30.660 Severability.

5.30.010 Title.

This chapter shall be known as the cable communications chapter.

5.30.020 Purpose.

The purposes of this chapter are to:

A. Provide for the franchising and regulation of cable communications within the city of Bellevue;

B. Provide for a cable communications system or systems that will meet the current and future needs of the city;

C. Provide for the payment of fees and other valuable consideration to the city for the use of the public ways and for the privilege to construct and operate cable communications systems;

D. Provide, consistent with applicable law, for the regulation by the city of certain rates to be charged to subscribers for certain cable communications services;

E. Provide for the establishment of construction, maintenance, and operations standards to ensure the safety of the public;

F. Provide for the development of cable communications as a means to improve communication between and among the members of the public and public institutions of the city; and

G. Provide remedies and prescribe penalties for violation of this chapter and any franchise granted hereunder.

5.30.030 Applicability.

This chapter is applicable to any cable communications franchise, including renewals, issued after the effective date of this chapter.

5.30.040 Definitions.

For purposes of this chapter the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive. Words not defined shall be given their common and ordinary meanings.

A. **"Affiliate"** shall mean any person or entity that directly or indirectly owns or controls, is owned or controlled by, or under common ownership or control with another person, a cable operator, and provides cable service or other service to subscribers in the city.

B. "**Application**" means a proposal seeking authority to construct and/or operate a cable communications system within the city pursuant to this chapter.

Application shall include the initial proposal for a new or renewed franchise plus all related subsequent amendments thereto.

C. "**Cable Communications System**" or "**Cable System**" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

2. A facility that serves subscribers without using any public right of way;

3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934 as amended, except that such facility shall be considered a cable system (other than for purposes of Section 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

4. An open video system that complies with 47 U.S.C §653.

5. Any facilities of any electric utility used solely for operating its electric utility systems.

D. **"Cable Operator"** means any person or group of persons who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or who otherwise controls or is responsible for, through any arrangement, the management and operation of such cable systems.

E. **"Cable Services"** shall mean (a) the one-way transmission to subscribers of video programming, or other programming service, and (b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

F. "**Channel**" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by FCC regulations).

G. "**City**" means the city of Bellevue, Washington.

H. **"Complaint"** shall mean any issue raised by a subscriber that is a violation of the subscriber service standards.

I. **"Construct" or "Construction"** shall mean building, installing, removing, replacing, repairing and maintaining any new or existing cable communications system equipment or facilities and may include, but is not limited to, digging and/or excavating for the purposes of building, installing, removing, replacing, repairing and maintaining any new or existing cable communications system equipment or facilities.

J. "**Converter**" means an electronic tuning device which converts transmitted signals to a frequency which permits their reception on an ordinary television receiver.

K. "**Council**" means the city council of the city of Bellevue.

L. **"Customer Service Representative"** ("CSR") means any person employed by the cable operator to assist or provide service to subscribers, whether by answering public telephone lines, writing service or installation orders, answering subscribers' questions, receiving and processing payments, or performing other subscriber service related tasks.

M. "**Drop**" means the cable or cables that connect a subscriber's premises to the nearest feeder line of the cable communications system.

N. "**Easement**" means a public or private easement or right of way, including a public utility easement, to be used for the purposes of constructing and operating a cable communications system.

O. "**FCC**" means the Federal Communications Commission or any legally appointed or designated agent or successor.

P. "**File**" means the delivery, by mail or otherwise, to the appropriate office, officer or agent of the city of any document or other thing which this chapter or a franchise requires a grantee to file with the city. The date of receipt by the city shall be considered the file date. Unless specified to the contrary, the filing shall be with the city clerk.

Q. "**Franchise**" means the non-exclusive right and authority to construct, maintain, and operate a cable communications system through use of the public streets, dedications, public utility easements, or other public way in the city pursuant to a contractual agreement executed by the city and a cable operator.

R. **"Franchise Area"** means the area within the jurisdictional boundaries of the city, including any areas annexed by the city during the term of a franchise.

S. "**Grantee**" means an entity authorized to construct and/or operate a cable communications system within the city pursuant to this chapter, including any lawful successor, transferee or assignee of an original grantee.

T. "**Gross Revenues**" means all revenues derived directly or indirectly by the grantee or an affiliated entity from the operation of the cable system used to

provide cable services within the franchise area. Gross revenues shall not include (i) bad debt, provided, however, that all or part of any such bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected; or (ii) any taxes on services furnished by the grantee which are imposed directly on any subscriber or user by the state, city or other governmental unit and which are collected by the grantee on behalf of said governmental unit; or (iii) any access capital contributions as defined by a franchise.

U. "**Installation**" means the connection of the cable system at the subscriber's premises.

V. "**Institutional Services**" means one-way and two-way non-entertainment transmission services for public agencies and community institutions. Such services include, but are not limited to, video transmission and voice and data communications.

W. "**Maintain**" or "**Maintenance**" means the repair, restoration, replacement, renovation and testing of the cable communications system or components thereof so as to ensure that it operates in a safe and reliable manner and as required by a franchise and this chapter.

X. **"Material Breach"** means any substantial or repeated failure of the grantee to comply with subscriber service standards or any other requirement set forth in the franchise agreement, this division or applicable law. A material breach also means any single breach of any term of the franchise agreement that has a substantial and significant effect on the rights of either party to the franchise agreement or to the subscribers in the service area described in the franchise agreement. A material breach shall also include any breach designated as material in the franchise agreement or this division.

Y. **"Normal Business Hours"** means the hours of 9:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 1:00 p.m., Saturday, excluding legal holidays.

Z. **"Normal Operating Conditions"** means service conditions within the control of the grantee. Those conditions that are not within the control of the grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

AA. **"Other Programming Service"** means information that a grantee makes available to all subscribers generally.

BB. "**PEG Access Facilities**" means channel capacity designated for public, educational or governmental use and/or facilities and equipment for the use of such channel capacity.

CC. "**PEG Access User**" means any person or entity, including a governmental entity, entitled to make use of a PEG access channel consistent with the intended purpose of the channel.

DD. "**Person**" means an individual or legal entity, such as a corporation, partnership, or governmental entity.

EE. **"Personally Identifiable Information"** means specific information about a subscriber, including, but not limited to, a subscriber's (a) login information, (b) extent of viewing of video programming or other services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, (h) web browsing activities, or (i) any other personal or private information. "Personally Identifiable Information" shall not mean aggregate information about subscribers which does not identify particular persons.

FF. **"Property Owner"** means any individual, association, or business entity that owns or controls an apartment building, condominium, mobile home, duplex, single-family home, or other property.

GG. "**Right(s) of Way**" means all public streets, roads, avenues, alleys and highways of the city as now laid out, platted, dedicated, acquired or improved; and any streets, roads, avenues, alleys and highways that may hereafter be laid out, platted, dedicated, acquired or improved within the current limits of the city and as such limits may be hereafter extended, and all city owned utility easements dedicated for the placement and location of various utilities provided such easement would permit the cable operator to fully exercise the rights granted under a franchise within the area covered by the easement and, including any air rights, subsurface rights or easements related thereto.

HH. "**Service Interruption**" means loss of picture or sound on one or more cable channels.

II. **"Standard Installation"** means (1) for an unwired dwelling unit, an installation of cable service to the subscriber's dwelling unit located up to one hundred twenty-five (125) feet from the distribution system as maybe extended per line extension provisions of a franchise, plus additional inside wire and at least one (1) outlet sufficient to receive cable services; and (2) for a prewired dwelling, the installation of cable service to the federal demarcation point located on the subscriber's property up to one hundred twenty-five (125) feet from the subscriber's property line, sufficient to receive cable services and where the prewired equipment will allow the cable system to meet all Federal Communications Commission (FCC) technical requirements.

JJ. "**Subscriber**" means a customer who is a lawful recipient of cable television services or other services provided over a cable communications system.

KK. **"Transfer"** means any transaction in which all or a substantial portion of any cable communications system equipment or facilities or any right to use or operate the equipment or facilities located in the public right of way are sold,

conveyed, transferred, assigned, encumbered or leased, in whole or in part, directly or indirectly, by one or more transactions to another person, whether voluntarily or by operation of law or otherwise; or there is any change, acquisition or transfer of control of the cable operator, or any person that controls the cable operator, including, without limitation, forced or voluntary sale, merger, consolidation, exchange, receivership; or the rights or obligations under the franchise are sold, conveyed, transferred, assigned, encumbered or leased, in whole or in part, directly or indirectly, by one or more transactions to another person, whether voluntary or by operation of law or otherwise.

5.30.050 Requirement of a franchise.

No grantee may construct, install, operate or maintain cable communications system equipment or facilities in the public right of way or use any cable communications system equipment or facilities installed in the public right of way for the purpose of providing cable service without a valid franchise obtained pursuant to the provisions of this chapter and subsequent amendments.

5.30.060 General franchise characteristics.

Any franchise issued pursuant to the provisions of this chapter shall be deemed to:

A. Authorize and govern the use of the public rights of ways for installing cable communications system equipment and facilities in order to operate a cable communications system, including the terms and conditions appropriate thereto, but shall neither expressly nor impliedly be deemed to authorize a grantee to provide service, or install cables, wires, lines, or any other equipment or facilities upon city property other than public rights of ways, or upon private property without the owner's consent, or to utilize publicly or privately owned utility poles or conduits without a separate agreement with the owners thereof; provided, no grant of use by the city shall extend permission or use outside a purpose, dedication, or reservation granted to or held by the city; provided further, nothing herein shall prohibit the city or a grantee from exercising its rights under Section 621(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. § 541(a)(2);

B. Be non-exclusive, and shall neither expressly nor impliedly be deemed to preclude the granting to other applicants of subsequent franchises to operate one or more other cable communications systems in the same area within the city, or the ownership or operation of a cable communications system by the city, which powers are expressly reserved to the city; and

C. Convey no property right to a grantee or right to renewal, except as otherwise provided by applicable law.

5.30.070 Franchise as a contract.

A franchise issued pursuant to the provisions of this chapter shall be deemed to constitute a contract between a grantee and the city. In the event of a conflict between the provisions of this chapter and a franchise issued pursuant hereto, the

provisions of this chapter shall govern unless the franchise clearly states the parties' intent to have the provisions of the franchise control over the provisions of this chapter. Each party shall be deemed to have contractually committed itself to comply with the terms, conditions and provisions of a franchise, and a grantee shall further comply with all written rules, orders and regulations applicable to and not inconsistent with a franchise, which rules, orders and regulations are issued, promulgated or made pursuant to the provisions of this chapter or other lawful authority.

5.30.080 Subject to authority.

A grantee shall, at all times during the term of a franchise, be subject to all lawful exercise of the police power by the city and to such lawful regulations as the city shall hereafter enact. A grantee shall construct, operate and maintain the cable system in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the United States, the state of Washington, the city or any agency of said governments with jurisdiction over said activities.

5.30.090 Extent of grantee's obligations.

The obligations imposed upon the grantee by the express terms of the franchise, or implied by the terms of this chapter or any other ordinance affecting the same, shall be deemed to include every employee, nominee or independent contractor of the grantee performing work in the city streets, or other city property, under contract direction, request or authority of the grantee under this franchise, and the grantee, its agent, employee or independent contractor, severally, shall be responsible to the city for any injury or damage to city property or the expense incurred or suffered by the city in correcting defects in work replacing city streets or other improvements damaged by the acts or neglect of such servants, agents or independent contractors of grantee.

5.30.0100 No waiver of terms.

A failure of the city on one or more occasions to insist upon or to seek compliance with any term or condition of this chapter shall not excuse a grantee from complying with said term or condition on any other occasion. A failure of either the city or grantee on one or more occasions to insist upon or to seek compliance with any term or condition of a franchise shall not excuse the other party from complying with said term or condition on any other occasion.

5.30.110 Franchise term.

The term of a franchise shall be as specified in a franchise agreement, but it shall not exceed 10 years. If a grantee seeks authority to operate a cable system in the city beyond the term of its franchise, it shall file an application for a new franchise not earlier than 36 nor later than 30 months prior to the expiration of its franchise.

5.30.120 Service area.

A grantee shall offer cable communications service to all residential areas of the city unless specifically authorized in the franchise to serve a lesser area. Service to dwellings along non-public streets shall be offered by a grantee if easements are reasonably available to grantee on terms equivalent to those for easements along public streets. A franchise issued pursuant hereto shall require that all dwelling units within the franchise territory shall be offered service on the same terms and conditions; provided, however, multiple-family dwelling complexes, apartments or condominiums may be served on a master-billed basis and, further, service to motels, hotels, hospitals and similar businesses or institutions may be offered on terms and conditions different from single resident subscribers. A grantee may petition the city for a waiver of this requirement, such waiver to be granted for good cause shown.

5.30.130 Annexations and incorporations.

A. In the event that subsequent to the issuance of a franchise the city annexes additional territory a grantee shall, consistent with its obligations under a franchise, extend its cable communications services into the annexed area upon request of the city.

B. In the event that a grantee already provides cable communications services in the annexed area the grantee shall, within sixty (60) days of receipt of a written notice of the effective date of an annexation or incorporation, update all records to assure proper payment of franchise fees to the city for the annexed franchise area.

5.30.140 Force majeure.

In the event the grantee's performance of any of the terms and conditions or obligations required by this chapter is prevented by a cause or event not within the grantee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that shall not relieve a grantee from its general obligations to provide pro rata credits or rebates for interruptions in service. For the purpose of this section, causes or events not within the control of the grantee shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of the grantee to perform or failure of the grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the grantee, or the failure of the grantee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable communications system where the grantee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

5.30.150 Publication costs.

A grantee shall be responsible for all costs of publication of its franchise and any amendments thereto. Such costs shall include, but are not limited to, the cost of publication in any newspaper.

5.30.160 Filing of applications.

Applications for a franchise will be considered pursuant to the procedures set forth in BCC 5.30.170 . For good cause the city council may elect to waive any requirement set forth in BCC 5.30.170, unless otherwise required by applicable law.

A. An application may be filed at any time or pursuant to a request for proposals (RFP) issued by the city.

B. The city may request additional information from an applicant for a franchise at any time.

5.30.170 Content of applications.

All applications to construct, operate, or maintain any cable system in the incorporated areas or to traverse any portion of those areas for the transmitting or conveying of such service elsewhere, shall be filed with the director of transportation or his or her designee. An application for the grant of an initial franchise may be filed pursuant to a request for proposals issued by the city or on an unsolicited basis. To be acceptable for filing, an original and two (2) copies of the application must be submitted and be accompanied by the application filing fee where required. Each application for an initial franchise shall set forth the following:

A. The name, address and telephone number of the applicant.

B. A detailed statement of the corporate or other business organization of the applicant, including but not limited to the following:

1. The names, business addresses, and state of residence of all general partners and corporate officers of the applicant.

2. The names, business addresses, and state of residence of all persons owning or controlling five (5) percent or more of the stock, partnership shares, or assets of the applicant and the respective ownership share of each such person.

3. The names and addresses of any parent corporation, parent entity, or holding company that owns or, by ownership of other entities, controls the applicant.

4. The names and addresses of any business entities owned or controlled by the applicant, including, but not limited to, SMATV or cable operations.

5. A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the five (5) fiscal years immediately preceding the date of the application, or a letter or other acceptable evidence in writing from a responsible lending institution or funding source, addressed to both the applicant and the city, setting forth a clear statement of its intent to provide the capital required to construct and operate the proposed system. If the corporate or business entity organization of the applicant has not been in existence for a full five (5) years, applicant shall submit a certified financial statement for the period of its existence.

6. A detailed description of all previous experience of the applicant in providing cable services or related or similar services which includes a statement identifying, by place and date, all other cable television licenses or franchises awarded to the applicant, its parent or subsidiary, the status of the licenses or franchises with respect to completion, the total cost of completion of such systems, and the amount of applicant's and its parent's or subsidiary's resources committed to such systems.

7. An indication of whether the applicant, or any person controlling the applicant, or any officer or major stockholder of the applicant, has been adjudged bankrupt, had a cable license or franchise revoked, or been found guilty by any court or administrative agency of a violation of a security or antitrust law, felony, or any crime involving moral turpitude; and, if so, identification of any such person and a full explanation of the circumstances.

C. A detailed financial plan describing for the first five (5) years of the franchise, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and statement of sources and uses of funds and schedule of all capital additions.

D. A detailed description of the proposed plan of operation of the applicant, which shall include, but not be limited to, the following:

1. A detailed map indicating all areas proposed to be served, a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, a description of the construction of the proposed system including an estimate of the above and below ground mileage and the projected total cost for construction of the system.

2. For informational purposes, a statement or schedule setting forth all proposed initial classifications of rates and charges to be made against subscribers and all rates and charges for each classification, including installation charges, service charges or other charges. The purchase price, terms, and nature of any optional or required equipment, device, or other thing to be offered for sale to any subscriber shall be described and explained in detail.

3. A detailed statement describing the physical facility proposed, including channel capacity, technical design, the actual equipment, and the operational and technical standards proposed by the applicant.

4. A description of the services to be provided initially, including the broad categories of programming and all broadcast and non-broadcast signals to be carried and all non-television services to be delivered over the cable system, and if services will be offered by tiers, identification of the signals and/or services to be included on each tier.

5. A description of how the proposed system will reasonably meet the future cable-related needs and interests of the community, including how the proposed system will meet the needs described in any recent community needs assessment conducted by or for the city.

E. Any other information reasonably requested by the city which is deemed necessary to evaluate the technical, financial and legal qualifications of the applicant or which could materially affect the granting of the franchise.

F. The city at its discretion may decide to accept less than the documentation above if it can establish through other sources that the applicant can meet the technical, financial and legal qualifications and that the applicant is competent to operate a cable communications system.

5.30.180 Franchise renewals.

Nothing in this section shall authorize the city to impose burdens or apply standards on the applicant beyond those permitted by federal law.

5.30.190 Application fee and costs.

A. Unless prohibited by applicable law, each application for new franchise; the renewal of an existing franchise; any sale, assignment, merger, transfer or change of control; or any request for modification of or any other relief from the duties and obligations of a franchise shall be accompanied by a non-refundable minimum filing fee of $5,000. This minimum filing fee is intended to be a charge incidental to the awarding or enforcing of a franchise within the meaning of Section 622(g)(2)(D) of the Cable Act, 47 U.S.C. § 542(g)(2)(D).

B. Unless prohibited by applicable law, where the city's actual out-of-pocket costs in considering the application exceed the $5,000 minimum application filing fee, such costs shall be paid by the applicant. The city will bill for out-of pocket costs on a quarterly basis with payment terms of thirty (30) calendar days. If invoices are not paid within the thirty (30) days, the applicant shall be charged and shall pay interest at the rate of twelve percent (12%) per annum of the amount of the unpaid or underpaid costs provided, however, that such rate does not exceed the maximum amount allowed under applicable law. The invoice will provide the method of calculation, documentation and total amounts due less the original credit of the $5,000 filing fee. The city will submit the final invoice within thirty (30) calendar days from the date of the approval or denial of the franchise by the city council. These out-of-pocket costs are intended to be a charge incidental to the awarding or

enforcing of a franchise within the meaning of Section 622(g)(2)(D) of the Cable Act, 47 U.S.C. § 542(g)(2)(D).

5.30.200 Consideration of applications.

A. The city will consider each application for a new or renewed franchise where the application is found to be acceptable for filing and in substantial compliance with the requirements of this chapter and any applicable RFP. In evaluating an application the city will consider, among other things, the applicant's past service and safety record in the city and in other communities, the nature of the proposed facilities and services, proposed area of service, proposed rates, and whether the proposal would adequately serve the public needs and the overall interests of the citizens of the city. The city may elect to undertake an assessment of future cable-related community needs and interests, and may require that the applicant's proposal be responsive thereto.

B. If the city determines that an applicant's proposal for a new franchise, including the proposed service area, would serve the public interest, it may grant a franchise to the applicant, subject to terms and conditions as agreed upon between the applicant and the city. No franchise shall be deemed granted unless and until a franchise agreement acceptable to the parties has been executed. The franchise agreement will constitute a contract, freely entered into, between the city and the grantee. Said franchise agreement shall be subject to the provisions of this chapter as enforced at the time the franchise is issued, and subsequent amendments as they are consistent with the franchise agreement. Any such franchise must be approved by resolution or ordinance of the city council in accordance with applicable law.

C. Where the application is for a renewed franchise, the city shall consider whether:

1. The applicant has substantially complied with the material terms of the existing franchise and with applicable law;

2. The quality of the applicant's service, including signal quality, response to subscriber complaints, and billing practices (but without regard to the mix or quality of cable television services or other services provided over the system) has been reasonable in light of community needs;

3. The applicant's use or occupation of the right of way presents an unreasonable or unacceptable risk to public health, safety or welfare and whether the applicant's construction, installation, operation or maintenance practices for the cable communications system are or have been conducted in an unsafe or dangerous manner.

4. The applicant has the financial, legal and technical ability to provide the services, facilities, and equipment as set forth in the application; and

5. The applicant's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

D. In the course of considering an application for a renewed franchise, the city council shall adhere to all requirements of applicable federal law. The public shall be afforded appropriate notice and opportunity to participate in any proceedings undertaken by the city for the purpose of identifying future cable-related community needs and interests, reviewing the applicant's performance during any existing franchise term, and evaluating the application. In the event the city makes a preliminary assessment that the franchise should not be renewed, the city or the city's hearing body shall hold a public hearing or hearings, in which the grantee seeking renewal shall be afforded a fair opportunity for full participation, including the right to testify, to require the production of and to introduce evidence, and to question witnesses. Notice of any such public hearing shall, at least 10 days before the date of the hearing, be published in a local newspaper of general circulation in the city and be sent by certified mail to each applicant to be considered. A transcript shall be made of such hearing. Within a reasonable time following the conclusion of such hearing, the council shall issue a written decision granting or denying the proposal for renewal based on the record of such proceeding and stating the reasons therefor. The city shall transmit a copy of said decision to the applicant. If the proposal is granted, the parties shall proceed to negotiate the terms and conditions of a renewed franchise, based on said proposal. Any denial of an application for a renewed franchise shall be based on one or more adverse findings made with respect to the factors described in subsection A, above, pursuant to the requirements of then applicable federal law. Neither grantee nor the city shall be deemed to have waived any right it may have under federal or state law by participating in a proceeding pursuant to this paragraph.

5.30.210 Acceptance.

A franchise and its terms and conditions shall be accepted by written instrument, in a form acceptable to the city clerk, and shall be executed and filed with the city within 30 days after the granting of the franchise by the city. In its acceptance, a grantee shall declare that it has carefully read the terms and conditions of this chapter and the franchise and accepts all of the terms and conditions of this chapter and the franchise and agrees to abide by same. In accepting a franchise a grantee shall indicate that it has relied upon its own investigation of all relevant facts, that it had the assistance of counsel, that it was not induced to accept a franchise, and that it accepts all reasonable risks related to the interpretation of the franchise.

5.30.220 Franchise fee.

A. In consideration of the costs which must be incurred by the city in regulating the franchise and for the use of the public right of way for the construction and operation of a cable system, grantee shall pay quarterly the amount set forth in the franchise agreement as a percent of the grantee's gross revenues. Payment shall be payable to the city of Bellevue Treasurer and shall be submitted to the city treasurer.

B. Payment shall be received within forty-five (45) days of the close of the grantee's calendar or tax quarter for which revenue was received. Payment shall be accompanied by a report showing the basis of the computation and any relevant information that may be reasonably requested by the treasurer or required in the franchise agreement.

C. In the event that any franchise payment is not received by the city on or before the applicable date due, interest shall be charged from such date at the rate of twelve percent (12%) per annum, or the statutory rate for judgments, whichever is less.

D. In addition, if any payment due is not paid by the due date, the city shall add a penalty of five percent (5%) of the amount due; and if the payment is not received on or before the last day of the month following the due date, the city shall add a total penalty of ten percent (10%) of the amount due; and if the payment is not received on or before the last day of the second month following the due date, the city shall add a total penalty of twenty percent (20%) of the amount due.

E. If the FCC, federal law or other legislative body with appropriate authority or court of competent jurisdiction changes the maximum franchise fee, the city's franchise fee shall change accordingly upon city council approval.

F. In the event a franchise is revoked or otherwise terminated prior to its expiration date, a grantee shall file with the city, within 90 days of the date of revocation or termination, a verified or, if available, an audited financial statement showing the gross revenues received by the grantee since the end of the previous year and shall make adjustments at that time for the franchise fees due up to the date of revocation or termination.

G. Nothing in this chapter shall limit the city's authority to tax a grantee, or to collect any fee or charge permitted by law, and no immunity from any such obligations shall attach to a grantee by virtue of this chapter

H. No acceptance of any payment by the city shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of the grantee.

5.30.230 Periodic Audit.

A. Upon thirty (30) days written notice from the city, the city shall have the right to inspect, examine or audit grantee's records that are necessary to verify that the grantee or any affiliate(s) has paid the correct amount with respect to the grantee's payment of franchise fees consistent with the franchise agreement, and applicable federal and state law.

B. Grantee shall keep and preserve for a period of three (3) calendar years plus the current calendar year, all records necessary to determine the amount

of franchise fee owed the city. A transferor, in the event of a transfer, or a grantee of a franchise that has terminated shall retain such records for three (3) calendar years after the effective date of the transaction or date of termination.

C. If the city's audit determines that there is a material underpayment of three percent (3%) or more then the grantee shall bear the cost of such audit. Any underpayment determined by the audit shall be considered late and such payment shall be subject to the interest and penalty provisions described above in 5.30.220 (C) and 5.30.220 (D).

D. In the event of any overpayment of franchise fees to the city, the grantee may file a claim with the city.

5.30.240 Reports.

To facilitate timely and effective enforcement of this chapter and any franchise and to develop a record for purposes of determining whether to renew any franchise, the city shall, require reports as specified in this section.

Quarterly

Unless otherwise set forth in a franchise agreement, the grantee shall submit reports to the city quarterly. The quarterly reports shall be submitted according to the following schedule: January - March reports due May 15 ; April - June reports due August 15; July - September reports due November 15, and October - December reports due February 15 of each year. The report shall include, but not be limited to:

A. Telephone reports indicating the number of calls received, number of calls abandoned, percentage of calls receiving a busy signal, average length of time each caller waits before speaking directly to a customer service representative, and number of calls answered by a customer service representative within 30 seconds;

B. The number of total standard installations performed, the number of standard installations performed within seven (7) days, the number of service interruptions reported, the number of service interruptions responded to within twenty-four (24) hours, the number of other service problems reported, the number of other service problems responded to within twenty-four (24) hours, and all other information necessary to monitor the grantee's compliance with the subscriber standards of this chapter.

C. Unless otherwise set forth in the franchise agreement, the city may specify the form and details of all reports, with grantee given an opportunity to comment in advance upon such forms and details. The city may change the filing dates for reports upon reasonable request of a grantee.

Annually

In addition to the above, unless otherwise set forth in a franchise agreement, the grantee shall file the following information with the quarterly report due May 15 of each year:

A. An accurate accounting statement of all gross revenue amounts for the city franchise area for the preceding year ending December 31. Such statement shall be verified by an officer of the grantee and shall certify that the information provided therein is complete and accurate. If reasonably deemed necessary by the city, it may request additional financial information reviewed or prepared by an independent auditor.

B. Operating statistics for the preceding year ending December 31 for the city franchise area, including: aerial and underground plant miles, homes passed, basic subscribers (including residential, bulk, and commercial accounts with notation indicating if these statistics are equivalent basic units), pay or premium units by pay service, digital subscribers, Internet service subscribers and telephone service subscribers.

C. A current copy of the subscriber service agreement, a current list of all rates, charges and available services, a current channel list, a copy of all the grantee's published rules and regulations applicable to subscribers and users of the cable system, and a summary of the grantee's hours of operation.

D. Information reasonably requested by the city for the purpose of enforcing any consumer protection and customer service requirements applicable to grantees, including an annual summary of complaints by subscribers and users, identifying the number and nature of complaints and their disposition.

E. For information purposes only, a copy of updated route or strand maps depicting the approximate location of all cable communications equipment and facilities within the franchise area.

F. A copy of the final report on each proof of performance test of each technical parameter defined in Part 76 of the rules and regulations of the FCC, as said rules may be modified from time to time. A grantee shall continue to conduct such tests at least once each calendar year and shall provide a copy of each final report to the city and shall maintain the resulting test data on file at its local office for at least five years. The city subsequently may require a full report on any deficiencies as disclosed by the proof of performance test within such reasonable period of time as it may designate. Additional tests shall be performed on terms agreed between the city and the grantee.

G. Any additional information related to the operation of the cable communications system as reasonably requested by the city based on demonstrated legitimate need.

H. Unless otherwise set forth in the franchise agreement, the city may specify the form and details of all reports, with grantee given an opportunity to comment in advance upon such forms and details. The city may change the filing dates for reports upon reasonable request of a grantee.

5.30.250 Books and records.

The city shall have access, at all reasonable hours, to books, records, maps, plans, contracts, engineering, accounting, financial, statistical, subscriber and service records relating to the property and operation of the grantee's cable communication system in the franchise area and to such other records as may be required by the city to perform its regulatory responsibilities under this chapter and any franchise issued pursuant hereto. Such records shall be made available upon reasonable notice at the grantee's local office. If the grantee shall fail to obtain books or records not kept in the local office, and if the city shall determine that an examination of such records is necessary or appropriate to the performance of any of the city's duties, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by the grantee. The city shall have the right to inspect and audit such records as it deems appropriate for the proper administration of this chapter or any franchise issued pursuant to this chapter.

5.30.260 Filings.

Grantee shall promptly mail or deliver to the city a copy of any filing made with state and/or federal agencies that may materially affect the ability of a grantee to perform its obligations under this chapter or any franchise issued pursuant to this chapter. "Filings" shall include, but shall not be limited to, replies to notices of violations and responses to letters of inquiry.

5.30.270 Permanent franchise performance and payment bond.

The grantee shall within thirty (30) days of the effective date of any franchise granted under this chapter or within thirty (30) days of the granting of a renewal or the transfer of a franchise, furnish to the city a franchise performance bond. The franchise performance bond amount shall be based on the number of total homes passed by the cable system in the following amounts:

0 to 5,000 homes passed	$ 50,000
5,001 to 10,000 homes passed	$100,000
10,001 to 20,000 homes passed	$150,000
20,001 to 35,000 homes passed	$350,000
35,001 and up homes passed	$500,000

The franchise performance bond shall be used to guarantee compliance with the terms and conditions of the franchise and payment of all sums which may become due to the city under this chapter or franchise issued pursuant hereto. The franchise performance bond shall be maintained in the full amount specified in the franchise, throughout the term of the franchise and for one (1) year after the franchise expires

or is terminated, without reduction or allowances for any amounts which are withdrawn or paid pursuant to this chapter.

This section in no way impairs the city's ability to require bonds in accordance with BCC 14.30 as from time to time amended.

5.30.280 Letter of credit.

A. In the event that a letter of credit is required pursuant to the franchise agreement, a grantee shall deposit with the city a letter of credit from a financial institution chosen by the grantee and reasonably approved by the city in the amount set by the city. The letter of credit may be replaced by the grantee, but may not otherwise be revoked or terminated during the term of a franchise plus an additional 60 days except with written approval of the city. The letter of credit shall be used to insure the faithful performance by a grantee of all provisions of the franchise and this chapter, compliance with all orders, permits, and directions of any agency, commission, board, department, division, or office of the city having jurisdiction over its acts or default under the license, and the payment by the grantee of any fees, costs, claims, liens, liquidated damages, and taxes due the city which arise by reason of the construction, operation, or maintenance of the system, or breach or termination of a franchise.

B. The letter of credit shall contain an endorsement that provides that the letter of credit may not be canceled by the surety nor the intention not to renew be stated by the surety until sixty (60) days after receipt by the city clerk, by certified mail, of a written notice of such intention to cancel or not to renew.

C. At its option, the city may draw against the letter of credit for any unpaid liquidated damages, penalties, franchise fees or other amounts owing to it under a franchise which are thirty (30) days or more past due.

D. The rights reserved to the city with respect to the letter of credit are in addition to all other rights of the city, whether reserved by this chapter or related documents or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the city may have.

5.30.290 Insurance.

A. Unless otherwise provided in the franchise agreement, upon the granting of a franchise and following simultaneously with the filing of the acceptance of the franchise and at all times during the term of the franchise, including the time for removal of facilities or management by a trustee as provided for herein, the city may require a grantee to obtain, maintain in full force and effect, and, upon request, deliver to the city a certificate of insurance or other written evidence of insurance for the following:

1. A comprehensive commercial or general liability insurance policy or policies, issued by an insurance carrier licensed to do business in the state of Washington and reasonably acceptable to the city. Said policy or policies shall

pay on behalf of and defend the city, its officials, boards, commissions, agents or employees from any and all claims by any person whatsoever (including the costs, defense costs, attorneys' fees and interest arising therefrom) on account of personal injury, bodily injury or death of a person or persons or damages to property occasioned by the operations of a grantee under a franchise herein granted, or alleged to have been so caused or occurred, with a minimum combined single limit of not less than $1,000,000 per occurrence and $5,000,000 in the annual aggregate. The city reserves the right to revise policy limits during the term of the franchise as reasonably necessary to provide adequate coverage.

2. A comprehensive automobile liability insurance policy or policies, issued by an insurance carrier licensed to do business in the state of Washington and reasonably acceptable to the city. Said policy or policies shall pay on behalf of and defend the city, its officials, boards, commissions, agents or employees from any and all claims by any person whatsoever (including the costs, defense costs, attorneys' fees and interest arising therefrom) for bodily injury and property damage occasioned by any vehicle operation of a grantee, or alleged to have been so caused or occurred, with a minimum liability of not less than $1,000,000 per person and $5,000,000 in any one accident or occurrence. The city reserves the right to revise policy limits during the term of the franchise as reasonably necessary to provide adequate coverage.

5.30.300 Acceptability and cancellation of surety.

All bonds, insurance policies, letters of credit or other surety devices called for herein shall be in a form satisfactory to the city's risk manager or other city official as designated by the city manager. The city may require that a grantee provide additional surety devices or replace existing bonds, insurance policies or letters of credit with new surety devices approved by the city. No grantee shall permit any bond, policy or letter of credit to expire and a grantee, not less than thirty (30) days prior to its expiration, shall deliver to the city a substitute, renewal or replacement bond, policy or letter of credit conforming with the provisions of this chapter.

5.30.310 Indemnification.

A grantee shall, at its sole cost and expense, indemnify, defend and hold harmless the city, its officials, boards, commissions, agents and employees against any and all damages, costs, expenses, losses, taxes, claims, suits, causes of action, proceedings, liabilities and judgments (collectively the "indemnified liabilities"), arising out of the operation and construction of the cable communications system under a franchise, including the use, generation, transportation, storage, treatment or disposal of any hazardous or dangerous substances, wastes, or materials, except that no such requirement shall apply where such indemnified liabilities are occasioned solely by the negligence, or intentional misconduct of the city or its officials, boards, commissions, agents and employees while acting on behalf of the city. These indemnified liabilities shall include, but not be limited to, the cost of any required or necessary repair, cleanup, or detoxification, natural resource damage claims, and any penalties arising out of copyright infringements and damages arising out of any failure by a grantee to secure consents from the owners, authorized

distributors or licensees of programs to be delivered by the grantee's cable communications system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs, attorneys', and accountants' fees, and shall also include the reasonable value of any services rendered and separately billed by the office of the city attorney or any outside consultants employed by the city.

5.30.320 Liquidated damages.

Because a grantee's failure to comply with the provisions of this chapter and its franchise will result in damage to the city and because it will be impractical to determine the actual amount of such damages, the city and any grantee may agree upon and specify in a franchise certain amounts which represent both parties' best estimate of the damages.

5.30.330 Civil penalties and additional relief.

A. Any person, and the officers, directors, managing agents, or partners of any grantee violating or failing to comply with any of the provisions of this title or any franchise issued pursuant thereto shall be subject to a civil penalty in the manner and to the extent provided for in Chapter 1.18 BCC. A monetary penalty in an amount not less than $100 nor more than $1,000 per day for each day of violation may be assessed and abatement required as provided therein.

B. In addition to any penalty which may be imposed by the city, any person violating or failing to comply with any of the provisions of this title or any franchise issued pursuant thereto shall be liable for any and all damage to city property or rights of way arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

C. Notwithstanding any other provision in this title, the city may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the applicable provisions of this title or any franchise issued pursuant thereto when civil or criminal penalties are inadequate to effect compliance.

D. In addition to the penalties set forth in this section, violation of any provision of this title or any franchise issued pursuant thereto may also result in the revocation and termination of any franchise, permit, or other agreement or authorization.

5.30.340 Revocation and termination.

A. In addition to all other rights and powers retained by the city under this chapter and any franchise issued pursuant thereto, the city council reserves the right to revoke and terminate a franchise and all rights and privileges of a grantee in the event of a substantial violation or breach of its terms and conditions. A substantial

violation or breach by a grantee shall include, but shall not be limited to, any of the following acts or omissions:

1. An uncured substantial violation of any material provision of this chapter or an uncured breach of any material provision of a franchise issued hereunder, or any material rule, order or regulation of the city made pursuant to its power to protect the public health, safety and welfare;

2. Any default in the performance of any of grantee's material obligations under any other documents, agreements and other terms and provisions entered into by and between the city and the grantee;

3. An intentional evasion or knowing attempt to evade any material provision of a franchise or practice of any fraud or deceit upon the cable communications system, subscribers or upon the city;

4. Failure to begin or substantially complete any system construction or system extension as set forth in a franchise;

5. Failure to provide the services promised in the application or specified in a franchise, or a reasonable substitute therefor;

6. Any use or occupation of the right of way that presents a risk to public health or safety or the construction, installation, operation or maintenance of the cable communications system in an unsafe or dangerous manner;

7. The willful violation of any orders or rulings of any regulatory body having jurisdiction over grantee relative to the franchise;

8. Misrepresentation of material fact in the application for, or during negotiations relating to, a franchise;

9. A continuous and willful pattern of inadequate service or failure to respond to legitimate subscriber complaints;

10. Failure to provide insurance, bonds, letter of credit, or indemnity as required by a franchise or this chapter;

11. An uncured failure to pay franchise fees as required by the franchise agreement.

B. None of the foregoing shall constitute a substantial violation or breach if the grantee is without fault or if the violation or breach occurs as a result of circumstances beyond a grantee's reasonable control. A grantee shall bear the burden of proof in establishing the existence of such circumstances. However, a grantee's substantial violation or breach shall not be excused by economic hardship nor by nonfeasance or malfeasance of its directors, officers, employees, agents or, contractors.

5.30.350 Procedures for termination.

A. Any franchise issued pursuant to this chapter may be terminated in accordance with the following procedures:

1. The city manager, or other person designated by the city manager, shall notify the grantee in writing of the exact nature of the alleged substantial violation or breach constituting a ground for termination. Said notice shall provide that the grantee shall have sixty (60) days from the date of receipt of notice to correct and cure such alleged substantial violation or breach or to present facts and argument in refutation of the alleged substantial violation or breach. A copy of said notice of substantial violation or breach shall be mailed to the surety on any performance bond.

2. If a grantee corrects any alleged substantial violation or breach within the sixty (60) day cure period, then in no event shall the violation be weighed against such grantee in any subsequent review of franchise performance.

3. If a grantee does not correct and cure the alleged substantial violation or breach within the sixty (60) day cure period then the city council shall, within forty-five (45) days of the last day of the sixty (60) day cure period designate the hearing examiner as the hearing officer to conduct a public hearing to determine if the revocation and termination of the franchise is warranted and to make a recommendation to the city council. That recommendation shall be transmitted to the city council for final action on a closed record. The city council shall act as the final decisionmaker.

4. At least twenty (20) days prior to the public hearing, the city clerk, shall issue a public hearing notice and order that shall: establish the issue(s) to be addressed in the public hearing; provide the time, date and location of the hearing; provide that the city shall hear any persons interested therein; and provide that the grantee shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to be represented by counsel and to question witnesses.

5. The hearing examiner shall hear testimony, take evidence, hear oral argument and receive written briefs. The hearing examiner shall create for the city council a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording.

6. The grantee carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that there is not an uncured substantial violation or breach or that the substantial violation or breach is a result of circumstances beyond a grantee's reasonable control.

7. Within ten (10) working days after the close of the record, the hearing examiner shall issue a written decision that shall include the recommendation of the Hearing Examiner on the revocation and termination of the

grantee's franchise; a findings of facts upon which the recommendation is based, and the conclusions derived from those facts.

B. The city council shall, at a public meeting, consider and take final action on the recommendation of the hearing examiner. The city council shall not accept new information, written or oral, but shall consider the complete record developed before the hearing examiner and the recommendation of the hearing examiner.

C. At the public meeting the city council shall either:

1. Accept the recommendation of the hearing examiner; or

2. Reject the recommendation of the hearing examiner; or;

3. Remand the decision to the hearing examiner and the director for an additional hearing limited to specific issues identified by the council.

D. The city council shall adopt an ordinance which accepts or rejects the recommendation of the hearing examiner by a majority vote of the membership of the council. If the action by the city council will result in the revocation and termination of a grantee's franchise then the ordinance shall declare that the franchise of such grantee shall be revoked and terminated, any security fund or bonds are forfeited, and shall include findings of fact and conclusions derived from those facts which support the decision of the council. The city council may by reference adopt some or all of the findings and conclusions of the hearing examiner.

5.30.360 Foreclosure.

Upon the foreclosure or other judicial sale of all or a substantial part of the cable communications system facilities, or upon the termination of any lease covering all or a substantial part of the cable communications system, or upon the occasion of additional events which effectively cause termination of the system's operation, a grantee shall notify the city of such fact, and such notification or the occurrence of such terminating events shall be treated as a notification that a change in control of the grantee has taken place, and the provisions of this chapter governing the consent of the city to such change in control of the grantee shall apply.

5.30.370 Receivership.

A. The city shall have the right to cancel a franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of a grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

1. Within one hundred twenty (120) days after the election or appointment, such receiver or trustee shall have fully complied with all of the provisions of this chapter and a franchise and remedied any defaults thereunder; and

2. Within said one hundred twenty (120) days, such receiver or trustee shall have executed an agreement, duly approved by the court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and a franchise granted to the grantee except where expressly prohibited by Washington law.

B. A grantee shall immediately notify the city in writing if it:

1. Files a voluntary petition in bankruptcy, a voluntary petition to reorganize its business, or a voluntary petition to effect a plan or other arrangement with creditors;

2. Files an answer admitting the jurisdiction of the court and the material allegations of an involuntary petition filed pursuant to the Bankruptcy Code, as amended; or

3. Is adjudicated bankrupt, makes an assignment for the benefit of creditors, or applies for or consents to the appointment of any receiver or trustee of all or any part of its property including all or any part of its cable system.

5.30.380 Purchase or transfer of cable system required by city.

A. Unless otherwise set forth in the franchise agreement, and in the event the city decides not to renew an expiring franchise, the city shall have the right to purchase or effect a transfer to another person of ownership in the cable system at its fair market value; except no value shall be assigned to the franchise itself.

B. In the event the city revokes, forfeits or terminates a franchise for cause, it shall have the right to purchase or effect a transfer to another person of ownership in the cable system for an equitable price. An equitable price takes into account the nature of a grantee's breach or malfeasance and the resulting harm to the community; it is not based on fair market value or going concern value.

C. In the event the parties are unable to agree upon a price pursuant to subsections A or B above, whichever is applicable, said price shall be fixed and determined through an action brought by either party in a Washington State Court of competent jurisdiction in King County or the U.S. District Court for the Western District of Washington, unless the parties agree to a different method of determining the appropriate price.

5.30.390 Removal of cable communications system.

Upon termination or non-renewal of a franchise as provided herein, a grantee shall forthwith, upon notice by the city, vacate and remove at its own expense all

designated portions of the cable communications system from all streets and public ways within the city and shall restore said streets and public ways to their former condition; provided, however, a grantee shall have the right to sell its physical plant to a subsequent grantee or the city, subject to city approval, in which case said plant need not be removed. If a grantee fails to remove its facilities upon request, the city may perform the work at the grantee's expense. The requirements of this section shall not apply to underground cable that has been de-energized and for which an accurate map ("as built") has been provided to the city describing in detail the location of such cable; except that the city may continue, in its sole discretion, to require removal where necessary to avoid congestion or, at its option, remove such cable.

5.30.400 Transfer of ownership or control.

A. A franchise issued pursuant to this chapter and any cable communication system operated pursuant thereto shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation, or otherwise hypothecated in any manner, nor shall title thereto, either legal or equitable, control thereof, or any right, interest, or property therein pass to or vest in any person or entity, nor shall the controlling interest in any corporation holding a franchise hereunder be changed in a manner reasonably anticipated to diminish substantially grantee's ability or likelihood of performing its obligations under the franchise, without the prior consent of the council, such consent not to be unreasonably withheld, or only under such conditions as may be required by the council; provided, however, such transfer of control shall not include transfer to a parent, subsidiary, or affiliate of a grantee, except when such transfer is intended to avoid application of this section. Every type of sale, assignment change, transfer, or acquisition of control of a franchise issued pursuant to this chapter and any cable communication system operated pursuant thereto shall make a franchise subject to cancellation unless and until the city shall have consented. Such consent shall not be unreasonably withheld.

B. A grantee shall promptly notify the city of any proposed sale, assignment, transfer or lease or any merger, consolidation, or change in control. A formal application for approval of a proposed sale, assignment, transfer or lease or any merger, consolidation, or change in control shall be filed within 30 days of such notification. The application shall include, among other things, a copy of any and all documents relating to the transaction and any filings by any party to the transaction at any state or federal agency including, but not limited to, the FCC, the Department of Justice, the Federal Trade Commission, and the Securities and Exchange Commission. An original of the text of the application shall be filed with the city.

C. The provisions of this chapter governing applications for new franchises shall apply to any proposed sale, assignment, transfer or lease or any merger, consolidation, or change in control. For the purpose of determining whether it shall consent to such sale, assignment transfer, lease or change of control, the city may inquire into all qualifications of the prospective controlling party, and a grantee shall assist the city in any such inquiry. The city may require any reasonable conditions which it deems necessary at the time of review to ensure that the

proposed cable system purchase will satisfy the public interest of the city and its citizens for the balance of the term of the franchise, including the commitment from the prospective controlling party to assume responsibility for any past violation or failure to comply with any of the provisions of this title or any franchise issued pursuant thereto and the duty and obligation to cure the same.

D. The city shall act within one hundred twenty (120) days of receipt of a completed application. The proposed purchaser, transferee, or assignee or any person or entity assuming controlling interest in a change of control must show that it has the financial, legal and technical ability as determined by the city to provide the services, facilities, and equipment as set forth in this chapter or any franchise issued pursuant thereto and must agree to comply with all provisions of any franchise, including any provisions which the city may amend or add prior to approval of the transfer.

E. Nothing in this provision shall preclude a grantee from pledging, mortgaging, or hypothecating its interests to a recognized financial institution to secure borrowed funds. Said institution may foreclose on, hold, sell, assign or transfer such interests, but only to the extent that the mortgagee, pledgee, assignee, or transferee undertakes to assume, and has the ability to perform, all of grantee's obligations under the franchise agreement and this chapter; and provided further that said mortgage, pledge, sale or assignment shall not relieve grantee of any obligations under the franchise agreement or this chapter.

5.30.410 Continuity of service.

A. Where a grantee rebuilds or modifies its system, it shall ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances, unless otherwise authorized by an authorized representative of the city; provided, however, that a grantee may interrupt service to any subscriber for periods of up to 72 hours during a rebuild or upgrade of the cable system without the approval of an authorized representative of the city, as long as every subscriber to be affected receives five days' prior written notice.

B. So long as it receives revenues from the operation of the cable system, a grantee shall maintain continuity of service during any temporary transition in the franchise. As used in this chapter, a "temporary transition in a franchise" or a "transitional period" shall include but not limited to the following circumstances:

1. Revocation of the franchise;

2. Non-renewal of the franchise; or

3. Transfer of the cable system to the city or another entity;

4. Temporary extensions of the term of the franchise during negotiation for any revisions, amendments or extensions thereof.

5.30.420 Transitional operation.

In the event a grantee continues to operate the system in a transitional period, with city consent, and subject to such conditions as the city may impose, it shall be bound by all the terms, conditions and obligations of the franchise as if it were in full force and effect. A terminating grantee shall cooperate with the city and any subsequent grantee in maintaining and transferring service responsibility. The city has the right to operate a system if a grantee abandons the system or fails to use the system.

5.30.430 Subscriber fees and rates.

A. The city reserves the right to regulate rates for any service within the limits of federal and state law, to enforce rate regulations prescribed by the FCC, and to establish procedures for said regulation or enforcement.

B. Rates shall be just and reasonable and shall comply with applicable law. A grantee shall not discriminate against or give any undue or unreasonable preference or advantage in rates to any cable subscriber or class of cable subscribers including those who only subscribe to cable services offered by the grantee in favor of subscribers who subscribe to cable services and one or more other types of service(s) the grantee might offer.

C. Rates and charges not subject to regulation by the city under state or federal law or regulation may be changed by a grantee following a minimum thirty (30) days' prior written notice to the city and each subscriber.

5.30.440 Performance evaluation.

A. The city may conduct periodic performance evaluations of a grantee. A grantee shall cooperate with these evaluations. If the city implements a survey of cable subscribers in connection with a performance evaluation, the city may require a grantee to distribute the city's questionnaire to its subscribers at the grantee expense. Upon request and upon reimbursement of city copying charges, the grantee may receive copies of all individual responses to the survey.

B. At the conclusion of the evaluation, the city shall issue a report of the results of any performance evaluation together with, if necessary, any recommendations for methods to improve a grantee's performance under the franchise or this chapter. Such report and recommendations shall be delivered and provided to grantee at no charge.

5.30.450 Parental control.

A. A grantee shall provide subscriber controlled "lock-out" devices (audio and visual) by which the subscriber can prohibit viewing of a particular cable service during the period selected by that subscriber. A grantee shall notify all subscribers in writing of the availability of these devices at the time of initial connection, and at least annually thereafter.

B. Upon request, a grantee shall, without charge, fully scramble or otherwise block the audio and video of a channel so that a non-subscriber does not receive even a partially viewable or audible signal.

C. To the extent required by federal law, if a grantee plans to provide a premium channel without charge to a subscriber who does not subscribe to such premium channel, the grantee shall provide at least thirty (30) days' prior written notice thereof to said subscriber, and upon the subscriber's request, shall block entirely the subscriber's reception of said channel. For purposes of this section, a "premium channel" shall mean any pay service offered on a per channel or per program basis, including those which offer movies rated by the Motion Picture Association as X, NC-17, or R and other programming designed to be viewed by adults with a TV Parental Guidelines rating of TV-M.

5.30.460 Cable subscriber service standards.

A grantee will first resolve subscriber inquiries and complaints without delay and without involvement of the city. Where a given complaint is not addressed by the grantee to the subscriber's satisfaction, the city may intervene.

These standards are intended to be of general application. A grantee is free to exceed these standards to the benefit of its subscribers. However, the grantee shall be relieved of obligations hereunder if it is unable to perform due to a force majeure event affecting a significant portion of the franchise area.

A. Availability and Accessibility.

In Person

1. The grantee must maintain, at a minimum, one (1) customer service location located in the city. This customer service location shall at all times allow subscribers to make payments, return equipment or get assistance from a customer service representative or other knowledgeable staff. The customer service center shall be open Monday through Saturday, excluding legal holidays, with sufficient hours necessary to meet subscriber demand. However, the above requirement will be met if the grantee provides at least one (1) full service customer service center, conveniently located on the Eastside, that is staffed to meet all customer needs with on-site customer service representatives (CSR) offering the following services to subscribers: payments (including the ability to provide change and transaction receipts), equipment exchange, processing of change of service requests, and response to subscriber inquiries and requests.

On the Telephone

1. A CSR will be available to respond to subscriber inquiries during normal business hours. The grantee shall maintain local or toll free telephone access lines that shall be available during normal business hours for service/repair requests and billing inquiries.

2. The grantee shall retain sufficient CSR and telephone line capacity to ensure that telephone calls to service/repair and billing inquiry lines are answered within thirty (30) seconds or less, and that any transfers are made within thirty (30) seconds. During normal operating conditions the subscriber should be able to speak with a CSR within five (5) minutes. These standards shall be met no less than ninety (90) percent of the time, measured on a quarterly basis under normal operating conditions.

3. The total number of calls receiving busy signals shall not exceed three (3) percent of the total telephone calls. This standard shall be met ninety (90) percent or more of the time measured on a quarterly basis under normal operating conditions.

B. Responsiveness.

1. Seven-day standard installation and service. The grantee shall complete all standard installations and service repairs requested by a subscriber within seven (7) business days after an order has been placed, unless otherwise requested by the subscriber. This standard must be met ninety-five (95) percent of the time under normal operating conditions as measured on a quarterly basis. If the subscriber requests a non-standard installation, or the grantee determines that a non-standard installation is required, the grantee shall provide the subscriber in advance with a total installation cost estimate and an estimated date of completion.

2. Under normal operating conditions all temporary cable drops shall be converted to a permanent drop within no more than three (3) calendar weeks from the initial installation or at a time mutually agreed upon between the grantee and subscriber.

3. Residential installation and service appointments. Subscribers requesting installation of cable service or repair service to an existing installation may choose any available four (4) hour block of time for the installation appointment during normal business hours.

4. The grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time. If the subscriber is absent when the technician arrives, the technician shall verify the appointment with his/her dispatcher by telephone while at the subscriber's door and leave written notification of timely arrival. A copy of that notification shall be kept by the grantee. In the event that a technician arrives without a prior appointment, and the subscriber must be present for service to proceed, and the subscriber is absent, it shall not be deemed that the grantee has responded to a request for service.

5. If a grantee representative fails to keep an installation or service appointment for any reason, the grantee will contact the subscriber before the end of the scheduled appointment and reschedule the appointment at a time convenient for the subscriber.

6. The grantee shall respond in writing or by telephone to a written inquiry, complaint, general question or comment within one week of the date of receipt of the letter. The grantee shall respond to a subscriber's inquiry, complaint, general question, or comment made by telephone or e-mail within forty-eight (48) hours.

7. Any difficulties that cannot be resolved by the CSR shall be referred to the appropriate supervisor who shall make best efforts to contact the subscriber within four (4) hours of initial contact and resolve the problem within forty-eight (48) hours or within such other time frame as is acceptable to the subscriber and the grantee.

C. Reception and Outages.

1. The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions that the grantee anticipates will last more than four (4) hours shall be preceded by at least twenty-four (24) but not more than seventy-two (72) hour's written notice to affected subscribers, and shall occur during periods of minimum use of the system as reasonably determined by the grantee.

2. If a subscriber experiences poor signal quality or interruptions attributable to the grantee's equipment, the grantee shall respond and repair the problem no later than the day following the subscriber's call provided that the subscriber is available or at such later time as is convenient to the subscriber. If an appointment is necessary, the subscriber may choose a four (4) hour block of time during normal business hours. At the subscriber's request, the grantee shall repair the problem at a later time convenient to the subscriber.

3. Upon receipt of the first phone call reporting a service outage the grantee must proactively investigate whether this is a single home outage or multiple customer outages.

4. If the outage affects multiple customers, the grantee shall initiate repairs within two (2) hours, under normal operating conditions. The grantee shall initiate repairs to all other service interruptions resulting from grantee equipment failure within twenty-four (24) hours.

5. A grantee shall initiate repairs to subscriber reported outages and service interruptions, for any cause beyond the control of the grantee, within twenty-four (24) hours after the conditions beyond its control have been corrected.

6. When the grantee can determine with certainty that a subscriber has been affected by an outage or service interruption, attributable to grantee's equipment, for one or more hours, grantee shall, at a minimum, provide an automatic credit for the duration of the outage or such other compensation as the grantee and the subscriber shall mutually agree.

7. The grantee will track and record all outages that occur within the franchise area that affect two (2) or more homes.

8. The grantee shall notify the city the next business day of any outage of at least one (1) continuous hour that affects at least 100 or more of its subscribers.

D. Billings, Credits, Refunds, and Deposits.

1. The grantee shall provide a clear and concise bill every month.

2. If a subscriber requests disconnection of any or all services, billing for affected services shall end on the same day as the request, or on the future date for which the disconnect is ordered. However, subscriber may continue to be billed for equipment until returned to grantee. The grantee shall issue a credit or refund to a subscriber within thirty (30) business days after the close of the billing cycle following the return of the equipment and request for disconnection. If subscriber was required to provide a deposit, that deposit must also be returned with any addition interest accrued from deposit.

E. Treatment of Property Owner's Property.

1. Trees and shrubs or other landscaping on a subscriber's property that are damaged by the grantee, or any employee or agent during installation or construction for the subscriber or in the process of serving adjacent structures, shall be restored to their prior condition or replaced. Trees and shrubs on private property shall not be removed without the prior permission of the owner of the property. Removal or trimming of trees and shrubs in the right of way will be subject to the terms of the permit.

2. The grantee shall, at its own cost and expense, and in a manner approved by the property owner, repair any damage or restore any private property to as good condition as before the work causing such damage or disturbance was initiated. The grantee shall repair, replace or compensate all property owners for damages resulting from the grantee's installation, construction, service or repair activities.

3. Except in the case of an emergency involving public safety or service interruption to a large number of subscribers, the grantee shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that, in the case of planned construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry. All work done in the right of way shall be subject to time requirements of the permit.

4. Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

5. For the installation of pedestals or other major construction or installation projects, property owners and property owners adjacent to right of way work shall be notified by mail or door hanger notice at least one (1) week in advance. In the case of an emergency, the grantee shall attempt to contact the property owner or legal tenant in person, in the event personal contact is not made the grantee shall leave a door hanger notice.

6. The grantee shall clean all areas surrounding any work site of debris caused by the grantee's activities and ensure that all cable materials are disposed of properly.

F. Services for Subscribers with Disabilities.

1. For any subscriber with a disability, the grantee shall at no charge deliver and pick up converters at the subscriber's home. In the case of malfunctioning equipment, the grantee's service technician shall provide and install substitute equipment, ensure that it is working properly, and recover the defective equipment for the grantee at that time.

2. The grantee shall provide TDD/TYY service with trained operators who can provide every type of assistance for any hearing-impaired subscriber at no charge.

3. Any subscriber with a disability may request the special services described above by providing the grantee with a letter from the subscriber's physician stating the need, any other official certification of disability or by making the request to the grantee's installer or service technician, where the need for the special services can be visually confirmed.

G. Subscriber Information.

1. Upon installation and annually thereafter or at any time the subscriber requests, the grantee shall provide the following information, in clear, concise written form.

a. A written notice of these standards or a summary approved by the city shall be provided to subscribers at installation and annually thereafter.

b. Installation and service maintenance policies, including the subscriber's responsibilities for equipment.

c. Billing and complaint procedures, including the address and telephone number of the grantee's offices, the grantee's policies on deposits, credit balances and returned check charges.

d. Policies concerning protection of subscriber privacy. The grantee shall include a postage paid self-addressed mail back postcard for opt-out purposes.

e. The availability of parental control/lock out device and the procedures for channel blocking.

f. Special services for subscribers with disabilities.

g. Days, hours of operation, and locations of service centers;

h. Information on how to contact the city's franchise administrator including, the address, telephone number and e-mail address.

2. A sample of all required notices provided to the subscriber shall be filed concurrently with the city.

3. The grantee shall provide subscribers with written notification of any changes in programming, services or channel positions as soon as possible in writing. Subscribers shall be given a description of the changes, their options for changing services they receive, phone number for questions and effective date. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the grantee. In addition, the grantee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding subsection.

4. All officers, agents, and employees of the grantee, its contractors and subcontractors who are in personal contact with subscribers shall have visible identification cards bearing their name and photograph. The grantee shall account for all identification cards at all times.

5. Every vehicle of the grantee used for providing services to subscribers shall be clearly visually identified to the public as working for the grantee.

H. Safety.

1. The grantee shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property.

2. Whenever the grantee receives notice that an unsafe condition exists with respect to its equipment, the grantee shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

I. Complaint Procedure.

1. The grantee shall establish written procedures for receiving, acting upon, and resolving subscriber complaints, and crediting subscriber accounts

in accordance with company policies, and shall publicize such procedures through printed documents at the grantee's sole expense.

2. The written procedures shall prescribe a simple process by which any subscriber may submit a complaint in person or by telephone, electronic mail or in writing to the grantee regarding an alleged violation of any provision of these subscriber service standards, any terms or conditions of the subscriber's contract with the grantee, or reasonable business practices.

3. The grantee will make best efforts to resolve subscriber concerns or complaints at the first contact.

4. The grantee shall also notify the subscriber of the subscriber's right to file a complaint with the city in the event the subscriber is dissatisfied with the grantee's decision.

5. Complaints to the city. Any subscriber shall be entitled to lodge any complaint directly with the city. The subscriber may lodge the complaint either by calling the city or by filing a written complaint, by letter or in electronic form.

6. If the city decides that further action is warranted, the city may intercede and attempt to help reach a resolution and/or require the grantee address the inquiry within twenty-four (24) hours, and correct the situation within a reasonable time frame determined in each situation at the city's sole discretion. In all circumstances, the grantee shall notify the city of the status of the inquiry within forty-eight (48) hours and any subsequent resolution.

7. The grantee shall maintain, in a manner consistent with the privacy rights of subscriber, an accurate and comprehensive file of (1) complaints regarding the cable system or the grantee's operation of the cable system, by number and type and their disposition; (2) service request, identifying the number and nature of the requests and their disposition; (3) service interruptions and their disposition; and (4) subscriber privacy information.

8. Overall quality of service. The city may evaluate the overall quality of subscriber service provided by the grantee to subscriber, at its sole discretion, based on the number of subscriber complaints received directly by the city or reported by the grantee in its quarterly reports.

J. Protection of Privacy.

1. Notice to subscriber regarding personally identifiable information; definitions.

2. At the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of:

a. the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

b. the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

c. the period during which such information will be maintained by the cable operator;

d. the times and place at which the subscriber may have access to such information in accordance with subsection d of this section; and

e. the limitations provided by this section with respect to the collection and disclosure of information by a cable operator and the right of the subscriber under subsections f and g of this section to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

2. For purposes of this section, other than subsection g of this section -

a. the term "personally identifiable information" does not include any record of aggregate data which does not identify particular persons;

b. the term "other service" includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

c. the term "cable operator" includes, in addition to persons within the definition of cable operator in 47 U.S.C. §522 , any person who

i. is owned or controlled by, or under common ownership or control with, a cable operator, and

ii. provides any wire or radio communications service.

B. Collection of personally identifiable information using cable system.

1. Except as provided in paragraph 2, a cable operator shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

2. A cable operator may use the cable system to collect such information in order to:

a. obtain information necessary to render a cable service or other service provided by the cable operator to the subscriber; or

b. detect unauthorized reception of cable communications.

C. Disclosure of personally identifiable information.

1. Except as provided in paragraph 2, a cable operator shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or cable operator.

2. A cable operator may disclose such information if the disclosure is -

a. necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber;

b. subject to subsection g of this section, made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or

c. a disclosure of the names and addresses of subscribers to any cable service or other service, if -

i. the cable operator has provided the subscriber the opportunity to prohibit or limit such disclosure, and

ii. the disclosure does not reveal, directly or indirectly, the -

(a) extent of any viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or

(b) the nature of any transaction made by the subscriber over the cable system of the cable operator.

D. Subscriber access to information.

A cable subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A

cable subscriber shall be provided reasonable opportunity to correct any error in such information.

E. Destruction of information.

A cable operator shall destroy personally identifiable information in a reasonable time but no later than ninety (90) days if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection d of this section or pursuant to a court order.

F. Civil action in United States district court; damages; attorney's fees and costs; nonexclusive nature of remedy.

1. Any person aggrieved by any act of a cable operator in violation of this section may bring a civil action in a United States district court.

2. The court may award -

a. actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

b. punitive damages; and

c. reasonable attorneys' fees and other litigation costs reasonably incurred.

3. The remedy provided by this section shall be in addition to any other lawful remedy available to a cable subscriber.

G. Disclosure of information to governmental entity pursuant to court order.

1. A governmental entity may obtain personally identifiable information concerning a cable subscriber pursuant to a court order only if, in the court proceeding relevant to such court order -

a. such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

b. the subject of the information is afforded the opportunity to appear and contest such entity's claim.

5.30.470 Additional consumer protection.

The city reserves the authority to take any reasonable action, including amendments to this chapter, to protect consumers of cable communications services.

5.30.480 Technical standards.

A. Cable systems shall be installed and maintained in accordance with the technical standards and specifications established by the FCC, as periodically updated, and all applicable state and local laws and regulations.

B. Any antenna structure used in the cable system shall comply with all construction, marking and lighting requirements of federal, state or local laws and regulations and accepted industry standards.

C. All construction, installation, grounding, and maintenance shall comply with the current versions of the National Electrical Safety Code, the National Electrical Code, and requirements of federal, state or local laws and regulation and accepted industry standards.

D. Systems shall be maintained in such a manner as to prevent signal leakage from the facilities in excess of the limits specified in applicable rules and regulations of the FCC. The grantee may disconnect any person who, in the grantee's judgment, is contributing to a signal leakage problem. Upon written request from the city, grantee shall provide a copy of the Cumulative Leakage Index (CLI) report for grantee's cable communications system serving the city franchise area.

E. Underground construction in streets shall be of such quality as to assure continuity of service without the necessity of frequent street or pavement cutting and shall contain a self-sealing device to insure all such cables against leakage.

F. All cables and wires shall be installed, where possible, parallel with electric and telephone lines.

G. The city reserves the right, in its sole discretion, to impose more stringent standards than those prescribed by the FCC to the extent it seeks and obtains a waiver from the FCC permitting it to do so.

5.30.490 Inspection and performance tests.

A. The city shall have the right, upon reasonable notice, to make such inspections as it shall find necessary to insure compliance with the technical standards and specifications established by the FCC, as periodically updated, and all applicable state and local laws and regulations.

B. The grantee shall advise the city ten (10) days prior to the date of all FCC proof of performance tests scheduled so that the city may have an observer present. The grantee shall maintain test points as required by federal law and shall allow the city to have access to those test points upon reasonable notice and at intervals not more frequently than required by federal law, except for good and substantial cause shown.

C. The city may require additional reasonable proof of performance tests not more often than annually and within ninety (90) days of the completion of the construction of a new system or the upgrading or reconstruction or repair of an existing system. In the event that the city requires proof of performance testing under this section, the grantee shall conduct such tests under the standards set forth in Part 76 of the FCC's Rules and Regulations. The city may observe the testing performed under this section, and may provide a list of locations and/or areas where the tests specified are to be performed. To the extent provided in the franchise, the city shall be entitled to recover from the grantee its costs associated with defining tests and procedures, observation of said tests, and evaluation of test findings.

5.30.500 Standby power.

A grantee shall maintain equipment capable of providing standby power for the headends and transportation and trunk amplifiers as reasonably required in the franchise. The standby power equipment shall engage automatically in the event of a power failure. A grantee shall comply with all safety regulations to prevent standby generators from "back feeding" or otherwise powering the "dead" utility line.

5.30.510 Emergency audio alert system.

To the extent practicable, the cable system shall be engineered, constructed and maintained to provide for an audio alert system which would allow authorized officials or designated representatives of the city to override the audio signal on all channels and to transmit and report emergency information. In the case of any sudden, unforeseen event, potentially causing significant damage, destruction, or loss of life, a grantee shall make the audio alert system available without charge to the city or any other governmental or civil defense agency that the city shall designate for the duration of such emergency or disaster.

5.30.520 Construction and installation work.

A. Before commencing any construction in, above, over, across, under, through or in any way connected with the streets or public ways of the city, a grantee shall first obtain a right of way use permit from the city. A grantee may commence construction upon issuance of all permits and licenses necessary to do the work.

B. A grantee shall maintain all wires, conduits, cables, and other real and personal property and facilities in good condition, order and repair. If a grantee fails to comply with this requirement after reasonable notification by the city, the city may cause such work to be stopped or corrected at the grantee's expense.

C. All construction, installation and maintenance must comply with the National Electrical Safety Code and the Washington State Electrical Construction Code as adopted by the city, all federal, state and local regulations, and good and accepted industry practices.

5.30.530 Location of structures, lines and equipment.

A. A grantee shall utilize existing poles, conduit systems and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduit systems, or other facilities whether on public property or on privately owned property until approval of the property owner or appropriate governmental authority is obtained. Such governmental approval shall not be unreasonably withheld if said approval complies with that authority's regulations, codes and policies. However, the location of any pole or wire-holding structure by a grantee shall not constitute a vested interest, and such poles, structures, or facilities shall be removed, replaced or modified by the grantee at its own expense whenever the council or other governmental authority reasonably determines that the public interest so necessitates.

B. All cable communications system lines and equipment installed by a grantee within the city shall be located in accordance with plans and permits as approved by the city's transportation department and in accordance with the city's right of way use code.

C. In those areas of the city where electrical and telephone utility wiring is aerial and a grantee's existing cable communications system lines and facilities are aerial, the grantee may construct, install, operate and maintain the existing cable communications system aerially. When existing aerial electrical and telephone utility wiring and equipment in an area of the city is subsequently relocated to underground the grantee shall, at the same time, relocate its existing aerial cable communications system lines and facilities to underground, at no cost or expense to the city. In those areas of the city where existing electrical or telephone utility wiring is aerial and the grantee needs to construct or install new cable communications system lines or facilities, the grantee may request consent from the city for such aerial construction, such consent will be granted on a case by case basis and will not be unreasonably withheld. In those areas of the city where existing or new electrical or telephone utility wiring is underground, the grantee shall construct, install, operate and maintain its cable communications system underground.

D. A grantee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public way, or remove from said street or other public way, any of its property when required to do so by the city because of: street or other public excavation; construction; repair; regrading or grading; traffic conditions; installation of sewers, drains or water pipes; city-owned power or signal lines; tracks; vacation or relocation of streets or any other type of structure or improvement of a public agency, or any other type of improvement necessary for the public health, safety or welfare.

E. A grantee shall at all times subscribe to any available "one number locator service" as defined by RCW 19.122.020(13). A grantee shall, before commencing excavation, provide notice of the scheduled commencement of excavation through the one number locator service.

F. On request to a grantee by any person who is authorized to perform work on any public right of way which has been used by a grantee for construction of a cable communications system, a grantee shall provide information regarding the type, location, height, and other pertinent information of poles, conduits, and other structures which the grantee has placed on said right of way. If requested by the city, the cost of providing information in accordance with this section shall be borne by the grantee; if other authorized parties make such a request, the reasonable cost shall be borne by the person making the request.

5.30.540 Public drops.

Unless otherwise set forth in the franchise agreement the grantee shall provide without charge, within the franchise area, one drop activated for basic cable television service to each fire station; public school; police station; public library; City Hall; and other public buildings that are either owned and occupied or leased and occupied by the city, as may from time to time be designated by the city, provided that the buildings are either already served or are within one hundred twenty-five (125) aerial feet of its Cable System. A grantee may petition the city for a waiver of this requirement, such waiver to be granted for good cause shown. A grantee shall be permitted to recover, at the grantee's actual cost, for any additional converters required, and for the grantee's direct cost of installing, when requested to do so, more than one outlet, concealed inside wiring, or a service drop requiring more than one hundred twenty-five (125) feet of cable. Nothing in this section shall be construed to prohibit the city and a grantee from reaching an agreement whereby the grantee would bear the burden for all or a portion of the cost of installing any equipment (including wiring) necessary to cablecast meetings of the city council.

5.30.550 Institutional services.

A grantee may be required to provide an institutional network as part of the cable communication system subject to the terms specified in the franchise.

5.30.560 Access and local programming.

A. As supported by its ascertainment of future cable-related community needs and interests, the city may require that a proposal for a new franchise or the renewal of an existing franchise conform to one or more of the following conditions.

1. A grantee shall provide equipment, directly or through grants, for local PEG access facilities and program production by all PEG access users for live and video-taped presentations over the cable television system.

2. The city may require a grantee or a nonprofit corporation or other entity selected to manage the PEG access facilities and to establish reasonable rules for the use of the PEG access facilities consistent with the requirements of this chapter, a franchise, other applicable law. Such rules shall be subject to review and approval by the city.

3. The city may require that one or more public access channel(s) be made available to members of the public on a nondiscriminatory basis at nominal or no charge for channel or equipment use, except as otherwise provided by law.

4. The city may require that one or more education access channel(s) be made available free of charge to designated qualified users for the transmission of local educational programming.

5. The city may require that one or more local government access channel(s) be made available free of charge for the transmission of government related programming.

B. The city may promulgate rules under which dedicated PEG access facilities may be used by a grantee when not being used for PEG access purposes.

5.30.570 Leased access.

A grantee shall make channels available for leased or commercial use as specified in a franchise and as consistent with federal requirements.

5.30.580 Moving of buildings.

A grantee shall, on the request of any person holding a valid house-moving permit, temporarily raise or lower its wires or cables to permit the moving of buildings or other large objects. The expense of such temporary raising or lowering of wires shall be paid by the person making the request, and a grantee shall have the authority to require such payment in advance. A grantee shall be given not less than seven (7) days advance notice to arrange for such temporary wire changes, except in case of emergency. Any interruption in service occasioned by this activity shall take place, as far as is practicable, outside of prime time (7:00 p.m. to 11:00 p.m. local time).

5.30.590 Trimming trees.

Subject to prior approval by the city manager or designee, a grantee may trim trees on public property or which overhang streets, alleys, sidewalks and public ways of the city so as to prevent the branches of such trees from coming in contact with wires and cables and other television conductors and fixtures of the grantee, provided that the grantee gives prior written notice for such activity to the city and takes full responsibility for removing debris when the work is complete. All trimming is to be done at the sole expense and responsibility of a grantee. A grantee is solely responsible for property or tree damage caused by it, and must fully restore any such property or tree damage when so requested by the city.

5.30.600 Delays in construction.

A. The franchise may provide for liquidated damages or other consequences upon failure by a grantee to complete, in timely fashion, any construction, including any upgrades or rebuilds of the cable communications

system, as set forth in the franchise. Depending upon the degree of delay, such consequences may include:

1. Forfeiture of all or a portion of any bond or other form of surety.

2. Termination of a franchise.

3. Assessment of civil penalties or liquidated damages for causing delays in city construction projects.

B. The city shall provide the grantee with a detailed written notice of any alleged failure to complete construction upon which it proposes to take action, and a sixty (60) day period within which the grantee may demonstrate to the city's satisfaction that construction has been completed, or to complete the construction, or if the construction cannot be completed within sixty (60) days, to submit a plan satisfactory to the city to complete the construction.

C. If a grantee is delayed at any time in the progress of construction by the failure of the appropriate public utility company or companies to diligently process pole attachment agreements or applications or to make such poles ready for attachment, or the failure of the city or other governmental authorities to diligently process applications for approval as may be required in connection with the construction of the cable system, or by labor disputes, fire, unusual delays in transportation, inability of a grantee to procure materials, act of God, war, riots, insurrection or any causes beyond a grantee's control, and which could not have been reasonably anticipated, then a grantee shall be granted an extension of time to complete construction, such extension to be of a duration commensurate with the amount of delay caused by the force majeure event. If an extension is granted, subsection A shall not apply for that period of time by which a grantee was delayed by reason of events beyond its control.

5.30.610 Repair of damages.

A grantee, its successors and assigns shall promptly repair any damage of every type and nature to city property or city improvements caused by the grantee's negligent or substandard work during the term of a franchise.

5.30.620 Tampering or unauthorized connections.

A. It shall be unlawful for any person to make any connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised cable communications system within the city for the purpose of enabling anyone to receive any television signal or other information transmitted over the cable communications system, without the consent of a grantee.

B. It shall be unlawful for any person, without the consent of a grantee, willfully to tamper with, remove or injure any cables, wires or other cable communications system equipment except; however, a subscriber may disconnect a television receiver from the cable system at any time.

5.30.630 Equal opportunity employment.

Equal opportunity in employment shall be afforded by a grantee to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin or sex. A grantee shall establish, maintain, and carry out a positive, continuing program of specific practices designed to assure equal opportunity in every aspect of company employment policy and practice. A grantee shall immediately comply with all federal, state and local equal opportunity employment requirements and practices.

5.30.640 Interconnection.

A grantee's system shall be designed and constructed, insofar as technically and economically feasible, so as to be capable of interconnection with any systems existing in areas contiguous to the city and with any such systems anticipated for future construction. Upon request by the city, grantee shall interconnect its PEG channels with those of other cable television systems in adjacent areas, unless grantee can demonstrate that such interconnection is not technically or economically feasible, or is beyond the power of the grantee to implement. Any interconnection shall be accomplished in a manner consistent with FCC standards.

5.30.650 Cooperation.

A grantee shall cooperate with any interconnection corporation, regional interconnection authority, or county or state regulatory agency which may be hereafter established for the purpose of regulating, facilitating, financing, or otherwise providing for the interconnection of cable communications systems beyond the boundaries of individual political jurisdictions.

5.30.660 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, neither the remainder of this chapter nor the application thereof to other persons or circumstances shall be affected thereby.

Section 3. This ordinance shall take effect and be in force thirty (30) days after passage and legal publication.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____ _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan, Deputy City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5532

AN ORDINANCE repealing Ordinance Nos. 1859 and 2023 and Chapter 14.20 (formerly Chapter 10.32) of the Bellevue City Code and adopting a new Chapter 14.20 relating to franchise terms and conditions.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 14.20 of the Bellevue City Code is hereby repealed.

Section 2. A new Chapter 14.20 of the Bellevue City Code is hereby adopted as follows:

Chapter 14.20
FRANCHISE TERMS AND CONDITIONS

Sections:

14.20.010 Scope of chapter.
14.20.020 Franchise as a contract.
14.20.030 Franchise term.
14.20.040 Franchise not exclusive.
14.20.050 Subject to authority.
14.20.060 Franchise applications - contents.
14.20.070 Application fee.
14.20.080 Consideration of applications.
14.20.090 Franchise acceptance.
14.20.100 Franchise performance bond.
14.20.110 Legal acquisition by purchase or condemnation.
14.20.120 Rights of grantee.
14.20.130 Construction approval and inspection.
14.20.140 Time for start and completion of construction – termination of franchise.
14.20.150 Relocation.
14.20.160 Transfer of ownership or control.
14.20.170 Successors to grantee.
14.20.180 Forfeiture of rights.
14.20.190 Assumption of liability.
14.20.200 Insurance.
14.20.210 Grantee to indemnify city.
14.20.220 Extent of grantee's obligations.
14.20.230 Franchise fee.
14.20.240 Charge for administrative costs.
14.20.250 Liquidated damages.

14.20.260 Civil penalties and additional relief.
14.20.270 Revocation and termination.
14.20.280 Procedures for termination.
14.20.290 Changes in provisions.
14.20.300 Force majeure.

14.20.010 Scope of chapter.

The following terms and conditions shall apply and shall be deemed to be terms and conditions of any franchise to use the right of way or other public property of the city hereafter granted by the city to any municipal or private corporation engaged in the public service or utility business, unless and except to the extent that such ordinance or resolution granting such franchise expressly provides terms or conditions contrary to those herein contained.

14.20.020 Franchise as a contract.

A franchise issued pursuant to the provisions of this chapter shall be deemed to constitute a contract between a grantee and the city. In the event of a conflict between the provisions of this chapter and a franchise issued pursuant hereto, the provisions of this chapter shall govern unless the franchise clearly states the parties' intent to have the provisions of the franchise control over the provisions of this chapter. Each party shall be deemed to have contractually committed itself to comply with the terms, conditions and provisions of a franchise, and a grantee shall further comply with all written rules, orders and regulations applicable to and not inconsistent with a franchise, which rules, orders and regulations are issued, promulgated or made pursuant to the provisions of this chapter or other lawful authority.

14.20.030 Franchise term.

The term of a franchise shall be specified in a franchise agreement, but it shall not exceed 10 years.

14.20.040 Franchise not exclusive.

Such grant or privilege pursuant to the provisions of this chapter shall not be deemed or held to be an exclusive franchise. It shall in no manner prohibit the city from granting other franchises of a like nature or franchises for other public or private utilities over, along, across, under and upon any right of way or other public property and shall in no way prevent or prohibit the city using any of said right of way or other public property, or effect its jurisdiction over them or any part of them, with full power to make all necessary changes, relocations, repairs, maintenance, etc., of same as they deem fit.

14.20.050 Subject to authority.

A grantee shall, at all times during the term of a franchise, be subject to all lawful exercise of the police power by the city and to such lawful regulations as the city shall hereafter enact. A grantee shall construct, operate and maintain all equipment, facilities or other improvements in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the United States, the state of Washington, the city or any agency of said governments with jurisdiction over said activities.

14.20.060 Franchise applications - contents.

All applications to construct, operate, or maintain necessary equipment, facilities and other improvements shall be filed with the director of transportation or his or her designee. An application for the grant of an initial franchise may be filed pursuant to a request for proposals issued by the city or on an unsolicited basis. To be acceptable for filing, an original and two (2) copies of the application must be submitted and be accompanied by the application filing fee where required.

At a minimum, each application for an initial franchise shall set forth the following information. The city may waive the requirement for submitting some or all of this information when the application is for the renewal of an existing franchise.

A. The name, address and telephone number of the applicant.

B. A detailed statement of the corporate or other business organization of the applicant.

C. A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the five (5) fiscal years immediately preceding the date of the application. If the corporate or business entity organization of the applicant has not been in existence for a full five (5) years, applicant shall submit a certified financial statement for the period of its existence.

D. A detailed description of all previous experience of the applicant in providing the intended service which includes a statement identifying, by place and date, all other franchises awarded to the applicant, its parent or subsidiary; the status of the franchises with respect to completion; the total cost of completion of such systems; and the amount of applicant's and its parent's or subsidiary's resources committed to such systems.

E. An indication of whether the applicant, or any person or entity controlling the applicant, or any officer or major stockholder of the applicant, has been adjudged bankrupt, had a franchise revoked, or been found guilty by any court or administrative agency of a violation of a security or antitrust law, federal or state safety laws or regulations, any felony, or any crime involving moral turpitude; and, if so, identification of any such person and a full explanation of the circumstances.

F. A detailed description of the proposed plan of operation of the applicant, which shall include, but not be limited to, the following:

1. A detailed map indicating: a proposed time schedule for the installation of all equipment, facilities and other improvements necessary to become operational, a description of the construction of the proposed system including an estimate of the above and below ground mileage and the projected total cost for construction of the system.

2. A detailed statement describing the physical facility proposed, technical design, the actual equipment, and the operational and technical standards proposed by the applicant.

G. Any other information reasonably requested by the city which is deemed necessary to evaluate the applicant or which could materially affect the granting of the franchise.

H. The city at its discretion may decide to accept less than the documentation above if it can establish through other sources that the applicant can meet the technical, financial and legal qualifications to meet all of the terms and conditions of a franchise and that the applicant is a competent operator of such systems.

14.20.070 Application fee.

A. Unless prohibited by applicable law, each application for new franchise; the renewal of an existing franchise; any sale, assignment, merger, transfer or change of control; or any request for modification of or any other relief from the duties and obligations of a franchise shall be accompanied by a non-refundable minimum filing fee of $5,000.

B. Unless prohibited by applicable law, where the city's actual out-of-pocket costs in considering the application exceed the $5,000 minimum application filing fee, such costs shall be paid by the applicant. The city will bill for out-of pocket costs on a quarterly basis with payment terms of thirty (30) calendar days. If invoices are not paid within the thirty (30) days, the applicant shall be charged and shall pay interest at the rate of twelve percent (12%) per annum of the amount of the unpaid or underpaid costs provided, however, that such rate does not exceed the maximum amount allowed under applicable law. The invoice will provide the method of calculation, documentation and total amounts due less the original credit of the $5,000 filing fee. The city will submit the final invoice within thirty (30) calendar days from the date of the approval or denial of the franchise by the city council.

14.20.080 Consideration of applications.

A. The city will consider each application for a new or renewed franchise where the application is found to be acceptable for filing and in substantial

compliance with the requirements of this chapter and any applicable request for proposals (RFP). In evaluating an application the city will consider, among other things, the applicant's past service and safety record in the city and in other communities, the nature of the proposed facilities and services, proposed area of service, proposed rates, and whether the proposal would adequately serve the public needs and the overall interests of the citizens of the city.

B. If the city determines that an applicant's proposal for a new franchise would serve the public interest, it may grant a franchise to the applicant, subject to terms and conditions as agreed upon between the applicant and the city. No franchise shall be deemed granted unless and until a franchise agreement acceptable to the parties has been executed. Any such franchise must be approved by resolution or ordinance of the city council in accordance with applicable law.

C. Where the application is for a renewed franchise, the city shall consider whether:

1. The applicant has substantially complied with the material terms of the existing franchise and with applicable law;

2. The quality of the applicant's service, where applicable, has been reasonable in light of community needs;

3. The applicant's use or occupation of the right of way presents an unreasonable or unacceptable risk to public health, safety or welfare and whether the applicant's construction, installation, operation or maintenance practices for the cable communications system are or have been conducted in an unsafe or dangerous manner;

4. The applicant has the ability to provide the services, facilities and equipment as set forth in the application; and

D. In the course of considering an application for a renewed franchise, the city council shall adhere to all requirements of applicable law. In the event the city makes a preliminary assessment that the franchise should not be renewed, the city or the city's hearing body shall hold a public hearing or hearings, in which the grantee seeking renewal shall be afforded a fair opportunity for full participation, including the right to testify, to require the production of and to introduce evidence, and to question witnesses. Notice of any such public hearing shall, at least 10 days before the date of the hearing, be published in a local newspaper of general circulation in the city and be sent by certified mail to each applicant to be considered. A transcript shall be made of such hearing. Within a reasonable time following the conclusion of such hearing, the council shall issue a written decision granting or denying the proposal for renewal based on the record of such proceeding and stating the reasons therefor. The city shall transmit a copy of said decision to the applicant. If the proposal is granted, the parties shall proceed to negotiate the terms and conditions of a renewed franchise, based on said proposal. Any denial of an application for a renewed franchise shall be based on one or more adverse

findings made with respect to the factors described in subsection A, above, pursuant to the requirements of applicable law. Neither grantee nor the city shall be deemed to have waived any right it may have under federal or state law by participating in a proceeding pursuant to this paragraph.

14.20.090 Franchise acceptance.

A franchise and its terms and conditions shall be accepted by written instrument, in a form acceptable to the city clerk, and shall be executed and filed with the city within 30 days after the granting of the franchise by the city. In its acceptance, a grantee shall declare that it has carefully read the terms and conditions of this chapter and the franchise and accepts all of the terms and conditions of this chapter and the franchise and agrees to abide by same. In accepting a franchise a grantee shall indicate that it has relied upon its own investigation of all relevant facts, that it had the assistance of counsel, that it was not induced to accept a franchise, and that it accepts all reasonable risks related to the interpretation of the franchise.

14.20.100 Franchise performance bond.

The grantee shall within thirty (30) days of the effective date of any franchise granted under this chapter or within thirty (30) days of the granting of a renewal or the transfer of a franchise, furnish to the city a franchise performance bond. The franchise performance bond shall be used to guarantee compliance with the terms and conditions of the franchise and payment of all sums which may become due to the city under this chapter or franchise issued pursuant hereto. The franchise performance bond shall be maintained in the full amount specified in the franchise, throughout the term of the franchise and for one (1) year after the franchise expires or is terminated, without reduction or allowances for any amounts which are withdrawn or paid pursuant to this chapter. This section in no way impairs the city's ability to require bonds in accordance with BCC 14.30, as from time to time amended.

14.20.110 Legal acquisition by purchase or condemnation.

The granting of a franchise shall not preclude the city from acquiring by purchase or condemnation any or all of the equipment, facilities or other improvements installed by the grantee within the right of way or other public property within the city by such legal means as would have been available to such municipality if no such franchise had been granted.

14.20.120 Rights of grantee.

The grantee shall have the right and authority, to the extent expressed in the franchise, to enter upon the right of way and other public property designated by said franchise for the purpose of constructing, maintaining and operating necessary equipment, facilities and other improvements within such property, in conformity with local, state and federal statutes and regulations now in force or hereinafter enacted governing such utilities.

14.20.130 Construction approval and inspection.

The grantee shall construct, install, operate and maintain its equipment, facilities and other improvements in the right of way or other public property pursuant to plans and specifications approved by the transportation department and under the supervision and inspection of a supervisor or inspector provided by the city at the expense of such grantee.

14.20.140 Time for start and completion of construction – termination of franchise.

The grantee, its successors or assigns, shall commence system construction within the time stated within the franchise, and shall complete and have in operation such portion of the system as may be specified in the franchise or the franchise shall be voidable by the city and the rights therein conferred upon the grantee may cease and terminate.

14.20.150 Relocation.

A. Whenever the city causes the construction of any project within the franchise area or on public grounds and such construction necessitates the relocation of grantees facilities from their existing location within the franchise area or on such public grounds and places, such relocation will be at no cost to the city.

B. In the event an emergency posing a threat to public safety or welfare requires the relocation of grantee's facilities, the city shall give notice of the emergency as soon as reasonably practicable. Upon receipt of such notice from the city, grantee shall endeavor to respond as soon as reasonably practicable to relocate the affected facilities.

C. Whenever any third party requires the relocation of grantee's facilities to accommodate work of such third party within the franchise area or on such public grounds then the grantee shall have the right as a condition of any such relocation to require payment to grantee, at a time and upon terms acceptable to grantee, for any and all costs and expenses incurred by grantee in the relocation of their facilities. Provided, however, in the event the city reasonably determines and notifies grantee that the primary purpose of the third party requiring relocation is to facilitate the construction of a city project consistent with the city's Capital Investment Plan, Transportation Improvement Program, or the Transportation Facilities Program, then only those costs and expenses incurred by grantee in reconnecting such relocated facilities with other facilities shall be paid to grantee by such third party.

D. As to any relocation of grantee facilities whereby the cost and expense thereof is to be borne by grantee, grantee may submit in writing to the city alternatives to relocation of its facilities. Upon the city's receipt from grantee of such written alternatives, the city shall evaluate such alternatives and shall advise grantee in writing if one or more of such alternatives is suitable. In evaluating such

alternatives, the city shall give each alternative proposed by grantee full and fair consideration with due regard to all facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. No alternative proposed by grantee shall be evaluated by the city in an arbitrary or capricious manner. In the event the city reasonably determines that such alternatives are not appropriate, grantee shall relocate its facilities as originally requested.

E. If the city requires the subsequent relocation of any facilities within five (5) years from the date of relocation of such facilities, the city shall bear the entire cost of such subsequent relocation.

14.20.160 Transfer of ownership or control.

A franchise issued pursuant to this chapter thereto shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation, or otherwise hypothecated in any manner, nor shall title thereto, either legal or equitable, control thereof, or any right, interest, or property therein pass to or vest in any person or entity, nor shall the controlling interest in any corporation holding a franchise hereunder be changed in a manner reasonably anticipated to diminish substantially grantee's ability or likelihood of performing its obligations under the franchise, without the prior consent of the council, such consent not to be unreasonably withheld, or only under such conditions as may be required by the council; provided, however, such transfer of control shall not include transfer to a parent, subsidiary, or affiliate of a grantee, except when such transfer is intended to avoid application of this section. Every type of sale, assignment change, transfer, or acquisition of control of a franchise issued pursuant to this chapter thereto shall make a franchise subject to cancellation unless and until the city shall have consented. Such consent shall not be unreasonably withheld.

14.20.170 Successors to grantee.

All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns and independent contractors of the grantee and all privileges of the grantee shall inure to successors, assigns and such contractors equally as if they were specifically mentioned wherever the grantee is mentioned.

14.20.180 Forfeiture of rights.

If the grantee, its successors or assigns, willfully violate or fail to comply with any of the provisions of such grant, fail to make timely payment of the franchise fee, annual charge or charge for additional actual costs and expenses incurred by the city over and above the annual charge, or through willful or unreasonable neglect fail to heed or comply with any notice given the grantee under the provisions of such grant, then the said grantee, its successors or assigns shall forfeit all rights conferred thereunder and such franchise may be revoked or annulled by the city council.

14.20.190 Assumption of liability.

A. The grantee shall save and hold the city harmless from any and all liability whatsoever arising out of the use or occupation of any part of the right of way or other public property by grantee under the terms of any franchise. This paragraph shall be construed to mean that the grantee accepts such franchise and any rights conferred thereunder for the use and occupation of any portion of the right-of-way or other public property, at its own risk.

B. The grantee, by its acceptance of the franchise, specifically agrees that it will pay all damages and penalties which the city may legally be required to pay as a result of granting the franchise including any reasonable attorney's fee.

14.20.200 Insurance.

The franchisee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain, throughout the term of the franchise liability insurance in such amounts and under such conditions as specified in the franchise.

14.20.210 Grantee to indemnify city.

The grantee, its successors or assigns, shall protect and save harmless the city from all claims, actions or damages of every kind and description which may accrue to be suffered by any person or persons, corporation or property by reason of any faulty construction, defective material or equipment, or maintenance, or by the improper occupation of said right of way by the said grantee or by reason of the negligent, improper or faulty manner of safeguarding any excavation, temporary turnouts or inefficient operation by the grantee of its pipe lines over said streets, avenues, alleys, roads and public places as hereinbefore designated, and in case that suit or action is brought against the city for damages arising out of or by reason of any of the abovementioned causes, the grantee, its successors or assigns, will, upon notice to it or them of the commencement of said action, defend the same at its or their sole cost and expense and in case judgment shall be rendered against the city in suit or action, will fully satisfy said judgment within 90 days after the said suit or action shall have been finally determined, if determined adversely to the city; provided, that the grantee therein, its successors or assigns shall have the right to employ its own counsel in any cause or action and be given the management of the defense thereof.

14.20.220 Extent of grantee's obligations.

The obligations imposed upon the grantee by the express terms of the franchise, or implied by the terms of this chapter or any other ordinance affecting the same, shall be deemed to include every employee, nominee or independent contractor of the grantee performing work in the city streets, or other city property, under contract direction, request or authority of the grantee under this franchise, and the grantee, its agent, employee or independent contractor, severally, shall be responsible to the city for any injury or damage to city property or the expense incurred or suffered by

the city in correcting defects in work replacing city streets or other improvements damaged by the acts or neglect of such servants, agents or independent contractors of grantee.

14.20.230 Franchise fee.

To the extent authorized by applicable law, there may be imposed as a condition of the grant of a franchise and in consideration therefor, a franchise fee. Amount of such fee shall be established by the city council and shall be consistent for all franchises granted to businesses falling within the same specific business classification.

A. Any payment that may be due shall be due thirty (30) days past the close of the grantee's calendar or tax quarter for which revenue was received or thirty (30) days past the invoice date received from the city.

B. In the event that any franchise payment is not received by the city on or before the applicable date due, interest shall be charged from such date at the rate of twelve percent (12%) per annum, or the statutory rate for judgments, whichever is less.

C. In addition, if any payment due is not paid by the due date, the city shall add a penalty of five percent (5%) of the amount due; and if the payment is not received on or before the last day of the month following the due date, the city shall add a total penalty of ten percent (10%) of the amount due; and if the payment is not received on or before the last day of the second month following the due date, the city shall add a total penalty of twenty percent (20%) of the amount due.

D. In the event a franchise is revoked or otherwise terminated prior to its expiration date, a grantee shall file with the city, within ninety (90) days of the date of revocation or termination, all payments due.

E. Nothing in this chapter shall limit the city's authority to tax a grantee, or to collect any fee or charge permitted by law, and no immunity from any such obligations shall attach to a grantee by virtue of this chapter.

No acceptance of any payment by the city shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee, if applicable, or for the performance of any other obligation of the grantee.

14.20.240 Charge for administrative costs.

There may be imposed, in addition to a franchise fee, an annual charge for the administrative costs and expenses incurred by the city in supervision, inspection and examination of such work granted by the permit and done by the grantee or by an independent contractor under the franchise of the grantee. Should actual costs and expenses exceed the amount of such annual fee, the grantee shall be required to

reimburse the city for such additional actual costs and expenses incurred by the city over and above the annual charge. Such annual charge shall be due and payable on or before the last day of the year of each successive year of the term of the franchise. Such charge shall be prorated on the number of months of the calendar year during which period the franchise is in effect.

14.20.250 Liquidated damages.

Because a grantee's failure to comply with the provisions of this chapter and its franchise will result in damage to the city and because it will be impractical to determine the actual amount of such damages, the city and any grantee may agree upon and specify in a franchise certain amounts which represent both parties' best estimate of the damages.

14.20.260 Civil penalties and additional relief.

A. Any person, and the officers, directors, managing agents, or partners of any grantee violating or failing to comply with any of the provisions of this title or any franchise issued pursuant thereto shall be subject to a civil penalty in the manner and to the extent provided for in Chapter 1.18 BCC. A monetary penalty in an amount not less than $100 nor more than $1,000 per day for each day of violation may be assessed and abatement required as provided therein.

B. In addition to any penalty which may be imposed by the city, any person violating or failing to comply with any of the provisions of this title or any franchise issued pursuant thereto shall be liable for any and all damage to city property or rights of way arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

C. Notwithstanding any other provision in this title, the city may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the applicable provisions of this title or any franchise issued pursuant thereto when civil or criminal penalties are inadequate to effect compliance.

D. In addition to the penalties set forth in this section, violation of any provision of this title or any franchise issued pursuant thereto may also result in the revocation and termination of any franchise, permit, or other agreement or authorization.

14.20.270 Revocation and termination.

A. In addition to all other rights and powers retained by the city under this chapter and any franchise issued pursuant thereto, the city council reserves the right to revoke and terminate a franchise and all rights and privileges of a grantee in the event of a substantial violation or breach of its terms and conditions. A substantial violation or breach by a grantee shall include, but shall not be limited to, any of the following acts or omissions:

1. An uncured substantial violation of any material provision of this chapter or an uncured breach of any material provision of a franchise issued hereunder, or any material rule, order or regulation of the city made pursuant to its power to protect the public health, safety and welfare;

2. Any default in the performance of any of grantee's material obligations under any other documents, agreements and other terms and provisions entered into by and between the city and the grantee;

3. An intentional evasion or knowing attempt to evade any material provision of a franchise or practice of any fraud or deceit upon the subscribers or upon the city;

4. Failure to begin or substantially complete any system construction or system extension as set forth in a franchise;

5. Failure to provide the services promised in the application or specified in a franchise, or a reasonable substitute therefor;

6. Any use or occupation of the right of way that presents a risk to public health or safety or the construction, installation, operation or maintenance of a system in an unsafe or dangerous manner;

7. The willful violation of any orders or rulings of any regulatory body having jurisdiction over grantee relative to the franchise;

8. Misrepresentation of material fact in the application for, or during negotiations relating to, a franchise;

9. A continuous and willful pattern of inadequate service or failure to respond to legitimate subscriber complaints;

10. Failure to provide insurance, bonds, letter of credit, or indemnity as required by a franchise or this chapter;

11. An uncured failure to pay franchise fees as required by the franchise agreement.

B. None of the foregoing shall constitute a substantial violation or breach if the grantee is without fault or if the violation or breach occurs as a result of circumstances beyond a grantee's reasonable control. A grantee shall bear the burden of proof in establishing the existence of such circumstances. However, a grantee's substantial violation or breach shall not be excused by economic hardship nor by nonfeasance or malfeasance of its directors, officers, employees, agents or contractors.

14.20.280 Procedures for termination.

A. Any franchise issued pursuant to this chapter may be terminated in accordance with the following procedures:

1. The city manager, or other person designated by the city manager, shall notify the grantee in writing of the exact nature of the alleged substantial violation or breach constituting a ground for termination. Said notice shall provide that the grantee shall have sixty (60) days from the date of receipt of notice to correct and cure such alleged substantial violation or breach or to present facts and argument in refutation of the alleged substantial violation or breach. A copy of said notice of substantial violation or breach shall be mailed to the surety on any performance bond.

2. If a grantee corrects any alleged substantial violation or breach within the sixty (60) day cure period, then in no event shall the violation be weighed against such grantee in any subsequent review of franchise performance.

3. If a grantee does not correct and cure the alleged substantial violation or breach within the sixty (60) day cure period then the city council shall, within forty-five (45) days of the last day of the sixty (60) day cure period, designate the hearing examiner as the hearing officer to conduct a public hearing to determine if the revocation and termination of the franchise is warranted and to make a recommendation to the city council. That recommendation shall be transmitted to the city council for final action on a closed record. The city council shall act as the final decisionmaker.

4. At least twenty (20) days prior to the public hearing, the city clerk shall issue a public hearing notice and order that shall: establish the issue(s) to be addressed in the public hearing; provide the time, date and location of the hearing; provide that the city shall hear any persons interested therein; and provide that the grantee shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to be represented by counsel and to question witnesses.

5. The hearing examiner shall hear testimony, take evidence, hear oral argument and receive written briefs. The hearing examiner shall create for the city council a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording.

6. The grantee carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that there is not an uncured substantial violation or breach or that the substantial violation or breach is a result of circumstances beyond a grantee's reasonable control.

7. Within ten (10) working days after the close of the record the hearing examiner shall issue a written decision that shall include the recommendation of the hearing examiner on the revocation and termination of the

grantee's franchise, a findings of facts upon which the recommendation is based and the conclusions derived from those facts.

B. The city council shall, at a public meeting, consider and take final action on the recommendation of the hearing examiner. The city council shall not accept new information, written or oral, but shall consider the complete record developed before the hearing examiner and the recommendation of the hearing examiner.

C. At the public meeting the city council shall either:

1. Accept the recommendation of the hearing examiner; or

2. Reject the recommendation of the hearing examiner; or;

3. Remand the decision to the hearing examiner and the director for an additional hearing limited to specific issues identified by the council.

D. The city council shall adopt an ordinance which accepts or rejects the recommendation of the hearing examiner by a majority vote of the membership of the council. If the action by the city council will result in the revocation and termination of a grantee's franchise then the ordinance shall declare that the franchise of such grantee shall be revoked and terminated, any security fund or bonds are forfeited, and shall include findings of fact and conclusions derived from those facts which support the decision of the council. The city council may by reference adopt some or all of the findings and conclusions of the hearing examiner.

14.20.290 Changes in provisions.

The city reserves for itself the right at any time upon a 48-hour written notice to the grantee to so change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any state statute or city regulation relating to the public welfare, health, safety or highway regulation as may hereinafter be enacted, amended, adopted, changed, etc., and such franchise may be terminated at any time if same is not operated or maintained in accordance with its provisions, or at all.

14.20.300 Force majeure.

In the event the grantee's performance of any of the terms and conditions or obligations required by this chapter is prevented by a cause or event not within the grantee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that shall not relieve a grantee from its general obligations required when interruptions in service occur. For the purpose of this section, causes or events not within the control of the grantee shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances; restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of the

grantee to perform or failure of the grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the grantee, or the failure of the grantee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable communications system where the grantee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

Section 3. This ordinance shall take effect and be in force thirty (30) days after passage and legal publication.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____ _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

_____
Lori M. Riordan, Deputy City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____

Item No. 11 (f)

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:

Resolution Nos. 7025 through _____ authorizing the City Manager to amend six current professional services contracts and execute two new professional services contracts for consulting services through the construction phase of the New City Building project.

FISCAL IMPACT:

These actions obligate the City to a total of $1,448,446 for the following professional services contracts:

Consultant	Existing Contract	**Amendment or New Contract**	TOTAL
1. The Seneca Real Estate Group *Construction Management*	$49,800	**$221,150**	$270,950
2. Cultural Development Authority *Public Art Management*	$19,474	**$56,320**	$75,794
3. McClaren Wilson & Lawrie, Inc. *Public Safety Design*	$75,000	**$45,000**	$120,000
4. SRG Partnership *Graphic Design*	$6,704,587	**$75,075**	$6,779,662
5. GeoEngineers *Geotechnical Services*		**$94,000**	$94,000
6. BRC acoustics *Audio-Visual Design*		**$80,600**	$80,600
7. TechPMgroup, LLC *Technology Infrastructure Project Management*	$48,800	**$129,115**	$177,915
8. RLF Enterprises *Technology Systems Project Management*	$188,000	**$747,186**	$935,186

These contracts will provide consulting services through the construction phase of the New City Building project. Funding for these design services has been anticipated, and is included in the approved New City Building budget and financing plan. Additional contracts will also be negotiated to complete the construction phase of the project. The list of anticipated contracts required to complete this project were identified as part of your May 24, 2004 packet materials and are included as Attachment 1 to this agenda memo for your reference.

STAFF CONTACTS:

Matthew Terry, PCD Director, 452-6191
Frank Pinney, Facilities Planning Manager, 452-6049

POLICY CONSIDERATION:

Should the City amend contracts as described above and execute contracts with GeoEngineers and BRC acoustics to continue to provide design and construction support services for the development of the New City Building?

BACKGROUND:

On July 28, 2003 with Resolution No. 6883, Council approved an architectural services agreement with SRG Partnership to provide design services for the New City Building. At that same time or shortly thereafter several contracts were initiated for work that was part of the City's responsibility. These included operations design of the 911 center and its backup, Service Delivery infrastructure to get phone, data and fiber from the new building to associated sites through Bellevue, as well as contracts for geotechnical design services and other consultants under the City's responsibility. Most of these contracts were phased to allow for design through schematic and into design development in preparation for development of the MACC.

On June 1, 2004, Council approved the scope and budget for the New City Building project . To support the final design and construction phases, staff will be negotiating several contracts, including those represented in this agenda memo. These contracts are required to complete the design and construction of this project. Now that the MACC has been established and scope and budget have been approved by Council, these contracts are either amended or new contracts negotiated to complete the remaining phases of the project.

Contracts under consideration at this time include:

1. The Seneca Real Estate Group provided project management and MACC negotiations services. The amendment to their contract will provide for construction management services and negotiation services on any change orders. The services of this consultant will be used when issues or negotiations rise above those dealt with by the Project Team.

2. Cultural Development Authority provided for the selection of the three artists and preliminary development of the art proposals. The amendment to their contract will finish the development of the art projects and insure they are integrated into the project and do not impact the tight project schedule. The expertise to deal with the artists and contractors and ensure the art is integrated into the construction of the building is outside the skills of City staff.

3. McClaren Wilson & Lawrie provided schematic and design development services and acted as the City expert on issues about 911, holding facility, and other Police and Fire functions. The amendment will provide for peer review for the development of Police space and construction documents for very specific equipment needed by the Police. In addition, site observation for equipment installation is included. The Police, 911 Center, and holding/interview rooms are technically complex not only due to stringent code requirements, but also to meet standards required for 911 Center, holding facilities, and other police operations.

4. SRG Partnership amendment will provide additional consultant work by Sussman/Prejza to complete the design services for the graphic design, including the building stair graphic and the gateway to be located at the corner of NE 4th and 112th. Similar to other additional consultant work required by the SRG contract with the City, an amount of $750,000 was identified for specialized technical

consultants. As such, this contract amendment was fully anticipated, but only approved based on the approved scope and budget.

5. GeoEngineers provided under separate contract the test borings geotechnical design criteria for the new building foundation and seismic upgrades. The City now is in need of shoring, foundation, tie back walls and ground water monitoring services during the construction of the new building. Due to the duration of the work and the change in scope, a new contract was negotiated. The consultant was selected based on a competitive process using the City's consultant rosters. These activities are all critical to the normal scope to ensure subsurface conditions are known prior to the start of construction as well as through the construction process. These services are consistently provided by the owner, not the architect or contractor.

6. BRC Acoustics will provide the City with design services to integrate the existing audio and video equipment (AV) included within the existing Council Chambers into the systems and spaces being constructed by the contractor in the new building. These services will ensure that the new and existing equipment work well together and that they meet the needs of the City once installed. This consultant was selected because of their knowledge of the project (they are part of the SRG design team) and because several of their staff have knowledge of our current system as they worked for the firm that initially installed our current equipment. AV equipment is very technical and needs to be integrated into the design. Staff is working with the consultants to eliminate some of the difficulties we currently experience.

7. TechPMgroup provided schematic and design development services for the development of the cable, phone and fiber systems that will tie the current campus to the new building as well as the BSC, 911 Center and other sites throughout the City. This project called Service Delivery Infrastructure (SDI) is not part of the architect or contractors work, but is required to pull everything together once the building is complete. The amendment to their contract will finish the design, develop contract documents and oversee the construction and implantation of these conduit and cable runs within the City right-of-way. This project is very complex and involves Transportation, Information Technology, as well as the Design Team. This stand-alone project is over $1,000,000.

8. RLF Enterprises provided coordinated design service for three separate projects all part of the technology systems within the building. They include (1) technology design of the 911 center, (2) technology systems including computer, network and telephone system moves to the new building, audio/visual and radio (800mhz), and wireless LAN systems design, as well as other smaller technology systems, and (3) core building systems including building cable infrastructure, fire alarm, HVAC controls, cell phone and pager systems, lighting controls and security systems. The amendment to this contract will provide for the project management and construction management of these critical functions. Without a comprehensive design and implementation of these systems, the building will not operate at the high level the 911 Center and other critical functions require.

   The technology systems required in the development of the New City Building are considerable and complex. The list of current approved technology systems and potential or unapproved systems are listed in Attachments 2 and 3 respectively. The City currently does not have the staff of approximately four LTEs, nor the expertise to provide for the project and construction management aspects of this very technical and critically important function of the new building. Therefore, the City has chosen to hire a consultant to act as the City's agent in these aspects of the project.

RLF Enterprises brings over 40 years and more than $250 million dollars of successful technology project experience to the New City Building project. When applied to the New City Building project, this experience and additional consultant capacity allows us to deliver this highly complex aspect of the project within the schedule and budget for this project, and helps the City avoid costly mistakes, maintain scope and budget, and get the most for their technology dollar.

EFFECTIVE DATE:

If approved, these resolutions become effective immediately upon Council adoption.

OPTIONS:

1. Adopt Resolution Nos. 7025 through 7032 authorizing the City Manager to amend six current professional services contracts and execute two new professional services contracts for consulting services through the construction phase of the New City Building project.
2. Adopt selected Resolutions and provide alternative direction to staff regarding the rejected Resolutions.
3. Reject Resolution Nos. 7025 through 7032 and provide alternative direction to staff.

RECOMMENDATION:

Adopt Resolution Nos. 7025 through 7032 authorizing the City Manager to amend six current professional services contracts and execute two new professional services contracts for consulting services through the construction phase of the New City Building project.

MOTION:

Move to adopt Resolution Nos. 7025 through 7032 authorizing the City Manager to amend six current professional services contracts and execute two new professional services contracts for consulting services through the construction phase of the New City Building project.

ATTACHMENTS
Proposed Resolution Nos. 7025 through 7032
Attachments 1, 2, 3

AVAILABLE IN COUNCIL OFFICE:

Amendment #1 to Project Management Support Agreement– The Seneca Real Estate Group
Amendment #1 to Public Art Agreement– Cultural Development Authority of King County
Amendment #1 to Technical Advisory Services Agreement– McClaren Wilson & Lawrie, Inc.
Amendment #8 to Architectural Services Agreement– SRG Partnership
Geotechnical Construction Management Services Agreement – GeoEngineers, Inc.
AV technology systems Design & Installation Services Agreement – BRC acoustics
Amendment #1 to SDI Project Management Agreement – TechPMgroup, LLC
Amendment #1 to Technology Systems Project Management Agreement – RFL Enterprises, Ltd

REPRINTED FROM CITY COUNCIL 5/24/04 COUNCIL PACKET **Attachment 1**

Items needing Council action throughout the remainder of the Project

The following contracts will be needed to support the construction and technology aspects of this project. Much of this work is driven by the Council-approved scope for inclusion in the Maximum Allowable Construction Cost (MACC). Therefore, not knowing the full scope of the MACC, these contracts were withheld or phased. This allowed enough design work to complete the design development documents and allow for the development of the scope and negotiation of the MACC. All of this work is part of our project management plan for the New City Building, and is within the preliminary budget. These items are included in the two lines, "COB Project Costs" and "Special Technology Costs" in Exhibit 1 of the Council materials provided at the May 3, 2004 Council meeting (see attached).

Package	Date	Vendor	Work	Amount
1	June 04	GeoEngineers	Excavation, soil nailing, dewatering, water quality monitoring oversight	$94,000
1		TechPM	Service Delivery Infrastructure(connection of NCB to remote City locations, conduit & street work),design, bidding, construction admin.	$129,115
1		RLF Enterprises	CommCenter-$286k, Core Building (conduit, cable, computer rooms)-$203k, IT Systems (phone, network, AV, equipment move and installation)-$258k.	$747,186
1		BRC Acoustics	Integration of existing and new AV equipment into new system for Council Chambers & other AV needs.	$70,000
1		SRG Partnership	Sussman/Prejza for graphics and signage design (part of $750,000 allowance).	NTE $75,000 depending on scope
1		4 Culture	Arts consultant to manage artist and integrate art during construction	TBD
1		McClaren & Wilson	Public safety consultant for construction documents and construction review	$45,000 amendment
2	July 04	To be selected	Project management consultants	$175,000 to $225,000
2		To be selected	Builders Risk Insurance	$120,000 to $125,000
2		To be Selected	RFP and contract for commissioning of NCB equipment.	$400,000 to $500,000
2		To be selected	Art contracts with individual artists.	$650,000 to $750,000
3	Sep-Oct 04	To be selected	Code required testing and special inspection	$200,000 to $250,000
3		AdComm Engineering	Communications Center design and move planning	$80,000
3		To be selected	Service Delivery Infrastructure (SDI	$120,000 to $150,000

Package	Date	Vendor	Work	Amount
3		To be selected	Construction management support	$200,000 to $300,000
4	Mar 05	MBI/Herman Miller	Systems furniture purchase	$2,000,000 to $2,500,000
4		To be selected	Other FF&E equipment/furniture	$800,000 to $1,000,000
4		To be selected	SDI cables, interdict, termination & testing	$280,000 to $300,000
4		To be selected	AV Equipment for Council Chambers and other City functions	$550,000 to $625,000
4		To be selected	Furniture Moving Contract	$450,00 to $500,000
5	Sep 05	To be selected	Computer & IT equipment moves	$190,0 to $220,000
5		Qwest	SDI reconfigure existing system	$140,000 to $160,000
5		To be selected	Telephone switch	$320,000 to $340,000
6	Sep/Nov 05	To be selected (this may be done by as many as 10 contractors)	Communications Center equipment & move, (design is not far along enough to provide detail).	$4,200,000 to $4,400,000
6		To be selected	Communications Center work stations	$130,000 to 150,000

EXHIBIT 1 Bellevue City Hall Renovation Estimate Analysis

4/29/2004 12:44						
Net Purchase & Sale Costs		**$8,817,903**		**$8,056,350**		**-$761,553**
		Schematic Design		**Design Development**		**Change from**
Construction Costs		**Preliminary Budget**		**Estimate**		**Schematic Design**
		3-Nov-03		3-May-04		
1. Demolition		$1,214,760		$1,305,113		$90,353
2. Sitework		$5,555,382		$5,146,188		-$409,194
3. Structure		$9,241,718		$10,705,508		$1,463,790
4. Exterior Wall		$5,762,486		$6,901,563		$1,139,077
5. Roofing		$1,321,322		$1,573,308		$251,986
6. Interior Construction		$10,373,300		$10,137,013		-$236,287
7. Vertical Transportation		$862,795		$857,893		-$4,902
8. HVAC		$3,063,202		$3,593,649		$530,447
9. Plumbing		$532,672		$780,948		$248,276
10. Fire Sprinklers		$831,559		$1,101,450		$269,891
11. Electrical		$8,774,161		$9,145,941		$371,780
12. Owners Equipment		$80,065		$75,000		-$5,065
Rounding		-$1,818				$1,818
Subtotal Raw Costs		**$47,611,604**		**$51,323,574**		**$3,711,970**
Design Contingency	5%	$2,380,580	0%	$0		-$2,380,580
Est/Buyout Contingency	2%	$952,232	2%	$1,026,468		$74,236
GCCM Contingency	3%	$1,428,348	3%	$1,539,702		$111,354
Subtotal	10%	$52,372,764	5%	$53,889,744		$1,516,980
Escalation	3%	$1,571,183	1.5%	$808,343		-$762,840
Total MACC		$53,943,947		$54,698,087		$754,140
GCCM Fee	4%	$2,157,758	4%	$2,187,916		$30,158
Subtotal		$56,101,705		$56,886,003		$784,298
Specified General Conditions		$3,853,000		$4,020,726		$167,726
Preconstruction		$310,000		$310,000		$0
Subtotal		**$60,264,705**		**$61,216,729**		**$952,024**
Owners Contingency	6%	$3,615,882	6%	$3,671,698		$55,816
Subtotal		$63,880,588		$64,888,427		$1,007,839
WSST	8.80%	$5,621,492	8.80%	$5,708,267		$86,775
Construction Budget Total		**$69,502,080**		**$70,596,695**		**$1,094,614**
FF&E Combined		$4,545,900		$3,295,900		-$1,250,000
Art		$893,138		$893,138		$0
A/E & Consultants Combined		$8,967,830		$9,167,830		$200,000
Project Management		$408,248		$408,248		$0
Soft Cost Contingency		$1,530,923		$1,475,046		-$55,877
Insurance & Permits		$786,275		$686,275		-$100,000
Project PLI Insurance Policy		$486,783		$486,783		$0
Moving Expenses		$750,000		$500,000		-$250,000
COB Project Costs		**$18,369,097**		**$16,913,220**		**-$1,455,877**
Telecom Cabling (Street Recabling Project)		$1,000,000		$900,000		-$100,000
Technology Systems Allowance		$1,800,000		$1,800,000		$0
Comm Center Systems Relocation		$3,000,000		$3,000,000		$0
Special Technology Costs		**$5,800,000**		**$5,700,000**		**-$100,000**
Total Project Cost		**$102,489,080**		**$101,266,265**		**-$1,222,816**
Public Art CIP				-$450,000		-$450,000
Gateway CIP				-$300,000		-$300,000
MPOS Sale				-$60,000		-$60,000
Homeland Security Federal Grants						
King County 911 Fund						
Other Revenue Sources Offset		**$0**		**-$810,000**		**-$810,000**
NET PROJECT COST		$102,489,080		$100,456,265		-$2,032,816

Attachment 2
City of Bellevue New City Project
All System List (includes active-approved, and currently tracking unapproved systems)

Project Group	System Name	System Descriptor	Status	Definition
Communications Center	Multiple		Approved budget Baseline system	A large collection of monitoring and response systems that support the operation of 911 services to the City of Bellevue and several surrounding communities.
Core Building Systems	800 MHz Radio Antenna		Approved budget Baseline system	A robust, shared, business-band radio system that aids in making communications available throughout the Facility and into the surrounding community by adding an antenna system inside the Facility to extend reception. The distributed antenna system (DAS) and other 800 MHz antenna systems will be capable of supporting both hand-held and base station type devices used in the Facility.
Core Building Systems	Building Cable Infrastructure		Approved budget Baseline system	The shared cable and terminations used by the Data Network, Wired Telephone System, Wireless LAN, selected Audio, Video, Monitoring and Control systems to move signals between the MEC, BEC, Workstations and SPOP locations.
Core Building Systems	Cell Phone and Pager Support System		Approved budget Optional system	One or more stand-alone systems of repeaters, cable, antenna and other active components that help guarantee public cell phone and paging services into any location in the Facility. Probably works on top of the 800 MHz Radio Antenna System.

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Core Building Systems	Facility Cable Raceway		Approved budget Baseline system	The conduit, cable tray and other similar pathways that support Building Cable Infrastructure low voltage cable distribution (voice, data, control, audio, video, etc.) throughout the Facility.
Core Building Systems	Fire Alarm System		Approved budget Baseline system	The primary fire/life safety monitoring, device control, management and alarm system in the Facility.
Core Building Systems	HVAC Control System		Approved budget Baseline system Options not approved	The primary monitoring, control and management system for the HVAC systems in the Facility. Includes appropriate integration with the Fire Alarm (and other) systems.
Core Building Systems	Lighting Control System		Approved budget Baseline system	The primary control and management system for the lighting (and some other high voltage components) in the facility. Assumed to rely on HVAC for part of the functionality and may include stand alone lighting control system(s) too.
Core Building Systems	Security System		Approved budget Baseline system Options included	A shared, distributed, segmentable system that monitors interior and exterior Facility spaces and supports the monitoring and response to security events by internal and external COB staff.
Core Building Systems	Technology Support Spaces		Approved budget Baseline system	Properly conditioned, configured, secured and protected spaces in the project to house all centralized and semi-centralized low voltage equipment and cable management. Includes (at least) SPOP, MEC and BEC locations.

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Service Delivery Infrastructure (SDI)			Approved budget Baseline system	The cable and wireless network and associated pathways that move private and public signals from other locations into the building. These services generally terminate in the SPOP (but this is not a system requirement).
Technology Systems	Computer Workstation Moves		Approved budget Baseline system	Move the existing desktop and portable computer related equipment (includes workstations, fax machines, printers, plotters, copiers, etc.) used by COB staff during their normal course of business and by visitors to the Facility.
Technology Systems	Data Network		Approved budget Baseline system	The system that provides secure, reliable local area network data services throughout the Facility and to the outside world.
Technology Systems	Data Server Moves		Approved budget Baseline system	Desktop and portable computer related equipment used by Facility staff during their normal course of business and by visitors to the Facility.
Technology Systems	Miscellaneous RF Support System	Emergency Operations Center	Approved budget Baseline system	A collection of support antenna related systems that support individual radio systems that deliver radio signals to the appropriate locations in the EOC.

Technology Systems	Specialty AV Systems	Multiple		A collection of special case, individually engineered, stand alone or integrated systems that record, control or present audio and video content at various locations within the Facility. For example, EOC, Conference Rooms and the City Council Chambers all include Specialty AV and Control Systems.
Technology Systems	Specialty AV System	EOC, Traffic System and Training Area Adaptations	Approved budget Baseline system	Specialty AV systems that incorporate existing hardware (where applicable) and include adaptations to accommodate the new spaces.
Technology Systems	Specialty AV System	City Council Area Adaptations	Approved budget Baseline system	Specialty AV systems that incorporate existing hardware (where applicable) and include adaptations to accommodate the new City Council Area spaces.
Technology Systems	Specialty AV Systems	Existing Installation Moves	Approved budget Baseline system	Specialty AV systems that incorporate existing AV hardware into the new facility (primarily conference rooms and Council Area)
Technology Systems	Telephone System		Approved budget Baseline system	The telephone switching equipment, handsets, station cabling, cross-connect, voice mail system, configuration software and terminations from the output side of the associated Service Delivery Infrastructure to the telephone handsets in the Facility.

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Attachment 3
City of Bellevue New City Project
All System List (includes active-approved, and currently tracking unapproved systems

The following systems are being tracked in the project but are NOT part of the approved budget and are NOT included in active systems design work (unless noted otherwise).

Project Group	*System Name*	*System Descriptor*	*Status*	*Definition*
Technology Systems	*Cable Television System*		*Not an approved budget* *Baseline system* *Trying to squeeze some cable into Cable Infrastructure* *Estimated $90,000*	*A common, distributed system capable of delivering local area cable television programming, and potentially in-house television content, to many areas of the Facility.* *Very difficult to add to the project.*
Technology Systems	*Wireless LAN*	*Multiple*	*Not an approved budget* *Estimate $75,000 but could come in lower.* *Minimal locations*	*A system that distributes wireless 802.11x data access for desktop and portable computing and communication devices to data and communications services throughout (or in selected areas of) the Facility and Exterior spaces.*
Technology Systems	*Wireless LAN*	*Police Garage*	*Not an approved budget* *Optional system* *Estimate in "Multiple"*	*A wireless LAN system specific to the Police Garage areas.* *Can be added at a later data with some additional expense.*
Technology Systems	*Wireless LAN*	*Service First Lobby Area*	*Not an approved budget* *Optional system* *Estimate in "Multiple"*	*A wireless LAN system specific to the Main Lobby areas.* *Can be added at a later date with minor additional expense.*

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Technology Systems	***Wireless LAN***	***MDT Training Room***	***Not an approved budget*** ***Optional system*** ***Estimate in "Multiple"***	***A wireless LAN system specific to the Police MDT Training Room.*** ***Can be added at a later date with minor additional expense.***
Technology Systems	***Wireless LAN***	***EOC***	***Not an approved budget*** ***Baseline system*** ***Estimate in "Multiple"***	***A wireless LAN system specific to the EOC Space.*** ***Can be added at a later date with very minor additional expense. Reuse existing hardware.***
Technology Systems	***Wireless LAN***	***Other Indoor***	***Not an approved budget*** ***Optional system*** ***Estimate in "Multiple"***	***A wireless LAN system specific to the other areas of the Facility interior.*** ***Can be added at a later date with some additional expense.***
Technology Systems	***Miscellaneous RF Support***	***Non-EOC Locations***	***Not an approved budget*** ***Baseline system*** ***Estimate $25,000***	***Support for various non-800 MHz RF systems in non-EOC locations of the facility.*** ***Can be added at a later date with some additional expense.***

Q61 - 11

1175-RES
6/18/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7025

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to a contract with The Seneca Real Estate Group from $49,800 to $270,950 to provide construction management services representing the City's interest during the construction process for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to a contract with The Seneca Real Estate Group from $49,800 to $270,950 (an increase of $221,150) to provide construction management services representing the City's interest during the construction process for the New City Building including negotiation services on any change order, a copy of which amended contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1176-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7026

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to a contract with the Cultural Development Authority of King County from $19,474 to $75,794 to provide project management services through construction in support of the public art installations in the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to a contract with the Cultural Development Authority of King County from $19,474 to $75,794 (a $56,320 increase) to provide project management services through construction in support of the public art installations in the New City Building, a copy of which amended contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1177-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7027

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to a contract with McClaren Wilson & Lawrie, Inc. from $75,000 to $120,000 to provide design services through construction related to Public Safety functions for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to a contract with McClaren Wilson & Lawrie, Inc. from $75,000 to $120,000 (a $45,000 increase) to provide design services through construction related to Public Safety functions for the New City Building, a copy of which amended contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1178-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7028

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to a contract with SRG Partnership from $6,704,587 to $6,779,662 to provide graphic design services through construction for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to a contract with SRG Partnership from $6,704,587 to $6,779,662 (a $75,075 increase) to provide graphic design services through construction for the New City Building, a copy of which amended contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1179-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7031

A RESOLUTION authorizing the City Manager or his designee to execute a contract with GeoEngineers, Inc. to provide geotechnical services through construction for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute a contract with GeoEngineers, Inc. for $94,000 to provide geotechnical services through construction for the New City Building, a copy of which contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1180-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7032

A RESOLUTION authorizing the City Manager or his designee to execute a contract with BRC Acoustics, Inc. to provide audio-visual services through construction for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute a contract with BRC Acoustics, Inc. for $80,600 to provide audio-visual services through construction for the New City Building, a copy of which contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7029

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to a contract with TechPMgroup, LLC from $48,800 to $177,915 to provide service delivery infrastructure project management services through construction for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to a contract with TechPMgroup, LLC from $48,800 to $177,915 (a $129,115 increase) to provide service delivery infrastructure project management services through construction for the New City Building, a copy of which amended contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk

1182-RES
6/17/2004

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7030

A RESOLUTION authorizing the City Manager or his designee to execute an amendment to a contract with RLF Enterprises Ltd from $188,000 to $935,186 to provide project management services for technology systems through construction for the New City Building.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to a contract with RLF Enterprises Ltd from $188,000 to $935,186 (a $747,186 increase) to provide project management services for technology systems through construction for the New City Building, a copy of which amended contract has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2004, and signed in authentication of its passage this _____ day of _____, 2004.

(SEAL)

_____
Connie B. Marshall, Mayor

Attest:

_____
Myrna L. Basich, City Clerk