

Return Address:

Community Development Department
City of Mukilteo
4480 Chennault Beach Road
Mukilteo, WA 98275



200801230681 26 PGS
01/23/2008 3:48pm \$0.00
SNOHOMISH COUNTY, WASHINGTON

Document Title(s) (or transactions contained therein):

1. Interlocal Agreement
- 2.
- 3.
- 4.

Reference Number(s) of Documents assigned or released:

(on page ____ of documents(s))

Grantor(s) (Last name first, then first name and initials)

1. City of Mukilteo
2. Washington Sate Department of Transportation
- 3.
- 4.
5. ☐ Additional names on page ____ of document.

Grantee(s) (Last name first, then first name and initials)

1. City of Mukilteo
2. Washington Sate Department of Transportation
- 3.
- 4.
5. ☐ Additional names on page ____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

City Wide

- ☐ Additional legal is on page ____ of document.

Assessor's Property Tax Parcel/Account Number

- ☐ Additional legal is on page ____ of document.

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**INTERLOCAL AGREEMENT BETWEEN
WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION
AND CITY OF MUKILTEO FOR
MITIGATION OF LAND DEVELOPMENT IMPACTS**

1. PARTIES

This Interlocal Agreement ("Agreement") is made and entered into this 5th day of November, 2007 by and between the Washington State Department of Transportation ("STATE") and the City of Mukilteo ("CITY").

2. PURPOSE AND AUTHORITY

- 2.1 The purpose of this Agreement is to provide a means to fund and construct improvements to State transportation facilities made necessary by traffic impacts caused by the construction of new developments. It is the intent of this Agreement to furnish a framework within which the parties will work together and with developers to provide an equitable balance in the bearing of costs for these improvements and to provide a predictable method of assessing traffic mitigation payments.
- 2.2 The parties have the authority to enter into this Agreement pursuant to Chapter 39.34 RCW, Interlocal Cooperation Act, wherein the legislature has authorized governmental units to make the most efficient use of their individual powers by enabling them to cooperate on a basis of mutual advantage for public benefit.
- 2.3 The STATE has the authority and obligation to perform all duties necessary for the planning, locating, designing, constructing, improving, repairing, operating and maintaining of State highways, bridges and other structures pursuant to Title 47 RCW and rules promulgated there under, title 468 WAC.
- 2.4 The CITY has the authority and obligation to plan for and manage growth within its jurisdiction, to review new development plans and grant building permits, and to provide for the mitigation of development impacts pursuant to Chapter 36.70A RCW (Growth Management Act), Chapter 36.70B RCW (Local Project Review), Chapter 36.75 RCW (Roads and Bridges), Chapter 58.17 RCW (Subdivisions), Mukilteo Municipal Code Chapter 3.107, Transportation Impact Fee, and Mukilteo Municipal Code Chapter 17.15, Concurrency.
- 2.5 Pursuant to Chapter 43.21C RCW (State Environmental Policy Act - SEPA), the parties are obligated to identify the significant adverse environmental effects, if any, of new development on State transportation facilities and to provide for the mitigation of such adverse effects as long as such mitigation measures are reasonable and capable of being accomplished.

NOW, THEREFORE, in accordance with the above-noted statutes and in consideration of the terms and conditions contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

3. SCOPE OF AGREEMENT AND DEVELOPMENTS COVERED

This Agreement applies to all developments: (1) having frontage on OR requiring direct access onto a State highway AND/OR (2) all developments which will be subject to SEPA review. Single-family residences, duplexes, short plats and certain small commercial developments are excluded, consistent with SEPA regulations unless they are located adjacent to a State highway.

4. DEFINITIONS

- 4.1 Average Daily Trip (ADT): The volume of traffic passing a point or segment of a highway, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.
- 4.2 Development Approval: Any written authorization from a county, city or town that authorizes the commencement of development activity.
- 4.3 High Accident Location (HAL): An intersection, on-ramp or other point on a State highway with documented high accident rates.
- 4.4 Level of Service (LOS): A measure of traffic congestion along a roadway or at an intersection identified by a declining letter scale from "A" to "F."
- 4.5 Mitigation: Changes or contributions to changes made to the State transportation system, either by facility construction, payment, or dedication/donation of right of way, to offset or lessen a development's impacts on the traffic system.
- 4.6 Peak Hour: The hour during the morning or afternoon that experiences the most critical level of service for a particular roadway or intersection.
- 4.7 Programmed Project: A State highway project to improve highway capacity. See **Exhibit A**, attached.
- 4.8 Substantial Completion Date: The day the State representative determines the STATE has full and unrestricted use and benefit of the facilities, from both the operational and safety standpoints, and only minor incidental work, replacement

of temporary substitute facilities, or correction or repair remain for the physical completion of the total contract.

- 4.9 Traffic Demand Management (TDM): Employer traffic reduction incentive plans, e.g., carpool, transit.
- 4.10 Traffic Mitigation Payment: The proportionate share portion of the cost of public facility improvements that is reasonably related to the service demands and needs of new development.

5. CITY RESPONSIBILITIES

The CITY agrees that for every development application to which this Agreement applies in accordance with **Section 3**, above, the CITY will take the actions following:

- 5.1 If any channelization revisions are proposed on state highways, the CITY shall provide the developer with a copy of the Channelization Plan Checklist, **Exhibit B**, attached, at or before the pre-submittal conference between the CITY and a developer. CITY shall require the developer to submit additional information if requested by the STATE.
- 5.2 The CITY shall give the STATE written notice of the proposed development and provide the STATE with a minimum of 14 days to review, comment, consult, and participate in the CITY development review and approval process in relation to any development impacts to the State's transportation system.
- 5.3 The CITY shall inform the developer that the STATE may require fees reflecting the actual cost of reviewing and inspecting the development plans and that the STATE may bill the developer directly for those review costs. Developers may contact the STATE to establish the approximate cost of any review.
- 5.4 The CITY shall recommend imposing the STATE's requested mitigation measures as a condition of the CITY's development approval to the extent that such mitigation measures are reasonably related and proportional to the development's impact on State transportation facilities. Should the CITY wish to modify or not recommend the STATE's requested mitigation measures, the CITY will work with the STATE to resolve any differences before approving any development proposal.
- 5.5 All traffic mitigation payments shall be paid directly to the STATE by developers. Payments shall be paid prior to the granting of any grading / right-of-way permit for commercial or industrial projects or building permit unless the development is

a subdivision or short subdivision, in which case payment is required prior to the recording of the subdivision plat or short subdivision plat; Provided, that where no building permit will be associated with a special use permit, then payment is required as a precondition to approval. In the alternative, traffic mitigation payments may be due as specified by the CITY.

- 5.6 The parties understand that any person aggrieved by a decision imposing mitigation measures in accordance with this Agreement may appeal such decision as provided by law and/or CITY code under Mukilteo Municipal Code Chapter 17.13, Project Permits or Chapter 17.84, SEPA, which ever applies.
- 5.7 CITY shall comply with the provisions of **Section 6.7**, with respect to access connections to State facilities and any construction within limited access or partial limited access facilities.
- 5.8 CITY shall comply with the provisions of **Section 7.7**, with respect to the determination and application of credits against developer proportionate share mitigation obligations.
- 5.9 CITY shall comply with the provisions of **Section 7.8**, with respect to any STATE and developer agreement for the mitigation of impacts to State facilities.
- 5.10 CITY shall be responsible for establishing setback requirements with respect to the right of way line if the developer has dedicated/donated property as a mitigation measure.
- 5.11 CITY shall record this Agreement with the County Auditor pursuant to RCW 39.34.040.

6. STATE'S RESPONSIBILITIES

- 6.1 The STATE shall review the documents and proposed development as provided by the CITY pursuant to **Section 5.2**, and shall provide to the CITY written recommendations, if any, specifying the mitigation measures necessary to mitigate the proposed development's impacts on the State's transportation system. STATE requested mitigation measures shall be in accordance with **Section 7** and reasonably related and proportional to the proposed development's impacts to the State's transportation system. The STATE will respond within 14 days from the date of the notice of the development application. The STATE will provide explanations and technical assistance to developers with respect to any STATE requested mitigation measures.
- 6.2 STATE requested impact mitigation measures will be in accordance with **Section 7** and shall include:

- a. Negotiated construction improvements;
- b. Negotiated payment in lieu of construction of improvements;
- c. Traffic mitigation payment;
- d. Dedication or Donation of property;
- e. Installation of traffic signal(s);
- f. Channelization revision(s); and
- g. Frontage improvements.

STATE shall determine applicable developer mitigation credits in accordance with **Section 7.7**, for construction of improvements and/or for dedication/donation of property.

- 6.3 Should the STATE not comply with the provisions of **Section 6.1**, the CITY may assume that the STATE has no comments or information relating to potential impacts of the development on State transportation facilities and may not require developer mitigation therefore. In addition, should the STATE not comply with the provisions of **Section 6.1**, the STATE shall not file a SEPA appeal for that development application. The provisions of this section do not apply should the CITY fail to comply with the provisions of **Section 5.2**. Nothing herein precludes the CITY from determining specific adverse development impacts on State transportation facilities and requiring mitigation consistent with this Agreement; Provided, that the CITY first obtains the STATE's written approval prior to imposing such mitigation as a condition of development approval; and Provided further, that the CITY impose no duplicative mitigation measures as a condition of development approval.
- 6.4 STATE shall be responsible for supporting the STATE's requested mitigation measures at CITY hearings or other proceedings. Such support may include the provision of written analyses, declarations, testimony, or other documentation.
- 6.5 STATE shall not use any mitigation values received through this Agreement to supplant revenues from other sources (including, but not limited to State fuel tax revenues, Federal ISTEAs revenues, and/or State TIA revenues) that would have been allocated to State highway improvements located within the CITY.
- 6.6 STATE shall maintain all traffic mitigation payments received from the developer pursuant to **Section 5.5** in an accounting format which will permit tracing of any

expenditure of the mitigation payment to ensure that the expenditure is made in accordance with the provisions of this Agreement and within five (5) years of the STATE's receipt of the payments. If any moneys received have not been expended as provided herein, the STATE shall return the moneys to the developer. Nothing herein shall preclude a developer from waiving, at any time, its potential right to a refund. Records of traffic mitigation payments shall be maintained in accordance with generally accepted accounting practices and shall be made available for inspection during normal business hours to the City or developer, or any authorized agent or representative thereof, upon giving the STATE reasonable notice of such request.

6.7 Access Connections: All requests for access connections onto a State highway shall be provided for as follows:

- a. On Controlled Access State Highways Within City Limits: CITY shall review and process all requests for access connections onto controlled access State highways that are considered to be city streets pursuant to chapter 47.24 RCW. The CITY also shall provide that each access connection meets or exceeds the State's Highway Access Management regulations as provided pursuant to chapter 47.50 RCW and WAC 468-51; 468-52. Should State and City access requirements conflict, CITY and STATE shall negotiate a resolution.
- b. On Limited Access State Highways: STATE shall review and process all requests made to the CITY for access connections onto limited access State highways. The STATE shall use chapter 47.52 RCW, WAC 468-58, and its *Design Manual* criteria for said access review, and if the access is approved, the developer shall be required to pay compensation to purchase the STATE's access rights.
- c. Appeals of administrative decisions on access permits for limited access State highways shall be through the STATE consistent with established law.
- d. The STATE shall have the sole responsibility and control to permit and/or oversee any improvements to be constructed within the right-of-way of a limited access State highway.

7. STATE's MITIGATION POLICIES AND PROCEDURES

- 7.1 STATE will not request, nor will the CITY recommend, any mitigation measures that fall outside the scope of **Section 7**. In order to determine and mitigate impacts generated by a proposed development to the State transportation system,

the STATE shall identify any development impacts to the State facilities and shall determine the appropriate mitigation measures based upon the policies and procedures outlined herein. The STATE shall request the mitigation measures that are reasonably related and proportional to a development's impact on State transportation facilities.

7.2 Traffic Analysis: The CITY shall require a developer to submit a Traffic Impact Analysis if the development generates ten (10) or more PM peak-hour trips. A Channelization Plan Checklist (**Exhibit B**, attached) will also be required if channelization revisions are proposed on state highways. See **Section 5.1**.

- a. STATE will use CITY approved trip reduction credits for TDM measures in determining traffic impacts on State transportation facilities.
- b. STATE may request supplemental information and analysis as necessary to determine development impacts, if any, on State transportation facilities. Supplemental information may include explanatory information, detailed documentation or further analysis to clarify or expand on data provided in the traffic analysis.

7.3. Traffic Mitigation Payments: STATE may request that a condition of Development Approval be the developer's payment of its traffic mitigation payments to a programmed project, as listed in **Exhibit A**, attached, to mitigate development impacts, pursuant to the following:

- a. The STATE has determined a rate schedule (**Exhibit A**, attached), based on ADT for State transportation facilities which have been programmed for capacity improvements (i.e., widening, new signalization, interchange, or channelization). The ADT schedule may be periodically updated by the STATE and the STATE shall provide a revised copy of **Exhibit A** to the CITY. Based on a traffic analysis, a development's proportionate share obligation may be calculated by multiplying the rate by the number of development-generated ADTs that impact each State programmed capacity improvement. A traffic mitigation payment or property dedication/donation may be made in lieu of constructing mitigation improvements solely at the STATE's option.
- b. The STATE shall request traffic mitigation payments up to the Substantial Completion Date of the projects identified in **Exhibit A**.
- c. The STATE shall not use any mitigation received under this Agreement for any State projects other than those identified in **Exhibit A**.

- 7.4 Level of Service (LOS) and Safety (HAL): Any development which will add ten (10) or more peak-hour trips (a) to an identified safety problem location listed in the State's High Accident Location (HAL) log or (b) to an existing LOS "F" condition at a State highway intersection, will be subject to the conditions following:
- a. The STATE will request that conditions of development approval require that a development maintain an existing LOS "F" condition intersection at its pre-development condition, maintaining it in no worse a condition with respect to estimated intersection delays. However, if improvements are required to mitigate an existing LOS "F" condition, the intersection improvements shall be constructed pursuant to State specifications and accepted by the STATE within time frames as provided by CITY regulation.
 - b. The STATE will request that a development not be approved if the development causes an LOS "F" condition at a State highway intersection unless the developer funds or constructs intersection improvements needed to maintain an LOS "E," or better, condition.
 - c. If, through the administrative appeal process, the CITY determines, after consultation with the STATE, that for reasons beyond the control of the developer, construction of the traffic improvements required under this Agreement cannot be completed prior to approval for occupancy or final inspection, the CITY may allow the developer to provide a performance bond, assignment of savings account/certificate of deposit, or escrow account in favor of the STATE for the required traffic improvements. See **Exhibits D** and E, attached.
 - d. Installation of Traffic Signal: The STATE may request that a condition of Development Approval be the installation of a traffic signal to mitigate LOS or HAL impacts as identified by a traffic analysis. Additionally, a developer or CITY may request signalization which shall only be approved by the STATE if the spacing guidelines under WAC 468-52 and at least one Manual on Traffic Control Devices (MUTCD) signal warrant is met.
 - e. Channelization Revision: The STATE may request that a condition of Development Approval be the construction of channelization improvements to mitigate LOS or HAL impacts, or in conjunction with the approval of an access connection, or if warranted pursuant to the *Washington State Department of Transportation Design Manual*. Improvements shall be constructed pursuant to State specifications and approved by the STATE. Additionally, a developer may request

channelization as part of its development application, such requests shall be submitted through the CITY to the STATE for STATE's approval. All such requests shall be accompanied by a channelization plan and Channelization Plan Checklist consistent with **Exhibit B**, attached, and the STATE shall have sole authority to approve such plans.

- f. The STATE may designate State highway intersections as being at ultimate capacity where the STATE determines that additional expenditure of funds is not warranted to maintain the LOS, or where, for example, the only LOS solution is dependent upon traffic signal spacing requirements. The STATE will not request traffic mitigation improvements to maintain an LOS for an intersection at its ultimate capacity; however, the STATE may request mitigation to address intersection operational and safety issues.
- g. The STATE may request safety improvements, constructed pursuant to State specifications and accepted by the STATE, within time frames as provided by CITY regulation, to mitigate development impacts on HAL locations.
- h. The STATE will not object to a development that impacts a designated LOS "F" intersection or HAL location when there is absolutely no mitigation improvement that can be made.

7.5 Frontage Improvements: The STATE may request, as a condition of Development Approval that frontage improvements (e.g., curb, gutter, sidewalk, paved shoulder and associated roadway widening) be constructed along the development's frontage on the State facility as mitigation measures, consistent with the following:

- a. Frontage improvements shall be based upon identified impacts to the State transportation system, shall conform to State construction specifications, shall be approved by the STATE, and shall be timely completed in accordance with CITY regulation.
- b. The STATE may require that frontage improvement mitigation be constructed as full standard, interim, or minimum, based upon engineering reasons, which are outlined under **Section c** below. When an engineering reason precludes the construction of full standard frontage improvements, interim or minimum frontage improvements may be required. Interim frontage improvements shall be determined by the STATE and the CITY. Minimum frontage improvements shall consist of paved driveway aprons at each access point along the development's frontage, and where necessary, a shoulder shall be constructed for ten feet along the departure

side of the driveway to provide a refuge area for pedestrians and/or a pullout area for service vehicles. The shoulder shall be up to eight feet wide, as determined by the STATE and the CITY, and shall include a 3:1 paved transition taper, which where necessary, will be constructed beyond the development's frontage as right of way allows.

- c. Engineering Reasons: Engineering reasons, which may preclude the construction of full standard frontage improvements, may include the following:
 - 1. Horizontal realignment of the highway precludes the building of full frontage improvements in their ultimate horizontal location.
 - 2. Vertical realignment of the highway precludes the building of full frontage improvements in their ultimate vertical location.
 - 3. The property abuts an arterial road that will ultimately include four or more lanes and construction of full frontage improvements at their ultimate location would create an undesirable discontinuity along the highway.
 - 4. The highway is programmed for construction and it would be more efficient for the STATE to construct the full frontage improvements as part of an overall project.
 - 5. The STATE and CITY determine that there are other significant reasons not to require full standard frontage improvements at the time of the development.

7.6 Right of Way Dedication/Donation: The STATE may request as a condition of Development Approval that a developer dedicate/donate property as a mitigation measure when (1) a property is located adjacent to a State highway that is programmed for capacity or safety improvements; (2) additional right of way is needed for improvements in accordance with **Sections 7.4 and 7.5**; or (3) it is necessary to conform the development site to the ultimate width or design of the State facility. The dedicated/donated property may be transferred either to the STATE or to the CITY as determined by the STATE. The CITY shall determine the timing of the property dedication/donation.

- a. The STATE may not require a property dedication/donation for future highway projects when such is not reasonably required by the development impacts; however, the STATE will provide the developer with information about the STATE's plans and designs for future highway construction.

- b. Nothing in this Agreement precludes the STATE and a developer from executing a separate agreement for a property dedication or donation needed by the STATE for future highway expansion.
- 7.7 Credits Against Traffic Mitigation Payment: Developers shall receive credit against their traffic mitigation payment obligations as determined pursuant to **Section 7.3** where the value of their mitigation construction and/or property dedications/donations required in accordance with **Sections, 7.4, 7.5, and 7.6** are part of the cost of capacity projects included in **Exhibit A**, attached. The STATE shall determine credits for mitigation construction and property dedication/donation and apply them as follows:
- a. The value of property dedications/donations shall be based upon comparable sales consistent with the values used by the STATE to estimate the right of way costs for the projects included in **Exhibit A**. As an alternative, the value of property dedications/donations may be based upon an approved appraisal that is no more than two years old and which has been performed by a qualified appraiser licensed in the State of Washington.
 - b. The value of any mitigation construction shall be the actual costs expended by the developer and supported by invoices or other acceptable documentation.
 - c. Application of Credits: The value of the mitigation credits as determined above shall be applied as follows:
 - 1) First: to the property dedication/donation; and
Second: to the mitigation construction, such as for frontage improvements, channelization, and/or signalization. Developer shall pay any remaining balance.
 - 2) Nothing in this Agreement shall preclude the CITY from entering into a contract with a developer for the reimbursement of a portion of the uncredited costs (latecomer agreement) pursuant to chap. 35.72 RCW.
- 7.8 Mitigation Agreements: Nothing in this Agreement shall preclude the STATE and a developer from entering into a mitigation agreement to provide for the mitigation of development impacts to State facilities consistent with **Exhibit C**, attached. CITY shall not assess duplicative impact fees for the same system improvements in violation of RCW 43.21C.065.

7.9 References: Policies, standards and criteria for access, mitigation measures and construction applicable to this Agreement include, but are not limited to, the documents listed below. The edition used for review of an application shall continue to apply for the duration of any approval or permit only to the extent that it is an element of the approval or permit.

- a. MS22-01, Washington State Department of Transportation (WSDOT) Design Manual.
- b. MS22-87, WSDOT Utilities Manual.
- c. MS23-03, WSDOT Hydraulics Manual.
- d. M21-01, WSDOT Standard Plan.
- e. M41-01, WSDOT Construction Manual.
- f. M51-02, WSDOT Traffic Manual.
- g. M26-01, WSDOT Right-Of-Way Manual.
- h. Highway Capacity Manual (Special Report 209), Transportation Research Board.
- i. MUTCD, Federal Highway Administration Manual On Uniform Traffic Control Devices.
- j. WAC 468-51 & WAC 468-52, Washington Administrative Codes—Highway Access Management.
- k. Trip Generation Manual, Institution of Transportation Engineers.
- l. City of Mukilteo Comprehensive Plan
- m. City of Mukilteo Concurrency Regulations, MMC 17.15
- n. City of Mukilteo Transportation Impact Fee Regulations, MMC 3.107

8. RELATIONSHIP TO EXISTING LAWS AND STATUTES

This Agreement in no way modifies or supersedes existing laws and statutes. In meeting the commitments encompassed in this Agreement, all parties will comply with the requirements of the State Environmental Policy Act, Growth Management Act, Open Meetings Act, Annexation Statutes and other applicable State or local laws.

9. RELATIONSHIP TO FUTURE PLANNING AND RECIPROCAL IMPACT MITIGATION AGREEMENTS

The STATE and the CITY understand and agree that many multi-jurisdictional planning and growth management issues will need to be addressed as growth continues. Both parties also agree and understand that joint planning agreements will be required to accomplish the planning and plan implementation requirements of the Growth Management Act of 1990 as amended. Such agreements may focus on particular issues and delineate specific responsibilities that are beyond the scope of this Agreement.

10. DEVELOPMENT AND REVIEW OF STANDARDS AND POLICIES

The CITY and the STATE agree to work toward the establishment of coordinated transportation system development standards and development mitigation policies and requirements as required by State law. The CITY and the STATE will periodically review their existing mitigation policies for consistency and coordination in the implementation of this Agreement and will promptly notify the other in the event of any material change in such policies. In that event, the parties agree to amend this Agreement as appropriate.

11. EFFECTIVE DATE, DURATION AND TERMINATION

This Agreement shall become effective five (5) days after both the STATE and the CITY approve and sign this Agreement and after the Agreement is filed with the County Auditor, pursuant to **Section 5.11**. This AGREEMENT shall be in full force and effect until the end of the calendar year 2017. If the parties desire to continue the terms of this AGREEMENT after said date, the parties may either negotiate a new agreement or extend this AGREEMENT through an amendment.

This Agreement shall apply to all developments, as defined in **Section 3**, that the CITY determines to comprise a complete application on or after the effective date of this Agreement through the termination date of this Agreement. The Agreement may be modified by written amendment executed by both parties.

12. LEGAL RELATIONS

12.1 The provisions of this Agreement shall be administered by the Washington State Department of Transportation for the STATE and the Departments of Public Works and Planning and Community Development for the CITY. All real and personal property and funds shall be acquired, held, administered, and disposed of by the STATE or the CITY in its own name in accordance with applicable laws.

12.2 Each party shall be responsible for its own administrative determinations and actions taken in the performance of this Agreement.

12.3 The STATE agrees to make State staff available for support in any challenges to State-requested mitigation measures. The STATE agrees to cooperate with the CITY in the defense of challenges to any land development condition, mitigation

measure, payment or other decision made at the STATE's request or based on STATE's review or recommendation.

- 12.4 In the event of a claim for damages of any nature whatsoever arising out of the performance of this Agreement against the CITY or the STATE caused by or resulting from the concurrent actions or negligence of the CITY and the STATE, their officers, officials, employees, or agents, each party shall provide their own defense and be liable for damages, costs, fees or other amounts to the extent that the CITY or STATE's actions or negligence are the basis for imposition of liability or damages.

13. NO THIRD PARTY BENEFITS

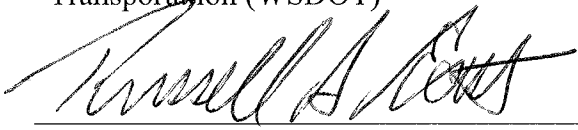
This Agreement is made for the sole benefit of the STATE and the CITY and not for any third party's benefit.

14. SEVERABILITY

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of the provisions and/or the application of the provisions to other persons or circumstances shall not be affected.

IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the date established in **Section 11** of this Agreement.

Washington State Department of
Transportation (WSDOT)



Russell East, P.E.
Assistant Regional Administrator
Northwest Region

Dated this 28 day of Dec. 2007

Approved as to form:

Name:

Assistant Attorney General
Attorney for the WSDOT

CITY OF MUKILTEO



Joe Marine
Mayor

Dated this 19th day of Nov 2007

Approved as to form:

Name:

Attorney for CITY of MUKILTEO

**PROGRAMMED WSDOT PROJECTS FOR THE
CITY OF MUKILTEO AS OF September 19, 2007**

| No. | SR | Project Name/ Description | Project Work Order No. | Total Cost (M) | Design/ Const. Year | Traffic Mitigation Payment Per Development Generated ADT |
|-----|-----|---|------------------------------|-------------------|------------------------|--|
| 1 | 525 | SR 525/88 th Street SW Intersection – Construct NBLT, SBLT and NBRT | | \$3.70 | 2012 | \$205.56 |
| 2 | 525 | SR 525/Goat Trail Road – Construct NBRT | | TBD | 2012 | TBD |
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Exhibit "A"

WSDOT CHANNELIZATION PLAN CHECKLIST

Note: All elements shown in the Checklist must be included in the channelization plan. If an element is missing, the plan will not be reviewed and will be returned without any action.

GENERAL REQUIREMENTS:

- ☐ Use the latest update of the Manual of Uniform Traffic Control Devices (MUTCD) and the WSDOT Design Manual. Use terminology specified in the WSDOT Standard Specification for Road, Bridge, and Municipal Constructions and the WSDOT Design Manual. Use plan scale of 1 inch is equal to 50 feet (1"=50').
- ☐ Show **entire roadway width** with all elements listed below. On state highways, where new channelization matches with existing highway sections, show **no less than 300 feet of the existing highway section beyond the match line(s) with all elements listed below**. On intersecting minor roads and commercial and multi-residential driveways, show **no less than 100 feet of the existing section beyond the match line(s) with all elements listed below**.
- ☐ Provide one full size and two half size white paper copy of the channelization plan. Full-size mylar may be needed for final approval.
- ☐ Address deviations in the transmittal letter or attach the Deviation Request for Approval to the transmittal letter.

CHANNELIZATION PLAN ELEMENT REQUIREMENTS:

- ☐ Project title with state route, number, begin/end mile post, county and date in Title Block
- ☐ North arrow, township, and range
- ☐ Street and highway names
- ☐ Right-of-way lines (WSDOT, county, and/or city) and property lines
- ☐ Construction centerline bearing at 100 foot stations
- ☐ Deviation callout/notes
- ☐ Curve data for each curve (curve radius, curve and tangent lengths, delta angle, PC, PI & PT)
- ☐ Edge of traveled way and edge of pavement lines
- ☐ Intersecting roadways and driveways – at least 100 feet (show and label all driveways)
- ☐ Skew angles of intersections and bearing
- ☐ Widths of through lanes, turn lanes, and shoulders; show dimensions of curb, gutter and sidewalk
- ☐ Length and beginning and end stations of channelization storage (corresponding to Traffic Analysis conclusions/recommendations)
- ☐ Information for each taper (posted and design speed of traffic, lateral width of transition, taper length, and beginning and end stations)
- ☐ Left- and right-turn radii for intersections, and commercial and multi-residential driveways: Typical L=50', R=55'
- ☐ Existing raised curbing that affects access an proposed raised curbing
- ☐ Raised and painted islands (for raised: square footage and detail showing design meets WSDOT design standards)
- ☐ Area Traffic Engineer and Engineering Manager signature block
- ☐ Show all relevant ADA (American with Disability Act) requirements
- ☐ PE stamp/seal signed and dated

Exhibit "B"

Exhibit "C"

**MITIGATION AGREEMENT
FOR LAND DEVELOPMENT IMPACTS
TO STATE TRANSPORTATION FACILITIES**

This Agreement is made this ____ day of _____, 200____, by and between the Washington State Department of Transportation ("WSDOT") and _____ and its heirs, successors and assigns ("DEVELOPER").

WHEREAS, WSDOT has the authority to perform all duties necessary for the planning, locating, designing, constructing, improving, repairing, operating and maintaining of State highways, bridges and other structures pursuant to Title 47 RCW and rules promulgated thereunder, Title 468 WAC; and

WHEREAS, WSDOT is required to identify significant adverse environmental impacts of new development on the State's transportation system and to provide for the mitigation of those land development impacts pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; and

WHEREAS, WSDOT has the authority pursuant to Title 47 RCW, Title 468 WAC, and Chapter 43.21C RCW to require DEVELOPER to mitigate its land development impacts to the State's transportation system as long as the required mitigation measures are reasonably related and proportional to said impacts; and

WHEREAS, DEVELOPER intends to develop the property (hereinafter called the "DEVELOPMENT") with (describe DEVELOPMENT and provide address) _____
reviewed under City File Number _____; and

WHEREAS, DEVELOPER'S development adversely impacts the State's transportation system and such impacts must be mitigated as part of the DEVELOPMENT plan,

NOW, THEREFORE, in accordance with the above-cited laws and the policies enacted thereunder, and in consideration of the terms and conditions contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

I. PURPOSE

The purpose of this Agreement is to provide a mechanism by which the DEVELOPER agrees to mitigate the traffic impacts to the State highway transportation system caused by its DEVELOPMENT. DEVELOPER agrees that the mitigation measures contained in this Agreement are proportional and reasonably related to the impacts caused by its DEVELOPMENT. Based upon DEVELOPER's promise to fully comply with the terms of this Agreement, WSDOT shall permit, where appropriate, or shall not oppose the City's grant of the DEVELOPER's DEVELOPMENT application.

II. MITIGATION MEASURERS

1. MITIGATION OF DEVELOPMENT IMPACTS ON STATE TRANSPORTATION FACILITIES

WSDOT has identified, pursuant to DEVELOPER's Traffic Impact Study, the DEVELOPMENT's traffic impacts to the State's transportation facilities that are reasonably related and proportional to the DEVELOPMENT and which require capacity mitigation improvements necessary to support DEVELOPER's new DEVELOPMENT.

1.A. If DEVELOPMENT abuts a State highway facility, the WSDOT may require Developer Traffic Mitigation Measures as follows:

- (1) Construct Frontage Improvements. Describe Improvements:

_____ and/or,

Pay the lump sum estimated cost of constructing the frontage improvements.
Enter the estimated Cost \$ _____ and/or,

- (2) Construct off-site highway improvements to mitigate LOS deficiencies and impacts on HAL locations (e.g., signalization and turn pockets).

Describe Improvements: _____ and/or

Pay the lump sum estimated cost of constructing the off-site improvements.
Enter the estimated Cost \$ _____ and/or,

- (3) Dedication/Donation of property for right of way use: Describe Property:

Enter the estimated cost \$ _____ and/or,

(Note: The value of property dedications/donations shall be based upon comparable sales consistent with the values used by the STATE to estimate the right of way costs for the projects included in **Exhibit A**. As an alternative, the value of property dedications/donations may be based upon an approved appraisal that is no more than two years old and which has been performed by a qualified appraiser licensed in the State of Washington.)

- (4) Pay the traffic mitigation payment per Average Daily Trip (ADT)

(Note: The calculation of this payment is set forth below).

Enter the Cost \$ _____.

1.B. If DEVELOPMENT does not abut a State highway facility, the WSDOT may require the Developer Traffic Mitigation Measures as follows:

- (1) Construct off-site highway improvements to mitigate LOS deficiencies and impacts on HAL locations (e.g., signalization and turn pockets).

Describe Improvements: _____

_____ and/or

- (2) Pay the traffic mitigation payment per Average Daily Trip (ADT) (Note: the calculation of this payment is set forth below). Enter Cost \$ _____

NOTE: If DEVELOPER elects to construct improvement, DEVELOPER and WSDOT shall enter into a second agreement (Developer Agreement: Construction by Developer) that will provide for plans, specifications, actual construction and inspection of the improvements.

The Developer's traffic mitigation per ADT payment is calculated as follows:

| WSDOT Programmed Projects (list all that apply) | ADTs Impacting Projects | Project- Cost per ADT | Traffic Mitigation Payment |
|--|-------------------------------|-----------------------------|----------------------------------|
| 1. | | \$ | \$ |
| 2. | | \$ | \$ |
| 3. | | \$ | \$ |
| | | Total | \$ |

III. CREDITS

Where the value of the developer-constructed mitigation improvements required and/or the value of the property to be dedicated/donated to the WSDOT is part of the costs of a WSDOT programmed capacity project, DEVELOPER shall only receive credit against its traffic mitigation payment for developer-constructed improvement or property as follows:

Value of Frontage Improvements \$ _____ (1)
Value of off-site Highway Improvements \$ _____ (2)
Value of Dedicated/Donated Property \$ _____ (3)
Total Credits \$ _____ (4)

IV. Summary

Traffic Mitigation Payment Total Due \$ _____ (5)
Total Credits (Line 4 above) \$ _____ (6)

Net Amount of Traffic Mitigation
Payment due (Line 5–Line 6) \$ _____ (7)
(If Line 6 > Line 5, then Line 7 = 0)

The DEVELOPER agrees to a voluntary payment in lieu of construction to mitigate impacts of the DEVELOPMENT on WSDOT facilities equal to (Line 7 above): \$ _____

The traffic mitigation payment agreed to herein shall be paid prior to the granting of any building permit unless the DEVELOPMENT is a subdivision or short subdivision, in which case payment is required prior to recording of the subdivision plat or short subdivision plat; Provided, that where no building permit will be associated with a special use permit, then payment is required as a precondition to approval. In the alternative, traffic mitigation payments may be due as specified by the City.

Any portion of the traffic mitigation payments made pursuant to this Agreement and directly paid to the WSDOT shall be refunded to the DEVELOPER in the event that the WSDOT does not utilize any or all of the funds within five (5) years of the date of payment.

The WSDOT agrees that the mitigation measures as detailed in this Agreement will constitute DEVELOPER compliance with its obligation to mitigate its DEVELOPMENT's traffic impacts to the State highway system.

Washington State Department
of Transportation (WSDOT)

DEVELOPER

Name:

Name:

Title:

Title:

Company:

Dated this _____ day of _____ 200__

Dated this _____ day of _____ 200__

Pre-approved for _____ 2002
as to form by Ann E. Salay, AAG:

Any material modification requires
Additional approval of the Office of
Attorney General

STATE OF WASHINGTON)

CITY OF MUKILTEO)

Dated: _____

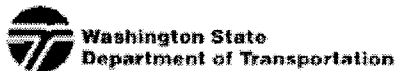
Acknowledgment - Corporation/Partnership

STATE OF WASHINGTON)

CITY OF MUKILTEO)

Dated: _____

Exhibit C
Page 5 of 5



Individual Bond for Agreement

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we, _____
_____ County _____

as Principal, and

_____ as Surety, are jointly and severally bound unto the STATE OF
WASHINGTON in the sum of _____ DOLLARS, for payment of which to the State of
Washington, we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns, firmly
by these presents

WHEREAS, the Principal in pursuance of its operations has requested the permission of the Washington
State Department of Transportation, to construct improvements within the state's right of way, and

WHEREAS, the Washington State Department of Transportation, has agreed to allow the Principal to
construct these improvements on a portion of State Route No. _____ in _____
County, Washington, under the provisions of the agreement between these two parties hereinafter identified
as agreement number _____.

NOW, THEREFORE, the condition of this obligation is such that if all the conditions of said agreement
including the proper restoration of slopes, slope treatment, topsoil, landscape treatment, drainage facilities
and cleanup of right of way, are complied with according to the terms contained in said agreement by said
Principal, through a period ending not more than
_____ year(s) after date of completion of construction and upon receipt of a written discharge
from the State, then this obligation shall become null and void, otherwise this bond to remain in full force
and effect..

Exhibit D

NOTE: Please type or print below the signatures
the names of parties executing this Bond, together
with official title of each.

WITNESS our hands and seals this _____ day of _____, _____.

Principal: _____

Address: _____

Telephone: _____

By: _____

Title: _____

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

Surety: _____

Address: _____

Telephone: _____

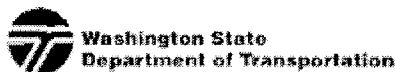
By: _____

Title: _____

Date: _____

By: _____

Title: _____



ASSIGNMENT OF SAVINGS ACCOUNT/CERTIFICATE OF DEPOSIT

This assignment is for the purpose of fulfilling the requirement of bonding collateral for Permit _____. The undersigned does hereby assign, transfer, and set over unto the State of Washington all right and title to \$_____ on _____ (Account No.) in the _____ Branch, _____ Bank, in the name of _____ with full power and authority to demand, collect, and receive said deposit and to give receipt and a quittance therefore for the uses and purposes prescribed above. It is understood and agreed that _____ Branch _____ Bank holds the certificate covering said account in its possession and agrees to hold \$_____ until release of this assignment from the State of Washington is received. The interest shall be payable to _____.

Signed and dated at _____, Washington this _____ day of _____, 200__.

Signature

Address

ACCEPTANCE

The undersigned hereby accepts the foregoing Assignment of Savings Account/Certificate of Deposit, Account or \$_____ this _____ day of _____, 200__.

Bank

Signature

Title

Exhibit "E: