



# **Town of Yacolt**

## **Council Meeting Agenda**

**Monday, January 22, 2024**  
**7:00 PM**  
**Town Hall**

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### **Call to Order**

### **Flag Salute**

### **Roll Call**

### **Late Changes to the Agenda**

### **Citizen Communication**

***Anyone requesting to speak to the Council regarding items not on the agenda may come forward at this time. Comments are limited to 3 minutes. Thank you.***

### **Executive Session**

### **New Business**

- 1.** RR Ave Subdivision Final Plat Approval
- 2.** RR Ave Subdivision Security Agreement for Project Completion (with Performance Bond)
- 3.** RR Ave Subdivision: Agreement for Two-Year Stormwater Facilities Maintenance by Developer (with Performance Bond)
- 4.** RR Avenue Subdivision: Declaration of Easements, Covenants, Conditions and Restrictions for Stormwater Facilities Maintenance
- 5.** RR Avenue Subdivision: Homeowner's Association, (CC&Rs, Bylaws and related documents)
- 6.** Railroad Avenue Subdivision: Resolution to Approve Agreements and Declarations for the Railroad Avenue Subdivision

### **Adjourn**



## Town of Yacolt Request for Council Action

### CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

<b>Name:</b>	Stephanie Fields, Town Clerk David W. Ridenour, Town Attorney	<b>Group Name:</b>	Staff
<b>Address:</b>	202 W. Cushman St. P.O. Box 160 Yacolt, WA 98675	<b>Phone:</b>	Town Clerk (360) 686-3922 David Ridenour (360) 906-1556
<b>Email Address:</b>	clerk@townofyacolt.com david@davidridenourlaw.com	<b>Alt. Phone:</b>	

### ITEM INFORMATION:

**Item Title:** Railroad Avenue Subdivision: **Final Plat Approval.**

**Proposed Meeting Date:** January 22, 2024. (Special Meeting)

**Action Requested of Council:** Review proposed final Plat maps for the Railroad Avenue Subdivision.

**Proposed Motion:** To Approve: "I move that the Council approve the Railroad Avenue Subdivision Plat maps as presented and authorize the Mayor to sign the same."  
  
If changes are desired, continue the motion as follows: "... with the following changes and additional conditions: *(describe)*."

**Summary/ Background:** Rotschy, LLC, the Developer of the Railroad Avenue Subdivision, is preparing to record the Final Plat and other documents that were required by the Town's conditions of approval or that have been requested by the Developer. The Plat maps for the finished subdivision have been prepared for recording and are presented for the Council's approval and for Mayor Shealy's signature.  
  
A late amendment to the Plat involved the revision of Plat Note #2 to identify the Stormwater Facilities that will be maintained by the subdivision's property owners, versus those Stormwater Facilities that will become the responsibility of the Town when the Plat is recorded.

The Town will be responsible for the facilities that are located in the public rights-of-way in the subdivision, as well as the facilities constructed in S. Parcel Avenue and W. Bumpski Street.

The owners of the subdivision will be responsible for the facilities in Tract 'A' of the subdivision, (primarily the detention pond), as well as the facilities located in an easement over property belonging to Jorgensen Timber. (Those facilities provide for the outflow of stormwater to Yacolt Creek.)

(For the Council's information, the recorded Easement for Stormwater Facilities over the nearby Jorgensen property is attached.)

The Plat maps have been reviewed and approved by the Town Engineer, Devin Jackson of Jackson Engineering, and by the Town Attorney. Staff recommends that the Plat maps be approved as presented.

**Attachments:**

Final Plat Maps, (Proposed) (3 pages).

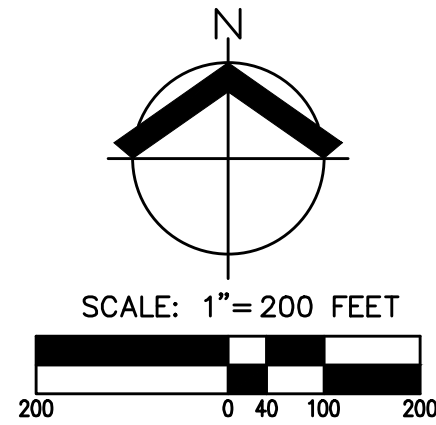
Easement – Jorgensen Property, (Final - Recorded) (6 pages).

**Staff Contact(s):**

Stephanie Fields, Town Clerk.

Devin Jackson, Jackson Civil, Town Engineer.

David W. Ridenour, Town Attorney.



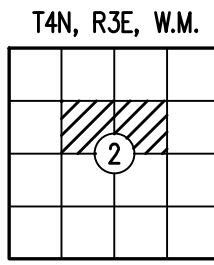
**LEGEND**

AFN AUDITORS' FILE NUMBER  
IP IRON PIPE  
LCR LAND CORNER RECORD  
ROS RECORD OF SURVEY

\*\*\* ALL MONUMENTS TIED AUGUST  
AND SEPTEMBER, 2021 \*\*\*

**REFERENCES**

( )1 RECORD INFORMATION PER GENERAL LAND OFFICE MAP  
( )2 RECORD INFORMATION PER ROS (19-127)  
( )3 RECORD INFORMATION PER ROS (15-87)  
( )4 RECORD INFORMATION PER ROS (25-136)  
( )5 RECORD INFORMATION PER ROS (57-62)  
( )6 RECORD INFORMATION PER THE PLAT "WITT'S FARM SUBDIVISION" (311-296)  
( )7 RECORD INFORMATION PER THE PLAT "FIRST ADDITION TO YACOLT" (A-94)  
( )8 RECORD INFORMATION PER THE PLAT "WILSON'S ADDITION TO YACOLT" (B-10)  
( )9 RECORD INFORMATION PER ROS (63-168)  
( )10 RECORD INFORMATION PER DEED (126-583) DATED 11/19/1918  
( )11 RECORD INFORMATION PER ROS (41-40)



# RAILROAD AVENUE SUBDIVISION

LOCATED IN THE SE 1/4 OF THE NW 1/4 AND THE SW 1/4 OF THE NE 1/4  
OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,  
TOWN OF YACOLT, CLARK COUNTY, WASHINGTON  
JANUARY 2024

## CLARK COUNTY HEALTH DEPARTMENT

LOTS IN THIS PLAT ARE SERVED BY INDIVIDUAL ON-SITE SANITARY SEPTIC TREATMENT SYSTEMS. AN APPROVED PRIVATE ON-SITE SANITARY SEPTIC SYSTEM IS REQUIRED. THESE LOTS HAVE BEEN APPROVED FOR SERVICE BY A PUBLIC WATER SUPPLY.

COUNTY HEALTH OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

## TOWN OF YACOLT

APPROVED \_\_\_\_\_ DATE \_\_\_\_\_  
MAYOR

## CITY ENGINEER

EXAMINED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024

CITY ENGINEER \_\_\_\_\_

## COUNTY AUDITOR

FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024,

AT \_\_\_\_\_, M

IN BOOK \_\_\_\_\_ OF PLATS, AT PAGE \_\_\_\_\_.

AUDITOR'S FILE NUMBER \_\_\_\_\_

COUNTY AUDITOR \_\_\_\_\_

## COUNTY ASSESSOR

THIS PLAT MEETS THE REQUIREMENTS OF R.C.W. NO. 58.17.010 LAWS OF WASHINGTON, 1981, TO BE KNOWN AS RAILROAD AVENUE SUBDIVISION.

PLAT NO. \_\_\_\_\_ IN THE COUNTY OF CLARK, STATE OF WASHINGTON.

COUNTY ASSESSOR \_\_\_\_\_ DATE \_\_\_\_\_

## LAND SURVEYOR'S CERTIFICATE:

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF ROTSCHY, LLC. IN APRIL, 2023.

RCW 64.90.245 REQUIRED TEXT

I HEREBY CERTIFY THAT THIS MAP FOR "RAILROAD AVENUE SUBDIVISION" IS BASED UPON AN ACTUAL SURVEY OF THE PROPERTY HEREIN DESCRIBED; THAT THE BEARINGS AND DISTANCES ARE CORRECTLY SHOWN; THAT ALL INFORMATION REQUIRED BY THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT IS SUPPLIED HEREIN; AND THAT ALL HORIZONTAL AND VERTICAL BOUNDARIES OF THE UNITS, (1) TO THE EXTENT DETERMINED BY WALLS, FLOORS, OR CEILINGS THEREOF, OR OTHER PHYSICAL MONUMENTS, ARE SUBSTANTIALLY COMPLETED IN ACCORDANCE WITH SAID MAP, OR (2) TO THE EXTENT SUCH BOUNDARIES ARE NOT DEFINED BY PHYSICAL MONUMENTS, SUCH BOUNDARIES ARE SHOWN ON THE MAP.

JAMES O. HANNON  
PROFESSIONAL LAND SURVEYOR  
LICENSE NO. 54200



## ACKNOWLEDGMENT

STATE OF WASHINGTON )

COUNTY OF CLARK ) SS

SIGNED OR ATTESTED BEFORE ME ON \_\_\_\_\_ BY JAMES O. HANNON.

NOTARY SIGNATURE \_\_\_\_\_

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

PRINTED NAME: \_\_\_\_\_

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

MY COMMISSION EXPIRES \_\_\_\_\_

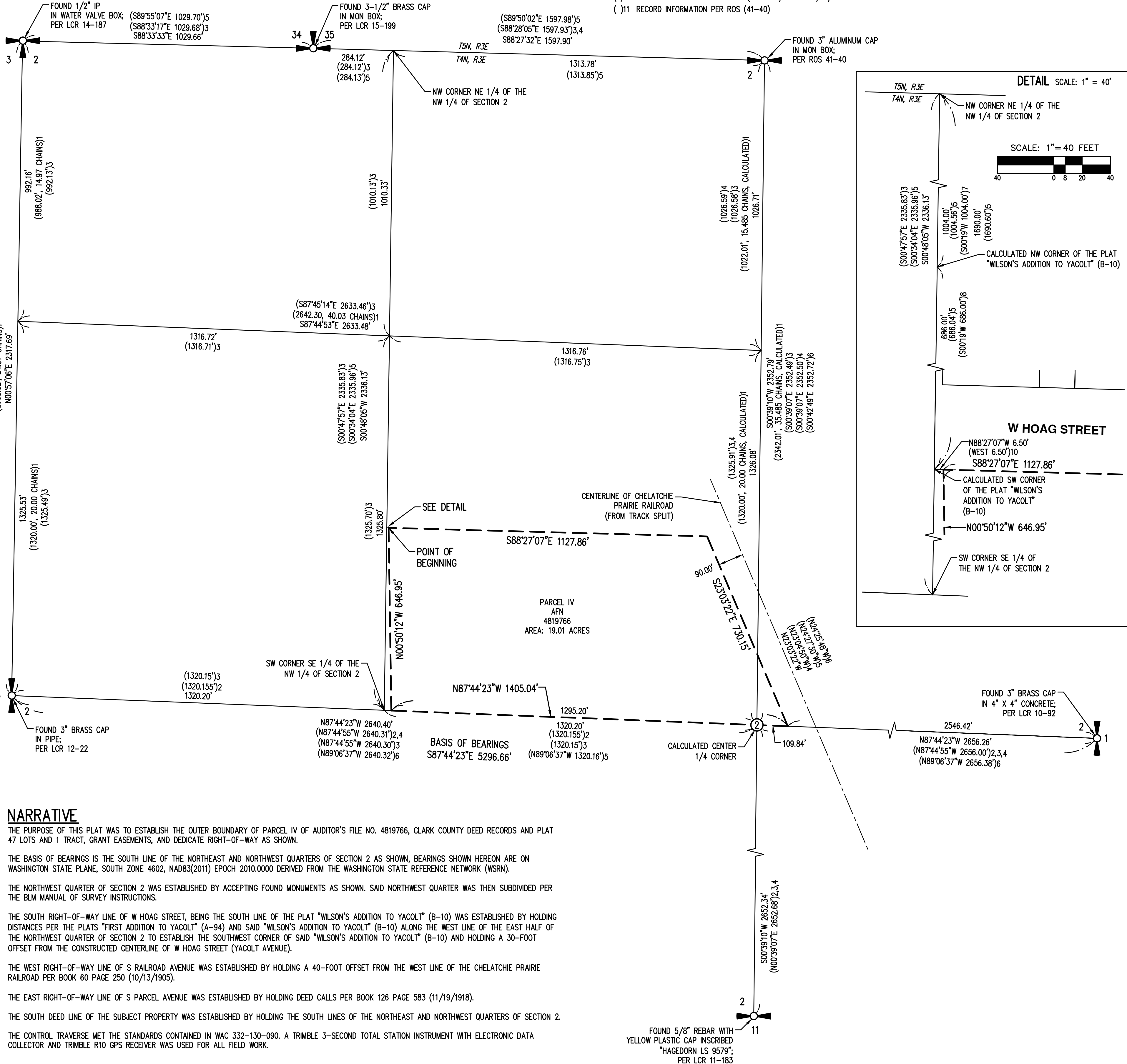
PAGE 1 OF 3

JOB NAME: RAILROAD AVE SUB  
JOB NUMBER: 8706  
DRAWN BY: CJC  
CHECKED BY: JOH  
DRAWING NO.: 8706CPLAT

AKS ENGINEERING & FORESTRY, LLC  
9600 NE 126TH AVE, STE 2520  
VANCOUVER, WA 98682  
360.882.0419  
WWW.AKS-ENG.COM



ENGINEERING · SURVEYING · NATURAL RESOURCES  
FORESTRY · PLANNING · LANDSCAPE ARCHITECTURE



## NARRATIVE

THE PURPOSE OF THIS PLAT WAS TO ESTABLISH THE OUTER BOUNDARY OF PARCEL IV OF AUDITOR'S FILE NO. 4819766, CLARK COUNTY DEED RECORDS AND PLAT 47 LOTS AND 1 TRACT, GRANT EASEMENTS, AND DEDICATE RIGHT-OF-WAY AS SHOWN.

THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE NORTHEAST AND NORTHWEST QUARTERS OF SECTION 2 AS SHOWN, BEARINGS SHOWN HEREON ARE ON WASHINGTON STATE PLANE, SOUTH ZONE 4602, NAD83(2011) EPOCH 2010.0000 DERIVED FROM THE WASHINGTON STATE REFERENCE NETWORK (WSRN).

THE NORTHWEST QUARTER OF SECTION 2 WAS ESTABLISHED BY ACCEPTING FOUND MONUMENTS AS SHOWN. SAID NORTHWEST QUARTER WAS THEN SUBDIVIDED PER THE BLM MANUAL OF SURVEY INSTRUCTIONS.

THE SOUTH RIGHT-OF-WAY LINE OF W HOAG STREET, BEING THE SOUTH LINE OF THE PLAT "WILSON'S ADDITION TO YACOLT" (B-10) WAS ESTABLISHED BY HOLDING DISTANCES PER THE PLATS "FIRST ADDITION TO YACOLT" (A-94) AND SAID "WILSON'S ADDITION TO YACOLT" (B-10) ALONG THE WEST LINE OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 2 TO ESTABLISH THE SOUTHWEST CORNER OF SAID "WILSON'S ADDITION TO YACOLT" (B-10) AND HOLDING A 30-FOOT OFFSET FROM THE CONSTRUCTED CENTERLINE OF W HOAG STREET (YACOLT AVENUE).

THE WEST RIGHT-OF-WAY LINE OF S RAILROAD AVENUE WAS ESTABLISHED BY HOLDING A 40-FOOT OFFSET FROM THE WEST LINE OF THE CHELATCHIE PRAIRIE RAILROAD PER BOOK 60 PAGE 250 (10/13/1905).

THE EAST RIGHT-OF-WAY LINE OF S PARCEL AVENUE WAS ESTABLISHED BY HOLDING DEED CALLS PER BOOK 126 PAGE 583 (11/19/1918).

THE SOUTH DEED LINE OF THE SUBJECT PROPERTY WAS ESTABLISHED BY HOLDING THE SOUTH LINES OF THE NORTHEAST AND NORTHWEST QUARTERS OF SECTION 2.

THE CONTROL TRAVERSE MET THE STANDARDS CONTAINED IN WAC 332-130-090. A TRIMBLE 3-SECOND TOTAL STATION INSTRUMENT WITH ELECTRONIC DATA COLLECTOR AND TRIMBLE R10 GPS RECEIVER WAS USED FOR ALL FIELD WORK.

## DECLARANT DECLARATION:

THE UNDERSIGNED OWNER OR OWNERS OF THE INTEREST IN THE REAL ESTATE DESCRIBED HEREIN HEREBY DECLARE THIS MAP AND DEDICATE THE SAME FOR A COMMON INTEREST COMMUNITY NAMED "RAILROAD AVENUE SUBDIVISION", A PLAT COMMUNITY, AS THAT TERM IS DEFINED IN THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT, SOLELY TO MEET THE REQUIREMENTS OF THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT AND NOT FOR ANY PUBLIC PURPOSE. THIS MAP AND ANY PORTION THEREOF IS RESTRICTED BY LAW AND THE DECLARATION FOR "RAILROAD AVENUE SUBDIVISION", RECORDED UNDER CLARK COUNTY RECORDING NO. \_\_\_\_\_.

ROTSCHY, LLC, A WASHINGTON LIMITED LIABILITY COMPANY

BY: \_\_\_\_\_ ITS: \_\_\_\_\_ DATE \_\_\_\_\_

## ACKNOWLEDGEMENT:

STATE OF WASHINGTON )

COUNTY OF CLARK ) SS

SIGNED OR ATTESTED BEFORE ME ON \_\_\_\_\_ BY CORNELL ROTSCHY, VICE PRESIDENT OF ROTSCHY HOLDINGS, INC.

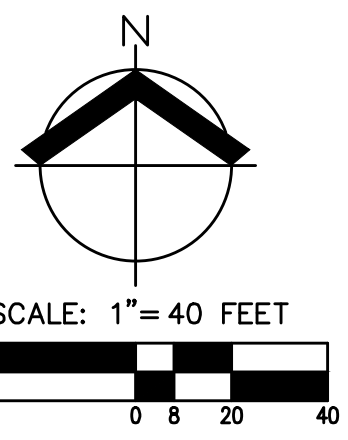
I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE \_\_\_\_\_.

\_\_\_\_\_ OF ROTSCHY, LLC IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT HE SIGNED THIS INSTRUMENT AND ACKNOWLEDGED IT TO BE HIS FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

WITNESS MY HAND AND SEAL HERETO ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

SIGNED  
NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_  
RESIDING IN \_\_\_\_\_  
MY COMMISSION EXPIRES \_\_\_\_\_  
PRINT NOTARY NAME \_\_\_\_\_

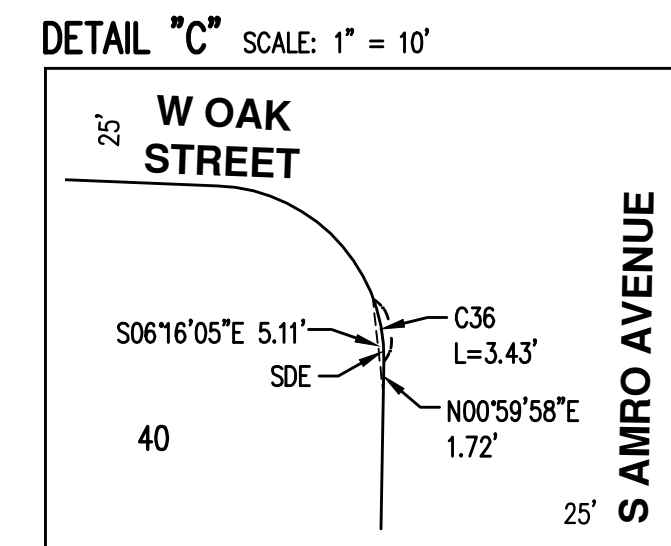
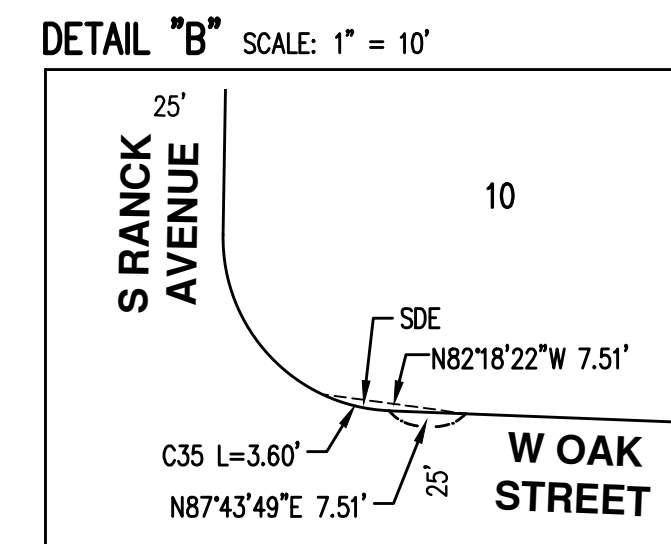
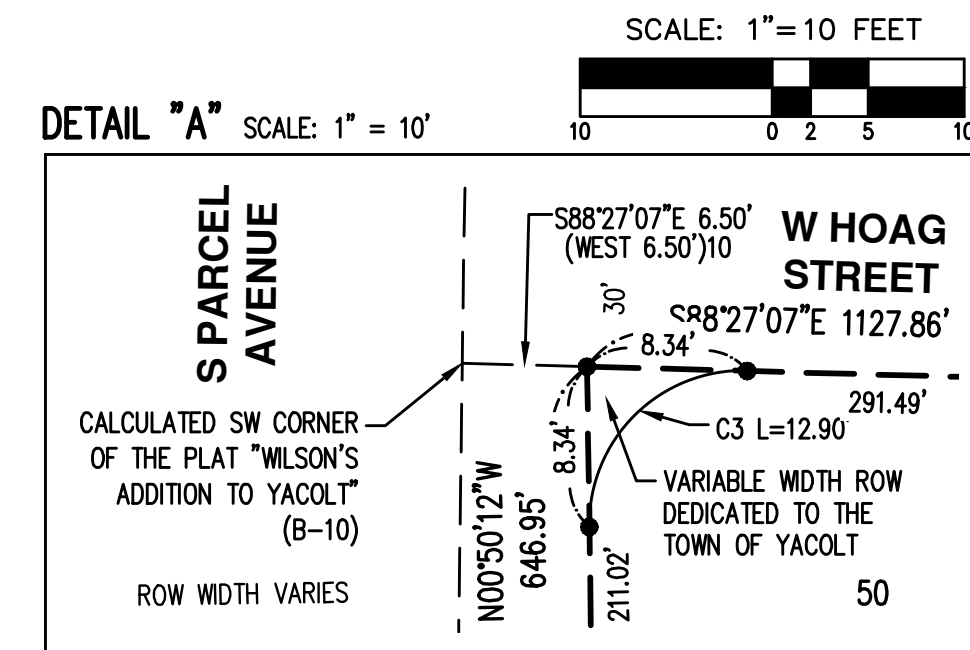
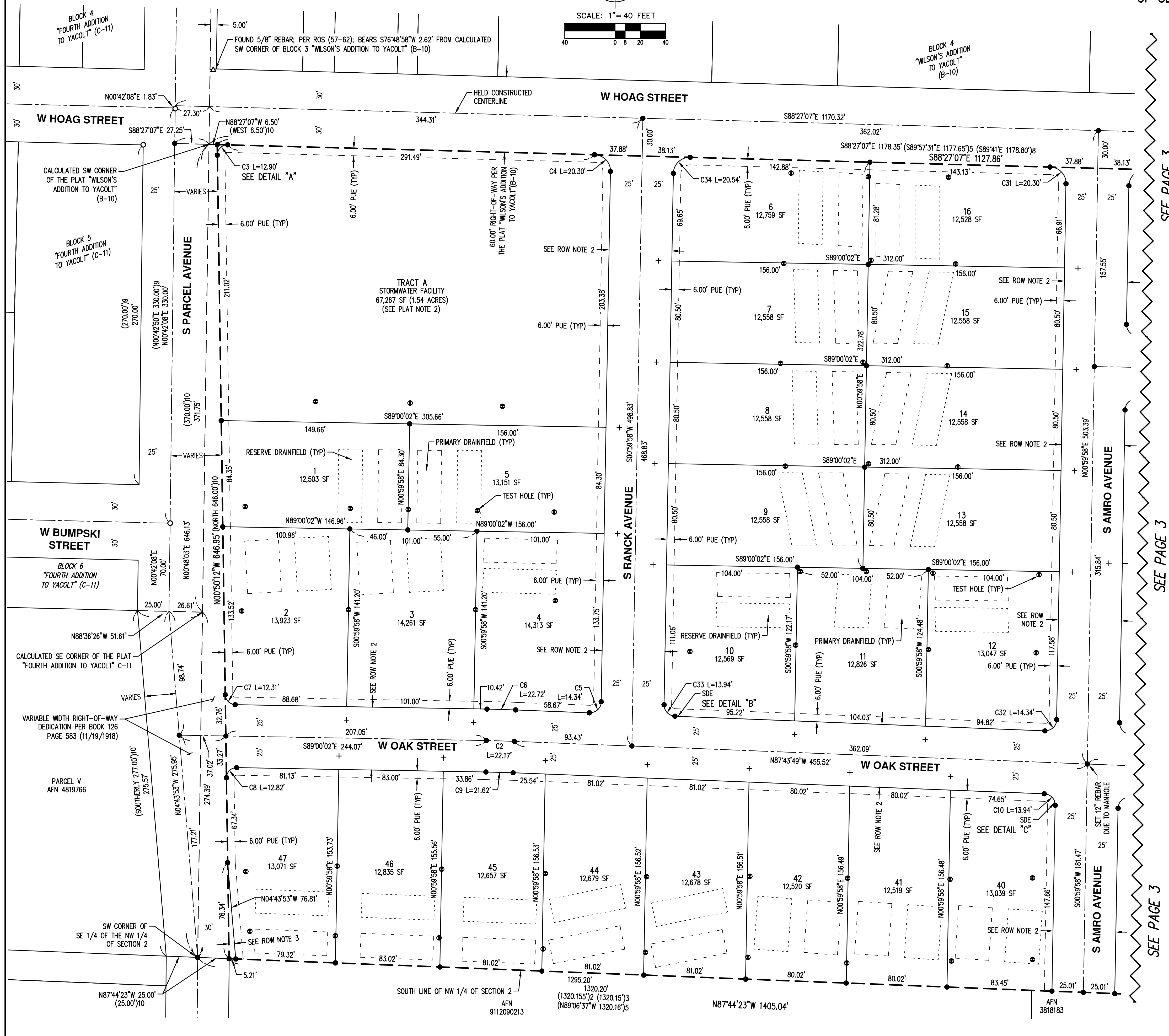
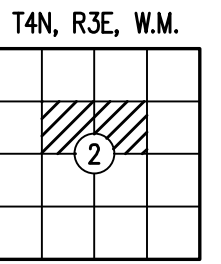




- RIGHT-OF-WAY NOTES**
- 10.00 FOOT RIGHT-OF-WAY DEDICATED TO THE TOWN OF YACOLT WITH THIS PLAT.
  - 50.00 FOOT RIGHT-OF-WAY DEDICATED TO THE TOWN OF YACOLT WITH THIS PLAT.
  - VARIABLE WIDTH RIGHT-OF-WAY DEDICATED TO THE TOWN OF YACOLT WITH THIS PLAT.

# RAILROAD AVENUE SUBDIVISION

LOCATED IN THE SE 1/4 OF THE NW 1/4 AND THE SW 1/4 OF THE NE 1/4 OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, TOWN OF YACOLT, CLARK COUNTY, WASHINGTON  
JANUARY 2024



## LEGEND

- FOUND 1/2" REBAR W/YPIC INSCRIBED "TANDY 21581"; PER ROS (63-168); HELD UNLESS NOTED OTHERWISE
- △ DENOTES FOUND MONUMENT AS NOTED; HELD UNLESS NOTED OTHERWISE
- SET 1/2" X 24" REBAR W/YPIC INSCRIBED "AKS ENGR 54200" ON: 12/01/2023
- ▲ SET BRASS SCREW WITH BRASS WASHER INSCRIBED "AKS ENGR 54200" ON: 12/01/2023
- + SET BRASS SCREW WITH BRASS WASHER INSCRIBED "AKS ENGR 54200" IN CURB ON PROJECTION OF THE LINE AT A DISTANCE OF 10.70' FROM THE FRONT LOT CORNER UNLESS NOTED OTHERWISE IN CURB SCREW TABLE ON: 11/15/2023
- AFN AUDITORS FILE NUMBER
- IP IRON PIPE
- LGR LAND CORNER RECORD
- PUE PUBLIC UTILITY EASEMENT
- ROS RECORD OF SURVEY
- ROW RIGHT-OF-WAY
- SANITARY SEWER TEST PIT
- SDE SIGHT DISTANCE EASEMENT
- SF SQUARE FEET
- (TYP) TYPICAL
- W/YPIC WITH A YELLOW PLASTIC CAP
- \*\*\* ALL MONUMENTS TIED AUGUST AND SEPTEMBER, 2021 \*\*\*

## REFERENCES

- (1) RECORD INFORMATION PER GENERAL LAND OFFICE MAP
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CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C2	1000.00'	1°16'13"	22.17'	S88°21'56"E 22.17'
C3	8.00'	92°23'05"	12.90'	S45°21'21"W 11.55'
C4	13.00'	89°27'05"	20.30'	N43°43'35"W 18.30'
C5	9.00'	91°16'13"	14.34'	N46°38'04"E 12.87'
C6	1025.00'	1°16'13"	22.72'	N88°21'56"W 22.72'
C7	8.00'	88°09'50"	12.31'	S44°55'07"E 11.13'
C8	8.00'	91°50'10"	12.82'	S45°04'53"W 11.49'
C9	975.00'	1°16'13"	21.62'	N88°21'56"W 21.61'
C10	9.00'	88°43'47"	13.94'	N43°21'56"W 12.59'
C31	13.00'	89°27'05"	20.30'	N43°43'35"W 18.30'
C32	9.00'	91°16'13"	14.34'	N46°38'04"E 12.87'
C33	9.00'	88°43'47"	13.94'	S43°21'56"E 12.59'
C34	13.00'	90°32'55"	20.54'	S46°16'25"W 18.47'
C35	9.00'	22°54'56"	3.60'	S76°16'22"E 3.58'
C36	9.00'	21°51'00"	3.43'	N09°55'32"W 3.41'

PAGE 2 OF 3

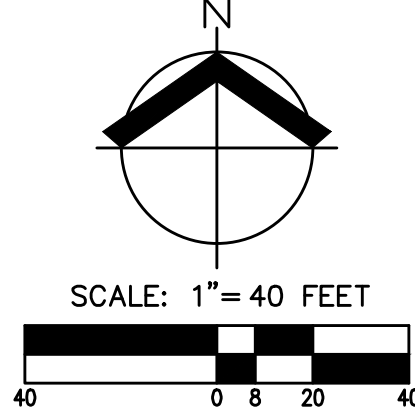
JOB NAME: RAILROAD AVE SUB		<div>AKS ENGINEERING &amp; FORESTRY, LLC 9600 NE 126TH AVE, STE 2520 VANCOUVER, WA 98682 360.882.0419 WWW.AKS-ENG.COM</div> 
JOB NUMBER: 8706		
DRAWN BY: CJC		
CHECKED BY: JOH		
DRAWING NO.: 8706CPLAT		
		ENGINEERING • SURVEYING • NATURAL RESOURCES FORESTRY • PLANNING • LANDSCAPE ARCHITECTURE

# RIGHT-OF-WAY NOTES

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- VARIABLE WIDTH RIGHT-OF-WAY DEDICATED TO THE TOWN OF YACOLT WITH THIS PLAT.

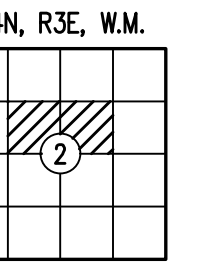
60.00' RIGHT-OF-WAY PER  
THE PLAT "WILSON'S ADDITION  
TO YACOLT" (B-10)

BLOCK 5  
"WILSON'S ADDITION  
TO YACOLT"  
(B-10)



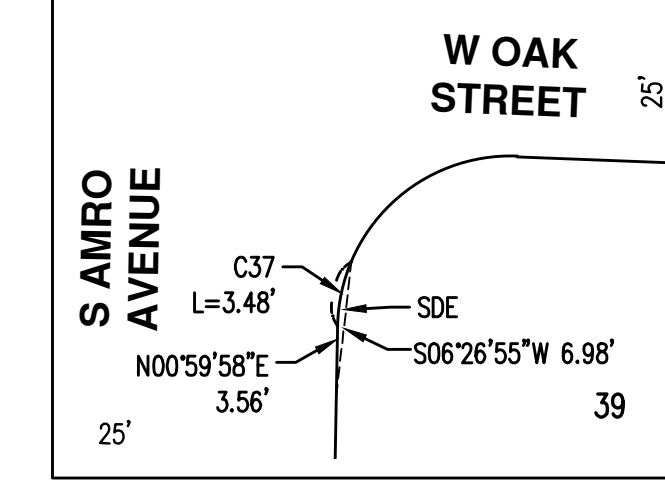
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LOCATED IN THE SE 1/4 OF THE NW 1/4 AND THE SW 1/4 OF THE NE 1/4  
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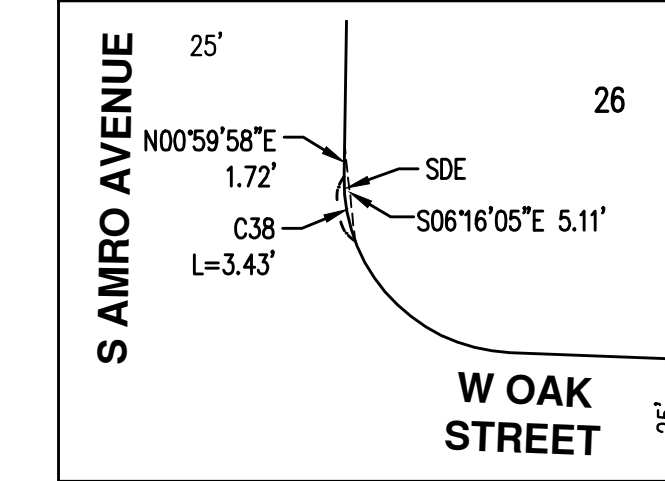


CURB SCREW TABLE	
COMMON LOT LINE	DISTANCE
19 / 20	6.00'
20 / 22	6.00'
22 / 23	6.00'
29 / 30	11.50'
33 / 34	11.00'

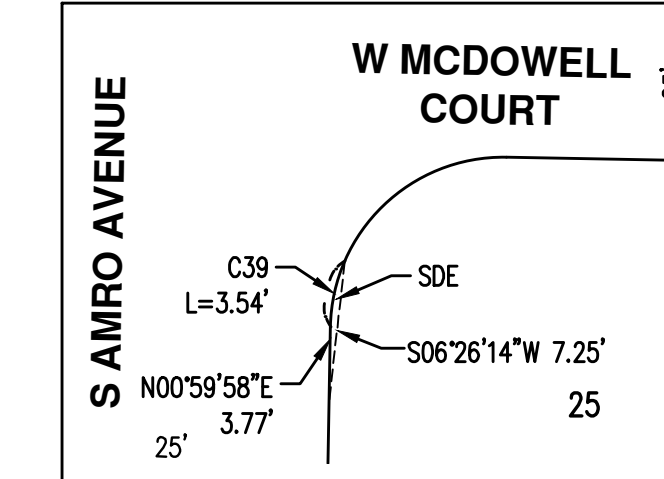
DETAIL "D" SCALE: 1" = 10'



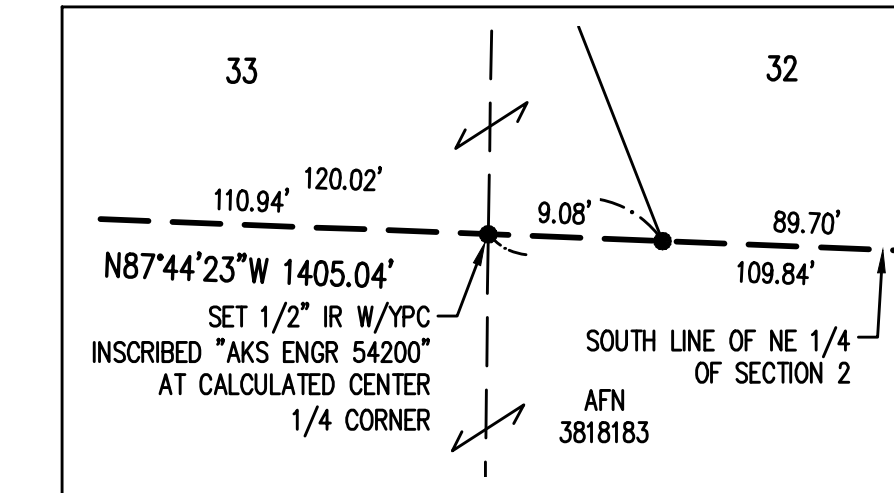
DETAIL "E" SCALE: 1" = 10'



DETAIL "F" SCALE: 1" = 10'



DETAIL "G" SCALE: 1" = 10'



## LEGEND

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"TANDY 21581"; PER ROS (63-168); HELD  
UNLESS NOTED OTHERWISE
- △ DENOTES FOUND MONUMENT AS NOTED;  
HELD UNLESS NOTED OTHERWISE
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- ▲ SET BRASS SCREW WITH BRASS WASHER  
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C11	9.00'	91°16'13"	14.34'	S46°38'04"W 12.87'
C12	325.00'	12°44'20"	72.26'	N85°54'01"E 72.11'
C13	325.00'	7°52'43"	44.69'	N75°35'30"E 44.65'
C14	325.00'	4°47'25"	27.17'	N69°15'26"E 27.16'
C15	21.00'	90°04'23"	33.01'	N68°06'06"W 29.72'
C16	9.00'	88°43'47"	13.94'	S43°21'56"E 12.59'
C17	275.00'	1°03'20"	5.07'	S88°15'29"E 5.07'
C18	275.00'	17°22'38"	83.40'	N82°31'32"E 83.09'
C19	275.00'	6°58'30"	33.48'	N70°20'58"E 33.46'
C20	21.00'	89°55'02"	32.96'	N21°54'12"E 29.68'
C21	18.00'	65°23'45"	20.54'	N55°45'15"W 19.45'
C22	13.00'	90°32'55"	20.54'	S46°16'26"W 18.47'
C23	9.00'	90°00'00"	14.14'	S44°00'02"E 12.73'
C24	8.00'	52°19'48"	7.31'	N64°50'04"E 7.06'
C25	46.00'	71°05'37"	57.08'	S74°12'58"W 53.49'
C26	46.00'	47°05'56"	37.81'	N46°41'15"W 36.76'
C27	46.00'	78°29'16"	63.01'	N16°06'21"E 58.20'
C28	46.00'	87°58'47"	70.63'	S80°39'37"E 63.90'
C29	8.00'	52°19'48"	7.31'	N62°50'08"W 7.06'
C30	9.00'	90°00'00"	14.14'	S45°59'57"W 12.73'
C37	9.00'	22°07'58"	3.48'	S12°03'57"W 3.46'
C38	9.00'	21°51'00"	3.43'	S09°55'32"E 3.41'
C39	9.00'	22°32'10"	3.54'	S12°16'02"W 3.52'

PAGE 3 OF 3

JOB NAME: RAILROAD AVE SUB  
JOB NUMBER: 8706  
DRAWN BY: CJC  
CHECKED BY: JOH  
DRAWING NO.: 8706CPLAT

AKS ENGINEERING & FORESTRY, LLC  
9600 NE 126TH AVE, STE 2520  
VANCOUVER, WA 98682  
360.882.0419  
WWW.AKS-ENG.COM



ENGINEERING · SURVEYING · NATURAL RESOURCES  
FORESTRY · PLANNING · LANDSCAPE ARCHITECTURE

Reviewed by Clark County Treasurer - Heather Ann Arens - 12/12/2023

Filed for Record at the Request of:

**Rotschy LLC**  
7408 NE 113TH CIR  
Vancouver, WA 98662

**Grantor:** Jorgensen Timber LLC, a Washington limited liability Company  
**Grantees:** Rotschy LLC, a Washington limited liability company and The Town of Yacolt  
**Abbreviated Legal Description (Grantor)** #5 OF SEC 2 T4N R3E WM  
**Assessor’s Property Number (Grantor)** 64520000  
**Abbreviated Legal Description (Grantee)** #6 & 7 OF SEC 2 T4N R3E WM  
**Assessor’s Property Number (Grantee)** 64522000

This document is being recorded as an accommodation.  
Fidelity National Title maintains no responsibility  
as to the effect or provisions of this document.

W10508

**GRANT OF EASEMENT**

Grantor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, convey and quit claim unto Grantees a permanent non-exclusive Storm Drainage Easement over, under, and across a tract of land, situated in Clark County, State of Washington, and more particularly described in Exhibit “A” and Exhibit “B” hereto.

The purpose and scope of the Easement shall be for the conveyance of storm drainage runoff, and shall include, without limitation, the right of the Grantees to install, construct, inspect, alter, repair, maintain, and operate thereon and therein stormwater conveyance pipe(s) and related improvements, facilities and appurtenances. The scope of the Easement shall also include the right of ingress, egress, and reasonable access to the Easement property and the stormwater drainage improvements installed thereon.

The Easement granted herein shall be appurtenant to and run with the real property described in Exhibit “C” hereto as to all property burdened by the Easement, including any division or partition of such property. The Easement granted herein shall be appurtenant to and run with the real property described in Exhibit “D” hereto as to all property benefited by such Easement, including any division or partition of such property.

The rights and obligations contained in this Grant of Easement shall bind, burden, and benefit the present and future owners of the properties described in Exhibits “C” and “D” and the Town of Yacolt, as well as each party’s successors and assigns, lessees, mortgagees, or beneficiaries under a Deed of Trust of each described parcel, and their employees, contractors, tenants, and other agents and invitees.

The provisions of this Agreement shall continue and remain in full force and effect until the stormwater drainage facilities no longer exist and where there is no intent by the Property Owners or the Town of Yacolt to rebuild them.

For purposes of this Grant of Easement, the doctrine of merger shall not apply. Nothing in this Grant of Easement shall be construed to impose any responsibility or obligation on the Town of Yacolt to provide or maintain stormwater facilities or stormwater equipment.

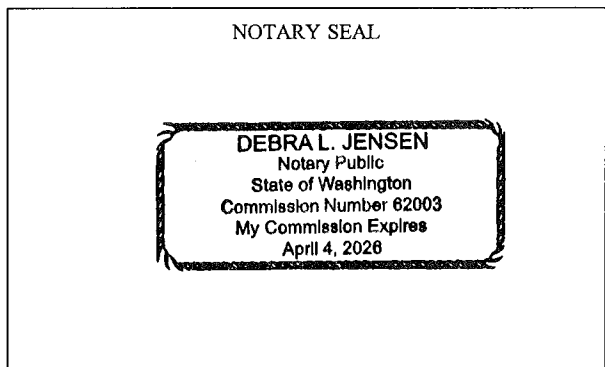
By: [Signature]  
Title: Manager  
Company: Jorgensen Timber LLC

STATE OF WASHINGTON     )  
  :ss  
County of LEWIS             )

I certify that I know or have satisfactory evidence that Jens W. Jorgensen is the person who appeared before me, and said person acknowledged that he/she/they signed this instrument, on oath stated that he/she/they is/are authorized to execute the instrument and acknowledged it as the Manager of Jorgensen Timber LLC to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: December 11, 2023

[Signature]  
Notary name printed or typed: Debra L. Jensen  
Notary Public in and for the State of Washington  
Residing at Chehalis  
My appointment expires: 04/04/26





BEND, OR  
2777 NW Lolo Drive, Suite 150  
Bend, OR 97703  
(541) 317-8429  
www.aks-eng.com

KEIZER, OR  
3700 River Road N, Suite 1  
Keizer, OR 97303  
(503) 400-6028

TUALATIN, OR  
12965 SW Herman Road, Suite 100  
Tualatin, OR 97062  
(503) 563-6151

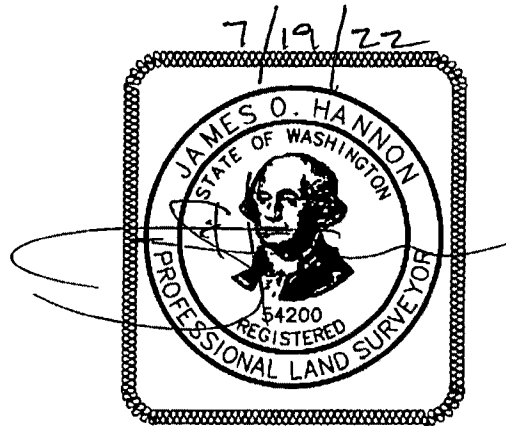
VANCOUVER, WA  
9600 NE 126<sup>th</sup> Avenue, Suite 2520  
Vancouver, WA 98682  
(360) 882-0419

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**STORMWATER EASEMENT**

A tract of land located in the Northwest Quarter of Section 2, Township 4 North, Range 3 East, Willamette Meridian, Town of Yacolt, Clark County, Washington, described as follows:

**COMMENCING** at the northwest corner of Block 6 of the plat "Fourth Addition to Yacolt" (C-11); thence along the west line of said plat North 00°42'08" East 11.00 feet to the **POINT OF BEGINNING**; thence leaving said west line North 88°36'26" West 1.10 feet; thence South 35°20'28" West 101.14 feet; thence North 54°39'32" West 15.00 feet; thence North 35°20'28" East 109.12 feet; thence South 88°36'26" East 8.90 feet to the west line of said plat; thence along said west line South 00°42'08" West 15.00 feet to the **POINT OF BEGINNING**.

Contains approximately 1,652 square feet.

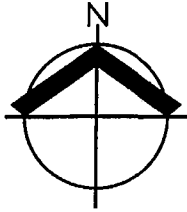




# EXHIBIT B

## MAP OF LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NW 1/4 OF  
SEC. 2, T4N, R3E, W.M., TOWN OF YACOLT,  
CLARK COUNTY, WASHINGTON



SCALE: 1" = 30 FEET



S88°36'26"E 8.90'

**W BUMPSKI STREET**

S00°42'08"W 15.00'

POINT OF BEGINNING

N88°36'26"W 1.10'

N00°42'08"E 11.00'

POINT OF COMMENCEMENT  
NW CORNER OF BLOCK 6

BLOCK 6

"FOURTH ADDITION  
TO YACOLT"  
(C-11)

PARCEL III  
AFN  
4819766

N35°20'28"E 109.12'

AREA: 1,652 SF

S35°20'28"W 101.14'

N54°39'32"W  
15.00'

## LEGEND

AFN  
SF

AUDITOR'S FILE NUMBER  
SQUARE FEET

DATE: 07/19/2022



### STORMWATER EASEMENT

DRAWN BY: CJC CHECKED BY: JOH DWG: 8706 20220719 STM EASE JOB: 8706

AKS ENGINEERING & FORESTRY, LLC  
9600 NE 126TH AVE, SUITE 2520  
VANCOUVER, WA 98682 www.aks-eng.com  
PHONE: 360.882.0419 FAX: 360.882.0426



Exhibit C

**BEGINNING at a point 330 feet West of the Northeast corner of the Southwest quarter of the Northwest quarter of Section 2, Township 4 North, Range 3 East of the Willamette Meridian, Clark County, Washington; running thence South to the South line of said 40 acres; thence West 330 feet; thence North to the North line of said 40 acres; thence East 330 feet to the Place of Beginning.**

**EXCEPT that portion lying within Humphrey Street.**

Exhibit D

**ALL THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON, LYING SOUTH OF WILSON'S ADDITION TO YACOLT AND WESTERLY OF THE NORTHERN PACIFIC RAILWAY CO. RIGHT OF WAY, RUNNING THROUGH SAID SECTION;**

**EXCEPTING THAT PORTION HERETOFORE DEDICATED TO CLARK COUNTY AS PUBLIC ROAD, BY DEED RECORDED IN BOOK 60, CLARK COUNTY DEED RECORDS, AT PAGE 250;**

**ALSO EXCEPT THAT PORTION LYING WITHIN GARNER ROAD AND YACOLT STREET.**



## Town of Yacolt Request for Council Action

### CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

**Name:** Stephanie Fields, Town Clerk  
David W. Ridenour, Town Attorney  
**Group Name:** Staff

**Address:** 202 W. Cushman St.  
P.O. Box 160  
Yacolt, WA 98675  
**Phone:** Town Clerk (360) 686-3922  
David Ridenour (360) 906-1556

**Email Address:** clerk@townofyacolt.com  
david@davidridenourlaw.com  
**Alt. Phone:**

### ITEM INFORMATION:

**Item Title:** Railroad Avenue Subdivision: **Security Agreement for Project Completion, (with Performance Bond).**

**Proposed Meeting Date:** January 22, 2024. (Special Meeting)

**Action Requested of Council:** Review proposed Agreement providing for the completion of construction work on the Railroad Avenue Subdivision after acceptance of the final Plat.

**Proposed Motion:** To Approve: "I move that the Council approve the Security Agreement for Project Completion with Performance Bond, and authorize the Mayor to sign the Agreement in a form substantially similar to the version presented to the Council."

If changes are desired, continue the motion as follows: "... with the following changes: (describe)."

**Summary/ Background:** Rotschy, LLC, the Developer of the Railroad Avenue Subdivision, is preparing to record the Final Plat and other documents that were required by the Town's conditions of approval or that have been requested by the Developer.

A few items of construction work on the Subdivision have not yet been completed. The Developer has asked for permission to record the final Plat before finishing all construction work. This would allow the

Developer to begin selling or developing individual building lots, while finishing the last items of construction work that remain.

Staff has prepared an Agreement for Project Completion providing for a Performance Bond as security for the projected cost of the work that remains. A list of that work (the Project Closeout Checklist) is attached as Exhibit 'A' to the Agreement. The Engineer's estimate for the cost of the work (plus 20%) is \$34,996.13, (Exhibit 'B').

Rotschy expects to complete the remaining work in as little as two months. The term of the Agreement is six (6) months.

The documents have been reviewed and approved by the Town Attorney and Town Engineer. Staff recommends that the documents be approved in substantially the form presented.

A Resolution approving this and the other documents presented during this meeting will be presented for consideration by the Council at the end of the meeting's agenda.

**Attachments:**

1. Performance Bond for Project Completion, (3 pages);
2. Security Agreement for Project Completion, (5 pages);
3. Exhibit A to the Agreement, (Project Closeout Checklist) (2 pages);
4. Exhibit B to the Agreement, (Cost Breakdown) (1 page).

**Staff Contact(s):**

Stephanie Fields, Town Clerk.  
Devin Jackson, Jackson Civil, Town Engineer.  
David W. Ridenour, Town Attorney.



*[To Be Executed on Letterhead of Institution Issuing Performance Bond]*

*[Original signatures and seals on document]*

*[To include an original Power of Attorney, provided by Surety]*

**PERFORMANCE BOND  
for Project Completion**

**Bond No.** \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That Rotschy, LLC as Principal and \_\_\_\_\_ at \_\_\_\_\_, (Name and address of the Surety) a corporation, duly authorized to engage in a general surety business in the State of Washington as Surety, are jointly and severally held and bound unto the Town of Yacolt, a Washington municipal corporation, Obligee, in the sum of THIRTY-FOUR THOUSAND, NINE HUNDRED NINETY-SIX AND 13/100 DOLLARS, (\$34,966.13), for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns, firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH THAT WHEREAS, Rotschy, LLC, the Principal herein, received a development approval from the Obligee on or about April 11, 2022 to construct a 47-lot residential subdivision known as the Railroad Avenue Subdivision in the Town of Yacolt, (hereafter the "Project"); and WHEREAS the Principal seeks permission from the Obligee to record the final Plat for the Project prior to constructing all required improvements for the Project; this bond is necessary to ensure the required improvements are constructed in compliance with Washington State law, the Yacolt Municipal Code and the "Security Agreement for Project Completion", (hereafter the "Agreement") attached hereto as Exhibit "A" and made a part hereof, whereby said Principal undertakes to do all labor, furnish all plant and equipment, and furnish all material, in accordance with all the terms and conditions of development approval.

NOW, THEREFORE, if said Principal herein shall promptly pay all persons furnishing labor, services, material or insurance to said Principal; shall save harmless the Obligee, its officers and agents, from all claims therefrom, or from any claim for damages or injury to property or persons arising by reason of said work; and shall in the time and manner, and under the terms and conditions prescribed, well and faithfully do, perform and furnish all matters and things as are required of them in accordance with Exhibit A, the development approval, and as by law, state and national prescribed, then this obligation shall be void; but otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER, that this Bond is subject to the following further conditions:

a). All material men and all persons who shall supply such laborers, mechanics or subcontractors with material, supplies or provisions for carrying on such work, shall have a direct right of action against the Principal and Surety on this Bond, second only to the right of the Obligee under this Bond, which right of action shall be asserted in proceedings instituted in the appropriate court of the State of Washington, and insofar as permitted by the laws of the State of Washington, such right of action shall be asserted in a proceeding instituted in the name of the Obligee to the use and benefit of the person, firm or corporation instituting such action and of all persons, firms or corporations having a claim hereunder shall have the right to be made a party to such proceeding (but not later than six (6) months after the complete performance of said Agreement and final settlement and judgment rendered thereon.)

b). Said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the specifications.

SEVERABILITY. The provisions of this Performance Bond are severable, and if for any reason any one or more of the provisions contained in this agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this agreement and this agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Bond to be executed in this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Principal (Print) \_\_\_\_\_

Principal Signature \_\_\_\_\_

Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

(Seal)

Surety (Print) \_\_\_\_\_

(Seal)

Surety Signature \_\_\_\_\_

Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Countersigned: \_\_\_\_\_

By: Resident Agent

Approved as to form:

\_\_\_\_\_  
David W. Ridenour  
Yacolt Town Attorney

COUNTY OF CLARK

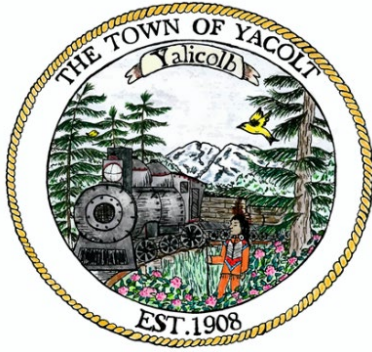
In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the  
State of Washington  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

COUNTY OF

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the  
State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**Town of Yacolt  
Building & Land Use Department**

202 W. Cushman Street  
Yacolt, WA 98675

Tel: (360) 686-3922

**Ian Shealy**  
Mayor

**Exhibit A**  
**to Performance Bond**  
**for Project Completion**

---

**Security Agreement**  
**for Project Completion**

**Developer:** Rotschy, LLC

**Development Permit:** Railroad Avenue Subdivision, Town of Yacolt, (the “*Project*”)

**Permit Approval Date:** On or about April 11, 2022, (including all subsequent conditions)

**Amount:** \$34,996.13 - (120% of Engineer’s Estimate)

**Estimated Project Completion Date:** August 1, 2024

**Agreement**

THIS AGREEMENT is made by and between the Town of Yacolt, a Washington municipal corporation, (“*Town*” or “*Yacolt*”), and Rotschy, LLC, a Washington licensed limited liability company, (“*Rotschy*” or “*Developer*”).

**Whereas**, Rotschy is the current owner of real property situated in the Town of Yacolt, Clark County, Washington, identified as Assessor’s Tax Parcel #64522-000, and legally described as follows, (hereafter the “*Property*”):

#6 & #7 of Section 2 T4N R3E WM (20A), (PEND 1932 RAILROAD AVENUE SUBDIVISION),  
Clark County, Washington;

**Whereas**, the Property was approved by the Town for the development of a 47-lot subdivision subject to terms and conditions described in the Development Permit and related approval documents, (hereafter the “*Project*”);

**Whereas**, the Developer has agreed to abide by all laws of the Town and has agreed that the construction of the improvements and satisfaction of the conditions described in the Development Permit shall be in

accordance with all plans, specifications and conditions submitted for the Project and accepted by the Town or otherwise included in the Project documents accepted by the Town, which plans, specifications, conditions, permit provisions and documents shall be deemed a part hereof as if fully set out herein;

**Whereas**, the Project is not yet complete, there being a number of approvals and conditions that remain to be satisfied before the final Plat can be approved and recorded;

**Whereas**, the required improvements that have not been completed are described in the Town Engineer's "Project Closeout Checklist", which is attached hereto as Exhibit A and hereby made a part of this Agreement;

**Whereas**, the Developer has requested that the Town Council approve the Final Plat for recording prior to finishing construction of all required improvements;

**Whereas**, the Town requires that a good and sufficient Performance Bond be furnished by the Developer guaranteeing the satisfactory completion of the infrastructure and other improvements that remain to be completed within six (6) months of the date of this Agreement;

**Whereas**, the Developer has agreed to provide a Performance Bond from a licensed surety, and the Town is willing, under the terms of this Agreement, to accept a Performance Bond as security for the Developer's obligations; and,

**Whereas**, the parties have agreed upon the construction work that remains to be completed and the estimated cost to complete that work which are described in the "Cost Breakdown" which is attached hereto as Exhibit B and hereby made a part of this Agreement:

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, and to ensure the performance of the conditions required for the Town's approval of the Developer's Project, it is hereby agreed as follows:

- 1. Developer's Obligations:** Rotschy shall complete all remaining construction work for the Project as described in Exhibit A hereto, the Development Permit referenced above, and as may be required by the Town, within six (6) months of the date of this Agreement. The Developer shall promptly pay all persons furnishing labor, services, or materials to the Project; shall hold the Town, its officers and agents harmless from all claims therefrom, or from any claim for damages or injury to property or persons arising by reason of said work; and shall in the time and manner, and under the terms and conditions prescribed, well and faithfully do, perform and furnish all matters and things as are required of them in accordance with the Development Permit and applicable law. The Developer agrees to promptly correct any deficiencies in the work and to make any repairs during the term of this Agreement or as soon thereafter as reasonably possible if requested by the Town.
- 2. Security for Performance:** The Developer will post a Performance Bond with the Town Clerk that secures the conditions described in this Agreement in the sum of THIRTY-FOUR THOUSAND, NINE HUNDRED NINETY-SIX AND 13/100 DOLLARS, (\$34,966.13), in a form, manner of execution and from a surety acceptable to the Town of Yacolt in its sole discretion.
- 3. Breach of Developer's Obligations:** In the event of Developer's default of its obligations under this Agreement, the Town's employees and agents are authorized to enter onto the Project Property and perform the work contemplated by this Agreement. Rotschy agrees to promptly reimburse the Town for any work or repairs performed by the Town or its agents. This provision shall not be



construed as creating an obligation on the part of the Town or its representatives to perform such work.

4. **Liability of Performance Bond:** In the event of Developer's default of its obligations under this Agreement, the Town shall have the right to execute on the Performance Bond up to the maximum amount of said Bond and to complete construction of improvements at the Project, or any part thereof, and to pay any engineering or legal fees for the Project over and above the amount of the Performance Bond. The surety shall accept as full and complete evidence of default and of the resulting right of the Town of Yacolt to complete said Project a copy of a resolution adopted by the Yacolt Town Council declaring said default and the intention of the Town to proceed to complete the construction of the Project. The surety is authorized and required to release the funds within five calendar days of presentment of such resolution and a certification by the Town Clerk of the Town of Yacolt that the funds will be used for completion of construction of improvements for the Project described herein and any applicable fees and costs. Surety hereby agrees that requests presented by the Town in accordance with this Agreement shall be duly honored. As part of the Agreement secured by the Performance Bond and in addition to the face amount of the Performance Bond specified herein, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the Town in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.
5. **Developer's Liability is Not Limited to Amount of Performance Bond:** The Developer hereby acknowledges that its obligation to perform the required completion work secured hereby is not limited to the amount of funds secured by the Performance Bond to be provided under this Agreement. The Developer understands and agrees that, in the event the actual cost of completing said improvements plus applicable fees and costs shall exceed the amount of the Performance Bond, the Developer is in no way relieved by this Agreement from the obligation to pay the amount of such excess.
6. **Release of Surety's Obligations:** Upon completion of all Project improvements to the satisfaction of the Town Engineer, and upon payment of any costs and fees incurred by the Town and recoverable under this Agreement, the surety shall be released from its obligations hereunder.
7. **Replacement of Performance Bond:** If the surety on the Performance Bond furnished by the Developer is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Washington, the Developer shall, within twenty (20) calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the Town.
8. **Agreement to Pay Processing Costs:** Rotschy agrees that the Town's costs to prepare and/or review this and other agreements and documents for the Project are payable by Rotschy under the Town's Cost Recovery Agreement with the Developer.
9. **Notices:** All notices and other communications between the parties shall be in writing and shall be hand-delivered or mailed by first-class mail, postage prepaid, as follows:

If to the Town:

Town of Yacolt  
202 W. Cushman Street  
P.O. Box 160  
Yacolt, WA 98675  
360-686-3922  
Email: [clerk@townofyacolt.com](mailto:clerk@townofyacolt.com)

If to the Developer: Rotschy, LLC  
7408 N.E. 113<sup>th</sup> Circle  
Vancouver, WA 98662  
360-748-7200  
Email: [cornellr@rotschyinc.com](mailto:cornellr@rotschyinc.com) or  
[jordan.rotschy@rotschyinc.com](mailto:jordan.rotschy@rotschyinc.com)

10. **Time of the Essence:** Time is of the essence with respect to the performance of each of the covenants and agreements set forth herein.
11. **Further Assurances:** The parties shall execute and deliver such other documents and instruments and take such further actions as may be reasonably necessary or required to consummate the transactions contemplated by this Agreement.
12. **Successors and Assigns:** This Agreement and the rights, duties and obligations hereunder may not be assigned or delegated by Rotschy without the prior written consent of the Town. This Agreement and the covenants, provisions and conditions described herein shall be binding upon the parties hereto, their successors and assigns.
13. **Modification:** Neither this Agreement nor any term or provision hereof may be changed, waived, discharged, amended, modified or terminated orally, or in any manner other than by an instrument in writing signed by the parties hereto.
14. **Non-Waiver:** The failure of any party hereto to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any option or right herein conferred, in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option or right, or of any other covenants or agreements, but the same shall be and remain in full force and effect.
15. **Attorney's Fees:** The parties agree that in the event any legal action is taken to enforce the provisions of this Agreement or to collect payment due under the terms of this Agreement, the prevailing party shall be entitled to an award for its costs and reasonable attorney's fees. Said costs and reasonable attorney's fees shall be recoverable by the prevailing party against the other party in any amount and shall not be limited by the amount of the Performance Bond.
16. **Venue and Choice of Law:** The parties agree that this Agreement shall be governed by the laws of the State of Washington and that they are subject to the jurisdiction of the State of Washington. Venue for any litigation arising out of this Agreement shall be in Clark County Superior Court.
17. **Representation:** The parties understand that this Agreement has been prepared by the attorney for the Town. The Developer has obtained the advice of its own counsel with respect to its rights and obligations under this Agreement, or has had the opportunity to seek such advice. The Developer agrees that it is not relying on any representations or advice by the Town or its attorney and that it has satisfied itself as to the terms, duties and risks of signing this Agreement. Each party intends that this Agreement in all respects shall be deemed and construed to be equally and mutually prepared by all parties, and it is hereby expressly agreed that any uncertainty or ambiguity shall not be construed in favor of or against any party.
18. **Severability:** The provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other

provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.

19. **Incorporation of Recitals:** Any recitals and background information at the beginning of this Agreement are contractual and shall be considered or referred to in resolving questions of interpretation or construction.
20. **Multiple Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in Yacolt, Washington, this \_\_\_\_\_ day of January, 2024.

**ROTSCHY, LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

**TOWN OF YACOLT**

\_\_\_\_\_  
by: Ian Shealy  
its: Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
by: Stephanie Fields  
its: Town Clerk

\_\_\_\_\_  
Date

December 27, 2023

Attn: Jordan Rotschy  
**Rotschy, Inc**  
7408 NE 113th Cir  
Vancouver, WA 98662

**RE: Railroad Avenue Subdivision – Project Closeout Checklist**

This memorandum is provided to document the findings of the site walk through conducted on December 15, 2023. The walk through was conducted by Jackson Civil (Nathan Williams) and the Town of Yacolt (Terry Gardner). The purpose of this walk through was to identify items that need to be completed to closeout the project. The following items were identified.

- Fencing needs to be installed, as of 12.26.2023, the fence posts were installed, but needs to be completed.
- An access gate needs to be installed on S Parcel Ave, to allow for public works to maintain the facility. Per general note 5 on Sheet 205, the Town of Yacolt will be responsible for maintenance within the Right of Way, but will need access to both ends of the piping system to perform maintenance.
- As noted on Sheet C201 (Note 3), light riprap shall be placed per the WSDOT/APWA standard at the outfall of the pond and underdrain system. This condition is not met, the side slopes are too steep and need the slope protection. As currently configured, rock or matting will not be feasible and will be needed to stabilize the side walls (see Photograph 1).
- Channel stabilization needs to be extended from the stormwater drainage from W Hoag St to the water line to conform to the required standards for channel lining presented in WSDOT standards and the stormwater management manual (Per Note 9 on Sheet 202). (See photograph 2).
- Temporary BMPs such as straw mulch needs to be removed from impervious surfaces (Photographs 3 and 4)
- Straw mulch alone in not stabilizing the disturbed areas additional BMPs will be required, such as straw wattles, or a tackifier to prevent erosion (See Photograph 5)
- Reconstruction of the outfall to protect the side slopes will require vegetation management to protect existing trees (See Photograph 6).
- Signing and striping needs to be completed per Sheet C120.
- Sediment fence will need to be removed once temporary vegetation is established.
- Per the performance bond, fences and gates need to be completed.
- Per the performance bond, landscaping needs to be completed.

## **Exhibit A**

To Security Agreement for  
Project Completion



## Photograph Log



*Photograph 1 – Outlet protection*



*Photograph 2 – Discharge protection*



*Photograph 3 – BMP Removal*



*Photograph 4 – BMP Removal*



*Photograph 5 – Additional BMPs*



*Photograph 6 – Preserve Natural Vegetation*



# Cost Breakdown Performance Bond

Project Name: Railroad Avenue Subdivision

Contractor: Rotschy, Inc.

Project Location: Parcel Ave and Hoag Street

Phone #: 360-334-3100

Date: 01/03/2024

## Public Storm

Pipe Footage	Size	Type	Total Cost
Quantity			
		Drywells	\$
		Manholes	
		Catch basin/Inlet	
		Swales	
		Rain Gardens	
		Filter Cartridge Structures	
		Ponds	
		Underground Storage	\$
		Fences/Gates	\$ -
		Retaining Walls	\$

## Transportation

			Total Cost
2125	SF	Paving	\$ 10,625.00
20	LF	Curb and Gutter	\$ 1,300.00
100	SF	Sidewalks	\$ 1,300.00
		Clearing & Grubbing	\$
		Driveway Approaches	\$ -
		Signing and Striping	\$ -
800	SF	Rock	\$ 4,800.00

## Landscaping

Quantity			Total Cost
1	LS		\$ 8,895.10
		Groundcover	\$
		Bark	\$

SUBTOTAL	\$ 26,920.10
Taxes & Fees (10%)	\$ 2,692.01
Contingency (20%)	\$ 5,384.02
<b>TOTAL COST:</b>	<b>\$ 34,996.13</b>

# Exhibit B

To Security Agreement for  
Project Completion



## Town of Yacolt

### Request for Council Action

#### CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

**Name:** Stephanie Fields, Town Clerk  
David W. Ridenour, Town Attorney

**Group Name:** Staff

**Address:** 202 W. Cushman St.  
P.O. Box 160  
Yacolt, WA 98675

**Phone:** Town Clerk (360) 686-3922  
David Ridenour (360) 906-1556

**Email Address:** clerk@townofyacolt.com  
david@davidridenourlaw.com

**Alt. Phone:**

#### ITEM INFORMATION:

**Item Title:** Railroad Avenue Subdivision: **Security Agreement for Stormwater Facilities Maintenance, (with Performance Bond).**

**Proposed Meeting Date:** January 22, 2024. (Special Meeting)

**Action Requested of Council:** Review proposed Agreement providing for the inspection and maintenance of the private Stormwater Facilities serving the Railroad Avenue Subdivision by the Developer of the Plat for a period of two years.

**Proposed Motion:** To Approve: "I move that the Council approve the Security Agreement for Stormwater Facilities Maintenance with Performance Bond, and authorize the Mayor to sign the Agreement in a form substantially similar to the version presented to the Council."

If changes are desired, continue the motion as follows: "... with the following changes: *(describe)*."

**Summary/ Background:** Rotschy, LLC, the Developer of the Railroad Avenue Subdivision, is preparing to record the Final Plat and finalize other documents that were required by the Town's conditions of approval or that have been requested by the Developer.

One of the Town's conditions of approval for the Subdivision was the Developer's obligation to inspect and maintain the private Stormwater

Facilities for a period of two years following final approval of the Plat. The Developer's obligations will be secured by a Performance Bond.

Staff has prepared an Agreement for Stormwater Facilities Maintenance and proposed form for the Performance Bond. The Town Engineer and the Developer agreed on a bond amount that is 20% of the Stormwater Facilities construction costs. That bond amount will be \$261,720.00. The Developer's obligations to maintain the private Stormwater Facilities are described in the Agreement.

The documents have been reviewed and approved by the Town Attorney and Town Engineer. Staff recommends that the documents be approved in substantially the form presented.

A Resolution approving this and the other documents presented during this meeting will be presented for consideration by the Council at the end of the meeting's agenda.

**Attachments:**

1. Performance Bond for Stormwater Facilities Maintenance, (3 pages);
2. Security Agreement for Stormwater Facilities Maintenance, (7 pages);
3. Exhibit A to the Maintenance Agreement, (Stormwater Facilities Operations & Maintenance Manual) (30 pages);
4. Exhibit B to the Maintenance Agreement, (Calculation of Performance Bond Amount) (2 pages); and,
5. Exhibit C to the Maintenance Agreement, (Stormwater Facilities Inspection Report Form) (To be completed prior to the start of the Council meeting).

**Staff Contact(s):**

Stephanie Fields, Town Clerk.  
Devin Jackson, Jackson Civil, Town Engineer.  
David W. Ridenour, Town Attorney.

*[To Be Executed on Letterhead of Institution Issuing Performance Bond]*

*[Original signatures and seals on document]*

*[To include an original Power of Attorney, provided by Surety]*

**PERFORMANCE BOND  
for Stormwater Facilities Maintenance**

**Bond No.** \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That Rotschy, LLC as Principal and \_\_\_\_\_  
\_\_\_\_\_ at \_\_\_\_\_, (Name and address of the Surety) a corporation, duly authorized to  
engage in a general surety business in the State of Washington as Surety, are jointly and severally held  
and bound unto the Town of Yacolt, a Washington municipal corporation, Obligee, in the sum of TWO  
HUNDRED SIXTY-ONE THOUSAND, SEVEN HUNDRED TWENTY AND no/100 DOLLARS,  
(\$261,720.00), for the payment of which we jointly and severally bind ourselves, our heirs, executors,  
administrators, successors and assigns, firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH THAT WHEREAS, Rotschy, LLC, the Principal herein,  
received a development approval from the Obligee on or about April 11, 2022 to construct a 47-lot  
residential subdivision known as the Railroad Avenue Subdivision in the Town of Yacolt, (hereafter the  
“Project”); and WHEREAS as a condition of the development approval the Principal is obligated to  
inspect and maintain certain Stormwater Facilities associated with the Project; this bond is necessary to  
ensure the Stormwater Facilities are inspected and maintained in compliance with Washington State law,  
the Yacolt Municipal Code and the “Security Agreement for Stormwater Facilities Maintenance”,  
(hereafter the “Agreement”) attached hereto as Exhibit “A” and made a part hereof, whereby said  
Principal undertakes to do all labor, furnish all plant and equipment, and furnish all material, in order to  
maintain said Stormwater Facilities in accordance with all the terms and conditions of development  
approval.

NOW, THEREFORE, if said Principal herein shall promptly pay all persons furnishing labor, services,  
material or insurance to said Principal; shall save harmless the Obligee, its officers and agents, from all  
claims therefrom, or from any claim for damages or injury to property or persons arising by reason of said  
work; and shall in the time and manner, and under the terms and conditions prescribed, well and faithfully  
do, perform and furnish all matters and things as are required of them in accordance with Exhibit A, the  
development approval, and as by law, state and national prescribed, then this obligation shall be void; but  
otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER, that this Bond is subject to the following further conditions:

a). All material men and all persons who shall supply such laborers, mechanics or subcontractors with  
material, supplies or provisions for carrying on such work, shall have a direct right of action against the  
Principal and Surety on this Bond, second only to the right of the Obligee under this Bond, which right of  
action shall be asserted in proceedings instituted in the appropriate court of the State of Washington, and  
insofar as permitted by the laws of the State of Washington, such right of action shall be asserted in a  
proceeding instituted in the name of the Obligee to the use and benefit of the person, firm or corporation  
instituting such action and of all persons, firms or corporations having a claim hereunder shall have the

right to be made a party to such proceeding (but not later than six (6) months after the complete performance of said Agreement and final settlement and judgment rendered thereon.)

b). Said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the specifications.

SEVERABILITY. The provisions of this Performance Bond are severable, and if for any reason any one or more of the provisions contained in this agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this agreement and this agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Bond to be executed in this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Principal (Print) \_\_\_\_\_

Principal Signature \_\_\_\_\_

Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

(Seal)

Surety (Print) \_\_\_\_\_

(Seal)

Surety Signature \_\_\_\_\_

Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Countersigned: \_\_\_\_\_

By: Resident Agent

Approved as to form:

\_\_\_\_\_  
David W. Ridenour  
Yacolt Town Attorney

COUNTY OF CLARK )

benefit of said company.

written.

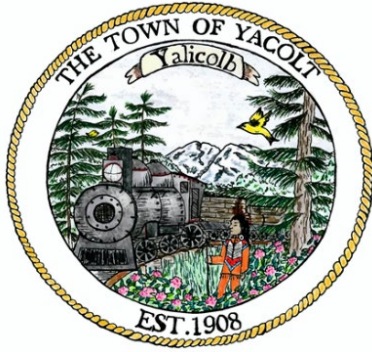
NOTARY PUBLIC in and for the  
State of Washington  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

COUNTY OF \_\_\_\_\_ )

Fact of the \_\_\_\_\_ Company, a Surety, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Surety, for the purposes therein mentioned, and on oath, stated that he or she was authorized to execute said instrument on behalf of said Surety, and the seal affixed thereto is the corporate seal of said Surety corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the  
State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**Town of Yacolt**  
**Building & Land Use Department**

202 W. Cushman Street  
Yacolt, WA 98675

Tel: (360) 686-3922

**Ian Shealy**  
Mayor

**Exhibit A**  
**to Performance Bond**  
**for Project Completion**

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**Security Agreement**  
**for Stormwater Facilities Maintenance**

**Developer:** Rotschy, LLC

**Development Permit:** Railroad Avenue Subdivision, Town of Yacolt, (the “*Project*”)

**Permit Approval Date:** On or about April 11, 2022, (including all subsequent conditions)

**Amount:** \$261,720.00 – (20% of Stormwater Facilities Construction Costs)

**Agreement**

THIS AGREEMENT is made by and between the Town of Yacolt, a Washington municipal corporation, (“*Town*” or “*Yacolt*”), and Rotschy, LLC, a Washington licensed limited liability company, (“*Rotschy*” or “*Developer*”).

**Whereas**, Rotschy is the current owner of real property situated in the Town of Yacolt, Clark County, Washington, identified as Assessor’s Tax Parcel #64522-000, and legally described as follows, (hereafter the “*Property*”):

#6 & #7 of Section 2 T4N R3E WM (20A), (PEND 1932 RAILROAD AVENUE SUBDIVISION),  
Clark County, Washington;

**Whereas**, the Property was approved by the Town for the development of a 47-lot subdivision subject to terms and conditions described in the Development Permit and related approval documents, (hereafter the “*Project*”);

**Whereas**, the Developer has agreed to abide by all laws of the Town and has agreed that the construction of the improvements and satisfaction of the conditions described in the Development Permit shall be in accordance with all plans, specifications and conditions submitted for the Project and accepted by the Town or otherwise included in the Project documents accepted by the Town, which plans, specifications, conditions, permit provisions and documents shall be deemed a part hereof as if fully set out herein;

**Whereas**, the Stormwater Facilities improvements for the Project are described in the Development Permit and associated documents, and include improvements located on public and private land that is not part of the Project site;

**Whereas**, as a condition of the Town's approval of the Project, the Stormwater Facilities for the Project are to be permanently established, inspected and maintained so that the Stormwater Facilities will function properly in perpetuity;

**Whereas**, the Developer has primary responsibility for maintaining the Project's Stormwater Facilities during the term of this Agreement pursuant to the standards described in the Development Permit and associated documents, including without limitation, the Project's Stormwater Facilities Operations and Maintenance Manual;

**Whereas**, the Developer's obligations under this Agreement may be treated as primary responsibilities by the Town, though future property owners of the subdivision properties and any association of such property owners shall also be responsible for maintenance of the Stormwater Facilities pursuant to the Declaration of Easements, Covenants, Conditions and Restrictions for Maintenance of Stormwater Facilities recorded concurrently with the Project's Final Plat;

**Whereas**, the approval granted by the Town for the Project, as well as the provisions of State law and the Yacolt Municipal Code, require that the Stormwater Facilities and related improvements for the Project be subject to a maintenance and monitoring agreement secured by a performance bond for a period of two (2) years after completion of the Project; and,

**Whereas**, the parties have agreed upon an Operations and Maintenance Manual for the Stormwater Facilities, (Exhibit "A"); the amount of the Performance Bond that shall secure the terms of this Agreement, (Exhibit "B"); and a Stormwater Facilities Inspection Report Form, (Exhibit "C"), all of which Exhibits are hereby made a part of this Agreement:

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, and to ensure the performance of the conditions required for the Town's approval of the Developer's Project, it is hereby agreed as follows:

- 1. Stormwater Facilities Defined:** The "Stormwater Facilities" which are the subject of this Agreement include:
  - 1.1. Facilities Within the Subdivision.** The parcel identified as "Tract A – Stormwater Facility" of the Project Plat, consisting of a stormwater detention pond and other improvements, measures and best management practices designed to control and/or reduce the amount of stormwater runoff from the Property; and,
  - 1.2. Facilities in Other Private Property.** Stormwater Facilities rights and improvements which are the subject of the certain Grant of Easement dated December 11, 2023 between Jorgensen Timber, LLC as Grantor, and Rotschy, LLC and the Town of Yacolt as Grantees, which



document was recorded with the Clark County Auditor's Office on December 12, 2023 under recording number 6157182-EAS, said improvements being comprised of a trench, pipe, and related improvements.

2. **Term of Agreement:** Rotschy agrees to monitor and maintain all Stormwater Facilities including any subsequent alteration thereof for a term of two (2) years from the date of this Agreement or the date of recording of the final Plat for the Project, whichever is later, (unless this term is extended pursuant to the terms of this Agreement).
3. **Developer's Obligations:**
  - 3.1. Maintenance Standards. During the term of this Agreement, Rotschy shall be responsible for the Stormwater Facilities' continual performance, operation and maintenance in accordance with the original design of such Stormwater Facilities as described by the standards and requirements of the Stormwater Management Manual for the Puget Sound Basin (as amended); the Operations and Maintenance Manual for the Project, (attached hereto as Exhibit "A"); and any other applicable law or associated documents from the Development Permit. A copy of the Operations and Maintenance Manual shall be transferred by the Developer to the Railroad Avenue Subdivision Homeowner's Association.
  - 3.2. Inspections. The Developer agrees to inspect the Stormwater Facilities as reasonably necessary or as directed by the Town, but no less frequent than once in 2024 and once in 2025, during the month of July or August. The Developer agrees to submit reports to the Town following each inspection. The reports must be filed with the Town within fifteen (15) days of each inspection, and shall include, at a minimum, the information requested in the Private Stormwater Facilities Inspection Form, attached hereto as Exhibit C.
  - 3.3. Maintenance Work. The Developer agrees to complete the necessary monitoring and maintenance of the Stormwater Facilities as required by the above standards or as requested by the Town. The Developer agrees to promptly and satisfactorily correct any deficiencies in the Stormwater Facilities and make any repairs, including emergency repairs, during the term of this Agreement. Any and all work performed by the Developer pursuant to this Agreement shall be in accordance with the Project's standards described herein. The Town shall be given at least twenty-four (24) hours' notice prior to the commencement of any work performed.
  - 3.4. Cost of Inspections and Maintenance Work. Inspections, monitoring and maintenance shall be completed at the sole expense of the Developer, its successors and assigns. The Developer shall promptly pay all persons furnishing labor, services, or materials to the Project; shall hold the Town, its officers and agents harmless from all claims therefrom, or from any claim for damages or injury to property or persons arising by reason of said work; and shall in the time and manner, and under the terms and conditions prescribed, well and faithfully do, perform and furnish all matters and things as are required of them in accordance with the Development Permit and applicable law.
  - 3.5. Yacolt's Authority to Inspect and Direct Inspection and Maintenance Work. The Stormwater Facilities shall be subject to inspection by the Town to ensure that maintenance standards and schedules are followed. If the Town determines that the Stormwater Facilities are not being adequately maintained, the Town may notify the Developer of the deficiencies. With the exception of emergency work, restoration work must commence within thirty (30) days of written notice to the Developer by the Town and be completed in an approved manner no

later than sixty (60) days following notice, unless a shorter or greater time period is specified or agreed to by the Town. The Town may revise the Exhibit C 'Stormwater Facilities Inspection Report Form' from time to time if the Town deems the change to be helpful or necessary.

- 3.6. Primary Responsibility. The Developer agrees that, as between the Developer and any other party that may be responsible for maintaining the Stormwater Facilities during the term of this Agreement, the Developer shall be primarily responsible for such work.
4. **Security for Performance:** The Developer will post a Performance Bond with the Town Clerk that secures the conditions described in this Agreement in the sum of TWO HUNDRED SIXTY-ONE THOUSAND, SEVEN HUNDRED TWENTY AND no/100 DOLLARS, (\$261,720.00), in a form, manner of execution and from a surety acceptable to the Town of Yacolt in its sole discretion.
5. **Final Inspection:** The Town will perform an inspection of the Stormwater Facilities approximately thirty (30) days before the end of the original two-year term. The Town must present any final demand for the Developer's failure to perform its obligations according to the terms of this Agreement within thirty (30) days after the end of the original two-year term. The term of this Agreement shall be extended until the Developer has corrected all deficiencies in an approved manner.
6. **Breach of Developer's Obligations:** In the event of Developer's default of its obligations under this Agreement, the Town's employees and agents are authorized to enter onto the Project Property and perform the work contemplated by this Agreement. Rotschy agrees to promptly reimburse the Town for any work or repairs performed by the Town or its agents.
7. **No Agreement by Town to Repair Facilities:** Nothing contained in this Agreement shall be construed as creating an obligation on the part of the Town or its representatives to perform the work for which the Developer is responsible under this Agreement.
8. **Liability of Performance Bond:** In the event of Developer's default of its obligations under this Agreement, the Town shall have the right to execute on the Performance Bond up to the maximum amount of said Bond and to satisfy the Developer's obligations, or any part thereof, and to pay any maintenance costs, repair costs, and engineering or legal fees over and above the amount of the Performance Bond. The surety shall accept as full and complete evidence of default and of the resulting right of the Town of Yacolt to complete said Project a copy of a resolution adopted by the Yacolt Town Council declaring said default and the intention of the Town to fulfill the Developer's obligations under this Agreement. The surety is authorized and required to release the funds within five calendar days of presentment of such resolution and a certification by the Town Clerk of the Town of Yacolt that the funds will be used for completion of inspections, maintenance, repairs and associated costs and fees required of the Developer under this Agreement. Surety hereby agrees that requests presented by the Town in accordance with this Agreement shall be duly honored. As part of the Agreement secured by the Performance Bond and in addition to the face amount of the Performance Bond specified herein, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the Town in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Funds may be demanded by the Town from the Performance Bond from time to time, in one or more demands or draws, in amounts not exceeding in the aggregate the amount of the Performance Bond specified above. Payments based on partial demands shall reduce the remaining Performance Bond amount thereafter available for demand under the Performance Bond.

9. **Developer's Liability is Not Limited to Amount of Performance Bond:** The Developer hereby acknowledges that its obligation to perform the required completion work secured hereby is not limited to the amount of funds secured by the Performance Bond to be provided under this Agreement. The Developer understands and agrees that, in the event the actual cost of completing said improvements plus applicable fees and costs shall exceed the amount of the Performance Bond, the Developer is in no way relieved by this Agreement from the obligation to pay the amount of such excess.
10. **Release of Surety's Obligations:** Upon the completion of all inspections, maintenance and repair work required under this Agreement, including under Section 5 above, and upon the satisfaction of the Town Engineer with a final inspection of the Stormwater Facilities, and upon payment of any costs and fees incurred by the Town and recoverable under this Agreement, the surety shall be released from its obligations hereunder.
11. **Replacement of Performance Bond:** If the surety on the Performance Bond furnished by the Developer is declared bankrupt, or becomes insolvent, or its right to do business in terminated in the State of Washington, or its liability to the Town during the term of this Agreement is terminated for any reason, the Developer shall, within twenty (20) calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the Town.
12. **Agreement to Pay Processing Costs:** Rotschy agrees that the Town's costs to prepare and/or review this and other agreements and documents for the Project are payable by Rotschy under the Town's Cost Recovery Agreement with the Developer.
13. **Notices:** All notices and other communications between the parties shall be in writing and shall be hand-delivered or mailed by first-class mail, postage prepaid, as follows:
- |                      |   |
|----------------------|---|
| If to the Town:      | Town of Yacolt<br>202 W. Cushman Street<br>P.O. Box 160<br>Yacolt, WA 98675<br>360-686-3922<br>Email: <a href="mailto:clerk@townofyacolt.com">clerk@townofyacolt.com</a>  |
| If to the Developer: | Rotschy, LLC<br>7408 N.E. 113 <sup>th</sup> Circle<br>Vancouver, WA 98662<br>360-748-7200<br>Email: <a href="mailto:cornellr@rotschyinc.com">cornellr@rotschyinc.com</a> or<br><a href="mailto:jordan.rotschy@rotschyinc.com">jordan.rotschy@rotschyinc.com</a> |
14. **Time of the Essence:** Time is of the essence with respect to the performance of each of the covenants and agreements set forth herein.
15. **Further Assurances:** The parties shall execute and deliver such other documents and instruments and take such further actions as may be reasonably necessary or required to consummate the transactions contemplated by this Agreement.
16. **Successors and Assigns:** This Agreement and the rights, duties and obligations hereunder may not be assigned or delegated by Rotschy without the prior written consent of the Town. This

Agreement and the covenants, provisions and conditions described herein shall be binding upon the parties hereto, their successors and assigns.

17. **Modification:** Neither this Agreement nor any term or provision hereof may be changed, waived, discharged, amended, modified or terminated orally, or in any manner other than by an instrument in writing signed by the parties hereto.
18. **Non-Waiver:** The failure of any party hereto to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any option or right herein conferred, in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option or right, or of any other covenants or agreements, but the same shall be and remain in full force and effect.
19. **Attorney's Fees:** The parties agree that in the event any legal action is taken to enforce the provisions of this Agreement or to collect payment due under the terms of this Agreement, the prevailing party shall be entitled to an award for its costs and reasonable attorney's fees. Said costs and reasonable attorney's fees shall be recoverable by the prevailing party against the other party in any amount and shall not be limited by the amount of the Performance Bond.
20. **Venue and Choice of Law:** The parties agree that this Agreement shall be governed by the laws of the State of Washington and that they are subject to the jurisdiction of the State of Washington. Venue for any litigation arising out of this Agreement shall be in Clark County Superior Court.
21. **Remedies Cumulative:** The rights and remedies described in this Agreement are cumulative and the use of any one right or remedy shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
22. **Representation:** The parties understand that this Agreement has been prepared by the attorney for the Town. The Developer has obtained the advice of its own counsel with respect to its rights and obligations under this Agreement, or has had the opportunity to seek such advice. The Developer agrees that it is not relying on any representations or advice by the Town or its attorney and that it has satisfied itself as to the terms, duties and risks of signing this Agreement. Each party intends that this Agreement in all respects shall be deemed and construed to be equally and mutually prepared by all parties, and it is hereby expressly agreed that any uncertainty or ambiguity shall not be construed in favor of or against any party.
23. **Severability:** The provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.
24. **Incorporation of Recitals:** Any recitals and background information at the beginning of this Agreement are contractual and shall be considered or referred to in resolving questions of interpretation or construction.

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- 25. Multiple Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in Yacolt, Washington, this \_\_\_\_\_ day of January, 2024.

**ROTSCHY, LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

**TOWN OF YACOLT**

\_\_\_\_\_  
by: Ian Shealy  
its: Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
by: Stephanie Fields  
its: Town Clerk

\_\_\_\_\_  
Date

# **Exhibit “A”**

## **Railroad Avenue Subdivision Stormwater Facilities Operations and Maintenance Manual**

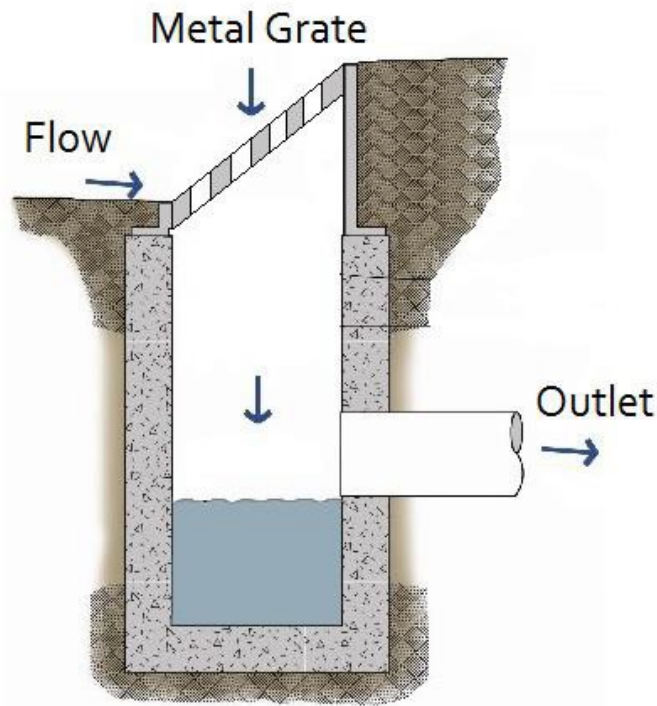
## Field Inlet

A field inlet is a concrete structure fitted with a slotted grate to collect stormwater runoff and route it through underground pipes.

Field inlets typically provide a storage volume (sump) below the outlet pipe to allow sediments and debris to settle out of the stormwater runoff. Some field inlets are fitted with a spill control device (inverted elbow on outlet pipe) intended to contain large quantities of grease or oils.

Facility objects that are typically associated with a field inlet include:

- access road or easement
- control structure/flow restrictor
- biofiltration swale
- detention pond
- infiltration trench



## Key Operations and Maintenance Considerations

- The most common tool for cleaning field inlets is a truck with a tank and vacuum hose (Vactor® truck) to remove sediment and debris from the sump.

- A field inlet may be an enclosed space where harmful chemicals and vapors can accumulate. Therefore, if the inspection and maintenance requires entering a field inlet, it should be conducted by an individual trained and certified to work in hazardous confined spaces.

Field Inlet			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Trash or debris which is located immediately in front of the catch basin opening or is blocking inletting capacity of the field inlet by more than 10%.	No trash or debris located immediately in front of field inlet or on grate opening.
		Trash or debris (in the field inlet) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe.	No trash or debris in the field inlet.
		Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height.	Inlet and outlet pipes free of trash or debris.
		Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No dead animals or vegetation present within the field inlet.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the field inlet.
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch. (Intent is to make sure no material is running into basin).	Top slab is free of holes and cracks.
		Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached.	Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in Basin Walls/ Bottom	Maintenance person judges that structure is unsound.	Basin replaced or repaired to design standards.
		Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering field inlet through cracks.	Pipe is regouted and secure at basin wall.
	Settlement/ Misalignment	If failure of basin has created a safety, function, or design problem.	Basin replaced or repaired to design standards.



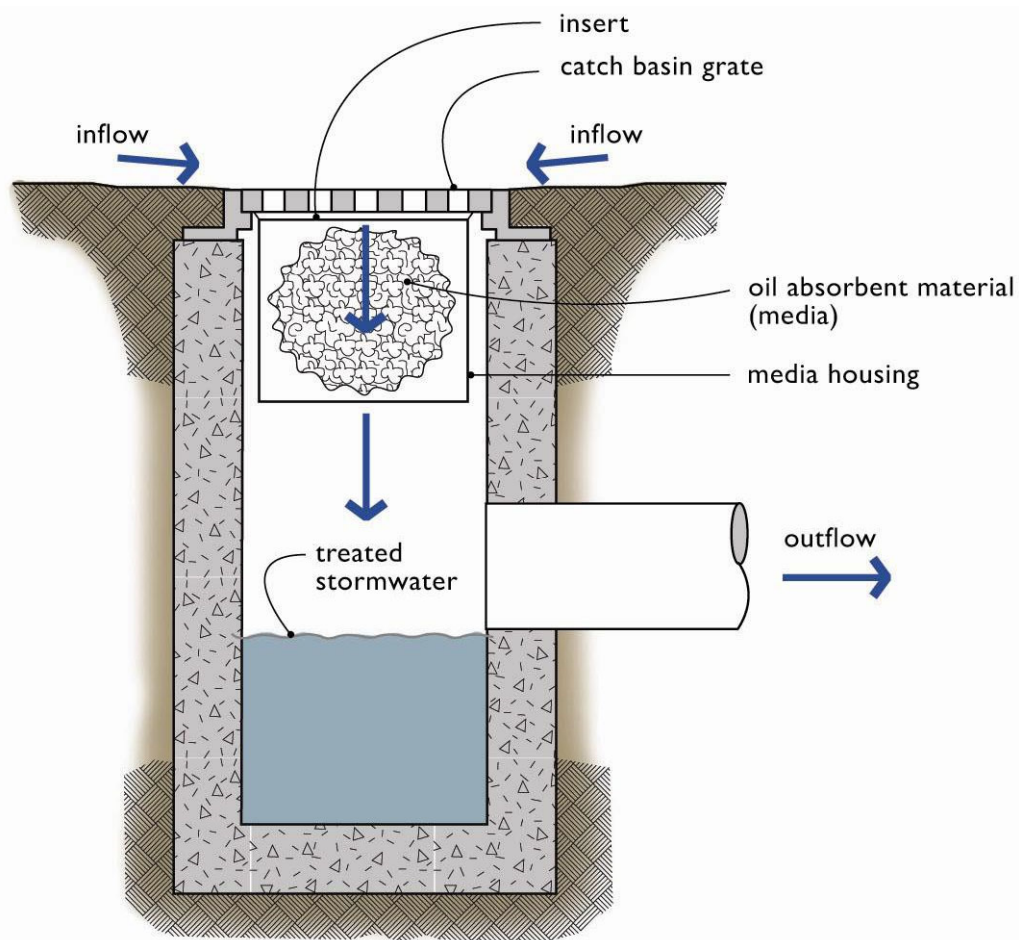
Field Inlet			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
	Vegetation Inhibiting System	Vegetation growing across and blocking more than 10% of the basin opening.	No vegetation blocking opening to basin.
		Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation or root growth present.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
Metal Grates	Grate Not in Place	Cover is missing or only partially in place. Any open field inlet requires maintenance.	Field inlet cover is closed.
	Grate Opening Unsafe	Grate with opening wider than 3 inches.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing	Grate missing or broken member(s) of the grate.	Grate is in place and meets design standards.

## Catch Basin Insert

Catch basin inserts are used to trap sediment and oil entering catch basins. Most involve some type of filter media and oil-absorbent pads. Filters avoid flooding by overflowing when they become clogged or when there are high storm flows.

Catch basin inserts typically consist of the following components:

- A structure (screened box, brackets, etc.) which contains a pollutant removal medium
- A means of suspending the structure in a catch basin
- A filter medium such as sand, carbon, fabric, etc.
- A primary inlet and outlet for the stormwater
- A secondary outlet for bypassing flows that exceed design flow



## Key Operations and Maintenance Considerations

- Catch basin inserts are proprietary; refer to the manufacturer's instructions for inspection and maintenance.
- Some catch basin inserts do not require specialized tools and can be removed and replaced by hand.
- See Catch Basins for additional considerations.

Catch Basin Insert			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Sediment Accumulation	When sediment forms a cap over the insert media of the insert and/or unit.	No sediment cap on the insert media and its unit.
	Trash and Debris Accumulation	Trash and debris accumulates on insert unit creating a blockage/restriction.	Trash and debris removed from insert unit. Runoff freely flows into catch basin.
	Media Insert Not Removing Oil	Effluent water from media insert has a visible sheen.	Effluent water from media insert is free of oils and has no visible sheen.
	Media Insert Water Saturated	Catch basin insert is saturated with water and no longer has the capacity to absorb.	Media insert has been replaced.
	Media Insert Oil Saturated	Media oil saturated due to petroleum spill that drains into catch basin.	Media insert has been replaced.
	Media Insert Use Beyond Normal Product Life	Media has been used beyond the typical average life of media insert product.	Media removed and replaced at regular intervals (frequency depending on insert product).

## Catch Basin

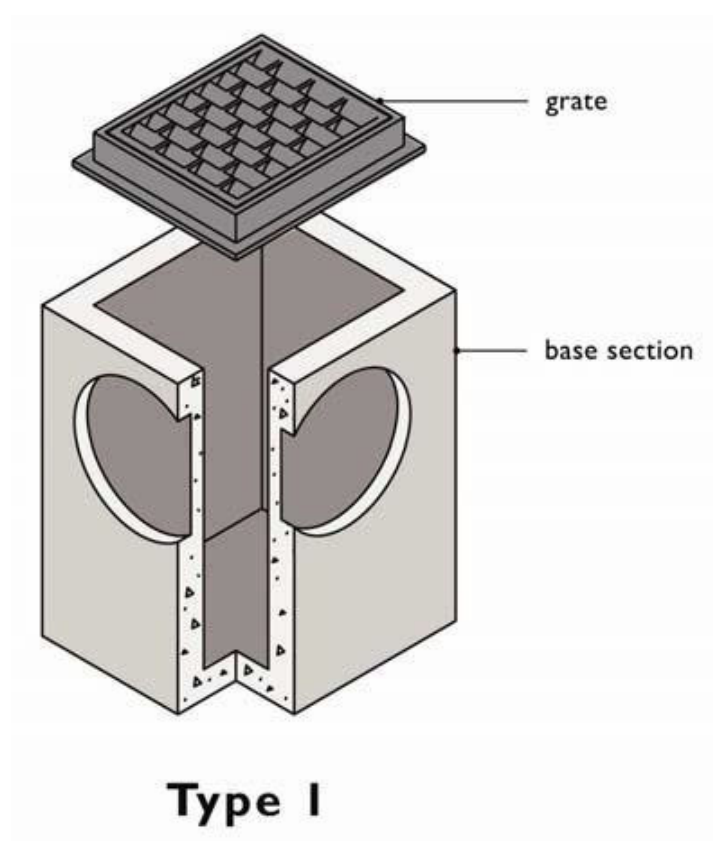
A catch basin is an underground concrete structure typically fitted with a slotted grate to collect stormwater runoff and route it through underground pipes. Catch basins can also be used as a junction in a pipe system and may have a solid lid. There are two types.

A Type 1 catch basin is a rectangular box with approximate dimensions of 3'x2'x5'. Type 1 catch basins are utilized when the connected conveyance pipes are less than 18 inches in diameter and the depth from the gate to the bottom of the pipe is less than 5 feet.

A Type 2 catch basin, also commonly referred to as a storm manhole, is listed separately under “Manhole” in this book.

Catch basins typically provide a storage volume (sump) below the outlet pipe to allow sediments and debris to settle out of the stormwater runoff. Some catch basins are also fitted with a spill control device (inverted elbow on outlet pipe) intended to contain large quantities of grease or debris.

Catch basins are frequently associated with all stormwater facilities.



## Key Operations and Maintenance Considerations

- The most common tool for cleaning catch basins is an industrial vacuum truck with a tank and vacuum hose (e.g. Vactor® truck) to remove sediment and debris from the sump.
- A catch basin may be an enclosed space where harmful chemicals and vapors can accumulate. Therefore, if the inspection and maintenance requires entering a catch basin, it should be conducted by an individual trained and certified to work in hazardous confined spaces.

Catch Basin			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Trash or debris which is located immediately in front of the catch basin opening or is blocking inletting capacity of the basin by more than 10%.	No trash or debris located immediately in front of catch basin or on grate opening.
		Trash or debris (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe.	No trash or debris in the catch basin.
		Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height.	Inlet and outlet pipes free of trash or debris.
		Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No dead animals or vegetation present within the catch basin.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the catch basin.
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch.  (Intent is to make sure no material is running into basin.)	Top slab is free of holes and cracks.
		Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached.	Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in	Maintenance person judges that structure is unsound.	Basin replaced or repaired to design standards.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

	Basin Walls/ Bottom	Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering catch basin through cracks.	Pipe is regouted and secure at basin wall.
	Settlement/ Misalignment	If failure of basin has created a safety, function, or design problem.	Basin replaced or repaired to design standards.
	Vegetation Inhibiting System	Vegetation growing across and blocking more than 10% of the basin opening.	No vegetation blocking opening to basin.
		Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation or root growth present.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
Catch Basin Cover	Cover Not in Place	Cover is missing or only partially in place. Any open catch basin requires maintenance.	Catch basin cover is closed.
	Locking Mechanism Not Working	Mechanism cannot be opened by one maintenance person with proper tools. Bolts into frame have less than 1/2 inch of thread.	Mechanism opens with proper tools.
	Cover Difficult to Remove	One maintenance person cannot remove lid after applying normal lifting pressure (Intent is to keep cover from sealing off access to maintenance).	Cover can be removed by one maintenance person.
Metal Grates (If Applicable)	Grate Opening Unsafe	Grate with opening wider than 7/8 inch.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing	Grate missing or broken member(s) of the grate.	Grate is in place and meets design standards.
Oil/Debris Trap (If Applicable)	Dislodged	Oil or debris trap is misaligned with or dislodged from the outlet pipe.	Trap is connected to and aligned with outlet pipe.

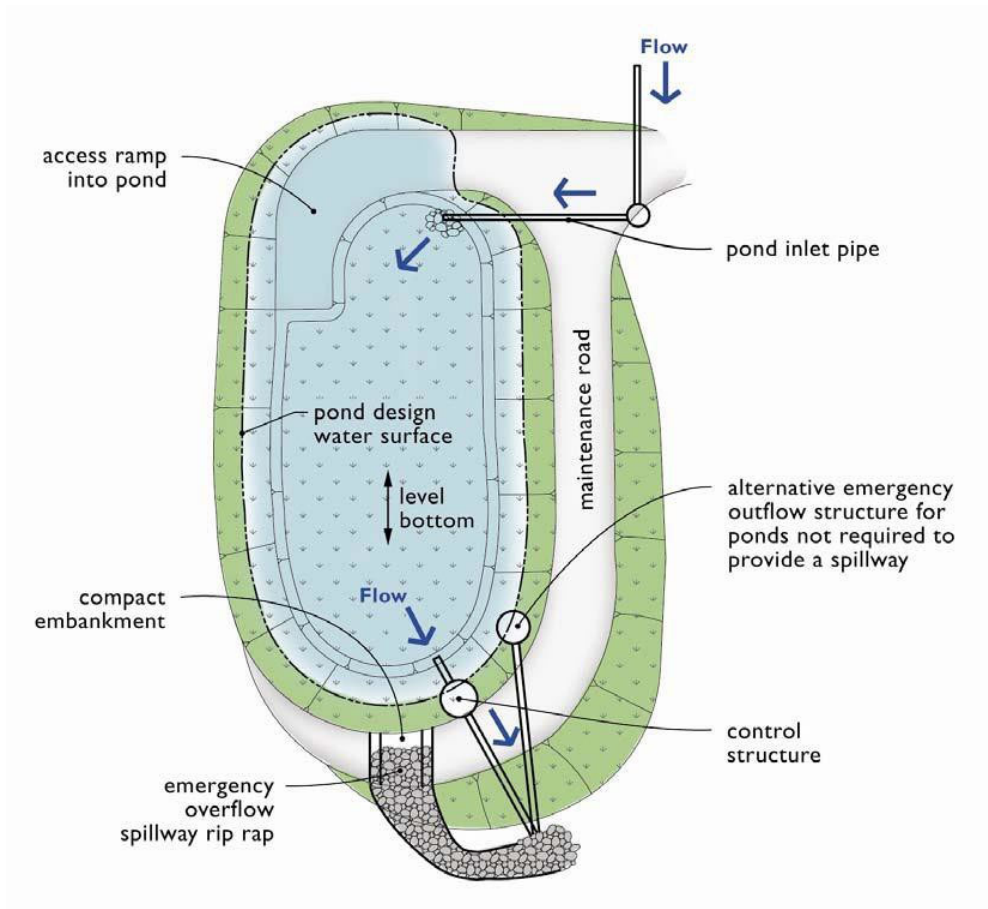


## **Detention Pond**

A stormwater detention pond is an open basin built by excavating below existing ground or by constructing above-ground berms (embankments). The detention pond temporarily stores stormwater runoff during rain events and slowly releases it through an outlet (control structure). Detention ponds are typically designed to completely drain within 24 hours after the completion of a storm event. Styles vary greatly from well-manicured to natural appearing. Generally, more natural-appearing vegetation is preferred for reduced maintenance and enhanced wildlife habitat.

Facility objects that are typically associated with a detention pond include:

- access road or easement
- fence, gate, and water quality sign
- typical bioswale
- wet bioswale
- media filter cartridge
- control structure/flow restrictor
- energy dissipaters
- conveyance stormwater pipe



**Example of a Manicured Detention Pond**

## Key Operations and Maintenance Considerations

- Maintenance is of primary importance if detention ponds are to continue to function well.
- Sediment should be removed when the standards in the defect table are exceeded. Sediments must be disposed in accordance with current local health department requirements and the Minimum Functional Standards for Solid Waste Handling. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.
- Handle sediments removed during the maintenance operation in a manner consistent with [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.
- If a shallow marsh has established, then contact Clark County Department of Environmental Services for advice.
- Maintenance of sediment forebays and attention to sediment accumulation within the pond is extremely important. Continually monitor sediment deposition in the basin. Owners, operators, and maintenance authorities should be aware that significant concentrations of metals (e.g., lead, zinc, and cadmium) as well as some organics such as pesticides, may be expected to accumulate at the bottom of these types of facilities. Regularly conduct testing sediment, especially near points of inflow, to determine the leaching potential and level of accumulation of potentially hazardous material before disposal.
- Slope areas that have become bare should be revegetated and eroded areas should be regraded prior to being revegetated.
- A common tool for cleaning detention ponds is a small bulldozer or excavator to remove built-up sediment and debris from the bottom of the pond during the dry season.

## Plant Material

**Table 1: Stormwater Tract "Low Grow" Seed Mix\* for Detention Pond**

Stormwater Tract "Low Grow" Seed Mix*		
<u>Botanical Name</u>	<u>Common Name</u>	<u>% By Weight</u>
<i>Festuca arundinacea</i> var.	Dwarf tall fescue	40%
<i>Lolium perenne</i> var. <i>barclay</i>	Dwarf perennial rye** 'Barclay'	30%
<i>Festuca rubra</i>	Red fescue	25%
<i>Agrostis tenius</i>	Colonial bentgrass	5%
<p>Selected plants shall not include any plants from the State of Washington Noxious Weed Board: <a href="https://www.nwcb.wa.gov/">https://www.nwcb.wa.gov/</a> and local Clark County Noxious Weed List: <a href="https://www.clark.wa.gov/public-works/vegetation-management">https://www.clark.wa.gov/public-works/vegetation-management</a>.</p> <p>Also please refer to the State of Washington quarantine list for plants prohibited for sale: <a href="https://www.nwcb.wa.gov/noxious-weed-quarantine-list">https://www.nwcb.wa.gov/noxious-weed-quarantine-list</a></p>		
<p>*Adapted from Portland Bureau of Environmental Services 2014 <i>Stormwater Management Manual</i>, Appendix F.4., Planting Templates and Plant Lists</p> <p>** Plant species allowed in Clark County street Rights of Way</p>		

## Detention Pond

Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Any trash and debris which exceed 1 cubic foot per 1,000 square feet. In general, there should be no visual evidence of dumping.  If less than threshold all trash and debris will be removed as part of next scheduled maintenance.	Site is free of trash and debris.
	Poisonous Plants and Noxious Weeds	Any poisonous plants or nuisance vegetation which may constitute a hazard to maintenance personnel or the public.  Any evidence of noxious weeds as defined by State or local regulations.  (Coordinate with Clark County Environmental Services Department, Vegetation Management Program.)	No danger of poisonous vegetation where maintenance personnel or the public might normally be.  Eradication of Class A weeds as required by State law. Control of Class B weeds designated by Clark County Weed Board. Control of other listed weeds as directed by local policies.  Apply requirements of adopted IPM policy for the use of herbicides.
	Vegetation Growth and Hazard Trees	Vegetation growth does not allow maintenance access or interferes with maintenance activity (i.e., slope mowing, silt removal, vacuuming, or equipment movements). If trees are not interfering with access or maintenance, do not remove.  Dead, diseased, or dying trees are identified. (Use a certified Arborist to determine health of tree or removal requirements.)	Vegetation do not hinder maintenance activities. Harvested vegetation should be recycled into mulch or other beneficial uses (e.g., alders for firewood).  Remove hazard trees.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. (Coordinate removal/cleanup with local water quality response agency.)	No contaminants or pollutants present.
	Rodent Holes	Any evidence of rodent holes if facility is acting as a dam or berm, or any evidence of water piping through dam or berm via rodent holes.	Rodents destroyed and dam or berm repaired. (Coordinate with Clark County Maintenance and Operations department; coordinate with Ecology Dam Safety Office if pond exceeds 10 acre-feet.)
	Beaver Dams	Dam results in change or function of the facility.	Facility is returned to design function. (Coordinate trapping of beavers and removal of dams with appropriate permitting agencies.)
	Insects	When insects such as wasps and hornets interfere with maintenance activities.	Insects destroyed or removed from site.  Apply insecticides in compliance with adopted Clark County Operations and Maintenance policies.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

Side Slopes of Pond	Erosion	<p>Eroded damage over 2 inches deep where cause of damage is still present or where there is potential for continued erosion.</p> <p>Any erosion observed on a compacted berm embankment.</p>	<p>Slopes have been stabilized using appropriate erosion control measure(s); e.g., rock reinforcement, planting of grass, compaction.</p> <p>If erosion is occurring on compacted berms a licensed civil engineer should be consulted to resolve source of erosion.</p>
Storage Area	Sediment	Accumulated sediment that exceeds 10% of the designed pond depth unless otherwise specified or affects inletting or outletting condition of the facility.	Sediment cleaned out to designed pond shape and depth; pond reseeded if necessary to control erosion.
	Liner (If Applicable)	Liner is visible and has more than three 1/4-inch holes in it.	Liner repaired or replaced. Liner is fully covered.
Pond Berms (Dikes)	Settlements	Any part of berm which has settled 4 inches lower than the design elevation.	Dike is built back to the design elevation.
		If settlement is apparent, measure berm to determine amount of settlement.	
		Settling can be an indication of more severe problems with the berm or outlet works. A licensed civil engineer should be consulted to determine the source of the settlement.	
	Piping	Discernible water flow through pond berm. Ongoing erosion with potential for erosion to continue.	Piping eliminated. Erosion potential resolved.
		(Recommend a Geotechnical engineer be called in to inspect and evaluate condition and recommend repair of condition.	
Emergency Overflow/ Spillway and Berms Over 4 Feet in Height	Tree Growth	<p>Tree growth on emergency spillways creates blockage problems and may cause failure of the berm due to uncontrolled overtopping.</p> <p>Tree growth on berms over 4 feet in height may lead to piping through the berm which could lead to failure of the berm.</p>	<p>Trees removed. If root system is small (base less than 4 inches) the root system may be left in place. Otherwise the roots should be removed and the berm restored. A licensed civil engineer should be consulted for proper berm/spillway restoration.</p>
	Piping	<p>Discernible water flow through pond berm. Ongoing erosion with potential for erosion to continue.</p> <p>(Recommend a Geotechnical engineer be called in to inspect and evaluate condition and recommend repair of condition.)</p>	Piping eliminated. Erosion potential resolved.

Emergency Overflow/ Spillway	Rock Missing	Only one layer of rock exists above native soil in area five square feet or larger, or any exposure of native soil at the top of flow path of spillway.  (Rip-rap on inside slopes need not be replaced.)	Rocks and pad depth are restored to design standards.
	Erosion	Eroded damage over 2 inches deep where cause of damage is still present or where there is potential for continued erosion.  Any erosion observed on a compacted berm embankment.	Slopes have been stabilized using appropriate erosion control measure(s); e.g., rock reinforcement, planting of grass, compaction.  If erosion is occurring on compacted berms a licensed civil engineer should be consulted to resolve source of erosion.

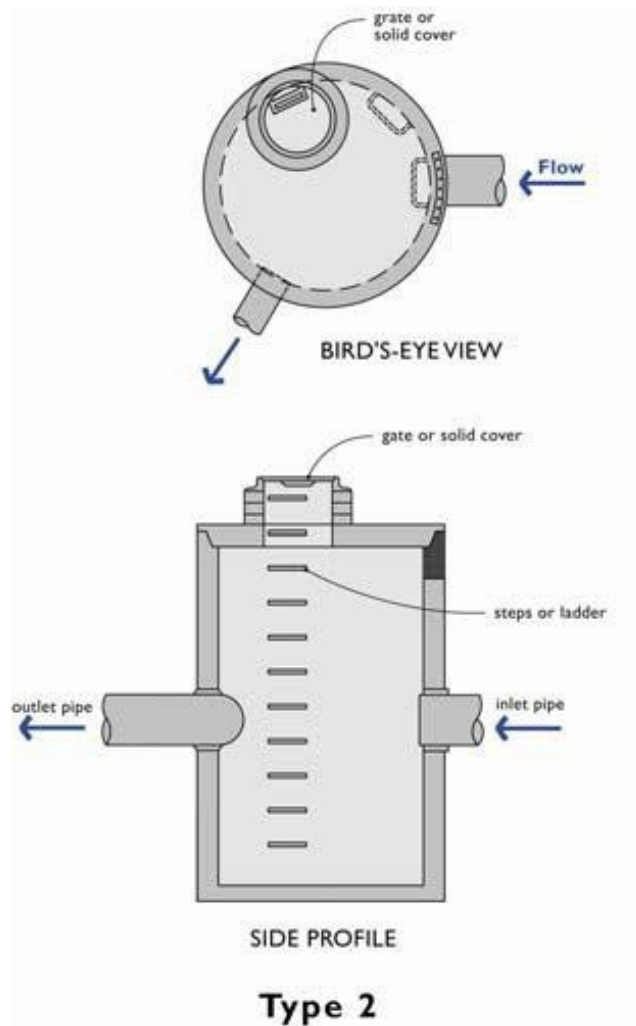
## Manhole

A manhole is an underground concrete structure typically fitted with a slotted grate to collect stormwater runoff and route it through underground pipes. Manholes can also be used as a junction in a pipe system and may have a solid lid. A manhole is also known as a Type 2 catch basin.

Manholes are round concrete structures ranging in diameter from 4 feet to 8 feet. They are used when the connecting conveyance pipe is 18 inches or greater or the depth from grate to pipe bottom exceeds 5 feet. Manholes typically have steps mounted on the side of the structure to allow access.

Manholes typically provide a storage volume (sump) below the outlet pipe to allow sediments and debris to settle out of the stormwater runoff. Some manholes are also fitted with a spill control device (inverted elbow on outlet pipe) intended to contain large quantities of grease or oils.

Manholes are often associated with other stormwater facilities.





## Key Operations and Maintenance Considerations

- The most common tool for cleaning manholes is a truck with a tank and vacuum hose (Vactor® truck) to remove sediment and debris from the sump.
- A manhole may be an enclosed space where harmful chemicals and vapors can accumulate. Therefore, if the inspection and maintenance requires entering a manhole, it should be conducted by an individual trained and certified to work in hazardous confined spaces.

Manhole			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Trash or debris which is located immediately in front of the opening or is blocking inletting capacity of the basin by more than 10%.	No trash or debris located immediately in front of manhole or on grate opening.
		Trash or debris (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe.	No trash or debris in the basin.
		Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height.	Inlet and outlet pipes free of trash or debris.
		Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No dead animals or vegetation present within the catch basin.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the basin.
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch. (Intent is to make sure no material is running into manhole.)	Top slab is free of holes and cracks.
		Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached.	Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in Basin Walls/ Bottom	Maintenance person judges that structure is unsound.	Basin replaced or repaired to design standards.
		Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering manhole through cracks.	Pipe is regouted and secure at basin wall.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

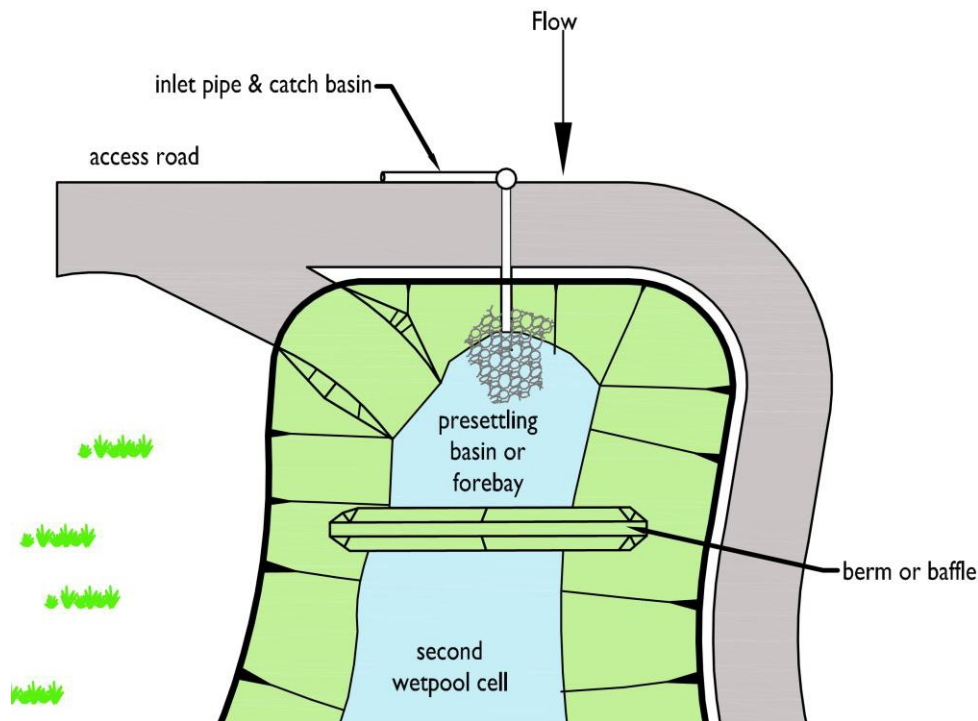
	Settlement/ Misalignment	If failure of manhole has created a safety, function, or design problem.	Manhole replaced or repaired to design standards.
	Vegetation Inhibiting System	Vegetation growing across and blocking more than 10% of the opening.	No vegetation blocking opening to manhole.
		Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation or root growth present.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>• Identify and remove source, AND</li> <li>• Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
Manhole Cover	Cover Not in Place	Cover is missing or only partially in place. Any open manhole is a safety hazard and requires immediate maintenance.	Manhole cover is closed.
	Locking Mechanism Not Working	Mechanism cannot be opened by one maintenance person with proper tools. Bolts into frame have less than 1/2 inch of thread.	Mechanism opens with proper tools.
	Cover Difficult to Remove	One maintenance person cannot remove lid after applying normal lifting pressure (Intent is to keep cover from sealing off access to maintenance).	Cover can be removed by one maintenance person.
Ladder	Ladder Rungs Unsafe	Ladder is unsafe due to missing rungs, not securely attached to manhole wall, misalignment, rust, cracks, or sharp edges.	Ladder meets design standards and allows maintenance person safe access.
Metal Grates (If Applicable)	Grate Opening Unsafe	Grate with opening wider than 7/8 inch.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing	Grate missing or broken member(s) of the grate.	Grate is in place and meets design standards.

## Presettling Basin (Forebay or Pretreatment)

A presettling basin is a closed or open basin, preceding another treatment or flow control facility, which retains a permanent pool of water (wetpool) year-round or during the wet season. The presettling basin allows solids and sediments to settle out of stormwater before water moves to the subsequent basin for infiltrations or further treatment.

Facility objects associated with a presettling basin may include:

- access road or easement
- inlet
- catch basin
- berm or baffle
- control structure/flow restrictor



## Key Operations and Maintenance Considerations

- Slope areas that have become bare should be revegetated and eroded areas should be regraded prior to being revegetated.
- Sediment must be disposed in accordance with current local health department requirements and the Minimum Functional Standards for Solid Waste Handling. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.

- Any standing water removed during the maintenance operation must be properly disposed of. The preferred disposal option is discharge to a sanitary sewer at an approved location. Other disposal options include discharge back into the wetpool facility or the storm sewer system if certain conditions are met. For additional guidance see [Book 3, Appendix 3-E, Recommendations for Management of Street Waste](#).

Presettling Basin			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Water Level	First cell is empty, doesn't hold water.	First cell lined to maintain at least 4 feet of water. Although the second cell may drain, the first cell must remain full to control turbulence of the incoming flow and reduce sediment resuspension.
	Trash and Debris	Accumulation that exceeds 1 CF per 1,000-SF of pond area.	Trash and debris removed from pond.
	Sediment Accumulation in Pond Bottom	Cattail or other emergent, rooted vegetation covers 50% of the basin surface area AND there is clear indication that stormwater inflow or facility effectiveness is being impeded.	Remove vegetation and sediment in the Presettling Cell as necessary so that:  Remaining vegetation covers no more than 25% of the basin surface area;  Inflow not impeded;.  Generally retain vegetation at wetland or wet pond boundary.
	Oil Sheen on Water	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	Oil not present on pond surface. Oil has been removed from water using oil-absorbent pads or Vactor® truck. Source of oil located and corrected. If chronic low levels of oil persist, plant wetland plants such as <i>Juncus effusus</i> (soft rush) which can uptake small concentrations of oil.
	Erosion	Erosion of the basin's side slopes and/or scouring of the pond bottom that exceeds 6-inches, or where continued erosion is prevalent.	Slopes stabilized using proper erosion control measures and repair methods.
	Settlement of Pond Dike/Berm	Any part of these components that has settled 4-inches or lower than the design elevation, or inspector determines dike/berm is unsound.	Dike/berm is repaired to design specifications.
	Internal Berm	Berm dividing cells should be level.	Berm surface is leveled so that water flows evenly over entire length of berm.

## Stormwater Conveyance Pipe

Storm sewer pipes convey stormwater. Inlet and outlet stormwater pipes convey stormwater in, through, and out of stormwater facilities.

Pipes are built from many materials and are sometimes perforated to allow stormwater to infiltrate into the ground. Pipes are cleaned to remove sediment or blockages when problems are identified. Stormwater pipes must be clear of obstructions and breaks to prevent localized flooding. All stormwater pipes should be in proper working order and free of the possible defects listed below.

### Key Operations and Maintenance Considerations

- The most common tool for cleaning stormwater conveyance pipes is a truck with a tank, vacuum hose, and a jet hose (Vactor® truck) to flush sediment and debris from the pipes.

Stormwater Conveyance Pipe			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present. <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
	Drainage Slow	Decreased capacity that indicates slow drainage. Does not meet facility design infiltration rate.  The Water Quality Design Storm Volume does not infiltrate within 48 hours (if perforated pipe). Water remains in the pipe for greater than 24 hours after the end of most moderate rainfall events.	Perforated drain pipe has been cleaned and drainage rates are per design specifications. (Do not allow removed sediment and water to discharge back into the storm sewer.)
	Obstructions, Including Roots	Root enters or deforms pipe, reducing flow.	Roots have been removed from pipe (using mechanical methods; do not put root-dissolving chemicals in storm sewer pipes). If necessary, vegetation over the line removed.
	Pipe Dented or Broken	Inlet/outlet piping damaged or broken and in need of repair.	Pipe repaired and/or replaced per design standards.
	Pipe Rusted or Deteriorated	Any part of the piping that is crushed or deformed more than 20% or any other failure to the piping.	Pipe repaired and/or replaced per design standards.
	Sediment and Debris	Sediment depth is greater than 20% of pipe diameter.	Pipe has been cleaned and is free of sediment/ debris. (Upstream debris traps installed where applicable.)
	Debris Barrier or Trash Rack Missing	Stormwater pipes > than 18 inches need debris barrier.	Debris barrier present on all stormwater pipes 18 inches and greater.

## **Vegetation**

Many stormwater facilities use vegetation as part of the functional design. Vegetation must be maintained to contribute to the function of the facility and to prevent damage to structural elements of the facility (e.g. earthen berms). Another reason to maintain vegetation is aesthetics.

Vegetation maintenance can include trimming, plant replacement, weeding, and pest control. Vegetation maintenance in native vegetation retention areas carries specific requirements.

Objectives for vegetation management in stormwater facilities:

- Maintain healthy plant communities
- Reduce or eliminate sources of pollution related to vegetation care
- Cover bare soil areas with plants
- Control Class A and Class B noxious weeds; control unlisted invasive plants where needed to achieve management objectives
- Tolerance for natural appearance and weeds that do not interfere with facility functions

## **Key Operations and Maintenance Considerations**

- The vegetation management focus is establishing and maintaining healthy low-maintenance native plantings and sustaining the design function of vegetated filters such as biofiltration swales. This includes controlling invasive plants where appropriate, and planting cover on bare soils.
- Use plants appropriate to the facility type, as listed in this manual. In Clark County street Rights of Way, ensure plants used are approved for ROW use by Clark County Public Works.
- In some cases, the original plantings may not be appropriate for the actual condition at a facility. One example is a frequently flooded swale that cannot support normal turf. In cases like this, replace turf with appropriate wetland plants if the underlying drainage problem cannot be fixed.
- Consider the use of soil amendments such as compost before using fertilizer.
- Limit mulch use to covering bare soil while establishing plantings.
- When a chemical control method is chosen, carefully follow the manufacturer's label directions for use. When deciding on and using a chemical control, consider stormwater facilities and drainage systems as leading to water bodies and apply chemicals per the label directions for use over or near water.
- Allow a 5-foot buffer from mature established plantings to fence lines and access roads.
- Within a maintenance easement, select plants that allow for future access and maintenance.
- Trees or shrubs that block access roads may be trimmed (or removed if within the access road) when access is required for maintenance by heavy equipment.

- Trees that pose a risk to stormwater structures due to root growth may be removed and replaced by smaller shrubs.

## Use Only Appropriate Plants

Use plants that will thrive in the growing conditions of each facility. Growing conditions are affected by moisture, soil conditions, and light. Plants native to western Washington are preferred. Plant lists for biofiltration swales, bioretention systems, rain gardens, and other facility types are given in the respective BMP maintenance sheets.

### Native Vegetation Retention Areas

*BMP T5.40 - Preserving Native Vegetation* is one of the site design Best Management Practices that may be followed during site development. If this BMP has been used for a site, avoid removing vegetation and trees from the natural growth retention area, except for approved timber harvest activities, the removal of dangerous and diseased trees, and control and removal of noxious weeds. Replace areas cleared of dangerous trees or of noxious weeds with approved native plantings.

## Vegetation and Pest Management in Stormwater Facilities

Generally, vegetation should be maintained to blend into surrounding areas. Stormwater facilities can provide habitat for aquatic life and birds. Promoting natural vegetation where feasible improves habitat. Swales often blend into intensively managed landscapes. Pond perimeters can include natural vegetation.

The use of fertilizer is often not compatible with the task of pollutant removal or the direct connection of stormwater facilities to streams and groundwater.

Features of stormwater facility vegetation:

- There is a mix of native and non-native plants
- Generally not used by the public
- Include areas managed to promote design function, such as turf in swales
- Managed landscapes may be nearby
- May be used by fish and wildlife

## Integrated Pest Management

Landscape management decisions for controlling unwanted vegetation, diseases, and pests in stormwater facilities should follow Integrated Pest Management principles.

An IPM program might consist of the following steps:

**Step 1: Correctly identify problem pests and understand their life cycle.**

IPM starts with an understanding of the soil, water, natural resources, and human impacts on site. Identify and research the pest species, including basic physiology and best timing for control. Many pests are a problem during certain seasons or can only be treated in specific phases of the life cycle. Local pest identification help can be obtained from Clark County Weed Board and WSU Extension Master Gardeners, or through online resources such as Washington State Noxious Weed Control Board and Washington Invasive Species Council.

**Step 2: Establish tolerance thresholds for pests.**

Every landscape has a population of some pest insects, weeds, and diseases. Once the pest has been identified and studied, determine if low levels of the pest are tolerable. Small numbers of certain pests may not be harmful. If this is the case, simply continue to monitor the pest population.

In other cases, the pest may require control. Examples include a pest population that is rapidly increasing in numbers, or an invasive weed that requires control according to state law. Early detection, rapid response (EDRR) plays an important role in the control of pests that are known to be a severe problem in other regions but not yet occurring in ours. In this instance, the tolerance threshold is zero; a quick response to eliminate a future ongoing pest problem is the safest and least expensive control.

**Step 3: If pests exceed tolerance thresholds, choose a safe and effective control method.**

IPM identifies physical, cultural, biological, and chemical control methods tailored specifically for the pest of concern and the site. Research the available options and choose a control method that is effective. Preferred control methods are economical, low risk to people, and mindful of environmental processes.

Physical control works on a pest directly: digging, hand-pulling, mowing, tilling, trapping, etc.

Cultural control changes the pest's environment: landscape fabric, mulch, soil amendments, altering the irrigation method or duration, crop rotation, crop covers, etc.

Biological control uses natural enemies: beneficial insects, managed grazing, bird boxes and perches, etc.

Chemical control is the use of pesticides: insect bait stations, synthetic and organic foliar herbicides, microbial-based insecticides, oils, soaps, etc.

These control methods should be looked at as tools in a toolbox; IPM selects the right tools for the job at hand. Both short-term control and long-term management is best achieved by using more than one tool. Often, implementing cultural control methods reduces the amount of physical and chemical control needed.



#### **Step 4: Monitor and evaluate.**

Observe and record the results of the control treatment. Evaluate the effectiveness. If necessary, modify maintenance practices to support a healthy landscape and prevent recurrence of the pest.

IPM emphasizes that pest control is not a one-time proposition; the pest control process should be viewed as a cycle that rotates through planning, control, and evaluation. As pest issues change over time, the IPM plan adapts.

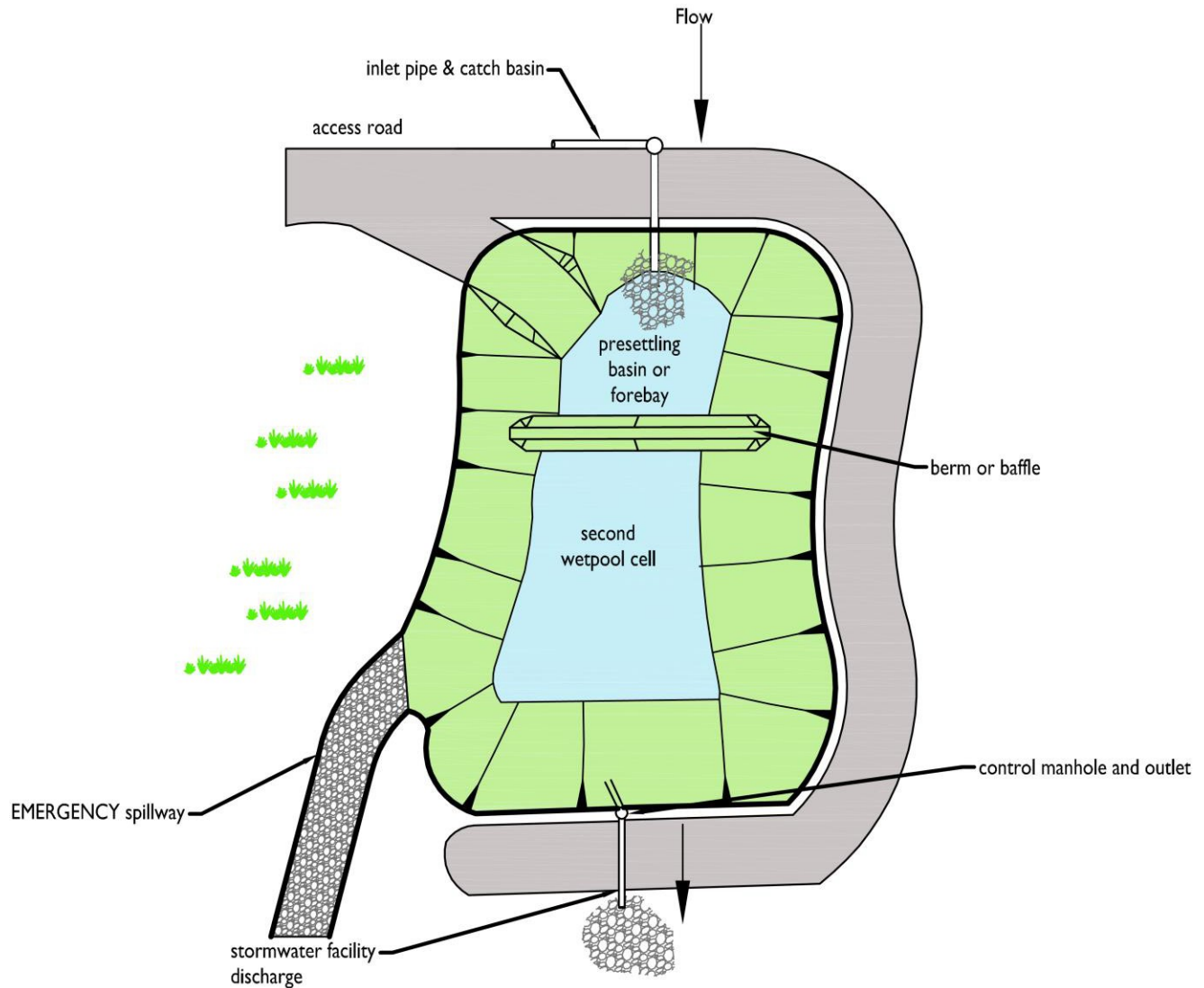
- Proper planning and management decisions begin the IPM process. All control methods are considered during the information-gathering and planning process. Often a combination of methods is best.
- Cultural methods of vegetation and pest control are preferred.
- Mechanical means of vegetation and pest control are next in line of preference and are utilized where appropriate.
- Biological methods of vegetation and pest control are considered before chemical means, where they are appropriate.
- Botanical and synthetic pesticides are used in an appropriate manner when other control methods are deemed ineffective or not cost-efficient.

## Wetpond

A wetpond is an open basin that retains a permanent pool of water (wetpool) year round or only during the wet season. The volume of the wetpond allows sediment and other pollutants to settle out of the runoff. Wetland vegetation is typically planted within the wetpond to provide additional treatment through nutrient (i.e. nitrogen) removal. Detention quantity control can be provided with additional temporary storage volume above the permanent pool elevation.

Facility objects that are typically associated with a wetpond include:

- access road or easement
- fence, gate, and water quality sign
- detention pond
- control structure / flow restrictor
- energy dissipaters
- debris barrier (e.g. trash rack)
- conveyance stormwater pipe



## Key Operations and Maintenance Considerations

- Maintenance is of primary importance if wetponds are to continue to function well.
- Site vegetation should be trimmed as necessary to keep the pond free of leaves and to maintain the aesthetic appearance of the site. Slope areas that have become bare should be revegetated and eroded areas should be regraded prior to being revegetated.
- Sediment should be removed when the standards in the defect table are exceeded. Sediments must be disposed in accordance with current local health department requirements and the Minimum Functional Standards for Solid Waste Handling. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.
- Any standing water removed during the maintenance operation must be properly disposed of. The preferred disposal option is discharge to a sanitary sewer at an approved location. Other disposal options include discharge back into the wetpool facility or the storm sewer system if

certain conditions are met. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.

- If a shallow marsh has established, then contact Clark County Department of Environmental Services for advice.
- Common tools for cleaning wetponds are small bulldozers and excavators to remove built-up sediment and debris from the bottom of the pond.

## Plant Material

**Table 2: Emergent Wetland Plant Species Acceptable for Wetponds**

Inundation to 1 Foot			Table continues on next page
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Agrostis exarata</i> <sup>(1)</sup>	Spike bent grass	Prairie to coast	to 2 feet
<i>Carex stipata</i>	Sawbeak sedge	Wet ground	
<i>Eleocharis palustris</i>	Spike rush	Margins of ponds, wet meadows	to 2 feet
<i>Glyceria occidentalis</i>	Western mannagrass	Marshes, pond margins	to 2 feet
<i>Juncus tenuis</i>	Slender rush	Wet soils, wetland margins	
<i>Oenanthe sarmentosa</i>	Water parsley	Shallow water along stream and pond margins; needs saturated soils all summer	
<i>Scirpus atrocinctus</i> (formerly <i>S. cyperinus</i> )	Woolgrass	Tolerates shallow water; tall clumps	
<i>Scirpus microcarpus</i>	Small-fruited bulrush	Wet ground to 18 inches depth	18 inches
<i>Sagittaria latifolia</i>	Arrowhead		
Inundation 1 to 2 feet			
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Agrostis exarata</i> <sup>(1)</sup>	Spike bent grass	Prairie to coast	
<i>Eleocharis palustris</i>	Spike rush	Margins of ponds, wet meadows	
<i>Glyceria occidentalis</i>	Western mannagrass	Marshes, pond margins	
<i>Juncus effusus</i>	Soft rush	Wet meadows, pastures, wetland margins	
<i>Scirpus microcarpus</i>	Small-fruited bulrush	Wet ground to 18 inches depth	18 inches
<i>Sparganium emmersum</i>	Bur reed	Shallow standing water, saturated soils	
Inundation 1 to 3 feet			
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Carex obnupta</i>	Slough sedge	Wet ground or standing water	1.5 to 3 feet

<i>Beckmania syzigachne</i> <sup>(1)</sup>	Western sloughgrass	Wet prairie to pond margins	
<i>Scirpus acutus</i> <sup>(2)</sup>	Hardstem bulrush	Single tall stems, not clumping	to 3 feet
<i>Scirpus validus</i> <sup>(2)</sup>	Softstem bulrush		
<b>Inundation Greater Than 3 feet</b>			
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Nuphar polysepalum</i>	Spatterdock	Deep water	3 to 7.5 feet
<b>Acceptable Seed Mix for Wet Ponds / Wet Pools</b>			
<u>Species</u>	<u>Common Name</u>	<u>% by Weight</u>	
<i>Scirpus acutus</i>	Hardstem bulrush	9%	
<i>Juncus effusus</i>	Soft rush	9%	
<i>Carex stipata</i>	Awl sedge	29.5%	
<i>Glyceria occidentalis</i>	Western mannagrass	25%	
<i>Eleocharis palustris</i>	Creeping spike rush	15%	
<i>Eleocharis ovata</i>	Ovoid spike rush	9%	
<i>Carex abnupta</i>	Slough sedge	3.5%	
<p>Selected plants shall not include any plants from the State of Washington Noxious Weed Board:  <a href="https://www.nwcb.wa.gov/">https://www.nwcb.wa.gov/</a> and local Clark County Noxious Weed List:  <a href="https://www.clark.wa.gov/public-works/vegetation-management">https://www.clark.wa.gov/public-works/vegetation-management</a>.  Also please refer to the State of Washington quarantine list for plants prohibited for sale:  <a href="https://www.nwcb.wa.gov/noxious-weed-quarantine-list">https://www.nwcb.wa.gov/noxious-weed-quarantine-list</a></p>			
<p><sup>(1)</sup> Non-native species. Native species are preferred.</p> <p><sup>(2)</sup> <i>Scirpus</i> tubers must be planted shallower for establishment and protected from foraging waterfowl until established. Emerging aerial stems should project above water surface to allow oxygen transport to the roots.</p> <p>Primary sources: Municipality of Metropolitan Seattle, Water Pollution Control Aspects of Aquatic Plants, 1990. Hortus Northwest, Wetland Plants for Western Oregon, Issue 2, 1991. Hitchcock and Cronquist, Flora of the Pacific Northwest, 1973.</p> <p>*Adapted from Portland Bureau of Environmental Services 2014 <i>Stormwater Management Manual</i>, Appendix F.4., Planting Templates and Plant Lists</p>			

Wetpond			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Water Level	First cell is empty, doesn't hold water.	First cell lined to maintain at least 4 feet of water. Although the second cell may drain, the first cell must remain full to control turbulence of the incoming flow and reduce sediment re-suspension.
	Trash and Debris	Accumulation that exceeds 1 CF per 1,000-SF of pond area.	Trash and debris removed from pond.
	Inlet / Outlet Pipe	Inlet / Outlet pipe clogged with sediment and/or debris.	Material has been removed and there is no clogging or blockage in the inlet and outlet area.
	Sediment Accumulation in Pond Bottom	Sediment accumulations in pond bottom that exceeds the depth of sediment zone plus 6-inches, usually in the first cell.	Sediment level in pond bottom is within the depth of specified sediment zone.
	Oil Sheen on Water	Prevalent and visible oil sheen.	Oil not present on pond surface. Oil has been removed from water using oil-absorbent pads or Vactor® truck. Source of oil located and corrected. If chronic low levels of oil persist, plant wetland plants such as <i>Juncus effusus</i> (soft rush) which can uptake small concentrations of oil.
	Erosion	Erosion of the pond's side slopes and/or scouring of the pond bottom, which exceeds 6-inches, or where continued erosion is prevalent.	Slopes stabilized using proper erosion control measures and repair methods.
	Settlement of Pond Dike / Berm	Any part of these components that has settled 4-inches or lower than the design elevation, or inspector determines dike/berm is unsound.	Dike / berm is repaired to design specifications.
	Internal Berm	Berm dividing cells should be level.	Berm surface is leveled so that water flows evenly over entire length of berm.
	Overflow Spillway	Rock is missing and soil is exposed at top of spillway or outside slope.	Rocks replaced to design specifications.

# **Exhibit “B”**

## Calculation of Performance Bond Amount

# Cost Breakdown

☐ Performance

☒ Maintenance

Project Name: Railroad Avenue Subdivision

Contractor: Rotschy, Inc.

Project Location: Parcel Ave and Hoag Street

Phone #: 360-334-3100

Date: 01/09/2023

**Include ALL material and labor for public improvements**

***Do NOT include any private development improvements***

## Public Storm

<u>Pipe Footage</u>	<u>Size</u>	<u>Type</u>	<u>Total Cost</u>
1415	30"	ADS	\$ 275,335.00
432	24"	ADS	\$ 67,055.00
898	18"	ADS	\$ 124,260.00
347	15"	ADS	\$ 37,535.00
1312	12"	ADS	\$ 117,190.00
246	8"	ADS	\$ 19,575.00
4867	8"	Perf	\$ 400,020.00

<u>Quantity</u>			
		Drywells	\$
17		Manholes	\$ 83,895.00
20		Catch basin/Inlet	\$ 37,785.00
		Swales	\$
		Rain Gardens	\$
		Filter Cartridge Structures	\$
1		Ponds	\$ 120,000.00
		Underground Storage	\$
1031		Fences/Gates	\$ 25,950.00
		Retaining Walls	\$

### TOTAL COST:

**\$ 1,308,600.00**

20% Maintenance Bond Amount

\$ 261,720.00



# **Exhibit “C”**

## **Stormwater Facilities Inspection Report Form**



## Town of Yacolt

### Request for Council Action

#### CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

**Name:** Stephanie Fields, Town Clerk  
David W. Ridenour, Town Attorney

**Group Name:** Staff

**Address:** 202 W. Cushman St.  
P.O. Box 160  
Yacolt, WA 98675

**Phone:** Town Clerk (360) 686-3922  
David Ridenour (360) 906-1556

**Email Address:** clerk@townofyacolt.com  
david@davidridenourlaw.com

**Alt. Phone:**

#### ITEM INFORMATION:

**Item Title:** Railroad Avenue Subdivision: **Declaration of Easements, Covenants, Conditions and Restrictions for Stormwater Facilities Maintenance.**

**Proposed Meeting Date:** January 22, 2024. (Special Meeting)

**Action Requested of Council:** Review proposed Declaration of Covenants to be recorded with the Final Plat for the Railroad Avenue Subdivision. The Declaration provides for the inspection and maintenance of private Stormwater Facilities that serve the Plat in perpetuity, by the Property Owners and their HOA.

**Proposed Motion:** To Approve: "I move that the Council approve the 'Declaration of Easements, Covenants, Conditions and Restrictions for Maintenance of Stormwater Facilities' in a form substantially similar to the version presented to the Council, and authorize the Developer to sign and record the Declaration pursuant to the instructions of the Town Attorney."  
If changes are desired, continue the motion as follows: "... with the following changes: (describe)."

**Summary/ Background:** Rotschy, LLC, the Developer of the Railroad Avenue Subdivision, is preparing to record the Final Plat and finalize other documents that were required by the Town's conditions of approval or that have been requested by the Developer.  
  
One of the Town's conditions of approval for the Subdivision was the creation of a Homeowner's Association that would be responsible for

the inspection and maintenance of the private Stormwater Facilities serving the Plat for the life of the Subdivision. The HOA's obligations will be described in a Declaration that will be recorded together with the Plat. The Declaration is intended to encumber the title of all Lots and properties within the Plat.

Staff has prepared a 'Declaration of Easements, Covenants, Conditions and Restrictions for Maintenance of Stormwater Facilities' for the Council's review. The Developer has tentatively approved the terms of the Declaration, though some changes may still be proposed before a final signature copy can be prepared.

The documents have been reviewed and approved by the Town Attorney and Town Engineer. Staff recommends that the documents be approved in substantially the form presented.

A Resolution approving this and the other documents presented during this meeting will be presented for consideration by the Council at the end of the meeting's agenda.

**Attachments:**

1. Declaration of Easements, Covenants, Conditions and Restrictions for Stormwater Facilities Maintenance (9 pages);
2. Exhibit A to the Declaration, (Legal Description) (1 page);
3. Exhibit B to the Declaration, (Stormwater Facilities Operations & Maintenance Manual) (30 pages); and,
4. Exhibit C to the Declaration, (Stormwater Facilities Inspection Report Form) (To be completed prior to the start of the Council meeting).

**Staff Contact(s):**

Stephanie Fields, Town Clerk.  
Devin Jackson, Jackson Civil, Town Engineer.  
David W. Ridenour, Town Attorney.

After recording mail to:

**Rotschy, LLC**  
7408 N.E. 113<sup>th</sup> Circle  
Vancouver, WA 98662  
360-748-7200

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**DECLARATION OF EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR MAINTENANCE OF STORMWATER FACILITIES**

**Grantor:** Rotschy, LLC, a Washington licensed limited liability company.

**Grantees:** The Town of Yacolt, a Washington municipal corporation; and Rotschy, LLC, a Washington licensed limited liability company.

**Assessor's Property Tax Parcel Account Number:** 064522-000.

**Abbreviated Legal Description:** #6 & #7 of Section 2 T4N R3E WM (20A), (PEND 1932 RAILROAD AVENUE SUBDIVISION), Clark County, Washington.

**Full Legal Description:** See Exhibit A of document for full legal description.

**Reference:** (Recorded Final Plat for Subdivision)

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

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording process may cover up or otherwise obscure some part of the text of the original document.

---

Signature of Requesting Party

**DECLARATION OF EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR MAINTENANCE OF STORMWATER FACILITIES**

This Declaration of Easements, Covenants, Conditions and Restrictions for Maintenance of Stormwater Facilities, (hereafter “*Declaration*”), is made by and between Rotschy, LLC, a Washington licensed limited liability company, its successors and assigns, (hereafter “*Declarant*” or “*Grantor*”), and the Town of Yacolt, a Washington municipal corporation, (hereafter “*Yacolt*”, “*Town*” or “*Grantee*”). Grantor and Grantee are each a Party and collectively the Parties to this Declaration.

**Recitals**

**Whereas**, the Declarant is the fee simple owner of certain real property situated in the Town of Yacolt, Clark County, Washington, identified as Assessor’s Tax Parcel #64522-000, and legally described as follows, (hereafter the “*Property*”):

#6 & #7 of Section 2 T4N R3E WM (20A), (PEND 1932 RAILROAD AVENUE  
SUBDIVISION), Clark County, Washington

**Whereas**, the Declarant has developed the Property by subdivision into forty-seven (47) Lots and Common Areas by the authority and with the approval of the Town, said Subdivision being known as the “Railroad Avenue Subdivision”, (hereafter the “*Project*”);

**Whereas**, the Declarant has agreed to abide by all laws of the Town and has agreed that the construction of the improvements and satisfaction of the conditions described in the development approval shall be in accordance with all plans, specifications and conditions submitted for the Project and accepted by the Town or otherwise included in the Project documents accepted by the Town, which plans, specifications, conditions, permit provisions and documents shall be deemed a part hereof as if fully set out herein;

**Whereas**, as a condition of its approval of the development of the Property, the Town of Yacolt required that the Declarant enter into an Declaration for the maintenance of private Stormwater Facilities constructed within and around the boundaries of the Property as described herein and on the final recorded Plat for the Property, (hereafter the “*Stormwater Facilities*”);

**Whereas**, the Stormwater Facilities improvements for the Project are described in the Plat and associated documents, and include improvements located within the Project and on private land that is not part of the Project site;

**Whereas**, the Declarant and the Town of Yacolt intend that the Stormwater Facilities serving the Lots will be used by the Owners and residents of the Property and maintained by the Owners who shall be organized as a homeowner’s association known as the “Railroad Avenue Subdivision Homeowner’s Association”, (hereafter the “*HOA*”);

**Whereas**, the Declarant and the Town of Yacolt intend that easements be created to provide for the monitoring and maintenance of the Stormwater Facilities by the HOA and the Town, and for reasonable access to all portions of the Stormwater Facilities from the public right-of-way;

**Whereas**, the Declarant and the Town agree that the health, safety and welfare of the citizens of Yacolt require that the Stormwater Facilities described herein be constructed, inspected and maintained;

**Whereas**, the Declarant, for itself and its successors in title, desires to enter into this Declaration to establish the rights and responsibilities, covenants, conditions, restrictions, easements, and other provisions of this Declaration as to the use, occupancy and enjoyment of the Stormwater Facilities; and,

**Whereas**, as a condition of the Town's approval of the Project, the Stormwater Facilities for the Project are to be permanently established, inspected and maintained so that the Stormwater Facilities will function properly in perpetuity:

**NOW THEREFORE**, in consideration of the foregoing facts and circumstances, to further the general purposes herein expressed, and for other good and valuable consideration, the Declarant does hereby establish, publish and declare that the following easements, covenants, conditions, restrictions, and other provisions shall run with the land, shall be a burden and a benefit to the Property and to the Declarant, the HOA, and to each person and entity having any interest in any part of the Property, and each of their respective heirs, personal representatives, executors, administrators, devisees, successors and assigns.

**1. Definitions.** In addition to terms defined elsewhere in this Declaration, the following terms used in this Declaration shall have the following meanings:

- 1.1. Lot:** "Lot" means each parcel within the Property as identified by the Plat. The term "Lot" shall also include each new lot which may be created by the further division of Property.
- 1.2. Owner:** "Owner" means any person or entity owning a fee simple interest in a Lot or the Common Area; or a contract purchaser, whether one or more persons or entities, owning or purchasing a Lot or the Common Area; but excluding those having a mortgage or an interest merely as security for the performance of an obligation: provided, however, that prior to the first conveyance of a Lot for value, the term "Owner" shall mean the Declarant or its successors or assigns. "Owner" may also refer to the HOA where the context requires.
- 1.3. Plat:** "Plat" refers to the recorded Plat for the Railroad Avenue Subdivision which is the subject of this Declaration.
- 1.4. Property:** "Property" means the real Property which is and shall be held, transferred, sold and conveyed subject to this Declaration, described as follows:

#6 & #7 of Section 2 T4N R3E WM (20A), (PEND 1932 RAILROAD AVENUE SUBDIVISION), Clark County, Washington

The full legal description for the Property is attached hereto as Exhibit "A". Following final acceptance and recording of the Subdivision, the term "Property" shall mean all Lots and Tracts developed within the Property.

**1.5. Stormwater Facilities:** “Stormwater Facilities” means the stormwater improvements identified on the Plat for the development which is subject to this Declaration, and more particularly described as follows:

**1.5.1. Facilities Within the Subdivision:** The parcel identified as “Tract A – Stormwater Facility” of the Project Plat, consisting of a stormwater detention pond and other improvements, measures and best management practices designed to control and/or reduce the amount of stormwater runoff from the Property; and,

**1.5.2. Facilities in Other Private Property:** Stormwater Facilities rights and improvements which are the subject of the certain Grant of Easement dated December 11, 2023 between Jorgensen Timber, LLC as Grantor, and Rotschy, LLC and the Town of Yacolt as Grantees, which document was recorded with the Clark County Auditor’s Office on December 12, 2023 under recording number 6157182-EAS, said improvements being comprised of a trench, pipe, and related improvements.

**1.6. Other Definitions:** Other definitions may be found throughout this Declaration. Any term not specifically defined shall be deemed to have its common and ordinary meaning.

**2. Purposes.** This purpose of this Declaration is to protect the value and desirability of the Property; to promote the efficient and effective management of stormwater drainage; to inure to the benefit of all the citizens of the Town and its municipal successors and assigns; to ensure that the Stormwater Facilities are inspected, maintained, and repaired, as necessary, by the parties identified in this Declaration as responsible for long-term maintenance; to ensure that the Town is allowed access to the Stormwater Facilities for both routine and emergency inspection of the Stormwater Facilities for compliance with the development approval and the Town’s engineering standards set forth in the 2019 Stormwater Management Manual for Western Washington, Volume V, Appendix V-A, as such standards may be amended and in effect at the time, or as they may be superseded; and to provide access to the Town for emergency maintenance or repairs to prevent flooding or pollution of other properties.

**3. Maintenance of Stormwater Facilities.** The Owner(s) of the Property shall keep the Stormwater Facilities in a continual condition of good order and repair and shall cause such inspection, maintenance, repair, restoration and replacement as may be necessary to keep the Stormwater Facilities in such condition. In the event of damage to or the destruction of any of the Stormwater Facilities, the Owner(s) shall, with due diligence, repair, restore and/or replace the damaged or destroyed Stormwater Facilities to maintain the minimum standards described herein.

**3.1. Maintenance Standards:** The Owners shall maintain the Stormwater Facilities to at least the following minimum standards:

**3.1.1.** Stormwater facility standards described in the Stormwater Management Manual for the Puget Sound Basin prepared by the Washington State Department of Ecology, as amended and/or superseded; and,

**3.1.2.** The Operations and Maintenance Manual for the Plat, attached hereto as Exhibit “B” and incorporated herein, as modified by Section 3.1.1. above. A copy of the



Operations and Maintenance Manual shall be transferred by the Declarant to the HOA.

- 3.2. Inspection Schedule:** The Declarant agrees to inspect the Stormwater Facilities as often as conditions require and as directed by the Town, but no less frequently than annually during the month of July or August. The Declarant agrees to submit reports to the Town following each inspection. The reports must be filed with the Town within fifteen (15) days of each inspection, and shall include, at a minimum, the information requested in the Private Stormwater Facilities Inspection Form, attached hereto as Exhibit C. The inspections shall ensure that all Stormwater Facilities improvements are in good condition and functioning properly.

*[Alternately consider having inspections twice a year, once in the summer, and once in the rainy season. Seems to be a common schedule that might make sense for this Project]*

- 3.3. Maintenance Work:** The Declarant agrees to complete the necessary monitoring and maintenance of the Stormwater Facilities as required by the Maintenance Standards referenced herein, or as reasonably requested by the Town. The Declarant agrees to promptly and satisfactorily correct any deficiencies in the Stormwater Facilities and make any repairs, including emergency repairs, as needed. Any and all work performed by the Declarant pursuant to this Declaration shall be in accordance with the Project's standards described herein. The Town shall be given at least twenty-four (24) hours' notice prior to the commencement of any work performed.

- 3.4. Cost of Inspections and Maintenance Work:** Inspections, monitoring and maintenance shall be completed at the sole expense of the Declarant, its successors and assigns. The Declarant shall promptly pay all persons furnishing labor, services, or materials to the Project; shall hold the Town, its officers and agents harmless from all claims therefrom, or from any claim for damages or injury to property or persons arising by reason of said work; and shall in the time and manner, and under the terms and conditions prescribed, well and faithfully do, perform and furnish all matters and things as are required of them in accordance with the maintenance standards and applicable law.

- 3.5. Yacolt's Authority to Inspect and to Direct Inspection and Maintenance Work:** The Stormwater Facilities shall be subject to inspection by the Town to ensure that maintenance standards and schedules are followed. If the Town determines that the Stormwater Facilities are not being adequately maintained, the Town may notify the Declarant of the deficiencies. With the exception of emergency work, restoration work must commence within thirty (30) days of written notice to the Declarant by the Town and be completed in an approved manner no later than sixty (60) days following notice, unless a shorter or greater time period is specified or agreed to by the Town. The Town may revise the Exhibit C 'Stormwater Facilities Inspection Report Form' from time to time if the Town deems the change to be helpful or necessary.

- 4. No Agreement by Town to Repair Facilities:** Nothing contained in this Declaration shall be construed to create an obligation on the part of the Town or its representatives to perform the work for which the Declarant and the Property Owners are responsible under this Declaration.

5. **Rights Conveyed to the Town of Yacolt.** Should the Declarant, HOA and/or Property Owners fail to maintain or repair the Stormwater Facilities or correct any defects within a reasonable period of time, after written notice from the Town, the Town is authorized to perform the necessary maintenance or repairs and may assess the Declarant, HOA and/or Property Owners for the cost of the work and any associated costs and engineering, legal and recording fees. The Declarant, HOA and/or Property Owners are jointly and severally liable for reimbursing the Town within 30 days after the Town mails an invoice to the Declarant, HOA or Property Owner(s) for any work performed by the Town under this Declaration. Delinquent payments will accrue interest at twelve percent (12%) per annum or the current legal rate. The Town's right to recover its costs shall be a lien against the Property and all Lots served by the Stormwater Facilities.
6. **Grant of Easement to the Town.** In furtherance of the rights, obligations, and purposes of this Declaration, the Declarant hereby grants, conveys and quit claims to the Town of Yacolt a permanent easement on the Property and on the Lots identified in the Plat for ingress, egress, and reasonable access to the Stormwater Facilities described herein and identified on the Plat. Said easement shall permit the Town or its agents and contractors the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, or repairing the Stormwater Facilities.
7. **Covenants and Easements Run with the Land.** The easements, covenants, conditions and restrictions imposed herein shall be deemed covenants running with the land and with each Lot or parcel on the Property for the benefit of, and as a limitation and burden upon the Property, and all future Owners of the Lots. The rights and obligations contained in this Declaration shall bind, burden, and benefit the heirs, personal representatives, executors, administrators, devisees, lessees, mortgagees, beneficiaries under a Deed of Trust, successors and/or assigns of the Property and each Lot. The covenants and easements shall inure to the benefit of each present or future successor in interest of said Property, and to the benefit of the Town of Yacolt and its successor(s).
8. **Indemnification:** If it becomes necessary for the Town to perform inspections, maintenance or repair work on the Property, the Owners agree to indemnify, defend and hold the Town, its officers, officials, employees and agents harmless from any and all claims arising from any activity the Town undertakes on the Property to the extent of the Owners', their agents', and/or employees' negligence and to the maximum extent permitted by law.
9. **Duration and Termination:** The provisions of this Declaration shall continue and remain in full force and effect until the Stormwater Facilities no longer exist and where there is no intent by the Property Owners or the Town to rebuild them.
10. **Amendment and Termination:** This Declaration may be amended or terminated only by execution of a written Declaration by the Property Owners and the Town that is recorded by the Town with the Clark County Auditor's Office.
11. **Notices:** All notices required or permitted to be given hereunder shall be in writing. All notices or demands to be served upon the Declarant, the HOA, the Owners of the Property or a Lot shall be personally served, or sent by first class and certified mail, postage prepaid, addressed to the address shown in the records of the Clark County Assessor or Clark County Auditor, or to such address as may be provided by one party to another. The Declarant and HOA shall keep the

Town informed at all times as to the name, address and telephone number of the contact person responsible for the performance of maintenance or repair work to the Stormwater Facilities.

12. **Time of the Essence:** Time is of the essence with respect to the performance of each of the covenants and agreements set forth herein.
13. **Enforcement and Remedies:** The Declarant, the HOA, the Town, and any Owner or Owners of Lots shall have the right to enforce all easements, covenants, conditions, and restrictions imposed by the provisions of this Declaration. Except in the event of an emergency, each provision contained in this Declaration shall be enforceable by the Town or by any Owner who has first made written demand to enforce such provision and 30 days have lapsed without appropriate action having been taken. Any enforcement action may be by a proceeding for such relief as may be provided at law or in equity, including but not limited to a temporary or permanent injunction and/or a suit or action to recover damages.

If at any time the Town determines that the Stormwater Facilities create any imminent threat to public health or welfare, the Town may take immediate measures to remedy said threat.

It is the intent of this Declaration to ensure the proper maintenance of the Stormwater Facilities by the Declarant, the HOA, and the Property Owners; provided, however, that this Declaration shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or caused by stormwater runoff.

14. **Non-Merger of Real Property Interests.** It is acknowledged that as of the date of execution of this Declaration by the Declarant, the Property is owned by the Declarant. It is anticipated that the common ownership of the Property will be severed following the acceptance and recording of the Plat. It is the express intent of the Declarant that the easements and other rights, privileges and covenants provided herein shall not be deemed to be merged or ineffective by reason of the present common ownership of the Property. If for any reason the present common ownership of the Property is deemed to cause a merger or otherwise render ineffective any easements, rights, privileges and covenants provided herein, all such easements, rights, privileges and covenants shall be deemed automatically granted and re-granted and in full force and effect at such time as the common ownership is severed by the conveyance of Lots to third parties, and all such easements shall thereupon be deemed to be effective and in full force and effect without any further action by the Property Owners or their successors or assigns.
15. **Time of the Essence.** Time is of the essence with respect to the performance of each of the covenants and Declarations set forth herein.
16. **Recitals.** The foregoing Recitals are true and accurate, and are hereby incorporated as substantive provisions of this Declaration.
17. **Successors and Assigns.** This Declaration and the easements, rights, covenants, provisions and conditions described herein shall be binding upon the parties described herein, their successors and assigns.
18. **No Waiver of Rights.** Failure by any party to enforce any provision contained in this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration. No breach of this Declaration shall be waived or excused unless such waiver is in writing and signed by the party claimed to have waived or consented to the breach.

19. **Governing Law / Venue.** This Declaration is made and executed under and shall be governed and construed by the laws of the State of Washington. All proceedings to enforce any of the provisions of this Declaration, whether at law or in equity, shall be brought in the courts of Clark County, Washington.
20. **Remedies Cumulative.** The rights and remedies described in this Declaration are cumulative and the use of any one right or remedy shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
21. **Attorney's Fees.** The parties agree that in the event any legal action is taken to enforce the provisions of this Declaration or to collect payment due under the terms of this Declaration, the prevailing party shall be entitled to an award for its costs and reasonable attorney's fees, and shall be further entitled to its reasonable attorneys' fees, costs, expenses on appeal.
22. **Severability.** The provisions of this Declaration are severable, and if for any reason any one or more of the provisions contained in this Declaration shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Declaration and this Declaration shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Declaration.
23. **Gender and Number.** As used in this Declaration, words in the present tense shall include the future tense. Words used in the feminine, masculine or neuter gender shall include each other gender. The singular shall include the plural, and in the plural shall include the singular.
24. **Headings.** The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be executed in Yacolt, Washington, this \_\_\_\_\_ day of January, 2024.

**ROTSCHY, LLC**

*"Declarant"*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF CLARK        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me personally appeared \_\_\_\_\_, to me known to be the Governor (or president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of Rotschy, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument on behalf of Rotschy, LLC for the benefit of said company.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

# Exhibit “A”

## Legal Description

ALL THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON, LYING SOUTH OF WILSON’S ADDITION TO YACOLT AND WESTERLY OF THE NORTHERN PACIFIC RAILWAY CO. RIGHT OF WAY, RUNNING THROUGH SAID SECTION;

EXCEPTING THAT PORTION HERETOFORE DEDICATED TO CLARK COUNTY AS PUBLIC ROAD, BY DEED RECORDED IN BOOK 60, CLARK COUNTY DEED RECORDS, AT PAGE 250;

ALSO EXCEPT THAT PORTION LYING WITHIN GARNER ROAD AND YACOLT STREET.

Situated in the County of Clark, State of Washington.

End of Exhibit “A”

# **Exhibit “B”**

## **Railroad Avenue Subdivision Stormwater Facilities Operations and Maintenance Manual**

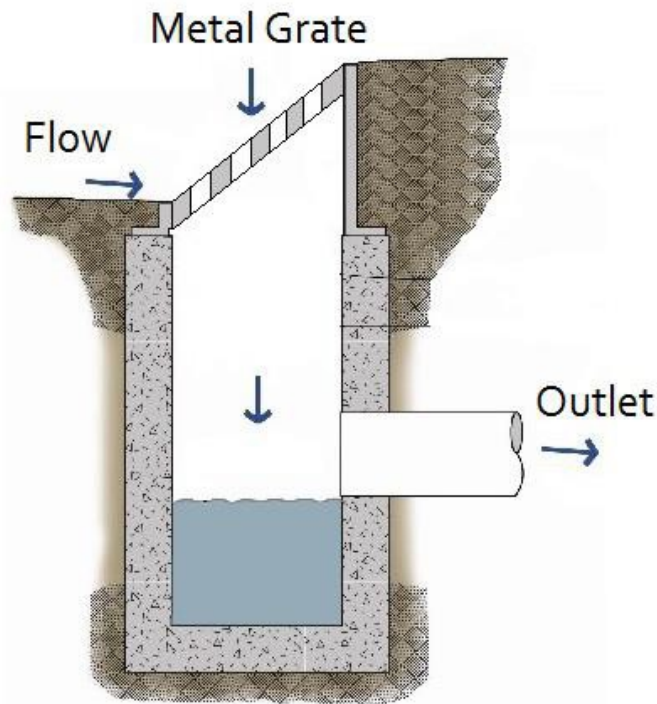
## Field Inlet

A field inlet is a concrete structure fitted with a slotted grate to collect stormwater runoff and route it through underground pipes.

Field inlets typically provide a storage volume (sump) below the outlet pipe to allow sediments and debris to settle out of the stormwater runoff. Some field inlets are fitted with a spill control device (inverted elbow on outlet pipe) intended to contain large quantities of grease or oils.

Facility objects that are typically associated with a field inlet include:

- access road or easement
- control structure/flow restrictor
- biofiltration swale
- detention pond
- infiltration trench



## Key Operations and Maintenance Considerations

- The most common tool for cleaning field inlets is a truck with a tank and vacuum hose (Vactor® truck) to remove sediment and debris from the sump.



- A field inlet may be an enclosed space where harmful chemicals and vapors can accumulate. Therefore, if the inspection and maintenance requires entering a field inlet, it should be conducted by an individual trained and certified to work in hazardous confined spaces.

Field Inlet			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Trash or debris which is located immediately in front of the catch basin opening or is blocking inletting capacity of the field inlet by more than 10%.	No trash or debris located immediately in front of field inlet or on grate opening.
		Trash or debris (in the field inlet) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe.	No trash or debris in the field inlet.
		Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height.	Inlet and outlet pipes free of trash or debris.
		Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No dead animals or vegetation present within the field inlet.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the field inlet.
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch. (Intent is to make sure no material is running into basin).	Top slab is free of holes and cracks.
		Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached.	Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in Basin Walls/ Bottom	Maintenance person judges that structure is unsound.	Basin replaced or repaired to design standards.
		Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering field inlet through cracks.	Pipe is regouted and secure at basin wall.
	Settlement/ Misalignment	If failure of basin has created a safety, function, or design problem.	Basin replaced or repaired to design standards.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

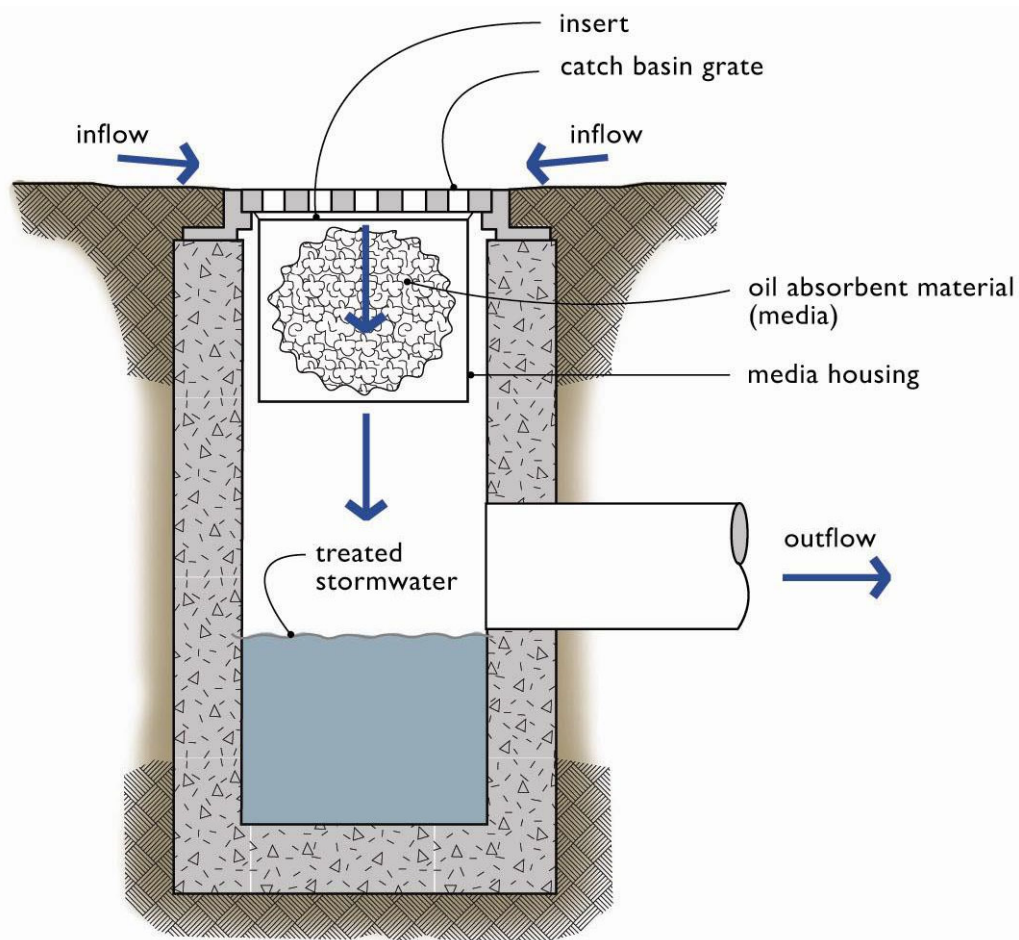
Field Inlet			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
	Vegetation Inhibiting System	Vegetation growing across and blocking more than 10% of the basin opening.	No vegetation blocking opening to basin.
		Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation or root growth present.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
Metal Grates	Grate Not in Place	Cover is missing or only partially in place. Any open field inlet requires maintenance.	Field inlet cover is closed.
	Grate Opening Unsafe	Grate with opening wider than 3 inches.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing	Grate missing or broken member(s) of the grate.	Grate is in place and meets design standards.

## Catch Basin Insert

Catch basin inserts are used to trap sediment and oil entering catch basins. Most involve some type of filter media and oil-absorbent pads. Filters avoid flooding by overflowing when they become clogged or when there are high storm flows.

Catch basin inserts typically consist of the following components:

- A structure (screened box, brackets, etc.) which contains a pollutant removal medium
- A means of suspending the structure in a catch basin
- A filter medium such as sand, carbon, fabric, etc.
- A primary inlet and outlet for the stormwater
- A secondary outlet for bypassing flows that exceed design flow



## Key Operations and Maintenance Considerations

- Catch basin inserts are proprietary; refer to the manufacturer's instructions for inspection and maintenance.
- Some catch basin inserts do not require specialized tools and can be removed and replaced by hand.
- See Catch Basins for additional considerations.

Catch Basin Insert			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Sediment Accumulation	When sediment forms a cap over the insert media of the insert and/or unit.	No sediment cap on the insert media and its unit.
	Trash and Debris Accumulation	Trash and debris accumulates on insert unit creating a blockage/restriction.	Trash and debris removed from insert unit. Runoff freely flows into catch basin.
	Media Insert Not Removing Oil	Effluent water from media insert has a visible sheen.	Effluent water from media insert is free of oils and has no visible sheen.
	Media Insert Water Saturated	Catch basin insert is saturated with water and no longer has the capacity to absorb.	Media insert has been replaced.
	Media Insert Oil Saturated	Media oil saturated due to petroleum spill that drains into catch basin.	Media insert has been replaced.
	Media Insert Use Beyond Normal Product Life	Media has been used beyond the typical average life of media insert product.	Media removed and replaced at regular intervals (frequency depending on insert product).

## Catch Basin

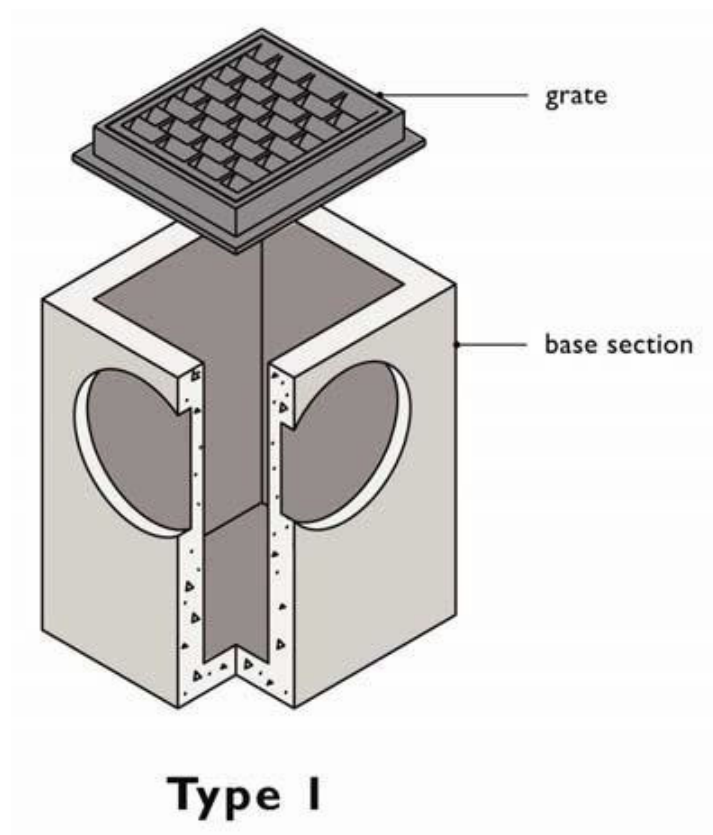
A catch basin is an underground concrete structure typically fitted with a slotted grate to collect stormwater runoff and route it through underground pipes. Catch basins can also be used as a junction in a pipe system and may have a solid lid. There are two types.

A Type 1 catch basin is a rectangular box with approximate dimensions of 3'x2'x5'. Type 1 catch basins are utilized when the connected conveyance pipes are less than 18 inches in diameter and the depth from the gate to the bottom of the pipe is less than 5 feet.

A Type 2 catch basin, also commonly referred to as a storm manhole, is listed separately under “Manhole” in this book.

Catch basins typically provide a storage volume (sump) below the outlet pipe to allow sediments and debris to settle out of the stormwater runoff. Some catch basins are also fitted with a spill control device (inverted elbow on outlet pipe) intended to contain large quantities of grease or debris.

Catch basins are frequently associated with all stormwater facilities.



## Key Operations and Maintenance Considerations

- The most common tool for cleaning catch basins is an industrial vacuum truck with a tank and vacuum hose (e.g. Vactor® truck) to remove sediment and debris from the sump.
- A catch basin may be an enclosed space where harmful chemicals and vapors can accumulate. Therefore, if the inspection and maintenance requires entering a catch basin, it should be conducted by an individual trained and certified to work in hazardous confined spaces.

Catch Basin			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Trash or debris which is located immediately in front of the catch basin opening or is blocking inletting capacity of the basin by more than 10%.	No trash or debris located immediately in front of catch basin or on grate opening.
		Trash or debris (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe.	No trash or debris in the catch basin.
		Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height.	Inlet and outlet pipes free of trash or debris.
		Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No dead animals or vegetation present within the catch basin.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the catch basin.
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch.  (Intent is to make sure no material is running into basin.)	Top slab is free of holes and cracks.
		Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached.	Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in	Maintenance person judges that structure is unsound.	Basin replaced or repaired to design standards.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

	Basin Walls/ Bottom	Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering catch basin through cracks.	Pipe is regouted and secure at basin wall.
	Settlement/ Misalignment	If failure of basin has created a safety, function, or design problem.	Basin replaced or repaired to design standards.
	Vegetation Inhibiting System	Vegetation growing across and blocking more than 10% of the basin opening.	No vegetation blocking opening to basin.
		Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation or root growth present.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
Catch Basin Cover	Cover Not in Place	Cover is missing or only partially in place. Any open catch basin requires maintenance.	Catch basin cover is closed.
	Locking Mechanism Not Working	Mechanism cannot be opened by one maintenance person with proper tools. Bolts into frame have less than 1/2 inch of thread.	Mechanism opens with proper tools.
	Cover Difficult to Remove	One maintenance person cannot remove lid after applying normal lifting pressure (Intent is to keep cover from sealing off access to maintenance).	Cover can be removed by one maintenance person.
Metal Grates (If Applicable)	Grate Opening Unsafe	Grate with opening wider than 7/8 inch.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing	Grate missing or broken member(s) of the grate.	Grate is in place and meets design standards.
Oil/Debris Trap (If Applicable)	Dislodged	Oil or debris trap is misaligned with or dislodged from the outlet pipe.	Trap is connected to and aligned with outlet pipe.

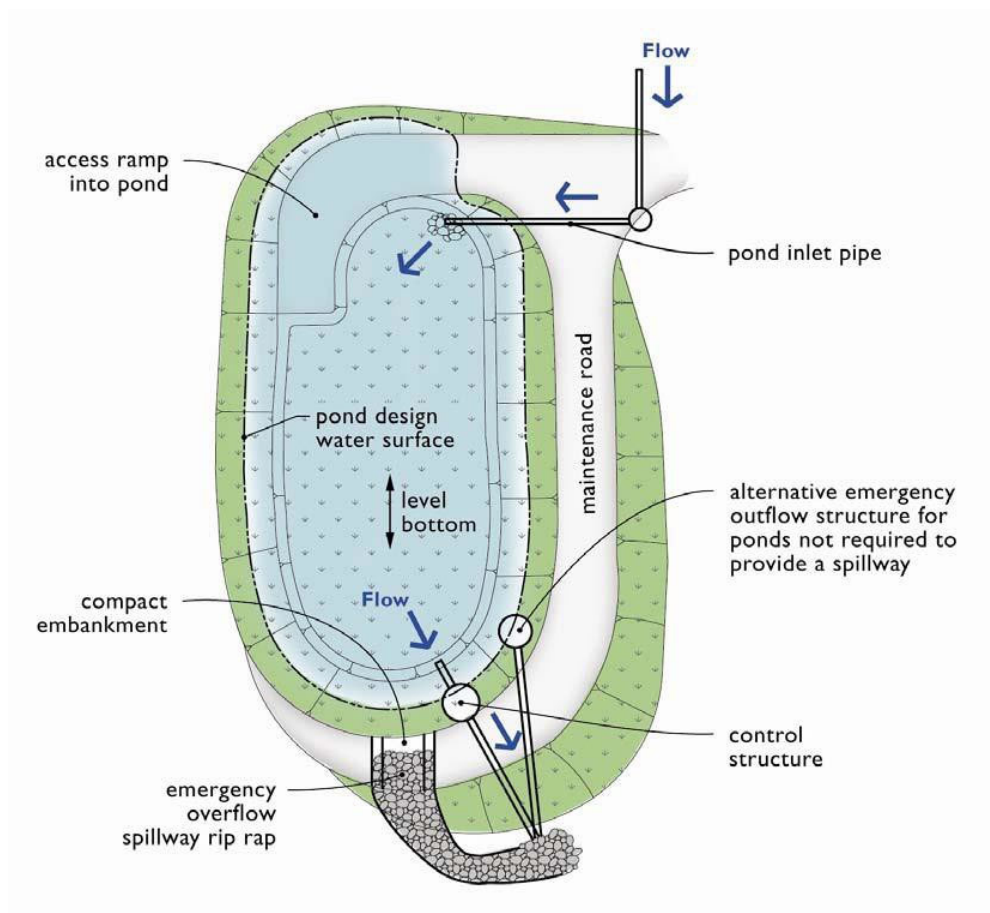
## **Detention Pond**

A stormwater detention pond is an open basin built by excavating below existing ground or by constructing above-ground berms (embankments). The detention pond temporarily stores stormwater runoff during rain events and slowly releases it through an outlet (control structure). Detention ponds are typically designed to completely drain within 24 hours after the completion of a storm event. Styles vary greatly from well-manicured to natural appearing. Generally, more natural-appearing vegetation is preferred for reduced maintenance and enhanced wildlife habitat.

Facility objects that are typically associated with a detention pond include:

- access road or easement
- fence, gate, and water quality sign
- typical bioswale
- wet bioswale
- media filter cartridge
- control structure/flow restrictor
- energy dissipaters
- conveyance stormwater pipe





**Example of a Manicured Detention Pond**

## Key Operations and Maintenance Considerations

- Maintenance is of primary importance if detention ponds are to continue to function well.
- Sediment should be removed when the standards in the defect table are exceeded. Sediments must be disposed in accordance with current local health department requirements and the Minimum Functional Standards for Solid Waste Handling. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.
- Handle sediments removed during the maintenance operation in a manner consistent with [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.
- If a shallow marsh has established, then contact Clark County Department of Environmental Services for advice.
- Maintenance of sediment forebays and attention to sediment accumulation within the pond is extremely important. Continually monitor sediment deposition in the basin. Owners, operators, and maintenance authorities should be aware that significant concentrations of metals (e.g., lead, zinc, and cadmium) as well as some organics such as pesticides, may be expected to accumulate at the bottom of these types of facilities. Regularly conduct testing sediment, especially near points of inflow, to determine the leaching potential and level of accumulation of potentially hazardous material before disposal.
- Slope areas that have become bare should be revegetated and eroded areas should be regraded prior to being revegetated.
- A common tool for cleaning detention ponds is a small bulldozer or excavator to remove built-up sediment and debris from the bottom of the pond during the dry season.

## Plant Material

**Table 1: Stormwater Tract "Low Grow" Seed Mix\* for Detention Pond**

Stormwater Tract "Low Grow" Seed Mix*		
<u>Botanical Name</u>	<u>Common Name</u>	<u>% By Weight</u>
<i>Festuca arundinacea</i> var.	Dwarf tall fescue	40%
<i>Lolium perenne</i> var. <i>barclay</i>	Dwarf perennial rye** 'Barclay'	30%
<i>Festuca rubra</i>	Red fescue	25%
<i>Agrostis tenius</i>	Colonial bentgrass	5%
Selected plants shall not include any plants from the State of Washington Noxious Weed Board: <a href="https://www.nwcb.wa.gov/">https://www.nwcb.wa.gov/</a> and local Clark County Noxious Weed List: <a href="https://www.clark.wa.gov/public-works/vegetation-management">https://www.clark.wa.gov/public-works/vegetation-management</a> . Also please refer to the State of Washington quarantine list for plants prohibited for sale: <a href="https://www.nwcb.wa.gov/noxious-weed-quarantine-list">https://www.nwcb.wa.gov/noxious-weed-quarantine-list</a>		
*Adapted from Portland Bureau of Environmental Services 2014 <i>Stormwater Management Manual</i> , Appendix F.4., Planting Templates and Plant Lists ** Plant species allowed in Clark County street Rights of Way		

## Detention Pond

Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Any trash and debris which exceed 1 cubic foot per 1,000 square feet. In general, there should be no visual evidence of dumping.  If less than threshold all trash and debris will be removed as part of next scheduled maintenance.	Site is free of trash and debris.
	Poisonous Plants and Noxious Weeds	Any poisonous plants or nuisance vegetation which may constitute a hazard to maintenance personnel or the public.  Any evidence of noxious weeds as defined by State or local regulations.  (Coordinate with Clark County Environmental Services Department, Vegetation Management Program.)	No danger of poisonous vegetation where maintenance personnel or the public might normally be.  Eradication of Class A weeds as required by State law. Control of Class B weeds designated by Clark County Weed Board. Control of other listed weeds as directed by local policies.  Apply requirements of adopted IPM policy for the use of herbicides.
	Vegetation Growth and Hazard Trees	Vegetation growth does not allow maintenance access or interferes with maintenance activity (i.e., slope mowing, silt removal, vacuuming, or equipment movements). If trees are not interfering with access or maintenance, do not remove.  Dead, diseased, or dying trees are identified. (Use a certified Arborist to determine health of tree or removal requirements.)	Vegetation do not hinder maintenance activities. Harvested vegetation should be recycled into mulch or other beneficial uses (e.g., alders for firewood).  Remove hazard trees.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. (Coordinate removal/cleanup with local water quality response agency.)	No contaminants or pollutants present.
	Rodent Holes	Any evidence of rodent holes if facility is acting as a dam or berm, or any evidence of water piping through dam or berm via rodent holes.	Rodents destroyed and dam or berm repaired. (Coordinate with Clark County Maintenance and Operations department; coordinate with Ecology Dam Safety Office if pond exceeds 10 acre-feet.)
	Beaver Dams	Dam results in change or function of the facility.	Facility is returned to design function. (Coordinate trapping of beavers and removal of dams with appropriate permitting agencies.)
	Insects	When insects such as wasps and hornets interfere with maintenance activities.	Insects destroyed or removed from site.  Apply insecticides in compliance with adopted Clark County Operations and Maintenance policies.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

Side Slopes of Pond	Erosion	<p>Eroded damage over 2 inches deep where cause of damage is still present or where there is potential for continued erosion.</p> <p>Any erosion observed on a compacted berm embankment.</p>	<p>Slopes have been stabilized using appropriate erosion control measure(s); e.g., rock reinforcement, planting of grass, compaction.</p> <p>If erosion is occurring on compacted berms a licensed civil engineer should be consulted to resolve source of erosion.</p>
Storage Area	Sediment	Accumulated sediment that exceeds 10% of the designed pond depth unless otherwise specified or affects inletting or outletting condition of the facility.	Sediment cleaned out to designed pond shape and depth; pond reseeded if necessary to control erosion.
	Liner (If Applicable)	Liner is visible and has more than three 1/4-inch holes in it.	Liner repaired or replaced. Liner is fully covered.
Pond Berms (Dikes)	Settlements	Any part of berm which has settled 4 inches lower than the design elevation.	Dike is built back to the design elevation.
		If settlement is apparent, measure berm to determine amount of settlement.	
		Settling can be an indication of more severe problems with the berm or outlet works. A licensed civil engineer should be consulted to determine the source of the settlement.	
	Piping	Discernible water flow through pond berm. Ongoing erosion with potential for erosion to continue.	Piping eliminated. Erosion potential resolved.
		(Recommend a Geotechnical engineer be called in to inspect and evaluate condition and recommend repair of condition.)	
Emergency Overflow/ Spillway and Berms Over 4 Feet in Height	Tree Growth	<p>Tree growth on emergency spillways creates blockage problems and may cause failure of the berm due to uncontrolled overtopping.</p> <p>Tree growth on berms over 4 feet in height may lead to piping through the berm which could lead to failure of the berm.</p>	<p>Trees removed. If root system is small (base less than 4 inches) the root system may be left in place. Otherwise the roots should be removed and the berm restored. A licensed civil engineer should be consulted for proper berm/spillway restoration.</p>
	Piping	<p>Discernible water flow through pond berm. Ongoing erosion with potential for erosion to continue.</p> <p>(Recommend a Geotechnical engineer be called in to inspect and evaluate condition and recommend repair of condition.)</p>	Piping eliminated. Erosion potential resolved.

Emergency Overflow/ Spillway	Rock Missing	Only one layer of rock exists above native soil in area five square feet or larger, or any exposure of native soil at the top of flow path of spillway.  (Rip-rap on inside slopes need not be replaced.)	Rocks and pad depth are restored to design standards.
	Erosion	Eroded damage over 2 inches deep where cause of damage is still present or where there is potential for continued erosion.  Any erosion observed on a compacted berm embankment.	Slopes have been stabilized using appropriate erosion control measure(s); e.g., rock reinforcement, planting of grass, compaction.  If erosion is occurring on compacted berms a licensed civil engineer should be consulted to resolve source of erosion.

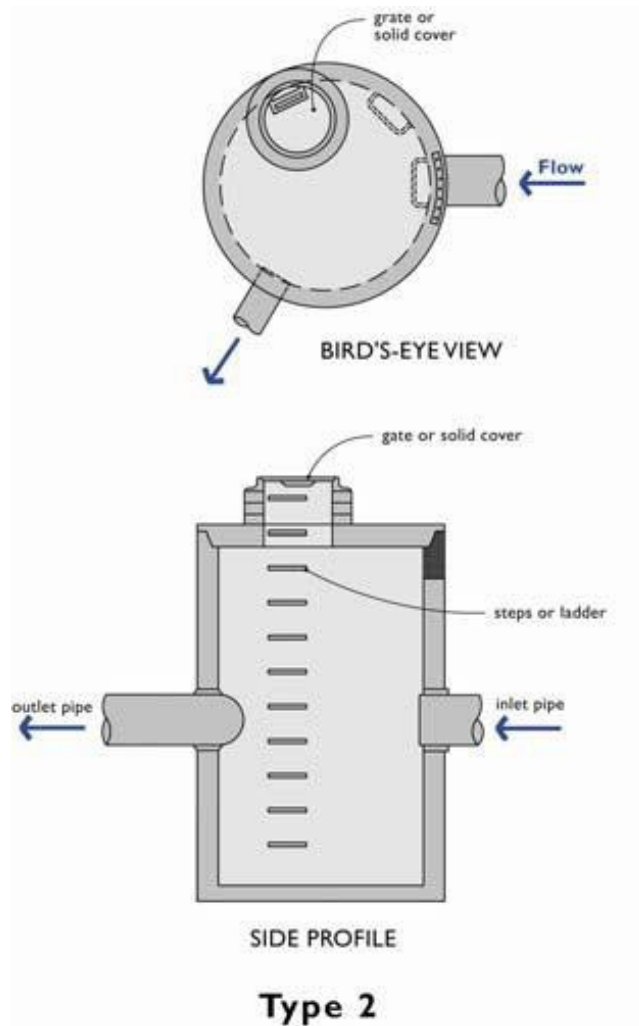
## Manhole

A manhole is an underground concrete structure typically fitted with a slotted grate to collect stormwater runoff and route it through underground pipes. Manholes can also be used as a junction in a pipe system and may have a solid lid. A manhole is also known as a Type 2 catch basin.

Manholes are round concrete structures ranging in diameter from 4 feet to 8 feet. They are used when the connecting conveyance pipe is 18 inches or greater or the depth from grate to pipe bottom exceeds 5 feet. Manholes typically have steps mounted on the side of the structure to allow access.

Manholes typically provide a storage volume (sump) below the outlet pipe to allow sediments and debris to settle out of the stormwater runoff. Some manholes are also fitted with a spill control device (inverted elbow on outlet pipe) intended to contain large quantities of grease or oils.

Manholes are often associated with other stormwater facilities.



## Key Operations and Maintenance Considerations

- The most common tool for cleaning manholes is a truck with a tank and vacuum hose (Vactor® truck) to remove sediment and debris from the sump.
- A manhole may be an enclosed space where harmful chemicals and vapors can accumulate. Therefore, if the inspection and maintenance requires entering a manhole, it should be conducted by an individual trained and certified to work in hazardous confined spaces.

Manhole			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
Note: table spans multiple pages.			
General	Trash and Debris	Trash or debris which is located immediately in front of the opening or is blocking inletting capacity of the basin by more than 10%.	No trash or debris located immediately in front of manhole or on grate opening.
		Trash or debris (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of six inches clearance from the debris surface to the invert of the lowest pipe.	No trash or debris in the basin.
		Trash or debris in any inlet or outlet pipe blocking more than 1/3 of its height.	Inlet and outlet pipes free of trash or debris.
		Dead animals or vegetation that could generate odors that could cause complaints or dangerous gases (e.g., methane).	No dead animals or vegetation present within the catch basin.
	Sediment	Sediment (in the basin) that exceeds 60 percent of the sump depth as measured from the bottom of basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 6 inches clearance from the sediment surface to the invert of the lowest pipe.	No sediment in the basin.
	Structure Damage to Frame and/or Top Slab	Top slab has holes larger than 2 square inches or cracks wider than 1/4 inch. (Intent is to make sure no material is running into manhole.)	Top slab is free of holes and cracks.
		Frame not sitting flush on top slab, i.e., separation of more than 3/4 inch of the frame from the top slab. Frame not securely attached.	Frame is sitting flush on the riser rings or top slab and firmly attached.
	Fractures or Cracks in Basin Walls/ Bottom	Maintenance person judges that structure is unsound.	Basin replaced or repaired to design standards.
		Grout fillet has separated or cracked wider than 1/2 inch and longer than 1 foot at the joint of any inlet/outlet pipe or any evidence of soil particles entering manhole through cracks.	Pipe is regouted and secure at basin wall.

## Stormwater Treatment, Flow Control, and Conveyance Facility Components

	Settlement/ Misalignment	If failure of manhole has created a safety, function, or design problem.	Manhole replaced or repaired to design standards.
	Vegetation Inhibiting System	Vegetation growing across and blocking more than 10% of the opening.	No vegetation blocking opening to manhole.
		Vegetation growing in inlet/outlet pipe joints that is more than six inches tall and less than six inches apart.	No vegetation or root growth present.
	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>• Identify and remove source, AND</li> <li>• Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
Manhole Cover	Cover Not in Place	Cover is missing or only partially in place. Any open manhole is a safety hazard and requires immediate maintenance.	Manhole cover is closed.
	Locking Mechanism Not Working	Mechanism cannot be opened by one maintenance person with proper tools. Bolts into frame have less than 1/2 inch of thread.	Mechanism opens with proper tools.
	Cover Difficult to Remove	One maintenance person cannot remove lid after applying normal lifting pressure (Intent is to keep cover from sealing off access to maintenance).	Cover can be removed by one maintenance person.
Ladder	Ladder Rungs Unsafe	Ladder is unsafe due to missing rungs, not securely attached to manhole wall, misalignment, rust, cracks, or sharp edges.	Ladder meets design standards and allows maintenance person safe access.
Metal Grates (If Applicable)	Grate Opening Unsafe	Grate with opening wider than 7/8 inch.	Grate opening meets design standards.
	Trash and Debris	Trash and debris that is blocking more than 20% of grate surface inletting capacity.	Grate free of trash and debris.
	Damaged or Missing	Grate missing or broken member(s) of the grate.	Grate is in place and meets design standards.

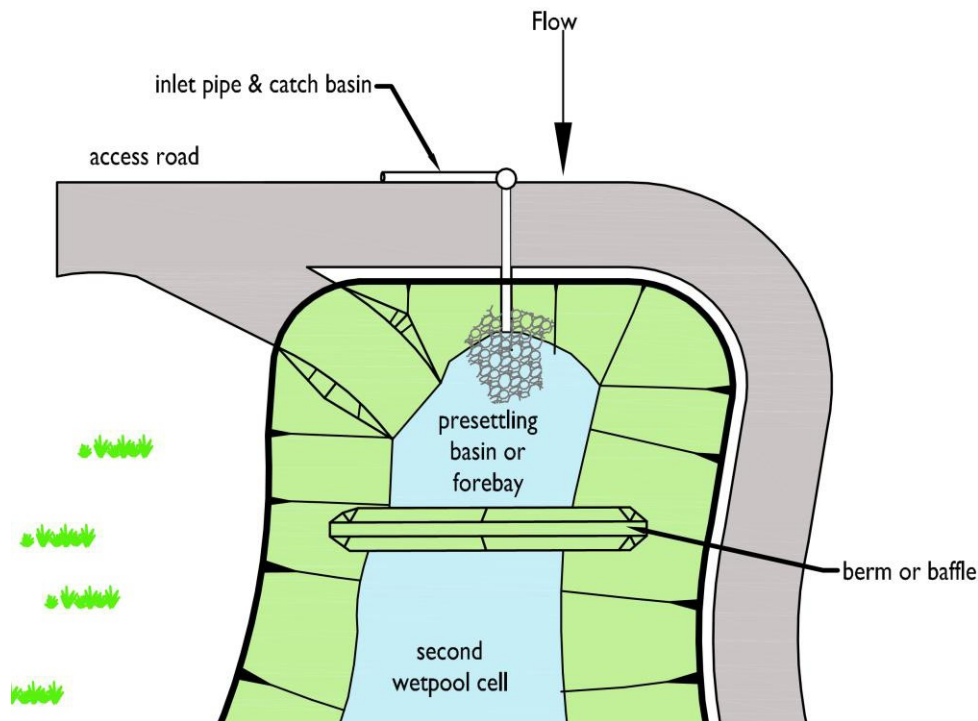


## Presettling Basin (Forebay or Pretreatment)

A presettling basin is a closed or open basin, preceding another treatment or flow control facility, which retains a permanent pool of water (wetpool) year-round or during the wet season. The presettling basin allows solids and sediments to settle out of stormwater before water moves to the subsequent basin for infiltrations or further treatment.

Facility objects associated with a presettling basin may include:

- access road or easement
- inlet
- catch basin
- berm or baffle
- control structure/flow restrictor



### Key Operations and Maintenance Considerations

- Slope areas that have become bare should be revegetated and eroded areas should be regraded prior to being revegetated.
- Sediment must be disposed in accordance with current local health department requirements and the Minimum Functional Standards for Solid Waste Handling. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.

- Any standing water removed during the maintenance operation must be properly disposed of. The preferred disposal option is discharge to a sanitary sewer at an approved location. Other disposal options include discharge back into the wetpool facility or the storm sewer system if certain conditions are met. For additional guidance see [Book 3, Appendix 3-E, Recommendations for Management of Street Waste](#).

Presettling Basin			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Water Level	First cell is empty, doesn't hold water.	First cell lined to maintain at least 4 feet of water. Although the second cell may drain, the first cell must remain full to control turbulence of the incoming flow and reduce sediment resuspension.
	Trash and Debris	Accumulation that exceeds 1 CF per 1,000-SF of pond area.	Trash and debris removed from pond.
	Sediment Accumulation in Pond Bottom	Cattail or other emergent, rooted vegetation covers 50% of the basin surface area AND there is clear indication that stormwater inflow or facility effectiveness is being impeded.	Remove vegetation and sediment in the Presettling Cell as necessary so that:  Remaining vegetation covers no more than 25% of the basin surface area;  Inflow not impeded;.  Generally retain vegetation at wetland or wet pond boundary.
	Oil Sheen on Water	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present.  <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	Oil not present on pond surface. Oil has been removed from water using oil-absorbent pads or Vactor® truck. Source of oil located and corrected. If chronic low levels of oil persist, plant wetland plants such as <i>Juncus effusus</i> (soft rush) which can uptake small concentrations of oil.
	Erosion	Erosion of the basin's side slopes and/or scouring of the pond bottom that exceeds 6-inches, or where continued erosion is prevalent.	Slopes stabilized using proper erosion control measures and repair methods.
	Settlement of Pond Dike/Berm	Any part of these components that has settled 4-inches or lower than the design elevation, or inspector determines dike/berm is unsound.	Dike/berm is repaired to design specifications.
	Internal Berm	Berm dividing cells should be level.	Berm surface is leveled so that water flows evenly over entire length of berm.

## Stormwater Conveyance Pipe

Storm sewer pipes convey stormwater. Inlet and outlet stormwater pipes convey stormwater in, through, and out of stormwater facilities.

Pipes are built from many materials and are sometimes perforated to allow stormwater to infiltrate into the ground. Pipes are cleaned to remove sediment or blockages when problems are identified. Stormwater pipes must be clear of obstructions and breaks to prevent localized flooding. All stormwater pipes should be in proper working order and free of the possible defects listed below.

### Key Operations and Maintenance Considerations

- The most common tool for cleaning stormwater conveyance pipes is a truck with a tank, vacuum hose, and a jet hose (Vactor® truck) to flush sediment and debris from the pipes.

Stormwater Conveyance Pipe			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Contaminants and Pollution	Any evidence of oil, gasoline, contaminants, or other pollutants. Sheen, obvious oil, or other contaminants present. <ul style="list-style-type: none"> <li>Identify and remove source, AND</li> <li>Report to Clark County Clean Water Program.</li> </ul>	No contaminants or pollutants present.
	Drainage Slow	Decreased capacity that indicates slow drainage. Does not meet facility design infiltration rate.  The Water Quality Design Storm Volume does not infiltrate within 48 hours (if perforated pipe). Water remains in the pipe for greater than 24 hours after the end of most moderate rainfall events.	Perforated drain pipe has been cleaned and drainage rates are per design specifications. (Do not allow removed sediment and water to discharge back into the storm sewer.)
	Obstructions, Including Roots	Root enters or deforms pipe, reducing flow.	Roots have been removed from pipe (using mechanical methods; do not put root-dissolving chemicals in storm sewer pipes). If necessary, vegetation over the line removed.
	Pipe Dented or Broken	Inlet/outlet piping damaged or broken and in need of repair.	Pipe repaired and/or replaced per design standards.
	Pipe Rusted or Deteriorated	Any part of the piping that is crushed or deformed more than 20% or any other failure to the piping.	Pipe repaired and/or replaced per design standards.
	Sediment and Debris	Sediment depth is greater than 20% of pipe diameter.	Pipe has been cleaned and is free of sediment/ debris. (Upstream debris traps installed where applicable.)
	Debris Barrier or Trash Rack Missing	Stormwater pipes > than 18 inches need debris barrier.	Debris barrier present on all stormwater pipes 18 inches and greater.

## Vegetation

Many stormwater facilities use vegetation as part of the functional design. Vegetation must be maintained to contribute to the function of the facility and to prevent damage to structural elements of the facility (e.g. earthen berms). Another reason to maintain vegetation is aesthetics.

Vegetation maintenance can include trimming, plant replacement, weeding, and pest control. Vegetation maintenance in native vegetation retention areas carries specific requirements.

Objectives for vegetation management in stormwater facilities:

- Maintain healthy plant communities
- Reduce or eliminate sources of pollution related to vegetation care
- Cover bare soil areas with plants
- Control Class A and Class B noxious weeds; control unlisted invasive plants where needed to achieve management objectives
- Tolerance for natural appearance and weeds that do not interfere with facility functions

## Key Operations and Maintenance Considerations

- The vegetation management focus is establishing and maintaining healthy low-maintenance native plantings and sustaining the design function of vegetated filters such as biofiltration swales. This includes controlling invasive plants where appropriate, and planting cover on bare soils.
- Use plants appropriate to the facility type, as listed in this manual. In Clark County street Rights of Way, ensure plants used are approved for ROW use by Clark County Public Works.
- In some cases, the original plantings may not be appropriate for the actual condition at a facility. One example is a frequently flooded swale that cannot support normal turf. In cases like this, replace turf with appropriate wetland plants if the underlying drainage problem cannot be fixed.
- Consider the use of soil amendments such as compost before using fertilizer.
- Limit mulch use to covering bare soil while establishing plantings.
- When a chemical control method is chosen, carefully follow the manufacturer's label directions for use. When deciding on and using a chemical control, consider stormwater facilities and drainage systems as leading to water bodies and apply chemicals per the label directions for use over or near water.
- Allow a 5-foot buffer from mature established plantings to fence lines and access roads.
- Within a maintenance easement, select plants that allow for future access and maintenance.
- Trees or shrubs that block access roads may be trimmed (or removed if within the access road) when access is required for maintenance by heavy equipment.

- Trees that pose a risk to stormwater structures due to root growth may be removed and replaced by smaller shrubs.

## Use Only Appropriate Plants

Use plants that will thrive in the growing conditions of each facility. Growing conditions are affected by moisture, soil conditions, and light. Plants native to western Washington are preferred. Plant lists for biofiltration swales, bioretention systems, rain gardens, and other facility types are given in the respective BMP maintenance sheets.

### Native Vegetation Retention Areas

*BMP T5.40 - Preserving Native Vegetation* is one of the site design Best Management Practices that may be followed during site development. If this BMP has been used for a site, avoid removing vegetation and trees from the natural growth retention area, except for approved timber harvest activities, the removal of dangerous and diseased trees, and control and removal of noxious weeds. Replace areas cleared of dangerous trees or of noxious weeds with approved native plantings.

## Vegetation and Pest Management in Stormwater Facilities

Generally, vegetation should be maintained to blend into surrounding areas. Stormwater facilities can provide habitat for aquatic life and birds. Promoting natural vegetation where feasible improves habitat. Swales often blend into intensively managed landscapes. Pond perimeters can include natural vegetation.

The use of fertilizer is often not compatible with the task of pollutant removal or the direct connection of stormwater facilities to streams and groundwater.

Features of stormwater facility vegetation:

- There is a mix of native and non-native plants
- Generally not used by the public
- Include areas managed to promote design function, such as turf in swales
- Managed landscapes may be nearby
- May be used by fish and wildlife

## Integrated Pest Management

Landscape management decisions for controlling unwanted vegetation, diseases, and pests in stormwater facilities should follow Integrated Pest Management principles.

An IPM program might consist of the following steps:

**Step 1: Correctly identify problem pests and understand their life cycle.**

IPM starts with an understanding of the soil, water, natural resources, and human impacts on site. Identify and research the pest species, including basic physiology and best timing for control. Many pests are a problem during certain seasons or can only be treated in specific phases of the life cycle. Local pest identification help can be obtained from Clark County Weed Board and WSU Extension Master Gardeners, or through online resources such as Washington State Noxious Weed Control Board and Washington Invasive Species Council.

**Step 2: Establish tolerance thresholds for pests.**

Every landscape has a population of some pest insects, weeds, and diseases. Once the pest has been identified and studied, determine if low levels of the pest are tolerable. Small numbers of certain pests may not be harmful. If this is the case, simply continue to monitor the pest population.

In other cases, the pest may require control. Examples include a pest population that is rapidly increasing in numbers, or an invasive weed that requires control according to state law. Early detection, rapid response (EDRR) plays an important role in the control of pests that are known to be a severe problem in other regions but not yet occurring in ours. In this instance, the tolerance threshold is zero; a quick response to eliminate a future ongoing pest problem is the safest and least expensive control.

**Step 3: If pests exceed tolerance thresholds, choose a safe and effective control method.**

IPM identifies physical, cultural, biological, and chemical control methods tailored specifically for the pest of concern and the site. Research the available options and choose a control method that is effective. Preferred control methods are economical, low risk to people, and mindful of environmental processes.

Physical control works on a pest directly: digging, hand-pulling, mowing, tilling, trapping, etc.

Cultural control changes the pest's environment: landscape fabric, mulch, soil amendments, altering the irrigation method or duration, crop rotation, crop covers, etc.

Biological control uses natural enemies: beneficial insects, managed grazing, bird boxes and perches, etc.

Chemical control is the use of pesticides: insect bait stations, synthetic and organic foliar herbicides, microbial-based insecticides, oils, soaps, etc.

These control methods should be looked at as tools in a toolbox; IPM selects the right tools for the job at hand. Both short-term control and long-term management is best achieved by using more than one tool. Often, implementing cultural control methods reduces the amount of physical and chemical control needed.

#### Step 4: Monitor and evaluate.

Observe and record the results of the control treatment. Evaluate the effectiveness. If necessary, modify maintenance practices to support a healthy landscape and prevent recurrence of the pest.

IPM emphasizes that pest control is not a one-time proposition; the pest control process should be viewed as a cycle that rotates through planning, control, and evaluation. As pest issues change over time, the IPM plan adapts.

- Proper planning and management decisions begin the IPM process. All control methods are considered during the information-gathering and planning process. Often a combination of methods is best.
- Cultural methods of vegetation and pest control are preferred.
- Mechanical means of vegetation and pest control are next in line of preference and are utilized where appropriate.
- Biological methods of vegetation and pest control are considered before chemical means, where they are appropriate.
- Botanical and synthetic pesticides are used in an appropriate manner when other control methods are deemed ineffective or not cost-efficient.

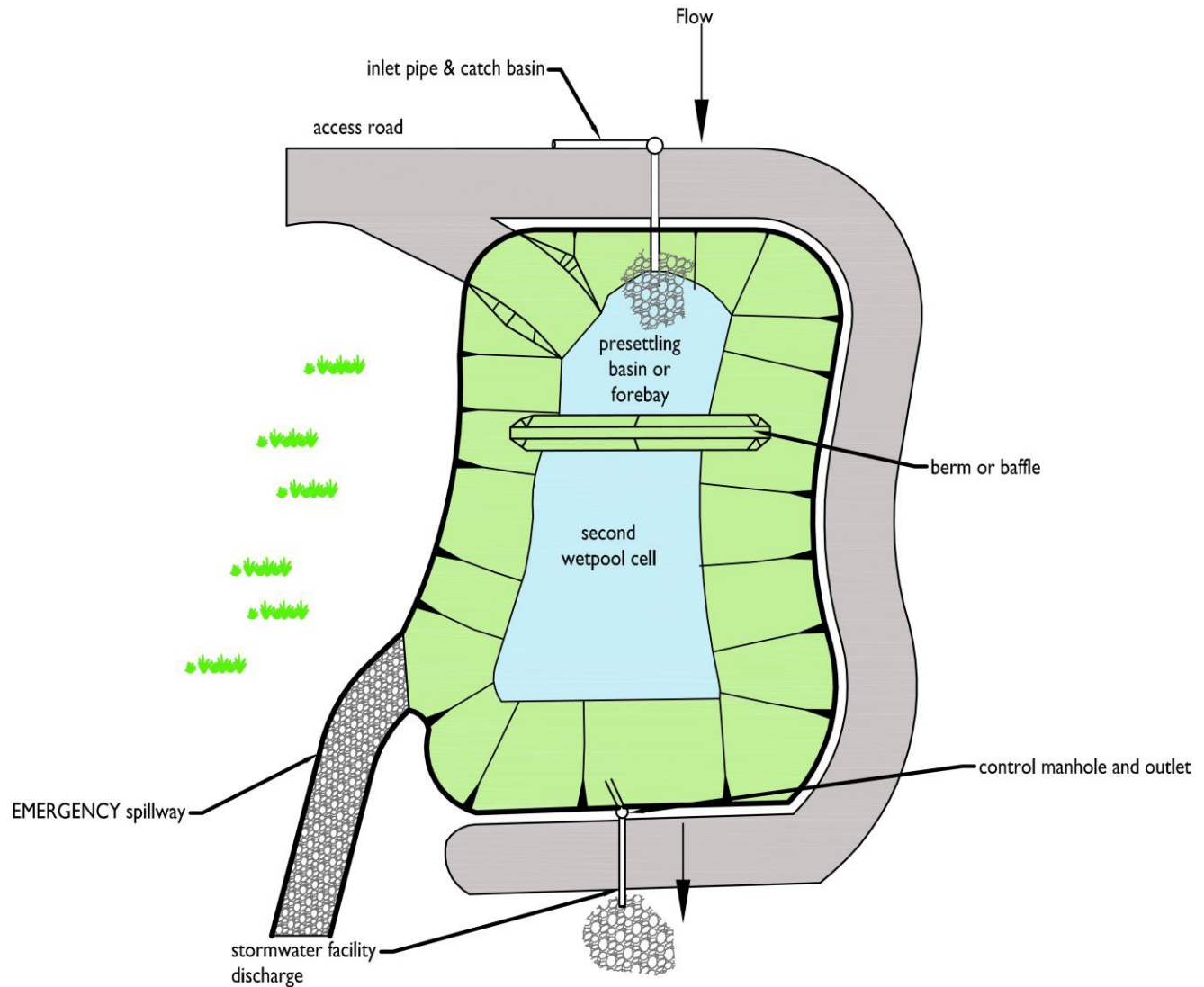
## **Wetpond**

A wetpond is an open basin that retains a permanent pool of water (wetpool) year round or only during the wet season. The volume of the wetpond allows sediment and other pollutants to settle out of the runoff. Wetland vegetation is typically planted within the wetpond to provide additional treatment through nutrient (i.e. nitrogen) removal. Detention quantity control can be provided with additional temporary storage volume above the permanent pool elevation.

Facility objects that are typically associated with a wetpond include:

- access road or easement
- fence, gate, and water quality sign
- detention pond
- control structure / flow restrictor
- energy dissipaters
- debris barrier (e.g. trash rack)
- conveyance stormwater pipe





## Key Operations and Maintenance Considerations

- Maintenance is of primary importance if wetponds are to continue to function well.
- Site vegetation should be trimmed as necessary to keep the pond free of leaves and to maintain the aesthetic appearance of the site. Slope areas that have become bare should be revegetated and eroded areas should be regraded prior to being revegetated.
- Sediment should be removed when the standards in the defect table are exceeded. Sediments must be disposed in accordance with current local health department requirements and the Minimum Functional Standards for Solid Waste Handling. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.
- Any standing water removed during the maintenance operation must be properly disposed of. The preferred disposal option is discharge to a sanitary sewer at an approved location. Other disposal options include discharge back into the wetpool facility or the storm sewer system if

certain conditions are met. For additional guidance see [Book 3, Appendix 3-E](#), Recommendations for Management of Street Waste.

- If a shallow marsh has established, then contact Clark County Department of Environmental Services for advice.
- Common tools for cleaning wetponds are small bulldozers and excavators to remove built-up sediment and debris from the bottom of the pond.

## Plant Material

**Table 2: Emergent Wetland Plant Species Acceptable for Wetponds**

Inundation to 1 Foot			Table continues on next page
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Agrostis exarata</i> <sup>(1)</sup>	Spike bent grass	Prairie to coast	to 2 feet
<i>Carex stipata</i>	Sawbeak sedge	Wet ground	
<i>Eleocharis palustris</i>	Spike rush	Margins of ponds, wet meadows	to 2 feet
<i>Glyceria occidentalis</i>	Western mannagrass	Marshes, pond margins	to 2 feet
<i>Juncus tenuis</i>	Slender rush	Wet soils, wetland margins	
<i>Oenanthe sarmentosa</i>	Water parsley	Shallow water along stream and pond margins; needs saturated soils all summer	
<i>Scirpus atrocinctus</i> (formerly <i>S. cyperinus</i> )	Woolgrass	Tolerates shallow water; tall clumps	
<i>Scirpus microcarpus</i>	Small-fruited bulrush	Wet ground to 18 inches depth	18 inches
<i>Sagittaria latifolia</i>	Arrowhead		
Inundation 1 to 2 feet			
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Agrostis exarata</i> <sup>(1)</sup>	Spike bent grass	Prairie to coast	
<i>Eleocharis palustris</i>	Spike rush	Margins of ponds, wet meadows	
<i>Glyceria occidentalis</i>	Western mannagrass	Marshes, pond margins	
<i>Juncus effusus</i>	Soft rush	Wet meadows, pastures, wetland margins	
<i>Scirpus microcarpus</i>	Small-fruited bulrush	Wet ground to 18 inches depth	18 inches
<i>Sparganium emmersum</i>	Bur reed	Shallow standing water, saturated soils	
Inundation 1 to 3 feet			
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Carex obnupta</i>	Slough sedge	Wet ground or standing water	1.5 to 3 feet

<i>Beckmania syzigachne</i> <sup>(1)</sup>	Western sloughgrass	Wet prairie to pond margins	
<i>Scirpus acutus</i> <sup>(2)</sup>	Hardstem bulrush	Single tall stems, not clumping	to 3 feet
<i>Scirpus validus</i> <sup>(2)</sup>	Softstem bulrush		
<b>Inundation Greater Than 3 feet</b>			
<u>Botanical Name</u>	<u>Common Name</u>	<u>Notes</u>	<u>Max. Depth</u>
<i>Nuphar polysepalum</i>	Spatterdock	Deep water	3 to 7.5 feet
<b>Acceptable Seed Mix for Wet Ponds / Wet Pools</b>			
<u>Species</u>	<u>Common Name</u>	<u>% by Weight</u>	
<i>Scirpus acutus</i>	Hardstem bulrush	9%	
<i>Juncus effusus</i>	Soft rush	9%	
<i>Carex stipata</i>	Awl sedge	29.5%	
<i>Glyceria occidentalis</i>	Western mannagrass	25%	
<i>Eleocharis palustris</i>	Creeping spike rush	15%	
<i>Eleocharis ovata</i>	Ovoid spike rush	9%	
<i>Carex abnupta</i>	Slough sedge	3.5%	
<p>Selected plants shall not include any plants from the State of Washington Noxious Weed Board:  <a href="https://www.nwcb.wa.gov/">https://www.nwcb.wa.gov/</a> and local Clark County Noxious Weed List:  <a href="https://www.clark.wa.gov/public-works/vegetation-management">https://www.clark.wa.gov/public-works/vegetation-management</a>.  Also please refer to the State of Washington quarantine list for plants prohibited for sale:  <a href="https://www.nwcb.wa.gov/noxious-weed-quarantine-list">https://www.nwcb.wa.gov/noxious-weed-quarantine-list</a></p>			
<p><sup>(1)</sup> Non-native species. Native species are preferred.</p> <p><sup>(2)</sup> <i>Scirpus</i> tubers must be planted shallower for establishment and protected from foraging waterfowl until established. Emerging aerial stems should project above water surface to allow oxygen transport to the roots.</p> <p>Primary sources: Municipality of Metropolitan Seattle, Water Pollution Control Aspects of Aquatic Plants, 1990. Hortus Northwest, Wetland Plants for Western Oregon, Issue 2, 1991. Hitchcock and Cronquist, Flora of the Pacific Northwest, 1973.</p> <p>*Adapted from Portland Bureau of Environmental Services 2014 <i>Stormwater Management Manual</i>, Appendix F.4., Planting Templates and Plant Lists</p>			

Wetpond			
Drainage System Feature	Potential Defect	Conditions When Maintenance Is Needed	Minimum Performance Standard
General	Water Level	First cell is empty, doesn't hold water.	First cell lined to maintain at least 4 feet of water. Although the second cell may drain, the first cell must remain full to control turbulence of the incoming flow and reduce sediment re-suspension.
	Trash and Debris	Accumulation that exceeds 1 CF per 1,000-SF of pond area.	Trash and debris removed from pond.
	Inlet / Outlet Pipe	Inlet / Outlet pipe clogged with sediment and/or debris.	Material has been removed and there is no clogging or blockage in the inlet and outlet area.
	Sediment Accumulation in Pond Bottom	Sediment accumulations in pond bottom that exceeds the depth of sediment zone plus 6-inches, usually in the first cell.	Sediment level in pond bottom is within the depth of specified sediment zone.
	Oil Sheen on Water	Prevalent and visible oil sheen.	Oil not present on pond surface. Oil has been removed from water using oil-absorbent pads or Vactor® truck. Source of oil located and corrected. If chronic low levels of oil persist, plant wetland plants such as <i>Juncus effusus</i> (soft rush) which can uptake small concentrations of oil.
	Erosion	Erosion of the pond's side slopes and/or scouring of the pond bottom, which exceeds 6-inches, or where continued erosion is prevalent.	Slopes stabilized using proper erosion control measures and repair methods.
	Settlement of Pond Dike / Berm	Any part of these components that has settled 4-inches or lower than the design elevation, or inspector determines dike/berm is unsound.	Dike / berm is repaired to design specifications.
	Internal Berm	Berm dividing cells should be level.	Berm surface is leveled so that water flows evenly over entire length of berm.
	Overflow Spillway	Rock is missing and soil is exposed at top of spillway or outside slope.	Rocks replaced to design specifications.

# **Exhibit “C”**

## **Stormwater Facilities Inspection Report Form**



## Town of Yacolt

### Request for Council Action

#### CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

**Name:** Stephanie Fields, Town Clerk  
David W. Ridenour, Town Attorney

**Group Name:** Staff

**Address:** 202 W. Cushman St.  
P.O. Box 160  
Yacolt, WA 98675

**Phone:** Town Clerk (360) 686-3922  
David Ridenour (360) 906-1556

**Email Address:** clerk@townofyacolt.com  
david@davidridenourlaw.com

**Alt. Phone:**

#### ITEM INFORMATION:

**Item Title:** Railroad Avenue Subdivision: **Declaration of Covenants, Conditions, and Restrictions for Railroad Avenue Subdivision Homeowner's Association, (and related documents).**

**Proposed Meeting Date:** January 22, 2024. (Special Meeting)

**Action Requested of Council:** Review proposed CC&Rs to be recorded with the Final Plat for the Railroad Avenue Subdivision Homeowner's Association. The Declaration provides for the HOA's obligation to maintain common areas including private Stormwater Facilities that serve the Plat.

**Proposed Motion:** To Approve: "I move that the Council approve the 'Declaration of Covenants, Conditions and Restrictions for the Railroad Avenue Subdivision Homeowner's Association' in a form substantially similar to the version presented to the Council, and authorize the Developer to sign and record the Declaration pursuant to the instructions of the Town Attorney."

If changes are desired, continue the motion as follows: "... with the following changes: (describe)."

**Summary/ Background:** Rotschy, LLC, the Developer of the Railroad Avenue Subdivision, is preparing to record the Final Plat and finalize other documents that were required by the Town's conditions of approval or that have been requested by the Developer.

One of the Town's conditions of approval for the Subdivision was the creation of a Homeowner's Association that would be responsible for the inspection and maintenance of the private Stormwater Facilities serving the Plat for the life of the Subdivision. The Developer has filed Articles of Incorporation to create the HOA and has proposed the attached CC&Rs that will be recorded together with the Plat.

The CC&Rs are intended to encumber the title of all Lots and properties within the Plat. The CC&Rs provide for the HOA's obligation to maintain common areas including the private Stormwater Facilities that serve the Plat.

The Developer has prepared a 'Declaration of Covenants, Conditions and Restrictions for the Railroad Avenue Subdivision Homeowner's Association' for the Council's review. The CC&Rs are still undergoing final revisions and the addition of exhibits. Some editorial changes can be expected before a final signature copy can be prepared and recorded.

A number of other documents related to the creation of the HOA have been included in this Council packet for the Council's background information. The Council is not being asked to review and approve these other documents. Staff has focused primarily on the CC&Rs, and then only to the extent that the CC&Rs discuss the HOA's obligations to maintain the private Stormwater Facilities.

The documents have been reviewed and approved by the Town Attorney and Town Clerk. Staff recommends that the CC&Rs be approved in substantially the form presented.

A Resolution approving this and the other documents presented during this meeting will be presented for consideration by the Council at the end of the meeting's agenda.

**Attachments:**

1. HOA Articles of Incorporation, (3 pages);
2. Declaration of Covenants, Conditions and Restrictions for the Railroad Avenue Subdivision Homeowner's Association, (35 pages);
3. HOA Bylaws, (19 pages); and,
4. HOA Public Offering Statement, (16 pages).

**Staff Contact(s):**

Stephanie Fields, Town Clerk.  
Devin Jackson, Jackson Civil, Town Engineer.  
David W. Ridenour, Town Attorney.



**WASHINGTON**  
**Secretary of State**

**Corporations & Charities Division**

Overnight address by commercial carrier: 801 Capitol Way S Olympia, WA 98501-1226

Mailing Address (ALL USPS): PO Box 40234 Olympia, WA 98504-0234

tel: 360.725.0377 | Website: www.sos.wa.gov/corporations-charities

**Select one filing fee option**

☐ Filing Fee \$80 - Default

☒ Filing Fee \$40 - By selecting this box, the Nonprofit Corporation voluntarily certifies that its initial gross revenue is less than \$500,000.

☐ To Expedite Filing, Add \$100

**FILED**

**Secretary of State**

**State of Washington**

**Date Filed: 12/11/2023**

**Effective Date: 12/11/2023**

**UBI No: 605 378 002**

**THIS BOX FOR OFFICE USE ONLY**

**ARTICLES OF INCORPORATION**

Nonprofit Corporation

RCW 24.03A

**All fields REQUIRED unless otherwise specified**

**(1) Do you already have a UBI No.? (Check one)** ☐ Yes ☒ No If Yes, provide UBI No.: \_\_\_\_\_

If you have previously filed with another state agency (for example, the Department of Revenue, the Department of Labor and Industries, or the Employment Security Department), you may already have a 9-digit UBI Number you can provide. **Do not** enter the UBI Number of a Sole Proprietorship or General Partnership.

If you do not have a UBI Number, a UBI Number will be issued to you upon successful completion of the filing.

**(2) BUSINESS ENTITY NAME:**

Railroad Avenue Subdivision Homeowners Association

May include "club", "league", "association", "services", "committee", "fund", "society", "foundation", "guild", "... a nonprofit corporation", "... a nonprofit mutual corporation" or any name of like import. **Must not include or end with** "Corporation", "Incorporated", "Company", "Limited", "Limited Partnership" or the abbreviation "Corp.", "Inc.", "Co." or "Ltd." or any abbreviation thereof. May only include the term "public benefit" or names of like import if the nonprofit corporation has been designated as a public benefit nonprofit corporation by the secretary of state in accordance with chapter 24.03A RCW. For name requirements review the following RCW(s): RCW 23.95.305

**Does the business have a name reserved? (Check one)** ☐ Yes ☒ No If Yes, provide the Reservation Number

Reservation No.: \_\_\_\_\_

**(3) GROSS REVENUE CERTIFICATION:**

Per RCW 24.03A.960 does the Nonprofit voluntarily certify that its initial gross revenue is less than \$500,000?

(Check one) ☒ Yes ☐ No (If "yes", the filing fee is reduced to \$40)

**(4) CHARITABLE NONPROFIT CORPORATION:** If within sections 6 or 8, language indicating a "charitable purpose"; the Nonprofit is a Religious Corporation; or that the Nonprofit is eligible for tax-exempt status under section 501(C)(3) of the Internal Revenue Code, then Yes is required below.

Is the Nonprofit Corporation a Charitable Nonprofit as defined by RCW 24.03A.010(5)? (Check one) ☐ Yes ☒ No

**(5) MEMBERS: RCW 24.03A.010(45)**

Does the Nonprofit Corporation have members? (Check one) ☐ Yes ☒ No providing names are optional

Name: \_\_\_\_\_ Name: \_\_\_\_\_

**(6) PURPOSE OF CORPORATION: Purpose for which the nonprofit corporation is organized**

Homeowners Association for subdivision



## 7) REGISTERED AGENT:

A **Registered Agent** is an agent of a business which is authorized to receive service of any process, notices, or demands required or permitted by law to be served on the business including hand delivered service of process.

All businesses must have a **Registered Agent in Washington State per RCW 23.95.415**

Provide the name of the *Commercial Registered Agent* **OR** *Non-Commercial Registered Agent*. The appointed agent must sign the **Consent to Serve** statement below.

### COMMERCIAL REGISTERED AGENT

A *Commercial Registered Agent* is a business or individual that is registered specifically as a Commercial Agent with the Office of the Secretary of State to receive legal documents on behalf of a corporation. A Commercial Registered Agent address has been registered with this office in advance and does not need to provide it with this submission.

If applicable, provide the name of the Commercial Registered Agent: \_\_\_\_\_

### NON-COMMERCIAL REGISTERED AGENT

A *Non-Commercial Registered Agent* is a person, business, or office or position title appointed to serve as the registered agent for a business. A street address located in Washington State and an email address are required; a phone number and separate Washington State mailing address are optional.

..... If multiple types are listed the first type will be entered by this office .....

- **Type 1:** If an **individual** is serving as the Registered Agent, only provide the individual's first and last name below.
- **Type 2:** If a **business** is serving as the Registered Agent, only provide the name of the business below.
- **Type 3:** If an **office** or **position** within the business is serving as the Registered Agent, only provide the position title such as President, Secretary, Treasurer, or Member below.

Registered Agent: Cassie N. Crawford

Phone: (optional) <u>360-907-5696</u>	Email: <u>Cassie@Vancouverlandlaw.com</u>
<b>Street Address: (required)</b> Must be a physical address; No PO Box or PMB Country: <u>United States</u> State: <u>Washington</u> Address: <u>310 W. 11th St.</u> Zip: <u>98660</u> City: <u>Vanc</u>	<b>Mailing Address (optional)</b> <input type="checkbox"/> Check if mailing address is the same as street address Country: <u>United States</u> State: <u>Washington</u> Address: <u>PO Box 61488</u> Zip: <u>98666</u> City: <u>Vanc</u>

### CONSENT TO SERVE AS REGISTERED AGENT - REQUIRED FOR ALL TYPES

I hereby consent to serve as Registered Agent in the State of Washington for the named business. I understand it will be my responsibility to accept service of process, notices, and demands on behalf of the business; to forward mail to the business; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

Cassie N. Crawford Cassie N. Crawford 11/8/23  
Signature of Registered Agent Printed Name/Title Date

**(8) ANY OTHER PROVISIONS:** IRS tax exempt language, attach additional pages if necessary

**(9) PERIOD OF DURATION:** Check ONE of the following

☒ This Corporation shall have a perpetual duration (default) ☐ This Corporation shall have a duration of \_\_\_\_\_ years.

☐ This Corporation shall expire on \_\_\_\_\_

**(10) EFFECTIVE DATE:** Check ONE of the following

☒ Date of filing (default) this is the date that the submission is completed by our office

☐ Specify a date \_\_\_\_\_ (cannot be more than 90 days following the received date)

**(11) INITIAL BOARD OF DIRECTORS:** Name and address of each initial director is required, attach additional pages if necessary.

Name: Cornell Rotschay Address: 7408 NE 113<sup>th</sup> Dr.  
City: Vanc State: WA Zip: 98661

Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**(12) DISTRIBUTION OF ASSETS:**

In the event of voluntary dissolution, the net assets will be distributed as follows:

to another non-profit homeowner association

**(13) RETURN ADDRESS FOR THIS FILING:** (optional)

If provided, the confirmation regarding this specific filing will be sent to the address below, in addition to the Registered Agent's address.

Attention: Cassie N. Crawford Email: Cassie@vancouverlandlaw.com  
Address: PO Box 61488  
City: Vanc State: WA Zip: 98666

**(14) INCORPORATOR INFORMATION:**

Name, address, and signature required. Attach additional sheets if necessary.

I hereby certify, under penalty of law, that the above information is accurate and complies with the filing requirements of state law.

Name: Cassie N. Crawford  
Address: PO Box 61488  
City: Vanc State: WA Zip: 98666 Country: \_\_\_\_\_  
Signature of Incorporator: Cassie N. Crawford Printed Name/Title: Cassie N. Crawford Date: 11/8/23

**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
RAILROAD AVENUE SUBDIVISION HOMEOWNER'S ASSOCIATION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF RAILROAD AVENUE SUBDIVISION HOMEOWNER'S ASSOCIATION ("Declaration") is made \_\_\_\_\_ by Rotschy LLC, a Washington limited liability company (the "Declarant").

**Recitals**

A. The Declarant is the owner, or controls, all that certain real property and improvements thereon located in Yacolt, Washington, referred to as Railroad Avenue Subdivision (also referred to as the "Property"), recorded at Auditor's File No \_\_\_\_\_, in Book \_\_\_\_, Page \_\_\_\_ (the "Plat").

B. Declarant intends to develop the Property as a planned community known as "RAILROAD AVENUE SUBDIVISION" which is a plat community as defined in RCW 64.90.010(37). And, Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the Property under a comprehensive general plan of improvement and development for the benefit of all of the Owners, the Lots and Common Area, within "RAILROAD AVENUE SUBDIVISION" ("CCRs" and/or "Declaration").

C. To the extent there is a conflict between this Declaration and any mandatory or non-waivable provision of RCW 64.90, the provisions of RCW 64.90 shall control. However, to the extent there is a conflict between this Declaration and a provision of RCW 64.90 that is either not mandatory or that can be waived or altered, the provisions of this Declaration shall control.

D. Declarant will create a Homeowners Association, to which will be delegated and assigned the powers and authority to own, maintain and administer the Association, the Common Area, and facilities, and administer and enforce the covenants, conditions, and restrictions of this Declaration, and collect and disburse the assessments and charges hereinafter created.

NOW THEREFORE, the Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens, or as noted herein, which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of the Association and for the benefit of each Lot Owner.

## **Article 1**

### **Definitions**

**1.1** **“Architectural Review Committee”** or **“ARC”** shall mean the Declarant until turnover and thereafter shall refer to the Board of Directors unless the Board has appointed a separate body to carry out the functions described in Article 6 in which case "ARC" shall refer to this body.

**1.2** **“Articles”** shall mean the Articles of Incorporation for the non-profit corporation, Railroad Avenue Subdivision Homeowners’ Association, or such similar name approved by and filed with the Washington Secretary of State, Corporations Division.

**1.3** **“Association” and/or “HOA”** shall mean and refer to "Railroad Avenue Subdivision Homeowners’ Association," its successors and assigns.

**1.4** **“Board of Directors” and/or “Board”** shall mean the Board of Directors of the Railroad Avenue Homeowners’ Association.

**1.5** **“Builder”** or **“Approved Builder”** shall mean a Builder who has purchased one or more Lots from the Declarant, or the Declarant's assignee or successor, and is authorized to construct a Home on said Lots (if any). Said Builder shares in the special Declarant rights related to construction and marketing. Once assessments have commenced, any Lot owned by a Builder will pay assessments to the Association from the date the escrow closes between the Declarant and said Builder.

**1.6** **“Building Structure”** shall mean a building that is comprised of one or more contiguous Homes constructed and located on a Lot, as a primary residential unit along with non-residential structures such as garage, outbuilding, and/or other similar structures located on the Lots, whether attached to or detached from the Building Structure.

**1.7** **“Bylaws”** shall mean and refer to the Bylaws of the Association, which shall be properly adopted.

**1.8** **“Common Area(s)”** shall mean and refer to any areas of land shown on the recorded Plat of the Property, including any improvements thereon, which are intended to be devoted to the common use and enjoyment of all the members of the Association, and areas outlined herein as the maintenance responsibility of the Association, unless provided otherwise in this Declaration. In reference to RCW 64.90.210, and as evidenced by the Plat, no interior element of any living unit in Railroad Avenue Subdivision is considered a common element or area.

**1.9** **“Railroad Avenue Subdivision” and/or “Subdivision”** shall mean the real property described within the Plat of Railroad Avenue Subdivision, including without limitation

Lots 1 through 47 and Tract "A", and any annexations of additional lands to Railroad Avenue Subdivision and all Common Area included within the Plat of Railroad Avenue Subdivision.

**1.10 "Declarant"** shall mean and refer to Rotschy LLC, its successors or assigns, or any successor or assign to any of their interests in the development of the Property. "Declarant" shall not refer to any other subsequent purchaser of a Lot.

**1.11 "Declaration"** shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration of Covenants, Conditions and Restrictions for Railroad Avenue Subdivision, as may be amended.

**1.12 "General Common Expenses"** shall mean those expenditures made or liabilities incurred by the Association, including reserves. Such definition should also apply to the term, "Common Expenses" as used in this Declaration.

**1.13 "General Plan of Development"** shall mean the Declarant's general plan of development of the Property as approved by appropriate governmental agencies, as may be amended.

**1.14 "Home" and/or "Dwelling Unit" and/or "Unit"** shall mean and refer to any portion of a structure situated on a Lot designed and intended for use and occupancy as a residence by a single family or household.

**1.15 "Limited Common Expenses"** Not applicable.

**1.16 "Lot"** shall mean and refer to any plot of land used for a Home, as indicated upon the recorded subdivision map of Railroad Avenue Subdivision.

**1.17 "Lot Easement Area"** shall mean and refer to those portions of any Lot subject to any easement benefiting the Association. The term "Lot Easement Area" shall not refer to any portions of any Lot encumbered by an easement to any other party, including without limitation, any governmental entity.

**1.18 "Members"** shall mean and refer to the Owners of Lots in the Railroad Avenue Subdivision and who are members of the Railroad Avenue Subdivision Homeowners' Association.

**1.19 "Occupant"** shall mean and refer to the occupant of a Home who shall be the Owner, lessee or any other person authorized by the Owner to occupy same.

**1.20 "Owner"** shall mean and refer to the record Owner, including Declarant, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession under a land sale contract. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.

**1.21 "Plat"** shall mean and refer to the recorded Plat(s) of Railroad Avenue Subdivision as may be amended.

**1.22 "Property"** shall mean and refer to all real property described within the Plat of Railroad Avenue Subdivision, including without limitation Lots 1-47 and Tract "A", as well as any future annexations of additional property (if applicable). Property includes the Common Area, and all improvements located on the real property, as may be brought within the jurisdiction of the Association and be made subject to this Declaration.

**1.23 "Rules and Regulations"** shall mean and refer to the documents containing rules and regulations and policies adopted by the Board of the Association or the Architectural Review Committee ("ARC"), and as may be from time to time amended by the Board and/or ARC.

**1.24 "Turnover Meeting"** shall be the meeting called by the Declarant to turn over control of the Association to the Owners as required by RCW 64.90.415.

## **Article 2**

### **Property Subject to this Declaration**

**2.1** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Yacolt, Washington, in that certain Plat map entitled "Railroad Avenue Subdivision" filed in the Plat records of Clark County, Washington, more particularly described as consisting of Lots 1 through 47, including Tract "A" (Storm Water System) as shown on the Plat.

(a) Common Expenses. Pursuant to RCW 64.90.235, the allocation of units for Common Expenses and voting is 1/47th. The formula used to allocate units is pro rata based on the total number of units in Railroad Avenue Subdivision.

(b) Limited Common Expenses. Not applicable.

**2.2** At any time during the initial term of this Declaration, the Declarant may, at its sole option, annex additional property into the Association to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. Provided, however, Declarant shall have no obligation of any kind to annex any additional land to the Property.

(a) Consent or Joinder Not Required. No consent or joinder of any Owner, or other party, except the Declarant and the record owner of the land being annexed shall be necessary to effect any annexation made pursuant to this Section.

(b) Declaration of Annexation. Annexation shall be evidenced by a written Declaration of Annexation executed by the Declarant, or (in the case of an annexation by action of members) by the Board and the Owners of the property being annexed, setting forth the legal description of the property being annexed and any additional covenants, conditions and restrictions to be applied to such annexed property. Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed property may:

(i) Establish such new land classifications and types of Lots and such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property;

(ii) With respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of such annexed property; and/or

(iii) Contain provisions necessary or appropriate to comply with any condition, requirement, or imposition of any governmental or regulatory authority.

(c) Voting Rights; Allocation of Assessments. Upon annexation, additional Lots so annexed shall be entitled to voting rights and shall be responsible for payment of assessments as required for that fiscal year. At the beginning of the next fiscal year, assessments for the general common areas shall be apportioned equally based upon the total number of Lots, following such annexation.

(d) No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of the Declarant to annex into the Association, and no owner of property excluded from the Association shall have any right to have such property annexed thereto. Declarant is under no obligation to build Homes on any or all of the Lots contained in the original Plat.

### **Article 3**

#### **Ownership and Easements**

**3.1 Non-Severability.** The Common Area shall be maintained, managed and governed by the Association. The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. No Lot shall be conveyed by the Owner separately from the interest in the Common Area, subject to the provisions of Section 3.3. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Common Area. Each Owner, whether by deed, gift, devise or operation of law, for his/her own benefit and for the benefit of all other Owners, specifically waives and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Area and does further agree that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The ownership interest in the Common Area and Lots

described in this Article are subject to the easements granted and reserved in this Declaration for drainage, and any needed maintenance support. Each of the easements reserved or granted herein shall be deemed to be established upon the recordation of this Declaration and shall forever be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots and shall be superior to all other encumbrances applied against or in favor of any portion of Railroad Avenue Subdivision. Any damage caused to the Common Area by a Lot Owner may be repaired by the Association, at the cost of such Lot Owner.

**3.2 Ownership of Lots.** Title to each Lot in Railroad Avenue Subdivision shall be conveyed in fee to an Owner. If more than one person and/or entity owns an undivided interest in the same Lot, such person and/or entities shall constitute one (1) Owner for purposes of membership in the Association.

**3.3 Ownership of Common Areas.** Title to Common Area, including without limitation, easements, rights of ways, fences, landscaping, drainage areas, irrigation equipment, pipes & equipment, storm water system<sup>1</sup>, utilities, communications lines or other equipment or amenities that serve the Common Area (if any), are being conveyed to the Association at the time of recordation of the original Plat. The Board may convey title to any present or future Common Area, to a City, County or other Government agency. The Association, with the approval of 80% of the Association membership, may sell, convey or mortgage the Common Area. As per the Plat for Railroad Avenue Subdivision, the common area Tracts shall be maintained by the Association.

**3.4 Easements.** Individual deeds to Lots may, but shall not be required to set forth the easements specified in this Article.

(a) Easements on Plat. The Lots and Common Areas are subject to all easements and rights-of-way shown, or noted, on the Plat of Railroad Avenue Subdivision.

(b) Easements for Common Area. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot.

(c) Easements Reserved by Declarant. So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Areas in order to carry out sales activities necessary or convenient for the sale of Lots. In addition, Declarant hereby reserves to itself, and for its successors and assigns, a perpetual easement and right-of-way for access over, upon and across the Common Areas for construction, maintenance, utilities, communication lines, drainage, and ingress and egress for the benefit of the Lots or other property owned by Declarant.

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<sup>1</sup> (which is subject to the terms and conditions of the Storm Water Maintenance Agreement, attached hereto as Exhibit “2”)



Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the improvements on the Property or other real property owned by Declarant in such a way as to not unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his/her family, tenants, guests or invitees.

(d) Shared Driveway Easement. Lot 22 hereby grants a non-exclusive easement for ingress, egress and utilities over the north 26 feet of Lot 22 (as more specifically shown on the Plat) for a shared driveway between Lot 22 and Lot 21 ("Shared Driveway"). The Lot Owners of the Shared Driveway shall equally share the cost of construction and all maintenance and repair of the Shared Driveway. In the event any such Lot Owner develops and improves their Lot and constructs the Shared Driveway prior to the other Lot Owner's purchase and development, the Lot Owner incurring such cost shall be reimbursed by the other Lot Owner within 30 days of close of escrow on the subsequent Lot, upon delivery of invoices and receipts evidencing the cost. The ARC, at its election, may assist with the coordination of same between the Lot Owners.

(e) Additional Easements. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of utilities, pathways, border fencing, access roads and drainage facilities necessary for the development of Railroad Avenue Subdivision. No structure, planting or other material shall be placed or permitted to remain within any Easement Area which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The Easement Area of each Lot and all improvements thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

(f) Association's Easements. There are hereby reserved to the Association and its duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Association set forth in this Declaration, the Bylaws and Articles, for the maintenance of the drainage and needed support for the structures, and any exterior maintenance.

(g) Easement to Governmental Entities. There is hereby reserved and granted a non-exclusive easement over the Common Area to all governmental and quasi-government entities, agencies, utilities, and their agents for the purposes of performing their duties within Railroad Avenue Subdivision. However, where applicable, the Association may be subject to compensation for the taking or use of such easement rights.

(h) Landscaping. The Association reserves an easement for any landscape maintenance, upkeep and replacement, as well as utilities pertaining to landscaping or maintenance for any buffer landscaping and any entry monument, even if outside of designated

Common Area (if applicable). Further, all Common Areas are subject to landscape maintenance easements over their entirety in favor of the Association.

(i) Private Storm Sewer Easements. Private Storm Sewer Easements exist along the property lines of Lots identified on the Plat of Railroad Avenue Subdivision.

(j) Storm Water Facility. In conjunction with the recording of the final Plat for the Subdivision, the Declarant is, or will be, constructing a storm water facility. The Association shall maintain any and all storm water facility constructed within Tract "A", whether constructed prior to the recording of the Final Plat upon the Property or thereafter<sup>2</sup>. The Association will be responsible for the two (2) year maintenance inspection and replacement/cleaning of storm filtration cartridges and vaults if needed to be maintained by the Declarant, or whatever is required by governmental authorities.

(k) Maintenance Easement. An easement is hereby reserved in favor of the Association and its successors, assigns, contractors, agents and employees over, across, and under each Lot, the Common Areas, landscaped areas, and other areas of the Property necessary or appropriate for the purposes of accomplishing the maintenance, repair, and replacement of improvements, should such maintenance, repair and replacement be deemed necessary in order to maintain the standards of the Association and of the ARC.

(l) Maintenance Obligations/Owner Restrictions. Except as specifically noted in this document, the Owner, at his/her expense, shall maintain, repair and replace the improvements and utility installations in any Lot Easement Area and shall hold the Association harmless from any such costs.

(m) Private Street Maintenance. (Not applicable.)

(n) Public Utility Easements. Public Utility Easements and street light locations are reserved, as defined on the Plat(s) of Railroad Avenue Subdivision. No building, structure, tree or other obstruction shall be placed or located on or in a Public Utility Easement. A private meter may be installed for street lighting, and the Association shall be responsible for all power and street light maintenance (if applicable).

(o) Retaining Walls. (Not applicable)

(p) Fences & Signage. Permanent and continuous fencing and permanent signage (if applicable) may be installed, owned, and maintained by the Association along the outer parameter of Tract "A", as set forth on the Plat. Additionally, all fencing facing the public

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<sup>2</sup> (which is subject to the terms and conditions of the Storm Water Maintenance Agreement, attached hereto as Exhibit "2")

streets Railroad Avenue, W Hoag Street and S Parcel Avenue, shall be maintained by the Association. The Association's maintenance will be limited to paint or staining the exterior street-facing surfaces, but any replacement costs for boards for the fences shall be borne by the respective Lot Owner. Fencing installed upon any Lot within the Subdivision shall meet the requirements described herein, and approved by ARC, except fencing installed around Tract "A" which shall be chain link type fencing.

(q) Building Envelope. Each Lot has a defined area within which the Home is to be built. This is referred to as the "Building Envelope" as shown on the Plat. Any building must be approved by both the permitting jurisdiction and the ARC, or their designated representative for ARC reviews.

## **Article 4**

### **Lots and Homes**

**4.1 Residential Use.** No Lot shall be further subdivided or partitioned to create more than one (1) legal lot. Lots shall be used for residential purposes only. Except with the consent of the Board, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit the following:

(a) Commercial Activities of Individual Residences. The right of the Owner of a Lot to maintain his/her professional or personal library, keep his/her personal business or professional records or accounts, handle his/her personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his/her residence, so long as such activity is not observable outside of the residence, does not significantly increase parking or vehicular traffic, or is in violation of applicable local government ordinances. The mere parking on a Lot or in the street, of a vehicle bearing the name of a business shall not, in and of itself, constitute a violation of this provision. The Board shall not approve commercial activities otherwise prohibited by this paragraph unless the Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances.

Neither the Association or the Board shall be held responsible for any loss of wages, income or computer connectivity if telephone, computer or internet service is interrupted by the Association, an Association vendor, or utility, or the management agent related to any activity on a Lot.

(b) Declarant Construction Activities. Nothing in this Section shall be deemed to prohibit (a) activities related to the rental or sale of a Lot, or (b) the right of Declarant or any contractor or homebuilder to construct improvements on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any Lot as a sales or rental office or model.

**4.2 Construction.** Except for construction performed by or contracted for by Declarant, no construction, reconstruction or exterior alterations shall occur on any Lot, unless the approval of the ARC is first obtained pursuant to Article 6. Consideration such as building placement, shape, size, color, design, height, solar access, or material may be taken into account by the ARC in determining whether or not to consent to any proposed work. Such work includes, but is not limited to Homes, accessory buildings/structures, shops, storage shelters, swimming pools, spas, hard landscaping, greenhouses, patios, fencing, basketball hoops or remodeling (as applicable). The intent of this covenant is to ensure quality of workmanship and material, harmony of external design with the existing and planned structures as to location and visual compatibility and finish grade elevations. Original construction designs, materials and product specifications by the Association may vary from any or all specified in this document. All construction performed by or contracted for by Declarant, shall be presumed to have met these minimum requirements or have been granted a variance thereto.

**4.3 Building Restrictions.** The following restrictions are minimum standards applicable to all Lots.

(a) Mobile Homes. Mobile, manufactured, module, temporary or pole-barn type structures used as the Home will not be permitted on any Lot within Railroad Avenue Subdivision;

(b) Single Family Homes.

- (i) Minimum square footage: 1,199 sq. ft. living area, unless otherwise approved by ARC;
- (ii) Garage: required, carports are not permitted, unless otherwise approved by ARC;
- (iii) Exterior Finishes: must be hardie plank type siding on street facing exterior, masonry or stone veneer are acceptable with hardie and wood siding acceptable on the remainder of the structure, vinyl or plastic siding are not permitted, unless otherwise approved per ARC;
- (iv) Exterior Paint: stained or painted with semi-transparent or solid stains, painted in natural hues, unless otherwise approved by ARC;
- (v) Roof: 30 year black or grey asphalt shingled roofing (no metal roofs), minimum pitch shall be 6:12 except porch roofs which may be as shallow as 3:12, unless otherwise approved by ARC;
- (vi) Fencing: shall meet standards shown on Exhibit "2", unless otherwise approved by ARC;

- (vii) Driveways: concrete from garage to curb; no dirt, gravel or asphalt driveways permitted, unless otherwise approved by ARC;
- (viii) Decks: stained, painted, metal rail or Trex composite, in natural shades consistent with exterior color of the home, unless otherwise approved by ARC; and
- (ix) Landscaping and Irrigation: required in front, including street side in corner lots unless otherwise approved by ARC;
- (x) Completion: all construction of structure and front yard landscaping shall be complete (with certificate of occupancy) within one (1) year of commencement.

**4.4 Mechanical Equipment and Solar Panels.** Placement of any mechanical equipment, window mounted air conditions, heat pump, condenser or generator shall not be visible in the front elevation of any Lot and be screened from street view. Use of solar heating systems is permissible, pursuant to RCW 64.90.510, and provided the solar panels or collectors are integrated into the home's design and consistent with the overall appearance of Railroad Avenue Subdivision and are subject to approval by the ARC. A six (6) foot cleared area around all fire hydrants shall be maintained by the Lot Owner.

**4.5 Rental of Homes.** An Owner shall be entitled to rent or lease his/her entire residence, subject to the following:

(a) Written Rental Agreements. A written rental or lease agreement is required, specifying that: (i) the tenant shall be subject to all provisions of the Declaration, Bylaws and Rules and Regulations, and (ii) failure to comply with any provision of the Declaration, Bylaws and Rules and Regulations shall constitute a default under the rental agreement;

(b) Minimum Rental Period. The period of the rental or lease is not less than 30 days;

(c) Tenant Must Be Given Documents. The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations; and

(d) Owner Responsibility. Owner shall be responsible for any violations by tenants and shall be solely responsible for either correcting or eliminating such violations, or getting tenant to do the same. Owner shall be responsible to notify the Association of any rental of Homes within 10 days of occupancy by any renter, tenant or such occupant.

**4.6 Animals.** No farm animals, livestock or poultry of any kind shall be raised, bred, kept or permitted within any Lot other than a reasonable number of domestic household pets which are not kept, bred or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance. Any inconvenience, damage or unpleasantness caused by such pets,

including noise, shall be the responsibility of the respective Owners to remediate immediately. No dogs shall be permitted to roam the Property unattended, and all dogs shall be kept on a leash while outside a Lot. An Owner may be required to remove a pet from the Property upon the receipt of the third notice in writing from the Association Board of violation of any rule, regulation or restriction. A "reasonable number of domestic household pets" and the definition of "domestic household pets" shall be subject to rules adopted and approved by the Board in its sole discretion. Animal enclosures, including dog runs and dog houses, shall not be located in any yard area of a Lot which is visible to the public.

**4.7     Nuisance.** No unlawful, harmful or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the enjoyment, or which is a source of annoyance to the other Owners. Further, no Owner shall permit any condition to exist upon any Lot which shall induce, breed or harbor infectious plants, disease or insects or vermin.

**4.8     Fire and Fireworks.** There shall be no open fire or open flame allowed anywhere within the Subdivision for any purpose except within a professionally crafted personal-use recreational fire pit, and is subject to the permitting authority. There shall be no use or ignition of firecrackers or fireworks of any kind, legal or illegal, anywhere within the Subdivision.

**4.9     Parking.**

(a)     Parking is allowed on graveled pad areas, or areas paved with asphalt or concrete only. No Owner or resident shall park any vehicle which blocks or impedes the neighboring Lot's access to their Lot and/or on any shared driveway. Parking shall only be in garages or driveways if no portion of the vehicle overhangs the street and/or sidewalks. The parking of vehicles is prohibited within the Property if posted, marked "No Parking," or if curbs are painted to restrict parking. Any car parked illegally will be towed and reclamation will be at the Owner's expense without recourse to the Association.

(b)     Operational vehicles under 26,000 lbs. such as cars, trucks, SUVs, and motorcycles licensed to be ridden on public streets may park in public view on a Lot. Campers, boat trailers, utility trailers, recreational vehicles, watercraft, or other types of non-passenger vehicles, equipment, implements, or accessories may be stored or kept within an enclosed garage, or on the side of the Home, provided that it is fully screened from public view by a screening structure or fencing approved by the ARC. No vehicle in excess of 26,000 lbs. shall be parked or stored within the Subdivision, except vehicles used during the construction on a Lot.

(c)     Campers, boats, boat trailers, utility trailers, recreational vehicles, watercraft, or other types of non-passenger vehicles, equipment, implements, or accessories may be temporarily kept on the private streets within the Property or on a paved driveway located on a Lot for a period not to exceed forty-eight (48) hours and only for the purposes of cleaning, preparation for use and unloading. No structure of a temporary character, including those

described hereinabove, or other non-conforming structure, shall be permitted on any Lot for use as a residence or for any other type of occupancy, either temporary or otherwise.

**4.10 Vehicles Maintenance & Storage.** No Owner or resident shall permit any vehicle which is not drivable, or which is in an extreme state of disrepair, to be abandoned or to remain parked upon any Lot or on any street or driveway for a period in excess of 48 hours, unless the vehicle is kept entirely within a fully-enclosed garage or behind a sight obscuring fence out of public view. A vehicle shall be deemed in an extreme state of disrepair upon determination by the Association. In the event any Owner fails to remove such vehicle within five (5) days following written notice to the Owner by the Association, the vehicle may be removed and stored by the Association at the expense of the Owner

Vehicle maintenance or repair shall not be conducted on streets or driveways within the Subdivision. All vehicle maintenance and repair completed on the Owner's Lot shall be within an enclosed garage or behind a sight obscuring fence out of view from the public.

**4.11 Signs.** Plastic artwork of any kind to be placed in public view must be approved by the ARC. All signs must comply with local applicable sign ordinances. No sign, banner or billboard of any kind may be kept or placed on any Lot or mounted, painted or attached to any Home, fence, tree or other improvement so as to be visible from public view in the Subdivision or adjacent public street or carried by any person or by any other means displayed within the Subdivision except as provided below:

(a) "For Sale" signs: An Owner may erect one (1) sign not exceeding two (2) feet by three (3) feet in dimension, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of the ground advertising the property for sale.

(b) "For Rent" signs: An Owner may erect one (1) sign not exceeding three (3) square feet in area advertising the property for rent. Such signs shall be visible from the front of the Home only, and shall be displayed from within the Home. No such sign shall be erected within a lawn or landscape area on any Lot, or attached to the outside of the Home.

(c) Political signs: Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election.

(d) Flags: The foregoing restrictions shall not be deemed to prohibit the display of the flag of the United States by an Owner or occupant of a Lot if the flag is displayed in a manner consistent with federal flag display law, 4 U.S.C. § 1 et seq. and RCW 64.90.510.

(e) Declarant Signs: Signs, banners, flags, monuments, and billboards may be erected by the Declarant and are exempt from the provisions of this section.

(f) **Approved Builder Signs:** An Approved Builder may erect signs and banners on any Lot or Home owned by the Approved Builder if such signs and/or banners are erected for the purpose of marketing and selling Homes constructed by the Builder on Lots owned by the Builder, subject to rules and restrictions established by Declarant and/or the Association from time to time. An Approved Builder may also erect signs and/or banners on the Common Areas to market and sell Homes constructed by the Approved Builder on Lots owned by the Approved Builder, provided that Declarant authorizes in writing (in Declarant's sole discretion) the erection of each such sign and/or banners on the Common Areas.

**4.12 Rubbish and Trash.** No Lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for timely and proper disposal, out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets, the Common Areas or any other Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings or any such materials from any Lot, any roadways or Common Area where deposited by him/her within five (5) days following the date on which notice is mailed to him/her by the Board, the Association may have such materials removed and charge the expense of such removal to the Owner. Each Owner is responsible for trash disposal, and shall remove individual trash containers within 12 hours of collection. No trash and/or storage containers shall be visible from any public street or neighboring Lot, and shall not be allowed to emit any odors or attract insects or rodents.

**4.13 Fences and Hedges** Any fencing installed on Owner's Lots either by Owner, or by a Builder or the Declarant, will be the responsibility of the Owner to maintain, and shall be maintained in a condition acceptable to the Board and the ARC. All fencing shall be installed in compliance with Exhibit "2". No front yard fencing is allowed. Notwithstanding the foregoing, all fences shall comply with any and all ordinances of the permitting authority. No fencing shall be installed on any Common Area, except by the Declarant or the Association. And, any fencing located on the Common Areas will be maintained by the Association. Fences on outside perimeter lots abutting Parcel Avenue, Hoag Street and S. Railroad Avenue shall be maintained by the HOA, installation and replacement costs shall be the responsibility of the respective Lot Owners.

**4.14 Satellite Dishes.** No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or equipment upon any Lot without the prior written consent of the ARC. Placement shall be restricted to building surfaces not considered part of the front elevation of the residence. No installations shall be lower than the first level ceiling height. The preferred location shall be the barge rafter or gabled ends of any Home. Exterior satellite dishes with a surface diameter of eighteen (18) inches or less may be placed on any Lot so long as they are not visible from the public street and are screened from all neighboring Homes. Approved installation locations shall in no way violate current FCC rules or regulations concerning said installation locations. The authority of the ARC



in this matter shall be subject to any regulations issued by the Federal Communications Commission ("FCC") or any other permitting authority.

**4.15 Window Treatments.** Aluminum foil, reflective film, newspapers or similar treatments shall not be placed on windows or glass doors on any Lot.

**4.16 Exterior Lighting or Noisemaking Devices.** Except with the consent of the ARC, no exterior lighting or noisemaking devices shall be installed or maintained on any Lot, other than security and fire alarms, as may be allowed by the permitting jurisdiction. However, false alarms of security and fire systems will not be allowed to repeatedly occur. Seasonal holiday lighting and decorations are permissible if consistent with any applicable rules and regulations and if installed no more than 60 days before the celebrated holiday, and removed within 30 days after the celebrated holiday

**4.17 Mailboxes and Other Delivery Boxes.** Mailboxes shall be installed only in groups of boxes in accordance with the requirements of the United States Postal Service and applicable permitting authorities. Individual mailboxes are prohibited. Newspaper boxes and any other delivery boxes may not be installed unless first approved as to location and design by the ARC.

**4.18 Grades, Slopes, and Drainage.** There shall be no interference with the established drainage patterns or systems over or through any Lot within the Property so as to affect any other Lot or Common Area or any areas outside the Property unless adequate alternative provisions are made for proper drainage and are approved by the ARC. The term "established drainage" shall mean any wall, drainage swales, conduits, inlets and outlets designed and constructed on the Property.

**4.19 Erosion.** No Owner or resident of a Lot shall allow any condition to exist that causes soil erosion. If a condition of soil erosion occurs on a Lot, it shall be the responsibility of the Owner of the Lot to correct the condition and stop the erosion as soon as possible. No Owner shall denude or strip a Lot causing erosion to occur, except during construction wherein the conditions are controlled and temporary. All bare dirt shall be covered with straw or a similar substance that is designed to prevent rainwater from eroding bare soil. Hay bales, silt fences, catch-basin bags and other measures required by the permitting authority erosion control ordinance(s), and the drainage and erosion control plans approved for by the land use approval governing the Lot shall be employed for all construction activities.

**4.20 Detached Buildings & Outdoor Recreational Items.** No permanent or removable detached accessory buildings, including, but not limited to, shops, garages, storage buildings, greenhouses, children's playhouses and similar structures, shall be built without the prior written consent of the ARC. No such buildings shall be used as additional living space and none shall contain any plumbing without prior ARC approval and are subject to the permitting authority.

Basketball equipment on a Lot shall not be used between 10pm and 7am and may be required to be screened from public view. Tennis courts, swimming pools, and hot tubs, are permitted if screened from the public view. All lighting for such items shall be restricted between 10pm and 7am. Clotheslines and garbage/refuse containers shall be screened from public view and adjacent Lots.

**4.21 Owner's Maintenance Obligations.** Owners shall maintain all Lots and improvements thereon in a clean and attractive condition, in good repair and shall not create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, fencing, decks, walks and other exterior improvements and glass surfaces. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on the Lot, neatly trimmed, properly cultivated and free of trash, weeds, and other unsightly material. All work on such items may be subject to ARC review and approval prior to commencement of work.

**4.22 Right of Maintenance and Entry by Association.** If an Owner fails to perform maintenance and/or repair which he/she is obligated to perform pursuant to this Declaration for buildings or landscaping, and if the Board determines, after notice and a hearing (given pursuant to the provisions of the Bylaws), that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of Railroad Avenue Subdivision, the Board may cause such maintenance and/or repair in connection therewith to be performed and may enter any such Lot whenever entry is necessary in connection with the performance of any maintenance or construction which the Board is authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than forty-eight (48) hours, except in emergency situations. Such right of maintenance shall include, but not be limited to trees, front, rear and side yards, fencing, decking and the exterior of buildings. All maintenance performed on behalf of Lot Owners shall be at the Owners expense.

**4.23 Association Rules and Regulations.** The Board, from time to time, may adopt, modify or revoke Rules and Regulations governing the conduct of persons and the operation or use of Lots and Common Areas, as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of any Rules and Regulations, upon adoption, amendment, modification or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and Occupants of all Lots upon the date of delivery or actual notice thereof. The method of adoption of such Rules and Regulations shall be provided in the Bylaws of the Association.

All individuals, to include residents and their guests, may cause a fine to be levied against a Lot for traffic infractions within the Property and/or on the Common Area. Traffic infractions include violations of applicable law, ordinances and/or governmental documents and Association rules. The fine shall be the maximum approved by the Board per incident. The governing jurisdiction vehicle driving regulations apply to all streets within Railroad Avenue Subdivision.

**4.24 Ordinances and Regulations.** The standards and restrictions of this Article 4 shall be the minimum required. To the extent the ordinances and regulations of the permitting authority are more restrictive, or provide for a higher or different standard, the ordinances and regulations of such permitting authority shall prevail.

**4.25 Violation.** The Association may impose a fine, charge or penalty for any violation of this Declaration, the Bylaws and Rules and Regulations after reasonable notice of the violation and a reasonable opportunity for a hearing. Additionally, the Association may seek an injunction or other equitable relief or may file an action for money damages owing from such violations.

**4.26 Security.** The Association is not responsible for security of the neighborhood or any Homes. The Owners are exclusively responsible for security of their Home and Property. Neither the Association, any managing agent retained by the Association, Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security, or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, or other security system or measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform all occupants that the Association, its Board and committees, any managing agent retained by the Association, Declarant, and any successor Declarant are not insurers and that each person using the Property assumes all risks for loss or damage to persons, to property and to the contents of Lots and Homes resulting from acts of third parties and releases such parties from any liability therefore.

**4.27 ARC Guidelines.** Notwithstanding anything which may be to the contrary herein, all development, building and modification on any Lot, at any time, is subject to prior written approval of the ARC, including without limitation, structures, landscape (hard and soft scape), and materials. The ARC may elect to publish and distribute separate written guidelines for such items concurrent with the transfer to third parties and close of escrow. Such written guidelines are subject to change by the ARC upon written notice and delivery by ARC.

## **Article 5 Common Area**

**5.1 Use of Common Areas.** Use of Common Areas is subject to the provisions of the Declaration, Bylaws, Articles and Rules and Regulations promulgated by the Board. There shall be no use of the Common Area except by Owners and their invitees. There shall be no obstruction of any part of the Common Area. Nothing shall be stored or kept in the Common Area without the prior written consent of the Board. No alterations or additions to the Common Area shall be permitted without the prior written approval by the Board. Any work so authorized by the Board

shall be considered a temporary easement over the Common Area. Nothing shall be stored or kept in the Homes or Common Area, which will increase the rate of insurance on the Common Area, or other Association insurance, without the prior written consent of the Board. At the Owner's sole expense, written approval from the Association's insurance carrier for such work in the Common Area must be obtained. If there are any insurance settlement claims or condemnation awards paid to the Association, a portion of the entire proceeds may be directed to the Lot Owner for said improvements. No motorized vehicles, tents, parking or fires are allowed on the Common Areas.

**5.2 Maintenance of Common Area.** The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Common Area, which may include, without limitation, easements, right of ways, signs, fences, landscaping & drainage areas, irrigation equipment, pipes & equipment, storm water facility<sup>3</sup>, communication lines or other equipment or amenities that serve the Common Area (if applicable), and as may be more specifically set forth on the Plat. The Association shall keep the Common Area and improvements thereon in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area in first class condition.

**5.3 Alterations to Common Area.** Only the Association shall construct, reconstruct, or alter any improvement situated upon the Common Area. A proposal for any construction of or alteration, maintenance or repair to an improvement may be made at any meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws and this Declaration.

**5.4 Funding.** Expenditures for alterations, maintenance or repairs to an existing capital improvement for which a reserve has been collected may be made from the reserve account, at the Board's election. Pursuant to Section 10.7 below, the Board may levy a special assessment to fund any construction, alteration, repair or maintenance of an improvement (or any other portions of the Common Area) for which no reserve has been collected or for which the reserve account is insufficient to cover the cost of the proposed improvement.

**5.5 Landscaping.** The Association shall be responsible for all landscaping located in any Common Area properties. All landscaping on any portion of the Common Area shall be maintained and cared for in a manner consistent with the standard of design and quality as originally established by Declarant or the ARC.

**5.6 Condemnation of Common Area.** If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be received by and expended by the Board in a manner which in their discretion is in the best interest of the Association. The

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<sup>3</sup> (which is subject to the terms and conditions of the Storm Water Maintenance Agreement, attached hereto as Exhibit "2")

Association shall represent the interest of all Owners in any negotiations, suit or action or settlement in connection with such matters.

**5.7     Damage or Destruction of Common Area.** In the event any Common Area is damaged or destroyed by an Owner or any of his/her Occupants, guests, tenants, licensees, agents or members of his/her family in a manner that would subject such Owner to liability for such damage under RCW Chapter 64.90, such Owner does hereby authorize the Association to repair such damage. The Association shall repair the damage and restore the area in workmanlike manner as originally constituted or as may be modified or altered subsequently by the Association in the discretion of the Board. The reasonable cost necessary for such repairs shall become a special assessment upon the Lot of the Owner who caused or is responsible for such damage.

## **Article 6**

### **Architectural Review Committee**

**6.1     Architectural Review.** No improvement shall be commenced, erected, placed or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the improvement have been submitted to and approved in writing by the ARC. It is the intent and purpose of this Declaration to assure quality of workmanship and materials and to assure harmony of exterior design with the existing improvements and landscaping within the Railroad Avenue Subdivision.

**6.2     Duties.** The ARC shall consider and act upon the proposals and/or plans submitted pursuant to this Article. The ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations and guidelines, including a reasonable fee for its review of plans submitted by an Owner ("Architectural Standards"). The Architectural Standards shall interpret and implement the provisions of this Declaration for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features which may be used within the Property.

**6.3     Architectural Review Committee - Appointment and Removal.** The ARC shall consist of no fewer than three (3) members and no more than five (5) members, as the Board may appoint from time to time. The Declarant reserves the right to appoint all members of the ARC and all replacements thereto until turnover. The Declarant may appoint a single person to serve as the ARC. After turnover, the Declarant shall delegate the right to appoint and remove members of the ARC to the Board. The terms of office for each member of the ARC shall be for one (1) year unless lengthened by the Board at the time of appointment or unless the Board serves as the ARC in which event the terms of the ARC members shall be the same as their terms as Board members. The Board may appoint any or all of its members for the ARC and there should be no requirement for non-Board members on the ARC.

**6.4 Applications and Proposals.** All plans and specifications for approval by the ARC must be submitted at least 30 days prior to the proposed construction starting date. An Owner may submit a written request for a meeting for purposes of reviewing its plans and specifications with the ARC.

**6.5 Majority Action.** Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a meeting and without the necessity of consulting the remaining member of the ARC. The ARC may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

**6.6 ARC Discretion.** The ARC may, at its sole discretion, withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the ARC intends for Railroad Avenue Subdivision. Consideration such as the site, shape, size, color, design, materials, height, solar access, or other effect on the enjoyment of other Lots, and any other factors which the ARC reasonably believe to be relevant, may be taken into consideration by the ARC in determining whether or not to consent to any proposed work.

**6.7 ARC Decision.** The ARC shall render its approval or denial decision, with respect to the construction proposal, within 30 days after it has received all material required by it, with respect to the application. All decisions shall be in writing. In the event the ARC fails to render its decision of approval or denial in writing within 60 days of receiving all material required by it with respect to the proposal, the application shall be deemed approved. Approval by the ARC does not imply government approval, which is solely the responsibility of the Owner, as addressed in Section 6.15(b) below.

**6.8 Non-waiver.** Consent by the ARC to any matter proposed to it, or within its jurisdiction, shall not be deemed to constitute a precedent or waiver impairing the ARC's right to withhold approval as to any similar matter thereafter proposed or submitted to it, for consent.

**6.9 Effective Period of Consent.** The ARC's consent to any proposed work shall automatically be revoked twelve (12) months after issuance, unless construction of the work has been commenced, or the Owner has applied for, and received an extension of time from the ARC

**6.10 Determination of Compliance.** The ARC may inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted.

**6.11 Notice of Non-compliance.** If the ARC finds that the work was not performed in substantial conformance with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner, in writing, of the noncompliance. The notice shall specify the particulars of any noncompliance, and shall require the Owner to take the necessary action to bring the work into compliance with the approved project.

**6.12 Non-compliance Hearing.** After receiving notice, should the Owner fail to diligently commence to remedy such non-compliance, in accordance with the provisions of the notice of non-compliance referenced in Section 6.12 above, then at the expiration of the third (3<sup>rd</sup>) day from the date of such notification, the ARC shall provide a notice of a hearing to consider the Owner's continuing non-compliance. The hearing shall be set not more than 30 days from the date of the notice of non-compliance. At the hearing, if the ARC finds that there is no valid reason for the continuing non-compliance, the ARC shall determine the estimated costs of correcting it. The ARC shall then require the Owner to remedy or remove the same within a period of not more than 10 days from the date of the ARC's determination. If the Owner does not comply with the ARC's ruling within such period or within any extension of such period as the ARC, at its discretion, may grant, the Association may remove the noncomplying improvement; remedy the non-compliance; or file suit to compel compliance. The costs of such action shall be assessed against the Owner and his/her Lot, including all attorneys' fees and other costs expended and incurred to enforce compliance, before suit or action is filed and at trial or on any appeal or review therefrom.

**6.13 Estoppel Certificate.** Within fifteen (15) days after written request is delivered to the ARC by an Owner, and upon payment to the ARC of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the Chairman of the ARC, and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof either (a) all improvements made or done upon or within such Lot by the Owner comply with this Declaration or any Rules and Regulations either promulgated by the Board or the ARC; or (b) such improvements do not so comply, in which event, the certificate shall also identify the non-complying improvements and set forth with particularity the nature of such noncompliance. The Owner, his/her heirs, devisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth. The certificate shall be conclusive as between the Declarant, the ARC, the Association and all Owners, and all such persons deriving an interest through any of them.

**6.14 ARC Limitations.**

(a) **Common Area Considerations.** The ARC will only have authority to make decisions related to the Lots and not the Common Area. Any architectural or design considerations on the Common Area will be solely within the power of the Board. Construction by the Declarant is presumed to have been approved and is thereby exempt from this review. In all cases, which the ARC consent is required by this Declaration, the provision of this Article shall apply. The ARC and the Board are hereby granted an easement over the Lots to enable the ARC to carry out its designated functions.

(b) **Municipal Regulations.** The ARC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations or applicable permitting authority regulations, all of which are the responsibility of the Lot Owners.

(c) Defect Liability. PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING, STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ARC, THE BOARD, THE MEMBERS, NOR THE ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY FOR THESE MATTERS, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. OWNER IS SOLELY RESPONSIBLE FOR ALL IMPROVEMENTS, PERMITS AND COSTS OF SAID WORK.

(d) General Liability. Neither the ARC, the Board, their agents, nor any member thereof shall be liable to any Owner, Occupant, or builder for any damage, loss or prejudice suffered or claimed, or claimed to be suffered, arising from any action by the ARC or a Member thereof, or failure of the ARC or a member thereof, provided only that the Member has acted in good faith in accordance with the actual knowledge possessed by him/her.

## **Article 7**

### **Homeowners Association**

**7.1 Association Powers.** The Association shall be a non-profit, mutual benefit corporation or limited liability company established under the Washington Statutes and have all the powers granted to it by said Statutes, including RCW 64.90.405.

**7.2 Members.** Each Owner shall be a mandatory member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot. Transfer of ownership of a Lot automatically transfers membership in the Association. Without any other act or acknowledgement, Occupants and Owners shall be governed and controlled by this Declaration, the Bylaws, the Articles of Incorporation, and any Rules, Regulations or amendments thereof

**7.3 Proxy.** Each Owner may cast his/her vote in person, pursuant to a proxy executed by the Owner, or by written ballot. An Owner may not revoke a proxy given pursuant to this section except by actual notice or revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

**7.4 Procedure.** All meetings of the Association, the Board, the ARC, and Association committees shall be conducted with such rules of order as may from time to time be adopted by the Board. Notwithstanding which rule of order is adopted, the chairman shall be entitled to vote on all matters, not merely to break a tie vote. A tie vote does not constitute a majority or approval of any motion or resolution.

**7.5 Contracts Entered Into by Declarant or Before Turnover Meeting.** Notwithstanding any other provision of this Declaration, any management contracts, service contracts or employment contracts, entered into by Declarant or the Board, on behalf of the



Association before the Turnover Meeting shall have a term of not more than three (3) years. In addition, any such contract shall provide that it may be terminated without cause or penalty by the Association or Board upon not less than thirty (30) days' notice to the other party given not later than sixty (60) days after the Turnover Meeting

## **Article 8**

### **Declarant's Rights**

**8.1 Interim Board and Officers.** The Declarant hereby reserves administrative control of the Association. The Declarant, in its sole discretion, shall have the right to appoint and remove members of the Interim or "first" Board, which shall manage the affairs of the Association, and which shall be vested with all powers and rights of the Board. The Interim Board shall consist of one to three members.

**8.2 Turnover Meeting.** Pursuant to RCW 64.90.415, the Declarant control shall terminate and Declarant shall call a meeting for the purpose of turning over administrative control of the Association from the Declarant to the Owners:

(a) As required by RCW 64.90.415. Within the timelines and in compliance with all provisions of RCW 64.90.415; or

(b) Declarant's Earlier Election. At such earlier time as Declarant may elect in writing.

The Declarant shall give notice of the meeting to each Owner as required by RCW 64.90.415 and RCW 64.90.445(1)(c). If the Declarant does not call the meeting required under this Section, any Owner may do so. At the transition meeting, the Board elected by the Lot Owners must be elected in accordance with RCW 64.90.410(2). There is no quorum requirement for the turnover meeting.

**8.3 Board of Directors.** At and following Turnover Meeting, the Board of the Association shall be comprised of three (3) directors. The Directors elected at the Turnover Meeting shall serve for terms as specified in Article 4 of the Bylaws.

## **Article 9**

### **Declarant's Special Rights**

**9.1 General.** Declarant is undertaking the work of developing Lots and other improvements within Railroad Avenue Subdivision. The completion of the development work and the marketing and sale of the Lots is essential to the establishment and welfare of the Property as a residential community. The Declarant shall have the special rights set forth in this Article 9 with respect to any Common Areas until the Lots on the Property have been sold.

**9.2     Marketing Rights.** Declarant or assignees shall have the right to maintain a sales office and model on one or more of the Lots which the Declarant may or may not own, to be staffed by the employees of the Declarant or any licensed real estate sales agents. The Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week. The Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations of the Property, including, without limitation, the Common Area.

**9.3     Declarant's Easements.** The Declarant has reserved easements over the Property as more fully described in Article 3.4, Sections (c) and (d) hereof.

**9.4     Appearance and Design of Railroad Avenue Subdivision.** Declarant shall not be prevented from changing the exterior appearance of any Common Area, including the landscaping or any other matter directly or indirectly connected with project in any manner deemed desirable by Declarant, provided that the Declarant obtains governmental consents required by law.

## **Article 10**

### **Funds and Assessments**

**10.1   Purpose of Assessment.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants, and for the improvement, operation and maintenance of the Common Area owned by the Association, including maintenance and administrative costs and insurance for the Association.

(a)     General Common Expense Designations. Common Expenses of the nature described in Section 10.1 which are to be, or are, incurred by the Association for the benefit of all of the Owners of Lots within the Property and shall be separately budgeted for allocation among all such Owners and shall be designated "General Common Expenses."

(b)     Limited Common Expense Designations. Not applicable.

**10.2   Covenants to Pay.** Declarant, on behalf of each and every subsequent Owner of any Lot, covenants and agrees that each Lot will pay the Association the assessments and any additional charges levied pursuant to this Article 10.

(a)     Funds Held. The assessments collected by the Association shall be held by the Association for, and on behalf of, each Owner and shall be used solely for the operation, care and maintenance of Railroad Avenue Subdivision as provided for in this Declaration. Upon the sale or transfer of any Lot, the Owner's interest in the funds shall be deemed automatically transferred to the successor in interest of such Owner, and are not refundable.

**10.3   Basis of Assessments and Commencement of Assessments.** Upon the conveyance of the first Lot to an Owner other than Declarant, a successor Declarant or an

Approved Builder, assessments are to be levied against all Lots, in accordance with their allocated interests for common expense liabilities. Assessments for General Common Expenses, Limited Common Expenses, and those specially allocated expenses that are subject to inclusion in a budget must be made at least annually based on a budget adopted at least annually by the association in the manner provided in RCW 64.90.525.

**10.4 Initial Assessment upon Close of Escrow.** Concurrent with Declarant's transfer of a Lots 1 through 47 to an Owner, other than Declarant or Declarant's successor, the Lot Owner shall pay to the Association the sum of \$425.00 as an Initial assessment at close of escrow. These Initial assessments shall be in addition to any Annual or Special Assessments set forth herein.

**10.5 Annual Assessments.** Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. Annual assessments shall be levied on a fiscal year basis. The fiscal year shall be the calendar year. Unless otherwise specified by the Board, annual assessments shall be due and payable in monthly installments on the first day of each month during the term of this Declaration.

**10.6 Budget.** Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing: (a) The projected income to the association by category; (b) The projected Common Expenses and those specially allocated expenses that are subject to being budgeted, both by category; (c) The amount of the assessments per Lot and the date the assessments are due; (d) The current amount of regular assessments budgeted for contribution to the reserve account; (e) A statement of whether the association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and (f) The current deficiency or surplus in reserve funding expressed on a per unit basis.

The Board shall annually distribute a copy of the budget to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, pursuant to Section 6.1(c) of the Bylaws, within thirty (30) days after adoption of any proposed budget, and at such time the Board shall set a date for a meeting of the Lot Owners to consider ratification of the budget not less than fourteen (14) nor more than fifty (50) days after providing the budget. Unless at that meeting the Lot Owners of Lots to which a majority of the votes in the Association are allocated or any Lot Owners percentage specified in the Declaration reject the budget, the budget and the assessments against the Lots included in the budget are ratified, whether or not a quorum is present. If the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Lot Owners continues until the Lot Owners ratify a subsequent budget proposed by the Board. The assessments in the budget are to be collected at intervals, as determined by the Board, and may include both operating costs and any reserves (if applicable).

**10.7 Reserve Funds.**

(a) Reserve Fund for Replacing Common Elements. At all times the Declarant and the Association shall comply with the provisions of RCW 64.90.535, RCW 64.90.540, RCW 64.90.545, RCW 64.90.550, RCW 64.90.555 and RCW 64.90.560 with respect to reserve accounts and reserve funds. Declarant shall establish a reserve fund in the name of the Association for replacement, in whole or in part, of any completed improvements located in, on, or under the Common Area, or Lots, for which the Association is responsible pursuant to this Declaration or as required by the Bylaws ("Reserve Fund"). The Reserve Fund need not include those items that could reasonably be funded from the maintenance fund or operating assessments, or for which one or more Owners are responsible for maintenance and replacement under the provisions of this Declaration or the Bylaws. The Reserve Fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section, although the Board may borrow funds with a specified repayment program.

Required Reserve Fund Assessments for completed improvements shall begin accruing from the date the first Lot assessed is conveyed. Declarant may elect to defer payment of the Reserve Fund Assessments due on Lots it owns until the date of the conveyance of the Lot to an Owner. However, the Declarant may not defer such payment beyond the date of the Turnover Meeting. The book and records of the Association shall reflect the amount owing from the Declarant for all Reserve Fund Assessments.

After the Turnover Meeting, the Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other unexpected increases in expenses. Such funds borrowed from the Reserve Fund shall be repaid from regular annual or special assessments against the Lots, if the Board has adopted a resolution, which may be an annual, continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

The Board may adjust the amount of the Reserve Fund Assessments as indicated by any reserve study or update, and provide for other reserve items that the Board, in its discretion, may deem appropriate. In addition, after the second anniversary of the turnover meeting, the Association may elect to reduce or increase future Reserve Fund Assessments by a 75% vote of the Owners.

Any funds established for any of the purposes mentioned in this Section shall be deemed to be within the Reserve Fund notwithstanding that it may not be so designated by the Board. The amount of the Reserve Fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner.

(b) Reserve Study and Maintenance Plan. The Board may, if required, conduct a reserve study no less than every three (3) years, but shall annually review and update an existing study, of any Association owned Common Area components to determine the requirements of the reserve fund described in Section 10.6(a) above. The reserve study

shall include (a) identification of all items for which reserves are required to be established; (b) the estimated remaining useful life of each item as of the date of the reserve study; (c) the estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and (d) a 30 year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on the reserve fund, to meet the maintenance, repair, and replacement schedule.

Annually, in concurrence with the reserve study review, the Board shall also review and update, as necessary, an Association maintenance plan to reflect, at a minimum, recent maintenance that has taken place, changes in the physical status of a reserve component, or the addition of a physical component that has come to the Board's attention.

**10.8 Special Assessments.** The Board shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:

(a) Deficits in Operating Budget. To correct a deficit in the operating budget, by vote of a majority of the Board;

(b) Breach of Documents. To collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Declaration, the Bylaws, or the Rules and Regulations, by vote of a majority of the Board. All provisions of this Section 10.8 (b) shall be interpreted by any applicable provisions of RCW Chapter 64.90, relative to the imposition of fines and penalties;

(c) Repairs. To make repairs or renovations to the Common Area if sufficient funds are not available from the operating budget or replacement reserve accounts by vote of a majority of the Board; or

(d) Capital Additions. To make capital acquisitions, additions or improvements, by vote of at least 75% of all votes allocated to the Lots. Any special assessments shall be owned solely by the Association regardless of their purpose and the individual Owners so assessed shall have no rights or interests in said funds.

#### **10.9 Accounts.**

(a) Types of Accounts. Assessments collected by the Association will be deposited into at least two (2) separate accounts with a bank, which accounts shall be designated as the Current Operating Account, and the Reserve Account. Those portions of the assessments collected for current maintenance and operation levied under Section 10.4 will be in the Current Operating Account and those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements into the Reserve Account. Special Assessments shall be deposited into one of the two (2) accounts, whichever is deemed by the Board to be appropriate. Withdrawal of funds for the Association's Reserve Account shall

require the signatures of two (2) Directors, or Board approval in the written minutes of the Association.

(b) Reserve Account. The Association shall pay out of the Reserve Account only those costs that are attributable to the maintenance, repair or replacement of capital improvements for which reserves have been collected and held. After the individual Lot Owners have assumed responsibility for administration of the planned community, the Board may borrow funds from the Reserve Account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses. Funds borrowed must be authorized by a resolution passed by the Board, which also outlines the manner of repayment from later assessments. Such resolution may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

(c) Current Operating Account. All ordinary maintenance and operating expenses shall be paid from the Current Operating Account.

#### **10.10 Default in Payment of Assessments, Enforcement of Liens.**

(a) Personal Obligation. All assessments imposed under this Declaration or the Bylaws shall be the joint and several personal obligations of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (that is, one other than through foreclosure or a deed in lieu of foreclosure) the grantees shall be jointly and severally liable with the grantor(s) for all Association assessments imposed through the recording date of the instrument affecting the conveyance. Said provisions shall be in accordance with the provisions of RCW Chapter 64.90. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.

(b) Application. All payments shall be applied first to delinquent assessments, then to collection costs, then to late charges, and then to interest.

(c) Association Lien. At any time any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof is delinquent, the Association, by and through its Board or any management agent, may file a notice of lien in the deed records of Clark County, Washington, against the Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorneys' fees (whether or not suitor action is instituted) and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under RCW Chapter 64.90, as the same may be amended, shall apply to the Association's lien. The lien may be foreclosed in accordance with the provisions regarding the foreclosure of liens under Washington law. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of

trust or land sale contract recorded previously to the Association's notice of lien and any mortgage or deed of trust granted to an institutional lender which is recorded previously to the Association's notice of lien.

(d) Interest; Fines; Late Fees; Penalties. The Board in its reasonable discretion may from time to time adopt resolutions to set the rate of interest, and to impose late fees, fines and penalties on delinquent assessments or for violations of the provisions of this Declaration, the Bylaws, any Rules and Regulations, and any rules and regulations adopted by the ARC. The adoption of such impositions shall be communicated to all Owners in writing not less than 30 days before the effective date by a notice mailed to the assessment billing addresses of such Owners. Such impositions shall be considered assessments which are lienable and collectible in the same manner as any other assessments. Provided, however, no fine or penalty for violation of this Declaration, the Bylaws or any Rules and Regulations (other than late fees, fines or interest arising from an Owner's failure to pay regular or special assessments) may be imposed against an Owner or his/her Lot until such Owner is given an opportunity for a hearing as provided in Section 4.28.

(e) Acceleration of Assessments. In the event an Owner is delinquent in payment of any assessment or installment on any assessment, the Association, upon not less than 10 days written notice to the Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

(f) Association's Right to Rents/Receiver. In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of his/her Lot or shall be entitled to the appointment of a receiver. Any default by the Owner in any provisions of the Declaration or Bylaws shall be deemed to be a default by the Owner of any mortgage to which the Owner is party or to which the Lot is subject.

## **Article 11**

### **Insurance**

**11.1 Types of Insurance.** For the benefit of the Association and the Owners, the Board shall obtain, maintain at all times, and pay for out of the Operations Fund, the types of insurance described in Article 7 of the Bylaws. Such policies shall be issued by reputable insurance companies, authorized to do business in the State of Washington. Such policies shall provide that the coverage there under cannot be canceled or substantially modified without at least 10 days written notice to the Association. The named insured on the policy shall read Railroad Avenue Subdivision Homeowners' Association.

## **Article 12**

### **General Provisions**

**12.1 Records.** As set forth in Article 6 of the Bylaws, the Board shall preserve and maintain all records required by RCW 64.90.495(1), including but not limited to, the minutes of the meetings of the Association, the Board and any committees. The Board shall also keep detailed and accurate financial records including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid upon the account, and the balance due on the assessments. The minutes of the Association, the Board and committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association or Agent for providing copies.

(a) Inspection by Members and Mortgagees. Subject to RCW 64.90.495(2), (3) and (4), this Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and committees shall be made available for inspection and copying by any member of the Association or by the duly appointed representative of any member and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to such Person's interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board of Directors shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- Notice to be given to the custodian of the records;
- Hours and days of the week when such an inspection may be made; and
- Payment of the cost of reproducing copies of documents

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of documents at the reasonable expense of the Association.

**12.2 Indemnification of Directors, Officers, Employees and Agents.** To the fullest extent allowed by applicable Washington law, the Association shall indemnify any Director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal administrative or investigative by reason of the fact that he/she is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his conduct was unlawful. The termination of any



action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he/she reasonably believed to be in, or not opposed to, the best interest of the Association, and with respect to any criminal action or proceedings, had reasonable cause to believe his conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and members of the Association who participated with or benefited from the acts which created said liability.

**12.3 Enforcement; Attorneys' Fees.** The Association and the Owners within the Property or any mortgagee on any Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may pertain specifically to such parties or owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter.

**12.4 Agreements.** Subject to the prior approval of Declarant (so long as Declarant owns any property for development and/or sale in the Property) all agreements and determinations, including settlement agreements regarding litigation involving the Association, as fully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Property or the privilege of possession and enjoyment of any part of the Property.

**12.5 Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably implied by the existence of any right or privilege given to it therein, or reasonably necessary to effectuate any such right or privilege.

**12.6 Variances.** Notwithstanding anything to the contrary contained herein, the Board, or its designee, shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Property

**12.7 Severability.** Invalidity of any one of these covenants, conditions or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

**12.8 Duration.** The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of 35 years from the date of this Declaration being recorded,

after which time they shall be automatically extended for successive periods of 10 years, unless rescinded by a vote of at least 90% of the Owners. However, amendments, which do not constitute rescission of the planned development, may be adopted as provided in Section 12.9 below. Additionally, any such rescission that affects the Common Area shall require the prior written consent of Clark County.

**12.9 Amendment.** Except as otherwise provided in the restrictions set forth elsewhere herein, this Declaration may be amended at any time by an instrument approved by not less than 75% of the total votes for all Lots subject to this Declaration. Any amendment must be executed, recorded and certified as provided by law, and a copy provided to all Owners of record within 30 days prior to the effective date of the amendment. Provided, however, that no amendment of this Declaration shall affect an amendment of the Bylaws or Articles without compliance with the provisions of such documents, and RCW Chapter 64.90. Provided further, so long as the Declarant own any Lot, no amendment affecting the general plan and development or any other right of the Declarant herein contained may be affected without the express written consent of the Declarant or its successors and assigns.

**12.10 Release of Right of Control.** The Declarant may give up their right of control in writing at any time by notice to the Association, subject to any applicable county ordinance or state law.

**12.11 Personal Pronouns.** All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall apply to the plural and vice versa.

**12.12 Unilateral Amendment by Declarant.** Upon 30 day advance notice to Owners, the Declarant may, without a vote of the Unit owners or approval by the Board, unilaterally adopt, execute, and record a corrective amendment or supplement to the governmental documents to correct a mathematical mistake, an inconsistency, or a scrivener's error, or clarify an ambiguity in the governmental documents with respect to an objectively verifiable fact including, without limitation, recalculating the undivided interest in the common elements, the liability for Common Expenses, or the number of votes in the Association appertaining to a Lot, within five (5) years after the recordation or adoption of the governmental document containing or creating the mistake, inconsistency, error, or ambiguity. Any such amendment or supplement may not materially reduce what the obligations of the declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred.

**12.13 Resolution of Document Conflicts.** In the event of a conflict among any of the provisions in the documents governmental Railroad Avenue Subdivision, such conflict shall be resolved by looking to the following documents in the order shown below:

1. Plat;
2. Declaration of Covenants, Conditions and Restrictions (and Exhibit "1" and "2");



**EXHIBIT “1”**  
**(Fencing Requirements)**

**EXHIBIT “2”**  
**(Storm Water Maintenance Agreement)**

**BYLAWS  
OF  
RAILROAD AVENUE SUBDIVISION HOMEOWNER'S ASSOCIATION**

***Article 1  
Definitions***

**1.1    Act.** "Act," as referred to in these Bylaws, means the Washington Uniform Common Interest Ownership Act, RCW 64.90, et. seq..

**1.2    Association.** "Association" means **RAILROAD AVENUE SUBDIVISION HOMEOWNER'S ASSOCIATION**, a nonprofit corporation organized and existing under the laws of the State of Washington.

**1.3    Articles of Incorporation.** "Articles of Incorporation" means the Articles of Incorporation of the Association.

**1.4    Declaration.** The "Declaration" means the Declaration of Covenants, Conditions and Restrictions for Railroad Avenue Subdivision into which these Bylaws are incorporated, as the same may be subsequently amended or supplemented pursuant to the terms thereof.

**1.5    Incorporation by Reference.** Except as otherwise provided herein, the terms that are defined in Article 1 of the Declaration are used in these Bylaws as therein defined.

***Article 2  
Membership***

**2.1    Membership.** Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such ownership, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

**2.2    Membership List.** The Secretary shall maintain at the principal office of the Association a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board of Directors.

### *Article 3* *Meetings and Voting*

**3.1 Place of Meetings.** Meetings of the members of the Association shall be held at such reasonable place convenient to the members as may be designated in the notice of the meeting.

**3.2 Turnover Meeting.** Declarant Rotschy LLC shall call the first meeting of the Owners to organize the Association within ninety (90) days after termination of the Class B membership as provided in Section 3.7, below. Notice of such meeting shall be given to all Owners as provided in Section 3.5. If a quorum of the Owners is present, the Owners shall elect not fewer than the number of directors sufficient to constitute a quorum of the Board of Directors. If the Declarant fails to call the meeting, the meeting may be called and notice given by any Owner or mortgagee of a Lot. The expense of giving notice shall be paid or reimbursed by the Association. In the event of a lack of quorum at such Turnover Meeting, it may be adjourned as provided in Section 3.6. Nothing in this section shall be construed as preventing Declarant from calling the Turnover Meeting prior to such date, or from calling periodic, informal, informational meetings for the Owners.

**3.3 Annual Meeting.** The annual meeting of the members for the election of Directors and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day as may be established by the Board of Directors or, if the Board should fail to designate a date by the first day of April each year, then at 6:30 p.m. on the second Thursday in December. The first annual meeting shall be held within one year of the date of the Turnover Meeting.

**3.4 Special Meetings.** A special meeting of the Association may be called at any time by the President or by a majority of the Board of Directors. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from members having at least ten percent (10%) of the voting rights entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

**3.5 Notice of Meeting.**

(a) Written or printed notice stating the place, day and hour of the meeting, the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, any proposal to remove a director or officer and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting. Such notice shall be given either personally, by mail or, to the extent permitted by law, by electronic mail, facsimile or other form of electronic communication acceptable to the Board of Directors, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member entitled to vote at such meeting, and to all mortgagees who have requested such notice. If mailed, such notices shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the member at his or her most recent address as it appears on the records of the Association or to the mailing address of his or her Lot.

(b) When a meeting is adjourned for thirty (30) days or more, or when a redetermination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases, no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

(c) For a period of seven (7) years following recording of the Declaration, notices of meetings (including agendas) shall also be given to Declarant in the same manner as given to unit owners, and Declarant or a representative of Declarant shall be entitled to attend such meetings.

**3.6 Quorum.** At any meeting of the Association, members having at least twenty percent (20%) of the voting rights entitled to be cast at such meeting, present in person or by proxy or absentee ballot, if permitted by the Board of Directors, shall constitute a quorum, except when a larger quorum is required by the Declaration. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a member or members. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called until a quorum is present

**3.7 Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners with the exception of the Class B member and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B member shall be the Declarant and shall be entitled to one vote for each Lot owned by Declarant. The Class B membership shall cease and convert to Class A membership upon the happening of the earliest of any of the following events:

(1) Within sixty (60) days after conveyance of seventy-five percent (75%) of the Lots in Railroad Avenue Subdivision to Owners other than a successor Declarant;

(2) The expiration of two (2) years after the closing of the sale of the last Lot to an Owner other than a successor Declarant; or

(3) At such earlier time as Declarant may elect in writing to terminate Class B membership.

**3.8 Fiduciaries and Joint Owners.** An executor, administrator, guardian or trustee may vote or grant consent with respect to any Lot owned or held in such capacity, whether or not the specific right shall have been transferred to his or her name; provided that such person shall satisfy the Secretary that he or she is the executor, administrator, guardian or trustee, holding such



Lot in such capacity. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of such Lot may be exercised by any one of the Owners, in the absence of protest by a co-owner. In the event of disagreement among the co-Owners, the vote of such Lot shall be disregarded completely in determining the proportion of votes given with respect to such matter, unless a valid court order establishes the authority of a co-owner to vote.

**3.9 Tenants and Contract Vendors.** Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a Lot shall be exercised by the Owner. Unless otherwise stated in the contract, all voting rights allocated to a Lot shall be exercised by the vendee of any recorded land sale contract on the Lot.

**3.10 Casting of Votes and Consents.** The voting rights or consent of an Owner may be cast in person at a meeting of the Association or, at the discretion of the Board of Directors, by proxy in accordance with paragraph (a) of this Section, by absentee ballot in accordance with paragraph (b) of this Section, by written ballot in accordance with paragraph (c) of this Section, or by any other method specified in the Declaration, these Bylaws or the Act.

(a) **Proxies.** A proxy must be dated and signed by the Owner, and is not valid if it is undated or purports to be revocable without notice. Further, such proxy terminates one (1) year after dated unless the proxy specifies a shorter term. The board of directors may not require that a proxy be on a form prescribed by the Board. An Owner may not revoke a proxy given pursuant to this paragraph except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting. A copy of a proxy in compliance with this paragraph provided to the Association by facsimile, electronic mail or other means of electronic communication utilized by the Board of Directors is valid.

(b) **Absentee Ballots.** An absentee ballot, if authorized by the Board of Directors, shall set forth each proposed action and provide Owners an opportunity to vote for or against each proposed action. All solicitations for votes by absentee ballot shall include instructions for delivery of the completed absentee ballot, including the delivery location and instructions about whether the ballot may be canceled if the ballot has been delivered according to the instructions. An absentee ballot shall be counted as an Owner present for the purpose of establishing a quorum. Even if an absentee ballot has been delivered to an Owner, the Owner may vote in person at a meeting if the Owner has returned the absentee ballot and canceled the absentee ballot, if cancellation is permitted in the instructions given under this paragraph.

(c) **Ballot Meetings.** Pursuant to the limitations of RCW 64.90.445(2)(m), and at the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association's Owners may be taken without a meeting by written ballot to the extent and in the manner provided in RCW 64.90.445 to 64.90.455.

(d) **Electronic Ballots.** To the extent authorized by the Board of Directors and permitted by the Act, any vote, approval or consent of an Owner may be given by electronic ballot.

(e) **Mortgages.** An Owner may pledge or assign such Owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled under these Bylaws and to exercise the Owner's voting rights from and after the time that the Mortgagee shall give written notice of such pledge or assignment to the board of directors. Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

**3.11 Majority Vote.** The vote of a majority of the voting rights entitled to be cast by the members present or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by law, by the Declaration, by the Articles of Incorporation, or by these Bylaws.

**3.12 Rules of Order.** Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Association shall be conducted according to the latest edition of Robert's Rules of Order, published by Robert's Rules Association.

#### *Article 4* *Directors: Management*

**4.1 Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors of three (3) to five (5) persons. All directors, other than interim directors appointed by Declarant, shall be Owners or co-Owners of Lots. For purposes of this section, the officers of any corporate Owner, the members of any limited liability company and the partners of any partnership shall be considered co-Owners of any Lots owned by such corporation or partnership.

**4.2 Interim Directors.** Upon the recording of the Declaration, Declarant shall appoint an interim board of one (1) to three (3) directors, who shall serve until replaced by Declarant or until their successors have been replaced by the Owners as provided herein.

(a) **Director Turnover Events.** Not later than sixty days after conveyance of twenty-five percent (25%) of the units that may be created to Owners other than a Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the units that may be created to Owners other than a Declarant, not less than thirty-three and one-third percent (33.3%) of the members of the board must be elected by Owners other than the Declarant. Until such members are elected and take office, the existing board may continue to act on behalf of the association.

**4.3 Transitional Advisory Committee.** Unless the Turnover Meeting has already been held, Declarant shall call a meeting of the Owners for the purpose of forming a Transitional Advisory Committee. The meeting shall be called within sixty (60) days after the date Declarant conveys fifty percent (50%) or more of the Lots then existing in Railroad Avenue Subdivision to Owners other than a successor Declarant. The committee shall consist of two (2) or more Owners

elected by the Owners other than Declarant and not more than one (1) representative of Declarant. The members shall serve until the Turnover Meeting. The Transitional Advisory Committee shall be advisory only and its purpose shall be to enable ease of transition from administrative control of the Association by Declarant to control by the Owners. The committee shall have access to any information, documents and records that Declarant must turn over to the Owners at the time of the Turnover Meeting. If Declarant fails to call the meeting to elect a Transitional Advisory Committee within the time specified, the meeting may be called and notice given by any Owner. If the Owners fail to elect a Transitional Advisory Committee at the meeting called for such purpose, Declarant shall have no further obligation to form the committee.

#### **4.4     Election and Tenure of Office.**

(a)     At the Turnover Meeting, any remaining interim directors shall resign and the Owners shall elect three (3) directors, two (2) to serve for two (2) years and one (1) to serve for one (1) year. The two nominees receiving the greatest number of votes shall serve for two (2) years. In the event of a tie, term selection shall be randomly selected. Thereafter the successors to each director shall serve for terms of two (2) years each.

(b)     Upon a majority vote of the voting rights entitled to be cast by the members present or represented by absentee ballot or proxy at a meeting or ballot meeting at which a quorum is present, the Board of Directors may be increased from three (3) directors to five (5) directors. At the next annual meeting or a special meeting called for such purpose, two (2) additional directors shall be elected, one (1) to serve for a two-year term and one (1) to serve for a one-year term. Term selection shall be in the same manner as provided in paragraph (a), above.

(c)     All directors shall hold office until their respective successors are elected by the Owners. Election shall be by the plurality system.

#### **4.5     Vacancies.**

(a)     A vacancy in the Board of Directors shall exist upon the death, resignation or removal of any director, or if the authorized number of directors is increased, or if the members fail at any annual or special meeting of members at which any director or directors are to be elected to elect the full authorized number of directors to be voted for at that meeting. Vacancies in interim directors shall be filled by Declarant.

(b)     Vacancies in the Board of Directors, other than interim directors, may be filled by a majority of the remaining directors even though less than a quorum, or by a sole remaining director. Each director so elected shall hold office for the balance of the unexpired term and until his or her successor is elected.

**4.6     Removal of Directors.** All or any number of the directors, other than interim directors, may be removed, with or without cause, at any meeting of members at which a quorum is present, by a vote of a majority of the number of votes entitled to be cast at an election of directors.

No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting as provided in these Bylaws.

**4.7 Powers.** The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors by the Owners. The Board of Directors may delegate responsibilities to committees or a managing agent, but shall retain ultimate control and supervision. The powers and duties to be exercised by the Board of Directors shall include, but not be limited to, those set forth in the Declaration and the following:

(a) Carry out the program for maintenance, upkeep, repair and replacement of Common Areas and any other property required to be maintained by the Association as described in the Declaration and these Bylaws.

(b) Determine the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

(c) Prepare a budget for the Association, and assessment and collection of the Assessments, pursuant to RCW 64.90.525.

(d) Employ and dismiss such personnel as may be necessary for such maintenance, upkeep and repair.

(e) Employ legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the Board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$100,000 unless the Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five percent (75%) of the voting rights of the Association. These limitations shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitations set forth in this paragraph shall increase by ten percent on each fifth (5<sup>th</sup>) anniversary of the recording of the Declaration. To the extent required by the Act, the Board shall notify the Owners before instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association, the Board shall periodically report to the Owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the Board to disclose any privileged communication between the Association and its counsel.

(f) Open bank accounts on behalf of the Association and designating the signatories required therefor.

(g) Prepare and file, or cause to be prepared and filed, any required income tax returns or forms for the Association.

(h) Purchase Lots at foreclosure or other judicial sales in the name of the Association, or its designee.

(i) Sell, lease, mortgage, vote the votes appurtenant to (other than for the election of directors), or otherwise deal with Lots acquired by the Association or its designee.

(j) Obtain insurance or bonds pursuant to the provisions of these Bylaws, and review such insurance coverage at least annually.

(k) From time to time adopt, modify, or revoke such rules and regulations governing the details for the operation of the Association, the conduct of persons and the operation and use of the Lots and Common Areas as the Board of Directors may deem necessary or appropriate to ensure the peaceful and orderly use and enjoyment of the Property. Such action may be overruled or modified by vote of not less than seventy-five percent (75%) of the voting rights of each class of members present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of rules and regulations will be under consideration.

(l) Enforce by legal means the provisions of the Declaration, these Bylaws and any rules and regulations adopted hereunder.

(m) In the name of the Association, maintain a current mailing address of the Association, file annual reports with the Washington Secretary of State and maintain and keep current the information required to enable the Association to comply with RCW 64.90.495.

(n) Subject to Section 6.8 of the Declaration, enter into management agreements with professional management firms as required by the Declaration or these Bylaws.

#### **4.8 Meetings.**

(a) Meetings of the Board of Directors shall be held at such place as may be designated from time to time by the Board of Directors or other persons calling the meeting.

(b) Annual meetings of the Board of Directors shall be held within thirty (30) days following the adjournment of the annual meetings of the members.

(c) Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by any two directors.

(d) Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Board of Directors shall be conducted according to the latest edition of Robert's Rules of Order, published by Robert's Rules Association.

(e) For a period of seven (7) years following recording of the Declaration, notices of meetings (including agendas) shall also be given to Declarant in the same manner as

given to directors, and Declarant or a representative of Declarant shall be entitled to attend such meetings.

(f) Notwithstanding anything which may be to the contrary herein, all meetings of the Board and/or Association may be conducted via ZOOM.

#### **4.9 Open Meetings.**

(a) All meetings of the Board of Directors shall be open to Owners except that, in the discretion of the Board, the following matters may be considered in executive session: (i) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (ii) personnel matters, including salary negotiations and employee discipline; (iii) negotiation of contracts with third parties; and (iv) collection of unpaid assessments. Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in the executive session shall be included in the minutes of the meeting, and any contract or action considered in executive session shall not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which shall be reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the Board of Directors may be conducted by telephonic communication or by other means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting, except that if a majority of the Lots are principal residences of the occupants, then: (i) for other than emergency meetings, notice of each Board of Directors' meeting shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Owners of such meeting; and (ii) only emergency meetings of the Board of Directors may be conducted by telephonic communication or such other means. The meeting and notice requirements of this Section may not be circumvented by chance or social meetings or by any other means.

#### **4.10 Notice of Meetings.**

(a) Notice of the time and place of meetings shall be given to each director orally, or delivered in writing personally, by mail or to the extent permitted by the Act, by electronic mail, facsimile or other form of electronic communication acceptable to the Board of Directors at least twenty-four (24) hours before the meeting. Notice shall be sufficient if actually received at the required time or if mailed or sent electronically not less than twenty-four (24) hours before the meeting. If mailed, the notice shall be directed to the address shown on the Association's records or to the director's actual address ascertained by the person giving the notice. Such notice need not be given for an adjourned meeting if such time and place is fixed at the meeting adjourned. For a period of 10 years following recording of the Declaration, notices

of meetings (including agendas) shall also be given to Declarant in the same manner as given to the directors.

(b) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

#### **4.11 Quorum and Vote.**

(a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn from time to time but may not transact any business.

(b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors unless a greater number is required by law, the Declaration, the Articles of Incorporation or these Bylaws.

(c) A director who is present at a meeting of the Board of Directors at which action is taken on any Association matter is presumed to have assented to the action unless the director votes against the action or abstains from voting on the action because the director claims a conflict of interest. When action is taken on any matter at a meeting of the Board of Directors, the vote or abstention of each director present must be recorded in the minutes of the meeting except that officers may be elected by secret ballot.

**4.12 Liability.** Neither a member of the Board of Directors nor an officer of the Association shall be liable to the Association or any Owner or third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, so long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. Following election of a new Board as described in Section 4.4(a), in the event any member of the Board of Directors or any officer of the Association is threatened with or made a party to any proceeding because the individual was or is a director or officer of the Association, the Association shall defend such individual against such claims and indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the Association, the Owners or any third party on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent and its officers and employees from any such claims, other than for gross negligence or intentional misconduct.

**4.13 Compensation.** No director shall receive any compensation from the Association for acting as such.

**4.14 Executive, Covenants and Other Committees.** Subject to law, the provisions of the Declaration and these Bylaws, the Board of Directors, may appoint an Executive Committee, a

Covenants Committee to be responsible for covenant enforcement as provided in Section 4.15 and such other standing or temporary committees as may be necessary from time to time consisting of Owners and at least one member of the Board of Directors and having such powers as the Board of Directors may designate. Such committees shall hold office at the pleasure of the Board.

**4.15 Enforcement Procedures.** The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Declaration, these Bylaws or the Rules and Regulations. To the extent specifically required by the Declaration, the Board of Directors shall comply with the following procedures prior to the imposition of sanctions:

(a) **Notice.** The Board of Directors or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator shall have fourteen (14) days to present a written request for a hearing before the Board of Directors or a Covenants Committee appointed by the Board of Directors, if any; and (iv) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within fourteen (14) days of the notice.

(b) **Response.** The alleged violator shall respond to the notice of the alleged violation in writing within such fourteen (14) day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board of Directors in writing within such fourteen (14) day period the Board of Directors may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided, however, that the Board of Directors or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period. Any response or request for a hearing shall be delivered to the Association's manager, President or Secretary, or as otherwise specified in the notice of violation. Under no circumstances may the Board of Directors suspend an Owner's right to vote in response to a violation or enforcement action.

(c) **Proof of Notice.** Prior to the effectiveness of sanctions imposed pursuant to this section, proof of proper notice shall be placed in the minutes of the Board of Directors or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

(d) **Hearing.** If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held before the Board of Directors or the Covenants Committee, as applicable. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing (i.e., the decision) and the sanction, if any, to be imposed.

(e) **Appeal.** Following a hearing before the Covenants Committee, if applicable, the violator shall have the right to appeal the decision to the Board of Directors. To



exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President or Secretary within ten (10) days after the hearing date.

(f) **Enforcement Policies.** The Board of Directors, by Resolution, may adopt additional policies and procedures governing enforcement of the Declaration, these Bylaws or the Rules and Regulations.

## *Article 5* *Officers*

**5.1 Designation and Qualification.** The officers of the Association shall be the President, the Secretary, the Treasurer, and such Vice Presidents and subordinate officers as the Board of Directors shall from time to time appoint. Each officer shall be a member of the Board of Directors. Any two offices, except the offices of President and Secretary, may be held by the same person.

**5.2 Election and Vacancies.** The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board to serve for one (1) year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

**5.3 Removal and Resignation.**

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever, in their judgment, the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided, however, that the Board of Directors may reject any postdated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

**5.4 President.** The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have powers of general supervision, direction and control of the business and affairs of the Association. He or she shall preside at all meetings of the members and of the Board of Directors. He or she shall be an ex officio member of all the standing committees, including the executive committee, if any, shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

**5.5 Vice Presidents.** The Vice Presidents, if any, shall perform such duties as the Board of Directors shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Senior Vice President as designated by the Board of Directors.

**5.6 Secretary.**

(a) The Secretary shall keep or cause to be kept a book of minutes of all meetings of directors and members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at members' meetings and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the members and of the Board of Directors as is required by these Bylaws or by law. The Secretary shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

**5.7 Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of accounts shall at all reasonable times be open to inspection by any director. The Treasurer shall deposit or cause to be deposited all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse or cause to be disbursed the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

**5.8 Compensation of Officers.** No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the members. The Board of Directors may fix any compensation to be paid to other officers.

***Article 6***  
***Assessments, Records And Reports***

**6.1 Assessments.** As provided in the Declaration, the Association, through its Board of Directors, shall do the following:

(a) Assess and collect from every Owner Assessments in the manner described in the Declaration.

(b) Keep all funds received by the Association as Assessments, other than reserves described in the Declaration, in the Operations Fund and keep all reserves collected pursuant to the Declaration in the Reserve Fund and use such funds only for the purposes described in the Declaration. All assessments shall be deposited in the name of the Association in a separate federally insured account at a Qualified Financial Institution as defined in RCW 64.90.010 and dictated under 64.90.530. All expenses of the Association shall be paid from the Association's bank account.

(c) From time to time, and at least annually, prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves based upon the reserve study required by the Declaration, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt a budget, the last adopted annual budget shall continue in effect.

(d) Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any Assessment shall be sent to every Owner subject thereto and to any first mortgagee requesting such notice. The due dates shall be established by the Board of Directors, which may fix a regular flat Assessment payable on a monthly, quarterly, semiannual or annual basis. The Board of Directors shall cause to be prepared a roster of the Lots showing Assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner or mortgagee during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board of Directors, and every Owner as to the amounts of unpaid Assessments.

(e) Enforce the Assessments in the manner provided in the Declaration.

(f) Keep records of the receipts and expenditures affecting the Operations Fund and Reserve Fund and make the same available for examination by members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each member written notice of each Assessment at least 30 days before the time when such Assessments shall become due and payable; and for a reasonable charge, promptly provide any Owner or mortgagee who makes a request in writing with a written certificate of such Owner's unpaid Assessments.

**6.2 Records.** The Association shall keep within the State of Washington correct and complete financial records sufficiently detailed for proper accounting purposes, keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors, and retain all documents, information and records turned over to the

Association by Declarant. All documents, information and records delivered to the Association by Declarant pursuant to RCW 64.90.420 and other records of the Association shall be kept within the State of Washington in the manner and for the time periods specified in RCW 64.90.420.

**6.3 Statement of Assessments Due.** The Association shall provide, within ten (10) business days after receipt of a written request from an Owner, a written statement that provides: (a) the amount of assessments due from the Owner and unpaid at the time the request was received, including regular and special assessments, fines and other charges, accrued interest, and late-payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed-rate charge for late payment. The Association is not required to comply with this section if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.

**6.4 Inspection of Books and Records.** Except as otherwise provided in RCW 64.90.495, during normal business hours or under other reasonable circumstances, the Association shall make reasonably available for examination and, upon written request, available for duplication, by Owners, lenders, and holders of any mortgage of a Lot that make the request in good faith for a proper purpose, current copies of the Declaration, Articles, Bylaws, Rules and Regulations, amendments or supplements to such documents and the books, records, financial statements and current operating budget of the Association. The Association shall maintain a copy, suitable for purposes of duplication, of each of the following: (a) the Declaration, these Bylaws, the Rules and Regulations and any amendments or supplements to them, (b) the most recent financial statement of the Association, and (c) the current operating budget of the Association. The Association, within ten (10) business days after receipt of a written request by an Owner, shall furnish copies of such documents to the requesting Owner. Upon written request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The Board of Directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs for furnishing the documents, information or records.

**6.5 Execution of Documents.** The Board of Directors may, except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement, to pledge its credit, or to render it liable for any purpose or for any amount.

**6.6 Reports and Audits.** An annual financial statement consisting of a balance sheet and an income and expense statement for the preceding year shall be rendered by the Board of Directors to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. If the Annual Assessments exceed \$50,000 for the year,

then the Board of Directors shall cause such financial statements to be reviewed within ninety (90) days after the end of the fiscal year by an independent certified public accountant licensed in Washington. If the Annual Assessments are less than \$50,000, an annual audit is required but may be waived annually by the Owners, other than the Declarant, of Lots to which a majority of the votes in the Association are allocated, excluding the votes allocated to the Declarant pursuant to Section 3.7, above. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association and furnish copies thereof to the members. At any time any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

## ***Article 7***

### ***Insurance***

**7.1     Types of Insurance.** For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the Operations Fund, the types of insurance described in the following sections of this Article 7.

**7.2     Liability Insurance.** The Association shall maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the Board of Directors, and the managing agent, against liability to the public or to Owners and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Property, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of an Owner (other than as a member of the Association or Board of Directors) for liability arising out of acts or omissions of such Owner and liability incident to the ownership and/or use of the part of the Property as to which such Owner has the exclusive use or occupancy.

(a)     Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) on a combined single-limit basis.

(b)     Such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

### **7.3     Property Damage Insurance.**

(a)     **Common Areas.** The Association shall obtain, and maintain in effect, fire and extended coverage casualty insurance (including coverage for damage resulting from vandalism and malicious mischief) with respect to the Common Areas (including any insurable improvements in the Common Areas) in an amount equal to 100% of the replacement cost thereof.

(1)     The casualty coverage may be obtained on a "blanket" basis.

(2)     The casualty insurance shall include the following terms, if the Board determines they are reasonably available:

a. A waiver of subrogation by the insurer as to any claims against the Board, any Owner, or any guest of an Owner;

b. A waiver by the insurer of its right to repair and reconstruct instead of paying cash;

c. A provision that no policy may be canceled, invalidated, or suspended because of the action of an Owner;

d. A provision that no policy may be canceled, invalidated, or suspended because of the conduct of any director, officer, or employee of the Association unless the insurer gives the Association a prior written demand that the Association correct the defect and allows the Association a reasonable time to make the correction; and

e. A provision that any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.

(b) **Units With Shared Boundaries.** N/A

**7.4 Workers' Compensation Insurance.** The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

**7.5 Fidelity Insurance.**

(1) The Board of Directors may cause the Association to maintain blanket fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of, or administered by, the Association. In the event that the Association has retained a management agent, the Board of Directors may require such agent to maintain fidelity insurance for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The cost of such insurance, if any, may be borne by the Association.

(2) The total amount of fidelity coverage required shall be based upon the best business judgment of the Board of Directors.

(3) Such fidelity insurance shall name the Association as obligee and shall contain waivers by the issuers of the insurance of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The insurance shall provide that it may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association.

**7.3 Insurance by Detached, Single Family Unit Owners.** Each Owner of a Lot with a single family, detached residence sharing no vertical walls with another Lot Owner, at his or her own expense, shall obtain homeowner's insurance covering the structure on the Owner's Lot and liability resulting from use or ownership of the Lot. Each Owner under this section shall be

responsible for obtaining, at his or her own expense, homeowner's insurance covering the improvements on the Owner's Lot and liability resulting from use or ownership of the Lot. The insurance coverage maintained by the Association shall not be brought into contribution with the insurance obtained under this section by the Owners of detached, single family Lots.

**7.4 Planned Community Act Requirements.** The insurance maintained by the Association shall comply with the requirements of the Act enumerated in RCW 64.90.470.

## *Article 8*

### *General Provisions*

**8.1 Waiver of Notice.** Whenever any notice to any member or director is required by the Act or other law, the Declaration, the Articles of Incorporation, or these Bylaws, a waiver of notice in writing signed at any time by the person entitled to notice shall be equivalent to the giving of the notice.

**8.2 Action Without Meeting.** Any action that the Act, the Declaration, the Articles of Incorporation or the Bylaws require or permit the members or directors to take at any meeting may be taken without a meeting or ballot meeting if a consent in writing setting forth the action so taken is signed by all of the members or those members entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the members or directors, shall be filed in the records of minutes of the Association.

**8.3 Conflicts.** These Bylaws are intended to comply with the Act, the Washington Nonprofit Corporation Law, the Declaration and the Articles of Incorporation. In case of any irreconcilable conflict, such statutes and documents shall control over these Bylaws.

## *Article 9*

### *Amendments To Bylaws*

**9.1 How Proposed.** Amendments to these Bylaws shall be proposed by the Board of Directors or by members holding at least thirty percent (30%) of the voting rights entitled to be cast for such amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or be attached to any request for consent to the amendment.

**9.2 Adoption.**

(a) A resolution adopting a, proposed amendment may be proposed by either the Board of Directors or by the members and may be approved by the membership at a meeting called for such purpose or by written consent of the members. Members not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by members holding a majority of the voting rights, together with the written consent of the Class B member, if any. Amendment or repeal of any provision of

these Bylaws that is also contained in the Declaration must be approved by the same voting requirement for amendment of such provision of the Declaration.

(b) Notwithstanding the provisions of the preceding paragraph, until the Turnover Meeting has occurred, Declarant shall have the right to amend these Bylaws in order to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, ' any department, bureau, board, commission or agency of the United States or the State of Washington, or any corporation wholly owned, directly or indirectly, by the United States or the State of Washington that insures, guarantees or provides financing for a planned community or lots in a planned community. After the Turnover Meeting, any such amendment shall require the approval of a majority of the voting rights of the Association, voting in person, by proxy or by ballot, at a meeting or ballot meeting of the Association at which a quorum is represented.

**9.3 Relationship to Declaration.** If a provision required to be in the Declaration under Washington law is included in these Bylaws, the voting requirements for amending the Declaration shall also govern the amendment of the provision in the Bylaws.

**9.4 Execution and Recording.** An amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws and Washington law, acknowledged and recorded in the Deed Records of Clark County, Washington.

Adopted on \_\_\_\_\_, by the Board of Directors.

ROTSCHY LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Secretary



**PUBLIC OFFERING STATEMENT FOR  
RAILROAD AVENUE SUBDIVISION  
HOMEOWNER'S ASSOCIATION**

Date: \_\_\_\_\_  
\_\_\_\_\_ Agent/Seller

Buyer Name: \_\_\_\_\_

Address/Lot #: \_\_\_\_\_

Phone No./Email: \_\_\_\_\_

ACKNOWLEDGED RECEIPT, REVIEW AND AGREEMENT TO PROCEED TO  
CLOSE OF ESCROW:

Dated: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Print Name)

## **RIGHT TO CANCEL**

YOU ARE ENTITLED TO RECEIVE A COPY OF THIS PUBLIC OFFERING STATEMENT AND ALL MATERIAL AMENDMENTS TO THIS PUBLIC OFFERING STATEMENT BEFORE CONVEYANCE OF YOUR UNIT. UNDER RCW 64.90.635, YOU HAVE THE RIGHT TO CANCEL YOUR CONTRACT FOR THE PURCHASE OF YOUR UNIT WITHIN **SEVEN (7) DAYS** AFTER FIRST RECEIVING THIS PUBLIC OFFERING STATEMENT. IF THIS PUBLIC OFFERING STATEMENT IS FIRST PROVIDED TO YOU MORE THAN **SEVEN (7) DAYS** BEFORE YOU SIGN YOUR CONTRACT FOR THE PURCHASE OF YOUR UNIT, YOU HAVE NO RIGHT TO CANCEL YOUR CONTRACT. IF THIS PUBLIC OFFERING STATEMENT IS FIRST PROVIDED TO YOU **SEVEN (7) DAYS** OR LESS BEFORE YOU SIGN YOUR CONTRACT FOR THE PURCHASE OF YOUR UNIT, YOU HAVE THE RIGHT TO CANCEL, BEFORE CONVEYANCE OF THE UNIT, THE EXECUTED CONTRACT BY DELIVERING, NO LATER THAN THE **SEVENTH (7<sup>th</sup>) DAY** AFTER FIRST RECEIVING THIS PUBLIC OFFERING STATEMENT, A NOTICE OF CANCELLATION PURSUANT TO THE THIRD PARAGRAPH OF THIS RIGHT TO CANCEL NOTICE. IF THIS PUBLIC OFFERING STATEMENT IS FIRST PROVIDED TO YOU LESS THAN **SEVEN (7) DAYS** BEFORE THE CLOSING DATE FOR THE CONVEYANCE OF YOUR UNIT, YOU MAY, BEFORE CONVEYANCE OF YOUR UNIT TO YOU, EXTEND THE CLOSING DATE TO A DATE NOT MORE THAN **SEVEN (7) DAYS** AFTER YOU FIRST RECEIVED THIS PUBLIC OFFERING STATEMENT, SO THAT YOU MAY HAVE **SEVEN (7) DAYS** TO CANCEL YOUR CONTRACT FOR THE PURCHASE OF YOUR UNIT.

YOU HAVE NO RIGHT TO CANCEL YOUR CONTRACT UPON RECEIPT OF AN AMENDMENT TO THIS PUBLIC OFFERING STATEMENT; HOWEVER, THIS DOES NOT ELIMINATE ANY RIGHT TO RESCIND YOUR CONTRACT, DUE TO THE DISCLOSURE OF THE INFORMATION IN THE AMENDMENT, THAT IS OTHERWISE AVAILABLE TO YOU UNDER GENERALLY APPLICABLE CONTRACT LAW.

IF YOU ELECT TO CANCEL YOUR CONTRACT PURSUANT TO THIS NOTICE, YOU MAY DO SO BY HAND-DELIVERING NOTICE OF CANCELLATION, OR BY MAILING NOTICE OF CANCELLATION BY PREPAID UNITED STATES MAIL, TO THE SELLER AT THE ADDRESS SET FORTH IN PARAGRAPH A OF THIS PUBLIC OFFERING STATEMENT OR AT THE ADDRESS OF THE

SELLER'S REGISTERED AGENT FOR SERVICE OF PROCESS. THE DATE OF SUCH NOTICE IS THE DATE OF RECEIPT, IF HAND-DELIVERED, OR THE DATE OF DEPOSIT IN THE UNITED STATES MAIL, IF MAILED. CANCELLATION IS WITHOUT PENALTY, AND ALL PAYMENTS MADE TO

THE SELLER BY YOU BEFORE CANCELLATION MUST BE REFUNDED PROMPTLY

### **OTHER DOCUMENTS CREATING BINDING LEGAL OBLIGATIONS**

THIS PUBLIC OFFERING STATEMENT IS A SUMMARY OF SOME OF THE SIGNIFICANT ASPECTS OF PURCHASING A UNIT IN THIS COMMON INTEREST COMMUNITY. THE GOVERNING DOCUMENTS AND THE PURCHASE AGREEMENT ARE COMPLEX, CONTAIN OTHER IMPORTANT INFORMATION, AND CREATE BINDING LEGAL OBLIGATIONS. YOU SHOULD CONSIDER SEEKING THE ASSISTANCE OF LEGAL COUNSEL.

### **OTHER REPRESENTATIONS**

YOU MAY NOT RELY ON ANY STATEMENT, PROMISE, MODEL, DEPICTION, OR DESCRIPTION UNLESS IT IS (1) CONTAINED IN THE PUBLIC OFFERING STATEMENT DELIVERED TO YOU, OR (2) MADE IN WRITING SIGNED BY THE DECLARANT OR SELLING AGENT OR THE DECLARANT'S SELLING AGENT IDENTIFIED IN THE PUBLIC OFFERING STATEMENT. A STATEMENT OF OPINION, OR A RECOMMENDATION OF THE REAL ESTATE, ITS QUALITY, OR ITS VALUE, DOES NOT CREATE A WARRANTY, AND A STATEMENT, PROMISE, MODEL, DEPICTION, OR DESCRIPTION DOES NOT CREATE A WARRANTY IF IT DISCLOSES THAT IT IS ONLY PROPOSED, IS NOT REPRESENTATIVE, OR IS SUBJECT TO CHANGE.

### **MODEL UNITS**

MODEL UNITS AND/OR LOTS ARE INTENDED TO PROVIDE YOU WITH A GENERAL IDEA OF WHAT A FINISHED UNIT MIGHT LOOK LIKE. UNITS BEING OFFERED FOR SALE MAY VARY FROM THE MODEL UNIT IN TERMS OF FLOOR PLAN, FIXTURES, FINISHES, AND EQUIPMENT. YOU ARE ADVISED TO OBTAIN SPECIFIC INFORMATION ABOUT THE UNIT YOU ARE CONSIDERING PURCHASING.

### **RESERVE STUDY**

THE ASSOCIATION IS REQUIRED TO HAVE A CURRENT RESERVE STUDY. ANY RESERVE STUDY SHOULD BE REVIEWED CAREFULLY. IT MAY NOT INCLUDE ALL RESERVE COMPONENTS THAT WILL REQUIRE MAJOR MAINTENANCE, REPAIR, OR REPLACEMENT IN FUTURE YEARS, AND MAY NOT INCLUDE REGULAR CONTRIBUTIONS TO A RESERVE ACCOUNT FOR THE COST OF SUCH MAINTENANCE, REPAIR, OR REPLACEMENT. YOU MAY ENCOUNTER CERTAIN RISKS, INCLUDING BEING REQUIRED TO PAY AS A SPECIAL ASSESSMENT YOUR SHARE OF EXPENSES FOR THE COST OF MAJOR MAINTENANCE, REPAIR, OR REPLACEMENT OF A RESERVE COMPONENT, AS A RESULT OF THE FAILURE TO: (1) HAVE A CURRENT

RESERVE STUDY OR FULLY FUNDED RESERVES, (2) INCLUDE A COMPONENT IN A RESERVE STUDY, OR (3) PROVIDE ANY OR SUFFICIENT CONTRIBUTIONS TO A RESERVE ACCOUNT FOR A COMPONENT.

### **DEPOSITS AND PAYMENTS**

ONLY EARNEST MONEY AND RESERVATION DEPOSITS ARE REQUIRED TO BE PLACED IN AN ESCROW OR TRUST ACCOUNT. ANY OTHER PAYMENTS YOU MAKE TO THE SELLER OF A UNIT ARE AT RISK AND MAY BE LOST IF THE SELLER DEFAULTS.

### **CONSTRUCTION DEFECT CLAIMS**

CHAPTER 64.50 RCW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE SELLER OR BUILDER OF YOUR HOME. **FORTY-FIVE (45)** DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE SELLER OR BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR SELLER OR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER OR SELLER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT.

### **ASSOCIATION INSURANCE**

THE EXTENT TO WHICH ASSOCIATION INSURANCE PROVIDES COVERAGE FOR THE BENEFIT OF UNIT OWNERS (INCLUDING FURNISHINGS, FIXTURES, AND EQUIPMENT IN A UNIT) IS DETERMINED BY THE PROVISIONS OF THE DECLARATION AND THE ASSOCIATION'S INSURANCE POLICY, WHICH MAY BE MODIFIED FROM TIME TO TIME. YOU AND YOUR PERSONAL INSURANCE AGENT SHOULD READ THE DECLARATION AND THE ASSOCIATION'S POLICY PRIOR TO CLOSING TO DETERMINE WHAT INSURANCE IS REQUIRED OF THE ASSOCIATION AND UNIT OWNERS, UNIT OWNERS' RIGHTS AND DUTIES, WHAT IS AND IS NOT COVERED BY THE ASSOCIATION'S POLICY, AND WHAT ADDITIONAL INSURANCE YOU SHOULD OBTAIN.

### **QUALIFIED WARRANTY**

YOUR UNIT IS NOT QUALIFIED WARRANTY UNDER CHAPTER 64.35 RCW.

## **SPECIFIC INFORMATION**

*A) NAME AND ADDRESS OF THE DECLARANT:* ROTSCHY LLC, a Washington limited liability company, 7408 NE 113<sup>th</sup> Circle, Vancouver, WA 98662

*B) NAME AND ADDRESS OF THE MANAGEMENT COMPANY OF THE MINIMUM (if any):* currently owner-managed

*C) RELATIONSHIP OF THE MANAGEMENT COMPANY TO THE DECLARANT (if any):* same

*D) NAME AND ADDRESS OF THE COMMON INTEREST COMMUNITY:* RAILROAD AVENUE SUBDIVISION HOMEOWNER'S ASSOCIATION, c/o Rotschy LLC, 7408 NE 113<sup>th</sup> Circle, Vancouver, WA 98662

*E) NATURE OF THE COMMON INTEREST COMMUNITY:* Subdivision

*F) RECENT COMMON INTEREST COMMUNITIES COMPLETED BY THE DECLARANT OR AN AFFILIATE OF THE DECLARANT WITHIN THE PAST FIVE (5) YEARS:*

Paradise Flats Phase 6 Subdivision

43<sup>rd</sup> Ave Subdivision

Rivercrest Estates

119<sup>th</sup> Street Cottages Subdivision

Curtain Creek Subdivision

Cimmaron Terrace Phase 4 Subdivision

Stonewood Haven 2 Subdivision

Cimmaron Terrace Phase 3 Subdivision

Sunnyside Park Subdivision

Iron Horse Flats Subdivision

*G) NATURE OF THE INTEREST BEING OFFERED FOR SALE:* Fee simple

*H) GENERAL DESCRIPTION OF THE COMMON INTEREST COMMUNITY:* Tract "A" Storm Water Facility

*I) STATUS OF CONSTRUCTION OF THE UNITS AND COMMON ELEMENTS:*

Upon recording of plat with Clark County, Washington

*J) NUMBER OF EXISTING UNITS IN THE COMMUNITY:* 47

*K) PRINCIPAL COMMON AMENITIES IN THE COMMUNITY, AND THOSE THAT WILL BE OR MAY BE ADDED TO THE COMMUNITY:* Tract “A” Storm Water Facility

*L) LIMITED COMMON ELEMENTS THAT MAY BE ALLOCATED TO THE UNITS OFFERED FOR SALE:* None

*M) RIGHTS OF NON-UNIT OWNERS TO USE ANY OF THE COMMON ELEMENTS:* Tenants and guests of Unit Owners, invitees and service people will have access to the common elements

*N) REAL PROPERTY NOT IN THE COMMUNITY THAT UNIT OWNERS HAVE A RIGHT TO USE:* Unit Owners shall use the storm water system that serves the subject development, subject to the Storm Water Maintenance Agreement, see Declaration, Exhibit “2”

*O) SERVICES PROVIDED BY THE DECLARANT THAT ARE NOT IN THE COMMUNITY BUDGET:* None

*P) ESTIMATED ASSESSMENT OR PAYMENT, IF ANY, WHICH MUST BE PAID AT CLOSING:* \$425.00

*Q) LIENS OR ENCUMBRANCES THAT WILL REMAIN ON THE COMMON ELEMENTS AFTER CLOSING:* None

*R) EXPRESS CONSTRUCTION WARRANTIES TO BE PROVIDED TO THE BUYER:* None.

*S) AVAILABILITY OF QUALIFIED WARRANTY:* None

*T) BUILDING ENCLOSURE DESIGN AND INSPECTION:* per RCW 64.50 et seq.

*U) UNSATISFIED JUDGMENTS OR PENDING SUITS AGAINST THE ASSOCIATION; PENDING SUITS MATERIAL TO THE COMMUNITY OF WHICH THE DECLARANT HAS ACTUAL KNOWLEDGE:* None

*V) LITIGATION BROUGHT BY AN OWNERS ASSOCIATION, UNIT OWNER OR GOVERNMENTAL ENTITY AGAINST THE DECLARANT OR ANY AFFILIATE ARISING OUT OF THE CONSTRUCTION, SALE OR ADMINISTRATION OF ANY COMMON INTEREST COMMUNITY WITHIN THE PREVIOUS FIVE (5) YEARS:*  
None

*W) RESTRICTIONS ON USE OR OCCUPANCY; RENTAL RESTRICTIONS; RIGHTS OF FIRST REFUSAL; RESALE RESTRICTIONS:* See Declaration, Article 4

*X) INSURANCE COVERAGE PROVIDED FOR THE BENEFIT OF UNIT OWNERS:*  
Homeowner's Association Insurance to cover common elements and officer/director indemnification

*Y) CURRENT OR EXPECTED FEES FOR THE USE OF ANY COMMON ELEMENTS OR FACILITIES, OR TO ANY OTHER ASSOCIATION, WHICH ARE NOT INCLUDED IN THE COMMON EXPENSES:* None

*Z) BONDS OR THIRD PARTY ASSURANCES THAT THE IMPROVEMENTS WILL BE BUILT:* None

*AA) COOPERATIVE: AVAILABILITY OF TAX PASS-THROUGH:* N/A

*BB) COOPERATIVE: EFFECT OF ASSOCIATION'S FAILURE TO PAY TAXES OR SECURED DEBT:* N/A

*CC) LEASEHOLD COMMUNITY: INFORMATION ABOUT MASTER LEASE:* N/A

*DD) SUMMARY OF RESERVE STUDY:* No initial reserve study because Tract "A" maintenance only

*EE) COST SHARING ARRANGEMENTS WITH OTHER ASSOCIATIONS OR PERSONS:* N/A

*FF) ESTIMATED CURRENT COMMON EXPENSE LIABILITY FOR UNITS BEING SOLD:* \$425.00 per year

*GG) ASSESSMENTS, FEES OR CHARGES KNOWN TO THE DECLARANT AND WHICH MAY CONSTITUTE A LIEN IN FAVOR OF A GOVERNMENTAL AGENCY AGAINST A UNIT OR THE COMMON ELEMENTS IF NOT PAID:* Except for real property taxes, real property assessments, utility liens, and liens related to Storm Water Maintenance Agreement, none

*HH) PORTIONS OF THE COMMUNITY (OTHER THAN UNITS) THAT A UNIT OWNER MUST MAINTAIN:* None

*II) RESTRICTIONS ON TIMESHARING:* See Declaration, Article 4

*JJ) SPECIAL DECLARANT RIGHTS RESERVED TO THE DECLARANT; TERMINATION DATES; RECORDED TRANSFERS OF SPECIAL DECLARANT RIGHTS:* Complete improvements indicated on Map; Exercise any Development Right; maintain sales offices, management offices, signs advertising the Lots until Declarant no longer owns a right to create a unit; use easements through the common elements for the purpose of making improvements within the subject development; appoint or remove any officer of the Association or any member of the Board of Directors, during the period of Declarant Control; veto or approve a proposed action of the Board or Association, during any period of Declarant Control; control any construction, design review or aesthetic standards committee or process; attend meetings of the unit owners and, except during an executive session, the Board; and have access to the records of the Association to the same extent as a unit owner. See also Development Rights, Declaration Article 9 & 10

*KK) LIENS ON REAL ESTATE TO BE CONVEYED TO THE ASSOCIATION:* None

*LL) PHYSICAL HAZARDS KNOWN TO THE DECLARANT THAT ARE NOT READILY ASCERTAINABLE BY THE BUYER:* None

*MM) BUILDING CODE VIOLATION CITATIONS RECEIVED BY THE DECLARANT IN CONNECTION WITH THE COMMUNITY THAT HAVE NOT BEEN CORRECTED:* None

*NN) BUILDINGS OVER FIVE (5) YEARS OLD:* None

*OO) ADDITIONAL INFORMATION OF INTEREST:* None



*PP) AGE –RELATED OCCUPANCY RESTRICTIONS:* None

*QQ) MATERIAL DIFFERENCES IN TERMS OF FURNISHINGS, FIXTURES, FINISHES AND EQUIPMENT BETWEEN UNIT RENDERINGS, DEPICTIONS AND ILLUSTRATIONS AND UNITS BEING OFFERED:* N/A

*RR) THE FOLLOWING DOCUMENTS ARE A PART OF THIS PUBLIC OFFERING STATEMENT:*

- Exhibit A – Declaration of Covenants, Conditions & Restrictions (including Exhibit “1” and “2”)
- Exhibit B – Map
- Exhibit C – Association Articles of Incorporation
- Exhibit D - Association Bylaws
- Exhibit E - Association Rules & Regulations (reserved)
- Exhibit F - Association Budget
- Exhibit G - Reserve Study (reserved)

ROTSCHY LLC

Dated:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT A  
TO PUBLIC OFFERING STATEMENT  
(DECLARATION OF COVENANTS, CONDITIONS &  
RESTRICTIONS)

EXHIBIT B  
TO PUBLIC OFFERING STATEMENT  
(MAP OF PROPERTY)

EXHIBIT C  
TO PUBLIC OFFERING STATEMENT  
(ASSOCIATION ARTICLES OF INCORPORATION)

EXHIBIT D  
TO PUBLIC OFFERING STATEMENT  
(ASSOCIATION BYLAWS)

EXHIBIT E  
TO PUBLIC OFFERING STATEMENT  
(ASSOCIATION RULES & REGULATIONS)

EXHIBIT F  
TO PUBLIC OFFERING STATEMENT  
(ASSOCIATION BUDGET)

EXHIBIT G  
TO PUBLIC OFFERING STATEMENT  
(RESERVE STUDY)





## Town of Yacolt

### Request for Council Action

#### CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

**Name:** Stephanie Fields, Town Clerk  
David W. Ridenour, Town Attorney

**Group Name:** Staff

**Address:** 202 W. Cushman St.  
P.O. Box 160  
Yacolt, WA 98675

**Phone:** Town Clerk (360) 686-3922  
David Ridenour (360) 906-1556

**Email Address:** clerk@townofyacolt.com  
david@davidridenourlaw.com

**Alt. Phone:**

#### ITEM INFORMATION:

**Item Title:** Railroad Avenue Subdivision: **Resolution #622 – Approving Agreements and Declarations for the Acceptance and Approval of the Railroad Avenue Subdivision.**

**Proposed Meeting Date:** January 22, 2024. (Special Meeting)

**Action Requested of Council:** Review proposed Resolution #622 recording the Council’s decisions during this meeting regarding agreements and declarations for the Railroad Avenue Subdivision.

**Proposed Motion:** To Approve: “I move that the Council approve Resolution #622 describing its approval of agreements and declarations for the Railroad Avenue Subdivision and authorizing the Town’s Mayor and staff to execute such agreements and related documents as necessary to process the Town’s acceptance of the Subdivision.”

If changes are desired, continue the motion as follows: “... with the following changes: *(describe)*.”

**Summary/ Background:** Resolution #622 is designed to make a record of the Council’s approval decisions made during this special meeting, and to authorize the Town’s administrative work to finalize acceptance of the Subdivision and the various agreements that assign rights and obligations to the parties involved.

**Attachments:** Resolution #622, (Proposed).

**Staff Contact(s):** Stephanie Fields, Town Clerk.  
Devin Jackson, Jackson Civil, Town Engineer.  
David W. Ridenour, Town Attorney.

**Resolution #622**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON,  
APPROVING AGREEMENTS AND DECLARATIONS FOR THE COMPLETION OF THE  
RAILROAD AVENUE SUBDIVISION AND FOR THE MAINTENANCE OF STORMWATER  
FACILITIES SERVING THE RAILROAD AVENUE SUBDIVISION; AND AUTHORIZING  
THE MAYOR TO SIGN THE AGREEMENTS ON BEHALF OF THE TOWN OF YACOLT**

**Whereas**, Rotschy, LLC, (hereafter the “Developer”) is the fee simple owner of certain real property situated in the Town of Yacolt, Clark County, Washington, identified as Assessor’s Tax Parcel #64522-000, and legally described as follows, (hereafter the “Property”):

#6 & #7 of Section 2 T4N R3E WM (20A), (PEND 1932 RAILROAD AVENUE  
SUBDIVISION), Clark County, Washington.

**Whereas**, the Property was approved by the Town of Yacolt, (hereafter the “Town” or “Yacolt”) for the development of a 47 lot residential subdivision subject to terms and conditions described in the development approvals and related approval documents, (hereafter the “Project”), which subdivision is known as the “Railroad Avenue Subdivision”;

**Whereas**, as a condition of its approval of the development of the Property, the Town of Yacolt required that the Developer to enter into certain agreements and declarations to provide for the maintenance of private Stormwater Facilities constructed within and around the boundaries of the Property, (hereafter the “Stormwater Facilities”);

**Whereas**, the Developer and the Town intended that the private Stormwater Facilities serving the Project shall be used by the owners and residents of the Property and maintained by the owners through a homeowner’s association known as the “Railroad Avenue Subdivision Homeowner’s Association”, (hereafter the “HOA”);

**Whereas**, the Developer has requested permission to finalize the Plat for the Project and agreed to provide a Performance Bond ensuring the completion of remaining construction work on the Project;

**Whereas**, the Town Council has determined that it is in the public interest to authorize the Mayor of Yacolt to sign such agreements and documents as are needed to give effect to the intent of the parties with respect to the Project; and,

**Whereas**, the Town Council is in special session this 22<sup>nd</sup> day of January, 2024, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

**NOW THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Yacolt as follows:

**Section 1 – Acceptance of Project:** The Town Council hereby accepts the Railroad Avenue Subdivision Project improvements, as described and limited by the Agreements and Declarations described herein. The Mayor, Town Engineer and Town Clerk are hereby authorized and directed to execute such documents as may be appropriate and necessary for the completion of the Project on behalf of the Town.

**Section 2 - Approval of Agreements and Declarations:** The agreements and other documents listed below, copies of which are attached hereto and incorporated herein by reference, are hereby accepted and approved by the Town Council in a form substantially similar to the attached exhibits. The Mayor of the Town of Yacolt is authorized to execute the listed agreements and documents that require the Town's signature. The Mayor is also authorized to execute and deliver such other documents and instruments and take such further actions as may be reasonably necessary or required to consummate the transactions contemplated by this Resolution:

- a). Final Plat: The proposed final Plat maps for the Project as attached hereto as Exhibit A and hereby made a part of this Resolution;
- b). Agreement to Complete Construction: The Security Agreement for Project Completion, and form of Performance Bond as attached hereto as Exhibit B and hereby made a part of this Resolution;
- c). Two-Year Stormwater Maintenance Agreement: The Security Agreement for Stormwater Facilities Maintenance and form of Performance Bond as attached hereto as Exhibit C and hereby made a part of this Resolution;
- d). CC&RS for Stormwater Facilities Maintenance: The Declaration of Easements, Covenants, Conditions and Restrictions for Stormwater Facilities Maintenance as attached hereto as Exhibit D and hereby made a part of this Resolution; and,
- e). CC&Rs for the Railroad Avenue Subdivision HOA: The Declaration of Covenants, Conditions and Restrictions of Railroad Avenue Subdivision Homeowner's Association as attached hereto as Exhibit E and hereby made a part of this Resolution.

**Section 3 - Ratification and Confirmation of Prior Acts:** All acts taken by Town officers and staff prior to the adoption of this Resolution that are consistent with and in furtherance of the purpose or intent of this Resolution or the Project development approvals are hereby ratified, approved and confirmed by the Town Council.

**Section 4 - Adoption of Recitals:** The foregoing Recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Resolution upon adoption hereof.

**Section 5 - Effective Date:** This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law. The Town Clerk may publish the following summary of this Resolution:

#### **Town of Yacolt - Summary of Resolution #622**

The Town Council of the Town of Yacolt adopted Resolution #622 at a special meeting of the Town Council held on January 22, 2024. The content of the Resolution is summarized in its title as follows: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON, APPROVING AGREEMENTS AND DECLARATIONS FOR THE COMPLETION OF THE RAILROAD AVENUE SUBDIVISION AND FOR THE MAINTENANCE OF STORMWATER FACILITIES SERVING THE RAILROAD AVENUE SUBDIVISION; AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENTS ON BEHALF OF THE TOWN OF YACOLT.

The effective date of the Resolution is January 22, 2024. A copy of the full text of the

Resolution will be mailed upon request to the undersigned at the Town of Yacolt Town Hall, P.O. Box 160, Yacolt, WA 98675: (360) 686-3922.

Published this 31<sup>st</sup> day of January, 2024.  
Yacolt Town Clerk.

**Resolved** by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 22<sup>nd</sup> day of January, 2024.

TOWN OF YACOLT

\_\_\_\_\_  
Ian Shealy, Mayor

Attest:

\_\_\_\_\_  
Stephanie Fields, Town Clerk

Approved as to Form:

\_\_\_\_\_  
David W. Ridenour, Town Attorney

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Abstain: \_\_\_\_\_

### **TOWN CLERK’S CERTIFICATION**

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution #622 of the Town of Yacolt, Washington, entitled “A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON, APPROVING AGREEMENTS AND DECLARATIONS FOR THE COMPLETION OF THE RAILROAD AVENUE SUBDIVISION AND FOR THE MAINTENANCE OF STORMWATER FACILITIES SERVING THE RAILROAD AVENUE SUBDIVISION; AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENTS ON BEHALF OF THE TOWN OF YACOLT” as approved according to law by the Yacolt Town Council on the date therein mentioned.

Attest:

\_\_\_\_\_  
Stephanie Fields, Town Clerk

Published: \_\_\_\_\_  
Effective Date: January 22, 2024  
Resolution Number: 622