

APPENDIX O

WAIVER OF PROTEST AGREEMENT

THIS INSTRUMENT is entered into this _____ day of _____, 20____, by and between the CITY OF LACEY, a municipal corporation, hereinafter referred to as the "CITY", and _____, herein referred to as the "OWNER".

WITNESSETH:

WHEREAS, the OWNER holds record title to the following described property located within (*insert Thurston County or the City of Lacey here*), Washington:

(insert legal description here)

and

WHEREAS, the CITY has required as a condition of approval of the OWNER's site plan for said property that the OWNER participate in the construction of certain utilities and/or street improvements as they directly relate to said property and the OWNER desires that said requirement be delayed until projects are formulated for the joint participation of other affected owners.

NOW, THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES as follows:

1. The CITY will delay its requirement for the immediate participation by the OWNER in the construction of certain utilities and/or street improvements, subject to the conditions set forth hereinafter.
2. The owner will financially participate in the following specifically described utility and/or street projects on an equitable basis with other affected property owners:
 - A. ...
 - B. ... (*etc. insert specific descriptions here. Use as many lines as needed.*)
 - C. ...
3. The OWNER hereby waives all rights to protest against future Local Improvement District (LID) or Utility Local Improvement District (ULID) proceedings for the construction of said improvements described in Section 2 herein. For purposes of this Instrument, "rights of protest" shall mean only those formal rights to protest contained within the LID or ULID statutes, except, however, nothing herein shall constitute a waiver by the OWNER or the OWNER's heirs, assigns or successors in interest, of the right to object to the OWNER's individual assessment amount or to appeal to the Superior Court the decision of the Council affirming the final assessment role, which rights are specifically preserved.
4. The OWNER hereby grants and conveys to the Director of Public Works of the City of Lacey, or his successor in interest or designees, a Special Power of Attorney to exercise any and all rights of the OWNER, including any purchasers, mortgage holders, lien holders of other persons who may claim an interest in the property described hereinabove, to accomplish the following: At such time as a Local Improvement District or Utility Local Improvement District is proposed that would cause said improvements to be made available to the OWNER's property described hereinabove, to execute a Petition on behalf of the OWNER for the creation of such LID or ULID. This Special Power of Attorney is granted in consideration of the CITY executing this Instrument, and shall be a power

coupled with an interest which may not be terminated. This Special Power of Attorney shall not be affected by the disability of the OWNER.

5. If the OWNER fails to perform in good faith in accordance with this Instrument, it is agreed that the CITY may discontinue utility service to the property described herein, after giving 20 days notice thereof and an opportunity for hearing thereon, or may pursue other equitable or legal remedies.

6. The OWNER hereby declares that _____ is/are the sole owner(s) of the property described herein and has/have full power to commit said property to this Agreement, Waiver of Protest and Special Power of Attorney.

7. This Instrument constitutes a covenant running with the land and shall be binding on all heirs, assigns, transferees, and successors in interest.

8. For purposes of compliance with RCW 35.43.182, the effective term of this Instrument shall be a period of ten years from the date hereof.

IN WITNESS WHEREOF the parties hereto have caused this Instrument to be executed the day and year first hereinabove written.

CITY OF LACEY

OWNER

By: _____
Director of Public Works

By: _____

By: _____

On this _____ day of _____, 20 _____, personally appeared before me _____ to me known to be the individual(s) and/or corporate officers described herein and who executed the foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed on behalf of themselves or as corporate officers of the names corporation with full authority, for the uses and purposes herein mentioned.

Notary Public in and for the State of
Washington, residing at _____

My commission expires: _____

**AGREEMENT FOR DEFERRAL OF
FRONTAGE IMPROVEMENTS**

Grantor(s): *Insert Owner's Name(s) Here*

Grantee: City of Lacey

Legal Description: *Insert abbreviated Legal Description Here*

Tax Parcel Number: *Insert Tax Parcel Number Here*

THIS AGREEMENT is made and entered into this _____ day of _____, 20_____, by and between the CITY OF LACEY, a municipal corporation of the State of Washington, hereinafter referred to as the "CITY," and *Insert Grantor's Name(s) Here*, hereinafter referred to as "OWNER".

WHEREAS, OWNER is the recorded owner of the following described property located within the City of Lacey, Washington:

Insert Full Legal Description Here

WHEREAS, OWNER has sought approval of a *Type of Permit Goes Here (example: Short Plat Subdivision)* permit within the City of Lacey pertaining to said property; and

WHEREAS, conditions of said permit approval include the construction of frontage improvements within the urban growth boundary by the OWNER to *Insert Street or Road Name(s) Here* as follows;

List deferral items here.

WHEREAS, OWNER has requested a deferral of said frontage improvements pursuant to City of Lacey Standards, and the Director of Public Works for the CITY, has determined that the OWNER has met deferral criteria as follows:

a) The installation of frontage improvements required for the development could be more safely, efficiently and effectively implemented if done concurrently with the installation of improvements required for other developments along the same street frontage.

WHEREAS, as a condition of granting deferral of said frontage improvements, the OWNER agrees to participate in any local improvements, or the OWNER agrees to participate in any local improvement district, road improvement district, transportation benefit district, or other similar type of district formed by the CITY for the construction of the above mentioned frontage improvements;

NOW, THEREFORE, it is hereby agreed between the parties as follows:

1. The CITY hereby defers the installation of frontage improvements for a ***Type of Permit Goes Here (example: Short Plat)*** permit filed with the CITY OF LACEY under Permit Number ***Permit Number Goes Here***.

2. In consideration therefore, OWNER hereby waives any and all rights to protest the creation by the CITY of a local improvement district, road improvement district, transportation benefit district, or other similar type of district to construct the above described improvements along ***Insert Street or Road Name(s) Here***, insofar as said improvement districts include within its area the above described property and to the extent that said improvements benefit the property above described. OWNER further agrees that if the CITY includes within a project not supported by an improvement district the above described improvements, OWNER, its transferees and successors in interest, hereby agree to participate in said project by paying their fair share thereof. In the latter event, a contract will be developed and executed between the parties which outlines the level of participation by OWNER in said project and the manner in which payment is to be made.

3. As further consideration for the above, OWNER hereby grants and conveys to the CITY, through its Director of Public Works a special power of attorney to exercise any and all rights held by OWNER, its heirs, assignees, transferees or successors in interest, including any purchaser, mortgage holder, lien holder or other persons who may claim an interest in said property described above, to commit said property to an improvement district which includes within its area the above described property and covers the improvements described above. For the purpose of this Agreement, the term "commit" includes the initiating and/or signing of an improvement district petition and the taking of any and all action necessary to reasonably complete all processes necessary to create said improvement district.

This power of attorney is granted in consideration of the approval hereby given by CITY described above, and shall be a power coupled with an interest which may not be terminated except at such time as the above approval be withdrawn or rescinded by the CITY.

Further, in the event that ***Insert Street or Road Name(s) Here*** is/are annexed by another municipality, the CITY may assign its rights under this Agreement to the annexing municipality.

4. This Agreement touches and concerns the real property described above and hereby binds OWNER and its assignees, heirs, transferees, donees, and/or successors in interest to said property. This Agreement shall be recorded in the Thurston County Auditor's Office.

5. This Agreement shall not be construed to waive any requirement under current ordinance, resolution, standards, *Type of Permit Goes Here (example: Short Subdivision)* permit number *Insert Permit Number Here*, or other authority of the COUNTY or CITY for the immediate or deferred installation upon or in conjunction with the above described property of any improvements not included herein.

6. This Agreement shall be effective for a period of thirty (30) years from the date of recording. However, if a road improvement district is formed, this Agreement shall be effective for ten (10) years from the date of recording of the road improvement district.

7. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is held by the courts to be illegal, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

CITY OF LACEY:

OWNER:

By: _____
Insert Name of Public Works Director

By: _____
Owners Name Goes Here

By: _____
Owners Name Goes Here

On this _____ day of _____, 20 _____, personally appeared before me _____ to me known to be the individual(s) and/or corporate officers described herein and who executed the foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed on behalf of themselves or as corporate officers of the names corporation with full authority, for the uses and purposes herein mentioned.

Notary Public in and for the State of
Washington, residing at _____

My commission expires: _____