



CITY COUNCIL MEETING AGENDA
Council Chambers, 1000 Laurel Street

January 21, 2020
Tuesday

Regular Meeting
7:00 p.m.

- 1. Call to Order and Flag Salute**
- 2. Roll Call of Councilmembers**
- 3. Additions/Deletions**
- 4. Citizen Participation**
- 5. Consent Agenda**

The following items are distributed to Councilmembers in advance for study and review, and the recommended actions will be accepted in a single motion. Any item may be removed for further discussion if requested by a Councilmember.

A. Minutes Approval:

- i. January 6, 2020
- ii. January 13, 2020

B. Claims Approval:

- i. Approval of checks/vouchers/disbursements for 2019 numbered 66469 to 66497 in the amount of \$37,709.48.
- ii. Approval of checks/vouchers/disbursements for 2020 numbered 66498 in the amount of \$224,427.77.
- iii. Approval of the payroll disbursement of January 3, 2020 in the amount of \$236,737.87.

Council may add and take action on other items not listed on this agenda.

If you need ADA accommodations, please contact City Hall at (253) 517-2705
at least 24 hours prior to the meeting.

Thank you.

6. Public Hearing – Bridge Point I-5 Seattle Development Agreement

7. Regular Agenda

A. Bridge Master Plan Ordinance 1980-20 First Read

B. Development Agreement Ordinance 1981-20 First Read

8. Council Reports

9. Director Reports

10. Mayors Report

11. Adjournment

Council may add and take action on other items not listed on this agenda.

If you need ADA accommodations, please contact City Hall at (253) 517-2705
at least 24 hours prior to the meeting.

Thank you.



Regular Meeting
Monday, January 6, 2020
7:00 p.m.

CALL TO ORDER

Mayor Styron Sherrell called the meeting to order at 7:00 p.m. and Councilmember Whitaker led the flag salute.

SWEARING IN OF COUNCILMEMBER

Councilmember Whalen was sworn in by Mayor Styron Sherrell for a term to expire 12/31/2023.

ROLL CALL

Present: Councilmembers Whitaker, Morton, Gillespie, Linden and Whalen

Absent: Councilmembers Johnson and Ott

STAFF PRESENT

Police Chief Hernandez, Public Works Director Afzali, Finance Director Robbecke, City Engineer Jamie Carter and City Clerk Trisha Summers.

ADDITIONS/DELETIONS

Due to the absence of two council members, Items 8A, 8B and 8D will be removed from the agenda tonight so that all council can be present to discuss.

CITIZEN PARTICIPATION

None

CONSENT AGENDA

A. Check Approval Process

a. Minutes Approval:

i. December 9, 2019 Regular Meeting

b. Claims Approval:

i. Approval of the checks/vouchers/disbursements numbered 66302 to 66462 in the amount of \$673,719.72.

- ii. Approval of the payroll disbursement of December 20, 2019 in the amount of \$184,614.60.
- c. Waste Connections contract amendment

MOTION (Whalen/Morton) "to approve the Consent Agenda with the removal of the DM Disposal contract." **Passed 5/0.**

REGULAR AGENDA

A. Fife Right of Way Dedication

City Engineer Jamie Carter presented this item to council. This item is a housekeeping item. The original Right of Way dedication was done earlier in the year and while recording that, it was found that the original dedication was incorrect. This item is to record the previous dedication correctly.

Council expressed their appreciation for staff catching the error and correcting this item.

MOTION (Morton/Whitaker) "to approve the Resolution authorizing the Mayor to sign the agreement between the City of Milton and the City of Fife to adjust the common boundary within the 20th St. E. right of way." **Passed 5,0**

B. DM Disposal Contract

Mayor Styron Sherrell presented this item to council explaining that it is the annual CPI increase/rate adjustment.

MOTION (Whalen/Linden) "to approve the DM Disposal contract and associated letter from DM Disposal provided in the packet." **Passed 5,0**

COUNCIL REPORTS

Councilmember Whitaker-

- Happy New Year

Councilmember Morton –

- Happy New Year and I'm looking forward to a productive year.

Councilmember Gillespie -

- Operation Clean City Green City will be the last Sunday of the month. In February the state will grant highway adoption.
- The coat drive goal was 40 coats and we received 75. Thanks to all who donated!

Councilmember Linden -

- Happy New Year
- Remember safety, we lost someone on Hwy 99. Would like council to work on making Milton safer for all.

Councilmember Whalen -

- De-Icing has been very beneficial for the city so far.
- Truck route signs - not sure where they are in the process of public education.
- Hwy 99 tragedy was terrible, that is not a road to cross.

DIRECTOR’S REPORTS

Nick Afzali, Public Works Director-

- There are new truck signs that indicate “MMC Code” and feedback has been positive so far. We have notified PSRC and WSDOT and emailed the three apps that truck drivers use to alert them of our new routes.
- Trying to get more lights on Hwy 99 and make bus routes safer by talking to Pierce Transit.

Tony Hernandez, Police Chief-

- The accident on Hwy 99 is under investigation and seems to be due to j-walking.
- Truck route enforcement is ramping up. We made 5000 traffic stops in 2019.
- Two upcoming retirements in the PD in 2020 and one possibly leaving for Lakewood.

MAYOR’S REPORT

- City Action Days is coming. Let Trisha know if you plan to attend so she can register you.
- Looking at March 5th for a retreat. Thinking of doing it offsite but in Milton at 10AM.
- There are currently openings on the Planning Commission, Events Committee and Civil Service.

ADJOURNMENT

The meeting was adjourned at 7:33 p.m.

Shanna Styron Sherrell, Mayor

ATTEST: _____
City Clerk

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Special Meeting
Monday, January 13, 2020
7:00 p.m.

CALL TO ORDER

Mayor Styron Sherrell called the meeting to order at 7:00 p.m. and Councilmember Ott led the flag salute.

ROLL CALL

Present: Councilmembers Whitaker, Morton, Ott, Gillespie, Linden, Johnson and Whalen

Absent: None

STAFF PRESENT

Police Chief Hernandez, Public Works Director Afzali, Finance Director Robbecke, City Engineer Carter and City Clerk Trisha Summers.

ADDITIONS/DELETIONS

None

CITIZEN PARTICIPATION

Speaker	Comments
Bruce Castle	Is the city still bound by the "gag rule" to speak about the Bridge project or are they able to speak freely yet?
Rob McDonald	Would like a curfew imposed on those visiting the park at night. Those visiting late at night are disrupting the neighbors. Is it acceptable to wear hats during a council meeting? Was told in the past that hats needed to be removed so was asking to see if that has changed.
Jacqueline Whalen	Drainage ditches provide better, clean water. Would like to see rain gardens considered in the city instead of culverts.

Heather Popp	Concerned to see only two elected officials at the recent open house meeting for the Slavic Baptist Church. Citizens are concerned about this so please have it on your radar.
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APPOINTMENTS TO BOARDS AND COMMISSIONS

MOTION (Ott/Morton) “move to appoint Councilmembers Johnson, Whitaker and Whalen to the Finance Committee for the fiscal year 2020.” **Passed 7,0**

Councilmembers expressed their desire to keep the finance committee the same as 2019 for consistency since the city has a new finance director this year. Councilmember Linden would like to be the first alternate if there is a need in the future. Councilmember Morton also said that he would step in as an alternate if need be.

REGULAR AGENDA

A. Mayor Pro Tempore Election

Mayor Styron Sherrell reviewed the process of electing a Pro Tem with council and they were asked for nominations.

Councilmember Ott nominated Councilmember Whitaker.
Councilmember Johnson nominated Councilmember Whalen.

Mayor Styron Sherrell called for a vote by roll call for Councilmember Whitaker as the Mayor Pro Tem with the vote resulting in 2,5. Mayor then called for a roll call vote for Councilmember Whalen as the Mayor Pro Tem with the vote resulting in 6,1. Councilmember Whalen was nominated as the Mayor Pro Tem for 2020.

B. King County Parks Board Levy Agreement and Resolution 20-1929

City Engineer Jamie Carter presented the agreement to council. The city has been receiving funds from King County via the current six-year levy. Those funds are earmarked in the general fund and being saved for a future park project. The agreement presented to council is the same levy as in the past but for a new time period of 2020 thru 2025. City staff is looking at areas where this money would be best put to use in the King County portion of Milton.

Councilmembers asked clarifying questions about where the money can be used and expressed their pleasure at the support from King County for the parks.

MOTION (Johnson/Whitaker) “move to approve Resolution 20-1929 and authorize the Mayor to sign the King County Parks Levy Agreement.” **Passed 7,0**

C. Miscellaneous Ditch work contract

City Engineer Jamie Carter presented this item to council. Mr. Carter explained that the city has complex ditch work that needs to be done in the city that cannot be done by staff and equipment

the city currently has. The city solicited bids and Cannon Construction was the lowest responsive, responsible bidder. The work was authorized in the 2020 budget and would be completed in 2020.

Council commented that it's nice to be able to use a local business and they have done good work for the city and never heard any complaints about Cannon Construction.

MOTION (Whalen/Morton) "move to award the contract for the remediation of storm water ditches at various locations to Cannon Construction Inc. for \$72,877.42, and to authorize the Mayor to sign all associated documents." **Passed 7,0**

D. Pierce County Regional Council and South Cities Association Delegates

Mayor Styron Sherrell presented this item to council. Mayor explained that she is becoming busier and busier within the confines of the city itself and would like council to become involved in the PCRC and SCA organizations and attend meetings on the city's behalf if they are able. The time spent at these meetings is a great way to learn what is going on regionally and a great learning opportunity for council.

Councilmember Linden will become the delegate to the Pierce County Regional Council with Councilmember Johnson as alternate for 2020. Councilmember Gillespie will become the delegate to Sound Cities Association with Mayor Styron Sherrell as alternate for 2020.

MOTION (Ott/Morton) "move to approve the appointments of the Mayor and Councilmembers to PCRC and SCA for 2020, as discussed." **Passed 7,0**

COUNCIL REPORTS

Councilmember Whitaker-

- Thank you for all those who volunteered tonight. I am honored to continue on the Finance committee and am excited about our new council.

Councilmember Johnson –

- Apologize for missing the last meeting.
- Would like to see Milton adopt an ordinance like Fife has for avoiding intersections.
- Would like to see Milton require outdoor cameras at Senior Housing facilities to help the residents stay safe.
- I hope my hat doesn't offend anyone, it's part of my personality and not meant to offend.

Councilmember Ott –

- Announced resignation from council effective the last meeting in February. Retiring and moving to AZ. Will keep Mayor posted on meeting attendance for last meeting in February.

Councilmember Gillespie -

- Looking forward to 2020 and SCA.
- January 26th is Operation Clean City Green City at 10AM at Cobalt Storage. 8-10 volunteers are needed. Waivers need to be signed by volunteers by January 23rd.

Councilmember Morton -

- Congrats to all tonight on their new assignments. 2020 is starting off on the right foot!

Councilmember Linden-

- Speeding on 27th is becoming a problem.
- Had orientation meeting with Police Chief and talked about red light cameras.
- Attended Slavic Church meeting and over 50 residents were there.
- Congrats to all in your new roles and thanks for your support.

Councilmember Whalen -

- Truck traffic is down on Milton Way. Looking forward to enforcement of truck route.
- In support of glass recycling move. Levy Road in Fife will take your glass recycling at the recycling facility located there.

DIRECTOR'S REPORTS

Nick Afzali, Public Works Director-

- A speed study will be done on 27th, weather permitting
- Truck traffic is down on Milton Way
- Utility Supervisor Sloan and Maintenance II Rick Bedwell are here tonight watching the weather and preparing to keep the roads safe for residents.

Tony Hernandez, Police Chief-

- Watching the weather and continuing to work with Public Works to support them.

MAYOR'S REPORT

- Next council meeting will be Tuesday, January 21st.
- Will send out council procedures to review how to fill vacant council position.
- Nick Afzali has passed probation!
- Happy Birthday to Todd Morton, sorry I missed this at the last meeting.
- Yoga instructor is retiring so the city is looking for one for the MAC.
- Nancy, our adult fitness instructor, also has stopped doing this so we are looking for an instructor to offer this service as well.
- We are now offering Zumba in the MAC on Thursdays at 6:15 p.m. \$5.00 per class.

ADJOURNMENT

The meeting was adjourned at 8:13 p.m.

Shanna Styron Sherrell, Mayor

ATTEST: _____
City Clerk

2019

CONSENT AGENDA ITEM #

CITY OF MILTON
PAYROLL and CLAIMS VOUCHER APPROVAL
January 21, 2020

Claim Vouchers:

Payroll Disbursements:

Dates	Check #	Amount	Date	Check #	Amount
12/31/2019	66469-66497	37,709.48			

Total Accounts Payable:

\$ 37,709.48

Total Payroll:

\$ -

Voids - none

Printer Error Checks - none

CHECK REGISTER

City Of Milton
MCAG #: 0590

12/31/2019 To: 12/31/2019

Time: 13:46:13 Date: 01/14/2020
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Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
8134	12/31/2019	Claims	1	66469	ANIXTER INC	2,364.27	Electric Material; Electric Material
					401 - 533 50 31 000 - Operating Supplies	2,342.29	3 Small Transformers
					401 - 533 50 31 000 - Operating Supplies	21.98	5/8" Locknut
8135	12/31/2019	Claims	1	66470	BIAS SOFTWARE	1,250.00	Training
					001 - 514 20 49 002 - Misc/Trng,Registrations	1,250.00	Training- Robbecke
8136	12/31/2019	Claims	1	66471	CHUCKALS	908.28	PW Supply; Police Supply; Police Material
					001 - 518 30 31 000 - Operating Supplies	3.49	3 Hole Punch, Highlighters, Planners
					107 - 521 20 31 000 - Office and Operating Supplie:	217.70	Desk Pad, Wipes, Tape, Binder, Mag Holder, Organizer, Pencil Cup
					107 - 521 20 31 000 - Office and Operating Supplie:	550.04	Faux Leather Office Chair
					406 - 531 30 31 000 - Operating Supplies	21.80	3 Hole Punch, Highlighters, Planners
					401 - 533 50 31 000 - Operating Supplies	82.98	3 Hole Punch, Highlighters, Planners
					403 - 534 50 31 000 - Office and Operating Supplie:	25.29	3 Hole Punch, Highlighters, Planners
					101 - 542 30 31 000 - Office and Operating Supplie:	3.49	3 Hole Punch, Highlighters, Planners
					001 - 576 80 31 000 - Operating Supplies	3.49	3 Hole Punch, Highlighters, Planners
8137	12/31/2019	Claims	1	66472	CORE & MAIN	850.76	Water Material
					403 - 534 50 31 000 - Office and Operating Supplie:	850.76	Valve Cans & Paint
8138	12/31/2019	Claims	1	66473	DATA BAR INCORPORATED	656.68	Print & Mail
					406 - 531 10 49 003 - Misc/Outside Printing	131.34	Past Due Billing Print & Mail
					401 - 533 10 49 003 - Misc/Outside Printing	262.67	Past Due Billing Print & Mail
					403 - 534 10 49 003 - Misc/Outside Printing	262.67	Past Due Billing Print & Mail
8139	12/31/2019	Claims	1	66474	DELL MARKETING L.P.	1,928.16	Police Material; PW Material
					001 - 518 30 35 000 - Small Tools and Equipment	67.49	Computer- Wetterlind
					107 - 521 20 36 000 - Small Assets/IT	964.08	Computer- Johnson
					406 - 531 30 36 000 - Small Assets/IT	77.13	Computer- Wetterlind
					401 - 533 50 36 000 - Small Assets/IT	9.64	Computer- Wetterlind
					403 - 534 50 36 000 - Small Assets/IT	684.50	Computer- Wetterlind
					101 - 542 30 36 000 - Small Assets/IT	125.32	Computer- Wetterlind
8140	12/31/2019	Claims	1	66475	FERGUSON ENTERPRISES, INC.	3,957.33	Meters; Late Fees
					403 - 534 50 31 000 - Office and Operating Supplie:	14.12	Service Charge For December
					403 - 534 51 31 000 - Operating Supplies	3,943.21	Water Meters
8141	12/31/2019	Claims	1	66476	GRAINGER INC	500.45	Fleet Material
					501 - 548 30 31 000 - Office & Operating Supplies	4.44	Lithium Battery
					501 - 548 30 35 000 - Small Tools & Equipment	496.01	Knee Pads, Impact Wrench Kit, Cordless Combo Kit
8142	12/31/2019	Claims	1	66477	INSLEE, BEST DOEZIE & RYDER, PS	4,557.50	Legal Services
					107 - 521 20 41 000 - Professional Services	4,557.50	Workplace Investigation
8143	12/31/2019	Claims	1	66478	KIMBALL MIDWEST	135.89	Fleet Material
					501 - 548 30 31 000 - Office & Operating Supplies	135.89	6" Legs Bin Bases, Large Roller Rack
8144	12/31/2019	Claims	1	66479	KING COUNTY FINANCE	0.85	Voter's Pamphlet
					001 - 514 40 51 000 - Election And Voter Costs	0.85	Voter's Pamphlet
8145	12/31/2019	Claims	1	66480	LLOYD ENTERPRISES, INC.	1,678.46	PW Material; PW Material; PW Material
					406 - 531 30 31 000 - Operating Supplies	247.71	Top Soil, 1-1/2" Washed Rock
					406 - 531 30 31 000 - Operating Supplies	73.92	1-1/4" Crushed Rock
					406 - 531 30 47 000 - Public Utility Services	14.36	Concrete Mix W/ Rebar
					401 - 533 50 31 000 - Operating Supplies	223.49	Crushed Rock
					401 - 533 50 31 000 - Operating Supplies	223.48	Crushed Rock
					401 - 533 50 31 000 - Operating Supplies	247.72	Top Soil, 1-1/2" Washed Rock
					401 - 533 50 31 000 - Operating Supplies	73.93	1-1/4" Crushed Rock

CHECK REGISTER

City Of Milton
MCAG #: 0590

12/31/2019 To: 12/31/2019

Time: 13:46:13 Date: 01/14/2020
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Trans Date	Type	Acct #	Chk #	Claimant	Amount	Memo
		401 - 533 50 47 000 - Public Utility Services			14.36	Concrete Mix W/ Rebar
		403 - 534 50 31 000 - Office and Operating Supplie:			223.49	Crushed Rock
		403 - 534 50 31 000 - Office and Operating Supplie:			247.72	Top Soil, 1-1/2" Washed Rock
		403 - 534 50 31 000 - Office and Operating Supplie:			73.92	1-1/4" Crushed Rock
		403 - 534 50 47 000 - Public Utility Services			14.36	Concrete Mix W/ Rebar
8146	12/31/2019	Claims	1	66481 MOTOROLA SOLUTIONS, INC.	212.43	Police Material
		107 - 521 20 48 004 - Installation, Repair & Maintena			212.43	Remote Audio Speakers
8147	12/31/2019	Claims	1	66482 NATIONAL SAFETY, INC.	194.04	Electric Material
		401 - 533 50 31 000 - Operating Supplies			194.04	Body Harness Lanyard
8148	12/31/2019	Claims	1	66483 NAVIA BENEFIT SOLUTIONS	50.00	FSA Monthly Admin Fee
		001 - 517 30 49 000 - FSA Plan Fees			50.00	Admin Fee
8149	12/31/2019	Claims	1	66484 PUBLIC SAFETY TESTING	125.00	Quarterly Subscription
		107 - 521 20 49 001 - Misc/Dues & Memberships			125.00	Q4 Subscription Fee
8150	12/31/2019	Claims	1	66485 CITY OF PUYALLUP	8,550.00	Jail Services
		107 - 523 60 51 000 - Intergov. Jail Services			8,550.00	Jail Services- Nov 2019
8151	12/31/2019	Claims	1	66486 RANGLES SAND & GRAVEL INC	1,327.72	PW Material
		406 - 531 30 31 000 - Operating Supplies			442.58	Crushed Rock
		401 - 533 50 31 000 - Operating Supplies			442.57	Crushed Rock
		403 - 534 50 31 000 - Office and Operating Supplie:			442.57	Crushed Rock
8152	12/31/2019	Claims	1	66487 SKILLINGS CONNOLLY, INC	1,901.08	Engineering Services
		310 - 595 42 63 141 - TIB Yuma Street Overlay			1,901.08	Engineering Services- Yuma St Overlay
8153	12/31/2019	Claims	1	66488 STANDARD PARTS CORPORATION (NAPA)	219.81	Fleet Material; PW Material; PW Material
		406 - 531 30 31 000 - Operating Supplies			35.82	#40 Antifreeze & Retainer Fastener Clips
		401 - 533 50 31 000 - Operating Supplies			22.44	#51 Brake Pads
		403 - 534 50 31 000 - Office and Operating Supplie:			24.32	#51 Brake Pads
		501 - 548 30 31 000 - Office & Operating Supplies			38.33	DeIcer, Rubberized Undercoat
		501 - 548 30 31 000 - Office & Operating Supplies			98.90	Vacuum Test Kit
8154	12/31/2019	Claims	1	66489 SYSTEMS FOR PUBLIC SAFETY, INC.	1,483.11	Police Vehicle Repair & Maintenance
		107 - 521 20 48 001 - Vehicle Repairs and Maintena			1,483.11	#140 Replace Bumper, Reprogram Controller, Replace Console Panels
8155	12/31/2019	Claims	1	66490 TACOMA NEWS INC.	392.68	Legal Notice
		001 - 558 60 41 002 - Advertising			392.68	LUA 2019-0019
8156	12/31/2019	Claims	1	66491 TACOMA SCREW PRODUCTS INC.	420.28	Fleet Material; Fleet Material; Electric Material
		406 - 531 10 31 000 - Office and Operating Supplie:			42.77	DeIcer
		401 - 533 50 31 000 - Operating Supplies			42.77	DeIcer
		401 - 533 50 31 000 - Operating Supplies			97.11	Caulk, Nitrile Gloves, 14 Gauge Wire
		403 - 534 50 31 000 - Office and Operating Supplie:			42.77	DeIcer
		501 - 548 30 31 000 - Office & Operating Supplies			194.86	8 Pc Ratchet Wrench Set
8157	12/31/2019	Claims	1	66492 TIMCO INC.	15.82	Electric Material
		401 - 533 50 31 000 - Operating Supplies			15.82	Hydraulic Hose Protector
8158	12/31/2019	Claims	1	66493 TITUS-WILL FORD	1,664.19	PW Material; Stormwater Material; Stormwater Material

CHECK REGISTER

City Of Milton
MCAG #: 0590

12/31/2019 To: 12/31/2019

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Trans Date	Type	Acct #	Chk #	Claimant	Amount	Memo
		001 - 518 30 31 000		- Operating Supplies	4.92	#237 Weatherstripping
		406 - 531 30 31 000		- Operating Supplies	24.59	#237 Weatherstripping
		406 - 531 30 31 000		- Operating Supplies	130.29	#40 Truck Seat Trimming
		406 - 531 30 48 001		- Vehicle Repair & Maint	1,410.96	#40 Rear Brake Pads, Rear Rotors, Rear Calipers, Machined Front Rotors
		401 - 533 50 31 000		- Operating Supplies	41.80	#237 Weatherstripping
		403 - 534 50 31 000		- Office and Operating Supplie:	35.65	#237 Weatherstripping
		101 - 542 30 31 000		- Office and Operating Supplie:	4.92	#237 Weatherstripping
		501 - 548 30 31 000		- Office & Operating Supplies	6.14	#237 Weatherstripping
		001 - 576 80 31 000		- Operating Supplies	4.92	#237 Weatherstripping
8159	12/31/2019	Claims	1	66494 UNIFIRST CORPORATION	555.63	Uniforms; Uniforms
		001 - 518 30 20 002		- Uniforms	23.57	Uniforms
		406 - 531 30 20 002		- Uniforms	85.92	Uniforms
		401 - 533 50 20 002		- Uniforms	107.40	Uniforms
		401 - 533 50 20 002		- Uniforms	73.95	Uniforms
		403 - 534 50 20 002		- Uniforms	200.56	Uniforms
		101 - 542 30 20 002		- Uniforms	17.76	Uniforms
		501 - 548 30 20 002		- Uniforms	32.26	Uniforms
		001 - 576 80 20 002		- Uniforms	14.21	Uniforms
8160	12/31/2019	Claims	1	66495 WASHINGTON AUDIOLOGY SERVICES INC	1,277.90	Hearing Test
		001 - 518 30 41 000		- Professional Services	43.57	Hearing Test- PW
		107 - 521 20 41 000		- Professional Services	232.36	Hearing Test- Police
		406 - 531 30 41 000		- Professional Services	167.30	Hearing Test- PW
		401 - 533 50 41 000		- Professional Services	263.07	Hearing Test- PW
		403 - 534 50 41 000		- Professional Services	425.80	Hearing Test- PW
		101 - 542 90 41 000		- Professional Services	47.63	Hearing Test- PW
		501 - 548 30 41 000		- Professional Services	69.71	Hearing Test- PW
		001 - 576 80 41 000		- Professional Services	28.46	Hearing Test- PW
8161	12/31/2019	Claims	1	66496 BUDGET & FISCAL SERVICES WASHINGTON STATE PATROL	39.75	Background Checks
		107 - 521 20 49 001		- Misc/Dues & Memberships	39.75	Background Checks- September 2019
8162	12/31/2019	Claims	1	66497 WILLIAMS OIL FILTER SERVICE	491.41	PW Material; Return Credit
		406 - 531 30 31 000		- Operating Supplies	46.41	Swivel
		406 - 531 30 31 000		- Operating Supplies	-5.45	Returned Original Swivel For A Different Kind
		403 - 534 50 31 000		- Office and Operating Supplie:	46.41	Swivel
		403 - 534 50 31 000		- Office and Operating Supplie:	-5.46	Returned Original Swivel For A Different Kind
		501 - 548 30 31 000		- Office & Operating Supplies	11.37	Decals
		501 - 548 30 35 000		- Small Tools & Equipment	398.13	Battery Charger, 10# Sledge
					1,887.65	
					199.12	
					16,931.97	
					1,901.08	
					4,803.51	
					7,552.66	
					2,947.45	
					1,486.04	
					<u>37,709.48</u>	
					Claims:	37,709.48

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City Of Milton
MCAG #: 0590

12/31/2019 To: 12/31/2019

Time: 13:46:13 Date: 01/14/2020
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Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
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Bank Positive Pay Upload _____

CERTIFICATION: I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described and that the claim is a due and unpaid obligation against the City of Milton and that I am authorized to authenticate and certify to said claim.

Auditing Officer: _____

Date: _____

2020

CONSENT AGENDA ITEM #

CITY OF MILTON
PAYROLL and CLAIMS VOUCHER APPROVAL
January 21, 2020

Claim Vouchers:

Payroll Disbursements:

Dates	Check #	Amount
1/14/2020	66498	230.39
1/14/2020	EFT/ACH	224,197.38

Date	Check #	Amount
1/3/2020	66463-66468, EFT ACH	236,737.87

Total Accounts Payable:
Voids - 3950, 62894
Printer Error Checks - none

\$ 224,427.77 Total Payroll:

\$ 236,737.87

CHECK REGISTER

City Of Milton
MCAG #: 0590

01/01/2020 To: 01/14/2020

Time: 13:44:13 Date: 01/14/2020
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Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
230	01/14/2020	Claims	1	EFT	BONNEVILLE POWERADMINISTRATION	215,077.00	Monthly Power
			401 - 533 50 33 000 - BPA-Electricity for Resale			215,077.00	Monthly Power - Nov 2019
231	01/14/2020	Claims	1	EFT	CHASE PAYMENTECH	5,247.13	Credit Card Processing
			406 - 531 10 41 000 - Professional Services			1,749.04	Credit Card Processing Fees
			401 - 533 10 41 000 - Professional Services			1,749.04	Credit Card Processing Fees
			403 - 534 10 41 000 - Professional Services			1,749.05	Credit Card Processing Fees
232	01/14/2020	Claims	1	EFT	COLUMBIA BANK	503.48	Services Charges
			001 - 512 50 41 000 - Professional Services			33.68	Service Charges
			001 - 514 20 41 000 - Professional Services			469.80	Service Charges
233	01/14/2020	Claims	1	EFT	MERCHANT CARD SVCS	109.02	Merchant Fees Court
			001 - 512 50 41 000 - Professional Services			109.02	Merchant Fees Court
220	01/14/2020	Claims	1	66498	CHEA CHHAVAN	230.39	001670 - 1111 15TH AVE
			406 - 343 10 00 000 - Storm Drainage Fees			-54.47	
			401 - 343 30 00 000 - Electric Sales			-24.98	
			403 - 343 40 10 000 - Water Sales			-85.25	
			401 - 359 31 00 000 - Penalties			-53.72	
			403 - 359 90 00 000 - Penalties			-11.97	
234	01/14/2020	Claims	3	EFT	WILLIAM FONDA	167.04	Boot Allowance 2019
			001 - 518 30 20 002 - Uniforms			1.67	Boot Allowance 2019 - Fonda
			406 - 531 30 20 002 - Uniforms			11.70	Boot Allowance 2019 - Fonda
			401 - 533 50 20 002 - Uniforms			3.34	Boot Allowance 2019 - Fonda
			403 - 534 50 20 002 - Uniforms			130.29	Boot Allowance 2019 - Fonda
			101 - 542 30 20 002 - Uniforms			18.37	Boot Allowance 2019 - Fonda
			001 - 576 80 20 002 - Uniforms			1.67	Boot Allowance 2019 - Fonda
235	01/14/2020	Claims	3	EFT	DANA HERRON	20.00	Reimbursement
			001 - 558 50 49 002 - Misc/Trng, Registrations			20.00	WWC Of ICC Seminar Fee - Herron
236	01/14/2020	Claims	3	EFT	PUGET SOUND ENERGY	190.52	Electric
			403 - 534 51 47 001 - Public Utility Services			190.52	Electric 2mg Booster Power
237	01/14/2020	Claims	3	EFT	PUGET SOUND ENERGY	356.33	Natural Gas
			107 - 521 20 47 000 - Utilities			106.90	Police Natural Gas
			001 - 575 50 47 002 - Public Utilities Services - AC			249.43	MAC Natural Gas
238	01/14/2020	Claims	3	EFT	JOVANIS RODRIGUEZ	14.34	Reimbursement
			401 - 533 50 43 000 - Travel			14.34	OT Meals - Rodriguez
239	01/14/2020	Claims	3	EFT	JAMES SARFF	1,629.37	Reissue Check 3950 Sarff Unifom Allowance; Reissue Check 62894 Sarf Uniform Allowance
			001 - 589 90 00 999 - Payroll Clearing			613.52	Reissue Ck 3950
			001 - 589 90 00 999 - Payroll Clearing			1,015.85	Reissue Ck 62894
240	01/14/2020	Claims	3	EFT	XPRESS BILL PAY ACCOUNTS PAYABLE	883.15	Online Web Payments
			406 - 531 10 41 000 - Professional Services			291.44	Online Web Payment Services Fee
			401 - 533 10 41 000 - Professional Services			300.27	Online Web Payment Services Fee
			403 - 534 10 41 000 - Professional Services			291.44	Online Web Payment Services Fee

001 General Fund	2,514.64	
101 Street Fund	18.37	
107 Criminal Justice Fund	106.90	
401 Electric Utility Operations Fund	217,222.69	
403 Water Utility Operations Fund	2,458.52	
406 Stormwater Operations Fund	2,106.65	
	224,427.77	Claims: 224,427.77
* Transaction Has Mixed Revenue And Expense Accounts	224,427.77	Page 17 of 79

CHECK REGISTER

City Of Milton
MCAG #: 0590

01/01/2020 To: 01/14/2020

Time: 13:44:13 Date: 01/14/2020
Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
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Bank Positive Pay Upload _____

CERTIFICATION: I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described and that the claim is a due and unpaid obligation against the City of Milton and that I am authorized to authenticate and certify to said claim.

Auditing Officer: _____

Date: _____

Payroll Disbursements

001 General Fund	70,913.01	
101 Street Fund	2,530.06	
107 Criminal Justice Fund	72,636.31	
401 Electric Utility Operations Fund	29,651.10	
403 Water Utility Operations Fund	37,139.54	
406 Stormwater Operations Fund	17,146.49	
501 Vehicle Repair & Maintenance Fund	6,721.36	
	<hr/>	
	236,737.87 Payroll:	236,737.87

CERTIFICATION: I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered, or the labor performed as described and that the claim is a due and unpaid obligation against the City of Milton and that I am authorized to authenticate and certify to said claim.

Auditing Officer: _____
Finance Director

Date: _____

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Agenda Item #6

To: Mayor Styron Sherrell and City Council Members
From: Nick Afzali, Public Works Director
Date: January 21, 2020
Re: **Bridge Point I-5 Development Agreement Public Hearing**

ATTACHMENTS: Please see Agenda Item 7B

TYPE OF ACTION:

Information Only Discussion Action Public Hearing

Recommended/Action: Take public testimony on the Development Agreement

Discussion: The purpose of the public hearing is to discuss proposed additional voluntary transportation improvements based on public comment on the Bridge Point I-5 project.

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Agenda Item #: 7A

To: Mayor Shanna Styron Sherrell and City Council Members
From: Nick Afzali, Director of Public Works
Brittany Port, AICP, Contract Senior Planner
Date: January 21, 2020
Re: **Bridge Point I-5 Master Plan**

ATTACHMENTS: 1) Hearing Examiner Recommendation (dated November 18, 2019)
2) Ordinance 1980-20

TYPE OF ACTION:

Information Only Discussion Action Public Hearing Expenditure

Council Action/Recommendation: Conduct the first reading of Ordinance Number 1980-20 and advance it to second reading at the City Council's February 18, 2020 regular meeting.

Note: City Council conducted a closed record public hearing as required by the Municipal Code for quasi-judicial actions on December 9 voting to approve the Bridge Point I-5 Master Plan. An open record public hearing had already been held by the City of Milton Hearing Examiner as required for Process Type V applications. The City Council did not accept new testimony on the proposal as prohibited by Chapter 36.70B RCW at December 2 City Council meeting. At a closed record hearing, no new public testimony was provided, and the City Council made a decision based on the record developed before the Hearing Examiner and his recommendation

Background: On March 29, 2019, the City received an application for a Planned Development (PD) Master Plan to develop the Lloyds site (gravel quarry in northwest portion of City) into a light industrial/warehousing complex involving four industrial/warehouse buildings totaling approximately 2,043,024sf. The project would demolish existing structures on the site and include grading and fill activities to reclaim the site in accordance with the Surface Mining Reclamation permit from the Washington Department of Natural Resources. To support the industrial/warehousing proposed use, paved parking would be provided for both automobiles and truck trailers, with automobile parking separated from truck maneuvering areas for safety. The site will be landscaped with a 10-ft wide landscaping strip provided around the perimeter

of the property, and parking lot landscaping provided as well as vegetation planted within the buffers of two on-site wetlands and within the buffer of Hylebos Creek in accordance with a voluntary agreement with the Puyallup Tribe to restore habitat area and functions associated with the stream.

The project would provide frontage improvements (curb, gutter and sidewalk) along the entirety of its frontage on 5th Ave. Off-site improvements would be constructed to widen 5th Ave to allow sufficient travel lane width (at least 12 feet) for truck traffic, as well as sufficient shoulder to buffer pedestrians from vehicular traffic. In addition, the road bed of 5th Ave would be raised several feet at the crossing of the Hylebos Creek and 5th Ave, where two piped culverts would be replaced with a larger, bottomless box culvert that will restore habitat and functions to the creek, removing a barrier to fish passage at this crossing.

At the intersection of 5th Ave and Porter Way, where the majority of the truck traffic for the project is proposed to travel, a roundabout or other intersection improvement would be provided that would mitigate the projects impacts as well as the existing level of service deficiency (LOS F) at that intersection. The City has recently received an approximately \$3,000,000 grant from the State to improve the intersection of Porter Way and Pacific Hwy (SR-99). The applicant has committed approximately \$450,000 towards this effort as a payment in lieu of required improvements to mitigate the projects congestion at this intersection.

In addition to the required traffic improvements to 5th Ave, the intersection of 5th Ave and Porter Way, and payment towards the City's newly funded project improving the intersection of Porter Way and Pacific Hwy, the applicant would also pay approximately \$1,421,310 (calculated based on 2019 fee structure) in traffic impact fees as required by the City's Traffic Impact Fee ordinance, to mitigate traffic impacts associated with the development throughout the City.

Between March 29, 2019 and October 31, 2019, City staff provided timely notice in accordance with MMC 17.71.120. A neighborhood meeting was held on June 5, 2019, and a notice of public hearing and revised notice of public hearing were both posted in advance of the open record hearing before the Hearing Examiner. On October 31, 2019, the City of Milton Hearing Examiner held the required open record hearing on the proposal. His recommendation is attached to this memorandum.

At the closed record hearing, upon review/presentation of the record and the Hearing Examiner's recommendation, the City Council approved the Master Plan application with the Hearing Examiner's Findings of Fact and Conclusions of Law on December 9, 2019.

November 19, 2019

Barghausen Consulting Engineers
Attn: Dan Balmelli
18215-72nd Avenue South
Kent, WA 98032

Bridge Development Partners
Attn: Spencer Mayes
10655 N.E. 4th Street, Suite 210
Bellevue, WA 98004

**RE: LUA 2019-0008, LUA 2019-0009, LUA 2019-0010
BRIDGE POINT 1-5 SEATTLE**

Dear Applicant:

Transmitted herewith is the Report and Recommendation of the City of Milton Hearing Examiner relating to the above-entitled matter.

Very truly yours,

STEPHEN K. CAUSSEUX, JR.
Hearing Examiner

SKC/jjp
cc: Parties of Record

1X

OFFICE OF THE HEARING EXAMINER

CITY OF MILTON

REPORT AND RECOMMENDATION

PROJECT NO.: LUA 2019-0008, LUA 2019-0009, LUA 2019-0010
BRIDGE POINT 1-5 SEATTLE

**APPLICANTS/
PROPERTY OWNERS:** Barghausen Consulting Engineers
Attn: Dan Balmelli
18215-72nd Avenue South
Kent, WA 98032

Bridge Development Partners
Attn: Spencer Mayes
10655 N.E. 4th Street, Suite 210
Bellevue, WA 98004

PLANNER: Brittany Port, AICP- Contract Senior Planner

SUMMARY OF REQUEST:

Master plan approval and site plan review approval to develop a 118 acre site (the Lloyds gravel quarry) with four industrial/warehouse buildings totaling approximately 2,043,024 square feet along with paved parking and truck maneuvering areas, landscaping, stormwater facilities, water and sanitary sewer extensions, a street vacation, frontage road improvements, off-site roadway improvements along Milton Road/5th Avenue, and at the intersection of Milton Road/Porter Way and Porter Way/Pacific Highway. Buffer averaging is proposed for two on-site wetlands. The site is located at 38000 Milton Road South.

SUMMARY OF RECOMMENDATION: Approval, subject to conditions.

DATE OF RECOMMENDATION: November 19, 2019

PUBLIC HEARING:

After reviewing the City of Milton Planning and Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on October 31, 2019 at 9:01 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT A - Planning and Community Development Staff Report**
- EXHIBIT 1 - Master Application**
- EXHIBIT 2 - Pre-Application Meeting Summary**
- EXHIBIT 3 - Title Report**
- EXHIBIT 4 - Contract to Purchase Letter from Land Lloyd Development Co.**
- EXHIBIT 5 - Certificate of Water Availability**
- EXHIBIT 6 - Certificate of Power Availability**
- EXHIBIT 7 - Site Specific Sewer Information**
- EXHIBIT 8 - Lighting Plan**
- EXHIBIT 9 - Geotechnical Report**
- EXHIBIT 10 - Notice of Complete Application**
- EXHIBIT 11 - Notice of Application and Neighborhood Meeting**
- EXHIBIT 12 - Interagency Memorandum for SEPA Optional Notice of Application**
- EXHIBIT 13 - Memorandum from WSDOT**
- EXHIBIT 14 - SEPA Comments on NOA from DOH**
- EXHIBIT 15 - SEPA Comments on NOA from Muckleshoot Indian Tribe**
- EXHIBIT 16 - SEPA Comments on NOA from Lakehaven Water & Sewer District**
- EXHIBIT 17 - SEPA Comments on NOA from Pierce Transit**
- EXHIBIT 18 - SEPA Comments on NOA from City of Federal Way**
- EXHIBIT 19 - SEPA Comments on NOA from Tacoma-Pierce County Health Department**
- EXHIBIT 20 - Elliott Comment Letter**
- EXHIBIT 21 - Third Party Review Letter of Traffic Impact Analysis**
- EXHIBIT 22 - Third Party Review Letter of Critical Area Reports**
- EXHIBIT 23 - Fire Comments by East Pierce Fire & Rescue**
- EXHIBIT 24 - City 1st Substantive Review Letter**
- EXHIBIT 25 - Applicant Response to City 1st Substantive Review Comments**
- EXHIBIT 26 - Revised Site Plan**
- EXHIBIT 27 - Site Cross Sections**
- EXHIBIT 28 - Revised Preliminary Civil Engineering Design Plans**
- EXHIBIT 29 - Revised Preliminary Stormwater Site Plan**
- EXHIBIT 30 - Revised Stormwater Pollution Preservation Plan**
- EXHIBIT 31 - Revised Preliminary Landscape Planting Plans**
- EXHIBIT 32 - Revised Traffic Impact Analysis**
- EXHIBIT 33 - Revised SEPA Checklist**
- EXHIBIT 34 - Applicant Response to Critical Area Comments**
- EXHIBIT 35 - Revised On-Site Wetland and Fish and Wildlife Assessment Report and Mitigation Plan**
- EXHIBIT 36 - Revised Off-Site Wetland and Fish and Wildlife Assessment**

- Report and Mitigation Plan**
- EXHIBIT 37 - Revised Off-Site Biological Evaluation**
- EXHIBIT 38 - Significant Tree Survey and Retention Plan**
- EXHIBIT 39 - Applicant Response to Geotechnical Engineering Comments**
- EXHIBIT 40 - Revised Master Plan Document**
- EXHIBIT 41 - Memorandum from Applicant to City of Fife Re: Pro-Rata Share of Traffic Impact Fees**
- EXHIBIT 42 - Letter from City of Fife to City of Milton Re: Pro-Rata Share of Traffic Impact Fees**
- EXHIBIT 43 - Third Party Review Letter of Revised Critical Area Reports**
- EXHIBIT 44 - SEPA Mitigated Determination on Non-Significance**
- EXHIBIT 45 - Notice of Public Hearing**
- EXHIBIT 46 - Puget Sound Clean Air Agency Comment Letter**
- EXHIBIT 47 - Puyallup Tribe Appeal of MDNS**
- EXHIBIT 48 - City of Federal Way Appeal of MDNS**
- EXHIBIT 49 - Vargas Comment Letter**
- EXHIBIT 50 - Revised Notice of Public Hearing**
- EXHIBIT 51 - Notice of Administrative Appeal Hearing**
- EXHIBIT 52 - Cosner Comment Letter**
- EXHIBIT 53 - Stockdale Comment Letter**
- EXHIBIT 54 - Radant Comment Letter**
- EXHIBIT 55 - Boyle Comment Letter**
- EXHIBIT 56 - Barron Comment Letter**
- EXHIBIT 57 - Puyallup Tribe Stipulated Dismissal of Appeal**
- EXHIBIT 58 - Modified MDNS**
- EXHIBIT 59 - Federal Way Voluntary Appeal Withdrawal**
- EXHIBIT 60 - City of Milton Power Point Presentation**
- EXHIBIT 61 - Applicant Consultant Resumes/Qualifications**
- EXHIBIT 62 - Castle Comment Letter**
- EXHIBIT 63 - Staff Report**
- EXHIBIT 64 - Addendum to Staff Report**

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

BRITTANY PORT appeared, presented the City Staff Report and a power point presentation. She testified that the project site is currently an active gravel quarry zoned PD. The owner stockpiles material and engages in topsoil production. The PD zone defers required studies to the time of a proposed use, which then allows the applicant to reclaim and grade the site to fit the use. Requirements for the proposed use include landscaping, water and sewer extensions, and street improvements. The development proposal will need to meet all master site plan approval requirements as set forth in the code. The City responsible official issued a threshold MDNS following SEPA review and

imposed 24 mitigating measures. The MDNS was modified to address traffic in Federal Way. The City deemed the application complete on April 17, 2019. Staff reviewed the application in accordance with Comprehensive Plan policies and noted that the warehouse project will create between 900-1,200 family wage jobs. Traffic improvements will upgrade the level of service of the Porter Way/SR-99 intersection from its current LOS F to LOS D. The proposed use is consistent with the zoning code, as it accommodates mainly warehouses and offices. The proposed uses are similar to those allowed in the M1 zone, and all bulk regulations are met. Conditions require additional landscaping to buffer residential uses as well as an acoustical evaluation by an expert. The project meets all parking ratios. Staff recommends approval subject to compliance with 17 conditions. Staff recommends increases in the height of the buildings as they are well-removed from property lines. The project will have no adverse impact on Hylebos Creek and will protect wetlands. The TIA shows 3,000 plus total vehicle trips per day, but also shows that all intersections will operate at LOS D or better following improvements. The two environmental appeals filed by the City of Federal Way and the Puyallup Tribe have been withdrawn subject to compliance with new conditions.

BRIAN LAWLER, attorney at law representing the applicant, appeared and thanked the City for its review and work, and the work of the Tribe and Federal Way to reach mitigation agreements that allowed them to withdraw their appeals. Voluntary mitigation addresses both appeals. The project satisfies all City code requirements and the applicant accepts all conditions of approval.

JUSTIN CARLUCCI, manger of the applicant's local office, appeared and testified that they propose light industrial and warehouse distribution type uses on the site. Their headquarters are in Chicago. As the population in the Northwest grows, so does the need for warehouses and distribution offices. They propose constructing the project in two phases between late 2022 and 2024. They are presently negotiating with five to six tenants for light warehouse and distribution uses. They could also incorporate light manufacturing uses and other types of uses. Present potential tenants include an auto parts distributor, moving and storage, business, storage of goods in pods, door distribution, machinery company distribution, and paper distributor.

SPENCER MAYES appeared and testified he is the senior vice president of development for Bridge. All of their officers have extensive experience. They have worked with City staff, the Tribes, DOT, DOH, Federal Way, and specifically the Puyallup Tribe. They accept all conditions of approval and MDNS mitigating measures.

JEFF SCHRAMM, traffic expert, appeared and testified that he has performed hundreds of traffic studies, and that this study is one of the most comprehensive. DOT and the City had their consultants review his TIA. He also worked with Federal Way and Fife. He provided an initial analysis and responded to comments with an updated report. The purpose of his analysis is to evaluate the impact of traffic on both the immediate and the extended areas. He evaluated the distribution of both employee and truck traffic. He also considered the gravel pit trucks. New truck traffic from the site will primarily travel north and make a right

turn upon leaving the site and will not travel to the south. Federal Way was concerned about congestion on Enchanted Parkway. However, most of the truck traffic from this project will go to the Port of Tacoma. They will regrade and improve 5th Avenue to accommodate trucks. They will monitor the pavement and perform further evaluations. He also considered the intersection of 5th and Porter. That intersection now operates at LOS F. The southbound movement on Porter is failing. A roundabout is the best option and they now have a preliminary design. The challenge is trucks using the roundabout, and they will provide a rolled curb to accommodate trucks. Returning trucks will go around the roundabout, and they have designed it to accommodate the largest trucks. The roundabout will improve the LOS significantly at build out of the project. Concerning the intersection with SR-99, they will extend the right turn lane on Porter and will improve the signal operation in accordance with their work with DOT. They will pay a Traffic Impact Fee of approximately 1.4 million dollars. This will be a direct payment in addition to the described improvements. The City also has a long term plan for improving 5th. They will pay a proportionate share of approximately \$111,000 to the City of Fife, and a proportionate share to Federal Way to upgrade three intersections. The cities will build out the improvements.

MR. MAYES reappeared and testified that the total amount of money paid to the cities for direct payments and improvements represents eight to ten million dollars.

SCOTT JOHNSON appeared and testified that he has raised a family of four plus foster children. He is a 30 year resident of Milton and bought his house from his parents. He had a question about the notice as he never received notice of any of the meetings. Today is his first chance to make comments. Salmon spawn in the creek and will not have protection. The City does not have adequate right-of-way to improve the road. Over the last four years he has not been able to get out of his driveway between 2:30 and 4:00. People will lose their property when the City condemns it for the roundabout. He agrees that something needs to be done and does not want trucks coming down the road.

RAYMOND HERMANN appeared and testified that he has had issues with truck traffic over the past five to six years. Trucks do not abide by the 25 mile per hour speed limit. He agrees with the first speaker. The 5th improvements will be in front of his home. What will they do about the wetlands? No one had adequate notice of this project. 5th will have to accommodate more traffic and it will affect a lot of people.

NOAH DOUGLAS appeared and questioned the number of jobs that will be provided in Milton.

BRYAN ALDERMAN appeared and testified that he resides on 5th Avenue and has lived in Milton for the past eight years. How will the roundabout help the Porter Way/SR-99 intersection? Only one traffic lane in each direction is on the bridge over I-5. He has concerns as the semis now travel faster than 30 miles per hour. What about the school buses? Trucks will come along the road while children wait for the school bus. He does not want children playing on an industrial road. They should continue routing semis to the

north and not the south. He cannot get onto 5th Friday afternoons. They have to plan their days around the traffic. The number of semis using the road is bad now.

BRUCE CASTLE appeared and testified that he is a retired geologist and opposes the MDNS. He does not approve the mitigating measures. He had no notice of the project and learned about it on October 17. Others had five months to consider it. This is a massive project and needs careful consideration. We must look at what documents are there and what documents are not there. Concerning notice, a large project such as this one needs a much wider notification. People need more time to consider it. Why can't there be a notice posted in the library or copies of the studies provided in the library? Why should people have to go to staff? People are stakeholders as they are heavily invested in their homes. He didn't see three critical documents: an environmental site assessment, hydrogeologic report, and risk management plan. We don't know anything about the site. They have not performed a hydrological report. There is no risk management plan. What about the petroleum pipeline? The absence of studies is glaring. How can the MDNS be approved without these documents? Furthermore, the reports are constrained to the 118 acre project site. There is no discussion of the project's impact to the area. There is no consideration of Federal Way's high density residential zone and how the project interacts therewith. We are not seeing this project in the big picture.

SUZANNE VARGO appeared and testified that she is a Federal Way resident and works in Federal Way at the Weyerhaeuser building. The watershed is important and the City should have required an EIS to evaluate the project and its impacts on the upper plateau. Federal Way rezoned property to HDR along the project's north property line. Does this project comply with the Hylebos Creek plan that provides criteria for development along the creek? Did the applicant include impervious surfaces in the runoff calculations, and did it divert the discharge to the creek? We need to have a hydrogeologic study to determine the answers to these questions. Trees provide a food source. We must incorporate the project with the creek plan. The Weyerhaeuser project generates 700 trips, but only 300 are estimated here. A pipeline runs along 5th Avenue and the wetland. Lloyds dumped material from the site into a wetland in Federal Way. The process here is for show only. The signage is not located in a proper place. Look at all of the impacts. We have no idea who will occupy the buildings.

PHIL LINDEN appeared and testified that water quality is very important. We need homes in the area, not warehouses. The bottleneck is the two lane bridge. Extending the right turn lane will not do a lot. This area is probably the worst traffic area in the City. 700 seniors will add many more car lengths. The impact of this project will be felt by all.

JACKIE WHALEN, a member of the Planning Commission, appeared and testified that she is speaking personally, not as a commission member. She also disclosed that her husband is a Milton City Councilmember. This project was included in the 2003-2004 Master Plan. The area around the site is not residential. We must do the maximum to protect the creek. She has long struggled with truck traffic to include its smell and noise. This project will create a drastic change in the area. We must have sidewalks and other

safety features in the area. We cannot protect citizens from thousands of trucks. Pollution will occur on the site and we must protect our citizens and the creek.

JOSEPH BARRON appeared and testified that he is not a 30 year resident, but has only moved to Milton recently. They found property here on Juniper. The City required him to perform street improvements and no one mentioned that the State would want to purchase his property. He has a low opinion of the City. He notes a lack of paperwork and studies. This project will affect everyone in the area. He can't imagine that they will develop only a portion of 5th, as 5th should be a four lane road. What is the cost to the people? He will have a wider road on his front step. A lot of industrial land is located along SR-99 and that is the place to put a warehouse park. Even if 5th is widened the project will not fit. Too many people and children live there. Trucks are up to 55 feet long and cannot make the turn at Porter and Milton Road. Here, the City is not thinking about the cost. They could easily add 50 percent to the cost and should buy out the abutting property owners. The aquifer is also our water. The City has a history of bad water and had to cleanout its facilities. The aquifer will not last if we can't perc water into the ground. He can see the Porter and SR-99 intersection, and this is not an area for commercial development.

BETTY TAYLOR appeared and testified that the City has not thought this project out. There are so many unknowns to this project. The applicant proposes to put warehouses on it and then rent them out. The applicant and the City will make a profit, but at what impact to residents. She bought her home five years ago when she moved from Kent and then eventually to Milton. They don't want their lifestyle ruined by more warehouses. Profit will change the culture. Children will now live with trucks going by all day. Other uses could be beneficial to the area. They will stop this project.

MS. PORT reappeared and testified that the Milton Municipal Code requires notice to property owners within a 500 foot radius of the property boundaries. The City provided the notice on May 1, 2019, and also published the notice in the News Tribune. The applicant posted a notice board on the site and it was also included on the City's website. The City also published notice of the public hearing, mailed notice to property owners within a 500 foot radius from the property boundaries, and also provided notice to those who commented. The environmental review consisted of evaluating a SEPA checklist that disclosed all known environmental issues. The City published the checklist and agencies commented. The MDNS includes conditions necessary to mitigate the environmental impacts of the project. No impacts are not mitigated assuming compliance with mitigating measures.

JEFF PARSONS appeared and testified that he conducted a third party environmental review for the City. His task was to review the applicant's echnical material and determine whether it complied with the municipal code. He provided comments on the applicant's studies and reviewed the applicant's proposed voluntary actions within the creek. Voluntary action is not required by the critical areas ordinance. A hydrological study is required by MDNS mitigating measures, and there are working with DOT on the road improvements for 5th Avenue. The studies performed to date show that the lower aquifer is

artesian, which means that water is flowing upward and prevents infiltration of stormwater.

MR. LAWLER reappeared and testified that the applicant has made no requests for speed limit increases.

MS. PORT reappeared and testified that the City has not proposed increasing the speed limit.

MR. CARLUCCI reappeared and testified that they will create 900 to 1,200 jobs from entry level to management. Jobs of all different skills will be available and people can advance within the project. Wages will vary from \$35,000 to \$100,000.

MR. SCHRAMM reappeared and testified that his TIA went well beyond the normal analysis. They needed to focus on the operation of streets and intersections. Each jurisdiction has its own criteria. He went through the process comprehensively. They measured traffic for both a full day and during the peak hours. The project will generate 3,000 vehicle trips per day, but only 480 will be truck trips. They also measured the LOS of impacted intersections. The City and its independent expert (TSI), DOT, as well as the cities of Fife and Federal Way and their independent experts reviewed his traffic study. They comprehensively evaluated the study more so than any he has ever done. All of the traffic professionals reviewing his report determined that conditions would be adequate. He visited 5th Avenue a dozen times and observed traffic and truck speeds. The citizen testimony is accurate. Fifth is signed at 25 miles per hour, and they have no proposal to increase it. In his opinion the 25 mile per hour speed limit is appropriate. The concerns raised about traffic have nothing to do with Milton. He noted that trucks use 5th to avoid I-5 back-ups, which is the reason why a large amount of trucks presently use 5th. The City can enforce its traffic laws. They will construct 5th to City standards and are working on pedestrian facilities. They will provide mitigation money to help the City improve the entire length of 5th. Fifth has a 60 foot wide right-of-way for most of its length, although some parts may not. Fifth does have adequate width for the improvements. They would construct it with two lanes, one in each direction, along with pedestrian improvements. The City can widen the road if it desires. If it is widened, non-City traffic would use the road. Portions of the road are now 20 to 22 feet and they will widen it to 24 feet. The roundabout will be installed at an intersection that is difficult to negotiate now. The roundabout will allow a smooth and even flow and will eliminate the queue caused by the LOS F movement. The design of the roundabout has been reviewed by seven traffic experts. The design will accommodate all trucks, regardless of length. They must ensure that it will accommodate all trucks the same as the Porter/SR-99 intersection. Testimony indicated that the two lane bridge over I-5 creates the problem for traffic, but it does not. The problem is the intersection at SR-99 and Porter. They have identified mitigation to include extension of the right turn lane and modification of the signal. They evaluated traffic during the morning and evening peak periods and noted ten to 15 percent of the daily traffic volume occurs during the a.m. period and less during the p.m. peak period. He noted specifically the left turn movement at SR-99. Some vehicles will use 376th to go north. They used a traffic model to determine where future employees will likely live. Some traffic

will use roads to the north of the site. However, trucks will use SR-99/Porter and Fifth. Their mitigation to 376th is part of Federal Way's requirement. The intersection of 5th/376th will include a turn lane or mini roundabout. At 373rd and SR-99, an un-signalized intersection, Federal Way will build a two lane roundabout. They will pay \$325,000 as their proportionate share, or in the alternative, will install a temporary signal. They considered using 376th as the primary access, but 5th and Porter is a better route and the mitigation will help more in that area. The applicant performed all studies required by the code. The hydrological study will be done in the future per code. They are not seeking a waiver, but are providing a risk management plan. If contaminants are found, they will comply with DOE regulations to include the Model Toxic Control Act.

DAN BALMELLI, Barghausen Engineers, appeared and testified that his role is developing the storm drainage plan and providing civil engineering services. He was also involved years ago with a previous master plan that did not go forward. About 100 acres of the site are proposed for development. About 18 acres will provide a buffer for the creek. The site is highly disturbed as it was used as a mine. 75 to 80 percent of the site is graded and denuded. Temporary ponds were constructed with overflow to the creek. It is unknown if water quality requirements were met. This project will design its stormwater in accordance with the DOE manual. They will design the system to limit the stormwater runoff to the amount that would runoff naturally if the site were in a forested condition. They cannot consider the graded condition of the site. They will increase the retention and reduce the discharge to the creek. Today the water discharging to Hylebos Creek from the site has no water quality controls. In accordance with the agreement reached with the Tribe, the owner will provide enhanced quality for discharge from both paved areas and roof tops. Thus, the system will treat stormwater runoff from the entire site when it is only required to treat water runoff from paved areas. Upon development this site will have much better water quality and will exceed code requirements. They will utilize a dispersion system of discharge into the creek; it will not be a point discharge such as a pipe.

JON PICKETT, Soundview Consultants, appeared and testified that Soundview has been involved in the project for 2.5 years and has thoroughly studied the site. He evaluated the offsite culverts under 5th which measure 36 and 72 inches. Both create a barrier for fish. They will replace the 72 inch culvert with a box culvert open to the ground, and will replant the creek buffer within the right-of-way. The box culvert will measure 14 to 18 feet. Improvements will not impact wetlands, as construction will be within the right-of-way. The culvert will be designed in consultation with the Tribe and the Corps of Engineers. It will also be compliant with Department of Fish and Wildlife criteria. Flooding issues exist now, and the culvert will aid such issues as it will provide a bypass. No wetland or stream impacts will occur onsite. He walked the entire length of the creek and met with the Tribe. They have identified 14 key locations for woody debris and will replant the creek buffer with native trees. All of these mitigating measures are voluntary. They will invade no buffers and existing trees will remain.

MR. LAWLER reappeared and testified that this proceeding is not a SEPA appeal hearing. No more than moderate environmental impacts will occur. The applicant has performed a

significant amount of work to study and mitigate all impacts. State Growth Management Act compliance involves a lot of process. The GMA Comprehensive Plan is a guide and the zoning code adopts the regulations to include critical areas ordinances and environmental regulations. An applicant then knows when purchasing a parcel what standards it must meet to gain project approval. They have done everything the code requires.

NICK AFZALI, City Public Works Director, appeared and testified that he has worked for 20 years in the public sector and eight years in the private sector. Comprehensive Plan elements include transportation. The City is now working on an update to the Comprehensive Plan. The present plan was adopted in 2015 and adopted the concurrency standards of LOS D for intersections. Traffic models are required to evaluate intersections and the applicant followed the proper process. The Porter/5th roundabout will accommodate all traffic from the proposed use and will be aesthetically pleasing. They are currently looking at pedestrian improvements. They will widen the roadway to include adequate shoulders. The City has plans for future improvements to 5th that it will share with the community. The traffic signal at SR-99 and Porter is owned and controlled by DOT. They consulted with DOT and included its comments within the study. They will seek additional funds to address the impacts to the intersection. The City has no plans to increase the speed limit. DOE regulations address impacts to the aquifer.

JAMIE CARTER, City engineer, appeared and testified that the City has a NPDES permit with DOE that allows stormwater runoff to flow into water bodies. DOE audits the program. Lloyds began mining gravel at the site when environmental regulations were weak. New development must build to the current higher standards. Mr. Parsons has worked to mitigate impacts to the creek and to improve its overall quality. The City's goal was a box culvert some time in the future, and they will now obtain that goal much sooner than expected. A box culvert will provide salmon access to the upper creek. Most new projects improve stormwater quality and quantity controls.

JEREMY DOWNS, Soundview Consultants, appeared and testified that they have not engaged in any short cuts, but have reviewed the project thoroughly. They worked with the Tribes and other interested agencies. The applicant had worked with the Tribe before it filed the environmental appeal. They are now voluntarily capturing and treating roof runoff, which is entirely voluntary. The runoff will mimic natural conditions. The culvert allows fish passage and alleviates flooding. The Corps of Engineers and State agencies will permit the culvert.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 12:38 p.m.

NOTE: A complete record of this hearing is available in the office of the City of Milton Planning and Community Development.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. Pursuant to MMC 17.72, the City advertised the Notice of Application and Notice of Neighborhood Meeting on May 1, 2019. Notice was mailed to surrounding property owners within 500 feet of the project site, sent to SEPA agencies, published in The Tacoma News Tribune, and posted on a board on the site. The City published notification of the public hearing on October 2, 2019, more than fifteen days prior to the date and time of the hearing.
3. The applicant, Bridge Point I-5 Seattle, has acquired a possessory ownership interest in an irregularly shaped, 118 acre parcel of property abutting the east side of 5th Avenue (Milton Road South) with an address of 3800 Milton Road South within the City of Milton. Hylebos Creek flows through the southeast portion of the site, and South 376th Street is to the north of the site. The applicant requests approval of a “master plan” and site plan review approval to allow improvement of the site with four industrial/warehouse buildings totaling approximately 2,043,024 square feet. Accessory improvements include paved parking spaces, truck maneuvering areas, landscaping, stormwater facilities, water and sanitary sewer extensions, frontage road improvements, off-site road improvements, and critical area improvements.
4. A previous owner utilized the site for a surface mine/gravel quarry for many years. Approximately 75 to 80 percent of the parcel is presently graded and denuded of vegetation due to the extraction operation. The most recent gravel operation included sorting and stockpiling of materials and top soil production. Development of the site as proposed includes removal of all improvements associated with the surface mine.
5. The parcel is located within the Planned Development (PD) zoning district of the Milton Municipal Code (MMC). Chapter 17.38 MMC sets forth the procedures and bulk regulations for the PD classification. Section 17.38.010 MMC provides that the PD district allows future development consistent with the goals of the City of Milton Comprehensive Plan. Said section also defers studies for development of a site to the time that a use is proposed. Section 17.38.020 MMC defines a “master plan” as a plan showing the proposed development of a parcel. Section 17.38.030 MMC provides that a master plan can propose any use on a site within the PD district that is allowed in any zoning district in the MMC as either an authorized use, conditional use, or special use. Said section authorizes surface mining without approval of a master plan. Section 17.38.040 MMC does not set forth specific bulk regulations

(setbacks, height, etc.) for the PD district, but authorizes such regulations consistent with bulk regulations found in other chapters of the MMC on a case-by-case basis, depending upon the proposed uses.

6. Section 17.38.060 MMC provides that the master plan approval procedure utilizes the Type 5 decision process pursuant to Chapter 17.71 MMC. Said process requires the Examiner to conduct an open record hearing and make a recommendation as to approval, approval with modifications, or disapproval of the master plan to the Milton City Council. The City Council makes the final decision.
7. The applicant has also concurrently requested site plan review approval, a Type 4 permit process wherein the Hearing Examiner makes the final Decision. However, pursuant to MMC 17.71.060 that authorizes consolidated review, the major site plan approval request follows the process for master plan approval. Therefore, the Examiner makes a recommendation to the City Council, which also makes the final decision on the site plan review application.
8. The applicant submitted a completed application for master plan and site plan review approval on March 29, 2019, that the City deemed complete on April 17, 2019. Included with the application was a State Environmental Policy Act (SEPA) checklist. The applicant also submitted a revised SEPA checklist on August 27, 2019. Following environmental review the City responsible official issued a threshold Mitigated Determination of Non-Significance (MDNS) on September 30, 2019. On October 14, 2019, the Puyallup Tribe of Indians (Tribe) timely submitted an appeal of the MDNS. On October 14, 2019, the City of Federal Way also timely filed an appeal of the threshold determination. The public hearing to consider the applications for master plan approval, site plan review approval, and both SEPA appeals was scheduled for October 31, 2019.
9. Subsequent to filing its appeal, the Tribe met with the applicant on several occasions to discuss and respond to the Tribe's environmental concerns regarding protection of Hylebos Creek. The applicant and the Tribe reached agreement, and on October 30, 2019, the Tribe and the applicant entered into an agreement dismissing the appeal. The dismissal is subject to the applicant's compliance with mitigating measures set forth in Attachment 1 to the dismissal letter, and incorporation of said mitigating measures into SEPA conditions for the project. The Examiner has added a recommended condition of approval that incorporates the agreement as set forth in a Technical Memorandum dated October 28, 2019, along with attachments. The City responsible official agrees with the additional mitigating measures set forth in the agreement.
10. On October 30, 2019, the City of Federal Way voluntarily withdrew its appeal of the SEPA threshold determination subject to modifications to the MDNS. The applicant and the responsible official agreed to modify the MDNS by eliminating mitigating measure 5 and adding mitigating measures 25-27. The responsible official issued

the modified MDNS on October 30, 2019. The revised MDNS requires additional traffic mitigation for two intersections within the City of Federal Way and payment of traffic impact fees to Federal Way based upon the estimated total of 86 p.m. project trips entering and leaving the City.

11. The proposed site plan (Exhibit 26) shows the parcel improved with four buildings ranging in size between 1,076,335 square feet and 122,609 square feet. The largest building is adjacent to the south property line of the parcel, and the smallest building is near the east property line, east of the other three buildings. Parking spaces generally surround all four buildings. The site provides a total of 1,226 vehicle parking stalls and 305 trailer stalls. The MMC authorizes a maximum building coverage of 50 percent, and the site plan shows a maximum coverage of 39.8 percent. The site plan shows all buildings fully sprinkled. The site plan shows three accesses onto 5th Avenue, and closure of the two, existing accesses serving the surface mine. Hylebos Creek flows across the southeastern portion of the site and is protected by a minimum, 150 foot wide, undisturbed buffer. Wetlands are shown in the central portion of the site between three buildings and at the southwest corner of the site. All wetlands are protected by appropriate buffers.
12. The abutting parcel to the north is also located within the PD district and is improved with a senior living facility. Abutting parcels to the south are located within the Residential Single-Family (RES) and Residential Moderate Density (RMD) districts and either improved with a multi-family development or remain vacant. Parcels to the east are located in the RES district and are either vacant or improved with single-family dwellings. The parcel to the west is within the Business (B) district and is used for a gravel storage yard. Interstate 5 is also a short distance to the west.
13. Section 17.38.030(A) MMC reads:

Master plan authorized uses in this zone [PD] may include any use allowed in any zoning district as an authorized use, a conditional use, or a special use.

The applicant originally proposed many uses on the site as allowed by the Use Tables set forth in Chapter 17.14 MMC. Staff amended the proposed list by eliminating uses such as food manufacturing, processing, or packaging; hospitals; hotels; motels; restaurants; and smelting plants. Staff sets forth its proposed list of uses for the site on page 15 of the Staff Report. However, based upon residential uses abutting three sides of the project and the fact that the improvements will be located generally below grade due to the surface mine, the City Council should consider removing the following uses from said list:

- A. Assembly of heavy equipment, airplanes, or vehicles.
- B. Outside storage yards as principal use.

- C. Rock, stone, brick, concrete or asphalt, batching or assembly.
- D. Sales and rental of heavy machinery and equipment.
- E. Salvage and wrecking yard.
- F. Tow truck operation/impound yard.
- G. Utility yard.

Most (if not all) of the above uses recommended for exclusion would add additional square footage to the proposed buildings (outside storage, impound yard, soil mixing, and wrecking yards). Said outside uses could also create excessive noise as could assembly of heavy equipment, airplanes or vehicles. Furthermore, said outside uses would create aesthetic impacts not only for abutting parcels, but for other tenants as well. Such uses could also reduce the quality of tenant.

- 14. Section 17.38.040 MMC entitled “Bulk Regulations” provides for the PD zone:
 - A. Density, height, setback and other restrictions shall be applied in a manner consistent with the regulations found in other sections of this chapter for the uses proposed.
 - B. Increased setbacks and buffers may be required to provide adequate protection between differing land uses.

In the present case the applicant proposes bulk standards similar to those required in the Light Manufacturing (M1) district as the applicant anticipates uses similar to those authorized therein. Following review of the project, staff recommends additional protection for adjacent land uses. Staff sets forth its proposed bulk and dimensional standards in Table 2 of the Staff Report set forth on pages 16-18. Staff then evaluates the proposed site plan in accordance with said bulk dimensional standards in Table 4 on pages 28-32 of the Staff Report. The Examiner agrees with staff’s bulk and dimensional standards and the project’s compliance therewith.

- 15. The site plan shows structural setbacks of 96 feet, seven inches from the north property line, over 150 feet from the south property line, 138 feet, ten inches from the west property line, and 157 feet, 11 inches from the east property line. Staff’s proposed bulk regulations (Table 2, page 16 of the Staff Report) would authorize a maximum building height increase from 40 feet to 50 feet. Staff’s proposal allows an additional one foot of building height for each additional foot of building setback up to a maximum of 50 feet.

16. Landscape standards require a ten foot wide, landscape strip along the front and side property lines and additional screening on the north and south property lines where the development abuts residential uses. A ten foot wide, landscape strip is also proposed along the east property line. Additional buffering adjacent to residential properties to the north is a 20 foot wide, solid, vegetative, landscape barrier. Additional buffering along the south property line is provided by a eight foot tall, solid fence between the parking lot and the ten foot wide, landscape buffer.
17. The number of parking spaces complies with those required for the anticipated uses. Should additional spaces be necessary the applicant can remove and replace loading dock areas. Uses that propose outside storage would eliminate parking spaces and is another reason for prohibition.
18. The project is generally consistent with applicable goals and policies of the Milton Comprehensive Plan that encourages planned development districts to provide high quality, environmentally sensitive projects that contribute to the City's vision. Policy PD 1.1.a encourages redevelopment of the quarry site with uses that could include a mixed-use center or other appropriate use. In the present case the applicant proposes uses that will create between 900 and 1,200 jobs ranging from entry level to management, and that will pay between \$35,000 and \$100,000 per year. The project also protects sensitive areas including Hylebos Creek and will substantially improve the environmental qualities of the site to include stormwater runoff and the creek. Conditions of approval and mitigating measures in the MDNS address traffic, noise, lighting, and odor. The project will retain and protect wetlands, Hylebos Creek, and their buffers. As discussed hereinafter, traffic mitigation will ensure concurrency with the City's adopted levels of service and will actually improve the operation of two major intersections.
19. Approximately 75 to 80 percent of the site has been graded and all vegetation removed. However, the remaining trees are primarily native deciduous and coniferous species. The applicant proposes to plant 4,206 trees that will meet the City's tree replacement requirements (Exhibit 38).
20. The applicant's stormwater system will consist of a detention vault that will accommodate stormwater runoff from not only the paved portions of the site, but also the roof areas in accordance with the settlement agreement entered with the Tribe. Treatment of stormwater runoff from roofs is voluntary and not required by City of Milton or Department of Ecology stormwater standards. Furthermore, the applicant will discharge the stormwater by means of a spreader and not a point distribution such as a pipe. The storm drainage system will meet all requirements of the City.
21. The applicant submitted a Biological Evaluation and Wetland and Fish Habitat Assessment Report and Mitigation Plan prepared by Soundview Consultants that was subsequently revised following review and comment by the City's independent

expert, Herrera Environmental Consultants. Hylebos Creek and four wetlands will be preserved and protected in accordance with said report and in accordance with the settlement agreement with the Puyallup Tribe. The applicant will conduct stream restoration/enhancement actions that will include 14, new, woody debris installations located in the lower part of the onsite reach of the creek. The locations of the woody debris installations are agreed to by the applicant and Tribe. The agreement also requires planting of live conifers along upland creek banks and adjacent wetlands. Tree plantings in the onsite stream buffer will supplement the tree replacement plan by adding approximately 2,623 conifer trees. All improvements will be accomplished manually or through highline placement and not with mechanical or manual excavation. All stream restoration/enhancement actions will occur simultaneously with the first phase of the development or bonded.

22. All activities and uses will occur outside of the wetlands and buffers except for an intrusion into the 15 foot wide, building setback from the buffer of Wetland B. Wetland B is a Category III, 79,762 square foot wetland that requires a 60 foot wide buffer. The wetland experts agree that mitigation proposed for such impacts is consistent with industry standard.
23. As previously found the applicant will provide significant plantings and stream enhancement improvements within and along Hylebos Creek as it flows through the project site. Thus, no development is proposed within the creek habitat conservation areas or buffer. However, Hylebos Creek flows beneath 5th Avenue, and temporary impacts will occur due to the installation of a new, bottomless culvert that will replace two, existing culverts. Both existing culverts measure 62 feet in length. One culvert has a 72 inch diameter and the other a 36 inch diameter. The smaller culvert is completely blocked. The new, culvert will consist of a 14-18 foot wide, box culvert (bottomless) that will restore the natural stream channel beneath the roadway. The culvert must meet the requirements of the State Department of Fish and Wildlife, U.S. Army Corps of Engineers, and the Tribe. The applicant proposes to replant areas within the right-of-way that are disturbed by culvert installation. The new culvert will restore salmon runs to the upper Hylebos.
24. Residents raised substantial concerns regarding traffic impacts of project trucks and private automobiles on intersections and roads in the area. The City of Federal Way appealed the threshold MDNS, asserting that it did not provide sufficient mitigation for traffic impacts within the City. The applicant, Federal Way, and the responsible official negotiated a modified MDNS that requires the following:
 - A. The applicant will either install a temporary signal at the intersection of SR-99 and South 373rd Street, or at the sole discretion of Federal Way, contribute \$325,000 toward construction of a future roundabout at said intersection.

- B. Construct improvements at the Milton Road South and South 375th Street intersection to Federal Way standards.
 - C. Pay Traffic Impact Fees to Federal Way based upon the 86 project p.m. trips.
25. Traffic mitigating measures within the City of Milton require the following improvements:
- A. Construct a single lane, roundabout with a southbound right turn slip lane and pedestrian facilities including sidewalks and crossing points at each entrance at the intersection of 5th Avenue/Porter Way. The roundabout must accommodate trucks.
 - B. Improve the intersection of SR-99/Porter Way by extending the westbound right turn queue lane approximately 200 feet and optimizing signal timing. While residents argue that the two lane bridge over I-5 is the cause for congestion at the SR-99/Porter Way intersection, none of the seven traffic engineers reviewing the project agree.
 - C. Widen and improve 5th Avenue to accommodate truck traffic, and if the pavement does not meet structural design standards, reconstruct 5th Avenue in a manner to meet these standards or as required by the City engineer.
 - D. Contribute \$1,382,700 to the City in accordance with the current Transportation Impact Fee of \$4,190 per p.m. peak trip. Such fee may increase since it is calculated at building permit issuance.
26. The applicant will also contribute to improvements to the 54th Avenue East/Pacific Highway South intersection within the City of Fife in the amount of \$111,375.
27. Many residents raise concerns regarding existing traffic in the area and the worsening of such traffic by the project. However, residents presented no expert testimony or evaluation of the applicant's Traffic Impact Analysis (TIA). Furthermore, the City's independent traffic consultant, DOT traffic engineers, City of Fife traffic engineers, and City of Federal Way traffic engineers all agree with the applicant's traffic engineer that the proposed mitigation will increase the level of service at impacted intersections and will upgrade 5th Avenue. Furthermore, the traffic engineers anticipate that most truck traffic will occur between the site and the Port of Tacoma and that most trucks will utilize SR-99. The applicant anticipates that the cost of construction plus the payment of Transportation Impact Fees will equal between eight and ten million dollars.
28. Prior to obtaining approval of its proposed master plan, the applicant must show that said plan satisfies the criteria set forth in MMC 17.38.070. Findings on applicable criterion are hereby made as follows:

- A. As previously found the proposed master plan is consistent with the goals and policies of the Milton Comprehensive Plan.
- B. The plan is consistent with applicable policies set forth in the State Growth Management Act (GMA) that encourage development in urban areas where adequate public facilities and services exist. In the present case, conditions of approval require upgrades to public facilities and services necessary to support the development.
- C. The project satisfies SEPA requirements pursuant to the revised MDNS.
- D. Criterion 4 requires the applicant to demonstrate a need for the master plan within the community at large, and that such plan is not contrary to the public interest. In the present case the applicant proposes to reclaim a surface mine previously used for essentially industrial activities. The site is in close proximity to the Port of Tacoma, Interstate 5, and a future extension of SR-167. The project will create approximately 900 to 1,200 jobs and could create additional supportive jobs. Staff asserts that Class A buildings are in high demand, especially those in close proximity to the Port of Tacoma and also have convenient access to the Port of Seattle and Interstate 5.
- E. The master plan is located, planned, and will be developed in a manner that does not detrimentally impact the health, safety, convenience, or general welfare of persons residing or working in the community. This finding is based specifically on the mitigation required by conditions of approval that include the mitigating measures in the MDNS, specifically traffic improvements and improvements to Hylebos Creek to include the open culvert. The open culvert should restore salmon habitat to the upper Hylebos Creek area. The applicant has provided additional buffering and screening for abutting multi-family, single-family, and senior living facilities and will provide pedestrian pathways within the site. Compliance with mitigating measures will ensure that the project does not become detrimental to the health, safety, convenience, or general welfare of the neighborhood.
- F. The 118 acre site is adequate to accommodate the proposed uses to include parking, traffic circulation, and buffers.
- G. The site provides adequate landscaping, screening, setbacks, and open spaces that mitigate its impacts on neighboring properties. The project provides a substantial structural setback that will minimize the visual impacts of buildings on neighboring properties.
- H. The applicant proposes external illumination that will face inward. Lighting will include standards for parking lots and pedestrians and for exterior

illumination of buildings. All lighting will be mitigated to the greatest extent practicable.

- I. The design of the parking areas assure that headlight glare from internal traffic will not affect motorists on 5th Avenue.
 - J. As previously found the stormwater drainage system will meet and exceed City of Milton drainage standards in accordance with the agreement reached with the Puyallup Tribe as incorporated in conditions of approval.
 - K. The site will provide three accesses, all of which will have adequate entering and stopping sight distance. Improvements include the construction of sidewalks along the property frontage and a widened shoulder on 5th Avenue to Porter Way.
 - L. The sight distance at each point of access assures traffic safety.
 - M. Criterion 13 requires the applicant to demonstrate that the noise generated by the project will not exceed maximum permissible noise levels and will not increase the ambient noise level by more than five dB(A). A condition of approval requires the applicant to engage an acoustical expert to conduct a sound/noise study to ensure the proposal complies with noise levels. Furthermore, the applicant will install a minimum, eight foot tall, solid fence along the retaining wall at the southern property line that borders the multi-family apartments. Such will provide a visual and noise barrier from the site.
 - N. Since the applicant has identified no uses for any of the structures, it is difficult to evaluate the noise, noxious or offensive emissions, odors, or other nuisances that may detrimentally impact the community. However, the City will have the opportunity to evaluate such issues at the building permit stage. Furthermore, the permitted uses as refined by the City and the Examiner should not create noise, odors, or other nuisances.
 - O. The project satisfies all requirements for parking lots.
 - P. Criterion 17 sets forth the standards (bulk regulations) for a master plan. The City Staff Report sets forth all bulk regulations covering the present master plan.
29. Prior to obtaining site plan review approval the applicant must show that the request satisfies the criteria set forth in MMC 17.62.050(B). Findings on each criterion are hereby made as follows:
- A. The 100 acre site has adequate size to accommodate the buildings, parking areas, traffic circulation areas, and buffers.

- B. All external illumination is designed to face inward to minimize impacts on adjacent properties to the greatest practical extent.
 - C. Parking areas are designed to assure that headlight glare from internal traffic does not affect motorists on 5th Avenue.
 - D. The storm drainage system will significantly improve the quality of stormwater discharged from the site.
 - E. Adequate sight distance exists at each proposed point of access to assure traffic safety.
 - F. The parcel abuts residential uses on three sides, and barriers and landscaping will be in place prior to occupancy.
 - G. The site plan is consistent with GMA policies.
 - H. The site plan is consistent with the Milton Comprehensive Plan.
 - I. The site plan complies with all applicable City development regulations including, but not limited to, all regulations found in Titles 13, 16, 17, and 18 MMC. Title 16 does not apply, and the applicant's site plan complies with Titles 13, 17, and 18 as set forth above. The master plan sets forth allowed uses and bulk and dimensional regulations that apply to the project. The site plan satisfies all regulations governing development of the master plan and with zoning regulations not set forth in the master plan as detailed in Table 4 on pages 28-32 of the Staff Report.
30. Residents raised concerns regarding construction noise, but such is covered by Chapter 9.37 MMC and further described in Condition of Approval 16. Construction hours are limited from 7:00 a.m. to 8:00 p.m. Monday through Friday, 9:00 a.m. to 8:00 p.m. Saturday, and no construction noise on Sundays and holidays. Residents expressed concerns regarding a proposed increase in the speed limit on 5th Avenue. Neither the City nor the applicant have any plans to raise the speed limit, and the applicant's traffic engineer recommends no increase. Vehicles exceeding the speed limit at the present time can be cited by the Milton Police Department. Conditions of approval require a hydrologic study and the applicant will develop a Risk Management Plan. Citizens assert that the City has rushed this project to approval without requiring proper studies and/or evaluation. However, the exhibits identified in the Table of Contents of the Staff Report show that the City required and received the following: lighting plan, geotechnical report, third party review of traffic impact analysis, third party review of critical area reports, fire comments, civil engineering design plans, stormwater site plan, stormwater pollution prevention plan, preliminary landscape planting plans, revised traffic analysis, Wetland and

Fish and Wildlife Assessment Report and Mitigation Plan, offsite frontage improvement plan, significant tree survey and retention plan, third party review letter of revised critical area reports, and negotiations with the cities of Fife and Federal Way. Conditions of approval require preparation of additional studies to include a hydrologic assessment report to address critical aquifer recharge areas, a mitigation plan for the impacts to the 15 foot wide setback from Wetland B, engagement of a wetland biologist to monitor the buffer enhancement for five years, an acoustical expert to conduct a sound/noise study, a night-time lighting test following installation of all improvements, submittal of a temporary erosion and sedimentation control plan, and providing for adequate erosion control while grading the site.

CONCLUSIONS:

1. The Hearing Examiner has the jurisdiction to consider and make recommendations on the issues presented by this request.
2. The applicant has shown that the request for master plan approval and site plan review approval satisfies all criteria set forth in the MMC and therefore should be approved subject to the following conditions:
 1. The southbound approach (stop controlled) intersection of 5th Avenue/Porter Way is anticipated to operate at LOS F during the weekday PM peak hour without or with the proposed project in 2024. The applicant will provide mitigation to this intersection to accommodate trucks and to improve operations to LOS D or better by constructing a single lane roundabout with a southbound right turn slip lane and pedestrian facilities including sidewalk and crossings points at each entrance.
 2. The applicant will provide mitigation for the intersection of SR 99 and Porter Way by extending the westbound right turn queue storage approximately 200 feet and optimizing signal timing.
 3. The applicant will be responsible for widening and improving 5th Ave to accommodate truck traffic. Currently the applicant intends to widen 5th Ave by paving the shoulder. Pavement borings for 5th Ave shall be taken and analyzed to determine if additional mitigation is necessary to 5th Ave to accommodate truck traffic. If the pavement borings do not meet WSDOT standards for pavement structural design, the applicant shall reconstruct 5th Ave to meet these standards or as required by the City Engineer.
 4. To mitigate transportation impacts in the City of Milton, the Bridge Point Seattle I-5 project will contribute to the City's Traffic Impact Fee program. Per Ordinance 1994-18, the current traffic impact fee is \$4,190 per PM peak trip. The project will contribute 330 new PM peak trips to the City's road network. As currently calculated, the total fee would be \$1,382,700. The

total fee will be calculated at the time of building permit issuance, and may increase as the City's adopted traffic impact fee increases. The applicant will be responsible for contributing towards the traffic impact fee program at the adopted rate for 330 new PM peak trips.

5. To mitigate transportation impacts in the City of Fife, the Bridge Point Seattle I-5 project will contribute a pro-rata share of the cost of improvements to the intersection of 54th Ave E/Pacific Highway S identified in the City's 2018-2023 Six-Year Transportation Improvement Plan (TIP) with an estimated cost of \$3,750,000. The project will contribute 136 trips to this intersection which constitutes a 2.97% share of the 2021 traffic volumes with the project. The project's pro-rata contribution to the project is estimated to be \$111,375.
6. The applicant has identified a variety of uses as allowed uses in accordance with the master plan. The site plan approval for the proposed project for which environmental review was conducted includes warehousing, storage, high cube distribution, fulfillment center, manufacturing and processing/assembly users within the 4 industrial buildings comprising approximately 2,043,24sf of gross square footage. If other uses are proposed, they must be in accordance with the Master Plan and/or a modification to the master plan and site plan approval will be required and that modification may require additional SEPA review.
7. The proposed project and required traffic mitigation will result in impacts to both on and off-site wetlands and an off-site stream (Hylebos Creek). The applicant will construct a new bottomless culvert to replace two existing culverts where Hylebos Creek crosses 5th Avenue. The existing culverts include a 72-inch-diameter by 62-foot-long culvert and another partially or completely blocked 36-inch-diameter by 62-foot long culvert. The new culvert will restore the natural stream channel underneath the roadway. As described, the culvert will be self-mitigating. If designed to meet WDFW's stream simulation design per the 2013 Water Crossing Design Guidelines, which will be reviewed by the U.S. Army Corps of Engineers under the submittal of a Joint Aquatic Resources Permit Application (JARPA), additional potential environmental impacts may be considered as the culvert design is completed. The applicant shall submit to the City any design documents and mitigation plans for the culvert as well as the approved JARPA and HPA to demonstrate that it has met the standards for fishbearing stream crossings and ESA compliance prior to civil permit issuance.
8. The site lies within two wellhead protection areas. The applicant will prepare and submit a hydrogeologic assessment report as required for critical aquifer recharge areas prior to civil permit issuance.

9. The applicant will prepare a mitigation plan to mitigate impacts to Wetland B for work within the 15-foot building setback that is unavoidable. A maintenance and monitoring plan for buffer enhancement shall be prepared in accordance with MMC 18.16.160. A performance bond shall be submitted to the City prior to the issuance of building permits that guarantees that the wetland mitigation work in accordance with the submitted wetland mitigation plan through onsite wetland enhancement.
10. The owner shall contract with a qualified wetland biologist to monitor the buffer enhancement once a year for the next five (5) years. The qualified biologist shall submit a report summarizing his/her findings in accordance with the approved wetland mitigation plan to the City for review each year
11. Critical areas present on the site shall be appropriately delineated and fenced during construction so as to ensure they are not adversely impacted during construction.
12. The applicant shall revise the wetland mitigation plans to include fencing along the edge of the wetland buffers. The fence shall have signage placed every 50 feet with the following language:

“Protected Wetland Area
Do Not Disturb
Contact the City of Milton, Community Development
Department, 1000 Laurel Street, Milton, WA
Regarding Uses and Restriction”

13. The location for a potential future pedestrian crossing over the Hylebos Creek from this site shall be included in the proposed design. Should a pedestrian connection to the Interurban Trail over the Hylebos Creek be desired, the applicant will grant an easement to the City for the construction and perpetual use of said bridge.
14. An internal trail system shall be provided connecting the Interurban Trail to 5th Avenue through the proposed development should a pedestrian connection over Hylebos Creek be constructed. In the interim, this will also provide a walking trail for employees to utilize.
15. The City’s Municipal Code (Chapter 9.37) requires that the maximum permissible sound levels for the property be limited to 60dBA to the north and south (as they are zoned for residences) between 7:00am and 7:00pm. These limits are reduced to 50dBA during the nighttime hours. However, these limits can be exceeded by 5dBA for 15 minutes during any one-hour period, 10dBA for 5 minutes during any one-hour period, and 15dBA for 1 ½ minutes during any one-hour period. In addition, the City of Federal Way

requires notice be provided if heavy equipment noise or construction noise is going to occur outside of their permitted work hours. The applicant shall notify the City of Milton and the City of Federal Way if noise is proposed to occur outside of the following hours:

- 7:00am and 8:00pm Monday through Friday
 - 9:00am and 8:00pm Saturday
 - Heavy equipment operation and construction noise is not permitted on Sundays and holidays observed by the City.
16. The applicant shall engage an acoustical expert to conduct a sound/noise study to ensure compliance with the aforementioned requirements in mitigation measure #4 and recommend acoustical mitigation in the form of a solid fence, wall, berm or other. The applicant will submit the noise study to the City and noise mitigation for the site will be imposed during civil plan review, with mitigation anticipated for the south side of Building C which borders existing multi-family residences.
 17. To mitigate noise and impacts to adjacent residential uses the applicant shall construct a 20-foot wide landscape buffer providing a solid vegetative screen barrier along the north, south and west property boundaries. In addition, a minimum 8-foot tall solid screen fence shall be provided along the retaining wall at the southern property boundary that borders existing multi-family apartments to the south, so as to provide a visual barrier to the facility in accordance with the site plan sections depicting sight-line from the adjacent apartments to the proposed development.
 18. After installation of all improvements, a night time lighting test shall be performed. All lights shall be tuned such that they do not spill light onto neighboring properties. A report completed by a qualified professional shall be submitted to the City certifying that all lights have been tuned to avoid light spillage. If tuning of the lights cannot reduce all lights spillage, additional landscaping or buffering considerations shall be considered and implemented at that time.
 19. The Bridge Point I-5 project shall provide an approved emergency access from 12th Ave within the Meridian at Stone Creek Assisted Living Facility to the proposed project.
 20. If during construction any artifacts are uncovered the applicant shall follow the [Inadvertent Discovery Plan \(IDP\)](#) procedures and shall notify the Department of Ecology, the Puyallup Tribe, the Muckleshoot Tribe and the Washington State Department of Archeology and Historic Preservation.

21. Compliance with all applicable City codes is required during and following any site development activity, including MMC 13.26 (Storm Drainage of Surface Water – Utility, Management and Maintenance).
22. A Temporary Erosion and Sedimentation Control (TESC) plan must be submitted with a SWPPP prior to clearing and grading permit issuance. This plan shall be approved by the City's Stormwater Official, and implemented during site preparation activities.
23. The applicant shall provide adequate site control measures for erosion control while grading the site, including site stabilization measures to stabilize the site after clearing and grading is complete.
24. The Stipulated Dismissal of Appeal of Puyallup Tribe of Indians dated October 30, 2019, along with the agreed additional mitigation measures (Attachment A and B) is hereby implemented as a condition of approval for this project.
25. S 373rd Street and Pacific Highway S - The traffic study identified that the intersection of SR 99 and S 373rd St would operate below the adopted Level of Service (LOS) standards for both 2024 with and without the project. To mitigate the development impacts and bring the LOS back to the 2024 Without Project conditions, prior to the certificate of occupancy (C of O) issuance by the City of Milton, the developer shall construct an interim traffic signal at the SR 99 and S 373rd St intersection or other alternatives as approved by the City of Federal Way and WSDOT. The developer shall design and construct the traffic signal to all applicable standards and submit to the City of Federal Way and the Washington State Department of Transportation (WSDOT) for applicable reviews and approvals prior to construction.

The City of Federal Way has a planned improvement project to install a roundabout at this intersection in the six-year Transportation Improvement Plan (TIP). Depending on construction schedule, in lieu of construction the interim traffic signal, at the City of Federal Way's sole discretion, the City of Federal Way may allow the developer to contribute \$325,000 towards the roundabout construction.

The developer shall notify the City of Federal Way Public Works Director and City of Federal Way City Attorney by mail and electronic mail within 24 hours of any on-site building permit application to the City of Milton. The City of Federal Way shall notify the developer in writing within 14 working days of receiving the hard copy mail notification informing the developer of the City of Federal Way's decision whether to accept the \$325,000 fee in lieu of construction of the interim traffic signal.

26. S 375th Street and Milton Road /5th Avenue – Prior to the certificate of occupancy (C of O) issuance by the City of Milton, the developer shall construct improvements at the Milton Road S and S 375th St intersection. The improvements shall mitigate the impacts of the project to bring the intersection back to without project conditions. The developer shall design and construct the improvements to all applicable standards and submit to the City of Federal Way for review and approval prior to construction.

The developer shall notify the City of Federal Way Public Works Director and City of Federal Way City Attorney by mail and electronic mail within 24 hours of any on-site building permit application to the City of Milton.

27. Traffic Impact Fee - Prior to building permit issuance for any buildings on site by the City of Milton, the developer shall pay traffic impact fees (TIF) to the City of Federal Way. The TIF shall be assessed based on the latest adopted fee schedule at the time the developer submits for a building permit to the City of Milton and the TIF shall be paid to the City of Federal Way prior to issuing any building permits on site. The TIF shall be calculated based on a per trip cost and shall only include the 86 total PM trips entering and leaving the City of Federal Way. The City of Federal Way will adjust the total PM trips entering and leaving the City of Federal Way to account for the size of the actual development proposal if the development proposal changes such that it affects the total number of PM trips entering and leaving the City of Federal Way. By paying the trip based impact fees, the developer agrees that the City of Federal Way may use this fee on any projects listed on the current adopted Transportation Improvement Plan (TIP).
28. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall adhere to the following standards:
- Activities shall be timed to occur only during the allowable work window as designated by the Department of Fish and Wildlife for the applicable species;
 - Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques according to an approved critical areas report.
29. A maintenance agreement and/or CC&Rs shall be prepared and submitted to the City for review prior to building permit issuance. The maintenance agreement shall stipulate the property owner's obligation to maintain parking areas and stormwater facilities in accordance with City standards.

30. Any project where demolition of structure(s), earth moving and material handling, heavy equipment operations, and/or disposing of vegetative matter is to occur is subject to Puget Sound Clean Air Agency regulations. The requirements may include, but are not limited to the following:
- Agency Regulation I:
 - Article 8 – Outdoor Burning
 - Article 9 – Emission Control Standards, Section(s) 9.03, 9.11, and 9.15
 - Agency Regulation III:
 - Article 4 – Asbestos Control Standards
31. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
32. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

RECOMMENDATION:

The Milton City Council should approve the request for master plan approval and site plan review approval to allow construction of the Bridge Point 1-5 project consisting of improving a 118 acre parcel with four, industrial/warehouse buildings totaling approximately 2,043,024 square feet together with accessory uses at a site located at 3800 Milton Road South, Milton, subject to compliance with the conditions of approval set forth in the conclusions above.

RECOMMENDED this 19th day of November, 2019.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

28X

TRANSMITTED this 19th day of November, 2019, to the following:

APPLICANTS/

PROPERTY OWNERS:

Barghausen Consulting Engineers
Attn: Dan Balmelli
18215-72nd Avenue South
Kent, WA 98032

Bridge Development Partners
Attn: Spencer Mayes
10655 N.E. 4th Street, Suite 210
Bellevue, WA 98004

OTHERS:

Bob and Rebeca Gill
309-5th Avenue
Milton, WA 98354

Kim and Jurren Brown
37837-43rd Avenue South
Auburn, WA 98001

Carleen Elmore
208-5th Avenue
Milton, WA 98354

Katrina Sells
426 Emerald Street
Milton, WA 98354

Colleen Patterson
102-5th Avenue
Milton, WA 98354

Suzanne Vargo
2522 South 361st Street
Federal Way, WA 98003

Rick Cole
8658 Park Way
Milton, WA 98354

Richard Cosner
507-7th Avenue
Milton, WA 98354

Zack Stockdale
217-5th Avenue
Milton, WA 98354

Tom Boyle
1109-9th Avenue
Milton, WA 98354

Bruce Castle
503-12th Avenue Court
Milton, WA 98354

Bob Cooper
80-5th Avenue
Milton, WA 98354

Greg Gran
1012 Kent Street
Milton, WA 98354

Todd Schutz
1200-5th Avenue, Suite 1300
Seattle, WA

Jacquelyn Whalen
P.O. Box 749
Milton, WA 98354

Margie Brubaker
303-19th Avenue
Milton, WA 98354

Jeri Spindler
502-22nd Avenue
Milton, WA 98354

Mark and Christy Journey
605-7th Avenue
Milton, WA 98354

Dan Bailey
302-5th Avenue
Milton, WA 98354

Margie Rose
98-18th Avenue
Milton, WA 98354

Nancy Pasic
1984 South 368th Place
Federal Way, WA

Donna Emerson
35819-25th Place South
Federal Way, WA

Raymond Hermann
P.O. Box 1357
Milton, WA 98354

Katrin Asay
2206 Thea Court
Milton, WA 98354

Jon Pickett
2907 Harborview Drive, Suite D
Gig Harbor, WA

Ruth Ballard
1802 Bacchant Court
Milton, WA 98354

Robert Johnson
306-5th Avenue
Milton, WA 98354

Steve Ketz
806 Park Way
Milton, WA 98354

Phil Linden
1804-23rd Avenue
Milton, WA 98354

Mike and Maureen McCreecy
111-15th Avenue
Milton, WA 98354

Bryan Alderman
307-5th Avenue
Milton, WA 98354

Tom Brubaker
600 Steward Street, Suite 400
Seattle, WA 98101

Puyallup Tribe of Indians
Attn: Russ Ladley
6824 Pioneer Way East
Puyallup, WA 98371

City of Fife
Attn: Russ Blount
5411-23rd Street East
Fife, WA 98424

City of Federal Way
Attn: Mark Orthmann
33325-8th Avenue South
Federal Way, WA 98002

City of Fife
Attn: Steve Friddle
5411-23rd Street East
Fife, WA 98424

30X

JBSL
Attn: Brian Lawler
801-2nd Avenue, Suite 700
Seattle, WA 98104

Bridge Development Partners
Attn: Justin Carlucci
10655 N.E. 4th Street
Bellevue, WA 98004

April Elliott	April_elliott@live.com
Whitney Radant	Whitney.radant@gmail.com
Sandra Barron	sndybabe@yahoo.com
Jeff Schramm	schramm@tenw.com

CITY OF MILTON

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ORDINANCE NO. 1980-20

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, APPROVING THE BRIDGE POINT I-5 SEATTLE PLANNED DEVELOPMENT (PD) MASTER PLAN, MILTON PROJECT NOS. LUA2019-0008, LUA2019-0009 AND LUA2019-0010, SUBJECT TO CONDITIONS, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Milton Comprehensive Plan designates a 142 acre tract in the northwest portion of the City, known as the Lloyd Property, as a Planned Development District; and

WHEREAS, a portion of the property has been developed as a senior housing/assisted living development under a valid master plan permit for the entire site, which has since expired; and

WHEREAS, 118 acres of the site remain that do not have a valid master plan permit, and are currently being mined by Land Lloyd Development Co. ("Owner"), which plans to complete mining operations in the next few years; and

WHEREAS, Bridge Development Co. ("Applicant") has been authorized by the Owner to seek approval of a master plan permit and is contracted to purchase the property; and

WHEREAS, the Applicant submitted a complete application on March 29, 2019 seeking approval of a master plan for developing the site with four industrial/warehouse buildings totaling approximately 2,043,024sf (the "Project"). Along with the building construction, the project will include demolition of existing structures, grade and fill activities, paved parking and truck maneuvering areas, landscaping, storm water facilities, water and sanitary sewer extensions, a street vacation, frontage road improvements, off-site roadway improvements along Milton Road/5th Avenue, and at the intersection of Milton Road/Porter Way and Porter Way/Pacific Highway; and

WHEREAS, public notices of the Project were duly published and posted in accordance with MMC Chapter 17.71; and

WHEREAS, environmental review of the Project was performed by the City of Milton ("City") under the State Environmental Policy Act, RCW Chapter 43.21C ("SEPA"), related administrative regulations, and the MMC, following which a Mitigated Determination of Non-Significance ("MDNS") was issued on September 30, 2019; and

WHEREAS, administrative appeals of the MDNS were timely filed on October 14, 2019 by the City of Federal Way and the Puyallup Tribe; and

WHEREAS, the Applicant entered into a Stipulated Dismissal Settlement Agreement with the Puyallup Tribe on October 30, 2019, and the Puyallup Tribe subsequently withdrew their appeal of the MDNS; and

WHEREAS, the Applicant agreed to voluntary mitigation conditions to be incorporated into a Modified MDNS, which the City issued on October 30, 2019, and as a result the City of Federal Way withdrew its appeal of the MDNS; and

WHEREAS, an open record public hearing was held before the City of Milton Hearing Examiner on October 31, 2019, following which the Hearing Examiner issued a

recommendation of approval of the Project to the Milton City Council; and

WHEREAS, the City Council has considered the Hearing Examiner recommendation and its attachments, and has considered the MDNS, Modified MDNS, the recommendations of the City staff, and the testimony and other facts elicited at the public hearing on the Project, and has found that the master plan as conditioned is consistent with the Milton Comprehensive Plan, the Milton Municipal Code, and the requirements of SEPA, and makes appropriate provision for the public health, safety and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings and conclusions set forth in the Hearing Examiner's Recommendation to the City of Milton City Council, dated November 19, 2019, attached hereto as Exhibit 1; Accept the council hereby modifies Finding of Fact #13 to expressly disallow the following uses from the site:

- A. Assembly of heavy equipment, airplanes, or vehicles;
- B. Outside storage yards as principal use;
- C. Rock, stone, brick, concrete or asphalt, batching or assembly;
- D. Sales and rental of heavy machinery and equipment;
- E. Salvage and wrecking yard;
- F. Tow truck operation/impound yard; and
- G. Utility yard.

Section 2. The City Council finds and declares that adoption of the master plan for the Project, as conditioned herein, is consistent with the Milton Comprehensive Plan, development regulations, and RCW Chapter 43.21C, and will serve the public health, safety and welfare.

Section 3. Based on the foregoing, the City Council adopts and approves the master plan identified as Bridge Point I-5 Seattle Planned Development (PD) Master Plan, Milton Project Nos. LUA 2019-0008, LUA2019-0009 and LUA2019-0010, as described in the Hearing Examiner's Recommendation to the City of Milton City Council, dated November 19, 2019, attached hereto as Exhibit 1, subject to the conditions of approval set forth in said recommendation and in the Modified MDNS.

Section 4. The City Council adopts the Exhibit List for this hearing entitled, "Exhibit to Staff Report Dated October 31, 2019 (given to Council December 2, 2019)," as the final exhibit list setting forth all of the documents considered by the City Council in this matter, attached hereto as Exhibit 2.

Section 5. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Passed by the Milton City Council the _____ day of February 2020, and approved by the Mayor, the ___ day of _____, 2020.

SHANNA STYRON SHERRELL, MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK

APPROVED AS TO FORM:

BY: _____
CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 1980-20

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Agenda Item #: 7B

To: Mayor Shanna Styron Sherrell and City Council Members
From: Nick Afzali, Director of Public Works
Date: January 21, 2020
Re: **Bridge Point Development Agreement**

ATTACHMENTS: 1) Ordinance No. 1981-20 and Exhibit 1 (Development Agreement)

TYPE OF ACTION:

Information Only Discussion Action Public Hearing Expenditure

Council Action/Recommendation:

- 1) Hold a public hearing pursuant to RCW 36.70B.200 on the proposed Development Agreement regarding the Bridge Point I-5 Seattle Project and
 - 2) Conduct the first reading of Ordinance Number 1981-20, and advance it to second reading at the City Council's February 18, 2020 regular meeting
-

A development agreement is a voluntary contract between a local jurisdiction and a person/an entity who owns or controls property within the jurisdiction, detailing the obligations of both parties that will govern development of the property. Although the agreements are voluntary, they are binding on the parties and their successors once approved and executed.

Statutory Authority / Legal Requirements

RCW 36.70B.170 - .210 and WAC 365-196-845 provide authority and direction for development agreements. Local jurisdictions must hold a public hearing prior to approving a development agreement and may only impose impact fees, dedications, mitigation measures, and standards as authorized by other laws. Also, RCW 36.70B.180 addresses vested rights under a development agreement.

On December 9, 2019, the City Council passed a motion to adopt the Hearing Examiner's Findings of Fact and Conclusions of Law regarding the Bridge Point I-5 Master Plan applications.

Pursuant to this proposed Development Agreement, Bridge Development will install additional roadway improvements to 5th Avenue between the southern boundary of the Property and the intersection of 5th Avenue and Porter Way as voluntary measures to enhance pedestrian safety along this corridor (“Voluntary Improvements”). The Voluntary Improvements shall be constructed in accordance with the locally approved road section (as adopted within the City of Milton Development Guidelines and Public Works Standards).

ORDINANCE NO. 1981-20

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, APPROVING A DEVELOPMENT AGREEMENT BETWEEN BRIDGE ACQUISITIONS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, LAND LLOYD DEVELOPMENT COMPANY, INC., A WASHINGTON CORPORATION, AND THE CITY OF MILTON, A WASHINGTON OPTIONAL CODE CITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Legislature has authorized the execution of development agreements between a local government and a person having ownership or control of real property within its jurisdiction consistent with state law, specifically RCW 36.70B.170 through .210; and

WHEREAS, Land Lloyd Development Company, Inc., as Washington corporation (“Owner”) is the current owner of that certain real property described and depicted in Exhibits A and B of the development agreement attached hereto as Exhibit 1 (the “Development Agreement”), which real property is located in the City of Milton, Washington (the “Property”);

WHEREAS, Bridge Acquisitions, LLC, a Delaware Limited Liability Company (“Bridge”) is the contract purchaser/ground lessee of the Property and is the applicant for redevelopment of the Property with four industrial/warehouse buildings in accordance with the Planned Development Master Plan Approval, Site Plan Approval and SEPA applications (Project Nos. LUA 2019-008 to LUA 2019-0010) (collectively, “Bridge Point I-5 Seattle Project”); and

WHEREAS, redevelopment of the Property in accordance with the Planned Development Master Plan for the Bridge Point I-5 Seattle Project and this development agreement will serve the public health, safety and welfare by providing substantial tax revenues, job creation, enhanced project design and road and transportation infrastructure improvements that are beneficial to the City and mitigate project impacts; and

WHEREAS, the Development Agreement is consistent with the requirements of the City’s Comprehensive Plan, the City’s development standards and land use application procedures and other applicable development regulations and is a proper exercise of the City’s police power; and

WHEREAS, the following events have occurred in the processing of the Bridge Point I-5 Seattle Project applications:

- a) The City of Milton Hearing Examiner conducted an open record public hearing on October 31, 2019;
- b) The City of Milton Hearing Examiner issued his Report and Recommendation on November 19, 2019;
- c) The Milton City Council conducted a closed record public hearing on December 2, 2019 and continued to December 9, 2019 based on the record before the Hearing Examiner; and
- d) By Ordinance No. 1980-20, the City Council approved the Planned Development Master Plan and related Bridge Point Project Applications and adopted the City of Milton

Hearing Examiner's Findings of Fact and Conclusions of Law, dated November 19, 2019 and modified Finding of Fact 13 to expressly prohibit certain uses within the Planned Development zone;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City Council finds and declares that the foregoing recitals and contents of the Development Agreement, in substantially the form attached hereto as Exhibit 1, are consistent with the Milton Comprehensive Plan, Milton development regulations, and chapter 43.21C (SEPA) RCW, and are hereby adopted as the Council's findings in support of this Ordinance.

Section 2. Based on the foregoing, the City Council hereby adopts and approves the Development Agreement, in substantially the form attached hereto as Exhibit 1, and the Mayor is hereby authorized to execute it on behalf of the City.

Section 3. SEVERABILITY. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Passed by the Milton City Council the _____ day of February 2020, and approved by the Mayor, the ___ day of February 2020.

SHANNA STYRON SHERRELL, MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK

APPROVED AS TO FORM:

BY: _____

CITY ATTORNEY

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO. 1981-20

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DEVELOPMENT AGREEMENT

**CITY OF MILTON
AND
BRIDGE ACQUISITIONS, LLC
AND
LAND LLOYD DEVELOPMENT CO. INC**

THIS DEVELOPMENT AGREEMENT is entered into this ___ day of February 2020 (“Effective Date”), by and between BRIDGE ACQUISITIONS, LLC, a Delaware limited liability company (“Bridge”), Land Lloyd Development Company, Inc., a Washington corporation (“Owner”), and the CITY OF MILTON, a Washington optional municipal code city (the “City”).

BACKGROUND AND CONTEXT

A. Bridge is the contract purchaser/ground lessee of the real property commonly known as Lloyd’s Gravel Quarry (118 acres), more particularly described on Exhibit A attached hereto, and as depicted on Exhibit B attached hereto (the “Property”). The Property is located in the Planned Development (PD) zone of the City. The Owner of the Property is Land Lloyd Development Company, Inc., a Washington corporation

B. The PD zone requires the submittal of a master plan for any uses not already present on the site. A master plan requires a Type V permit process under Chapter 17.38 of the City Code.

C. Bridge proposes to develop the site with four industrial/warehouse buildings totaling approximately 2,043,024 square feet.

D. Bridge submitted the required master plan applications on March 29, 2019 (Project Nos. LUA 2019-008 to LUA 2019-0010), which were deemed complete on April 17, 2019.

E. Redevelopment of the Property in accordance with the Master Plan will provide substantial public benefits, including:

- (1) Substantial tax revenues;
- (2) Job creation;
- (3) Approximately \$8M to \$10M of road and transportation improvements to address current infrastructure deficiencies, and to improve traffic safety; and
- (4) Improved seasonal flooding along 5th Avenue by raising the existing street grade above the 100 - year flood plain and installation of an open bottomed box culvert.

F. Bridge and the City intend that redevelopment of the Property will serve as a catalyst for redevelopment of surrounding areas and mitigate and improve existing transportation deficiencies. To these ends, the parties intend that this Agreement will:

- (1) Encourage redevelopment of the Property to occur as soon as practical;

(2) Influence the character of the development such that the public and private benefits identified in the Comprehensive Plan and T.I.P. will be fully realized as soon as practical; and

(3) Provide for mitigation of any environmental impacts that are likely to result from redevelopment of the Property.

G. RCW 36.70B authorizes cities to enter into development agreements with property owners to govern the future development of real property. A development agreement between Owner and the City is a collaboration that will provide mutual benefit for the parties, residents and businesses of the City.

AGREEMENT

NOW, THEREFORE, pursuant to the provisions of RCW 36.7013.170, et seq., and in consideration of the mutual promises, benefits and obligations set forth herein, the City, the Owner and Bridge enter into the following Development Agreement ("Agreement"):

1. Property.

1.1 Land. See Exhibit A for Legal Description and Exhibit B for site Map.

1.2 Existing Development. The site is approximately 118 acres and is currently occupied by a sand and gravel extraction operation on the majority of the site (Land Lloyd Development Company). The current gravel operation on the site includes the sorting and stock piling of material. In addition, there is a scale house and wash down area. There is also a topsoil production operation on the property. The Comprehensive Plan and Zoning designations for the site are Planned Development (PD). The PD district requires that any proposed uses that are not already present on the site (surface mining, yard waste recycling, concrete crushing and public utilities) requires a master plan be submitted that shows the proposed development of the site and includes allowed uses, density, height, setbacks and other bulk regulations that will govern any future development of the site. The master plan process was put in place by the City in response to the environmental conditions on the site that would constrain future development. Rather than completing costly studies at the time the City's Comprehensive Plan was adopted, the PD District was created to allow an applicant to perform these studies at the time the property was ready to be developed. Hylebos Creek runs through the southeastern portion of the property. In addition, an unnamed stream and four on-site wetlands as well as fish and wildlife habitat areas are also present on the site. Access to the site is provided via Milton Road South (5th Avenue).

2. Master Plan

2.1 Right to Develop Master Plan. Subject to the requirements set forth in this Agreement, Bridge and all future owners of some or all of the Property (hereafter, collectively "Owner") shall have the right to demolish existing structures and redevelop the Property in accordance with its Master Plan Approval dated _____, 20__, ("the Project"). In consideration of the benefits to be derived, the Owner and Bridge waive and release any and all rights and benefits accruing under a prior Settlement Agreement and Covenant Regarding Traffic Impacts – Land Lloyd Development Co. Inc. Planned development Master Plan dated Dec. 10, 2003; recorded under Pierce County Auditor's File No. 20057017000046("Prior Master Plan"). The Parties acknowledge that the prior Master Plan has expired on its terms.

2.2 Conformance with Master Plan. The City Council approved the Master Plan on _____ . Approval of the development shown in the Master Plan and identified in this Agreement is specifically conditioned upon dedication of the land and improvements identified in the Master Plan and/or this Agreement. The Project shall substantially conform to the Master Plan, including amendments thereto as provided for in Milton Municipal Code (“MMC”) Chapter 17.74. In the event of a conflict between the Master Plan and this Agreement, this Agreement shall control.

2.3 Vested Rights.

2.3.1 Development Regulations. Except as provided otherwise in this Agreement, development of the Project shall be vested to and governed by City development regulations in effect as of the Effective Date of this Agreement. Except as expressly stated otherwise herein, any amendments or additions made during the term of this Agreement to City development regulations shall not apply to or affect the conditions of development of the Project. As used in this Agreement, “development regulations” shall be deemed to include regulations, policies, procedures and guidelines addressing zoning, environmental review (including SEPA procedures and substantive SEPA policies), building and site design, utilities, storm water, impact fees, transportation concurrency and other laws, ordinances, policies, and administrative regulations and guidelines of the City governing land development.

2.3.2 Exemptions. The following are exempt from vesting under this Agreement:

- (a) Plan review fees, inspection fees, connection charges and the amounts of impact fees established by schedules, charts or tables;
- (b) Storm water and utility connection fees and monthly service charges;
- (c) Amendments to building, plumbing, fire and other construction codes;
- (d) City enactments that are adopted pursuant to State or federal mandates that preempt the City's authority to vest regulations.

2.4 City's Reserved Rights. Notwithstanding any other provisions of this Agreement, pursuant to RCW 36.70B.170(4), the City reserves authority to impose new or different officially adopted regulations of general applicability, but only if, and to the extent required by a serious threat to public health and safety, as determined by the City Council after written notice and an opportunity to be heard has been provided to all owners of the Property.

2.5 Future Amendments. Owner and Bridge may request to be bound by future amendments to the Milton Municipal code or other regulations, policies or guidelines affecting development, and such request shall be approved administratively provided that, as a result of being subject to such amendment(s), the development of the Property will meet the following criteria: no new land use not allowed under current regulations is proposed; no reduction in the amount of open space is proposed; and no increase to the total square footage of structures to be developed is proposed. Otherwise, the request to be bound by the future amendments(s) shall be approved by the City Council as an amendment to this Agreement. Except for the termination date, any of the dates set forth in this Agreement may be revised administratively by agreement between Owner and City Staff.

2.6 Development Approvals.

2.6.1 Site Plan Entitlement Process. Detailed development plans for development sites within the Property are approved through the Master Plan and site plan approval processes and other approval processes provided for in the Milton Municipal Code (“MMC”), as applicable. Depictions of building footprints, shapes and number of stories in the Master Plan are illustrative only.

2.6.2 Conditions. The City shall not impose any condition on the Project, or any development proposal for one or more sites within the Project, that is inconsistent with this Agreement or the Master Plan.

2.7 Development Sites/Land Division. The size, configuration and number of legal lots or development parcels within the Property may be modified without amendment of the Master Plan through boundary line adjustments, lot consolidations, binding site plans, short plats, subdivisions or creation of condominiums. Such modifications must be consistent with the requirements of the Master Plan. The Property shall be deemed “classified for commercial use” as this term is used in RCW 58.17.040(4) for the purpose of legally dividing the property through administrative approval of one or more binding site plans.

2.8 Agreement Runs with the Land. In the event of transfer of ownership of all or any portion of the Property, the benefits accruing to, and the obligations placed upon the “Owner” under this Agreement shall run with the land and title to the Property and inure to the benefit of, and be binding upon each person having any right or title or other legal interest in the Property with respect to that party's interest in the Property. This Agreement shall be deemed to create privity of contract and estate with and among all persons and entities acquiring any interest in the Property subsequent to the date hereof. This Agreement shall not be recorded until Bridge is the fee owner or ground lessee of the Property.

3. Transportation Management.

3.1 Mitigation of Transportation Impacts: In accordance with the Master Plan and under this Agreement, the owner agrees as follows:

3.1.1 Bridge shall mitigate transportation impacts from its development in accordance with the Conditions of Approval as stated in the Master Plan approval and within the Mitigated Determination of Non-Significance.

3.1.2 Bridge shall install additional roadway improvements to 5th Avenue between the southern boundary of the Property and the intersection of 5th Avenue and Porter Way as a voluntary measure to enhance pedestrian safety along this corridor (“Voluntary Improvements”). The Voluntary Improvements shall be constructed in accordance with the locally approved road section (as adopted within the City of Milton Development Guidelines and Public Works Standards).

3.2 Voluntary Improvements for the 5th Avenue Corridor. In addition to the required Master Plan conditions requiring the widening of the travel lanes of 5th Avenue to 12’ in each direction and the improvement of the structural capacity of the asphalt surface to make it sufficient for the anticipated truck travel, Bridge agrees to the following additional voluntary improvements on 5th Avenue from the southern property line of the project to the intersection at 5th Avenue and Porter Way. The Parties acknowledge the final design of the road section is not complete, but believe, based on preliminary designs and discussions, that the existing 60’ right of way is adequate for the proposed

improvements. Bridge shall fund and complete the following additional voluntary improvements (collectively “Voluntary Improvements.”)

- 1) Widen the asphalt travel lanes to 14’ in each direction (Northbound (NB) and Southbound (SB)); install curb & gutter and install 5’ raised concrete sidewalks on each side of the street.
- 2) Install two (2) covered school bus shelters with concrete pads along the 5th Avenue corridor. Locations are to be within existing right of way and will be determined at a future date as agreed upon by both parties and in consultation with the school district.
- 3) Install four (4) electronic speed radar signs.
- 4) Install two (2) painted and signed crosswalks.
- 5) Use good faith efforts to re-align the centerline of 5th Avenue to align with the centerline of the right of away, where feasible.

3.3 The City of Milton Public Works Director (“Director”) may, in the exercise of reasonable discretion, modify (but not increase without Bridge’s consent) the scope, design and extent of some or all of the Voluntary Improvements, including the discretion to:

3.3.1 Modify the road section for 5th Avenue to allow construction of a sidewalk on only one side of 5th Avenue or to eliminate any required five foot (5’) landscape strip on one or both sides when the installation of sidewalks and or landscape strip on both sides of the road is found in the Director’s discretion to be impractical, infeasible or not in the best interests of the public due to topographical and terrain impediments including the loss of existing driveways and/or street parking facilities.

3.3.2 The City will work in good faith with Bridge to:

3.3.2.1 Allow for the realignment of the road surface from the centerline of the existing right of way to avoid the relocation of existing impediments such as utility poles, lift stations, driveways and/or drainage facilities; provided it meets the minimum design speed of 35 MPH. (The design speed limit is not the same as the posted speed limit.)

3.3.2.2 Utilize alternative stormwater management techniques such as biofiltration, pervious sidewalk, culverts, and open drainage ditches to avoid inappropriate complication of the drainage of the street improvements.

3.4 Bridge shall provide mitigation for the intersection of SR 99 and Porter Way by extending the westbound right turn queue storage approximately 200 feet and optimizing signal timing at this intersection. The City recently received a grant from Transportation Improvement Board in the amount of \$2.9 million for major improvement of this intersection. Bridge will either extend the westbound right turn lane and optimize the signal timing, or at the City of Milton’s sole discretion, Bridge agrees to contribute \$415,000 for the future improvements of this intersection in exchange of not being required to mitigate their impacts to this intersection (herein “Payment in Lieu of Improvement”).

3.5 Timing of Phases: Per Master Plan.

3.6 Acquisition of Right of Way.

3.6.1 It is the understanding of the Parties that sufficient public right of way is in the City's ownership and control for the installation of the Voluntary Improvements and the improvements on and within the 5th Avenue right of way designated in the Master Plan. The design for the roundabout at 5th Avenue and Porter Way is not final and in the event that the design of the roundabout at the intersection of 5th Avenue and Porter Way should require the acquisition of additional right of way, the parties agree to cooperate in its acquisition.

3.6.2 Bridge shall make a bests effort to acquire any right-of-way required for any right-of way improvement that is not owned by Bridge or the Owner. "Best efforts" shall mean an effort in good faith to acquire necessary right of way at a reasonable cost that reflects fair market value as determined by agreement with the affected owners or, in the absence of an agreement with affected powers, an appraisal by a duly qualified appraiser with an MAI certification. If Bridge cannot acquire needed right of way through its best efforts within ninety (90) days of making a request to purchase land from affected owners, then within thirty (30) days, the City shall initiate efforts to acquire the necessary right of way by any lawful means, provided, however that the Milton City Council retains its full legislative discretion in the enactment of any ordinance or other action pursuant to Chapter 8.12 RCW.

3.6.2.1 In the event Bridge's and/or the City of Milton's good faith efforts to acquire additional right-of-way are not successful, the Director will exercise discretion to allow revisions consistent with city design standards and public safety as required by state and federal traffic standards to the Voluntary Improvements on 5th Avenue and or the round-about design at 5th and Porter Way, to allow for all improvements to be constructed within the existing right-of-way.

3.6.3 In consideration for the City's assistance on right of way acquisition, Bridge will construct five-foot (5') raised concrete sidewalks and five-foot (5') planter strips on the Northwest, Southeast and Northeast legs of the round-about.

3.6.4 In the event Bridge pays for some or all of the improvements in this Agreement and in the Master Plan, Bridge, shall be entitled to request reimbursement agreements under Milton City Code Chapter 13.44.090 and RCW 35.72.

3.6.5 Nothing in this Agreement is a waiver of Bridge's right to impact fee credits under Milton City Code Chapter 13.44.050.

4. Term. The term of this Agreement shall be fifteen (15) years, except as provided in this Section. The City and Owner may agree to extend the term of this Agreement, provided that such extension is approved by the City Council. The City and Owner intend that the Master Plan be in effect for a term concurrent with this Agreement.

5. Miscellaneous Provisions

5.1 Code Citations. All citations and references to the Milton Zoning Code and Milton Municipal Code in this Agreement shall refer to those provisions in force as of the date of this Agreement, unless express reference is made to future amendments thereto.

5.2 Recording. This Agreement shall be recorded with the King County Department of Records and Elections.

5.3 Amendments. Any amendment to this Agreement shall require approval by the City Council unless administrative approval is specifically authorized by this Agreement. Modifications and/or amendments of the Master Plan agreed to by Owner and approved by the City administratively or upon City Council approval shall be deemed incorporated into this Agreement without further action.

5.4 Specific Performance. The Parties specifically agree that damages are not an adequate remedy for breach of this Agreement and that the Parties are entitled to compel specific performance call terms of this Agreement by any Party in default hereof.

5.5 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Washington. The exclusive venue for any litigation arising out of this Agreement shall be the King County Superior Court.

5.6 Notices. All notices and other communications required or otherwise provided for by this Agreement shall be in writing, and shall be given to the following persons:

City of Milton

Attention: Public Works Director
1000 Laurel St.
Milton, Washington 98354-8850

And to its Attorney:

Ogden, Murphy, Wallace, P.L.L.C.
Attention:
901 Fifth Avenue, Suite 3500
Seattle, WA 98164-2008

Bridge Acquisitions LLC

Attention: Justin Carlucci
10655 NE 4th Street, Suite 210
Bellevue, WA 98004

And to its Attorney:

Jameson Babbitt Stites & Lombard, PLLC
Attention: Brad Brigham
801 Second Avenue, Suite 700
Seattle, WA 98104

Land Lloyd Development Company

Attn: Robert R. Lloyd
34667 Pacific Highway South
Federal Way, WA 98003

And to its Attorney:

West Law Offices
Attn: Robert E. West Jr.
332 1st Street NE
Auburn, WA 98002

5.7 Full Understanding. The Parties each acknowledge, represent and agree that they have read this Agreement; that they fully understand the terms thereof.; that they have had the opportunity to be fully advised by their legal counsel and any other advisors with respect thereto; and that they are executing this Agreement after sufficient review and understanding of its contents.

5.8 Attorneys' Fees. In the event of any dispute concerning this Agreement, the substantially prevailing party shall be entitled to receive its attorneys' fees and costs at trial, at any alternative dispute resolution proceeding and on appeal.

5.9 Severability. In the event that any section, sentence, clause or phrase of this Agreement is determined to be invalid or unconstitutional by any court of competent jurisdiction, the remaining sections, sentences, clauses and phrases shall remain viable and in full force and effect.

5.10 Counterparts. This Agreement may be executed in counterparts, with each Party sending a pdf of its signature to the other Party via e-mail transmission. This Agreement, when fully executed and signature pages exchanged, as provided herein, shall be effective as the original document.

5.11 Equal Opportunity to Participate in Drafting. The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party based upon a clam that such Party drafted the ambiguous language.

5.12 Exhibits. This Agreement includes the following exhibits:

- Exhibit A Legal Description of the Property
- Exhibit B Depiction of the Property
- Exhibit C Master Plan Approval

5.13 Final and Complete Agreement. This Agreement constitutes the final and complete expression of the Parties on all subjects relating to the development of the Property. This Agreement supersedes and replaces all prior agreements, discussions and representations on all subjects relating to the development of the Property. No Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Agreement and the exhibits hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

BRIDGE ACQUISITIONS, LLC,
A Delaware Limited Liability Company

By: _____

Print Name: _____

Its: _____

Land Lloyd Development Company

By: _____

Print Name: _____

Its: _____

CITY OF MILTON,
A Washington municipal corporation

By: _____

Print Name: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney
Ogden Murphy Wallace, PLLC

EXHIBIT A
PROPERTY DESCRIPTION

The Land referred to herein below is situated in the County of King, State of Washington, and is described as follows:

PARCEL A:

TRACT 1:

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THAT PORTION OF GOVERNMENT LOT 2, SECTION 32, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER;

THENCE NORTH 0°58'00" WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 134.36 FEET TO THE

SOUTHEASTERLY MARGIN OF PRIMARY STATE HIGHWAY NO. 1 (SR-5);

THENCE ALONG SAID SOUTHEASTERLY MARGIN THE FOLLOWING COURSES;

THENCE SOUTH 34°03'34" WEST 338.04 FEET;

THENCE SOUTH 52°36'34" WEST 122.70 FEET;

THENCE SOUTH 26°34'04" WEST 503.90 FEET;

THENCE NORTH 89°12'15" EAST 525.69 FEET TO THE EAST LINE OF SAID GOVERNMENT LOT 2;

THENCE NORTH 0°58'00" WEST ALONG SAID LINE 663.70 FEET TO THE POINT OF BEGINNING;

EXCEPT THE SOUTH 30.00 FEET OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER;

AND EXCEPT THE NORTH 30.00 FEET OF SAID GOVERNMENT LOT 2 AS CONVEYED TO THE TOWN OF MILTON BY DEED

RECORDED UNDER KING COUNTY RECORDING NUMBER 7911150897.

TRACT 2:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SUBDIVISION;

THENCE SOUTH 0°58'00" EAST 663.70 FEET;

THENCE NORTH 89°12'15" EAST 867.61 FEET;

THENCE NORTH 0°47'56" WEST 663.08 FEET TO THE NORTH LINE OF SAID SUBDIVISION;

THENCE SOUTH 89°14'42" WEST ALONG SAID LINE 869.55 FEET TO THE POINT OF BEGINNING;

EXCEPT THE NORTH 30.00 FEET THEREOF CONVEYED TO THE TOWN OF MILTON BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 7911150897.

TRACT 3:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SUBDIVISION;
THENCE SOUTH 0°58'00" EAST 663.70 FEET;
THENCE NORTH 89°12'15" EAST 867.61 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING NORTH 89°12'15" EAST 438.67 FEET TO EAST LINE OF SAID SUBDIVISION;
THENCE NORTH 0°47'56" WEST ALONG SAID LINE 662.77 FEET TO THE NORTH LINE OF SAID SUBDIVISION;
THENCE SOUTH 89°14'42" WEST ALONG SAID LINE 438.67 FEET;
THENCE SOUTH 0°47'56" EAST 663.08 FEET TO THE POINT OF BEGINNING;
EXCEPT THE NORTH 30.00 FEET THEREOF CONVEYED TO THE TOWN OF MILTON BY DEED RECORDED UNDER RECORDING NUMBER 7911150897.

TRACT 4:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SUBDIVISION;
THENCE SOUTH 0°58'00" EAST 663.70 FEET;
THENCE NORTH 89°12'15" EAST 87.51 FEET TO THE POINT OF BEGINNING;
THENCE SOUTH 0°58'00" EAST 657.75 FEET TO THE SOUTH LINE OF SAID SUBDIVISION;
THENCE NORTH 89°12'15" EAST 1216.84 FEET TO THE EAST LINE OF SAID SUBDIVISION;
THENCE NORTH 0°47'56" WEST ALONG SAID LINE 657.75 FEET;
THENCE SOUTH 89°12'15" WEST 1218.77 FEET TO THE POINT OF BEGINNING.

PARCEL B:

THE WEST 320 FEET OF THE SOUTH 700 FEET OF THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF RIGHT OF WAY OF PUGET SOUND RAILROAD.

PARCEL C:

BLOCKS 1, 2 AND 3, ST. GEORGE ADDITION TO EAST TACOMA, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 44, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THE 20 FOOT WIDE ALLEYS IN SAID BLOCKS 1, 2 AND 3 AND THE EAST AND WEST 5 FEET OF 9TH AVENUE SOUTH, 10TH AVENUE SOUTH AND 11TH AVENUE SOUTH, AS VACATED BY ORDINANCE NUMBER 798 AS PASSED AND APPROVED BY THE COUNCIL OF THE TOWN OF MILTON, WASHINGTON ON JULY 12, 1979;

ALL ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 44, IN KING COUNTY, WASHINGTON;

(BEING KNOWN AS PARCELS 10 THROUGH 57, INCLUSIVE, AS DELINEATED ON AND DESCRIBED IN APPROVED "DEVELOPMENT PLAN AND BOUNDARY SURVEY" AS RECORDED DECEMBER 4, 1979 UNDER RECORDING NUMBER 7912049004.)

PARCEL D:

ALL OF BLOCK 4, ST. GEORGE ADDITION TO EAST TACOMA, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 44, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THE 20 FOOT ALLEY IN BLOCK 4 AND THE WEST 5 FEET OF 9TH AVENUE SOUTH, BOTH AS VACATED BY ORDINANCE NO. 798 AS PASSED AND APPROVED BY THE COUNCIL OF THE TOWN OF MILTON, WASHINGTON, ON JULY 12, 1979;

EXCEPT ANY PORTION OF SAID BLOCK 4, CONVEYED TO THE STATE OF WASHINGTON FOR STATE HIGHWAY NUMBER 1 UNDER KING COUNTY RECORDING NUMBERS 5015088 AND 5049603.

(BEING KNOWN AS PARCELS 1 THROUGH 9, INCLUSIVE, AS DELINEATED ON AND DESCRIBED IN APPROVED "DEVELOPMENT PLAN AND BOUNDARY SURVEY" AS RECORDED ON DECEMBER 4, 1979, UNDER KING COUNTY RECORDING NUMBER 7912049004).

PARCEL E:

PARCEL D, CITY OF MILTON BOUNDARY LINE ADJUSTMENT NO. 019-2006, RECORDED UNDER RECORDING NO. 20060810900001, IN KING COUNTY, WASHINGTON.

PARCEL F:

THOSE PORTIONS OF LOTS 1 AND 2, LITTLE HOMES ADDITION TO EAST TACOMA, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 7 OF PLATS, PAGE 11, IN KING COUNTY, WASHINGTON, AND THOSE PORTIONS OF LOTS 1 THROUGH 11, INCLUSIVE, AND LOTS 30 THROUGH 43, INCLUSIVE, BLOCK 4, ST. GEORGE ADDITION TO EAST TACOMA, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 44, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THOSE PORTIONS, IF ANY, OF THE ALLEY IN SAID BLOCK AND THOSE PORTIONS, IF ANY, OF THE WESTERLY 5 FEET OF 9TH AVENUE, EACH VACATED

BY ORDINANCE NO. 798 OF THE TOWN OF MILTON, THAT ATTACHED TO SAID LOTS BY OPERATION OF LAW, ALL LYING WITHIN THE FOLLOWING DESCRIBED TRACT:

BEGINNING AT A POINT OPPOSITE HIGHWAY ENGINEER'S STATION 1781+50 ON THE LE LINE SURVEY OF STATE HIGHWAY ROUTE NO. 5, PIERCE COUNTY LINE TO JCT. SSH NO. 5-A, AND SOUTH 52°17'30" EAST 275 FEET THEREFROM;
THENCE SOUTH 52°17'30" EAST, ALONG SAID FORMER RIGHT OF WAY LINE OF SAID HIGHWAY, 75 FEET;
THENCE SOUTH 36°12'00" WEST, ALONG THE FORMER RIGHT OF WAY LINE, 559.8 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID BLOCK;
THENCE NORTHERLY, ALONG SAID WESTERLY LINE, BEING THE PRESENT RIGHT OF WAY LINE OF SAID HIGHWAY, TO INTERSECT A LINE DRAWN PARALLEL WITH SAID LE LINE SURVEY AND SOUTH 52°17'30" EAST 275 FEET THEREFROM;
THENCE NORTH 37°42'30" EAST, ALONG SAID PARALLEL LINE, BEING THE PRESENT RIGHT OF WAY LINE OF SAID HIGHWAY, TO THE POINT OF BEGINNING.

PARCEL G:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THAT PORTION OF GOVERNMENT LOT 2, ALL IN SECTION 32, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 32;
THENCE NORTH 0°58'00" WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER 134.36 FEET TO THE SOUTHEASTERLY MARGIN OF PRIMARY STATE HIGHWAY NO. 1 (SR-5);
THENCE ALONG SAID SOUTHEASTERLY MARGIN THE FOLLOWING COURSES:
SOUTH 34°03'34" WEST 338.04 FEET;
SOUTH 52°36'34" WEST 122.70 FEET;
SOUTH 26°34'04" WEST 503.90 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 89°12'15" EAST 613.20 FEET;
THENCE SOUTH 0°58'00" EAST 657.75 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER;
THENCE SOUTH 89°12'15" WEST ALONG SAID SOUTH LINE 467.00 FEET TO THE NORTHEASTERLY BOUNDARY OF THE PUYALLUP INDIAN RESERVATION;
THENCE NORTH 47°27'27" WEST ALONG SAID BOUNDARY 401.74 FEET TO SAID SOUTHEASTERLY MARGIN OF PRIMARY STATE HIGHWAY NO. 1;
THENCE SOUTH ALONG SAID SOUTHEASTERLY MARGIN THE FOLLOWING COURSES:
ON A CURVE TO THE RIGHT, WITH A RADIUS OF 1,071.00 FEET, WHICH CENTER BEARS SOUTH 80°29'33" EAST, THROUGH A CENTRAL ANGLE OF 17°09'37", AN ARC DISTANCE OF 320.77 FEET; NORTH 26°34'04" EAST 89.50 FEET TO THE TRUE POINT OF BEGINNING.