

**CITY OF MERCER ISLAND
ORDINANCE NO. 25-20**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, PROVIDING FOR THE ACQUISITION, CONDEMNATION, APPROPRIATION, AND TAKING OF A FEE INTEREST IN A CERTAIN BUILDING AND LAND LOCATED AT 9655 SE 36TH STREET, TOGETHER WITH A PERMANENT EASEMENT FOR INGRESS AND EGRESS BETWEEN THE BUILDING AND LAND AND SE 36TH STREET FOR THE PUBLIC USE AND PURPOSE OF OPERATING, MAINTAINING, AND REPAIRING THE SAME AS CITY OFFICE SPACE; PROVIDING THAT THE ENTIRE COST THEREOF SHALL BE PAID FROM AVAILABLE FUNDS; DIRECTING ATTORNEYS RETAINED BY THE CITY TO FILE AND PROSECUTE THE APPROPRIATE LEGAL PROCEEDINGS FOR SAID CONDEMNATION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Mercer Island City Hall (“City Hall”) located at 9611 SE 36th Street was built in 1957 and has been repaired and renovated several times, with the last major renovation occurring in 1988; and

WHEREAS, the Mercer Island City Council recognized the need to develop a replacement strategy for City Hall and the City began a Facilities Conditions Assessment in early 2023 to guide the City’s long-term decision-making; and

WHEREAS, the initial assessment highlighted many matters of concern related to the long-term use of the City Hall building, including but not limited to, structural and seismic deficiencies, the lack of lateral bracing in almost all interior walls, the lack of compliance with current energy and building codes, and the need for repair or substantial replacement of many failing building systems; and

WHEREAS, in April 2023, City maintenance staff discovered broken floor tiles containing asbestos in the basement mechanical room at City Hall; and

WHEREAS, the mechanical room also housed key components of the building’s HVAC system, including an air handling unit; and

WHEREAS, testing confirmed that asbestos was present above background levels in several segments of the HVAC system, which would require costly remediation, estimated at \$10 million or more; and

WHEREAS, the City Hall building was consequently temporarily closed in April 2023; and

WHEREAS, given the condition of the HVAC system and the additional information provided by the Facilities Conditions Assessment, the City made the decision to permanently close City Hall in October 2023 and to seek other options for City office space; and

WHEREAS, the City has identified a suitable office building for the provision of City office space located at 9655 SE 36th Street (“the Property”), on land immediately adjacent to the existing City Hall property; and

WHEREAS, the City has attempted to acquire the Property through negotiation and agreed to a letter of intent with the owner, EPE 2, LLC on March 18, 2025; and

WHEREAS, it was subsequently discovered that the Property was part of a single legal parcel that includes a building at 9675 SE 36th Street, making it impossible for EPE 2, LLC to separate the portion of the parcel containing the Property needed by the City from the remainder of the parcel to be retained by the owner in the time and manner required by the City; and

WHEREAS, the City has therefore notified EPE 2, LLC that the City intends to exercise its power of eminent domain (condemnation) to acquire the Property needed by the City, together with a permanent easement over the remainder of the parcel to provide ingress, and egress to and from SE 36th Street; and

WHEREAS, EPE 2, LLC has waived the notice of final action on condemnation required to be given by mail to the owner of the Property to be acquired by the City; and

WHEREAS, a notice of final action on condemnation was published by the City once each week for two consecutive weeks prior to the meeting at which this ordinance has been passed; and

WHEREAS, the Mercer Island City Council has considered the facts described in the preceding paragraphs, together with the City Manager’s recommendation that the City proceed with eminent domain, and the Council has decided to acquire the real property interests described in this ordinance by exercising the City’s power of eminent domain under Chapters 8.12 and 8.25 RCW;

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

Section 1. Findings. The Mercer Island City Council hereby adopts the above recitals, together with the content of Agenda Bill 6726, as findings in support of this ordinance.

Section 2. Public Use and Purpose – Authority. The Mercer Island City Council hereby finds and declares that having city offices that provide a safe working environment for staff and community members is in the public interest. The public health, safety, and welfare therefore require that the City acquire a fee interest the building and land located at 9655 SE 36th Street, together with a permanent, non-exclusive easement for ingress, and egress between the acquired land and building and SE 36th Street. The land and building in which the fee interest is to be acquired is a

portion of King County Tax Parcel #265550-0097 and is legally described on Exhibit A and depicted for purposes of illustration only on Exhibit B attached to this ordinance and incorporated herein by this reference as if set forth in full. The land in which the easement is to be acquired is the remainder of King County Tax Parcel #265550-0097 and King County Tax Parcel #265550-0095. The easement area is legally described on Exhibit C and depicted for purposes of illustration only on Exhibit D attached to this ordinance and incorporated herein by this reference as if set forth in full. The public purpose for which the fee and easement interests are to be acquired by eminent domain is the operation, maintenance, and repair of a building and land to be used for City office space. The City of Mercer Island is expressly authorized by RCW 8.12.030 to acquire real property for public buildings using the power of eminent domain.

- Section 3. Declaration of Necessity.** The Mercer Island City Council hereby finds and declares that the property interests identified in Section 2 are necessary for the public purposes and public uses identified therein. The City Council further finds and declares that further attempts at acquiring said property interests by negotiation will not provide the property interests required by the City in a timely manner and that it is therefore necessary to acquire said property interests through eminent domain.
- Section 4. Exercise of Eminent Domain Power.** The property interests identified in Section 2 are hereby condemned, appropriated, taken, and damaged through the exercise of eminent domain for the public purposes described herein. The taking of said property interests is subject to the making or payment of just compensation to the owner(s) and possessor(s) of the property, as applicable, in the manner prescribed by law.
- Section 5. Source of Funds.** The entire cost of the property acquisition authorized by this ordinance, including all costs and expenses of any eminent domain proceedings, shall be paid from such available funds as may be appropriate under the circumstances.
- Section 6. Authority of Attorneys.** Under the supervision and direction of the City Attorney, attorneys retained by the City are authorized to commence and prosecute the proceedings prescribed by law necessary to condemn, acquire, take and appropriate the property identified in Section 2 as necessary to effectuate the provisions of this ordinance.
- Section 7. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

Section 8. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON
AT ITS MEETING ON JULY 1, 2025.

CITY OF MERCER ISLAND

Salim Nice, Mayor

ATTEST:

APPROVED AS TO FORM:

Andrea Larson, City Clerk

Bio Park, City Attorney

Date of publication:

EXHIBIT A

DESCRIPTION

TRACT 10 AND THE WEST 20.00 FEET OF TRACT 11, BLOCK 1, FRUITLAND ACRES TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 12 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE;

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 10;
THENCE NORTH $01^{\circ}12'36''$ EAST, ALONG THE WEST LINE OF SAID TRACT 10, A DISTANCE OF 221.18 FEET TO THE POINT OF BEGINNING OF SAID LINE;
THENCE SOUTH $88^{\circ}14'00''$ EAST, A DISTANCE OF 44.44 FEET;
THENCE SOUTH $85^{\circ}11'35''$ EAST, A DISTANCE OF 31.49 FEET;
THENCE SOUTH $88^{\circ}48'46''$ EAST, A DISTANCE OF 117.35 FEET TO A POINT ON THE EAST LINE OF THE WEST 20.00 FEET OF SAID TRACT 11 AND THE TERMINUS OF SAID LINE;

CONTAINING 42,487 SQUARE FEET OR 0.9754 ACRES, MORE OR LESS;

SITUATE IN THE CITY OF MERCER ISLAND, COUNTY OF KING, STATE OF WASHINGTON.



THOMAS E. CARNER, P.L.S. 46879
BRH JOB NO. 2025046.00
JUNE 6, 2025

BUSH, ROED & HITCHINGS, INC.
15400 SE 30TH PL, SUITE 100
BELLEVUE, WA 98007
(206) 323-4144

EXHIBIT B

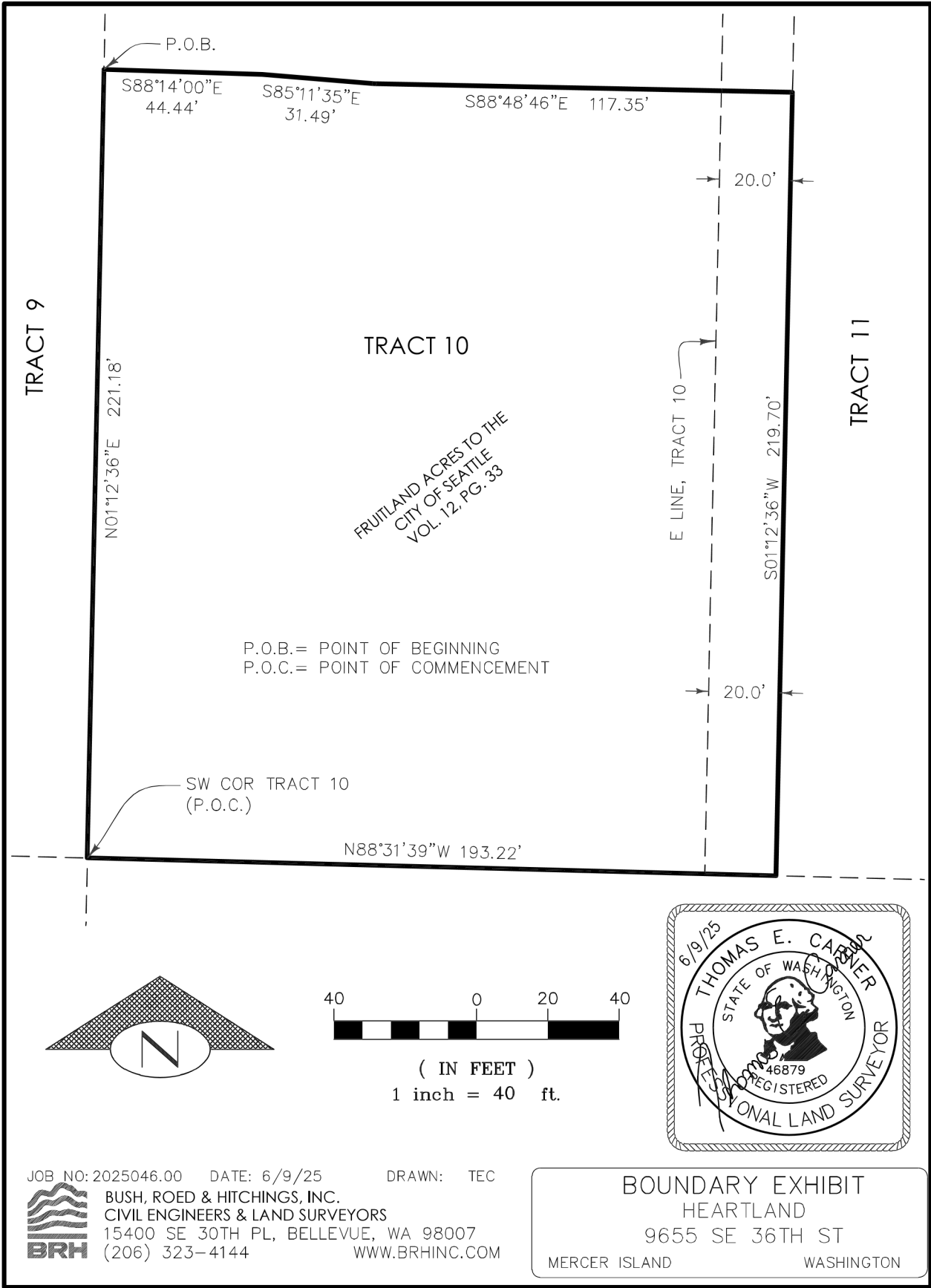


EXHIBIT C

DESCRIPTION

THAT PORTION OF TRACT 10 AND THE WEST 20.00 FEET OF TRACT 11, BLOCK 1, FRUITLAND ACRES TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 12 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION CONVEYED TO WASHINGTON TOLL BRIDGE AUTHORITY BY INSTRUMENT RECORDED APRIL 18, 1939 UNDER KING COUNTY RECORDING NUMBER 3041118;

AND EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY INSTRUMENTS RECORDED JUNE 13, 1985 UNDER KING COUNTY RECORDING NUMBERS 8506130031, 8506130032 AND 8506130033;

AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF MERCER ISLAND BY INSTRUMENT RECORDED NOVEMBER 30, 1988 UNDER KING COUNTY RECORDING NUMBER 8811301368.

DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH MARGIN OF SOUTHEAST 36TH STREET AND THE EAST LINE OF THE WEST 20.00 OF SAID TRACT 11;
THENCE SOUTH 01°12'36" WEST, ALONG SAID LINE, A DISTANCE OF 471.64 FEET;
THENCE NORTH 88°31'39" WEST, A DISTANCE OF 187.77 FEET;
THENCE NORTH 01°12'36" EAST, A DISTANCE OF 449.17 FEET;
THENCE NORTH 11°53'47" EAST, A DISTANCE OF 22.60 FEET;
THENCE NORTH 23°46'49" EAST, A DISTANCE OF 38.20 FEET;
THENCE NORTH 05°30'17" EAST, A DISTANCE OF 10.14 FEET TO A POINT ON THE SOUTH MARGIN OF SOUTHEAST 36TH STREET;
THENCE SOUTH 73°29'51" EAST, ALONG SAID MARGIN, A DISTANCE OF 25.47 FEET;
THENCE SOUTH 15°20'39" WEST, A DISTANCE OF 68.52 FEET;
THENCE SOUTH 48°18'04" WEST, A DISTANCE OF 11.72 FEET;
THENCE SOUTH 01°12'36" WEST, A DISTANCE OF 415.71 FEET;
THENCE SOUTH 88°31'39" EAST, A DISTANCE OF 140.17 FEET;
THENCE NORTH 01°12'36" EAST, A DISTANCE OF 459.37 FEET TO A POINT ON THE SOUTH MARGIN OF SOUTHEAST 36TH STREET;
THENCE SOUTH 73°29'51" EAST, ALONG SAID MARGIN, A DISTANCE OF 29.79 FEET TO THE POINT OF BEGINNING;

CONTAINING 26,816 SQUARE FEET OR 0.6156 ACRES, MORE OR LESS;

SITUATE IN THE CITY OF MERCER ISLAND, COUNTY OF KING, STATE OF WASHINGTON.



THOMAS E. CARNER, P.L.S. 46879
BRH JOB NO. 2025046.00
JUNE 9, 2025

BUSH, ROED & HITCHINGS, INC.
15400 SE 30TH PL, SUITE 100
BELLEVUE, WA 98007
(206) 323-4144

EXHIBIT D

