

CLARK COUNTY
STAFF REPORT

DEPARTMENT/DIVISION: Environmental Services / Policy and Planning / Clean Water

DATE: August 26, 2014

REQUEST: Accept and execute a Quit Claim Deed, transferring a portion of Assessor's
Parcels No. 097350254 and 097350256 from the Fairfield Owners Association to
Clark County.

CHECK ONE: Consent Hearing Chief Administrative Officer

BACKGROUND: The Fairfield Park Estates Subdivision was developed by Pacific Lifestyle Homes, Inc. in 2004. In response to the failure of the detention pond and infiltration facility constructed with the subdivision, and the subsequent localized flooding of county roadways, Clark County and Pacific Lifestyle Homes, Inc. negotiated a settlement of the issues pertaining to the Fairfield Estates stormwater facility. Pacific Lifestyle Homes reimbursed the county for expenses to remediate the failed facility, and in Item 7 of the General Release and Settlement agreement approved by the Board of County Commissioners in 2012 (see attached staff report SR73-12) the county agreed to accept a dedication of the stormwater facility and future maintenance responsibility should the Fairfield Owners Association make such a request. The Fairfield Owners Association has provided a legal description transferring a portion of two properties on which the subdivision's stormwater facility is located and has asked that the county accept a quit claim deed transferring ownership of the land and infrastructure to the county. The county's acceptance of the stormwater facility from the Fairfield Owners Association is required by the agreement from 2012.

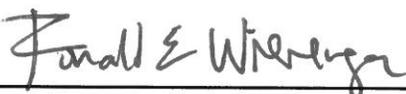
COMMUNITY OUTREACH: The County has maintained contact with the Fairfield Owners Association regarding the settlement and the transfer of land and stormwater infrastructure to the county.

BUDGET AND POLICY IMPLICATIONS: There is no up-front cost for accepting the Quit Claim Deed. Routine maintenance activity consisting of mowing and occasional sediment removal is estimated to be less than \$2,000 per year. Accepting the quit claim deed is consistent with the settlement agreement executed in 2012.

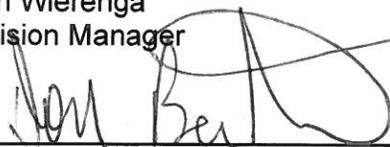
FISCAL IMPACTS: Yes (see Fiscal Impacts Attachment) No

ACTION REQUESTED: Accept and execute a Quit Claim Deed, transferring a portion of Assessor's Parcels No. 097350254 and 097350256 from the Fairfield Owners Association to Clark County.

DISTRIBUTION: Please return original copies of the signed agreement and the approved staff report to Environmental Services Administration.



Ron Wierenga
Division Manager



Don Benton
Environmental Services Director

APPROVED: _____
CLARK COUNTY, WASHINGTON
BOARD OF COMMISSIONERS

RW/RW/bt
c: Christine Cook; Environmental Services Administration

Attachments: Quit Claim Deed, Staff Report #SR73-12 and General Release and Settlement Agreement
ES14-024

FISCAL IMPACT ATTACHMENT

Part I: Narrative Explanation

I.A - Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information.

The request to accept and execute a Quit Claim Deed, transferring a portion of Assessor's Parcels No. 097350254 and 097350256 from the Fairfield Owners Association to Clark County, has no up-front cost. Long term maintenance costs will be incurred to perform routine maintenance activities on the parcel such as mowing and occasional sediment removal from stormwater facility structures. Maintenance costs are estimated from typical per facility cost information.

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
4420/Clean Water Fund		\$2,000.00		\$4,000.00		\$4,000.00
Total:	\$0.00	\$2,000.00	\$0.00	\$4,000.00	\$0.00	\$4,000.00

II.A - Describe the type of revenue (grant, fees, etc.)

Funding for this work comes from the Clean Water fee paid by property owners in unincorporated Clark County.

Part III: Estimated Expenditures

III.A - Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
4420/Clean Water Fund			\$2,000.00		\$4,000.00		\$4,000.00
Total:		\$0.00	\$2,000.00	\$0.00	\$4,000.00	\$0.00	\$4,000.00

III.B = Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual		\$2,000.00		\$4,000.00		\$4,000.00
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total:	\$0.00	\$2,000.00	\$0.00	\$4,000.00	\$0.00	\$4,000.00

Recording requested by:
Clark County Public Works
Real Property Services
P.O. Box 9810
Vancouver, WA 98666-9810

Document Title: Quit Claim Deed
Grantor: Fairfield Owners Association
Grantees: Clark County, Washington
Legal Description: Fairfield Ph 1 TT E & F
Ptn of Serial #: 097350-254; 097350-256
Project: Stormwater Facility Transfers/Clean Water Program
WO #: 28386

QUIT CLAIM DEED

THE GRANTOR, **FAIRFIELD OWNERS ASSOCIATION**, a **Washington non-profit corporation**, for and in consideration of Ten Dollars (\$10.00) and other valuable considerations conveys and quit claims to **CLARK COUNTY**, a **political subdivision of the State of Washington**, any interest they may have in the following described real estate situated in the County of Clark, State of Washington, to wit:

**SEE LEGAL DESCRIPTION ATTACHED HERETO, WHICH,
BY THIS REFERENCE, IS INCORPORATED HEREIN**

Dated this _____ day of _____, 20_____.

FAIRFIELD OWNERS ASSOCIATION

By: _____

Print Name _____

Title _____

By: _____

Print Name _____

Title _____

Quit Claim Deed
Ptn of Serial #: 097350-254; 097350-256
Project: Stormwater Facility Transfers/
Clean Water Program
WO #: 28386

STATE OF WASHINGTON

COUNTY OF CLARK

I certify that I know or have satisfactory evidence that _____
and _____ is/are the person(s) who appeared before me,
and said person(s) acknowledged that he/she/they signed this instrument, on oath stated
that he/she/they is/are authorized to execute the instrument and acknowledged it as the
_____ of Fairfield Owners Association, a Washington non-
profit corporation, to be the free and voluntary act and deed of such party(ies) for the uses
and purposes therein mentioned in the instrument.

Dated: _____

Notary Public in and for the State of WA
Residing at
My commission expires:

CLARK COUNTY
STAFF REPORT

DEPARTMENT/DIVISION: Environmental Services / Policy and Planning / Clean Water
DATE: April 17, 2012
REQUEST: Approve a general release and settlement agreement (Wann) regarding
Fairfield Estates Stormwater facility.
CHECK ONE: Consent Hearing Chief Administrative Officer

BACKGROUND: The Fairfield Park Estates Subdivision was developed by Pacific Lifestyle Homes, Inc. in 2004. In connection with the development of Fairfield Estates, Pacific Lifestyle Homes along with Travelers Casualty Surety Company of America posted performance and maintenance bonds in favor of the county. The detention pond and infiltration facility constructed with the subdivision is currently failing and causing localized flooding of county roadways. In response to the County's claim upon the performance bond, the parties have negotiated a settlement of the issues pertaining to the Fairfield Estates stormwater facility.

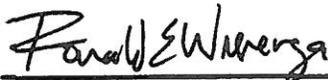
COMMUNITY OUTREACH: The Fairfield Estates Homeowners association owns the stormwater facility and is responsible for its maintenance. The county has maintained contact with the HOA and their attorney regarding the settlement of this claim.

BUDGET AND POLICY IMPLICATIONS: The agreement requires Pacific Lifestyle Homes to pay the county \$31,483.36 to reimburse engineering work and pumping costs incurred to prevent roadway flooding during the past few years. Pacific Lifestyle Homes is responsible for all county review fees and construction costs related to modifying the stormwater facility to abate the flooding. The county agrees to release all parties from all claims raised in connection with Fairfield Estates following successful completion of construction.

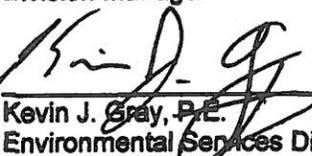
FISCAL IMPACTS: Yes (see Fiscal Impacts Attachment) No

ACTION REQUESTED: Request approval of a general release and settlement agreement (Wann) regarding the Fairfield Estates Stormwater Facility.

DISTRIBUTION: Please return original copies of the signed agreement and the approved staff report to Environmental Services Administration.



Ron Wierenga
Division Manager



Kevin J. Gray, P.E.
Environmental Services Director

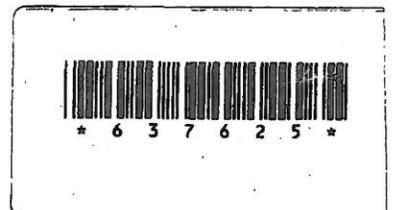
APPROVED: April 17, 2012
CLARK COUNTY, WASHINGTON
BOARD OF COMMISSIONERS

SR 13-12

RW/RW/bt

Attachment: General Release and Settlement Agreement

c: Chris Horne, Prosecuting Attorney Civil Division



GENERAL RELEASE AND SETTLEMENT AGREEMENT

Effective Date:

April 17, 2012



Parties:

Kevin L. Wann (hereinafter "Wann")
11815 NE 99th Street Suite 1200
Vancouver WA 98642

and

Clark County (hereinafter the "County")
c/o Chris Horne, Deputy Prosecuting Attorney
604 Evergreen Blvd
PO Box 5000
Vancouver WA 98666-5000

Recitals:

A. WHEREAS, a subdivision, commonly known as the Fairfield Park Estates Subdivision, located at the intersection of NE 41st Ave and NE 88th Street, Vancouver, Washington, and more specifically identified at Book 311 of Plats, at Page 141 and Page 144, Auditor's File Number 3788447 & 3789996, records of Clark County, Washington (hereinafter "Fairfield Estates"), was developed and built out by Fairfield, Inc., nka Pacific Lifestyle Homes, Inc. ("PLH"), and/or by PLH.

B. WHEREAS, Wann is the principal of PLH.

C. WHEREAS, in connection with the development of Fairfield Estates, PLH posted a Performance Bond as principal, with Travelers Casualty Surety Company of American ("Travelers"), as Surety, Bond No. 104203910 (hereinafter the "Performance Bond") in favor of the County.

D. WHEREAS, PLH, as principal, and Travelers as Surety, also posted a Maintenance Bond, Bond Number 104203910M (hereinafter the "Maintenance Bond"), in favor of the County, in connection to the development of Fairfield Estates.

E. WHEREAS, as part of the development of Fairfield Estates, a detention pond (the "Detention Pond") was constructed within Fairfield Estates.

F. WHEREAS, disputes have arisen between PLH, Travelers, and the County, as to the Detention Pond, its construction, and functionality, among other items.

G. WHEREAS, a result of these disputes, the County has made a claim upon the Performance Bond.

H. WHEREAS, the parties desire to settle any and all issues pertaining to Fairfield Estates, the Detention Pond, the Performance Bond, and the Maintenance Bond, pursuant to the terms of this General Release and Settlement Agreement

NOW, THEREFORE, the parties mutually agree as follows:

1. Recitals.

The terms of the recitals mentioned above are fully incorporated into this agreement.

2. Consideration.

In consideration of:

- 2.1. Wann or his agent will submit an application for a stormwater project and pay all applicable fees, as outlined in Exhibit "A," attached hereto and incorporated by reference herein, with a request for variance to the County, which application will be supported by the County as a type II process, on or before thirty days from execution of this document.
- 2.2. Within 20 days of approval and permit issuance by the County for the work identified in Exhibit A, Wann will pay the County the sum of \$31,483.36.
- 2.3. Within 30 days of application approval and permit issuance by the County for the work identified in Exhibit A, Wann or his agent will cause such work to commence and prosecute the same to completion in a commercially reasonable and timely manner in compliance with all plans as approved.

3. Conditions Precedent.

Wann's duty under Article 2.2 and 2.3, above, is expressly conditioned upon issuance by the County and all other applicable jurisdictions of any and all necessary permits/approvals.

The application of terms of Articles 4, 5, 6 & 7, below, are expressly conditioned upon the County's acceptance, which acceptance will not be unreasonable denied, of the work identified in Exhibit A as approved.

4. Release.

The County expressly releases Wann, PLH, Fairfield, Inc., and Travelers, together with their respective directors, owners, shareholders, officers, employees, agents, attorneys, affiliated entities, subsidiaries, and assigns (collectively the "Release Parties") from any and all claims arising out of the conduct set forth above. This release applies to all claims, disputes, or differences which were raised or could have been raised in connection to Fairfield Estates, the Detention Pond, the Performance Bond and the Maintenance Bond, and any and all claims known or unknown which may arise in the future out of the development/construction and maintenance of Fairfield Estates and the Detention Pond.

5. Complete Release.

For the consideration set forth above the County expressly releases and forever discharges the Released Parties from all legal or equitable claims, demands, attorney fees, costs, actions or causes of action of any kind or nature, past or present, known or unknown, arising out of or relating in any way to any acts, events, omissions occurring prior to the parties execution of this release, including but not limited to all claims, including attorney fees and costs regarding allegations by the parties relating to the development/construction and maintenance of Fairfield Estates and the Detention Pond. The parties agree that they shall not file, cause to be filed, or otherwise voluntarily participate in the filing, investigation and/or prosecution of any charges, complaints, grievances, petitions, claims, causes of action, or accusatory pleadings against each other in any court, administrative or other government agency relating to any matters released herein.

6. Release of Bonds and Dismissal of Claims.

The County hereby releases the Performance Bond and the Maintenance Bond and releases, dismisses, waives, and withdraws any claim that it made on either.

7. Acceptance of Responsibility for Detention Pond.

Should the Fairfield Estates HOA wish to convey the facility to the County for maintenance, the County will accept the same and be responsible for future maintenance. Provided however, such request must occur within 120 days of the completion of work. Offers to convey after that date will be conditioned upon a demonstration that the pond meets then current code requirements.

8. No Admission of Liability.

The execution of this Agreement shall not be deemed an admission of liability by any party and shall not be construed as such. This Agreement is being executed for the sole purpose of amicably resolving the conflicting claims and disputes described herein.

9. Choice of Law.

The parties agree that the laws of the State of Washington shall control any interpretation or construction of this Agreement and Release, or any claim or cause of action related thereto.

10. Choice of Forum.

The parties agree that should any lawsuit or other court proceeding be instituted to enforce or interpret this Agreement and Release, any provision thereof or any matter related thereto, it shall be filed and prosecuted exclusively within the Superior Court of Washington for Clark County located in Vancouver, Washington.

11. Entire Agreement.

The parties agree that this document sets forth the entire agreement and understanding between the parties regarding the subject matter of this Agreement, and that there have been no

EXHIBIT "A"

**FAIRFIELD PARK ESTATES SUBDIVISION STORMWATER FACILITY
RETROFIT**

1. Description of work to be performed
2. Estimated county fees for stormwater review
3. Plans

EXHIBIT "A"

FAIRFIELD PARK ESTATES SUBDIVISION STORMWATER FACILITY RETROFIT

DESCRIPTION OF WORK TO BE PERFORMED

The overflow and storm system in NE 37th Ave. will be constructed in accordance with the approved plans prepared by Mackay & Sposito, for Clark County titled, "FAIRFIELD SWF RETROFIT CWP#401764" dated 10/4/2011, except for approved variations, and following the concept in the proposal submitted to Clark County prepared by SGA Engineering dated September 23, 2011. This involves lowering approximately, 223 lf of storm line and installing a control structure to slowly meter outflow to the existing storm line in NE 94th Street. Addendums to the approved plans are listed below.

- A) MH#3 may be installed as a 60" MH.
- B) Granular Backfill may be installed in lieu of CDF in 94th street.
- C) The storm line may be located along the same trench line as the pipe being removed instead of adjacent, as shown on the plans.
- D) Construction techniques such as jacking and boring may be utilized to install portions of the line to minimize impact to the existing roadway and facilities.
- E) Other modifications approved by Clark Public Works to facilitate the installation of the facilities or to address conflicts or issues identified during construction.

ESTIMATED COUNTY FEES FOR STORMWATER REVIEW

Note: This is an estimate of applicable fees to process the variance, review proposed construction plans, inspect the construction, and monitor the maintenance warranty period. Issuance fees are included. **Actual fees may change depending on the nature of the work, timing, and quantities of work in application.**

Variance Review - Type II Process (fees assume no other required land use applications)

Community Development	
Type II Variance Fee	\$1,833
Development Engineering	
Stormwater Variance	\$1,260

Final Engineering Review

If fully complete application and fees paid prior to April 30, 2012:

Drainage Project Plan Review	\$922
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If fully complete application and fees paid on or after April 30, 2012:

If less than 50 c.y. of earthwork:

Drainage Project Plan Review	\$922
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If earthwork is 50 – 499 c.y.:

Grading and Drainage Plan Review	\$1,287
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If earthwork is 500 – 4,999 c.y.:

Grading and Drainage Plan Review	\$1,640
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Development Inspection

If less than 50 c.y. of earthwork:

Drainage Project Inspection	\$1,494
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If earthwork is 50 – 499 c.y.:

Grading and Drainage Inspection	\$2,194
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If earthwork is 500 – 4,999 c.y.:

Grading and Drainage Inspection	\$2,494
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Erosion Control Inspection

Fee based on 0.41 acre (18,000 s.f.) of disturbed area	\$1,364
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Maintenance Warranty	\$1,217
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Erosion Control Inspection during Bond Period	\$694
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CLARK COUNTY FINAL PLANS