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CITY OF LYNNWOOD

ORDINANCE NO. 3414

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, APPROVING THE HARRIS FORD LINCOLN SHOWROOM PROJECT DEVELOPMENT AGREEMENT; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, Chapter 36.70B RCW authorizes local governments to enter into voluntary development agreements with a person who owns or controls real property, to specify development standards or regulations for the property, and to specify mitigation measures to be provided with development; and

WHEREAS, Chapter 21.29 of the Lynnwood Municipal Code (“LMC”) establishes a process for the City of Lynnwood (“City”) to enter into a development agreement with a developer; and

WHEREAS, a development agreement provides the opportunity for the City and the developer to agree on the scope and timing of a development project, applicable regulations and requirements, mitigation requirements and other matters relating to the project’s development; and

WHEREAS, development agreements promote the general welfare by balancing public and private interests, providing reasonable certainty for a development project, and addressing other matters, including but not limited to mitigation of the impacts of the development project; and

WHEREAS, Harris Ford, Inc. (“Harris Ford”) owns the real property on either side of 64th Ave West between 200th St SW and State Hwy 99 and on the South side of 200th St SW between 64th Ave and State Hwy 99 (the “Property”) as more fully described in the Development Agreement attached as “Exhibit A” to this Ordinance (the “Development Agreement”); and

WHEREAS, on October 4th, 2021, Harris Ford submitted an application for Project Design Review for a showroom and dealership expansion on the Property (the “Project”), and on November 17th, 2021 submitted a petition for vacating a portion of 64th Ave West between 200th St SW and State Hwy 99 to facilitate the construction of the Project; and

WHEREAS, to provide compensation to the City for the vacation of the portion of 64th Ave West between 200th St SW and State Hwy 99, Harris Ford has proposed to transfer real property to the City to provide a dedicated right turn lane from 200th St SW to South bound State Hwy 99 (the “Property Exchange”); and

WHEREAS, the City has an interest in implementing Action 3.1c.3 (Foster the retention and expansion of auto dealerships where appropriate along the Hwy 99 corridor) of its adopted Economic Development Action Plan; and

WHEREAS, the Project will generate economic benefit to the City by supporting increased sales tax from increased auto sales expected because of the project; and

1 WHEREAS, the Project, including the Property Exchange, will improve overall pedestrian and
2 vehicle safety and movement by eliminating the “Y” intersection of 64th Ave with Hwy 99 with limited
3 sight lines, eliminating the need for frequent mid-block street crossings for employees and customers of
4 64th Ave, improving the intersection of 200th St. SW and 64th Ave West, and adding a dedicated right turn
5 lane from 200th St SW to South bound State Hwy 99; and

6 WHEREAS, the Development Agreement attached to this Ordinance states the parties’ mutual
7 agreements and understandings as they relate to their respective roles and responsibilities regarding Harris
8 Ford’s redevelopment of the Property with the Project, the Property Exchange which will facilitate the
9 permitting and construction of the Project, and the construction of the dedicated right turn lane to South
10 bound State Hwy 99; and Improvement; and

11 WHEREAS, on March 14th , 2022 and on April 25th 2022, the City Council held a duly noticed
12 public hearing on this Ordinance and the Development Agreement attached to this Ordinance; and

13 WHEREAS, after consideration of the testimony and other evidence presented at the public
14 hearing, the City Council finds that (1) this Ordinance and the Development Agreement are consistent with
15 the City’s Comprehensive Plan, the City’s development regulations, and the purpose of Chapter 21.29 of
16 the City code, and (2) the provisions of this Ordinance further the public’s health, safety and welfare, and
17 the Development Agreement attached as **Exhibit A** should be approved; and

18 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD HEREBY**
19 **RESOLVES AS FOLLOWS:**

20 **Section 1.** The Harris Ford Lincoln Showroom Development Agreement, attached hereto
21 as **Exhibit A**, is hereby approved.

22 **Section 2.** The Mayor or her designee is authorized to finalize, conform, execute, and
23 administer the provisions of this Ordinance and the Development Agreement.

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

28 **Section 4.** This Ordinance or a summary thereof consisting of the title shall be published in the official
29 newspaper of the City and shall take effect and be in full force five (5) days after publication.

30 PASSED BY THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, this 25th
31 day of April, 2022.

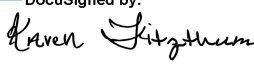
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APPROVED:

DocuSigned by:
Christine Frizzell 5/5/2022
Christine Frizzell, Mayor


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ATTEST/AUTHENTICATED:

DocuSigned by:

549561075C99433

Karen Fitzhugh, City Clerk

APPROVED AS TO FORM:

DocuSigned by:

10C90F54C7524E7

Lisa Marshall, City Attorney

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**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF LYNNWOOD
AND HARRIS FORD, INC., FOR THE
HARRIS FORD LINCOLN SHOWROOM DEVELOPMENT**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ___ day of ___, 2022, by and between the City of Lynnwood, a Washington municipal corporation (the “City”) and Harris Ford, Inc., a Washington corporation (the “Developer”).

RECITALS

- A.** On September 11th, 2011, the City Council adopted the Highway 99 Subarea Plan (Ordinance 2910). The City has an interest in implementing Action 2.12 of the subarea plan (Support the retention and expansion of auto dealerships between nodes. Continue to recognize auto dealers and service as a desirable niche business. Work with these business owners to improve the physical condition and appearance of properties, while maintaining visibility along the corridor).
- B.** On June 22nd, 2015, the Lynnwood City Council adopted Ordinance No. 3143 that incorporated the goals and strategies of the Economic Development Action Plan as the Economic Development Element of the City of Lynnwood Comprehensive Plan 2035. The City has an interest in implementing Action 3.1c.3 of the action plan (Foster the retention and expansion of auto dealerships where appropriate along the Hwy 99 corridor).
- C.** The Developer owns the real property on either side of 64th Ave West between 200th St SW and State Hwy 99 and on the South side of 200th St SW between 64th Ave and State Hwy 99, consisting of Tax Parcel Numbers 00515400000407 and 00515400000408, and described on “**Exhibit A**” attached hereto and incorporated by this reference (the “Property”). Currently, the Property contains commercial buildings and improvements known as the Harris Ford Lincoln Showroom.
- D.** On, October 4th, 2022, the Developer submitted for Project Design Review (the “PDR”), for the Harris Ford Lincoln Showroom Project, as further described in Section 1.4 of this Agreement (the “Project”), to be located on the Property at 20006 64th Ave W, Lynnwood, Washington.
- E.** On November 4th, 2021, the City determined the PDR application was technically complete.
- F.** On November 10th, 2021, the City circulated the PDR for public comment in compliance with LMC 1.35 including opportunity for comment on the Project. Notice seeking comment was posted on site, in newspaper, at City Hall property buildings and mailed to properties within 300 feet of the Harris. Comment period ended on November 24, 2021.
- G.** On November 17th, 2021, the Developer submitted a petition for vacating a portion of 64th Ave SW between 200th St. SW, and State Hwy 99, to facilitate construction of the Project. To provide compensation to the City for the vacation of the portion of 64th Ave West between 200th St. SW and State Hwy 99, Harris Ford has proposed to transfer real property

1 to the City to provide a dedicated right turn lane from 200th St SW to South bound State
2 Hwy 99.

3 **H.** The Project will improve overall pedestrian and vehicle safety and movement by
4 eliminating the “Y” intersection of 64th Ave with Hwy 99 with limited sight lines,
5 eliminating the need for frequent mid-block street crossings for employees and customers
6 of 64th Ave, improving the intersection of 200th St. SW and 64th Ave West, and adding a
7 dedicated right turn lane from 200th St SW to South bound State Hwy 99.

8 **I.** To set forth their mutual agreements and understandings as they relate to their respective
9 roles and responsibilities regarding the Developer’s redevelopment of the Property, the
10 property exchange which will facilitate the permitting and construction of the Project, and
11 the construction of the dedicated right turn lane to South bound State Hwy 99; the City and
12 Developer desire to enter into this Development Agreement (“Agreement”) for the Project.

13

14 **SECTION 1. GENERAL PROJECT DESCRIPTION**

15 **1.1 Parties to Development Agreement.** The parties to this Agreement are:

16 **1.1.1** The “City” is the City of Lynnwood, 19100 44th Ave West, Lynnwood Washington
17 98046.

18 **1.1.2** The “Developer” is Harris Ford, Inc, a Washington corporation (or its assignees as
19 permitted under Section 13.2 below) which is a private enterprise that owns or is under
20 contract to purchase the Property in fee, and whose principal office is located at 20006
21 64th Ave W, Lynnwood Washington 98036.

22

23 **1.2 Site.** The Property on which the Project will be located consists of approximately 36,590
24 square feet and is described in **Exhibit A**, attached hereto, and incorporated herein by this
25 reference. There are no structures listed on the City of Lynnwood’s historic register located
26 on the Property.

27 **1.3 Existing Uses.** The Project site contains an existing satellite auto showroom and sales lot
28 and a portion of 64th Ave W.

29 **1.4 Project.** The PDR application PDR-009868-2021 describes the Project as the development
30 and use of the Property to renovate and expand the front portion of the Harris Ford auto
31 dealership facing Hwy 99 by demolishing the existing satellite showroom, replacing it with
32 a new showroom, and expanding and improving the sales lot around the new satellite
33 showroom by purchasing and incorporating the section of 64th Ave West between 200th St
34 SW and State Hwy 99. The proposed improvements will allow the company to offer a
35 wider selection of autos for sale in partnership with Ford and improve safety for its
36 employees and customers by eliminating the need to cross a city street between the
37 dealership’s two sales areas. The Project is further illustrated in **Exhibit B**, attached
38 hereto, and incorporated by this reference.

39

1 **1.5 Project is a Private Undertaking.** It is agreed among the parties that the Project is a
 2 private development, and that the City has no interest therein except as authorized in the
 3 exercise of its governmental functions.

4 **1.6 Consistency with Development Regulations.** This Agreement is consistent with the
 5 applicable development regulations as required by RCW 36.70B.170.

6 **1.7 Public Benefits.** This Agreement provides public benefits listed in LMC 21.29.200.C that
 7 include:

8 **1.7.1 Economic Benefits.** The Project will generate economic benefit to the City by
 9 supporting increased sales tax from increased auto sales expected because of the
 10 Project as supported by Action 3.1c.3 (Foster the retention and expansion of auto
 11 dealerships where appropriate along the Hwy 99 corridor) of the City’s adopted
 12 Economic Development Action Plan.

13 **1.7.2 Public Infrastructure.** The Project will improve overall pedestrian and vehicle
 14 safety and movement by eliminating the “Y” intersection of 64th Ave with Hwy 99
 15 with limited sight lines, eliminating the need for frequent mid-block street
 16 crossings for employees and customers of 64th Ave, improving the intersection of
 17 200th St. SW and 64th Ave W, and adding a dedicated right turn lane from 200th St
 18 SW to South bound State Hwy 99.

19 **1.7.3 Quality Design.** The Project will improve the overall appearance of the dealership
 20 and this section of Hwy 99 as supported by the following City codes:

- 21 ○ Project Design Review is required per LMC 21.46.105 – Project Design
- 22 Review.
- 23 ○ The design of the new showroom must meet Lynnwood Citywide Design
- 24 Guidelines for All Districts and Commercial Districts.
- 25 ○ Improved landscaping is required per LMC 21.08 – Landscaping. Construct
- 26 new landscaping per code.
- 27

28 **SECTION 2 DEVELOPMENT PLANNING**

29 **2.1 Consistency and Compliance with SEPA.** The City has conducted environmental review
 30 of the Project and prepared a SEPA threshold determination which includes within its scope
 31 the maximum anticipated level of development included within the Project and the
 32 environmental mitigations required. This determination is part of the Project Design
 33 Review.

34 **2.2 Project Design Review (PDR):** The Project improvements are required to be consistent
 35 with all applicable Development Regulations, Design Guidelines, other provisions of the City
 36 code, and the terms of this Agreement. The City shall use the PDR procedures set forth in
 37 Chapter 21.25 LMC as the process by which the City determines Project consistency with
 38 applicable Development Regulations, Design Guidelines, and the terms of this Agreement.
 39 Issuance of the PDR is dependent on the approval of this Agreement. The Project shall be
 40 developed and constructed in accordance with the City’s PDR decision.

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SECTION 3 PROPERTY TRANSFERS

3.1 Property Transfers: The transfer of real property between the Developer and the City, as described in this Section 3, is required to accommodate the implementation of the Project, and to mitigate the Project’s impacts by the addition of a right turn lane on 200th St SW and State HWY 99.

3.1.1 Survey. The City will have a survey completed of the real property to be acquired by the Developer to accommodate the implementation of the Project, referred to as Property 1, and the real property to be acquired by the City to mitigate the Project’s impacts with the addition of the right turn lane on 200th St SW and State HWY 99, referred to as Property 2 (the “Survey”). The Developer shall pay to the City 100% of the costs to prepare and complete such Survey. A legal description of Property 1 and Property 2 are attached as **Exhibit “C”**.

3.1.2 Appraisal. The City prepared an appraisal of the market value of Property 1 and Property 2, referred to as the Appraisal Report, Property 1 (Portion of 64th Ave W) and Property 2 (Frontage on 200th ST SW) by CBRE Group, Inc, dated January 28th, 2022 for Property 1 and February 27th, 2022 for Property 2, and incorporated herein by this reference. The Developer shall pay to the City 100% of the costs to prepare and complete the appraisal of the two properties.

3.1.3 Property 1 and Property 2 Boundaries and Values. The City and the Developer agree that the Survey identifies the boundaries of Property 1 and Property 2, and that the Appraisal establishes the values of Property 1 and Property 2.

3.1.4 Street Vacation. The Developer submitted a petition on November 17th, 2022, to the City requesting the vacation of the portion of 64th Ave SW right-of-way that must be vacated to accomplish the Project (which is Property 1), in accordance with Chapter 12.16 LMC and Chapter 35.79 RCW. The City shall process the petition for right-of-way vacation in good faith, and in accordance with the provisions of Chapter 12.16 LMC, except as otherwise stated in this Section. Such process requires a public hearing. The Developer shall pay all costs incurred by the City in connection with processing the petition for right-of-way vacation, including but not limited to notice publication and mailing costs, per City code.

3.1.5 Compensation for Vacated Property 1. Pursuant to Chapter 35.79 RCW and LMC 12.16.110, the Developer is required to pay the City an amount equal to half the appraised value of Property 1, prior to any ordinance approving the vacation of Property 1 becoming effective. Half the appraised value of Property 1 shall be as determined in the Appraisal Report required under Section 3.1.2 above. Pursuant to LMC 12.16.110B, the Developer shall convey Property 2 to the City in lieu of a portion of the monetary compensation due to the City, and one-half of the appraised value of Property 2, as determined in the Appraisal Report required under Section 3.1.2 above, shall be credited against the amount otherwise due to the City for the vacation of the

1 Property 1 in accordance with LMC 12.16.110B. The remainder of the compensation
2 due to the City, if any, shall be paid in cash.

3 **3.1.6 Utility Easements.** The Developer agrees that as a condition of approval of the
4 petition for the vacation of Property 1, the Developer shall dedicate utility easements
5 for any utilities that will remain within the area of Property 1.

6 **3.1.7 Transfer of Property 1 and Property 2.** If the City Council, in its sole discretion,
7 approves the petition and passes an ordinance vacating Property 1, then in accordance
8 with Chapter 12.16 LMC and Chapter 35.79 RCW and any conditions of approval of
9 the petition, the Parties shall execute and record, at the Developer’s cost, any and all
10 deeds, easements or other documents necessary to accomplish the transfer of Property
11 1 to the Developer and Property 2 to the City.

12 **3.2 Payment of Costs of and Compensation for Property Exchange.**

13 **3.2.1** By no later than the date on which the City Council considers the initial resolution
14 setting a date for a hearing on the right-of-way vacation petition, the Developer shall
15 pay the costs associated with the street vacation under Section 3.1.4, the cost to prepare
16 and complete the Survey under Section 3.1.1, and the cost to prepare the appraisal(s)
17 under Section 3.1.2.

18 **3.2.2** By no later than the effective date of the ordinance vacating Property 1, the Developer
19 shall pay to the City the monetary compensation amount required under Section 3.1.5
20 to the City and provide the City with all executed documents required under Section 3
21 to transfer Property 2 and any required utility easements to the City.

22

23 **SECTION 4 IMPROVEMENTS AND EASEMENTS**

24 **4.1 Improvements.** In fulfillment of the Project and as mitigation for the vacated portion of
25 64th Ave W, the Developer shall make the following improvements in accordance with permit
26 requirements and consistent with requirements of the City code, policies, or standards:

27 4.1.1 Demolish existing satellite showroom and construct a new showroom per approved
28 plans.

29 4.1.2 Demolish existing roadway in the vacated portion of 64th Ave W (Property 1) and
30 construct a new auto sales area integrating the vacated area with existing sales area.

31 4.1.3 Construct required improvements to the revised intersection and frontage of 64th Ave
32 West and 200th St SW.

33 4.1.4 Construct a new dedicated right turn lane and required frontage improvements at the
34 intersection of 200th St SW and State Hwy 99.

35 4.1.5 Construct new dealership signage per the requirements of the City code.

36 4.1.6 Construct and install new landscaping per the requirements of the City code and the
37 PDR approval

38 **4.2 Easements.** The Developer shall dedicate to the City or other utility provider easements
39 with a sufficient width for public utilities that will remain within Property 1, in a form
40 approved by the City.

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SECTION 5 FEES

5.1 Fees. All City fees, including all impact fees due under the City code, shall be paid by the Developer in accordance with the City’s adopted Fee Schedule in place at the time of permit applications for the Project, or as otherwise due under the City code.

SECTION 6 PERMIT PROCESS

6.1 Responsible Official. The Project review and permit approval shall be undertaken pursuant to the City’s rules, regulations, and the City code. This process shall be administrative, and the Development & Business Services Director shall be responsible for the determination of compliance with this Agreement. Changes that may be proposed by the Developer that comprise less than 20% of the total square footage of any use category or building area may be reviewed and approved by the Development & Business Services Director. Changes that exceed these thresholds shall require an amendment to this Agreement.

6.2 Expedited Review. The City and the Developer agree to work together to expedite the application, review, resubmittal, fees, and issuance of all permits required for the project. Permits primarily include, but not limited to, the following:

- Land use and Entitlements
- Civil Construction
- Building

SECTION 9 VESTED RIGHTS

7.1 General Vesting. The Project shall be vested to City of Lynnwood local land use control ordinances, regulations and resolutions existing on the effective date of this Agreement (“Vested Laws”), including, but not limited to, the City’s Comprehensive Plan, Zoning Use Tables, and Development Regulations; provided, that Vested Laws do not include any regulation that is not considered a land use control under state law, including but not limited to taxes, impact fees, other development, administrative and regulatory fees, or storm water control regulations.

7.2 Amendments. During the vested period, if any of the Vested Laws are amended, modified, or changed, the Developer, at their sole discretion, may elect to have a permit or approval for the Project considered under all such Vested Laws, as amended, in effect on the date of application for the permit or approval.

7.3 City Reservation of Rights. Notwithstanding the foregoing, the City reserves the authority under RCW 36.70B.170(4) to impose new or different regulations, to the extent required by the federal or state governments, or by a serious threat to public health and safety.

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SECTION 8 PROJECT SCHEDULE

8.1 Schedule. The Project Schedule is incorporated into this Agreement as **Exhibit “D”**. This schedule provides for the anticipated actions and improvements associated with this Agreement. The schedule may be revised administratively at the mutual written consent of the representatives of the Parties to this Agreement, and such consent shall not be unreasonably withheld.

SECTION 9 PARTIES REPRESENTATIVES

9.1 Designation of City’s Representative. The City’s Representative shall be David Kleitsch, or successor as designated by the City in writing.

9.2 Designation of Developer’s Representative. The Developer’s Representative shall be Luk Blackwell, or successor as designated by the Developer in writing.

SECTION 10 COMPLIANCE WITH LAWS AND ORDINANCES

10.1 Throughout the term, and subject to the provisions, of this Agreement, the Developer at its sole cost and expense, shall promptly comply with all applicable laws and ordinances, as they relate to the Site and the Project, including but not limited to, the City’s Comprehensive Plan, Zoning Use Code, Development Regulations, Lynnwood City Wide Design Guidelines, and other provisions of the LMC applicable to the Project. To the extent that their compliance shall require the cooperation and participation of the City, the City agrees to use its best efforts to cooperate and participate. The City may take all actions to achieve the Developer’s compliance pursuant to the LMC and any and all applicable regulations.

SECTION 11 TERM AND TERMINATION

11.1 Term of Agreement. This Agreement shall commence upon the Effective Date of this Agreement and shall continue in force for a period of five (5) years, unless terminated earlier as provided in this Agreement.

11.2 Termination of Agreement. This Agreement shall expire or terminate as follows:

11.2.1 This Agreement shall expire and be of no further force or effect (1) if the Developer does not construct the Project as by the permits and approvals identified in Section 1 of this Agreement, or (2) if the Project described in this Agreement and all of work authorized by the permits and/or approvals issued by the City for the Project are not underway before the expiration of such permits or approvals or any extension thereof.

11.2.2 This Agreement shall terminate upon the expiration of the term identified in Section 11.1.1, or when the Project has been fully constructed, whichever first occurs, and all the Developer’s obligations under this Agreement have been satisfied, as determined

1 by the City. Upon termination of this Agreement, the City shall record a Notice of
2 such termination in a form approved by the City, that the Agreement has terminated.

3 **11.2.3** Upon expiration or termination, any further development of the Property shall conform
4 to the City development regulations applicable to the Property at the time of new permit
5 application.
6

7 **SECTION 12 DEFAULT**

8 **12.1 Events of Default.** The following shall constitute events of default under this Agreement
9 (“Events of Default”):

10 **12.1.1** A default by a Party in keeping, observing or timely performing any of its duties and/or
11 obligations under this Agreement; or

12 **12.1.2** The appointment of a receiver or trustee of the Site, which appointment shall not be
13 vacated or stayed within twelve (12) months; or

14 **12.1.3** The filing of a petition in bankruptcy by or against the Developer or for its
15 reorganization under any bankruptcy or insolvency law which shall not be dismissed
16 or stayed by the court within twelve (12) months after such filing.

17 **12.2 Remedies in the Event of Default.** If an Event of Default shall occur, or in the event of a
18 dispute, claim or controversy arising out of, or relating to this Agreement, then the Party
19 alleging the Event of Default shall give the other party not less than thirty (30) days’ notice
20 in writing, specifying the nature of the Event of Default and the manner in which the Event
21 of Default may be cured. After notice and the expiration of the thirty-day period, if the
22 Event of Default has not been cured or if the cure is not being diligently pursued, the party
23 alleging the Event of Default may, at its option, institute legal or equitable proceedings to
24 enforce this Agreement or to seek damages, and shall have all rights, remedies and causes
25 of action, at law or in equity, available under the laws of the State of Washington.
26

27 **SECTION 13. MISCELLANEOUS**

28 **13.1 Covenant Running with the Land/Recording.** This Agreement and each of its provisions
29 shall be a covenant running with the Property and shall be binding on and inure to the
30 benefit of the parties. This Agreement shall be recorded by the Developer with the
31 recording office of Snohomish County at the cost and expense of Developer. The exhibits
32 attached to this Agreement shall be maintained by the City in Planning File
33 _____.

34 **13.2 Assignment.** Except as provided in this Agreement, Developer shall not assign, transfer,
35 or encumber any rights, duties or interest accruing from this Agreement without the prior
36 written consent of City, which such consent shall not be unreasonably withheld.

37 **13.3 Indemnity.** The Developer agrees to defend, hold harmless, and indemnify the City, and
38 its officers, officials, employees, agents, and consultants from and against any claims,
39 demands, penalties, fees, liens, damages, losses, expenses, including reasonable attorneys’

1 fees and costs of any nature whatsoever, incurred by the City which result from or arise
2 out of any breach of or failure to comply with, or any negligent act or omission in
3 performing, the duties or obligations set forth in this Agreement by the Developer, except
4 to the extent the claims, demands, penalties, fees, liens, damages, losses, or expenses are
5 caused by the City. This indemnity provision shall survive expiration of this Agreement.

6 The City agrees to defend, hold harmless, and indemnify the Developer, and its officers,
7 officials, employees, agents, and consultants from and against any claims, demands,
8 penalties, fees, liens, damages, losses, expenses, including reasonable attorneys' fees and
9 costs of any nature whatsoever, incurred by the Developer which result from or arise out
10 of any breach of or failure to comply with, or any negligent act or omission in performing,
11 the duties or obligations set forth in this Agreement by the City, except to the extent the
12 claims, demands, penalties, fees, liens, damages, losses, or expenses are caused by the
13 Developer. This indemnity provision shall survive expiration of this Agreement.

14 **13.4 Written Notice.** Except as otherwise provided herein, any and all notices provided under
15 this Agreement must be in writing and shall be deemed given when delivered in person, or
16 when deposited with Federal Express or other similar overnight service, return receipt
17 requested, or when deposited in the United States mail, postage prepaid for certified mail,
18 return receipt requested, or upon actual receipt of an email or other similar transmission
19 (provided that the recipient of the emailed notice acknowledges receipt of the notice),
20 properly addressed to City and the Developer as follows:

	CITY:	AND TO:
	City of Lynnwood	Lynnwood City Attorney
	Development & Business Services Director	
26	By Mail: 20816 44 th Ave. W, Suite 230	P.O. Box C-90016
27	Lynnwood, WA 98046-5008	Bellevue, WA 980009-9016
29	In Person: 20816 44 th Ave. W, Suite 230	10900 4th Street, Suite 1500
30	Lynnwood, WA 98036	Bellevue, WA 98004

31
32 By Email:
33
34

35 **DEVELOPER:**
36 Harris Ford, Inc.
37 Attn: Luk Blackwell
38

39 By Mail: 20006 64th Ave W
40 Lynnwood, WA 98036
41
42 In Person: 20006 64th Ave W
43 Lynnwood, WA 98036

1 By Email:

2 Any party may designate a different address for receiving notices hereunder by giving at
3 least ten (10) days written notice thereof to the other parties.

4 **14.5 Time of Essence.** Time is expressly declared to be of the essence of this Agreement.

5 **14.6 Governing Law and Venue.** This Agreement shall be governed by and construed
6 according to the laws of the State of Washington. Venue of any suit arising out of or related
7 to this Agreement shall be in Snohomish County, Washington.

8 **14.7 Counterparts.** This Agreement may be executed in counterparts, all of which together
9 shall be deemed to be one original, even if the parties have not executed the same original.

10 **14.8 Effective Date.** This Agreement shall be effective on the date first written above.

11 **14.9 Attorneys' Fees.** The prevailing party in any lawsuit or proceeding between the parties
12 arising out of this Agreement shall be entitled to receive from the non-prevailing party all
13 reasonable costs and expenses of every type, including, but not limited to, mediation fees
14 and actual attorneys' fees incurred, whether incurred in arbitration, trial, appeal or any
15 bankruptcy or receivership proceeding.

16 **14.10 Conflicts and Severability.** To the extent that any provision of this Agreement conflicts
17 with any applicable ordinance, law, or regulation, (1) the provisions of the ordinance, law
18 or regulation shall control; and (2) such conflict shall not affect other terms of this
19 Agreement which can be given effect without the conflicting term or clause, and to this
20 end, the terms of the Agreement are declared to be severable.

21 **14.11 Amendments.** No amendment to or modification of this Agreement shall be made unless
22 mutually agreed upon by the parties in writing.

23 [SIGNATURE PAGE FOLLOWS]

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CITY:
CITY OF LYNNWOOD
A Washington Municipal Corporation

By: _____
Christine Frizzell, Mayor

Approved as to form:

By: _____
Lisa Marshall, City Attorney

DEVELOPER:

HARRIS LINCOLN FORD, a Washington corporation

By: _____
Name: Luk Blackwell
Its: General Manager

[ACKNOWLEDGEMENT PAGES FOLLOW]

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STATE OF WASHINGTON)

COUNTY OF _____)

On this day, personally appeared before me _____, the Mayor of the City of Lynnwood, Washington and stated that she is authorized to sign this instrument on behalf of said company for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2022.

NOTARY

Print Name

My Commission expires: _____

STATE OF WASHINGTON)

COUNTY OF _____)

On this day, personally appeared before me Luk Blackwell, the General Manager of Harris Ford Lincoln, Inc., a Washington corporation and stated that he is authorized to sign this instrument on behalf of said company for the uses and purposes therein mentioned.

SUBSCRIBED AND SORN TO before me this _____ day of _____, 2022.

NOTARY

Print Name

My Commission expires: _____

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EXHIBIT A
[Site Description and Vicinity Map]

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EXHIBIT B
[Site Plan and Renderings]

EXHIBIT C

[Descriptions of Property 1 and Property 2]

[Survey and legal if available at time of approval]

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EXHIBIT D

[Schedule]

Subject to City Council approval, the City will work to transfer the vacated section of 64th Ave W upon ready for issuance of land use, civil construction, and building permits for the project, dedication of Harris Ford property along 200th St SW and issuance of civil construction permit for the required improvements along 200th St SW by July 1.

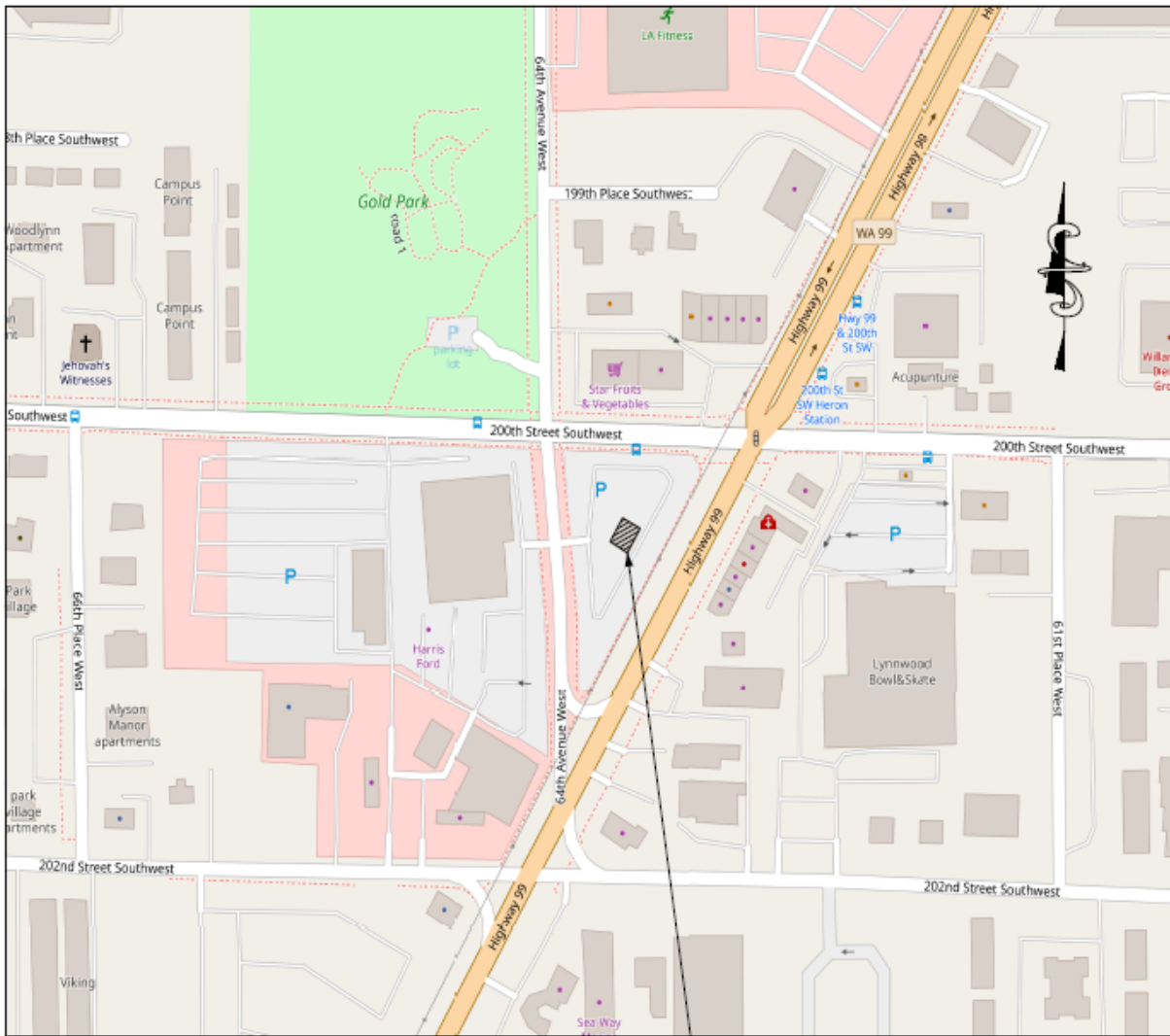
Harry Ford and the City agree to work in close, regular communication to coordinate their respective actions needed to achieve the schedule of activities detailed in the following schedule.

RIGHT OF WAY VACATION EVENTS:

- March 7, 2022, Council Work Session: Staff presentation on right-of-way (ROW) vacation
- April 25, 2022, Council Business Meeting: Council considers resolution setting hearing date for right-of-way vacation
- May 16, 2022, Council Work Session: Staff presentation on right-of-way vacation, if Council passed resolution setting hearing date
- May 23, 2022, Council Business Meeting: Public Hearing on ROW vacation ordinance, if Council passed resolution setting hearing date
- June 13, 2022, Council Business Meeting: Council considers ordinance vacating ROW.

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EXHIBIT A [Site Description and Vicinity Map]

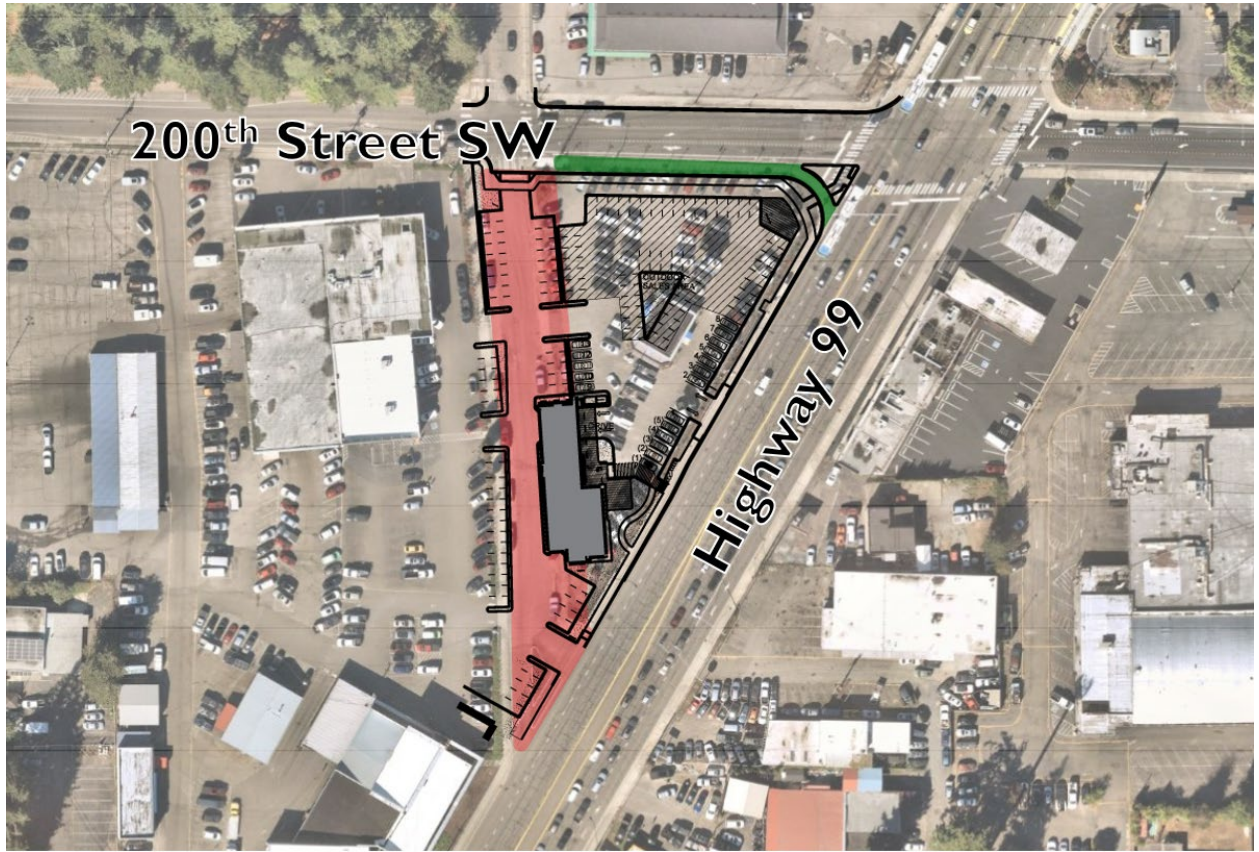


HARRIS LINCOLN
SALES

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EXHIBIT B
[Site Plan and Renderings]



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EXHIBIT C

[Legal Descriptions and Depictions of Property 1 and Property 2]

Ex. C - Exhibit "A" Right of Way Vacation Legal Descriptions

Ex. C - Exhibit "B" Right of Way Vacation Depiction

Ex. C - Exhibit "C" Right of Way Dedication Legal Descriptions

Ex. C - Exhibit "D" Right of Way Dedication Depiction

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Exhibit "A"

Harris Ford Properties, LLC

Legal Description

Right of Way Vacation

That portion of 64th Avenue west, City of Lynnwood, County of Snohomish, lying North of State Road 99 and South of the following described line:

BEGINNING at the centerline intersection of State Road 99 and 200th Street Southwest.

Thence N 87°21'50" W along the centerline of 200th Street Southwest a distance of 381.95 feet;

Thence S 03°38'49" E departing said centerline, a distance of 30.18 feet to the intersection of the Southerly right of way of 200th Street Southwest and the Westerly right of way of 64th Avenue West;

Thence continuing S 3°38' 49" E along said Westerly right of way, a distance of 16.60 feet to the TRUE POINT OF BEGINNING;

Thence S 87°21'50" E departing said right of way, a distance of 60.36 feet to a point on the Westerly line of that portion of 64th Avenue West vacated by City of Lynnwood Ordinance No. 223, said point being and S 3°38'49" E 16.62 feet from the Northwest corner of said vacated portion and the terminus of this line.

The described vacation area contains 25,383 square feet or 0.583 acres more or less

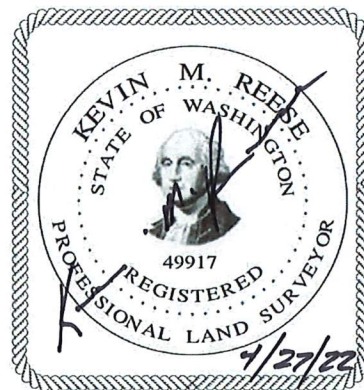
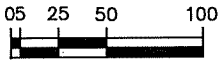
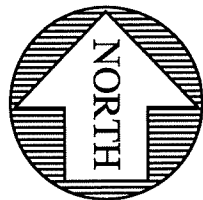
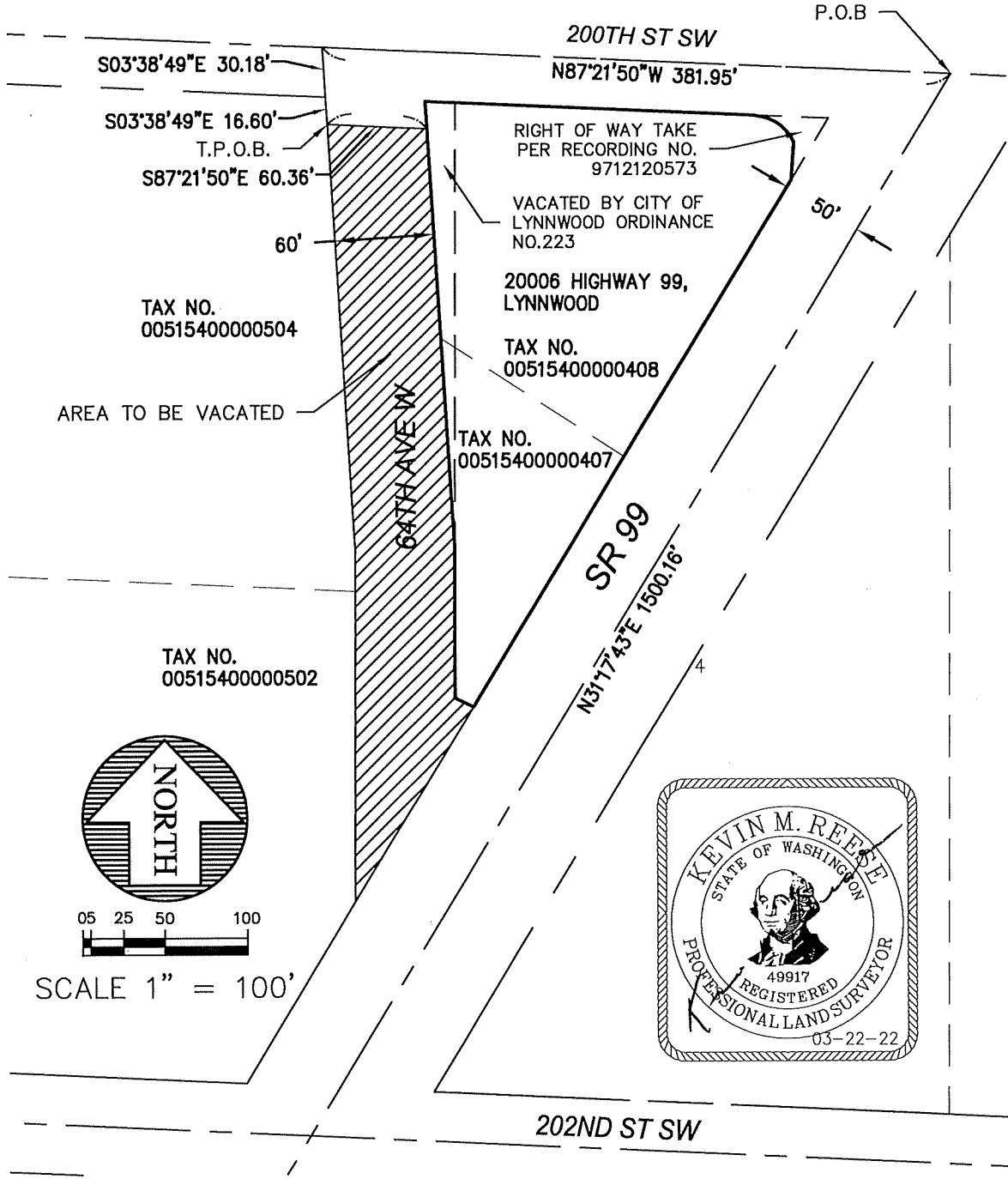


EXHIBIT "B"



SCALE 1" = 100'



Encompass
ENGINEERING & SURVEYING

Western Washington Division
165 NE Juniper Street, Suite 201 • Issaquah, WA 98027 • Phone: (425) 392-0250 • Fax: (425) 391-3055
Eastern Washington Division
407 Swiftwater Blvd. • Cle Elum, WA 98922 • Phone: (509) 674-7433 • Fax: (509) 674-7419

HARRIS FORD
RIGHT OF WAY VACATION

SNOHOMISH COUNTY WASHINGTON

JOB NO. 21666	01 OF 01
DATE: 03/22/22	
SCALE: 1"=100'	



Exhibit "C"

Harris Ford Properties, LLC

Legal Description

Right of Way Dedication

A right of way dedication over and across the following described parcel;

All that portion of Tract 4 of Midway Five Acre Tracts, according to the plat recorded in volume 8 of plats, page 44, in Snohomish County, Washington, lying Northwesterly of the Northwesterly right of way line of Primary State Highway No.1;

Together with that portion of vacated 64th Avenue West Adjoining or abutting thereon, which upon vacation, attached to said premises by operation of law, vacated by City of Lynnwood ordinance No. 223, recorded under recording Nos. 171750 and 1870014;
Except from all of the above those portions thereof conveyed to the City of Lynnwood for road purposes by deed recorded under recording No. 97121220573.

Said right of way dedication described as follows:

That portion of the above describe parcel lying Northerly and Northeasterly of the following described line:

BEGINNING at the centerline intersection of Primary State High No.1 (SR 99) and 200th Street Southwest.

Thence N 87°21'50" W along the centerline of 200th Street Southwest a distance of 321.59 feet;

Thence S 03°38'49" E departing said centerline, a distance of 30.16 feet to the Northwest corner of said parcel;

Thence continuing S 03°38'49" E along the Westerly line of said parcel, a distance of 16.62 feet to the TRUE POINT OF BEGINNING;

Thence S 87°21'50" E departing said Westerly line, a distance of 182.93 feet to a point on a non-tangent curve, the center of which bears S 37°22'54" W;

Thence Southeasterly along an arc of curve to the right, said curve having a radius of 59.00 feet, through a central angle of 53°59'30, a distance of 55.60 feet to the Easterly line of said parcel, also being the Northwesterly margin of Primary State High No.1, (SR 99) and the terminus of this described line.

The described area contains 4,433 square feet or 0.102 acres, more or less.

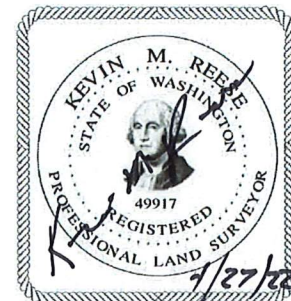
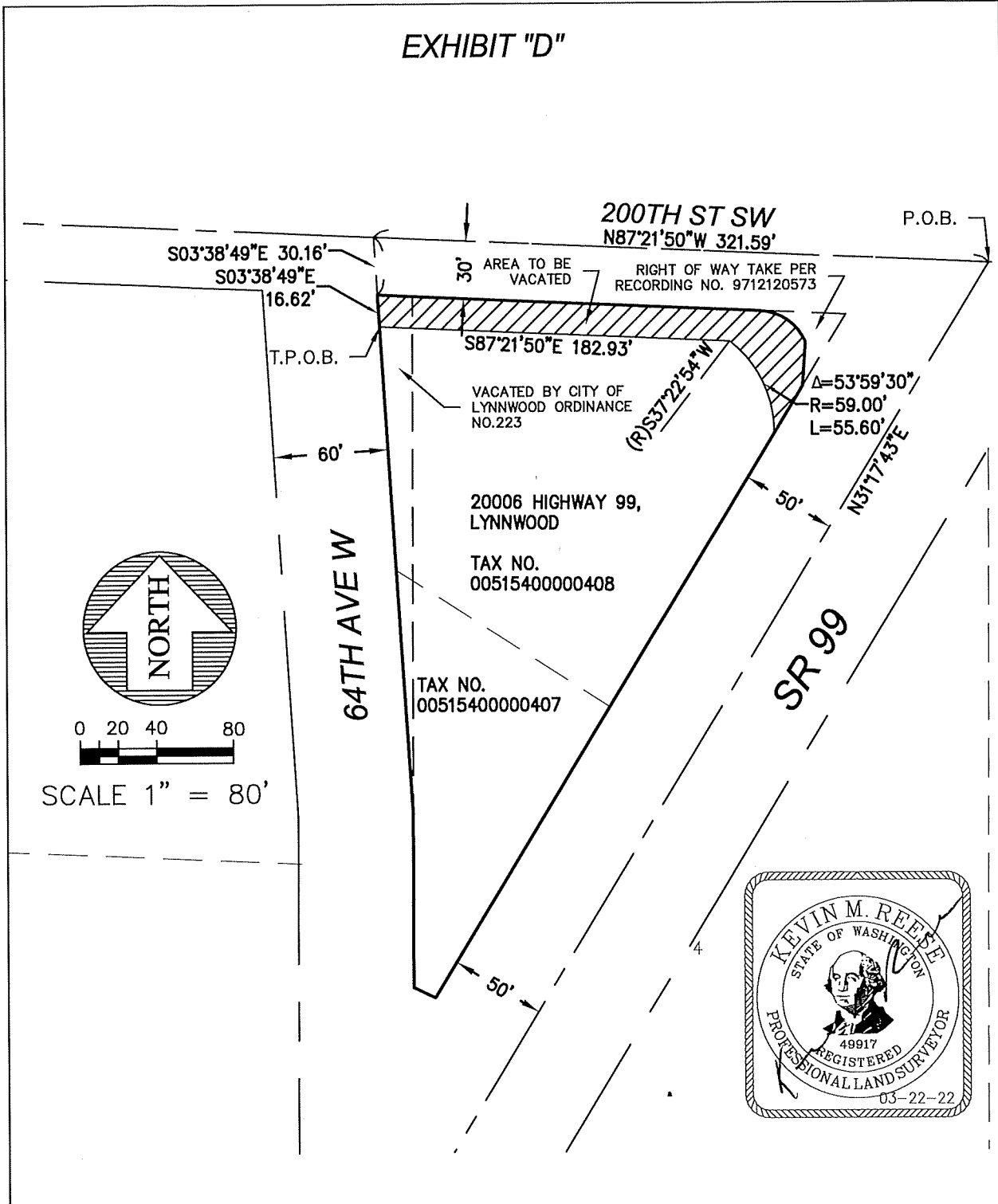


EXHIBIT "D"



Encompass
ENGINEERING & SURVEYING

Western Washington Division
165 NE Juniper Street, Suite 201 • Issaquah, WA 98027 • Phone: (425) 392-0250 • Fax: (425) 391-3055
Eastern Washington Division
407 Swiftwater Blvd. • Cle Elum, WA 98922 • Phone: (509) 674-7433 • Fax: (509) 674-7419

HARRIS FORD PROPERTIES, LLC
RIGHT OF WAY DEDICATION
SNOHOMISH COUNTY WASHINGTON

JOB NO. 21666	01 OF 01
DATE: 03/22/22	
SCALE: 1"=80'	

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EXHIBIT D

[Schedule]

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