

RESOLUTION NO. 09-641

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON APPROVING THE TRANSMITTAL NOTICE OF INTENTION TO THE KING COUNTY BOUNDARY REVIEW BOARD FOR THE PROPOSED EAST AREA ANNEXATION IN ACCORDANCE WITH ITS PROCEDURES AS TO THE AREA DESCRIBED IN THE PETITIONS TO ANNEX FILED WITH THE CITY, BY OWNERS OF NOT LESS THAN SIXTY PERCENT IN ASSESSED VALUE OF THE PROPERTY FOR WHICH ANNEXATION IS SOUGHT

WHEREAS, there have been filed with the City of Black Diamond, petitions to annex the East Annexation Area pursuant to RCW 35A.14.120, as to the areas described in said petitions. Said areas taken together are contiguous with the existing Black Diamond city limits, and lie entirely within the designated Urban Growth Area for the City of Black Diamond; and

WHEREAS, said petitions have been found to contain, as required by law, the signature of owners representing not less than sixty percent in value of the property for which annexation is sought according to the assessed valuation for general taxation of this area; and


WHEREAS, in accordance with the procedures of the King County Boundary Review Board, the Black Diamond City Council on September 24, 2009, did in open meeting, consider transmitting the Notice of Intention to annex the East Annexation Area;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND DOES RESOLVE AS FOLLOWS:

Section 1. The City Council of the City of Black Diamond approves transmitting a certified copy of this resolution, together with a copy of the minutes, which shall be filed with the King County Boundary Review Board in accordance with its procedures. The area considered for annexation is that portion of unincorporated King County, contiguous to the existing boundary line of the City of Black Diamond as described in Exhibit A to this resolution which Exhibit A by this reference is incorporated herein as though fully set forth.

RESOLVED this 24th day of September, 2009

CITY OF BLACK DIAMOND:



Mayor Howard Botts

ATTESTED BY:

Rachel Pitzel for
Brenda L. Martinez, City Clerk

DATE OF PASSAGE BY THE CITY COUNCIL: 9/24/09

DATE OF FILING WITH THE CITY CLERK: 9/24/09



DIRECT PETITION FOR ANNEXATION

TO: The City Council of the City of Black Diamond
P.O. Box 599
Black Diamond, WA 98010

The undersigned, who are the owners of not less than 60 percent (60 %) in value of the property herein referred to as the East Annexation (described on attached "Exhibit A" – legal description and is depicted on attached "Exhibit B" – vicinity map), according to the assessed valuation for general taxation of the property for which annexation is sought, do hereby petition the City Council of Black Diamond for annexation of said described area to the City of Black Diamond, Washington.

Resolution 09-629 passed by the City of Black Diamond on August 20, 2009, approved the proposed annexation boundaries; required the adoption of City Zoning regulations for the annexation area upon annexation; required that all property within the annexation area be taxed and assessed at the same rate and on the same bases as other property in the City; and authorized circulation of the annexation petition.

This page is one of a group of pages containing identical text material and is intended by the signers of this petition to be presented and considered as one petition and may be filed with other pages containing additional signatures which cumulatively may be considered as a single petition. Valuation of parcels is contained in attached Exhibit "C".

OWNER'S SIGNATURE	PRINTED NAME	ADDRESS & TAX PARCEL #	DATE SIGNED
	BD LAWSON PARTNERS LP	825 FIFTH AVENUE #202 KIRKLAND, WA 98033	8-31-09
		1321069014 1321069057	
	DIAMOND STAR DEVELOPMENT, LLC	PO BOX 43, BLACK DIAMOND, WA. 98010 1321069062	
	FRANKLIN DEVELOPMENT, LLC	PO BOX 164, BLACK DIAMOND, WA. 98010 1321069013	
	PALMER COKING COAL CO.	PO BOX 10, BLACK DIAMOND, WA 98010 1321069003	

WARNING

Every person who signs this petition with any other than his/her true name, or sign a petition when he/she is otherwise not qualified to sign, or who makes herein any false statement, may be guilty of a misdemeanor.



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	BD LAWSON PARTNERS LP	825 FIFTH AVENUE #202 KIRKLAND, WA 98033 1321069014 1321069057	
<i>Walt J. Hall Agent</i>	DIAMOND STAR DEVELOPMENT, LLC	PO BOX 43, BLACK DIAMOND, WA. 98010 1321069062	9-1-09
<i>Walt J. Hall Manager</i>	FRANKLIN DEVELOPMENT, LLC	PO BOX 164, BLACK DIAMOND, WA. 98010 1321069013	9-1-09
<i>Walt J. Hall Manager</i>	PALMER COKING COAL CO.	PO BOX 10, BLACK DIAMOND, WA 98010 1321069003	9-1-09

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**EAST ANNEXATION PETITION
EXHIBIT "C"**

CITY OF BLACK DIAMOND ANNEXATION PETITION

Please Print Your Name* (or the name of the Business if you are signing for a Corporation) and sign your name below	Today's Date	Phone Number	Address and Tax Parcel #	Assessed Valuation (KC Assessor 08/25/2009)
BD LAWSON PARTNERS. LP SEE PAGE 1			PTN NW ¼ & NE ¼ OF SE ¼ OF S13 T21 R06	\$2,732
			1321069057	
BD LAWSON PARTNERS. LP SEE PAGE 1			PTN SW ¼ OF NE ¼ OF S13 T21 R06	\$0
			1321069014	
DIAMOND STAR DEVELOPMENT, LLC SEE PAGE 1			N1/2 OF NE ¼ OF SE ¼ S13 T 21 R06	\$2,700
			1321069062	
PALMER COKING COAL, CO SEE PAGE 1			S1/2 OF SW1/4 OF NE1/4 S 13 T21 R06	\$2,732
			1321069003	
FRANKLIN DEVELOPMENT, LLC SEE PAGE 1			S1/2 of NE 1/4 of SE ¼ S 13 T 21 R06	\$2,700
			1321069013	

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*NOTES TO SIGNORS:

IF YOU OWN MORE THAN ONE TAX PARCEL within the annexation area, your signature on this petition will constitute your commitment for all property owned by you within the South Annexation area.

IF YOU ARE SIGNING FOR A PROPERTY OWNED BY A CORPORATION: State law requires that corporations attach a certified copy or excerpt from your corporation's by-laws (or other appropriate document) that shows you have the authority to sign this petition on behalf of the corporation. Typically, anyone authorized to execute deeds or encumbrances is similarly authorized to execute an annexation petition under this law. We apologize for this additional inconvenience and appreciate your support.



IN WITNESS OF THEIR AGREEMENT, the parties have executed this **PLANNING** Agreement of Limited Partnership as of the year and day first above written. **DEPT.**

<p><u>GENERAL PARTNER:</u></p> <p>YARROW BAY DEVELOPMENT LLC, a Washington limited liability company</p> <p>By: BRNW, Inc., Its Member</p> <p>By: <u>BDR</u> Brian Ross, President</p> <p>825 Fifth Avenue, Suite 200 Kirkland, WA 98033</p>	
<p><u>LIMITED PARTNERS:</u></p> <p>BLACK DIAMOND PROPERTIES, LP, a Washington limited partnership</p> <p>By: YARROW BAY DEVELOPMENT LLC</p> <p>By: BRNW, Inc., Its Member</p> <p>By: <u>BDR</u> Brian Ross, President</p> <p>825 Fifth Avenue, Suite 200 Kirkland, WA 98033</p>	<p>KAREC California Development Program LLC</p> <p>By: Kennedy Associates Real Estate Counsel, LP, its Manager</p> <p>By: Kennedy Associates Real Estate Counsel GP, LLC, its General Partner</p> <p>By: <u>[Signature]</u></p> <p>Its: _____</p> <p>1215 Fourth Avenue 2400 Financial Center Seattle, WA 98161 Attn: Gordon J. Ahalt</p> <p><u>With a copy to:</u> McDonough, Holland & Allen 555 Capitol Mall, 9th Floor Sacramento, CA 95815 Attn: David L. Krotine</p>



Section 5.06 Right to Rely On the General Partner.

(a) Any person dealing with the Partnership may rely upon a certificate signed by YBD as to:

- (1) The identity of the General Partner or any Limited Partner;
- (2) The existence or nonexistence of any fact or facts regarding the affairs of the Partnership; or
- (3) The fact that the General Partner is or has been authorized to execute and deliver any instrument or document on behalf of the Partnership.

(b) The signature of the General Partner shall be necessary and sufficient to convey title to any property of the Partnership or to execute any promissory notes, deeds of trust, mortgages, or other instruments of hypothecation, and all of the Partners agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of the General Partner shall be sufficient to execute any "statement of partnership" or other documents necessary to effectuate this or any other provision of this Agreement.

Section 5.07 Contracts with Third Parties. The General Partner, on behalf of the Partnership, may employ or contract with any person, including any Affiliate of any Partner (but subject to any approval rights in favor of the Limited Partners), to assist the Partnership and/or the General Partner to carry out the business of the Partnership. Under supervision of the General Partner, the person employed or contracted with may perform any acts or services for the Partnership that the General Partner approves that is consistent with the Business Plan. The general contractor retained by the Partnership in connection with the construction of improvements on the Lands, if any, and all subcontractors of every tier shall (a) be a signatory to or bound by a collective bargaining agreement applicable to the geographic area in which the Lands are located, applicable to the trade or trades in which the work is to be performed, and entered into with one or more labor organizations affiliated with the Building and Construction Trades Department of the AFL-CIO and (b) solely employ members of such labor organizations to perform work within their respective traditional jurisdictions. With the specific, prior written approval of KCDP, which may be withheld in KCDP's sole discretion, the following substitutions may be made in the preceding sentence: (1) a project labor agreement in place of a collective bargaining agreement and (2) an independent, nationally recognized labor organization in place of a labor organization affiliated with the Building and Construction Trades Department of the AFL-CIO. The provisions set forth in this Section are sometimes individually and collectively referred to as the "Union Requirement" and were a material inducement in causing KCDP to execute this Agreement. Moreover, the General Partner shall also comply with CalPERS' Statement of Investment Policy for Responsible Contractor Program, attached hereto as Exhibit D and as amended from time to time and any reporting requirements imposed therein.



AUTHORIZATION OF MANAGING PARTNERS OF PALMER COKING COAL COMPANY

The undersigned are the Managing Partners of PALMER COKING COAL COMPANY, a Washington general partnership ("Company"), and have the sole authority to execute this authorization and to consent to the matters authorized hereby.

The Company is one of the Sellers under that certain Real Estate Purchase and Sale Agreement dated March 5, 2005 between Seller and Black Diamond Properties, L.P., as may be amended and assigned from time to time ("Purchase Agreement") for the property described in the Purchase Agreement ("Property"). Pursuant to the Purchase Agreement the Property is being sold in phases.

The Company hereby consents to and authorizes the following:

The Company hereby authorizes William Kombol ("Kombol"), its Operating Manager, to execute and deliver on its behalf and to thereby bind it to any and all documents related to the Purchase Agreement and the transactions contemplated thereunder, including without limitation:

- (1) all amendments to the Purchase Agreement; and
- (2) all documents, including but not limited to deeds, easements, and all other instruments to be recorded in connection with all closings and any other transaction contemplated by the Purchase Agreement,

and to take such other further actions as Kombol deems to be appropriate and in the interests of the Company for the sale of the Property.

PALMER COKING COAL COMPANY

By: *William Kombol*
William Kombol, Operating Manager

Date: July 24, 2006

By: *Roberta Falk*
Roberta Falk, its Managing Partner

Date: July 24, 2006

By: *John H. Morris*
John H. Morris, its Managing Partner

Date: July 24th, 2006

By: *Terry L. Morris*
Terry L. Morris, its Managing Partner

Date: July 24, 2006

By: *David J. Morris*
David J. Morris, its Managing Partner

Date: July 26, 2006

By: *Pauline L. Kombol*
Pauline L. Kombol, its Managing Partner

Date: July 24, 2006

EXHIBIT A

LAWSON HILLS
EAST ANNEXATION AREA LEGAL DESCRIPTION:

TRIAD JOB # 04-058
NOVEMBER 7, 2008

THAT PORTION OF THE EAST HALF OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION;

TOGETHER WITH THAT PORTION OF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF, THENCE NORTH 00°17'23" EAST, ALONG THE WEST LINE OF SAID SOUTH HALF, 493.15 FEET,
THENCE SOUTH 35°28'21" EAST 817.31 FEET TO THE SOUTH LINE OF SAID SOUTH HALF,
THENCE NORTH 88°24'03" WEST, ALONG THE SOUTH LINE OF SAID SOUTH HALF, 361.22 FEET TO THE POINT OF BEGINNING.



TOGETHER WITH THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER,
THENCE NORTH 01°08'43" EAST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, 1324.33 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER;
THENCE SOUTH 88°24'03" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, 69.04 FEET;
THENCE SOUTH 55°11'17" EAST 488.42 FEET;
THENCE SOUTH 01°50'22" WEST 240.07 FEET;
THENCE SOUTH 31°18'37" WEST 939.98 FEET TO THE POINT OF BEGINNING.

TOTAL AREA = 50.00 ACRES

WRITTEN: ARJ
CHECKED: CHS



S:\PROJECTS\04058\CORRESPONDENCE\PURCHASE LEGAL\04058 2008-11-07 EAST ANNEXATION AREA.doc

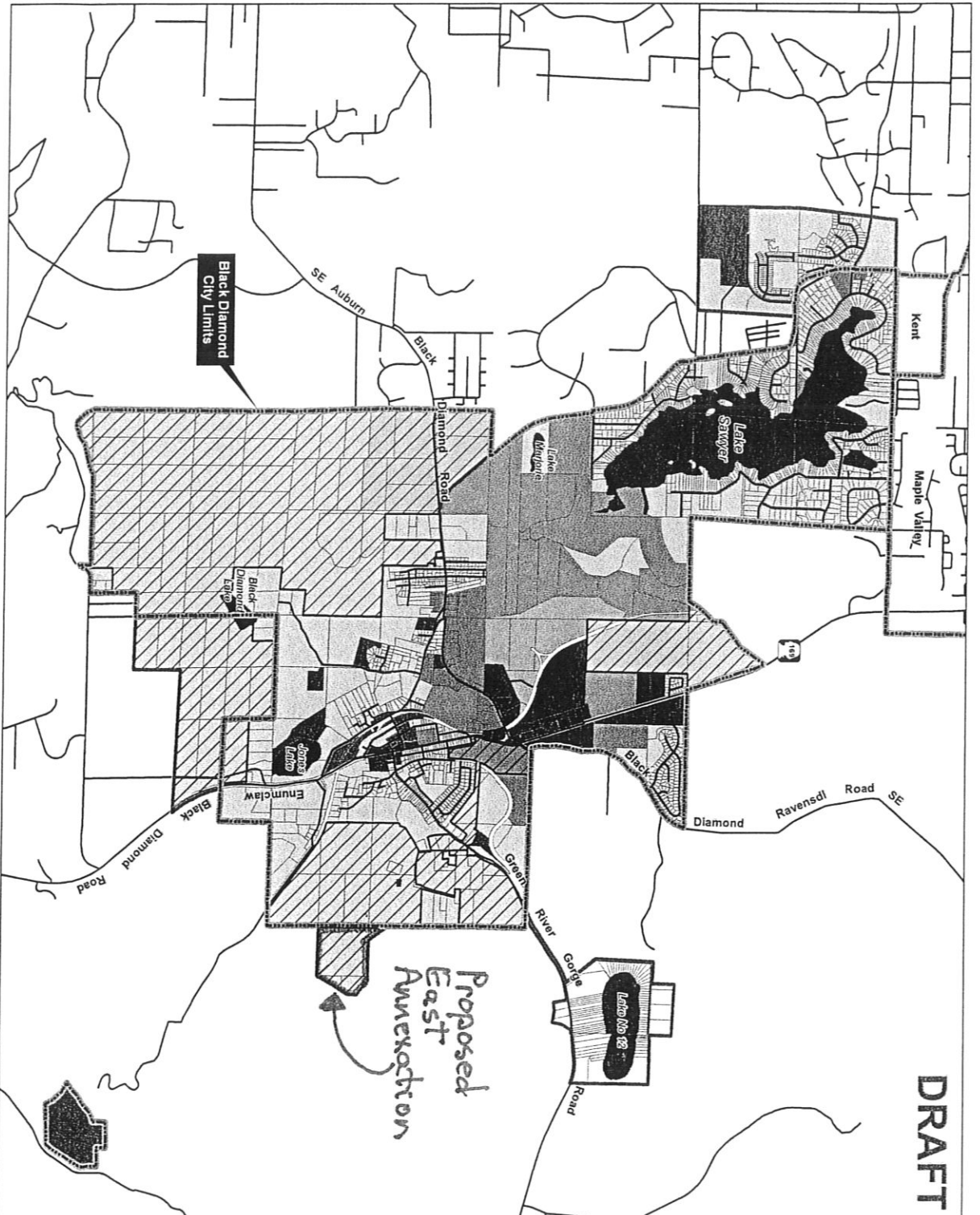
12112 115th Avenue NE Kirkland, Washington 98034-9623
425.821.8448 • 800.438.0756 • Fax 425.821.3481
www.triadassoc.com

Land Development Consultants

DRAFT

Figure 5-1

City of Black Diamond
Future Land Use Map

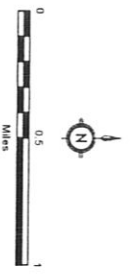


- City Limits
- Potential Annexation Area
- Road
- Master Planned Development Overlay
- Future Land Use**
- Urban Reserve
- Low Density Residential
- Medium Density Residential
- Mixed Use
- Business Park & Light Industrial
- Neighborhood Commercial
- Town Center
- Community Commercial
- Industrial
- School
- Park
- Public
- Water

NOTES:
Any parcel of 80 acres or more that develops is required to go through the Master Plan Development (MPD) process identified in BDMC 18.98.

Some residentially-designated properties with an MPD overlay have a basic density entitlement of either 1 or 2 dwelling units per acre, pursuant to either the Black Diamond Urban Growth Area Agreement or pre-annexation agreements. A maximum of 4 dwelling units per acre may be attained with the Transfer of Development Rights pursuant to City Code.

Sources: King County (2007), City of Black Diamond (2006)
Map Prepared: June 2009



ICF Jones & Stokes
an ICF International Company



King County

Department of Assessments
Accounting Division
500 Fourth Avenue, ADM-AS-0725
Seattle, WA 98104-2384

(206) 296-5145 FAX (206) 296-0106
Email: assessor.info@kingcounty.gov
<http://www.kingcountv.gov/assessor/>



Lynn Gering
Assessor

ANNEXATION PETITION CERTIFICATION

THIS IS TO CERTIFY that the petition submitted September 1, 2009 to the King County Department of Assessments by Steve Munson, City Planner for the City of Black Diamond supporting the annexation to Black Diamond of the properties described as the East Annexation, have been examined, the property taxpayers, tax parcel numbers, and assessed value of properties listed thereon carefully compared with the King County tax roll records, and as a result of such examination, found to be sufficient under the provisions of the Revised Code of Washington, Section 35A.01.040.

The Department of Assessments has not verified that the signature on the petition is valid through comparison with any record of actual signatures, nor that the signature was obtained or submitted in an appropriate time frame, and this document does not certify such to be the case.

Dated this 2nd day of September, 2009



Lynn Gering, King County Assessor



CITY OF BLACK DIAMOND

24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

Phone: (360) 886-2560
Fax: (360) 886-2592
www.ci.blackdiamond.wa.us

September 16, 2009

TO: Mayor, Councilmembers
FR: Steve Munson, City Planner

RE: PUBLIC HEARING ON PROPOSED EAST ANNEXATION

Black Diamond Lawson Partners has submitted to the Community Development Department a Notice of Intent letter and subsequent Annexation Petition seeking the annexation of +/- 50 acres (East Annexation Area) generally located along the east-central boundary of the City (see attached map). By RCW 35A.14.120 property owners may use the "Direct Petition Method" to seek annexation of lands to a city.

By Resolution No. 09-591 (Section 3.2) Black Diamond Lawson Partners and the City were required to negotiate a pre-annexation agreement before the City could authorize circulation of the Annexation Petition. Black Diamond Lawson Partners and city staff conducted a series of discussions on a draft of this required agreement and the City Council approved this Pre-Annexation and Development Agreement on August 20, 2009 by Resolution No. 09-627. At the same meeting Council approved pre-annexation zoning of R-4, Single Family Residential District for the areas contained within the proposed annexation area. In addition Council accepted the first petition of proposals to annex (Resolution No. 09-629).

On September 1, 2009 Black Diamond Lawson Partners submitted to the Community Development Department the required Annexation Petition for the East Annexation Area. This Petition was submitted by city staff to the King County Department of Assessments the same day and was certified as sufficient by the County Assessor on September 2, 2009 as required by RCW 35A.01.040 (4). At its meeting of September 3, 2009 Council set a public hearing date of September 24, 2009 for the East Annexation Area Petition to be considered at a Special Meeting. Interested parties are invited to appear and voice their approval or disapproval of the proposed annexation at this public hearing. Community Development staff also mailed on September 15, 2009 copies of the Notice of Public Hearing (published in the *Voice of the Valley*) to owners of all the properties proposed to be included in the annexation.

It is recommended by staff that Council approve the Annexation Petition and direct staff to prepare the Notice of Intent package for filing with the King County Boundary Review Board.

To summarize, the remaining steps required in the annexation process (following submittal of the Notice of Intent package to the Boundary Review Board) include:

- 1) Once submitted to the KCBRB the Board has forty-five (45) calendar days to review the Notice of Intent submittal. Agencies with jurisdiction and/or registered voters and property owners may request review (public hearing) as per RCW 36.93.100 (1-4) during this period. If such a request is made, the BRB must schedule and conduct this hearing and make a finding

within 120 days after the filing of such a request for review. If no hearing is requested within the 45-day period, the Notice of Intent is deemed approved and returned to the City.

- 2) City adopts annexation by ordinance