



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19870

Proposed No. 2024-0275.2

Sponsors Upthegrove

1 AN ORDINANCE authorizing the vacation of a portion of
 2 the unnamed Alley and Street in the Plat of Stillwater, V-
 3 2754; Petitioners: Patricia Barajas and Cuauhtemoc
 4 Barajas Reina, Kim Kyoung, and Zoe and Derek Anderson.

5 **STATEMENT OF FACTS:**

- 6 1. A petition has been filed requesting vacation of a portion of the
 7 unnamed Alley and Street in the Plat of Stillwater in the Carnation area of
 8 unincorporated King County, hereinafter described.
- 9 2. The department of local services notified utility companies serving the
 10 area and King County departments of the proposed vacation. No
 11 easements were requested over the vacation area. The vacation shall not
 12 extinguish the rights of any utility company to any existing easements for
 13 facilities or equipment within the vacation area.
- 14 3. The department of local services' records indicate that this segment of
 15 right of way is unopened and unmaintained.
- 16 4. The department of local services considers the subject portion of right
 17 of way useless as part of the county road system and believes the public
 18 would benefit by the return of this segment of right of way to the public
 19 tax rolls and recommends approval of the vacation.

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20 5. Pursuant to K.C.C. 14.40.020 and RCW 36.87.120, the value of the
21 vacation area is offset by the costs to King County to manage and
22 maintain this segment of unopened right of way and the present value of
23 future property tax resulting in the department of local services
24 recommending: \$730 as compensation for the vacation of approximately
25 8,308 square feet of right of way to the property of petitioners Patricia
26 Barajas and Cuauhtemoc Barajas Reina (King County assessor's parcel
27 number 042507-9008); \$3,913 as compensation for the vacation of
28 approximately 8,243 square feet of right of way to the property of
29 petitioner Kyoung Kim (King County assessor's parcel number 801610-
30 0040); \$730 as compensation for the vacation of approximately 1,354
31 square feet of right of way to the property of petitioners Zoe and Derek
32 Anderson (King County assessor's parcel number 801610-0030).
33 Compensation must be received by King County within ninety days of
34 approval of the ordinance vacating the right of way.

35 6. Due notice was given in the manner provided by law. The office of the
36 hearing examiner held the public hearing on October 10, 2024.

37 7. As detailed in the October 25, 2024, recommendation, the hearing
38 examiner found that the road segment subject to this petition is not useful
39 as part of the King County road system, concluded that the vacation of this
40 segment of road will benefit the public through the transfer of
41 responsibility for management and return of the property to the public tax
42 roll, and recommended approval of the vacation petition, condition on

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43 paying compensation. In paragraph 12, the examiner explained why
44 reducing the \$3,913 required compensation from petitioner Kyoung Kim
45 to \$730 level required from petitioners Patricia Barajas and Cuauhtemoc
46 Barajas Reina and also from Zoe and Derek Anderson was warranted.

47 8. For the reasons stated in the examiner's report and recommendation,
48 the council determines that it is in the best interest of the citizens of King
49 County to grant said petition and vacate the right of way.

50 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

51 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
52 and abandons a portion of the unnamed alley and street right of way in the Plat of
53 Stillwater as described below:

54 All that portion of the unnamed Street lying East of Lot 1, Block 1 and
55 West of Lot 4, Block 2 of Stillwater, according to the Plat thereof recorded
56 in Volume 19, Page 11, Records of King County, Washington;

57 and

58 All that portion of the Alley lying Southerly of Said Block 1 and Southerly
59 of said Block 2 of Stillwater, according to the Plat thereof recorded in
60 Volume 19, Page 11 Records of King County, Washington.

61 Containing 17,905 SF.

62 SECTION 2. Recording of the subject road right-of-way abutting parcel
63 042507-9008 (Barajas) is contingent on petitioner paying \$730 to King County
64 within ninety days of the date the council takes final action on this ordinance. If
65 King County does not receive \$730 by that date, there is no vacation, and the

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66 associated right-of-way remains King County's. If payment is timely received,
67 the clerk shall record an ordinance against parcel 042507-9008. Recording an
68 ordinance will signify that payment has been received, the contingency is
69 satisfied, and the right-of-way associated with parcel 042507-9008 is vacated.

70 SECTION 3. Recording of the subject road right-of-way abutting parcel
71 801610-0030 (Anderson) is contingent on petitioner paying \$730 to King County
72 within ninety days of the date the council takes final action on this ordinance. If
73 King County does not receive \$730 by that date, there is no vacation, and the
74 associated right-of-way remains King County's. If payment is timely received,
75 the clerk shall record an ordinance against parcel 801610-0030. Recording an
76 ordinance will signify that payment has been received, the contingency is
77 satisfied, and the right-of-way associated with parcel 801610-0030 is vacated.

78 SECTION 4. Recording of the subject road right-of-way abutting parcel 801610-
79 0040 (Kim) is contingent on petitioner paying \$730 to King County within ninety days of
80 the date the council takes final action on this ordinance. If King County does not receive
81 \$730 by that date, there is no vacation, and the associated right-of-way remains King
82 County's. If payment is timely received, the clerk shall record an ordinance against
83 parcel 801610-0040. Recording an ordinance will signify that payment has been


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- 84 received, the contingency is satisfied, and the right-of-way associated with parcel
- 85 801610-0040 is vacated.

Ordinance 19870 was introduced on 9/3/2024 and passed by the Metropolitan King County Council on 11/26/2024, by the following vote:


Yes: 9 - Balducci, Barón, Dembowski, Dunn, Mosqueda, Perry, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Signed by:


 E76CE01F07B14EF...
 Dave Upthegrove, Chair

ATTEST:

DocuSigned by:


 8DE1BB375AD3422...
 Melani Hay, Clerk of the Council

APPROVED this _____ day of 12/9/2024, _____.

Signed by:


 4FBCAB8196AE4C6...
 Dow Constantine, County Executive

Attachments: A. Hearing Examiner Report, dated October 25, 2024

October 25, 2024

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

Telephone (206) 477-0860

hearingexaminer@kingcounty.gov

www.kingcounty.gov/independent/hearing-examiner

REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2754**
Proposed ordinance no. **2024-0275**
Adjacent parcel nos. **042507-9008, 801610-0040, and 801610-0030**

BARAJAS, KIM, ANDERSON

Road Vacation Petition

Location: a portion of the unnamed Alley and Street in the Plat of Stillwater,
Carnation

Applicant: **Kyoung Kim**

9301 Carnation-Duvall Rd NE

Carnation, WA 98014

Telephone: (425) 286-5984

Email: kyounghunk@gmail.com

Applicants: **Patricia Barajas and Cuauhtemoc (Temo) Barajas Reina**

P.O. Box 223

Redmond, WA 98073

Telephone: (425) 260-5578

Email: paty@temoslandscape.com ; temo@temoslandscape.com

Applicants: **Zoe and Derek Anderson**

P.O. Box 1185

Carnation, WA 98014

Telephone: (425) 457-0696

Email: zoepoirier@hotmail.com

King County: Department of Local Services

represented by **Leslie Drake**

201 S Jackson Street

Seattle, WA 98104

Telephone: (206) 477-7764

Email: leslie.drake@kingcounty.gov

FINDINGS AND CONCLUSIONS:

Overview

1. Patricia Barajas and Cuauhtemoc Barajas Reina, Zoe and Derek Anderson, and Michael and Kyoung Kim petition the County to vacate a stretch of public right-of-way at a portion of an unnamed alley and street in the Plat of Stillwater, Carnation.¹ The Department of Local Services, Road Services Division (Roads), urges vacation with a compensation requirement of \$730 for Baraja and Anderson parcels and \$3913 for the Kim parcel. On October 10, 2024, we conducted a remote public hearing on behalf of the Council. After hearing witness testimony and observing their demeanor, studying the exhibits entered into evidence, and considering the parties' arguments and the relevant law, we recommend vacation, but with reducing the Kim compensation requirement to a matching \$730.

Background

2. Except as provided below, we incorporate the facts set forth in Roads' report and in proposed ordinance no. 2024-0275. That report, and a map showing the area to be vacated and the vicinity of the proposed vacation, are in the hearing record and will be attached to the copies of our recommendation submitted to Council. Exs. D1 at 001-006, Ex. D11 at 001.
3. Chapter RCW 36.87 sets the general framework for county road vacations, augmented by KCC chapter 14.40. There are at least four somewhat interrelated inquiries. The first two relate to whether vacation is warranted: is the [1] road useless to the road system and [2] would vacation benefit the public? If the answers to these are both yes, the third and fourth relate to compensation: [3] what is the appraised (or perhaps assessed) value of the right-of-way, and [4] how should this number be adjusted to capture avoided County costs? We analyze each of those below.

Is Vacation Warranted?

4. A petitioner has the burden to show that the "road is [1] useless as part of the county road system and [2] that the public will be benefitted by its vacation and abandonment." RCW 36.87.020. "A county right of way may be considered useless if it is not necessary to serve an essential role in the public road network or if it would better serve the public interest in private ownership." KCC 14.40.0102.B. While denial is mandatory ("*shall* not" vacate) where a petitioner fails to make that showing, approval is discretionary where a petitioner shows uselessness and public benefit ("*may* vacate"). RCW 36.87.060(1) (emphasis added).
5. The subject right-of-way segment is not currently opened, constructed, or maintained for public use, and it is not known to be used informally for access to any property. Vacation

¹ The Hongs were the owner of the third parcel at the time of the petition. The Kims agreed to step in after their purchase. The Hongs have no further role with this case.

would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.

6. This “road” could hardly be more useless to the county road system (or even to the *private* road system). It consists of mere lines on a map, an area essentially just comprised of grass and trees. On a map, a short spur juts south off the arterial onto the Barajas property, where it T-bones and travels west to the Anderson property and east to the Kim property. Ex. D11 at 001. All three properties have access directly to the arterial. And the public will benefit from its vacation, with savings in expected, avoided management and maintenance costs and increased property taxes discussed below. We conclude that vacation here is warranted.

What Compensation is Due?

7. Where vacation is appropriate, we calculate compensation by [3] starting with the increase in property values the receiving parcel will garner from the extra square footage the (formerly) public right-of-way area adds to the parcel; this figure is generated by the Assessor. However, that is only the starting point, because [4] State and County law allow local legislative branches to adjust the appraised value to reflect the expected value to the public from avoided liability risk, eliminated management costs, and jettisoned maintenance costs, along with increased property taxes. RCW 36.87.070; KCC 14.40.020.A.1. Performance, Strategy, and Budget created a model for calculating these adjustments, updated annually. Roads then applies those figures to a given parcel. Exs. 14–16.
8. Here, the Assessor concluded that adding the right-of-way to each property would increase the Barajas and Anderson properties’ values by \$5000 and the Kim property’s value by \$8243. Subtracting out the \$4177 the County is expected to gain from avoided liability risk, eliminated management costs, and jettisoned maintenance costs for each parcel, leaves \$730 for the Barajas and Andersons to pay to obtain the right-of-way, but \$3,913 for the Kims to pay. Exs. 14–16.
9. As we have discussed in previous recommendations, the mass appraisal method the Assessor uses to estimate how much adding square footage to a parcel benefits the parcel systematically understates the true value to a property owner from eliminating the public right-of-way. To use an example, suppose you wanted to buy property in a given neighborhood. While getting ready to put an offer in on Parcel A, with a \$505,000 asking price, you notice Parcel B—a property seemingly identical in all respects to Parcel A (size, improvements, view, topography, vegetation, school district, etc.)—with a \$500,000 asking price.
10. Intrigued by a potential “deal,” you investigate and learn that Parcel B has an unopened public right-of-way running through the middle of it. That public right-of-way would allow anyone to walk across your property, could restrict where you could build a house or other improvements—or, if a portion of the home was built into the right-of-way,

might make title insurance and thus a loan (and later home insurance) unavailable, a scenario we have encountered repeated in previous petitions—and would generally encumber your title. Would you (or any prospective purchaser in their right mind who has ever heard the phrase, “penny-wise, pound-foolish”) be willing to spend a half million on a property, yet only require a \$5,000 “discount” to buy the encumbered Parcel B instead of the free-and-clear Parcel A? Maybe a \$50,000 discount would make Parcel B competitively-priced, but not \$5,000.

11. Yet, that is how the Assessor operates. And to avoid gumming up the County process for jettisoning useless rights-of-way, and to allow owners freer use of their properties while also avoiding a gift-of-public-funds problem, we have somewhat reluctantly accepted the Assessor’s methodology. So, while the Barajas and Andersons ship has come in (in terms of significantly increasing their respective property’s market value at a cost of only \$730), there is nothing unfair about allowing them to acquire the public right-of-way on essentially the same terms as every past successful vacation petitioner has been offered.
12. The fairness wrinkle here is that the Kims would need to pay over five times more than their neighbors to obtain the same benefit. While the Barajas were driving the bus on the petition (so they can more easily develop their property), the Kims were not even a part of the initial petition. Moreover, vacating the right-of-way across the other two properties while leaving a portion of the Kim property public, would create a landlocked, orphaned public right-of-way stretch that is not good either for the public or for clearing up private titles. So, it is in the public interest to have the Kims follow through. We thus recommend reducing the Kims’ compensation to the same as their neighbors.

RECOMMENDATION:

1. We recommend that Council APPROVE proposed ordinance no. 2024-0275 to vacate the subject road right-of-way abutting parcel 042507-9008 (Barajas), CONTINGENT on petitioner paying \$730 to King County within 90 days of the date Council takes final action on this ordinance. If King County does not receive \$730 by that date, there is no vacation, and the associated right-of-way remains King County’s. If payment is timely received, the Clerk shall record an ordinance against parcel 042507-9008. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 042507-9008 is vacated.
2. We recommend that Council APPROVE proposed ordinance no. 2024-0275 to vacate the subject road right-of-way abutting parcel 801610-0030 (Anderson), CONTINGENT on petitioner paying \$730 to King County within 90 days of the date Council takes final action on this ordinance. If King County does not receive \$730 by that date, there is no vacation, and the associated right-of-way remains King County’s. If payment is timely received, the Clerk shall record an ordinance against parcel 801610-0030. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 801610-0030 is vacated.

3. We recommend that Council APPROVE proposed ordinance no. 2024-0275 to vacate the subject road right-of-way abutting parcel 801610-0040 (Kim), CONTINGENT on petitioner paying \$730 to King County within 90 days of the date Council takes final action on this ordinance. If King County does not receive \$730 by that date, there is no vacation, and the associated right-of-way remains King County's. If payment is timely received, the Clerk shall record an ordinance against parcel 801610-0040. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 801610-0040 is vacated.

DATED October 25, 2024.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A party may appeal an Examiner report and recommendation by following the steps described in KCC 20.22.230. By **4:30 p.m.** on **November 18, 2024**, an electronic appeal statement must be sent to Clerk.Council@kingcounty.gov, to hearingexaminer@kingcounty.gov, and to the party email addresses on the front page of this report and recommendation. Please consult KCC 20.22.230 for the exact filing requirements.

If a party fails to timely file an appeal, the Council does not have jurisdiction to consider that appeal. Conversely, if the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about next steps in the appeal process.

MINUTES OF THE OCTOBER 10, 2024, HEARING ON THE ROAD VACATION PETITION OF BARAJAS, KIM, ANDERSON, DEPARTMENT OF TRANSPORTATION FILE NO. V-2754

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake and Costa Philippides.

The following exhibits were offered by the department and entered into the hearing record:

Exhibit no. D1	Roads Services report to the Hearing Examiner, sent September 24, 2024
Exhibit no. D2	Petition transmittal letter dated March 17, 2022, to the County Road Engineer.

Exhibit no. D3	Petition for Vacation of a County Road received March 17, 2022
Exhibit no. D4	Letter to Petitioners dated April 6, 2022, acknowledging receipt of Petition.
Exhibit no. D5	Revised Petition
Exhibit no. D6	King County Assessor's information for Petitioners' property, APN 0425079008
Exhibit no. D7	King County Assessor's information for Petitioners' property, APN 8016100030
Exhibit no. D8	King County Assessor's information for Petitioners' property, APN 8016100040
Exhibit no. D9	Plat of Stillwater
Exhibit no. D10	Boundary Line Adjustment recorded 20070305900009
Exhibit no. D11	Exhibit Map
Exhibit no. D12	Copy of notice sent of review to agencies on 05/23/2022
Exhibit no. D13	Email exchange with Assessor's Office regarding valuation of vacation area.
Exhibit no. D14	Compensation calculation model spreadsheet for Petitioners' property, APN 0425079008
Exhibit no. D15	Compensation calculation model spreadsheet for Petitioners' property, APN 8016100030
Exhibit no. D16	Compensation calculation model spreadsheet for Petitioners' property, APN 8016100040
Exhibit no. D17	Cover letter to Petitioners dated October 13, 2023, with a copy of the County Road Engineer's Report
Exhibit no. D18	County Road Engineer's Report
Exhibit no. D19	Email from Kyong Kim September 16, 2024
Exhibit no. D20	Ordinance transmittal letter dated August 26, 2004, from King County Executive to Councilmember Dave Upthegrove
Exhibit no. D21	Proposed Ordinance
Exhibit no. D22	Declaration of Posting
Exhibit no. D23	Publication of Notice of Hearing
Exhibit no. D24	Letter to abutting property owner, September 23, 2024

Certificate Of Completion

Envelope Id: D453E12DD0AA44E2B755497721586CC2	Status: Completed
Subject: Complete with Docusign: Ordinance 19870.docx, Ordinance 19870 Attachment A.pdf	
Source Envelope:	
Document Pages: 5	Signatures: 3
Supplemental Document Pages: 6	Initials: 0
Certificate Pages: 5	Envelope Originator:
AutoNav: Enabled	Cherie Camp
Envelopeld Stamping: Enabled	401 5TH AVE
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
	IP Address: 198.49.222.20

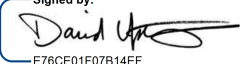
Record Tracking

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Storage Appliance Status: Connected	Pool: King County-Council	Location: DocuSign

Signer Events

Dave Upthegrove
dave.upthegrove@kingcounty.gov
Chair
Security Level: Email, Account Authentication (None)

Signature

Signed by:

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Using IP Address: 96.255.123.103


Timestamp

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Electronic Record and Signature Disclosure:

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Melani Hay
melani.hay@kingcounty.gov
Clerk of the Council
King County Council
Security Level: Email, Account Authentication (None)

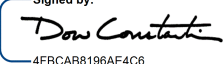
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Dow Constantine
Dow.Constantine@kingcounty.gov
King County Executive
Security Level: Email, Account Authentication (None)

Signed by:

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Signature Adoption: Uploaded Signature Image
Using IP Address: 97.113.212.21

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Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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akessler@kingcounty.gov
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Officer
King County
Security Level: Email, Account Authentication
(None)
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Completed	Security Checked	12/9/2024 9:59:34 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact King County-Department of 02:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: cipriano.dacanay@kingcounty.gov

To advise King County-Department of 02 of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at cipriano.dacanay@kingcounty.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with King County-Department of 02

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
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