RESOLUTION NO. 783

A RESOLUTION OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, APPROVING THE PURCHASE OF AN EASEMENT FOR RIGHT-OF-WAY PURPOSES

WHEREAS, the improvements for the Bridgeport Phase 5 Roadway Improvement Project is part of the City's approved Transportation Improvement Plan (TIP); and

WHEREAS, in order to construct the street and walkway improvements, it is necessary to purchase the right-of-way from the property owner.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AS FOLLOWS:

- Section 1. <u>Incorporation of Recitals</u>. The recitals are hereby incorporated herein as if set forth in full.
- Section 2. <u>Approval of Form of Documents</u>. The City Council hereby approves execution of the documents necessary to complete the purchase in substantially the form of the documents accompanying this Resolution.
- Section 3. <u>Completion of Transaction</u>. The City Manager is authorized to take and execute any additional measures or documents that may be necessary to complete this transaction, which are consistent with the approved form of document attached, and the terms of this Resolution.
- Section 4. <u>Effective Date</u>. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL ON JUNE 1, 2015.

Denise McCluskey, Mayor

ATTEST:

Emelita Genetia, City Clerk

APPROVED AS TO FORM

Steve Victor, City Attorney

UNIVERSAL FIELD SERVICES, INC.

111 Main Street, Suite 105 Edmonds, WA 98020

Tel: (425) 673-5559 Fax: (425) 673-5579



Date:

Thursday, May 08, 2015

To:

Don Nutter, Engineering Project Coordinator

From:

Dillon R. Ohrt, Right of Way Consultant

Subject:

Administrative Settlement Recommendation

Bridgeport Phase 5 Roadway Improvement Project Project Parcel No. 25; Parcel Tax ID No. 022010-1084 Owner: BP WEST COAST PRODUCTS, LLC

Amount of Approved AOS or DV:

Amount of Proposed Administrative

\$8,650.00

Amount of Proposed Administrative Settlement:

\$38,473.00

Amount of Proposed Total Settlement:

\$47,123.00

BACKGROUND

Dillon R. Ohrt presented the offer on August 29, 2014 in the amount of \$8,650.00 consisting of:

Lands Conveyed for ROW Easement: 264 SF (m/l)	\$5,940.00
Temporary Construction Easement: 274 SF (m/l)	1,650.00
Improvements: Paving/Curbing	438.00
Improvements: Landscaping	590.00

Total (Rounded) \$8,650.00

SUMMARY OF NEGOTIATIONS/COUNTER PROPOSAL

Improvements that will be impacted in the permanent right of way easement acquisition include landscaping and driveway paving/curbing. The owners accepted the compensation for these improvements (paving and landscaping) as offered and also accepted the land value as offered.

There is a lighted business sign in the acquisition area. The City originally planned to relocate the sign and its associated foundation and wiring as part of the project construction which is why the cost to relocate it was not included in the offer.

There is also a private lot light pole that is now in conflict of the planned relocation of a Tacoma Power and Utility pole and service line. The private light pole will have to be relocated because of the project. At the time of the offer, the Tacoma Power and Utility pole had been identified as one that would need to be relocated, but its new location had not been established.

BP insisted on having their contractors complete this exercise. This allows them to use a trusted contractor with experience on this specific site and a good history with BP contracts.

RECOMMENDATION/JUSTIFICATION

BP has provided supplemental information in the form of a bid for work from AMR Environmental Services and I find their amounts acceptable and reasonable. It should be considered in the approval of

this recommendation that BP will install a second sign on the property, relocate a water/air box, and remove a planter strip, bollards and telephone booths when this occurs. BP has made clear that they believe that all of those actions are associated with this project but are choosing not to ask for compensation for any of those items and have not included those costs in their settlement proposal. They also believe that this cost will increase, but they are not asking for any additional compensation to cover that anticipated difference.

It should be further noted the City is likely to recover a portion or all of these settlement costs by a corresponding decrease in construction costs considering the City's requirement to pay prevailing wage. There is also an advantage of having the owner's contractor working on a sensitive site as opposed to taking a chance of liability associated with performing excavations, etc. near fueling facilities.

It is anticipated that the impacts to the construction schedule, additional negotiation costs, appraisal costs and possible condemnation costs would far exceed the requested increase in settlement costs. Furthermore, the WSDOT Right of Way Manual directs local agencies to obtain reasonable negotiated settlements whenever possible. I find these costs to be a reasonable settlement and an acceptable use of public funds.

Allocation	Appraisal	Proposed Settlement	Difference
264 SF in Permanent Right of Way Easement	\$5,940	\$5,940	\$0
660 SF in Temporary Construction Easement	\$1,650	\$1,650	\$0
Improvements: paving/curbing	\$438	\$438	\$0
Improvements: Landscaping	\$590	\$590	\$0
Compensation for removal, replacement & relocating existing corner I.D. sign,			
improvements & lot light	\$0	\$38,473	\$38,473
TOTAL	\$8,650 (r)	\$47,125 (r)	\$38,473

I recommend that the Administrative Settlement of \$38,473 be approved for a total settlement of \$47,125 (r) as being reasonable and in the public interest.

Dillang The	5/8/15
Dillon R. Ohrt, Right-of-Way Consultant	Date
Concur:	5-8-15
Steve Reinhart, SR/WA Universal Field Services Project Manager	Date
Administrative Settlement Approved:	
Steve Sugg, City Manager City of University Place	Date

Recommended:

AMR Environmental Services

An Alaska Marine Refrigeration, Inc Company 9991 SE Cottonwood Dr. Port Orchard, WA 98366

Site: 4335 May 6th, 2015

The follow is a quote is for City implemented site work. The quote includes installation of new MONUMENT ID ("MID") signs, demo of old.

- 1. Demo the following
 - a. Light poles, asphalt
 - b. Electrical as needed
 - c. Old MID after new one is installed
- 2. Installation of the following:
 - a. Cement Curbs
 - b. Cement Monument Sign bases
 - c. Landscaping
 - d. Light Pole
 - e. Brick Façade
 - f. Electrical

Price includes all materials and labor applicable per scope provided. Includes travel, fuel and per diem if applicable. Includes sectional work. Warranty includes installation.

FRONT CORNER MID AND LOT LIGHT:

Item	Cost	Tax
Drawing and Engineering	\$3,800.00	\$361.00
City Fee's	\$1,500.00	\$142.50
Electrical and Trenching	\$4,200.00	\$399.00
Materials for Base each	\$4,996.00	\$474.62
Equipment Fee's	\$2,850.00	\$270.75
Disposal Fee's	\$343.00	\$32.59
Labor	\$10,597.00	\$1,006.72
Sign	\$7,500.00	\$0.00 (Included)
Subtotal	\$35,786.00	\$2,687.00 (rounded)

Cost for MID area only: \$38,473.00 Includes Applicable Taxes

Exclusions: Product, fire sprinklers and alarms missing equipment, equipment other than specified parts to supply, graphics/signage.

Thank You for your interest in work with AMR, if there are any questions please call me on my cell phone. 206-730-1369. Please call and schedule at your earliest convenience if you accept this proposal.

////original signed//// Alan Roberts AMR Environmental, Inc	
Date of acceptance:	
Signature:	_
Print Name:	

After Recording Mail to:

CITY OF UNIVERSITY PLACE Attn: City Engineer 3715 Bridgeport Way W. University Place, WA 98466

Grantor: BP West Coast Products, LLC

Grantee: City of University Place

Abbreviated Legal: Ptn of SW 1/4 of NE 1/4 of S 10, T 20 N, R 2 E

Assessor's Tax Parcel Number: #022010-1084
Project: Bridgeport Phase 5 Roadway Improvements

Project Parcel #25

Right of Way Easement

The Grantor(s) BP West Coast Products, LLC, a Delaware limited liability company, for and in consideration of mutual and special benefits resulting from the construction of the project, grants and conveys unto the City of University Place, a municipal corporation of the State of Washington, and its assigns, a non-exclusive perpetual right-of-way easement for all utility and transportation purposes, including the installation, maintenance, repair, and or removal of all transportation and utility facilities, over, under, upon and across the following property, to the same extent and purpose as of the rights herein granted had been acquired under Eminent Domain statute of the State of Washington:

Per **Exhibit A** and as depicted in **Exhibit B** attached hereto and made a part hereof by this reference.

It is understood and agreed that delivery of this easement document is hereby tendered and that the terms and obligations hereof shall not become binding upon the City of University Place, unless and until accepted and approved hereon in writing for the City of University Place by its City Manager.

Grantee shall agree to grant a variance to Grantor to allow an additional free-standing Identification-LED price sign in the Southeast corner of the parcel fronting along 27th Street West, in addition to the Identification-LED price sign to be relocated at the Southwest corner of the parcel, as depicted in the Site Plan attached hereto as **Exhibit C.** Grantee shall allow the maximum square footage to be thirty-two (32) square feet for each Identification-LED price sign face. There shall be a total of four Identification-LED sign faces for the two signs.

DATED this BP West Coast Products, LLC		, 20
By:		By: Printed Name: Title: Date:
Accepted by the City of Uni	versity Place	Approved as to form:
By: Printed Name: Title: Date:		By: Printed Name: Title: City Attorney Date:

STA	ATE OF				}	SS.			
Cou	unty of				}	33.			
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				of	BP We	st Coast	Products, LLC	to be the fre	e and
volu	untary act o	f such p	arty for	the uses	and pur	poses m	entioned in this ir	nstrument.	
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After Recording Mail To:

CITY OF UNIVERSITY PLACE 3715 Bridgeport Way W. University Place, WA 98466

TEMPORARY CONSTRUCTION EASEMENT

Grantor: BP West Coast Products, LLC

Grantee: City of University Place

Abbreviated Legal: Ptn of SW 1/4 of NE 1/4 of S 10, T 20 N, R 2 E

Assessor's Tax Parcel Number: #022010-1084
Project: Bridgeport Phase 5 Roadway Improvements

Project Parcel #25

THIS INSTRUMENT is made this ___ day of _____, 20___, by and between BP West Coast Products, LLC, a Delaware limited liability company, hereinafter called the "Grantor", and the City of University Place, a municipal corporation of the State of Washington, hereinafter called the "Grantee".

WITNESSETH:

1) Grant of Easement. The Grantor, for and in consideration of the public good and other valuable consideration, does by these presents, convey and warrant unto the Grantee a temporary construction easement (the "Easement") for access over, through, across and upon the following described real estate (the "Easement Area") situated in the County of Pierce, State of Washington, for the placement of personnel and equipment for construction of public street improvements with necessary appurtenances, including placement of public and private utilities, within the adjoining public right of way:

Per Exhibit A and as depicted in Exhibit B attached hereto and by this reference made a part hereof.

2) <u>Purpose of Easement.</u> The Grantee, its contractors, agents, and permittees, shall have the right at such times as may be necessary, to enter upon the Easement Area, including entry into private improvements located in the Easement Area for the purpose of constructing, maintaining, repairing, altering or reconstructing said street improvements, or making any connections therewith, including utility connections. Grantee shall have the right to re-grade slopes and/or make cuts and fills to match street grade. In the event Grantee's utility connection work requires access

to property in addition to the Easement Area, Grantee shall have the right to enter into such additional property and such entry shall be governed by the terms of this easement. Grantee's rights to use the Easement Area shall be exclusive at such times and for such duration as Grantee's construction requires, in Grantee's discretion, subject to the terms and conditions herein.

The rights herein granted shall include all incidental rights, including but not limited to, right of ingress and egress necessary to properly perform the work indicated for construction of the project. Grantee and those entitled to exercise the rights granted herein shall exercise all due diligence in their activities upon the property, and shall undertake any construction activities so as to maintain access to the existing business on the Property at all times and shall perform such construction in a manner to minimize impact on the business and operations of the Property at all times. Grantee does hereby agree to indemnify and hold harmless the Grantor against and from any and all liability for losses, damages and expenses on account of damage to property or injury to persons resulting from or arising out of the rights herein granted to Grantee and/or its contractors, employees, agents, successors or assigns.

3) Driveways. Grantee shall perform construction of two (2) driveways at the Property as depicted in the Site Plan attached as **Exhibit C** hereto and as set forth below:

Two Driveways located on Bridgeport Way:

Grantee shall construct the driveways located on Bridgeport Way in such a way that at least one of the two driveways located on Bridgeport Way shall be usable by vehicles entering or exiting the Property at all times. Grantee further agrees that neither of the two driveways or portions thereof located on Bridgeport Way shall be closed for more than seven consecutive days. The North Driveway located on Bridgeport is necessary for access for fuel trucks to allow the business to remain open during the construction period.

North Driveway located on Bridgeport Way:

Grantee shall construct the North Driveway located on Bridgeport Way in such a way that at least half of the driveway shall be usable by vehicles entering or exiting the Property at all times. Grantee further agrees to provide a minimum width of twenty feet of access to the half of driveway that is open including providing temporary areas adjacent to the open half, i.e. gravel or steel plate extension to expand the open half to a minimum of twenty feet. The minimum width of the finished driveway shall be thirty feet.

3)4) Improvements. All street improvements shall be constructed entirely within the public right of way. Grantee and those entitled to exercise the rights granted herein will accomplish the activities permitted by this Easement in a manner in which improvements lawfully existing in the Easement Area will not be disturbed. However,

In in the event private improvements in the Easement Area are disturbed or damaged by Grantee's use of the Easement, on or before the end of the Term, they shall be restored or replaced in as good a condition as they were immediately before Grantee entered the Easement Area. During the Term, Grantee may on an interim basis, restore the Easement Area to a reasonably safe and convenient condition.

- 4)5) Grantor's Right to Use Easement Area. Except for those times when Grantee is making exclusive use of the Easement Area, the Grantor shall retain the right to use and enjoy the Easement Area, including the right to use existing private improvements located in the Easement Area so long as such use does not interfere with Grantee's construction of the public improvements described in this Easement.
- (the "Term"). The Term shall commence upon Grantee's authorization to its construction contractor to proceed withinitiation of Grantee's —construction ("construction start commencement date") which shall be no sooner than September 14, 2015, and shall remain in force until no later than December 31, 2016, or until completion of construction and restoration of the property, whichever occurs firstIn no event shall the Easement Term exceed 120 days from the construction commencement date. Grantee shall provide fourteen (14) days written notice to the Grantor prior to commencement of construction. This Easement may be extended by mutual written consent of the Grantor and Grantee.
- 7) Payment for Easement. Grantee shall pay Grantor One Thousand Six Hundred Fifty and 00/100ths Dollars (\$1,650.00).
- 6)8) Signage. During the Easement Term, Grantee shall provide and visibly display signage at the Property at the corner of Bridgeport Way and 27th Street W. indicating that the existing business at the Property is "open for business during construction."
- 7)9) Binding Effect. The Easement granted hereby is solely for the benefit of Grantee, and is personal to Grantee, its successors in interest and assigns. Grantee shall have the right to permit third parties to enter upon the Easement Area to accomplish the purposes described herein, provided that all such parties abide by the terms of this Easement. The Easement granted hereby, and the duties, restrictions, limitations and obligations herein created, shall run with the land, shall burden the Easement Area and shall be binding upon and the Grantor and its respective successors, assigns, mortgagees and sublessees and each and every person who shall at any time have a fee, leasehold, mortgage or other interest in any part of the Easement Area.
- **8)10)** Notification. Should the undersigned owner (Grantor), sell the property described herein, Grantor shall promptly disclose and notify the Grantee of this agreement.

Commented [DR01]: Does not want construction to interfere with this summer's sales.

Commented [DRO2]: UFS discussed this with BP's attorney and pointed out that it is possible that some construction could begin on this parcel and final reclamation could be as much as a year later for things such as striping and final finish. BP is open so some discussion on this matter, but will not approve an open window of one year.

Dated this day of	, 20
BP West Coast Products, LLC	
By:	By: Printed Name: Title: Date:
Accepted by the City of University Place	Approved as to form:
By: Printed Name: Title: Date:	By: Printed Name: Title: City Attorney Date:
4	

STATE OF	} } SS.
County of	} 33.
I certify that I know	or have satisfactory evidence that
	and (is/are)
the person(s) who appeared befo	ore me, and said person(s) acknowledged that
(he/she/they) signed this instrument	nt, on oath stated that (he is/she is /they are)
authorized to execute the	instrument and acknowledged it as the
and	of BP West
Coast Products, LLC to be the free purposes mentioned in this instrument	e and voluntary act of such party for the uses and nt.
DATED:	
	Name (typed or printed):
	NOTARY PUBLIC in and for the State of
	Residing at
	My appointment expires:

DRIVEWAY RECONSTRUCTION PERMIT

Tax Parcel No.: 022010-1084

Bridgeport Phase 5 Roadway Improvements, Project	Bridgeport Phase 5 Roadway Improvements, Project Parcel #022010-108425					
company, hereinafter called "Grantor," and	THIS PERMIT, by and between BP West Coast Products, LLC, a Delaware limited liability company, hereinafter called "Grantor," and City of University Place, a municipal corporation of the State of Washington, hereinafter called the "City".					
WITNESSETH:						
	WHEREAS, the Grantor(s) represents and warrants that he/she/they is/are the owner(s) of the land shown as Project Parcel #25 on the right-of-way plans for the Bridgeport Phase 5 Roadway Improvements approved July 30, 2013.					
portion of the Grantor's existing driveway, pursi	WHEREAS, the City will perform certain improvement work for said project that will disturb a portion of the Grantor's existing driveway, pursuant to the terms of a certain Temporary Construction Easement between BP West Coast Products LLC and City of University Place					
NOW THEREFORE, in consideration of mutual benefit the Grantor hereby grants to the City, its agents, officers, officials, and employees a temporary right to enter upon said parcel of land and work on said land for the purposes of reconstructing a portion of Grantor's existing driveway so as to conform to said certain improvements.						
Any portion of said Grantor's driveway lying within the City road right-of-way shall be paved. Reconstruction of Grantor's driveway outside the City road right-of-way shall be equal in kind to the existing driveway on private property.						
IN WITNESS WHEREOF, the said Grantors ha	ve hereunto set their hand and seal this 20					
BP West Coast Products, LLC						
Printed Name: Print Title: Title:	ed Name:					