CityofRedmond
WASHINGTON

AM No. 12-030 (C6)

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: February 21, 2012

SUBJECT: **AGREEMENT TO QUIT CLAIM AND ASSIGN RIGHTS IN BOND FOR PARK PLACE APARTMENTS, L050088**

I. RECOMMENDED ACTION:

Approve the attached Quit Claim and Assignment of Rights in Bond agreement between the City and HomeStreet Bank, and authorize the Mayor to sign the agreement.

II. DEPARTMENT CONTACT PERSONS:

Bill Campbell, Director of Public Works	425-556-2733
Ron Grant, Assistant Public Works Director/City Engineer	425-556-2742
David Almond, PW Development Services Division	425-556-2861

III. DESCRIPTION:

The Park Place Apartments project is located at the intersection of NE 79th Street and 170th Place NE (Attachment A). On June 13, 2007, a right-of-way permit was issued to M.R. Mastro Properties for construction in the public right-of-way of infrastructure improvements associated with the project. At that time, a Letter of Credit in the amount of $473,655 was posted to ensure completion of the work and restoration of the right-of-way. The Letter of Credit was later replaced with a performance bond from the developer, Park Place M&M LLC, with Travelers Casualty and Surety Company of America as the surety.

During the course of construction, the original developer went bankrupt and HomeStreet Bank foreclosed on the property. Due to bankruptcy and inactivity on the project, City staff made initial contact with the surety company, Travelers, seeking to ensure that the work was completed. While Travelers was investigating the potential claim, HomeStreet Bank sold the project to another developer who proceeded to complete the improvements, including restoration of the right-of-way.

In hopes of recovering some of their losses, HomeStreet Bank has requested that Redmond assign over any rights we may have with the performance bond so that they may pursue collection on the bond. The City's attorney and the bank's attorney have drafted an agreement, Attachment B, which quit claims and assigns any rights the City may have in the performance bond. The assignment is made without any guarantee as to the validity of the City's rights.

IV. IMPACT:

A. Service/Delivery: The apartment project has been completed and the public right-of-way has been restored.

B. Fiscal: There are no fiscal obligations with this agreement.

V. ALTERNATIVES:

A. Amend the agreement and move to approve.

B. Deny the motion and authorize staff to release the performance bond.

VI. TIME CONSTRAINTS:

None, although HomeStreet Bank would prefer to have the agreement executed as soon as possible.

VII. LIST OF ATTACHMENTS:

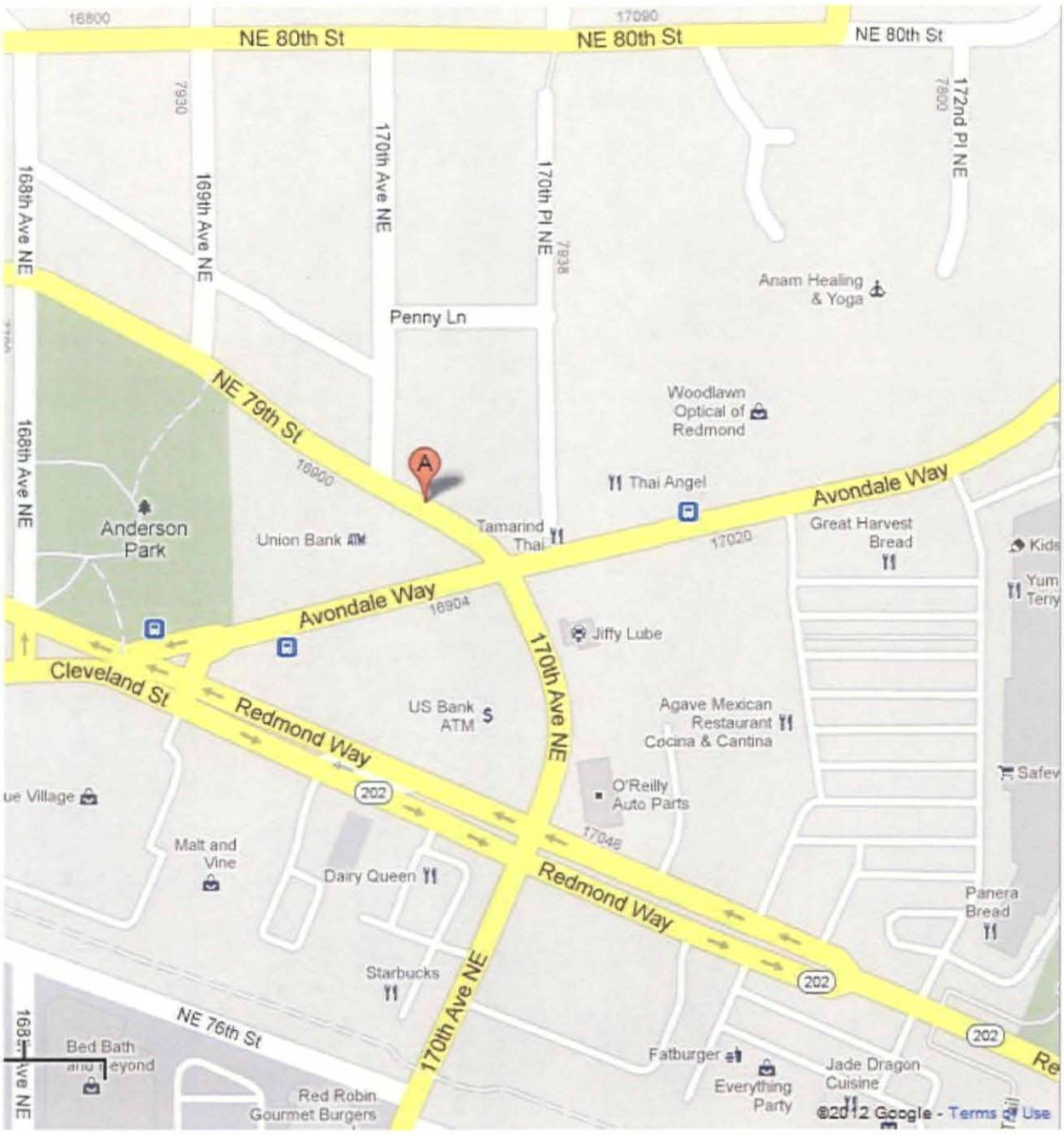
A. Vicinity Map
B. Quit Claim and Assignment Agreement

William J. Campbell, Director of Public Works — 2/13/12 Date

Approved for Council Agenda — John Marchione, Mayor — 2/15/12 Date

ATTACHMENT A

VICINITY MAP



ATTACHMENT B

QUIT CLAIM AND ASSIGNMENT OF RIGHTS IN BOND AND BOND PROCEEDS

Project Name: Park Place Apartments
Project Address: 7805 170th Pl SE Redmond, WA
Developer/Contractor: Park Place M&M LLC
Building Permit No.: B050615
City of Redmond File No.: L050088

WHEREAS, PARK PLACE M&M LLC, hereinafter referred to as "the former Developer" had applied to the City of Redmond, (hereinafter the "City") for the above referenced Permit at the address indicated;

WHEREAS, the City approved the Permit;

WHEREAS, the approval granted and the Redmond Community Development Guide require certain improvements to be made in connection with the construction of the Project, and the improvements are shown on the approved site plan and other required plans and further defined by the conditions identified in the City File;

WHEREAS, in order to provide security for the obligation of the Developer to complete all improvements required by the plans, the Developer had established a bond with Travelers Casualty and Surety Company of America (hereinafter "Travelers or Surety") under Bond No. 105118304, (as amended) (the "Bond"); and

WHEREAS, subsequently to the above, HomeStreet Bank (hereinafter "the Successor Developer/Owner") took ownership of the Project by foreclosure through a Trustee's Deed and obtained all rights relating to the Project and accounts relating to the Project;

WHEREAS, there was a default under the Bond by Park Place M&M LLC and the City demanded performance under the Bond. The Successor Developer/Owner has since performed all requirements of the Bond at the request of the City. The City is willing to assign all its interest in the Bond and Bond proceeds to the Successor Developer/Owner and allow the Successor Developer/Owner to seek from the Surety the Bond proceeds in the original sum of $473,365.00.

THEREFORE,

The City hereby quit claims and assigns all its rights, title and interest, if any, in and to the Bond and Bond proceeds to HomeStreet Bank. The City further agrees to cooperate with HomeStreet Bank, as may be required in order to obtain the release of said bond proceeds, with all costs to be paid for by HomeStreet Bank. This quit claim and assignment is made without warranty or guarantee as to the validity of the City's right, title, and interest in or of any right to claim on behalf of the City against the Bond and the City expressly disclaims any warranty or guarantee as to such matters. By

acknowledging and agreeing to this quit claim and assignment as provided below, HomeStreet agrees to indemnify, hold harmless, and defend the City, its officers, agents, and employees from and against any claims or counterclaims brought by Travelers under the Bond or as the result of actions taken by HomeStreet to collect the Bond proceeds.

The undersigned representatives of the City and HomeStreet Bank represent and warrant that they have the authority to execute this Agreement on behalf of their respective principals and to bind those principals hereunder. In addition, in the event there is any inconsistency between the terms of this Agreement and any and all other documents, the City and HomeStreet Bank hereby agree that the terms of this Agreement shall control as to the quit claim and assignment of the City's right, title, and interest, if any, in the Bond furnished by the Travelers.

Dated this _____ day of _____.

CITY OF REDMOND,

_____

By: _____

Its: _____

STATE OF WASHINGTON)
) ss.
County of King)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that s/he is authorized to execute the instrument and acknowledged it as the _____ of the City of Redmond to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated this _____ day of _____.

_____
Notary Public in and for the
State of _____,
residing at _____
My appointment expires _____

ATTACHMENT B

Acknowledged and Agreed to by:

HOMESTREET BANK,
A Washington state chartered savings bank

By: _____
Print Name: _____
Its: _____

"Successor Developer/Owner"

STATE OF WASHINGTON)
) ss.
County of King)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that s/he is authorized to execute the instrument and acknowledged it as the _____ of HomeStreet Bank to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated this _____ day of _____.

_____
Notary Public in and for the
State of _____,
residing at _____
My appointment expires _____