ORDINANCE NO. 3972

AN ORDINANCE of the City Council of the City of Kent, Washington, relating to the vacation of a portion of South 268th Street, located in the City of Kent, Washington.

RECITALS

A. A petition has been filed to vacate a portion of South 268th Street in the City of Kent, as legally described in Exhibit “A” and as shown in Exhibit “B,” both of which are attached and incorporated by this reference.

B. The city’s Public Works Department processed this petition and, after consulting with all appropriate city departments, secured technical facts regarding the proposed vacation.

C. The city council fixed a time for a public hearing on the petition and the hearing was held with proper notice on August 3, 2010, and continued in the city council chambers of Kent City Hall.

D. The city’s Public Works Director recommended that the city council approve the petition, with conditions.
E. After the public hearing on August 3, 2010, the city council approved the vacation with the conditions recommended by staff. Those conditions have since been satisfied or are the subject of a binding agreement for future performance. A copy of the agreement now executed by the Federal Way School District is attached as Exhibit C.

F. The city council finds that the portion of the avenue/street sought to be vacated is: (1) a dedicated alley/street that is presently unused; (2) not abutting on a body of water and, therefore, not suitable for acquisition for port purposes, boat moorage or launching sites, park, viewpoint, recreation or education purposes, or other public use; and (3) a vacation which is in the public interest.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**ORDINANCE**

**SECTION 1.** - Recitals. The foregoing recitals are incorporated as if fully set forth herein.

**SECTION 2.** - Vacation. A portion of South 268th Street, in the city of Kent, as legally described in Exhibit “A” and as show in Exhibit “B,” both of which are attached and incorporated, is hereby vacated.

**SECTION 3.** - Vested Right. No vested rights shall be affected by the provisions of this ordinance.

**SECTION 4.** - Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional
or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

**SECTION 5.** - *Corrections by City Clerk or Code Reviser.* Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**SECTION 6.** - *Effective Date.* This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

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**ATTEST:**

**BRENDA JACOBER, CITY CLERK**

**APPROVED AS TO FORM:**

**TOM BRUBAKER, CITY ATTORNEY**

**PASSED:** 3 day of August 2010.

**APPROVED:** 3 day of August 2010.

**PUBLISHED:** 6 day of August 2010.
I hereby certify that this is a true copy of Ordinance No. 3972 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]

BRENDA JACOBER, CITY CLERK
EXHIBIT "A"

LEGAL DESCRIPTION FOR
VACATION OF RIGHT OF WAY

The north 30 feet of the northeast quarter of the southeast quarter of the southwest quarter of Section 27, Township 22 North, Range 4 East, W.M.;

EXCEPT the east 30 feet thereof;

ALSO EXCEPT the west 30 feet thereof.

Written by: D.L.R.
Checked by: M.R.B.

6/16/10
PROPOSED 32' UTILITY EASEMENT WITH EXISTING CITY WATERLINE

PROPOSED PSE GUY ANCHOR EASEMENT

PROPOSED PROPERTY LINE BETWEEN SCHOOLS ADJUSTED 55' SOUTH

DEED RECORDED UNDER RECORDING NO. 4918219

PROPOSED 10' QWEST EASEMENT

PROPOSED 20' UTILITY EASEMENT WITH RELOCATED CITY WATERLINE

DEED RECORDED UNDER RECORDING NO. 4918219

STAR LAKE ELEMENTARY SCHOOL

TAF ACADEMY R/W VACATION

EXHIBIT B
EXHIBIT C

STREET VACATION AGREEMENT

South 268th Street

Between the City of Kent and Federal Way School District

This Agreement is by and between the Federal Way School District ("District"), a political subdivision of the State of Washington, whose mailing address is 31405 18th Avenue S., Federal Way, WA 98003, and the City of Kent, a Washington municipal corporation, whose mailing address is 220 4th Avenue South, Kent, Washington, 98032, ("City").

The purpose of this Agreement is to establish the terms and conditions upon which the Public Works Director will recommend that the City Council adopt a vacation ordinance.

RECATALS

A. The District is the sole underlying fee owner of the City’s right of way for South 268th Street between 42nd Avenue South and 40th Avenue South in Kent, Washington, more specifically described in Exhibit A, incorporated by this reference, and as shown on Exhibit B ("ROW"), incorporated herein by this reference.

B. The District has petitioned for vacation of the ROW herein described and intends to place portable classrooms upon the property.

C. The ROW has not been opened to vehicular travel.

D. Within the ROW are a number of utility facilities, including a City water utility line.

E. The ROW is necessary for pedestrian travel between 40th Avenue South and 42nd Avenue South and to connect to a City pedestrian way in the Plat of Cambridge 6 (recorded under King Co. No. 6405171) as shown on Exhibit B.

F. The ROW is not required for vehicular travel, but utility facilities must be relocated and the pedestrian way reserved and improved.

Based upon the foregoing and in consideration of mutual benefits hereby acknowledged, the District and the City agree as follows:

Street Vacation Agreement
(Between City of Kent and Federal Way School District)
AGREEMENT

1. The foregoing Recitals are adopted into this Agreement by this reference and all referenced Exhibits are adopted into this Agreement.

2. The subject ROW may be vacated by ordinance subject to the conditions in the following paragraphs 3 through 5.

3. Prior to the placement of the portable classroom buildings, all utility facilities will be relocated off the ROW by the District at District expense the terms for which shall be negotiated between the facility owners and the District to the satisfaction of the Public Works Director.

4. Prior to the placement of the portable classroom buildings, the City’s water line will be relocated by the District at District expense as shown in Exhibit C and subject to approval and acceptance by the Public Works Director. An easement for the water line, access thereto and maintenance thereof will be deeded to the City. Exhibit D.

5. The pedestrian/bicycle pathway (“pathway”) will be improved by the District at District expense at a specific location on property owned by the District to be mutually agreed upon by the District and the City. The minimum dimensions of the pathway shall be 12 feet in width and 4 inches in depth of pervious asphalt pavement. The pathway shall extend from the Plat of Cambridge 6 pathway as shown on Exhibit B, across the 42nd Avenue South right of way to 40th Avenue South. The pathway will be completed no later than the end of calendar year 2014 at which time the District will deed the pathway easement in perpetuity to the City and transfer ownership of the improvement to the City. Pathway work will be regarded as complete upon acceptance by the Public Works Director.

6. This Agreement shall be effective as of the last date below executed.

CITY OF KENT

FEDERAL WAY
SCHOOL DISTRICT

By: Suzette Cooke
Its: Mayor
Dated: 7/29/10

By: 
Its: Superintendent
Dated: 7/13/10
EXHIBIT “A”

LEGAL DESCRIPTION FOR
VACATION OF RIGHT OF WAY

The north 30 feet of the northeast quarter of the southeast quarter of the southwest quarter of Section 27, Township 22 North, Range 4 East, W.M.;

EXCEPT the east 30 feet thereof;

ALSO EXCEPT the west 30 feet thereof.

Written by: D.L.R.
Checked by: M.R.B.

6/16/10
DEED RECORDED UNDER RECORDING NO. 4918219

DEED RECORDED UNDER RECORDING NO. 4918219

AREA OF PROPOSED RIGHT OF WAY VACATION

TAF ACADEMY R/W VACATION

EXHIBIT B
EXHIBIT D

WHEN RECORDED RETURN TO:

City of Kent
220 Fourth Avenue South
Kent Washington 98032
Attn: Engineering/Property Services

Grantor: FEDERAL WAY SCHOOL DISTRICT #210

Grantee: City of Kent

Abbreviated Legal Description: PORTION OF THE SW QUARTER OF SECTION 27, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, CITY OF KENT, KING COUNTY, WASHINGTON. Additional Legal Description on page 4 of Document

Assessor's Tax Parcel Nos. 2722049152, 2722049026, 2722049112

STR: SECTION 27, TOWNSHIP 22 NORTH, RANGE 4 EAST

Project Name: TAF ACADEMY PORTABLE CLASSROOMS 2010

UTILITY EASEMENT
(MUNICIPAL CORPORATION)

THIS INSTRUMENT made this __ day of _________________ 20 ___ by and between FEDERAL WAY SCHOOL DISTRICT #210 a municipal corporation hereinafter called "Grantors" and CITY OF KENT, a municipal corporation of King County, State of Washington, hereinafter called "Grantee":

WITNESSETH: That said Grantors for and in consideration of mutual benefits and/or other valuable consideration receipt of which is hereby acknowledged by said Grantors, do by these presents grant, bargain, sell, convey, and confirm forever unto the said Grantee, its successors and/or assigns, an exclusive easement for utilities with necessary appurtenances, including use of incidental areas immediately adjacent for the installation, operation, maintenance, extending, construction, altering, reconstructing and repair over, through, under, across and upon the following described property situated in King County, Washington, more particularly described as follows:
Refer to Exhibit "D-1" attached and made a part hereto

The said Grantee shall have the right without prior institution of suit or proceeding at law, at times as may be necessary, to enter upon said property and immediate adjacent areas with the necessary equipment for the purposes of altering, installation, operation, maintenance, extending, constructing, repair and reconstructing of said utilities or making any connections therewith without incurring any legal obligation or liability therefore; providing that said altering, installation, operation, maintenance, extending, constructing, repair and reconstructing of said utilities shall be accomplished in such a manner that the private improvements existing within this easement area including said incidental areas shall not be disturbed or destroyed, or in the event they are disturbed or destroyed, they will be replaced in as good a condition as they were immediately before the property was entered upon by the Grantee.

The Grantor shall retain the right to use the surface of this easement including said incidental areas so long as said use does not interfere with the uses heretofore defined. Under no circumstances shall any cement concrete or any structures be placed or erected on this easement.

Grantor shall not change the surface grades, except as approved in advance by said Grantee, in any manner which would unreasonably interfere with ingress, egress and access by said Grantee and/or adversely affect the existing utility and/or the utility to be installed therein.

This exclusive easement shall be a covenant running with the land forever and shall be binding on the Grantor's successors, heirs, and assigns.

GRANTOR:       GRANTOR:
by _____________________    by _____________________
its _____________________    its _____________________
STATE OF WASHINGTON

COUNTY OF KING

On this _______ day of ____________, 20__, before me a Notary Public in and for the State of Washington, personally appeared ___________________________ and ___________________________, to me known to be the ___________________________ and ___________________________ of Federal Way School District #210, a Washington municipal corporation that executed the foregoing instrument, and acknowledged it to be the free and voluntary act of said municipal corporation, for the uses and purposes mentioned in this instrument, and on oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal that day and year first above written.

________________________________________

NOTARY PUBLIC, in and for the State of Washington, residing at ___________________________

My appointment expires ___________________________

APPROVED AS TO FORM:

Kent Law Department
EXHIBIT “D-1”

LEGAL DESCRIPTION FOR
UTILITY EASEMENT

That portion of the southwest quarter of Section 27, Township 22 North, Range 4 East
W.M., in King County, Washington, more particularly described as follows:

COMMENCING at the northwest corner of Lot 28 of the Plat of Cambridge 6, as recorded
under Recording No. 6496171;

THENCE along the westerly line of said lot, being coincident with the easterly margin of
unopened 42nd Avenue South, S 00°57'46" W, 49.92 feet;

THENCE N 89°17'26" W, 30.00 feet to the westerly margin of said 42nd Avenue South and
the TRUE POINT OF BEGINNING;

THENCE N 89°17'26" W, 320.41 feet;

THENCE N 44°17'26" W, 73.65 feet;

THENCE N 89°17'26" W, 229.97 feet to the easterly margin of 40th Avenue South;

THENCE along said easterly margin, S 01°01'31" W, 22.83 feet;

THENCE S 88°57'57" E, 5.60 feet;

THENCE S 00°59'19" W, 9.30 feet;

THENCE S 89°17'26" E, 79.98 feet;

THENCE N 00°42'34" E, 12.16 feet;
THENCE S 89°17'26" E, 136.28 feet;

THENCE S 44°17'26" E, 73.65 feet;

THENCE S 89°17'26" E, 328.61 feet to said westerly margin of 42nd Avenue South

THENCE along said westerly margin, N 00°57'46" E, 20.00 feet to the TRUE POINT OF BEGINNING;

Written by: D.L.R.
Checked by: M.R.B.
EXHIBIT D-2
TO ACCOMPANY LEGAL DESCRIPTION
FOR UTILITY EASEMENT
A PORTION OF THE SE 1/4 THE SW 1/4
SECTION 27, T. 22 N., R. 4 E., W.M.,
KING COUNTY, WASHINGTON

DEED RECORDED UNDER
RECORDING NO. 491821

POINT OF COMMENCEMENT
S. 268TH STREET

SCALE: 1"=120'

TRUE POINT OF BEGINNING
S. 270TH STREET

LOT 28

SHEET 1 OF 1
WHEN RECORDED RETURN TO:

City of Kent
220 Fourth Avenue South
Kent, Washington 98032
ATTN: CITY CLERK

WASHINGTION STATE COUNTY AUDITOR/RECORDER’S COVER SHEET

Document Title: City of Kent Ordinance No. 3972, Relating to Vacation of Portion of S. 268th Street

Grantor: City of Kent, a Washington municipal corporation

Grantee: The Public

Abbreviated Legal Description: The north 30 feet of the northeast quarter of the southeast quarter of the southwest quarter of Section 27, Township 22 North, Range 4 East, W.M; Except the east 30 feet thereof ALSO EXCEPT the west 30 feet thereof

Additional Legal Description on Exhibit “A” of document.

Assessor’s Tax Parcel ID No. N/A

Project Name: Ordinance No 3972

Document Date: August 3, 2010
STATE OF WASHINGTON, COUNTY OF KING }  
AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE  
Linda M Mills, being first duly sworn on oath that she is the Legal Advertising Representative of the

Kent Reporter

a weekly newspaper, which newspaper is a legal newspaper of general circulation and is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a weekly newspaper in King County, Washington. The Kent Reporter has been approved as a Legal Newspaper by order of the Superior Court of the State of Washington for King County. 
The notice in the exact form annexed was published in regular issues of the Kent Reporter (and not in supplement form) which was regularly distributed to its subscribers during the below stated period. The annexed notice, a:

Public Notice

was published on August 6, 2010.

The full amount of the fee charged for said foregoing publication is the sum of $73.96.

Linda M Mills  
Legal Advertising Representative, Kent Reporter  
Subscribed and sworn to me this 6th day of August, 2010.

Kathy Dalseg, Notary Public for the State of Washington, Residing in Covington, Washington  
P. O. Number: