

**RESOLUTION NO. 4 2 6 2**

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF AUBURN, WASHINGTON, AUTHORIZING  
THE MAYOR TO EXECUTE A SETTLEMENT  
AGREEMENT WITH DAVID ALLEN DAVIS FOR  
DISPUTED COSTS RELATED TO LOCAL  
IMPROVEMENT DISTRICT NUMBER 250

WHEREAS, the City of Auburn approved Local Improvement District (LID)  
No. 250 related to required parking spaces in connection with the Truitt Building  
built by David Allen Davis; and

WHEREAS, by the terms of the LID Agreements, the parking spaces were  
to be controlled by the City; and

WHEREAS, based on communications between City representatives and  
David Allen Davis, David Allen Davis thought that he was entitled to control and  
use of the LID No. 250 parking spaces; and

WHEREAS, David Allen Davis sought relief of the LID costs as an  
alternative to litigating the control and use of such parking spaces, and the City  
and David Allen Davis were able to negotiate a settlement of the matter  
acceptable to both parties.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,  
WASHINGTON, HEREBY RESOLVES as follows:

**Section 1.** That the Mayor is authorized to execute an Agreement with  
David Allen Davis to settle the issues related to the LID No. 250 parking spaces  
in substantial conformity with the Release and Settlement Agreement, a copy of

which is attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

**Section 2.** That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

**Section 3.** That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

CITY OF AUBURN

\_\_\_\_\_  
PETER B. LEWIS  
MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Daniel B. Heid, City Attorney

# EXHIBIT "A"

## RELEASE AND SETTLEMENT AGREEMENT

WHEREAS on January 1, 2004, the Undersigned David Allen Davis entered into an LID Preformation And Guaranty Agreement with the City of Auburn, Washington, wherein Mr. Davis agreed to pay to the City of Auburn annual installment payments toward the repayment of what is known as LID Number 250 for reimbursing the City for the cost of construction for 85 parking stalls in the parking garage now known as the Auburn – Sound Transit Garage; and

WHEREAS the basis of that Agreement was that the renovation of a commercial building by Mr. Davis in downtown Auburn and its intended uses would require the provision of eighty-five (85) parking spaces for use by its patrons; and it is therefore

### AGREED:

That for and in consideration of the payment of two hundred thousand and no/100 (\$200,000.00) paid to me as indicated herein below and receipt of which is hereby acknowledged, David Allen Davis, being of lawful age does hereby and for my heirs, executors, administrators, successors and assigns, release, acquit and forever discharge the City of Auburn and their agents, servants, successors, heirs, executors, administrators and all other persons, firms, corporations, associations or partnerships of and from any and all claims, actions, expenses and compensation whatsoever under state or federal law, which I now have or which may hereafter accrue to me on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen damages and the consequences thereof resulting or to result from the allocation of parking spaces at the Auburn - Sound Transit Garage related to the City of Auburn Local Improvement District Number 250.

Specifically, relating to the creation of said Local Improvement District No. 250 and the communications that suggested, notwithstanding the terms of the Local Improvement District Preformation and Guarantee Agreement that up to eighty five (85) parking spaces would be available to David Allen Davis for his use and that when contrasted with the actual language of the agreement, those parking spaces were not made available and were deprived from David Allen Davis' use.

Because of the previous issuance of the building permit by the City and David Allen Davis's reliance upon verbal communications and not the written language of the Local Improvement District Preformation and Guarantee Agreement that he would have those parking spaces and the pressure that was put on Mr. Davis to execute the agreement in order to occupy and use the structure that he renovated in accordance with the building permits that were issued by the City, this Release And Settlement Agreement is intended only to settle the issue of the availability of all 85 parking spaces and damages that may or may not have occurred to Mr. Davis from the lack of parking actually available in the Auburn – Sound Transit Garage.

### IT IS FURTHER AGREED:

That by signing this Release and Settlement Agreement, that the payment of the consideration therefore: (1) does not constitute an admission of any liability by the City of Auburn, and, in fact, the City disputes the claim and denies liability; (2) includes full and final settlement of my claims, both present and future, arising from Local Improvement District No. 250 and the language of the LID Preformation and Guaranty Agreement and applies to any and all past and future damages which might be claimed by me as related thereto; and (3) David Allen Davis agrees to pay from these settlement proceeds any person, corporation, or entity who has a lawful lien or subrogation claim against these funds.

Mr. Davis does further agree, as consideration of the payment in the amount above, to defend, indemnify, and hold harmless the City of Auburn from any such liens, subrogation claims, or other such claims of any person or entity claiming any interest in the settlement funds being paid pursuant to this Agreement and further agrees, as consideration of the payment in the amount above, that the City of Auburn shall have total and exclusive use of the parking spaces as provided for in the Local Improvement District.

It is understood by the parties that this Agreement does not create any new parking provision condition which would require the additional expenditure of funds by Mr. Davis in order to continue to occupy and use his adjacent commercial building.

It is further agreed that all other terms and conditions of the Local Improvement District formation and guarantee agreement as approved by City of Auburn Resolution Number 3701 which are not inconsistent with the terms of this Release and Settlement Agreement shall be in full force and effect and recognized as such by the parties hereto.

The undersigned agree that no promise, inducement or agreement not herein expressed has been made to either of the undersigned, and that this Release contains the entire agreement between the parties hereto, and that the terms of this Release are contractual and not mere recital.

This Settlement Agreement shall be construed and interpreted according to the laws of the State of Washington.

THE CITY OF AUBURN DOES NOT LEGALLY REPRESENT THE UNDERSIGNED. THE UNDERSIGNED UNDERSTANDS ANY QUESTIONS REGARDING THIS RELEASE SHOULD BE DIRECTED TO HIS OR HER OWN PERSONAL ATTORNEY PRIOR TO SIGNING.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.





Signed and Sealed and Delivered this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
THE CITY OF AUBURN, WASHINGTON

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of Washington )

)ss ..

County of King )

I certify that I know or have satisfactory evidence that \_\_\_\_ (name) \_\_\_\_ is the person who appeared before me and said person acknowledged that he/she signed this instrument as the \_\_\_\_ (title) \_\_\_\_ for the City of Auburn, Washington, with full authority to do so and to hereby bind the City of Auburn to the terms hereof, and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
NOTARY PUBLIC in and for the

State of Washington

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_