

After recording, return to:

City of Mount Vernon
Office of the City Attorney
910 Cleveland Avenue
Mount Vernon, WA 98273



201210030064

Skagit County Auditor

10/3/2012 Page 1 of 16 2:41PM

Grantor: Virginia T. Darvill, a single woman

Grantee: City of Mount Vernon, a Washington municipal corporation

Legal Description: Ptn E ½ W ½ SW ¼ 33-34-4

Additional Legal Description Located in Exhibit A

Assessor's Property Tax Parcel or Account No.: P29660

Reference Numbers of Documents Assigned or Released: Skagit County AF# 9612060052

TRAIL EASEMENT

The undersigned, Virginia T. Darvill, a single woman ("Grantor"), as a gift, with no monetary consideration, and for the Grantee's promises herein, hereby grants and conveys, without any warranty of title, to the City of Mount Vernon ("City") a perpetual nonexclusive easement for ingress, egress, maintenance and operation/usage of a public trail together with public trailhead parking as described herein over and across that certain parcel of the Grantor's land located on the south side of Little Mountain in Skagit County, Washington ("Trail Easement") and more particularly described in Exhibit A ("Grantor's Property").

1. **Purpose.** The purpose of this Trail Easement is to provide for limited public passage as restricted by this Trail Easement and to allow the Grantee to oversee the operation/usage, maintenance and repair of an existing rustic foot-trail and parking area located on the Grantor's Property as further described in paragraph 2 below.
2. **Legal Description for Trail Easement and Character of Trail.** The area encompassing the Trail Easement is described in Exhibit B and includes the "Trail Area" and the "Parking Area." The Parking Area is located at the trailhead approximately four-hundred (400) feet north of Hickox Road adjacent to, and lying southwesterly of, the Grantor's private driveway. The Parking Area consists of two (2) gravel pull-outs with dimensions of approximately eighteen (18) feet by fourteen (14) feet and eighteen (18) feet by twelve (12) feet, respectively. The Trail Area is rustic, unpaved and is constructed primarily from on-site materials. It ascends in a northerly direction for approximately one-half mile to the City's property and trail system within Little Mountain Park. The Parking Area and the centerline of the Trail Area are depicted in Exhibit C.

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

page 1 of 16

OCT 03 2012

Amount Paid \$
Skagit Co. Treasurer
By *man* Deputy

3. Use of Trail Easement.

- a. The public's use of the Trail Easement granted herein shall be limited to recreational passage by foot (pedestrian use) and parking as restricted herein. Use of any portion of the Trail Easement by members of the general public is at their own risk. Grantor and the City have the right to require that public use is conducted in a manner that does not unreasonably disturb plant or wildlife habitat or the quiet use and enjoyment of nearby private property not subject to the Trail Easement. Grantor and the City have the right to jointly agree to limit, restrict or prohibit public use of all or any part of the Trail Area or Parking Area, temporarily to assure safety or for maintenance purposes, and indefinitely as necessary or appropriate to preserve the conservation values of Grantor's Property.
- b. The City shall have the right to the use of the Trail Area and Parking Area as necessary in connection with its operation/usage, maintenance and repair of the Trail Area and Parking Area as provided in paragraph 4.
- c. Grantor shall have the right to use the Trail Area and Parking Area for any purpose not inconsistent with the full use and enjoyment by the City, its successors and assigns. Grantor shall not place any buildings or fencing in the Trail Area and/or Parking Area in such a way as to impair the City's or the public's usage of, and access to, the Trail Easement.

4. **City's Duty to Maintain Trail Easement.** So long as the City invites the public use of the Trail Easement, the City shall use reasonable efforts to maintain the Trail Area and Parking Area in accordance with paragraph 5 below and discourage littering and other acts that encroach upon the natural features of the Trail Area or diminish its attractiveness. Such maintenance and repair shall include grading the trail tread, managing drainage, and cutting and removal of vegetation and other obstructions which may endanger the safety or interfere with the use of the Trail Area and Parking Area. City shall exercise reasonable efforts that maintenance and repair shall be conducted in a manner so as to minimize the impact to the conservation value of Grantor's Property. The City shall not access the Trail Easement from any portion of the Grantor's Property that is not contained within the Trail Easement without the Grantor's prior consent. Further, the City shall take steps to educate users in trail etiquette, including providing guidelines for usage and maps.

5. **Specifications for Character of Trail Easement; Major Changes.** All City's maintenance and repair of the Trail Easement shall be subject to the following requirements:

- a. The Trail Area tread width shall not exceed four (4) feet.
- b. The tread shall remain unpaved.
- c. The use of imported tread materials, such as crushed gravel or puncheon, shall be minimized to the extent practical.

Grantor and the City shall agree in writing prior to any major new construction or repairs, installation of signs or structures such as benches, and the cutting or removal of any standing trees or snags greater than twelve (12) inches in diameter in the Trail Area or Parking Area, except that any condition (such as a tree or snag) in the Trail Easement presenting a likelihood of imminent danger to persons or property may be immediately remedied (by removal, in the case of a tree or snag). Any expansion or relocation of the Trail Area or Parking Area shall be



by written agreement, and the Grantor shall have no obligation to increase the scope of the Trail Easement.

Nothing herein shall require Grantor to undertake or perform any construction or maintenance of the Trail Area or Parking Area.

6. **Adoption of Rules and Regulations.** The City shall adopt rules and regulations for the use of the Parking Area and the right of the public to pass and repass over the Trail Area which shall include the following restrictions:

- a. Overnight parking, camping, cycles (motorized or non-motorized), dirt bikes, motorcycles, snow mobiles, all-terrain vehicles and any other mechanized or motorized equipment or vehicles of any nature shall be prohibited, except in response to an emergency.
- b. Access by horses shall be prohibited.
- c. All dogs shall be leashed at all times.
- d. Littering, picking or injuring of plants or trees, cutting of firewood, building of fires, hunting and trapping shall be prohibited.
- e. The hours of use shall be limited to daylight hours, and the hours for the opening and closing shall be commensurate with the hours governing Little Mountain Park.

The City shall have the right to adopt such additional rules and regulations as it deems necessary and appropriate. The City shall undertake reasonable actions to enforce the rules and regulations as provided in paragraph 6.

7. **Indemnification/Immunity.** To the extent permitted by applicable law, City hereby indemnifies and agrees to defend, hold harmless, and protect Grantor, its employees, agents, servants or officers from and against any and all claims arising from the performance of this Trail Easement (including without limitation any claim for damage to property or injury or death of any persons) resulting in whole or in part from negligent acts or omissions of the City, its agents, servants, officers or employees, irrespective of whether in connection with such act or omission it is alleged or claimed that an act of the Grantor, or its agents or employees caused or contributed thereto.

Nothing in this Trail Easement limits the ability of Grantor and City to avail themselves of the protections offered by any applicable law affording immunity to Grantor and City including, to the extent applicable, RCW 4.24.200 and RCW 4.24.210 (as may be amended from time to time). Nothing in this Trail Easement limits the ability of the Grantor and the City to avail themselves of the protections offered by any applicable law affording immunity to the Grantor and City under any Good Samaritan statute.

8. **Neither Party Assumes Duty to Public.** Neither party by entering into this Trail Easement assumes any duty to or for the benefit of the general public (a) for defects in the location, design, installation, maintenance or repair of the Trail Easement or related facilities, (b) for any unsafe conditions within the Trail Easement, (c) for the failure to inspect for or warn against possibly unsafe conditions, or (d) for the failure to close the Trail Area or Parking Area to public access when unsafe conditions may be present.



9. **Enforcement; Dangerous Condition.** The City shall monitor the condition and use of the Trail Easement and shall take reasonable action to prohibit, prevent and discourage unauthorized use by means including, but not limited to, user education, arrest, detention, citation, seizure of unauthorized motor vehicles and their operators when encroachment or trespass occurs. The City shall take reasonable steps to remedy a dangerous condition but has no duty to do so unless and until the City receives actual notice of the need to repair an unreasonably dangerous condition.
10. **Grantor's Right to Request Signage.** At Grantor's request, the City shall post signs within the Trail Easement near the beginning and end points of the Trail Area and/or Parking Area, stating that the Trail Area and Parking Area are on private property and that users are required to remain within the Trail Easement. The City and Grantor shall mutually agree to the size, wording and location of said signs prior to installation.
11. **Grantor's Remedies.** If at any time the Grantor, her successors or assigns (the "Fee Owner") is dissatisfied with the condition, use, maintenance or policing of the Trail, the Fee Owner may request and be granted a hearing with representatives of the City, including its parks and recreation director, which representatives shall give serious consideration to the complaints of the Fee Owner. In the event factual information is provided and the complaints are determined to be substantiated, the City shall make reasonable good faith efforts to assure that appropriate changes are made, the Fee Owner's concerns are addressed, and the condition, use, maintenance and policing of the Trail Easement are in accord with this instrument. Grantor's remedies under this instrument are limited solely to allow for negotiation or suit to settle disputes over the terms and to enforce specific performance. Any failure to perform under the instrument shall not create nor give rise to any suit for damages or claim for damages nor create any special relationship or other exemption to the City's existing duty required by law under the public duty doctrine beyond enforcing specific performance in accord with this instrument.
12. **Binding Agreement.** This Agreement, and all easements, covenants, terms and conditions contained herein, are intended to and shall run with the land described herein and shall be binding upon Grantor and Grantee and their respective successors, heirs and assigns.
13. **Severability.** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement is declared severable.
14. **Beneficiaries/Assignment.** This agreement may be enforced only against the Grantor by the City and confers no rights on any third person or entity. This Trail Easement may not be assigned without Grantor's written permission which may be withheld in Grantor's sole discretion.
15. **Title.** The rights granted herein are subject to any licenses and easements previously granted by the Grantor or her predecessors in interest, including that certain Conservation Easement recorded on December 6, 1996, under Auditor's File No. 9612060052, and the Grantor does



not warrant title to her property as described in Exhibit B or the Trail Easement as described in Exhibit A and shall not be liable for defects thereto or failure thereof.

16. **Termination.** The City reserves the right to terminate this Trail Easement in which case all property rights shall revert back to Grantor.

Signature page to Trail Easement follows.



Signature page to Trail Easement.

CITY:

CITY OF MOUNT VERNON

A Washington Municipal Corporation

GRANTOR:

By: 

Jill Boudreau, Mayor

Dated: 8/30/12



Virginia T. Darvill

Dated: 8-24-2012

Attest: 

Alicia D. Hushcka, Finance Director

Dated: 8/30/12

Approved as to Form:



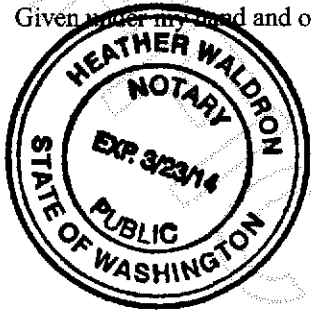
Kevin Rogerson, City Attorney



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me Virginia T. Darvill to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as a free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year last above written.

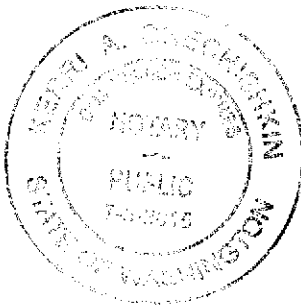


Heather Waldron
Notary Public in and for the state of
Washington, residing at Mt Vernon
My commission expires: 3-23-2014
Printed Name: Heather Waldron

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day before me personally appeared Jill Boudreau, to me known to be the Mayor of the City of Mount Vernon, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

Given under my hand and official seal the day and year last above written.



Kerri A. Grechishkin
Notary Public in and for the state of
Washington, residing at Mount Vernon
My commission expires: 7/3/2015
Printed Name: Kerri A. Grechishkin



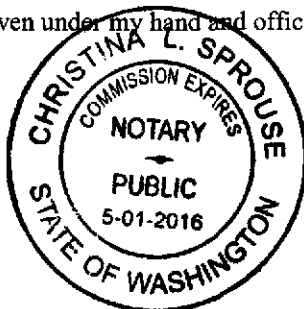
CONSENT BY CONSERVATION EASEMENT HOLDER. Skagit Land Trust, as holder of the Conservation Easement on Grantor's Property, recorded on December 6, 1996, under Skagit County Auditor's File Number 9612060052, agrees that this Easement and the activities described herein are consistent with the terms of its Conservation Easement, and does hereby consent to this Easement.

Robert Boudinot
Robert Boudinot, President
Skagit Land Trust

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day before me personally appeared Robert Boudinot, to me known to be the President of Skagit Land Trust, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

Given under my hand and official seal the day and year last above written.



Christina L Sprouse
Notary Public in and for the state of
Washington, residing at Mount Vernon
My commission expires: May 1, 2016
Printed Name: Christina L Sprouse



EXHIBIT A
Property Subject to Easement

Legal Description:

The following described real property situate in Skagit County, Washington:

That portion of the West half of the West half of the West half of the Southwest quarter of Section 33, Township 34 North, Range 4 East, W.M., being more particularly described as follows:

Beginning at the Southeast corner of Lot 8 in the Plat of Skyridge Division No. III as shown on the map recorded in Volume 13 of Plats, page 22, under Auditor's File No. 8008260001, records of Skagit County; thence South $0^{\circ} 25' 44''$ East along the East line of said subdivision 200 feet to the true point of beginning; thence South $89^{\circ} 36' 18''$ West 135.01 feet; thence South $0^{\circ} 23' 42''$ East 30 feet; thence North $89^{\circ} 36' 18''$ East 135.01 feet to the intersection with the East line of said subdivision; thence North $0^{\circ} 25' 44''$ East along said East line to the true point of beginning.

TOGETHER WITH easement for ingress, egress, and utilities over and across Tract "A" of Plat of Skyridge, Division No. 5, as per plat recorded in Volume 14 of Plats, page 9, records of Skagit County, such easement to be for the benefit of the property owned by the grantee, Fred T. Darvill, Jr., in the East half of the West half of the Southwest quarter of Section 33, Township 34 North, Range 4 E. W.M.

Parcel "A":

The South 432 feet of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 33, Township 34 North, Range 4 East, W.M. (as measured along the Westerly line thereof); EXCEPT County Road right of way; EXCEPT the East 101.8 feet thereof; and EXCEPT the following described tract:

Beginning at the Southwest corner of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$; thence North on the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ a distance of 432 feet to the true point of beginning; thence East parallel with the South line of said Southwest $\frac{1}{4}$, a distance of 310 feet; thence South parallel with the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$, a distance of 402 feet, more or less, to the North line of the Hickox Road; thence West along the North line of said Hickox Road a distance of 310 feet to the West



EXHIBIT A (continued)
Property Subject to Easement

line of said subdivision; thence North along said West line a distance of 402 feet to the true point of beginning.

Parcel "B":

The East 330 feet of the West 660 feet of the Southwest $\frac{1}{4}$ of Section 33, Township 34 North, Range 4 East, W.M.; EXCEPT the South 1,452 feet of the West 150 feet thereof; and EXCEPT that portion thereof lying Southerly of the following described line:

Beginning at the intersection of the East line of the West 480 feet of said Southwest $\frac{1}{4}$ and the North line of the South 432 feet of said Southwest $\frac{1}{4}$ (said point being the Northwest corner of that certain tract conveyed to Doran W. Slater, et ux, by deed recorded September 7, 1972, under Auditor's File No. 773693); thence North $0^{\circ} 47'$ West parallel with the West line of said Section, a distance of 500 feet to the true point of beginning of said line; thence East 180 feet to the East line of the West 660 feet of said Southwest $\frac{1}{4}$ and the terminal point of said line.

ALSO EXCEPT: The North 235.48 feet of the West 17.2 feet of the East half of the West half of the Northwest quarter of the Southwest quarter of Section 33, Township 34 North, Range 4 E. W.M.

Parcel "C":

The East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 33, Township 34 North, Range 4 East, W. M., EXCEPT County Road along the South line thereof; EXCEPT the East 101.8 feet thereof; and EXCEPT the following described tracts:

a.) Beginning at the Southwest corner of said Section 33; thence East along the South line of said Section 33, a distance of 940.0 feet; thence North $0^{\circ} 19'$ East, parallel with the East line of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of said Section 33 (according to the Plat of "LINDA VISTA ADDITION," as per plat recorded in Volume 7 of Plats, page 74, records of Skagit County) a distance of 432.0 feet; thence West 30.00 feet to the true point of beginning; thence North $0^{\circ} 19'$ East a distance of 100 feet, more or less, to the Northeast corner of a tract conveyed to Gerhard H. Hoffman, et ux, by deed recorded January 5, 1968, under Auditor's File No. 709030; thence West along the North line of said Hoffman tract 260.21 feet, more or less, to the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$; thence South along said West line, a distance of 100 feet, more or less, to the South line of said Hoffman tract; thence East



EXHIBIT A (continued)
Property Subject to Easement

along the South line of said tract a distance of 260.21 feet, more or less, to the true point of beginning.

b.) That portion of the South 432 feet of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of said Section 33 lying Westerly of the East 101.8 feet thereof and lying Easterly of the following described line:

Beginning at the Southwest corner of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$; thence North on the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ a distance of 432 feet; thence East parallel with the South line of said Southwest $\frac{1}{4}$, a distance of 310 feet to the true point of beginning of said line; thence South parallel with the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ to the South line thereof, and the terminal point of said line.

c.) Beginning at the Southwest corner of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$; thence North on the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ a distance of 432 feet to the true point of beginning; thence East parallel with the South line of said Southwest $\frac{1}{4}$, a distance of 250 feet; thence South parallel with the West line of said East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ a distance of 402 feet, more or less, to the North line of the Hickox Road; thence West along the North line of said Hickox Road a distance of 250 feet to the West line of said subdivision; thence North along said West line a distance of 402 feet to the true point of beginning.

Situate in the County of Skagit, State of Washington.



EXHIBIT B
Legal Description of Trail Easement

An easement for ingress, egress, maintenance and operation of a trail through the east half of the west half of the southwest quarter of Section 33, Township 34 North, Range 4 East, W.M., the centerline of which is described as follows:

Commencing at the southwest corner of said Section 33; thence west along the south line of said Section 33, a distance of 962.50 feet; thence N 00°19'00"E, a distance of 30.00 feet to the north line of the Hickox road and the point of beginning of a 15 foot wide easement lying 7.5 feet left and 7.5 feet right of this centerline description; thence N 00°19'00" E, a distance of 409.51 feet; thence N 90°00'00" E, a distance of 19.83 feet; thence N 46°51'23" 3.88 feet; thence N 12°35'11" E, 20.74 feet; thence N 13°09'40" W, a distance of 43.73 feet; thence N 19°59'38" E, a distance of 27.99 feet; thence N 51°19'15" E, a distance of 34.56 feet; N 00°26'53" E, a distance of 27.48 feet; thence N 08°38'43" W, a distance of 34.85 feet; thence N 31°35'30" E, a distance of 28.41 feet; thence N 51°22'37" E, a distance of 36.72 feet; thence N 04°30'22" E, a distance of 54.77 feet; thence N 58°11'31" W, a distance of 23.31 feet; thence N 11°41'01" W, a distance of 37.43 feet; thence N 29°31'07" W, a distance of 31.10 feet; thence N 14°43'41" W, a distance of 29.39 feet; thence N 00°09'35" W, a distance of 17.98 feet; thence N 15°47'56" E, a distance of 24.33 feet; thence N 15°02'58" W; a distance of 15.09 feet; thence N 36°57'42" E, a distance of 41.95 feet; thence N 07°32'05" W, a distance of 24.04 feet; thence N 20°55'23" E, a distance of 30.13 feet; thence N 38°02'35" E, a distance of 25.20 feet; thence N 23°37'45" E, a distance of 44.02 feet; thence N 05°38'47" E, a distance of 16.89 feet; thence N 47°29'24" E; a distance of 53.33 feet; thence N 82°53'28" E, a distance of 15.06 feet; thence N 25°34'25" E, a distance of 15.91 feet; thence N 29°10'12" W, a distance of 33.56 feet; thence N 06°02'27" W, a distance of 53.59 feet; thence N 40°24'01" W, a distance of 27.87 feet; thence N 08°04'24" E, a distance of 28.85 feet; thence N 01°50'46" W, a distance of 43.10 feet; thence N 23°23'24" W, a distance of 23.77 feet; thence N 20°59'07" E, a distance of 30.06



EXHIBIT B (continued)
Legal Description of Trail Easement

feet; N 08°36'11" W, a distance of 30.88 feet; thence N 51°39'25" W, a distance of 35.38 feet; thence N 04°49'21" W, a distance of 20.03 feet; thence N 66°01'19" E, a distance of 18.34 feet; thence N 19°31'48" E, a distance of 52.00 feet; thence N 19°06'03" W, a distance of 24.82 feet; thence N 02°51'43" W, a distance of 24.11 feet; thence N 10°49'38" E, a distance of 41.49 feet; thence N 18°55'25" W, a distance of 28.51 feet; thence N 55°41'49" W, a distance of 34.33 feet; thence N 02°19'28" W, a distance of 31.32 feet; thence N 07°40'28" E, a distance of 51.74 feet; thence N 47°25'43" E, a distance of 28.80 feet; thence N 35°01'18" E, a distance of 38.92 feet; thence N 37°49'42" W, a distance of 35.75 feet; thence N 20°45'54" W, a distance of 31.75 feet; thence N 01°03'30" W, a distance of 38.77 feet; thence N 18°35'57" E, a distance of 20.37 feet; thence N 00°19'27" W, a distance of 20.56 feet; thence N 29°57'49" W, a distance of 25.57 feet; thence N 12°06'19" E, a distance of 28.87 feet; thence N 24°32'40" E, a distance of 39.16 feet; thence N 51°08'31" E, a distance of 37.76 feet; thence N 60°48'31" E, a distance of 23.19 feet; thence N 21°21'21" E, a distance of 22.44 feet; thence N 02°33'38" W, a distance of 32.89 feet; thence N 32°54'49" E, a distance of 35.14 feet to a point 15 feet westerly of the west line of the east 101.8 feet of the west half of the southwest quarter of said Section 33; thence along an easement 30 feet wide lying 15 feet left and 15 feet right of this centerline description N 01°02'38" W parallel with the west line of said east 101.8 feet, a distance of 588.89 feet to the north line of the southwest quarter of said Section 33 and terminus of this centerline description.

Situate in the City of Mount Vernon, Skagit County Washington.



EXHIBIT C **Depiction of Centerline of Trail**

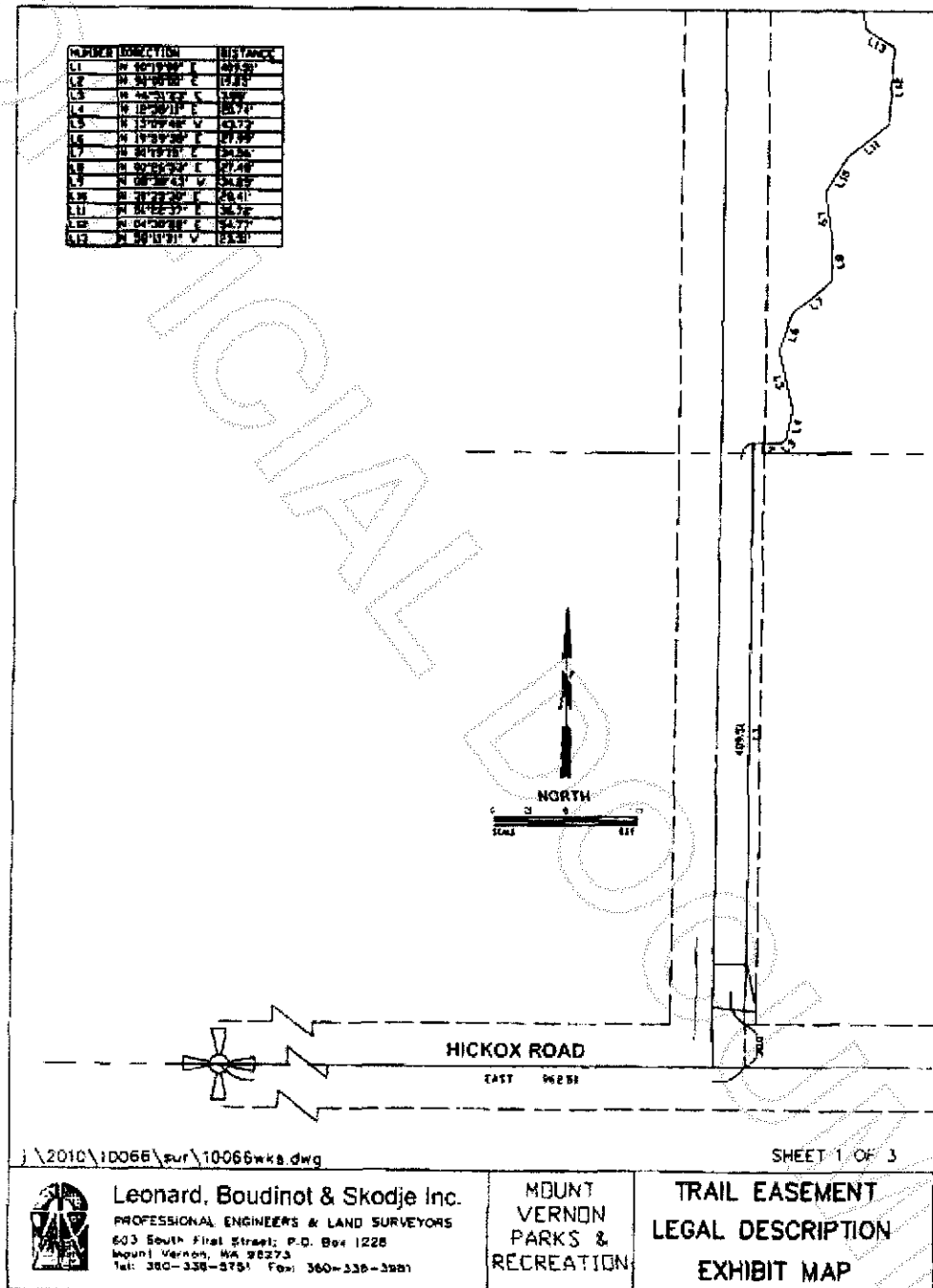
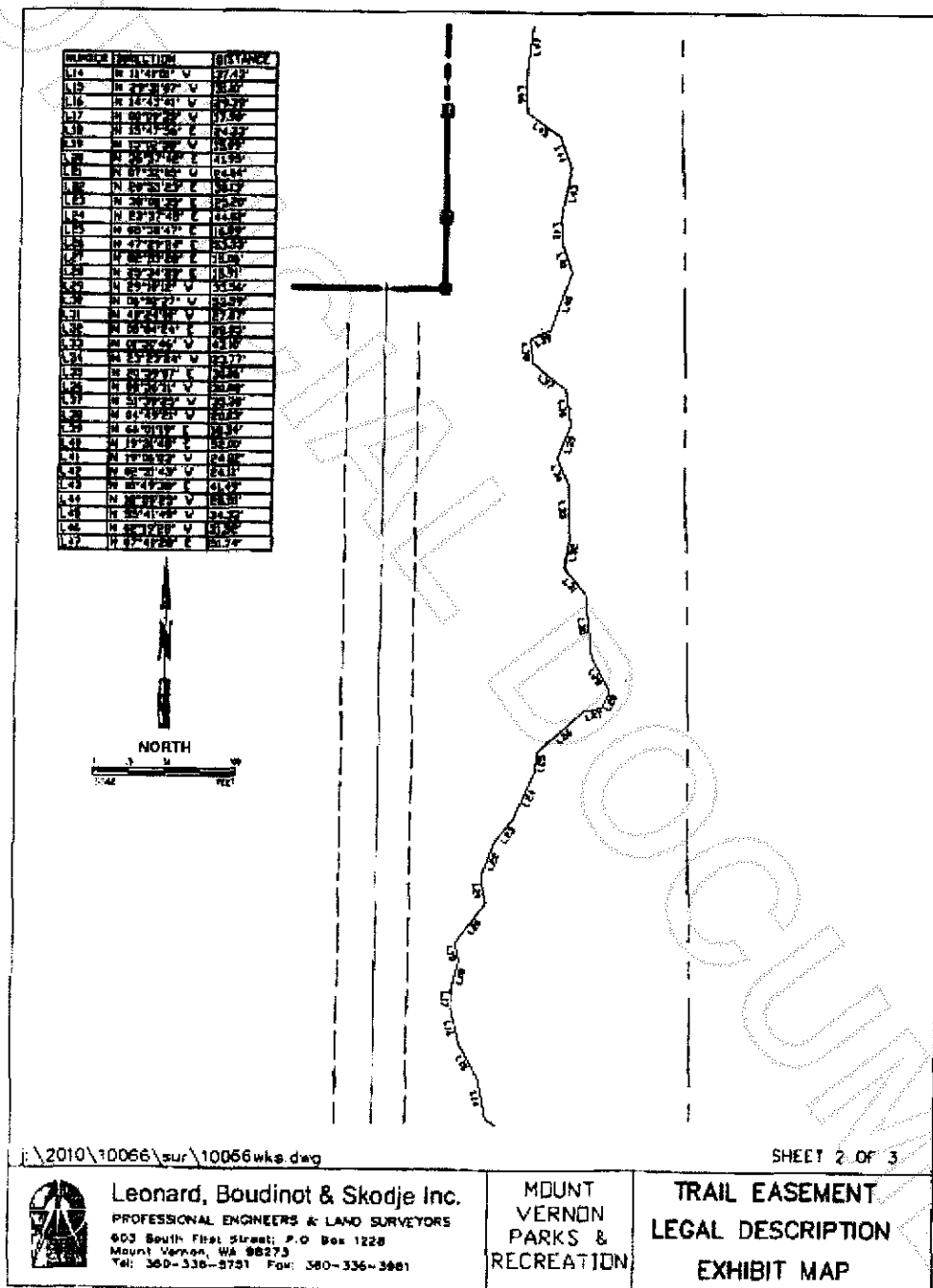


EXHIBIT C (continued) **Depiction of Centerline of Trail**



Leonard, Boudinot & Skodje Inc.
 PROFESSIONAL ENGINEERS & LAND SURVEYORS
 603 South First Street, P.O. Box 1228
 Mount Vernon, WA 98273
 Tel: 360-336-8751 Fax: 360-336-3961

**MOUNT
 VERNON
 PARKS &
 RECREATION**

**TRAIL EASEMENT
 LEGAL DESCRIPTION
 EXHIBIT MAP**



EXHIBIT C (continued) **Depiction of Centerline of Trail**

