

Recording Requested By And  
When Recorded Mail To:

Skagit County  
Public Works Department  
Attn: Emily Derenne  
1800 Continental Place  
Mount Vernon, Washington 98273



201709110238

Skagit County Auditor  
9/11/2017 Page

1 of 10 3:57PM \$83.00

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

SEP 08 2017

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

DOCUMENT TITLE: **TEMPORARY EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTORS(S): **Donna C. Bailey**, a single woman.

GRANTEE(S): **Skagit County**, a political subdivision of the State of Washington.

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within LOTS 2, 3, 4, 5, 14, 15, 16 AND 17, BLOCK 30, PLAT OF THE TOWN OF MONTBORNE, RECORDED IN VOLUME 2 OF PLATS, PAGE 80, RECORDS OF SKAGIT COUNTY, WASHINGTON. TOGETHER WITH THAT PORTION OF THE SOUTHWESTERLY HALF OF WASHINGTON STREET THAT HAS REVERTED THERETO BY OPERATION OF LAW; AND ALSO TOGETHER WITH THE VACATED ALLEY THAT HAS REVERTED THERETO BY OPERATION OF LAW.

ASSESSOR'S TAX / PARCEL NUMBER(S): **P74638** (Xref ID: 4135-030-017-0008)

### **TEMPORARY EASEMENT**

*(For riparian restoration work under the Natural Resource Stewardship Program project)*

The undersigned, **Donna C. Bailey**, a single woman (herein "Grantor" or "Landowner"), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants to **Skagit County**, a political subdivision of the State of Washington (herein "Grantee" or "County"), a temporary, non-exclusive easement ("Temporary Easement"), as provided herein. Landowner and County may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties." The terms of this Temporary Easement are further provided as follows:

**1. Nature and Location of Easement.** The Temporary Easement hereby granted by Landowner herein shall be a temporary easement to allow the County, the County's agents, employees, and contractors over, upon, across, through, a portion of real property located within and upon Landowner's Property, such Temporary Easement as legally described on *Exhibit "A"* and as further described and depicted on *Exhibit "B"*, attached hereto and incorporated herein by this reference, for the purpose of providing a temporary easement (and any related appurtenances thereto), including the right of ingress and egress with all necessary equipment for

construction of the riparian restoration work, including the installation of native vegetation, under the Skagit County Natural Resource Stewardship Program (NRSP) as described in *Exhibit "C"*, attached hereto and incorporated by reference (herein referred to as the "Project"). A legal description for the Landowner's Property is attached hereto as *Exhibit "D"*, and is hereby incorporated by reference.

1.1 The County, through its Department of Public Works (Natural Resources Division), will perform the Project as described in *Exhibit "C"* under its Natural Resources Stewardship Program (NRSP) for the protection, improvement, and enhancement of water quality in Skagit County streams for the benefit of downstream saltwater shellfish habitat.

1.2 Landowner represents and warrants to the County that the Landowner is the legal owner of the property described in *Exhibit "D"* (the "Landowner's Property"), and further represents and warrants to the County that there are no outstanding rights which interfere with this Temporary Easement agreement. The Landowner also acknowledges that a change in property ownership will not change the encumbrance of the Landowner's Property created by the terms of this Temporary Easement, and the Landowner agrees to inform any future owner of Landowner's Property of this Temporary Easement prior to sale or transfer of the Landowner's Property during the term of this Temporary Easement (as the terms of this Temporary Easement shall be binding on any subsequent owner[s] of the Landowner's Property for the duration of this Temporary Easement). The Landowner agrees to notify the County, within thirty (30) days of transfer, of changes in ownership during the term of this Temporary Easement.

1.3 Landowner agrees to inform the County (and the County's agents, employees, and contractors) of all known safety hazards on Landowner's Property prior to the commencement of the activities described in *Exhibit "C"*.

1.4 Except as provided to the contrary by the terms of this Temporary Easement, the Landowner shall retain the right to control trespass on Landowner's Property, all responsibility for taxes, assessments, and for any claims for damages to Landowner's Property.

1.5 Landowner recognizes and agrees that participation in the County's Natural Resource Stewardship Program does not eliminate or abrogate any jurisdictional authority, code requirements, or obligations required by any government entity including Skagit County.

**2. Use of Easement.** The County, County's employees, agents, and contractors shall have the right, with one (1) week notice, (or with such other notice as may be otherwise mutually agreed in writing by and between the parties), and during daytime hours, Monday through Saturday (unless otherwise arranged between the parties), to enter upon the Landowner's Property within the area of the Temporary Easement (as described and depicted in *Exhibit "A"* and *Exhibit "B"*), for the purpose of constructing and implementing the Project (described at *Exhibit "C"*) within the area of the Temporary Easement. Landowner shall not have the right to exclude the County, County's employees, agents, and/or contractors from the area of the Temporary Easement.

2.1 **Project Components.** This temporary easement includes the following components, as described in *Exhibit "C"*: (1) initial site work, (2) monitoring and maintenance, and (3) project preservation.

2.1.1 **Initial Site Work.** The initial site work includes site preparation, removal of invasive vegetation, riparian planting, and culvert removal as described in *Exhibit "C"*. Initial site work will be conducted within two (2) years of mutual execution of this agreement.

2.1.2 **Monitoring and Maintenance.** A Restoration and Maintenance Plan (Plan) has been developed for the Project and is included as Exhibit "C". In accordance with the Plan, Skagit County shall provide maintenance of vegetation for three (3) years after planting. The Landowner shall be responsible for plant preservation, not to include active maintenance, following this three (3) year period.

2.1.3 **Project Preservation.** Landowner agrees to preserve the Project in the same condition as exists at the time of Project completion and agrees to refrain from cutting, damaging, or otherwise harming any of the vegetation planted as part of the Project or in any way intentionally compromising the integrity of the Project for a period of ten (10) years from the date of mutual execution of this Temporary Easement agreement. Except as provided in Section 2.1.2, the Landowner shall be responsible for all riparian restoration preservation required as part of the Project. Landowner may be required to reimburse the County for Project costs funded by the County in the event that the Landowner does not preserve the Project in accordance with the terms of this Temporary Easement.

2.2 The Landowner acknowledges that the Landowner is voluntarily participating in the County's NRSP for riparian restoration (as described in Exhibit "C") that is the subject of this Temporary Easement and is permitting the Landowner's Property to be used for such purposes pursuant to the terms of this Temporary Easement. The Landowner agrees that the Project, when completed, will not now or in the future result in damages to the Landowner's Property, and that the County is not liable for any impacts to Landowner's Property resulting from the Project. The terms of this Section 2.2 shall survive the termination or expiration of this Temporary Easement.

2.3 The County agrees to be responsible for any damage arising from negligent acts of its employees, agents, or representatives on Landowner's Property in exercise of County's rights herein granted by this Temporary Easement. The County assumes no liability for any alleged damage to Landowner's Property resulting from this Temporary Easement, or from any source other than as may be expressly set forth herein.

**3. Termination of Temporary Easement.** The Project shall be considered complete following the completion of the activities described in Exhibit "C", including project maintenance activities. This Temporary Easement shall otherwise expire by its own terms ten (10) years from the date of mutual execution.

**4. Governing Law; Venue.** This Temporary Easement shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action brought under or relating to the terms of this Temporary Easement shall be in Skagit County, State of Washington.

**5. Entire Agreement.** This Temporary Easement contains the entire agreement between the parties hereto and incorporates and supersedes all prior negotiations or agreements. This Temporary Easement may not be modified or supplemented in any manner or form whatsoever, either by course of dealing or by parol or written evidence of prior agreements and negotiations, except upon the subsequent written agreement of the parties. Waiver or breach of any term or condition of this Temporary Easement shall not be considered a waiver of any prior or subsequent breach.

GRANTOR:

Donna C. Bailey  
Donna C. Bailey

DATED this 23 day of August, 2017.

STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **Donna C. Bailey**, a single woman, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she executed the foregoing instrument as her duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 23<sup>rd</sup> day of August, 2017.

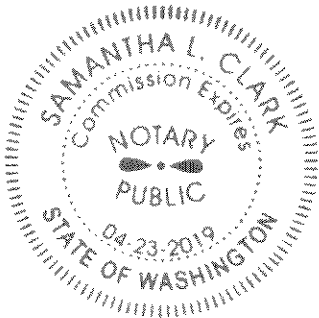
(SEAL)

Samantha L. Clark  
Notary Public

Print name: Samantha L. Clark

Residing at: 2016 Harbor View

My commission expires: 4-23-19



GRANTEE:  
DATED this 5 day of September, 2017.

BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

\_\_\_\_\_  
Ron Wesen, Chair

\_\_\_\_\_  
Kenneth A. Dahlstedt, Commissioner

\_\_\_\_\_  
Lisa Janicki, Commissioner

Attest: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board

Authorization per Resolution R20050224:

  
\_\_\_\_\_  
County Administrator

Recommended:

  
\_\_\_\_\_  
Department Head

Approved as to form:

 8/28/17  
\_\_\_\_\_  
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

 (8-31-17)  
\_\_\_\_\_  
Risk Manager

Approved as to budget:

  
\_\_\_\_\_  
Budget & Finance Director

**EXHIBIT "A"**

**TEMPORARY EASEMENT AREA LEGAL DESCRIPTION**

A TEMPORARY EASEMENT FOR THE PURPOSE OF RESTORATION AND MAINTENANCE WITHIN PARCEL NUMBER P74638 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING ON THE WESTERN PROPERTY CORNER OF SKAGIT COUNTY TAX PARCEL P74638;

THENCE  $\pm 68$  FEET SOUTHEASTERLY ALONG THE SOUTHWESTERN PROPERTY LINE TO A POINT 50 FEET TO THE NORTHWEST OF THE WESTERN ORDINARY HIGH WATER MARK (OHWM) OF THE UNNAMED TRIBUTARY TO BIG LAKE AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING SOUTHWESTERLY 100 FEET TO A POINT 50 FEET FROM THE SOUTHERN OHWM OF THE UNNAMED TRIBUTARY TO BIG LAKE;

THENCE NORTHEASTERLY MAINTAINING A DISTANCE OF 50 FEET FROM THE SOUTHERN OHWM OF THE UNNAMED TRIBUTARY TO BIG LAKE TO THE NORTHEASTERN PROPERTY LINE;

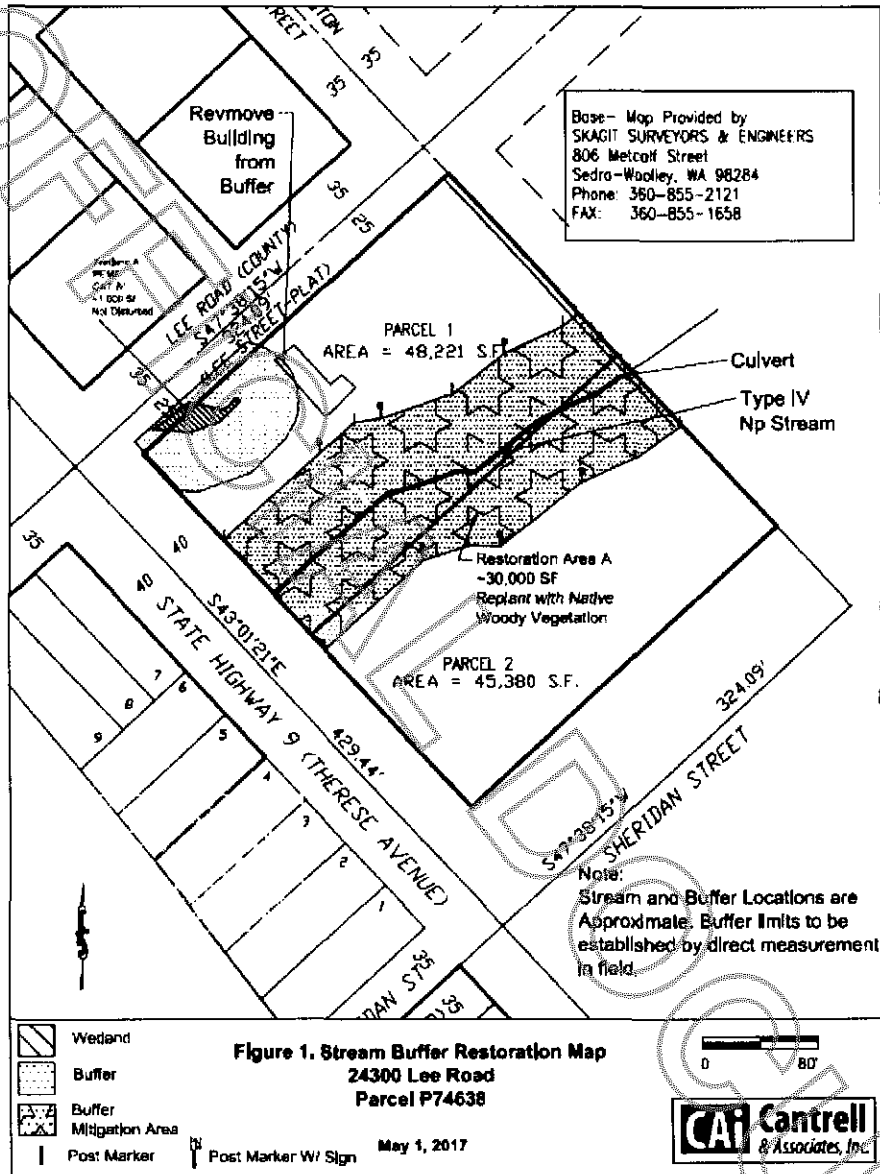
THENCE NORTHWESTERLY 100 FEET TO A POINT 50 FEET FROM THE NORTHERN OHWM OF THE UNNAMED TRIBUTARY TO BIG LAKE;

THENCE SOUTHWESTERLY MAINTAINING A DISTANCE OF 50 FEET FROM THE NORTHERN OHWM OF THE UNNAMED TRIBUTARY TO BIG LAKE TO THE SOUTHWESTERN PROPERTY LINE AND RETURNING TO THE TRUE POINT OF BEGINNING.

BEING AN AREA OF  $\pm 0.68$  ACRES

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

# **EXHIBIT "B"** **GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA**



This temporary easement includes the above-depicted shaded area required for removal of non-native plants and the installation of riparian vegetation and bank stabilizing large woody debris.

Parcel Number: P74638

Address: 24339 Lee Road

Mount Vernon, WA 98274

Situate in the County of Skagit, State of Washington

## EXHIBIT "C"

### RIPARIAN RESTORATION AND MAINTENANCE PLAN SCOPE OF WORK

#### Overview

The restoration Project site at Landowner's Property is located along a tributary to Big Lake. The project area is about 0.68 acres overall. The Project goal is to reduce sediment input, remove invasive plant species at the site, and install native plants in an effort to improve water quality on site for the protection, improvement, and enhancement of downstream saltwater shellfish habitat. Further guidance can be found in the Critical Areas Assessment Report – Riparian Buffer Restoration Plan completed on May 2, 2017 for Donna Bailey by Cantrell and Associates Inc.

#### Invasive Plant Species

The main restoration area has invasive Himalayan blackberries and Japanese Knotweed.

- **Blackberries:** The blackberries have been mowed down by the Landowner. Blackberries will be sprayed with herbicide upon re-growth. Blackberries will be mowed each maintenance visit to reduce re-growth.
- **Knotweed:** The canes will be bent in late or early September and followed up with spraying of herbicide and non-ionic surfactant foliar in late August or early September. It will be sprayed in the same manner during subsequent maintenance visits, as needed.

Herbicide will be applied under the supervision of a licensed applicator. The applicator is required to be licensed to work in and around water and in a terrestrial environment. Herbicide will be applied in accordance with applicable law, including guidelines designated by the Environmental Protection Agency on appropriate herbicides for fish bearing streams. The Landowner will be notified at least one (1) week prior to any herbicide application. Application records will be maintained and provided to the Landowner upon request.

#### Planting

Installation will begin in fall 2017. Red-osier dogwood, Western Red Cedar, and other native shrubs will be planted in the easement area. Approximately 570 plants will be installed with an 8-foot spacing. All plants will have hog fuel mulch at the base of the plants. Planting area is shown in Figure 1 below.

At least 30% of the total installed plants will be conifers. Planting shall not occur during unsuitable soil or weather conditions as determined by the Project Manager. No planting during freezing weather conditions or in frozen ground will occur.

All plants and plant protectors will be provided by Skagit County. Protectors shall be buried a minimum of 2 inches in the ground and supported with wooden stakes. Protectors will be removed during the final season of maintenance in 2020.

#### Culvert Removal

There are two culverts on site, one of which has failed entirely. The most upstream culvert will be left in place and the lower, failed culvert will be removed.



### **Maintenance**

Maintenance will be conducted for 3 seasons after planting is complete. Maintenance will occur on 1 site visit per year to ensure the plants are not being overwhelmed by non-natives invasive plants.

### **Monitoring**

Planting maintenance is intended to achieve at least 80% survival of installed plants in year 3 following planting. Vegetation survival will be monitored annually during the early summer. If survival rates of less than 80% are observed by the 3<sup>rd</sup> season following planting, then additional plants will be installed in the fall of that year to bring the stocking rate to at least 80% of the original planting target.



Figure 1. Restoration Plan

**EXHIBIT "D"**  
**LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY**

**Parcel One** recognized as a separate lot by Lot Certification recorded as Auditor's File No..  
**200608100003:**

Lots 2, 3, 4, 5, 14, 15 and 17 Block 30 "PLAT OF THE TOWN OF MONTBORNE SKAGIT COUNTY WASHINGTON" as per plat recorded in Volume 2 of Plats, Page 80, records of Skagit County, Washington; TOGETHER WITH that portion of the vacated Southwesterly  $\frac{1}{2}$  of Washington Street that has reverted thereto by operation of law; AND ALSO TOGETHER WITH the vacated alley that has reverted thereto by operation of law.

**Parcel Two** recognized as a separate lot by Lot Certification recorded as Auditor's File No..  
**200608100004:**

Lots 6, ~~7~~, 7, 8, 9, 10, 11, 12 and 13 Block 30 "PLAT OF THE TOWN OF MONTBORNE SKAGIT COUNTY WASHINGTON" as per plat recorded in Volume 2 of Plats, Page 80, records of Skagit County, Washington; TOGETHER WITH that portion of the vacated Southwesterly  $\frac{1}{2}$  of Washington Street that has reverted thereto by operation of law; AND ALSO TOGETHER WITH the vacated alley that has reverted thereto by operation of law; AND FURTHER TOGETHER WITH the vacated Southeasterly 10 feet of Lee Street that has reverted thereto by operation of law.

All situated in Skagit County, Washington.