

Recording Requested by, and
When Recorded Mail To:

Town of Concrete
Attn: Town Planner
45672 Main Street
P.O. Box 39
Concrete WA 98237

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX
EASEMENT
SEP 12 2017



Skagit County Auditor \$85.00
9/12/2017 Page 1 of 12 2:23PM

Amount Paid \$
Skagit Co. Treasurer
By HB Deputy

DOCUMENT TITLE: UTILITY EASEMENT

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

GRANTEE(S): Town of Concrete, a Washington municipal corporation.

ASSESSOR'S TAX / PARCEL NUMBER(S): P43580 (XrefID: 350809-0-048-0014)

ABBREVIATED LEGAL DESCRIPTION: PTN of the SW ¼ NE ¼ Section 9 Township 35 N Range 08 East WM. Situate in County of Skagit, State of Washington.

UTILITY EASEMENT

The undersigned, **Skagit County**, a political subdivision of the State of Washington ("Grantor"), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants to the **Town of Concrete**, a Washington municipal corporation ("Grantee"), a permanent, perpetual, non-exclusive utility easement ("Easement"), as provided herein. Grantor and Grantee may be individually referred to herein as a "Party", and may be collectively referred to herein as the "Parties." The terms of this Easement are further provided as follows:

1. Nature and Location of Easement. The Easement hereby granted by Grantor herein shall be a permanent, perpetual, non-exclusive, underground utility easement for the benefit of Grantee, over, upon, across, through, a portion of real property located within and upon Grantor's Property, such Easement area 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 partial route for the placement, installation, use, maintenance, and operation of certain underground utilities, specifically limited to a water line approximately twelve inches (12") in diameter, owned by Grantee. A legal description for the Grantor's Property is attached hereto as *Exhibit "C"*, and is hereby incorporated by reference. The Easement and the covenants, terms, and conditions contained herein are perpetual in duration, and shall run with the Grantor's Property and shall be binding upon Grantee and Grantor and each party's respective successors (subject to Section 9.1, below).

2. Use of Easement. The Grantee shall have the right, upon providing reasonable notice Grantor (as determined by Grantor), and at reasonable times (as determined by Grantor),

to enter upon the Grantor's Property within the Easement area (as described and depicted in Exhibit "A" and "B") for purposes of using the Easement for the placement, installation, use, maintenance, and operation of certain underground utilities, specifically limited to a water line approximately twelve inches (12") in diameter (owned by Grantee), subject to the terms of this Easement agreement. Grantee shall not have the right to exclude Grantor or third parties the Easement area or from the Grantor's Property (without the revocable written permission of Grantor). Grantee shall not interfere with the Grantor's use of the Grantor's Property whatsoever (including, but not limited to, Grantor's use of the property located within the Easement area, and the use of the property located within the Easement area by the general public as a non-motorized trail). Grantee accepts use of the Easement area on Grantor's property "as is", without any representations or warranties from Grantor whatsoever (express or implied). The Grantee specifically recognizes and agrees that Grantor is not obligated to make, construct, operate, maintain, or repair any particular improvements or facilities at (or within the vicinity of) Grantor's Property or the Easement area pursuant to the terms of this Easement. The Grantee agrees that use of this Easement by Grantee shall be at the sole risk of the Grantee.

2.1 Grantee agrees to be responsible and liable for any damages or impact to Grantor's Property arising from Grantee's use of the Easement, and upon the request of Grantor, the Grantee shall repair and restore the Grantor's Property to a substantially similar condition as existed before Grantee entered onto the Grantor's Property for the purposes described in this Easement. Prior to the commencement of any work within the Easement area, the Grantee shall coordinate with Grantor to avoid any disturbance, impact, or damage to facilities owned by Grantor at or within the Easement area (including, but not limited to, public non-motorized trail infrastructure owned and/or used by Grantor). Any work performed within the Easement area by Grantee shall be performed so as not to not unreasonably interfere with the free passage of pedestrian and/or non-motorized vehicle traffic therein, or with the reasonable ingress or egress to Grantor's Property. In the event that the Grantor performs (or contracts to have performed) work that the Grantor considers necessary (at the sole judgment and discretion of the Grantor) to repair and/or restore to a safe and/or usable condition any area, equipment, or facilities at or within Grantor's Property which are damaged or disturbed by Grantee, the Grantor shall be reimbursed by the Grantee for the actual costs and expenses incurred by the Grantor for any such repair and/or restoration work (including, but not limited to, labor, materials, supplies, use of Grantor's equipment, and Grantor's staff time); and, in addition thereto, nine percent (9%) of the total actual costs and expenses incurred by the Grantor shall be added for overhead costs for accounting, billing, and administrative services, provided that the Grantor shall submit to the Grantee a certified statement of the costs, and within thirty (30) days thereafter, Grantee shall pay to the Grantor the amount of said statement.

3. Hold Harmless, Defense, & Indemnification. The Grantee hereby unconditionally releases and forever discharges and holds harmless the Grantor (including the Grantor's elected officials, employees, volunteers, officers, and/or agents in both their official and individual capacities) from any and all past, present, and/or future claims, counterclaims, demands, judgments, debts, costs, liabilities, expenses, suits, and proceedings of any kind and nature, as arising from and/or related to the Grantee's use of the Easement area on Grantor's Property. The Grantee agrees to be responsible for and to assume liability for Grantee's own wrongful and/or negligent acts or omissions or those of Grantee's officials, officers, agents, contractors, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the Grantor harmless from any such liability. It is further provided that no liability shall attach to the Grantor by reason of entering into this Easement except as

expressly provided herein. The terms of this section shall survive any termination of this Easement, and shall continue in full force and effect.

4. Limitation of Liability. Any party having a claim against the Grantee, however arising, shall have recourse only to the extent of assets and property of the Grantee, and shall have no recourse against the Grantor, its appointed or elected officers, employees, volunteers or its/their assets or credits.

5. Governing Law; Venue. This 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 term of this Easement shall be in Skagit County, State of Washington.

6. Compliance with Laws and Permits. Grantee shall, at Grantee's own cost, expense, and liability, obtain and comply with all applicable federal, state, and local laws, rules, and regulations, and any applicable permits and/or approvals, in using the Easement, and shall be solely and separately liable and responsible for any non-compliance with any applicable federal, state, and local laws, rules, regulations, permits and/or approvals.

7. No Third Party Beneficiaries. This Easement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, the general public, third party property owner(s) and/or tenant(s) at or in the vicinity of the Easement area, any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any Party.

8. No Assignment. This Easement may not be assigned, contracted, and/or transferred to any other individual, firm, company, party, and/or other entity by Grantee without the express and duly authorized prior written approval of the County. Grantor may assign or transfer this Easement without the consent of Grantee.

9. Other Terms (Modifications; Neutral Authorship, Captions & Counterparts; Entire Agreement). This Easement may be changed, modified, amended or waived only by subsequent written agreement, duly executed by the Parties hereto. Waiver or breach of any term or condition of this Easement shall not be considered a waiver of any prior or subsequent breach. In the event any term or condition of this Easement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Easement which can be given effect without the invalid term, condition, or application. To this extent and end the terms and conditions of this Easement are declared severable. Each of the terms and provisions of this Easement have been reviewed and negotiated, and represents the combined work product of the Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Easement in favor of or against the Party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Easement. Grantor (Skagit County) does not represent Grantee. The Parties represent and warrant that they have fully read this Easement, that they understand its meaning and effect, and that they enter into this Easement with full knowledge of its terms. The Parties have entered into this Easement without duress or undue influence. The captions in this Easement are for convenience and reference only and do not define, limit, or describe the scope or intent of this Easement. This Easement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Easement agreement. This Easement contains all the terms and conditions mutually agreed upon by the Parties. This

Easement supersedes any prior oral statements, discussions, and/or understandings between the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Easement shall be deemed to exist or to bind any of the Parties hereto.

9.1 The parties recognize and agree that the Grantee's use of this Easement is conditioned upon and subject to Grantee's full compliance with the requirements of all applicable rail-banking law(s) and agreement(s), including, but not limited to, the National Trails Systems Act, 16 U.S.C., Section 1247(d), and Skagit County Contract Number 01775 (dated August 20, 1993). In the event that the terms of this Easement and the terms of the aforementioned rail-banking law(s) and agreement(s) are not consistent, the terms of the aforementioned rail-banking law(s) and agreement(s) shall prevail. Grantee recognizes and agrees that Grantee shall assume all risk associated with the possibility that the Grantor's Property (including the Easement area) could be converted back to railroad uses (and/or for other purposes), and Grantee agrees that the Grantor has no duty or obligation whatsoever to attempt to prevent or oppose such other potential future uses of the Easement area. The Grantor may immediately terminate this Easement upon providing thirty (30) days written notice to Grantee (without penalty, liability, or recourse from Grantee), if the Grantor is required by court order, legislative action, and/or by other action of another governmental agency having jurisdiction over the Easement area, which would effectively limit, prohibit, eliminate, condition, and/or change either party's use of the Easement area.

10. Recording. Upon mutual execution, this Easement shall be recorded with the Skagit County Auditor, and shall become effective immediately upon recording.

GRANTEE:

TOWN OF CONCRETE, a Washington municipal corporation.

DATED this 28th day of August, 2017.

By: [Signature]
Jason Miller, Mayor

Attest:

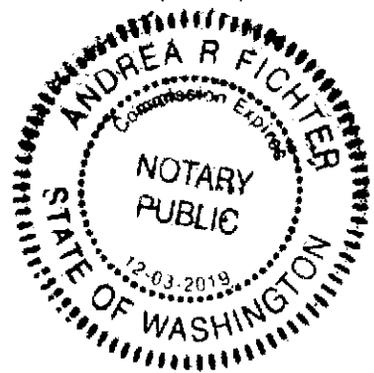
[Signature]
~~Andrea Fichter, Town Clerk~~ David Day, Town Attorney

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Jason Miller, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was duly authorized execute the instrument and acknowledged it as the Mayor of the Town of Concrete, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 28th day of August, 2017

(SEAL)



[Signature]
Notary Public
Print name: Andrea R Fichter
Residing at: Concrete WA
My appointment expires: 12/03/19

GRANTOR:

DATED this 11 day of September, 2017.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ron Wesen

Ron Wesen, Chair

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner

Lisa Janicki

Lisa Janicki, Commissioner

Attest:

Amber Epps
Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

Bleen
Department Head

County Administrator

Approved as to form:

[Signature] 8/29/17
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Shane O'Brien (9-6-17)
Risk Manager

Approved as to budget:

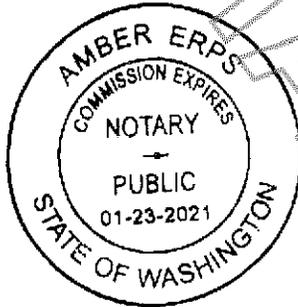
Lisa Yegor
Budget & Finance Director

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Ron Wesen, Kenneth A. Dahlstedt, and/or Lisa Janicki is/are the person(s) who appeared before me, and said person(s) acknowledged that she/he/they signed this instrument, on oath stated that she/he/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 11 day of September, 2017.

(SEAL)



Amber Erps
Notary Public
Print name: Amber Erps
Residing at: Mount Vernon
My appointment expires: 1-23-2021

EXHIBIT "A"

EASEMENT AREA LEGAL DESCRIPTION

A 20.00-foot wide easement for the placement, installation, use, maintenance and operation of certain underground utilities, specifically limited to a water line approximately 12 inches in diameter in a portion of the East 1/2 of the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 35 North, Range 8 East, W.M., the limits of said easement being located ten (10.00) feet right Westerly and ten (10.00) feet left Easterly of the following described centerline:

BEGINNING at the intersection of the West line of said East 1/2 of the Southwest 1/4 of the Northeast 1/4 of Section 9, with the Southerly right-of-way margin of Grassmere Road (called R.R. A venue on the Plat of Hamstrom's Addition to Grassmere recorded in Volume 3 of Plats, page 82, records of Skagit County) also being the Northerly right-of-way margin of the Burlington Northern Railroad right-of-way (formerly Great Northern Railroad and S and M Railroad); thence South 78°21 '13" East along said Southerly right-of-way margin of Grassmere Road for a distance of 117.69 feet to the TRUE POINT OF BEGINNING of said line description; thence South 11°55'21" West for a distance of 160.00 feet, more or less, to the Southerly right-of-way margin of said Great Northern Railroad right-of-way, also being the Northerly right-of-way margin of State Route 20 and being the terminus of said centerline.

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the County of Skagit, State of Washington

Sidelines of said 20.00 foot wide easement are to be lengthened or shortened as necessary to conform to the Northerly and Southerly right-of-way margins.

EXHIBIT "B"
GRAPHIC DEPICTION OF EASEMENT AREA

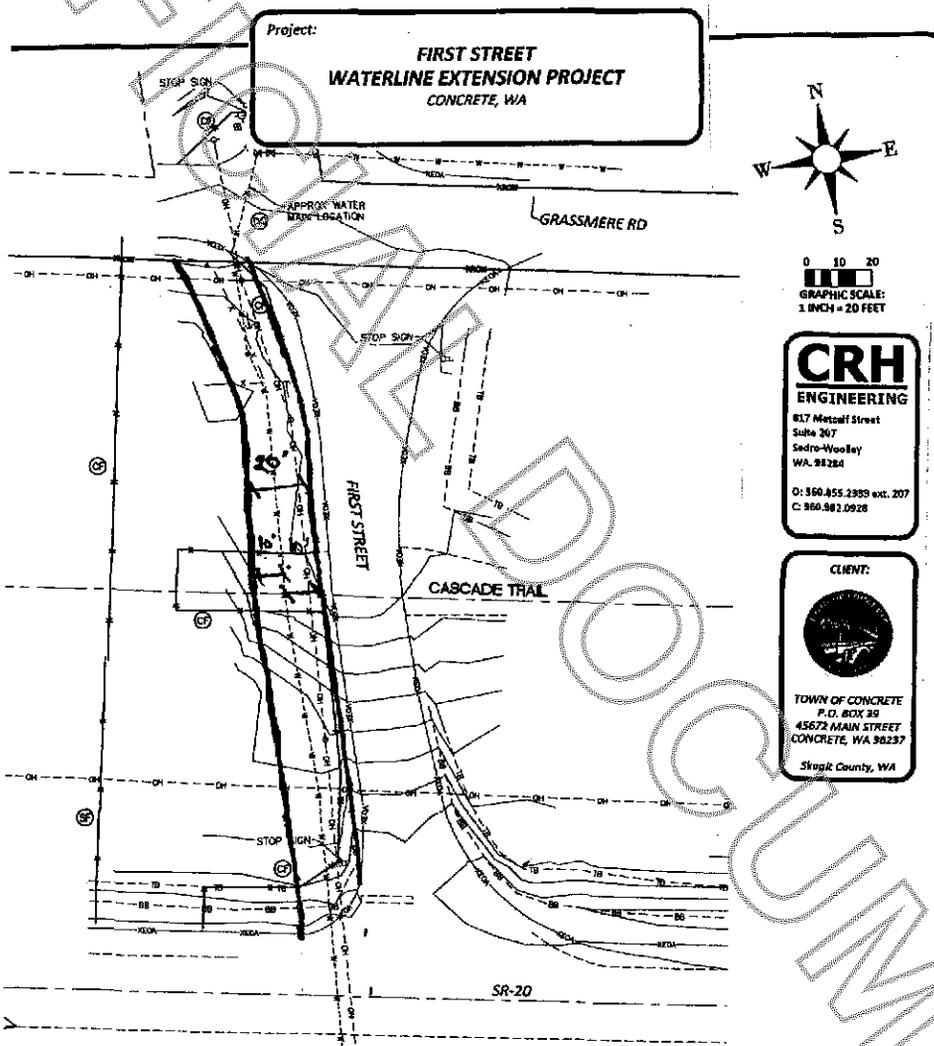


EXHIBIT "C"
LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

All that portion of Burlington Northern Railroad Company's (formerly Great Northern Railway Company) Sedro-Woolley to Concrete, Washington Branch Line right of way, now discontinued, being of variable widths on each side of said Railroad Company's Main Track centerline as originally located and constructed upon, over and across Sections 19, 18, 17, 16, 15, 14 and 13, Township 35 North, Range 5 East and Sections 18, 17, 16, 15, 14 and 13, Township 35 North, Range 6 East, Sections 18, 17, 16, 9, 10, 11 and 12, Township 35 North, Range 7 East, Sections 7, 8, 5, 9 and 10, Township 35 North, Range 8 East of the Willamette Meridian, Skagit County, Washington more particularly described as follows, to-wit:

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the NW 1/4 and the NW 1/4 NE 1/4 of said Section 19, the SE 1/4 of said Section 18, the SW 1/4, the SE 1/4 NW 1/4 and the S 1/2 NE 1/4 of said Section 17, the S 1/2 S 1/2 N 1/2 of said Sections 16, 15, 14 and 13 all in Township 35 North, Range 5 East W. M., the S 1/2 S 1/2 N 1/2 of said Section 18, the N 1/2 of said Sections 17, 16, 15 and 14 and the W 1/2 SW 1/4 NW 1/4 of said Section 13 all in Township 35 North, Range 6 East W. M. bounded on the West by a line drawn at right angles to said Main Track centerline distant 444.4 feet northeasterly from the West line of said Section 19, T35N, R5E, as measured along said Main Track centerline and bounded on the East by a line drawn at right angles to said Main Track centerline distant 530.0 feet easterly from the West line of said W 1/2 SW 1/4 NW 1/4 of Section 13, T35N, R6E, as measured along said Main Track centerline, **EXCEPTING THEREFROM**, the northerly 35.0 feet of said 100.0 foot wide Branch Line right of way lying between two lines drawn parallel with distant 15.0 feet and 50.0 feet northerly, measured at right angles from said Main Track centerline bounded on the East by the West line of Pettit Street and bounded on the West by the southerly extension of the West line of Block 17 of the Original Town of Hamilton according to the plat of Hamilton, Washington on file and of record in the office of the Auditor of Skagit County, Washington; also,

An additional strip of land being 150.0 feet wide, lying adjacent to and northerly of the hereinabove described 100.0 foot wide Branch Line right of way, located upon, over and across the S 1/2 NE 1/4 of said Section 14, T35N, R6E, lying between two lines drawn parallel with and distant, respectively, 50.0 feet and 200.0 feet northerly of, measured at right angles from, said Main Track centerline and bounded on the East by the East line of said S 1/2 NE 1/4 and bounded on the West by the West line of Pettit Street according to the plat of Hamilton, Washington on file and of record in the office of the Auditor of Skagit County, Washington.

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the S 1/2 N 1/2 of said Section 13, T35N, R6E, the S 1/2 N 1/2 of said Section 18, the N 1/2 of said Section 17, the N 1/2 NW 1/4 and the NW 1/4 NE 1/4 of said Section 16, the S 1/2 SE 1/4 of said Section 9, the S 1/2 SW 1/4 and the W 1/2 SE 1/4 of said Section 10, all in Township 35 North, Range 7 East W. M., bounded on the west by a line drawn at right angles to said Main Track centerline distant 530.0 feet easterly from the west line of said S 1/2 N 1/2 of Section 13, T35N, R6E, as measured along said Main Track centerline and bounded on the east by a line drawn at right angles to said Main Track centerline distant 1,706.0 feet southwesterly from the east line of said Section 10, T35N, R7E, as measured along said Main Track centerline; also,

An additional parcel of land lying adjacent to and northerly of the hereinabove described 100.0 foot wide Branch Line right of way situated in the SE 1/4 SE 1/4 of said Section 9 and the S 1/2 SW 1/4 of said Section 10, T35N, R7E described as follows;

Beginning at a point on the west line of said S 1/2 SW 1/4 distant 300.0 feet northerly, measured at right angles from said Main Track centerline; thence easterly parallel with said Main Track centerline to a point on the east line of the SW 1/4 SW 1/4 of said Section 10; thence southeasterly along a straight line to the point of intersection with a line drawn parallel with, distant 50.0 feet northerly, measured at right angles from said Main Track centerline at a point distant 400.0 feet easterly from the east line of said SW 1/4 SW 1/4 as measured along said parallel line distant 50.0 feet northerly of said Main Track centerline; thence westerly parallel with and distant 50.0 feet northerly from said Main Track centerline to the intersection with a line drawn at right angles to said Main Track centerline at a point distant 500.0 feet west of the east line of said SE 1/4 SE 1/4 of Section 9, as measured along said Main Track centerline; thence northeasterly along a straight line to the Point of Beginning.

ALSO,

All that portion of said Railroad Company's 300.0 foot wide Station Ground property at Birdsvew, Washington located on said Branch Line right of way, being 200.0 feet wide on the northerly side and 100.0 feet wide on the southerly side of said Main Track centerline upon, over and across the SE 1/4 of said Section 10 and the NW 1/4 SW 1/4 of said Section 11, T35N, R7E bounded on the east by the east line of said NW 1/4 SW 1/4 of Section 11 and bounded on the west by a line drawn at right angles to said Main Track centerline distant 1,706 feet southwesterly from the east line of said SE 1/4 of Section 10, as measured along said Main Track centerline; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the N 1/2 NE 1/4 SW 1/4, the S 1/2 SE 1/4 NW 1/4 and the S 1/2 NE 1/4 of said Section 11, Government Lot 1, 2, 3 and 4 of said Section 12 all in T35N, R7E, the SW 1/4 of Government Lot 1, the N 1/2 of Government Lot 2, the E 1/2 NW 1/4 and Governments Lot 10 and 11 of said Section 7, Government Lots 1, 2, 3 and 4 of said Section 8, the S 1/2 SE 1/4 of said Section 5, Government Lot 1, the E 1/2 NW 1/4 and the SW 1/4 NE 1/4 of said Section 9 all in T35N, R8E bounded on the west by the west line of said N 1/2 NE 1/4 SW 1/4 of Section 11 and bounded on the east by drawn at right angles to said Main Track distant 2,165.0 feet northwesterly from the east line of said section 9, T35N, R8E, as measured along said Main Track centerline; also,

An additional strip of land 50.0 feet wide, lying adjacent to and southeasterly of the hereinabove described 100.0 foot wide Branch Line right of way, upon, over and across the said E 1/2 NW 1/4 and Government Lot 10 of Section 7, T35N, R8E, lying between two lines drawn parallel with and distant, respectively 50.0 feet and 100.0 feet southeasterly of, as measured at right angles and radially from said Main Track centerline and bounded on the east by a line drawn at right angles and radially from said Main Track centerline distant 260.0 feet northeasterly, measured along said Main Track centerline from the west line of said Government Lot 10 and bounded on the southwest by a line drawn at right angles to said Main Track centerline distant

740.0 feet southwesterly, measured along said Main Track centerline from the west line of said Government Lot 10; also,

An additional strip of land 50.0 feet wide, lying adjacent to and southeasterly of the hereinabove described 100.0 foot wide Branch Line right of way, upon, over and across the said Government Lot 2 of Section 8, T35N, R8E and said S 1/2 SE 1/4 of Section 5, T35N, R8E lying between two lines drawn parallel with and distant, respectively 50.0 feet and 100.0 feet southeasterly of, as measured at right angles and radially from said Main Track centerline and bounded by two lines drawn at right angles and radially to said Main Track centerline distant, respectively, 510 and 1,010 feet northeasterly from the west line of said Government Lot 2, as measured along said Main Track centerline; also,

An additional strip of land 50.0 feet wide, lying adjacent to and southwesterly of the hereinabove described 100.0 foot wide Branch Line right of way, upon, over and across the said Government Lot 1 of Section 8 and Government Lot 1 of said Section 9, T35N, R8E lying between two lines drawn parallel with and distant, respectively 50.0 feet and 100.0 feet southwesterly of, as measured at right angles and radially from said Main Track centerline and bounded on the northwest by a line drawn at right angles and radially to said Main Track centerline distant 723 feet northwesterly from the east line of said Government Lot 1 of Section 8 as measured along said Main Track centerline and bounded on the southeast by a line drawn at right angles and radially to said Main Track centerline distant 677 feet southeasterly from the west line of said Government Lot 1 of Section 9 as measured along said Main Track centerline; also,

All that portion of said Railroad Company's 300.0 foot wide Station Ground property at Grassmere, Washington located on said Branch Line right of way, being 200.0 feet wide on the southerly side and 100.0 feet wide on the northerly side of said Main Track centerline upon, over and across the S 1/2 NE 1/4 of said Section 9 and the W 1/2 W 1/2 of said Section 10, T35N, R8E bounded on the west by a line drawn at right angles to said Main Track centerline distant 2,165 feet northwesterly from the east line of said S 1/2 NE 1/4 of Section 9 and bounded on the southeast by a line drawn at right angles to said Main Track centerline distant 935 feet southeasterly from the west line of said W 1/2 W 1/2 of Section 10, as measured along said Main Track centerline; also, . '

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the SE 1/4 SW 1/4 NW 1/4, the S 1/2 SE 1/4 NW 1/4, the N 1/2 NE 1/4 SW 1/4 and the S 1/2 NE 1/4 of said Section 10, T35N, R8E bounded on the northwest by a line drawn at right angles to said Main Track centerline distant 935 feet southeasterly from the west line of said Section 10, as measured along said Main Track centerline and bounded on the east by the centerline of State Highway No. 20 distant 115 feet, more or less, westerly from the east line of said Section 10, as measured along said Main Track centerline.

BN 7220-01 Sedro-Woolley to Concrete, WA