



201710020024

Skagit County Auditor

\$134.00

10/2/2017 Page

1 of

11 9:05AM

Document Title: TEMPORARY EASEMENT

Reference Number: 20170447

Grantor(s): additional grantor names on page ____

1. Kenneth D Miller

2. Phyllis L Miller

Grantee(s): additional grantee names on page ____

1. Skagit County

2.

Abbreviated legal description: full legal on page(s) 10.

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ____

749765

I, Emily Verenna, am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$74.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed Emily Verenna

Dated 9/27/17

Recording Requested By And
When Recorded Mail To:

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

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

SEP 21 2017

Amount Paid \$
Skagit Co. Treasurer
By *[Signature]* Deputy

DOCUMENT TITLE: **TEMPORARY EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTORS(S): **Kenneth D. Miller and Phyllis L. Miller**, as husband and wife.

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

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within THAT PORTION OF THE WEST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER NORTH OF OLD GRADE ROAD. EXCEPT THE SOUTH 200 FEET THEREOF 21-36-4.

ASSESSOR'S TAX / PARCEL NUMBER(S): **P49765** (Xref ID: 360421-4-005-0006)

TEMPORARY EASEMENT

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

The undersigned, **Kenneth D. Miller and Phyllis L. Miller**, as husband and wife (herein "Grantors" or "Landowners"), 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. Landowners 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 Landowners 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 Landowners' 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 Landowners' 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 Landowners represent and warrant to the County that the Landowners are the legal owner of the property described in *Exhibit "D"* (the "Landowners' Property"), and further represent and warrant to the County that there are no outstanding rights which interfere with this Temporary Easement agreement. The Landowners also acknowledge that a change in property ownership will not change the encumbrance of the Landowners' Property created by the terms of this Temporary Easement, and the Landowners agree to inform any future owner of Landowners' Property of this Temporary Easement prior to sale or transfer of the Landowners' 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 Landowners' Property for the duration of this Temporary Easement). The Landowners agree to notify the County, within thirty (30) days of transfer, of changes in ownership during the term of this Temporary Easement.

1.3 Landowners agree to inform the County (and the County's agents, employees, and contractors) of all known safety hazards on Landowners' 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 Landowners shall retain the right to control trespass on Landowners' Property, all responsibility for taxes, assessments, and for any claims for damages to Landowners' Property.

1.5 Landowners recognize and agree 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 Landowners' 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. Landowners 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 bank stabilizing work 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.** Landowners agree 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 Landowners shall be responsible for all riparian restoration preservation required as part of the Project. Landowners may be required to reimburse the County for Project costs funded by the County in the event that the Landowners do not preserve the Project in accordance with the terms of this Temporary Easement.

2.2 The Landowners acknowledge that the Landowners are 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 Landowners' Property to be used for such purposes pursuant to the terms of this Temporary Easement. The Landowners agree that the Project, when completed, will not now or in the future result in damages to the Landowners' Property, and that the County is not liable for any impacts to Landowners' 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 Landowners' Property in exercise of County's rights herein granted by this Temporary Easement. The County assumes no liability for any alleged damage to Landowners' 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.

GRANTORS:

Kenneth D. Miller

Kenneth D. Miller

DATED this 28 day of Aug, 2017.

Phyllis L. Miller

Phyllis L. Miller

DATED this 28th day of Aug., 2017.

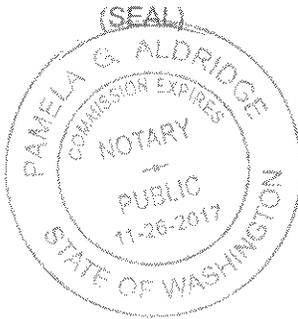
STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **Kenneth D. Miller and Phyllis L. Miller**, as husband and wife, are the people who appeared before me, and said person(s) acknowledged that they signed this instrument, on oath stated that they executed the forgoing instrument as their duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 28 day of August, 2017



Pamela G. Aldridge
Notary Public
Print name: Pamela G. Aldridge
Residing at 1000 1/2 1st St NW
My commission expires: 11-26-17

GRANTEE:
DATED this 20 day of September, 2017.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

~~_____
Ron Wesen, Chair~~

~~_____
Kenneth A. Dahistedt, Commissioner~~

~~_____
Lisa Janicki, Commissioner~~

Attest:

~~_____
Clerk of the Board~~

Authorization per Resolution R20050224:

~~_____
County Administrator~~

Recommended:

~~_____
Department Head~~

Approved as to form:

~~_____
Civil Deputy Prosecuting Attorney~~

9/13/17

Approved as to indemnification:

~~_____
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 P49765 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING ON THE SOUTHEASTERN PROPERTY CORNER OF SKAGIT COUNTY TAX PARCEL P132493;

THENCE NORTHERLY ALONG THE EASTERN PROPERTY LINE TO THE SOUTHEAST CORNER OF SKAGIT COUNTY TAX PARCEL P49765;

THENCE NORTHERLY TO A POINT 35 FEET SOUTH OF THE SOUTHERN ORDINARY HIGH WATER MARK (OHWM) OF AN UNNAMED TRIBUTARY TO SKARRUP CREEK AND THE TRUE POINT OF BEGINNING;

THENCE SOUTHWESTERLY ± 335 FEET TO POINT ALONG THE WESTERN PROPERTY LINE THAT IS 35 FEET SOUTH OF THE SOUTHERN OHWM OF AN UNNAMED TRIBUTARY TO SKARRUP CREEK,

THENCE NORTHERLY 35 FEET TO THE OHWM OF THE UNNAMED TRIBUTARY TO SKARRUP CREEK;

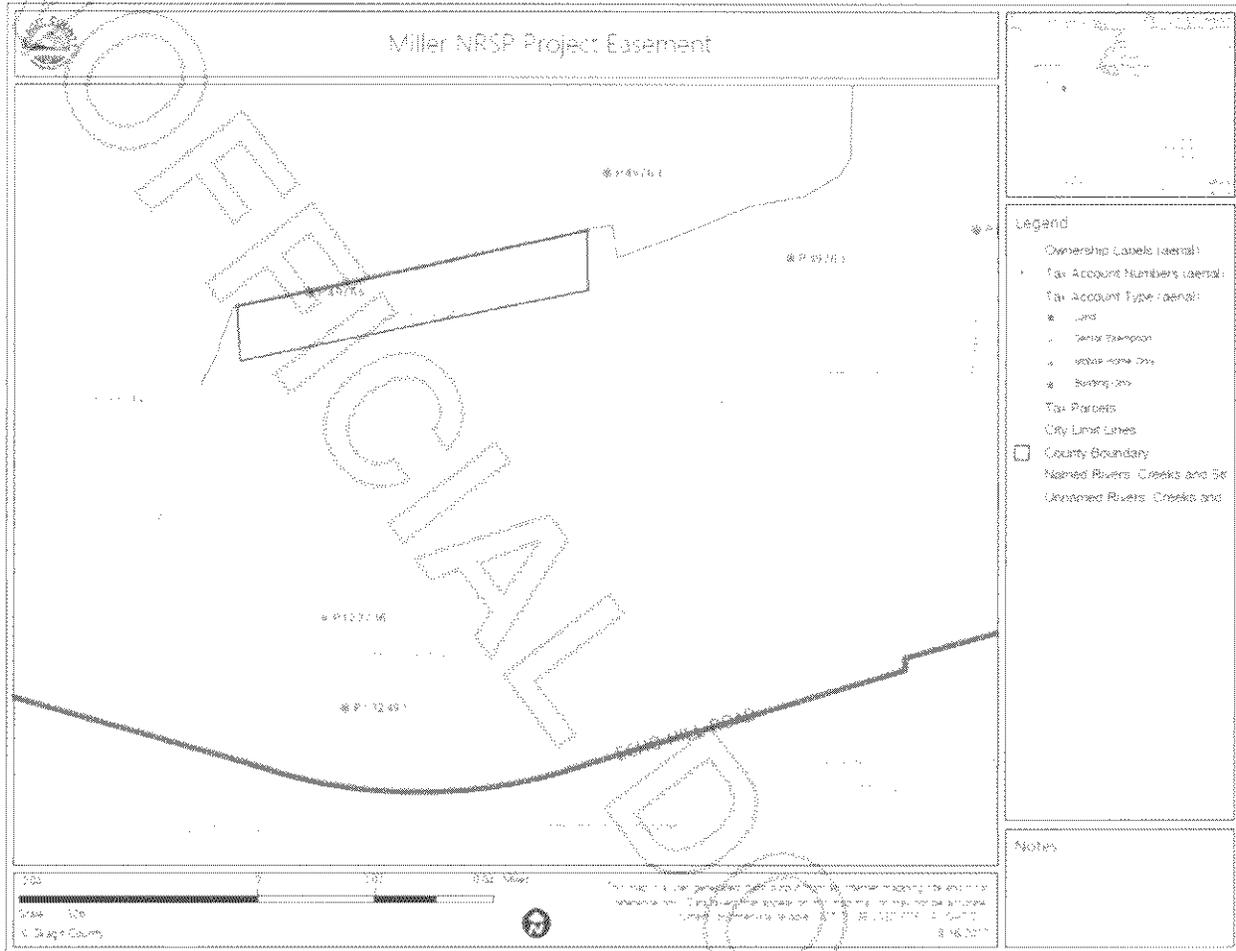
THENCE EASTERLY ± 335 FEET ALONG THE OHWM OF THE UNNAMED TRIBUTARY TO SKARRUP CREEK TO THE EASTERN PROPERTY LINE;

THENCE SOUTHERLY ALONG THE EASTERN PROPERTY LINE 35 FEET AND RETURNING TO THE TRUE POINT OF BEGINNING.

BEING AN AREA OF ± 0.37 ACRES

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

EXHIBIT "B"
GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA



This temporary easement includes the above-depicted outlined area required for removal of non-native plants and the installation of riparian vegetation.

Parcel Number: P49765

Landowners' Mailing Address: 17460 Golden View Avenue
 La Conner, WA 98257

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 Landowners' Property is located along a tributary to Butler Creek. The Project area is about 0.37 acres overall. The Project goal is to reduce temperature by removal of invasive plant species at the site and installation of native plants in an effort to improve water quality on site for the protection, improvement, and enhancement of downstream saltwater shellfish habitat.

Invasive Plant Species

The main restoration area has invasive Himalayan blackberries and some other limited species such as reed canary grass.

- **Blackberries:** The blackberries will be mowed down using brush cutters. Landowners will complete mowing of the blackberries. Blackberries will then be sprayed by 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 Landowners 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. Landowners will have removed buildings shown within planting area in Figure 1. Willows, red-osier dogwood, and other native shrubs will be planted in the easement area. Approximately 260 plants will be installed with an 8-foot spacing. Planting area is shown as outlined area 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.

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. Maintenance will include mowing and, if necessary, spot spraying around individual 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 3rd 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 area. Buildings within restoration area will be removed by Landowners prior to commencement of Project work.

EXHIBIT "D"
LEGAL DESCRIPTION OF LANDOWNERS' PROPERTY

The West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; and that part of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, North of the Northerly fork of the Old Grade Road, sometimes known as the old railroad, Section 21, Township 36 North, Range 4 East, W.M.;

Situate in the County of Skagit, State of Washington.