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Document Title:

Revocable right of way Licence Agreement

Reference Number (if applicable): _____

Grantor(s):

additional grantor names on page ____

- 1) City of Mt. Vernon _____
- 2) _____

Grantee(s):

additional grantor names on page ____

- 1) Anthony J. Cook _____
- 2) Amelia M. Cook _____

Abbreviated Legal Description:

full legal on page(s) ____

NW of SE 20.34-4

Assessor Parcel /Tax ID Number:

additional parcel numbers on page ____

P26860

**REVOCABLE RIGHT-OF-WAY/ LICENSE AGREEMENT WITH
THE CITY OF MOUNT VERNON, WASHINGTON**

THIS REVOCABLE AGREEMENT is made and entered into this 17th day of July, 2019 by and between the City of Mount Vernon, a municipal corporation, ("City") and Anthony J. Cook and Amelia M. Cook, individual(s) [and collectively through their marital estate] own property adjacent to a City's easement which they seek permission to erect and maintain certain improvement ("Licensee").

RECITALS:

- A. The City owns and holds an easement over certain real property (Easement Area) to use for both its public trail system and utilities recorded under Auditor Number 200012010007; and
- B. Licensee has sought permission from the City to install and maintain a fence to benefit property owned and adjacent to Licensee which if erected would encroach upon an easement area and potentially interfere with City's rights to use the easement area for a public trail and utilities; and
- C. The City, is willing to grant permission to Licensee to erect a fence so long as such permission can be revoked at any time without cause for any reason by the City and further limited to the purpose of erecting a fence as described herein and further to the conditions set forth herein; and
- D. The parties agree, subject to the conditions and terms set forth herein, that Licensee has permission to use a portion of the Easement Area identified herein for the sole purpose of erecting and maintaining a fence and that such use of the Easement Area under the terms of this agreement is currently surplus to the needs of the City.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. **Premises.** Subject to the terms and conditions of this Agreement, the City grants temporary and revocable permission to Licensee for the limited purposes to use and erect a fence as set forth in that portion of the Easement Area described in **Exhibit A** incorporated herein (Premises). Licensee accepts the Premises in its present state, as is, and agrees that it is in good condition, without any representation or warranty by the City as to the condition of the Premises or as to the suitability for the use which may be made thereof.
2. **Use of Premises.** The City agrees to allow the Licensee to use of the Premises for the sole purpose of erecting, maintaining, and repairing a fence. No further use of the Premises shall be allowed or implied except those actions necessary for use, repair, and maintenance of the Premises for a fence at the sole and exclusive expense of the Licensee. The use of the Premises is also subject to the following conditions:

- (a) Licensee shall, at its sole expense, securely attach and construct within the Premises a fence with the site and design plan and materials attached as **Exhibit B** and in conformance with any City design standards, local ordinance, and regulations. The design and use shall comply with all requirements of state law, city ordinance and city policy.
- (b) Without cause and at the City's sole discretion, upon fourteen days' notice by the City, its agents, contractors, or subcontractors, the Licensee shall remove the fence at its sole expense, all fixtures, equipment, and all personal property which the Licensee has placed on the Premises or Easement Area and shall keep Premises vacant until further notice is given by the City, its agents, contractors, or subcontractors, that Licensee may re-install the Fence upon permission by the City.

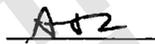
In the event the Licensee fails to remove the Fence or any materials, fixtures, property real or personal within fourteen days, the City may remove such items at the sole expense of the Licensee. The City shall have at all times right to possession and use of the Premises and Easement Area as set forth in its easement recorded under Auditor Numbers: 200012010007 and in no manner shall this agreement result in impairing or interfering with such rights.

In the event of an emergency or immediate need by the City, determined at the City's sole discretion, the City may elect to self-help by removing the fence from Easement Area without advance notice to Licensee or seeking that such work be conducted by Licensee. Licensee knowingly and voluntarily waives any right to challenge any determination by the City to remove the fence under this subsection.

- (c) No commercial use of the Premises, including but not limited to, the sale or display of merchandise or installation of advertising signage shall be permitted.
- (d) Blocking of any existing trails, utilities, emergency entrances and exits is prohibited.
- (e) The Licensee shall maintain the fence in good condition and shall continue to the fee simple owner of the property adjacent to the City's Easement identified by the Skagit County Assessor as parcel P26830.
- (f) Licensee shall construct all improvements in accordance with the City's applicable codes including the City's Zoning, Building, and Fire Codes.
- (g) In the event of damage or vandalism to the fence, the Licensee shall make prompt repairs of the facility and take all reasonable efforts to immediately remove any graffiti.
- (h) Any use of the Easement Area by Licensee shall not result in lien or any encumbrance to the City's property rights.

3. **Term.** The term of this Agreement shall commence on the date: 1) this Agreement is approved by the City Council, 2) signed by the Mayor, and 3) signed by the Licensee whichever is later and shall end on **July 31, 2024.**

The term of this Agreement is further subject to the requirement that the Licensee continue to lawfully utilize the Premises consistent with all laws and permit conditions. This Agreement shall automatically end in the event the Licensee violates any term of this agreement. **Either Party may terminate this Agreement at any time immediately and without cause upon written notice.**



Licensee Initials



Licensee Initials



City Initials

4. **Fees.** Licensee shall obtain all necessary right of way, fence, or other permits and pay required fees set forth in the City's local codes and regulations if required.
5. **Duty to Maintain and Right to Inspect.** Licensee has sole duty to inspect the Premises and agrees to utilize the same "as is." Licensee shall have the duty, at its sole expense, to maintain and repair the fence and Premises and keep same in as good a condition as of the date of this agreement; and to immediately provide City with notice of any damage to the Premises or the development of any dangerous condition on the Premises. City shall have the right at all times to enter and inspect the Premises including the right to inspect for the purposes of compliance with any applicable building or fire codes.
6. **Taxes.** During the term, Licensee shall be responsible for payment of all personal property taxes on property located on the Premises and for any real estate taxes that are assessed as a result of the its use of the Premises.
7. **Compliance with Law.** Licensee at its sole expense shall comply with all laws, orders and regulations of federal, state and municipal authorities, and with any direction of any public officer, pursuant to law or this Agreement. Licensee, at its sole expense, shall obtain all licenses or permits which may be required for the making of repairs, alterations, improvements or additions.
8. **Utilities and Other Services.** Licensee shall pay any charges for gas, electricity, light, heat and power, and telephone, and other service used, rendered or supplied upon or in connection with its use of the Premises.

9. **Indemnification and Insurance.**

- (a). **Indemnification.** Licensee shall defend, pay on behalf of, indemnify and hold harmless the City of Mount Vernon, WA, its elected and appointed officials, employees and volunteers, contractors, subcontractors, and others working on behalf of the City from all losses, damages, claims or judgments, including the payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action, or demand whatsoever arising from Licensee's use of the Premises hereunder, as well as that of any Licensee's employee, agents, representative, guests, invitees, or subcontractors.

If (1) RCW 4.24.115 applies to a particular claim, and (2) the bodily injury or damage to property for which the Licensee is to indemnify the City is caused by or results from the concurrent negligence of (a) the Licensee, its employees, contractors, subcontractors/subconsultants or agents and (b) the City, then the Licensee's duty to indemnify shall be valid and enforceable only to the extent allowed by RCW 4.24.115. Solely and expressly for the purpose of its duties to indemnify and defend the City, Licensee specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW.

Licensee recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation.

- (b). **Insurance.** The Licensee shall at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement comprehensive homeowner's insurance for the Licensee's property adjacent to the premises and shall cover personal injury and property damages from all claims for damage to property or bodily injury, including death, which may arise from Licensee's property and operations including but not limited to use of the Premises under the Agreement or in connection this Agreement. Insurance limits shall be approved by the City. Such insurance shall be without prejudice to coverage obtained for or provided by the City or otherwise existing therein.
- (c). **Waiver of Claims by Licensees.** Licensee stipulates that it is entering the Premises for its own benefit and amusement and shall be considered a licensee for the purposes of City's duties and obligations. Notwithstanding, in consideration of the terms and conditions of this Agreement, Licensees, on their own behalf and on behalf of any minor children of Licensees, do hereby expressly waive and release any and all claims against City, its officers, directors, shareholders, members, employees, agents, and contractors "Releasees" arising out of any accident, illness, injury, damage or other loss or harm to or incurred or suffered by the Licensees or his/her/their property in connection with or incidental to activities conducted by Releasees on the property of the City. Licensees hereby acknowledge and agree that they have not in the past claimed or owned any interest in the easement rights of the City.

10. **Surrender of Premises at Termination.** Licensee agrees that upon the termination of this Agreement, Licensee shall surrender and deliver the Premises in good and clean condition, except for the effect of ordinary wear and tear and depreciation arising from lapse of time.
11. **Removal of Fixtures and Restoration of Premises.** Licensee shall have the right at termination of this Agreement to remove any fixtures or personal property which Licensee has installed in the Premises providing Licensee fully repairs any and all damages caused by the removal. Any such property real or personal or fixtures that remain on the Premises after the date of termination shall be considered abandoned and thereafter may be removed and disposed of at the discretion of the City without the City incurring any liability therefor.
12. **Notices.** Notices provided for in this Agreement to the City, shall be deemed sufficient if personally delivered or sent by regular mail to:
- Attention:
City Attorney
City of Mount Vernon
910 Cleveland Avenue
Mount Vernon, WA 98273
- Notices provided for in this Agreement to Licensee shall be deemed sufficient if personally delivered or sent by regular mail to:
- Attention:
Anthony and Amelia Cook
330 Belmont Terrace
Mount Vernon, WA 98274
13. **Choice of Laws/Venue.** This Agreement shall be governed by, construed and enforce in accordance with the laws of the State of Washington. Venue shall be in the Skagit County Superior Court.
14. **City Easement Controls.** City reserves all rights to grant access, utility, public trail use or assign any such rights including easements on or through the Premises or Easement Area. In no manner shall this Agreement be construed or implied to conflict with City's recorded easement.
15. **Entire Agreement.** The foregoing constitutes the entire agreement between the City and the Licensee, represents their entire understanding and defines all of their respective rights, title and interests as well as all of their duties, responsibilities and obligations. Any and all prior agreements and understandings between the parties are merged herein. This Agreement shall not be modified or amended except by a written document executed by the parties.

By its signature(s) set forth herein below, Licensee hereby accepts the foregoing grant of this Revocable Right-of-Way Licensee/Agreement subject to the terms and conditions herein contained.

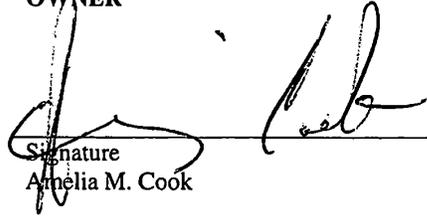
SIGNED AND APPROVED this 17 day of July, 2019

OWNER



Signature
Anthony J. Cook

OWNER



Signature
Amelia M. Cook

STATE OF WASHINGTON

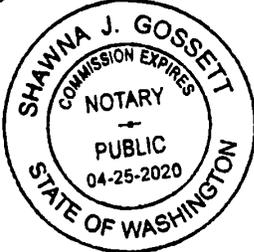
ss.

COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that Anthony Cook is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Owner to be the free and voluntary act and deed of said Owner, for the uses and purposes therein mentioned.

Given under my hand and official seal this 17 day July of, 2019.

(SEAL)
Shawna J. Gossett
Notary Public
Residing at Marysville
My appointment expires 4/25/2020



STATE OF WASHINGTON

ss.

COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that Amelia M. Cook is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Owner to be the free and voluntary act and deed of said Owner, for the uses and purposes therein mentioned.

Given under my hand and official seal this 17 day July of, 2019.

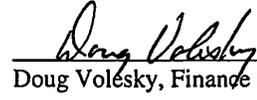
(SEAL)
Shawna J. Gossett
Notary Public
Residing at Marysville
My appointment expires 4/25/2020



SIGNED AND APPROVED this 25th day of July, 2019.

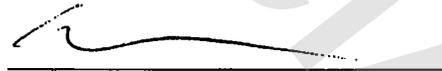


Jill Boudreau, Mayor



Doug Volésy, Finance Director

Approved as to form:



Kevin Rogerson, City Attorney

Exhibit "A"

That portion of the pathway to service pedestrians and non-motorized vehicles reserved within City of Mount Vernon Ordinance Number 3027 for the vacation of a portion of Montgomery Street right of way, recorded under Skagit County Auditor's File No. 200012010007 which is to be fenced off per the conditions of the revocable right of way/license agreement and being more particularly described as follows:

BEGINNING at the Northwest corner of the said Montgomery Street right of way vacated per City of Mount Vernon per Ordinance Number 3027 recorded under Skagit County Auditor's File No. 200012010007;
thence North 89°00'07" East along the Northerly line of said vacated Montgomery Street for a distance of 100.00 feet to the northeast corner thereof;
thence South 01°21'07" East along the easterly margin of said vacated Montgomery Street for a distance of 50.00 feet;
thence South 89°00'07" West parallel with the South margin of said vacated Montgomery Street right of way for a distance of 56.00 feet;
thence North 75°46'05" West for a distance of 45.68 feet, more or less, to the westerly margin of said vacated Montgomery Street right of way at a point bearing South 01°21'07" East from the POINT OF BEGINNING;
thence North 01°21'07" West, along said vacated Montgomery Street right of way, now being the easterly right of way of Belmont Terrace, for a distance of 38.00 feet, more or less, to the POINT OF BEGINNING.

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.

Containing 4,736 Sq. Ft 0.11 Acres

