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04/10/2020 04:00 PM Pages: 1 of 10 Fees: \$112.50
Skagit County Auditor

SKAGIT COUNTY
Contract # C20200137
Page 1 of 10

Recording Requested By And
When Recorded Mail To:

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

REVIEWED BY	
SKAGIT COUNTY TREASURER	
DEPUTY	<u>81</u>
DATE	<u>4-10-20</u>

DOCUMENT TITLE: **TEMPORARY CONSTRUCTION EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): **City of Mount Vernon**, a Washington municipal corporation.

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

ASSESSOR'S TAX / PARCEL NUMBER(S): **P28758** (XrefID: 340429-4-014-0009) and adjacent un-opened right-of-way known as Tiffany Way (County Road # 74510), with the northern portion thereof annexed to the City, as described pursuant to City of Mount Vernon Ordinance No. 2974 (recorded under Auditor's File No.: 199911080014).

ABBREVIATED LEGAL DESCRIPTION: PTN SE1/4 SE1/4 AKA TR 'A' S/P#39-83 (Complete LEGAL DESCRIPTION provided at Exhibit "D"). Situate in Skagit County, State of Washington.

TEMPORARY CONSTRUCTION EASEMENT

The undersigned, **City of Mount Vernon**, a Washington municipal corporation, ("Grantor") and **Skagit County**, a political subdivision of the State of Washington ("Grantee"); for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants a temporary, non-exclusive construction easement and appurtenances thereto ("Temporary 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 Temporary Easement are further provided as follows:

1. Nature and Location of Easement. The Temporary Easement hereby granted by Grantor herein shall be a temporary construction easement for the benefit of Grantee, Grantee's agents, employees, and contractors over, upon, across, through, a portion of real property located within and upon Grantor's Property, such Temporary 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 temporary construction easement (and any related appurtenances thereto), including the right of ingress and egress with all necessary equipment for installation of a Project, including but not necessarily limited to, the removal of a failing culvert, reshaping of adjacent banks, and restoration of Maddox Creek and associated riparian area (as further described in *Exhibit "C"*) within said Temporary Easement area, and for any and all other purposes reasonably related thereto. A legal description for the Grantor's Property is attached hereto as *Exhibit "D"*, and is hereby incorporated by reference. The Temporary Easement shall be for the purpose of a Project (described in *Exhibit "C"*).

2. Use of Easement. Except as provided herein to the contrary, the Grantee, Grantee's employees, agents, and contractors, shall have the sole right, without notice, and at all times, to enter upon the Grantor's Property within the Temporary Easement area (as described and depicted in *Exhibit "A"* and *"B"*) for purposes of using the Temporary Easement for the Project (as described in *Exhibit "C"* attached hereto and incorporated by reference). This includes the area needed for staging (stockpile of materials to be used in Project and to be removed from the project). Grantor shall not have the right to exclude Grantee, Grantee's employees, agents, contractors, or other third parties from the Temporary Easement so long as Grantee is acting within the purposes and scope of the terms of the Temporary Easement. Grantor shall not place, construct, or cause to be placed or constructed or maintained any building, structure, obstruction, and/or improvements within or upon the Temporary Easement area (or otherwise alter, interfere with, or disturb the Project) while the Temporary Easement is in effect, without approval of the Grantee. The parties recognize that the Temporary Easement area is located on a portion of the Grantor's Property currently used by the Grantor as a public park (named or commonly referred to as Bonnie Rae Park). During Project construction, the parties agree to attempt to not unreasonably impact the use of the Grantor's Property for public park purposes (as mutually determined by the parties). The parties recognize and agree that construction of the Project as designed will not result in a claim(s) against the County by the City.

3. Termination of Temporary Easement. This Temporary Easement shall expire and terminate at such time as the Grantee has completed the Project or activity necessitating the use of the Temporary Easement as described hereinabove (as determined by Grantee). This Temporary Easement shall otherwise expire by its own terms and terminate on December 31, 2022, whichever is sooner.

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 term 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. It may not be modified or supplemented in any manner for 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.

DATED this 2nd day of March, 2020.

GRANTOR:

City of Mount Vernon, a Washington municipal corporation.

BY: 

Printed Name: Jill Boudreau

Title: Mayor

STATE OF WASHINGTON }

ss.

COUNTY OF SKAGIT }

I certify that I know or have satisfactory evidence that **Jill Boudreau**, as the **Mayor** of the **City of Mount Vernon**, a Washington municipal corporation, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she executed the forgoing instrument as her duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 2nd day of March, 2020.
(SEAL)




Notary Public

Print name: Kerri A. Grechishkin

Residing at: Mount Vernon, WA

My commission expires: 5/11/23

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ron Wesen

Ron Wesen, Chair

Ron Wesen, Chair
Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner


Lisa Janicki, Commissioner

Lisa Janicki, Commissioner

Attest:

Amber Epps
Clerk of the Board

Clerk of the Board

Authorization per Resolution R20050224:

~~Recommended:~~

County Administrator

Department Head

Approved as to form: ~~_____~~

~~Civil Deputy Prosecuting Attorney~~

Approved as to indemnification:

Shane O'Brien (3-19-20)
Risk Manager

Risk Manager

Approved as to budget:


Budget & Finance Director

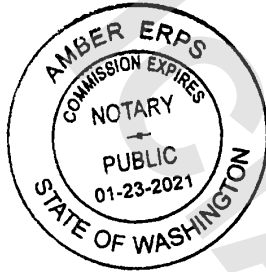
Budget & Finance Director

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 30 day of March, 2020.

(SEAL)



Amber Erps
Notary Public
Print name: Amber Erps
Residing at: Mountain View on
My appointment expires: 01-23-2021

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT AREA

A TEMPORARY CONSTRUCTION EASEMENT BEING AN AREA OF ± 2.18 ACRES, FOR THE PURPOSE OF THE RESTORATION OF MADDOX CREEK WITHIN PARCEL NUMBER P28758 AND UN-OPENED RIGHT OF WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SKAGIT COUNTY TAX PARCEL P28758;
ALSO BEING THE SOUTHWEST CORNER OF TRACT "A" OF SKAGIT COUNTY SHORT PLAT NO. 39-83, RECORDED NOVEMBER 14, 1983, UNDER AUDITOR'S FILE NO. 8311140026 IN VOLUME 6 OF SHORT PLATS, PAGES 97 AND 98, BEING A PORTION OF THE SOUTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 29, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.

THENCE, NORTHERLY ± 198 FEET TO THE NORTHERN RIGHT-OF-WAY OF SOUTH LAVENTURE ROAD, AS DESCRIBED IN SKAGIT COUNTY RIGHT OF WAY PLAN TITLED "ANDERSON-LAVENTURE ROAD (CEDARDALE RD TO BLACKBURN RD), RIGHT OF WAY AND EASEMENT PLAN" DATED JULY 29, 2010 BEING THE **TRUE POINT OF BEGINNING**;

THENCE, NORTHERLY ALONG THE WESTERN PROPERTY LINE OF SAID TRACT "A" ± 405 FEET TO A POINT EAST OF THE EXTENDED NORTH LINE OF THE "OLYMPIC VIEW PLAT, RECORDED UNDER AUDITOR'S FILE NO. 588583 IN VOLUME 8 OF PLATS, PAGE 1, RECORDS OF SKAGIT COUNTY.

THENCE, WESTERLY ± 61 FEET TO A POINT ADJACENT TO THE CITY LIMIT LINE AND THE SOUTHEASTERN CORNER OF SKAGIT COUNTY TAX PARCEL P119850; ALSO BEING A POINT ON THE WEST MARGIN OF THE ROAD RIGHT OF WAY REFERRED TO AS "18TH STREET EXTENSION NO. 7451, AS DESCRIBED IN AUDITOR'S FILE NO 723521, FURTHER DESCRIBE AS THE "SOUTHEAST CORNER OF THE NORTH TWENTY-ONE ACRES OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 29".

THENCE NORTHERLY ALONG SAID 18TH STREET EXTENSION ± 67.7 FEET,

THENCE, EAST ALONG SAID 18TH STREET EXTENSION, 20.00 FEET,

THENCE, NORTH ALONG SAID 18TH STREET EXTENSION 163.6 FEET TO THE NORTHEAST CORNER OF LOT 39 AS SHOWN ON SKAGIT COUNTY "PLAT OF SKAGIT VIEW ESTATES", UNDER AUDITOR'S FILE NO. 200211150098, RECORDS OF SKAGIT COUNTY.

THENCE, EASTERLY ON THE EXTENSION OF THE NORTH LINE OF SAID LOT 39, 188.0 FEET TO A POINT INSIDE OF THE ABOVE DESCRIBED TRACT "A",

THENCE SOUTH TO THE NORTH MARGIN OF THE ABOVE DESCRIBED SOUTH LAVENTURE ROAD,

THENCE SOUTHWESTERLY ALONG SAID NORTH MARGIN OF SOUTH LAVENTURE ROAD TO THE POINT OF BEGINNING AND THE TERMINUS OF THIS DESCRIPTION.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

EXHIBIT "B"
GRAPHIC DEPICTION OF TEMPORARY CONSTRUCTION EASEMENT AREA

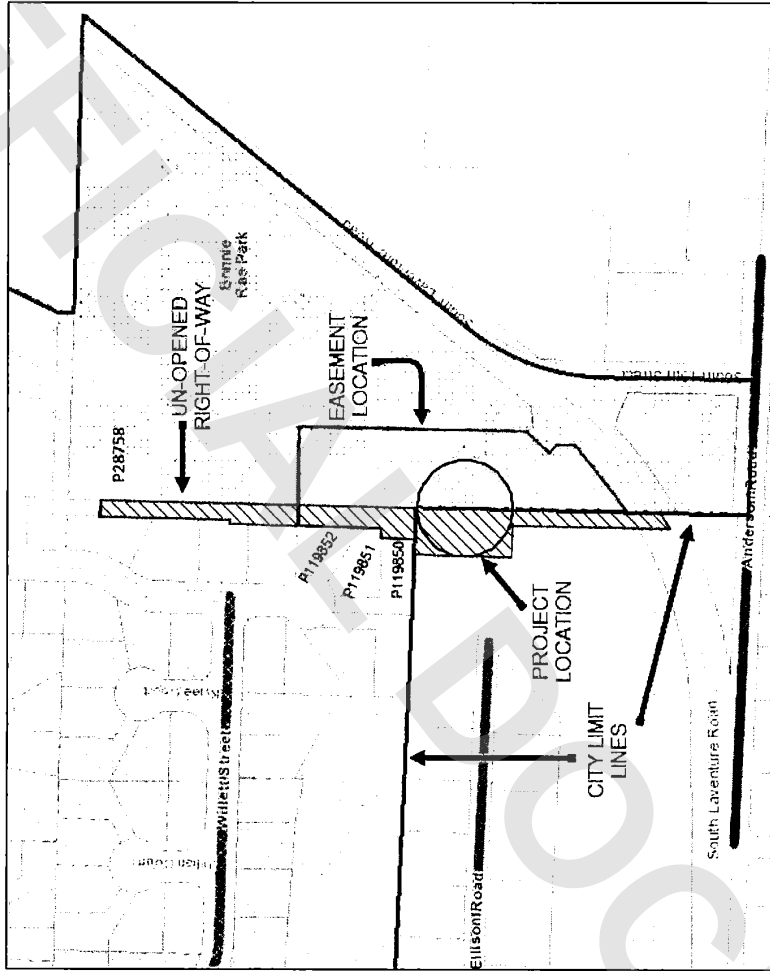


Figure 1. Project location shown in blue circle. Easement location shown in red outline on City of Mount Vernon property. City limit line denoted by purple line and shaded with cross-hatched pattern. Un-opened right of way shown by black diagonal hatch pattern.

Exhibit "C"
PROJECT DESCRIPTION

There is a large, unused culvert on Maddox Creek located upstream of South Laventure Road (County Road # 71500). The culvert is 210 feet long, perched 3 feet, and covered by approximately 10,000 cubic yards of fill. There is a large plunge pool at the inlet and notable erosion on the upstream signifying that the culvert is undersized. This results in a fish passage barrier for Steelhead Trout, a federally threatened species, Coho Salmon, a candidate species on the federal level, Chum Salmon, Pink Salmon, and resident and Sea-run Cutthroat Trout.

The culvert was installed in or about the 1960s when it was believed that South 19th Street would be extended and is located on property owned by both the City of Mount Vernon ("Grantor") and Skagit County ("Grantee") See, Auditor's File Numbers: 723521, 722547, and 199911080014. Since South 19th Street was never modified as originally anticipated, the culvert serves no real purpose at this time. Due to the perched nature of the culvert, the rate of erosion at the outlet of the pipe has greatly increased overtime. In addition, because the culvert is old and not part of any on-going City or County maintenance program, the inlet of the culvert has started sloughing, adding to the rate of fine sediment inputs into the system. Finally, this culvert is believed to be a 99% blockage for fish and is on many lists as a good candidate for replacement. This Project will remove the perched and potentially failing Maddox Creek culvert, restore the stream channel, and plant native vegetation to further stabilize the area. Funding has been provided by the Department of Ecology with match equally shared by the City and County as described in the project interlocal agreement executed by and between the parties (Skagit County Contract #C20190444). The County will administer the project work in accordance with the terms of said project interlocal agreement. Both parties shall also otherwise comply with their respective obligations as provided per the terms of said project interlocal agreement.

All work will be completed in the dry and with appropriate permits.

Exhibit "D"
GRANTOR'S PROPERTY LEGAL DESCRIPTION

AF# 722547

A strip of land in the South nineteen acres of the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) of Section Twenty-Nine (29), Township Thirty-Four (34) North, Range Four (4) East of the Willamette Meridian, being of various widths and lying on the West side, adjacent to and parallel with the following described line:

Beginning at the Southeast corner of the above-described subdivision; thence North 0° 23' 15" East along the East line of said subdivision; with a width of 30.0 feet, 451.46 feet; thence North 0° 23' 15" East, with a width of 90.0 feet, 182.33 feet, more or less, to the Northeast corner of the South nineteen acres of the SW-1/4 of the SE-1/4 of said Section 29.

Less existing county road right-of-way.

Containing 0.69 acres, more or less.

Together with AF# 723521

A strip of land in the North twenty-one acres of the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) of Section Twenty-Nine (29), Township Thirty-Four (34) North, Range Four (4) East of the Willamette Meridian, being of various widths and lying on the West side, adjacent to and parallel with the following described line:

Beginning at the Northeast corner of the above-described subdivision; thence South 0° 23' 15" West along the East line of said subdivision, with a width of 30.0 feet, 249.27 feet; thence South 0° 23' 15" West, with a width of 40.0 feet, 350.0 feet; thence South 0° 23' 15" West, with a width of 60.0 feet, 67.67 feet, more or less, to the Southeast corner of the North twenty-one acres of the SW-1/4 of the SE-1/4 of said Section 29.

Containing 0.59 acres, more or less.

Less that portion annexed into the City of Mount Vernon, pursuant to City of Mount Vernon Ordinance No. 2974 (recorded under Auditor's File No.: 199911080014).

Together with P28758

Tract "A" of Skagit County Short Plat No. 39-83, approved November 14, 1983 and recorded November 14, 1983, under Auditor's File No. 8311140026 in Volume 6 of Short Plats, pages 97 and 98, being a portion of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 29, Township 34 North, Range 4 East, W.M. TOGETHER WITH easement for ingress and egress and utilities over and across the Westerly 30 of Tracts "B" and "D" of said Short Plat as delineated on the face thereof. ALSO, TOGETHER WITH that certain easement for drainfield being 160 feet by 200 feet in Tract "D" of said Short Plat and delineates on the face thereof. Situate in the County of Skagit, State of Washington

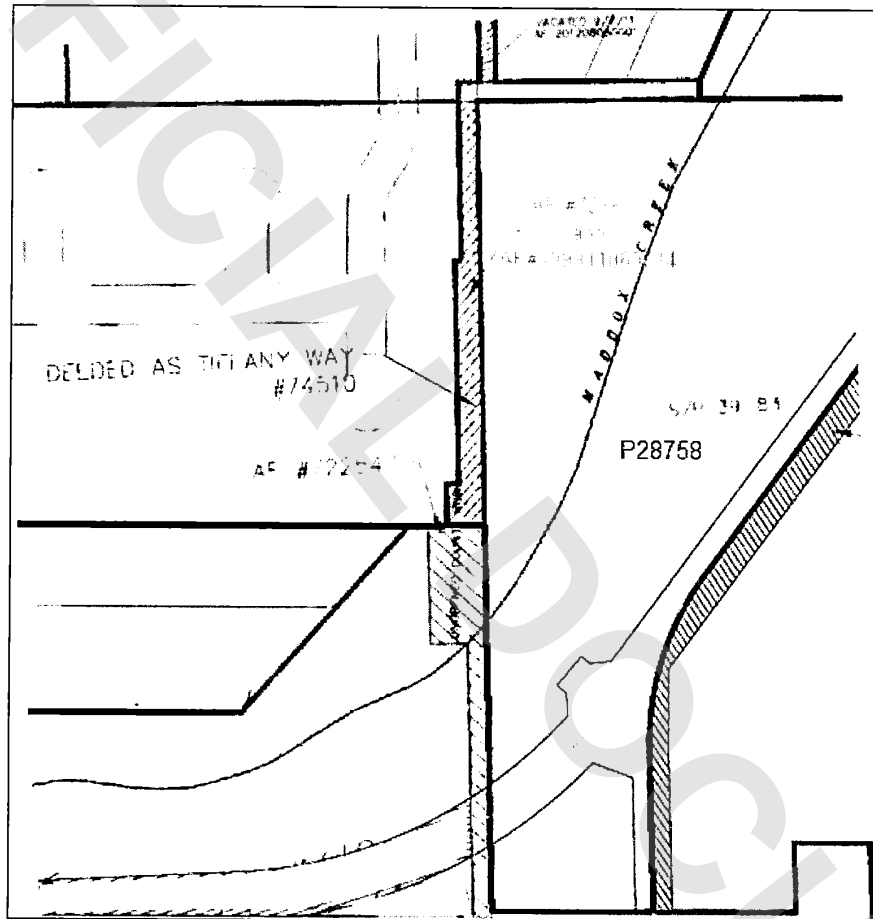


Figure 2. Sections of unopened right-of-way and their associated auditor's file numbers.