## CITY OF MARYSVILLE AGENDA BILL

## **EXECUTIVE SUMMARY FOR ACTION**

## **CITY COUNCIL MEETING DATE: 6/8/2015**

AGENDA ITEM:	
WSDOT Maintenance Agreement SR 9 Roundabout	
PREPARED BY:	<b>DIRECTOR APPROVAL:</b>
Jim Ballew, Parks and Recreation Director	
DEPARTMENT:	
Parks and Recreation	
ATTACHMENTS:	
Maintenance Agreement	
Sign Rendering	
BUDGET CODE:	AMOUNT:
SUMMARY:	

The City will be installing one Gateway Sign within the new Roundabout structure located at SR 9 and 84<sup>th</sup> Street. Washington State Department of transportation has approved the installation provided the City maintains the signage installed and surrounding landscape. The Agreement defines the City's responsibilities and Right of Entry.

This is an updated agreement from November 2014, changing from two signs to one and providing additional provisions regarding maintenance.

## RECOMMENDED ACTION:

Staff recommends the City Council consider approval of the Maintenance Agreement for the SR9/84<sup>th</sup> Street Roundabout with the Washington State Department of Transportation and authorize the Mayor to sign the Agreement.

## **GMB 1062**

# CITY OF MARYSVILLE MAINTENANCE AGREEMENT SR 9/84th (GETCHELL) ROUNDABOUT GATEWAY SIGN

This Agreement is made and entered into between the Washington State Department of Transportation, hereinafter the "STATE," and the City of Marysville, hereinafter the "CITY," collectively the "Parties," and individually, the "Party."

WHEREAS, the STATE is constructing the SR 9 — 32<sup>nd</sup> Street SE and 84<sup>th</sup> Street NE Safety Improvements Project, which includes the construction of one new roundabout located on STATE's limited access right of way, on SR 9 and 84<sup>th</sup> Street within the CITY's corporate limits, hereinafter referred to as the "Roundabout," and

WHEREAS, the STATE agrees to install one CITY entrance sign on the northerly side of the Roundabout, hereinafter referred to as the "Sign," within SR 9 state-owned limited access right of way, and

WHEREAS, the STATE and the CITY wish to define the CITY's maintenance responsibility for the Sign located within the Roundabout,

NOW, THEREFORE, pursuant to chapter 39.34 RCW and RCW 47.42.040(1), the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, covenants, and performances contained herein, and the attached Exhibit A which is incorporated and made a part hereof,

### IT IS MUTUALLY AGREED AS FOLLOWS:

## 1. CITY MAINTENANCE RESPONSIBILITIES

- 1.1 The CITY, at the CITY's sole cost and expense, agrees to maintain and to provide all materials and labor associated with any modification, replacement, relocation, repairs, or any other incidental maintenance costs for the Sign once the STATE has constructed the Sign within the Roundabout on state-owned limited access right of way, as shown on Exhibit A.
- 1.2 The CITY, at its sole cost and expense, shall maintain the appearance of the Sign, including but not limited to pruning of visually obstructive vegetation, the repair of third party damages to the Sign, and removal of graffiti or other unauthorized markings. The CITY agrees to immediately remove any offensive language or graphics.
- 1.3 Modification, Replacement or Relocation of the Sign.
  - 1.3.1 If the CITY, in its sole discretion, determines that it is necessary to replace or modify the Sign, any replacement, relocation, or modification shall require the STATE's prior written approval.
  - 1.3.2 The CITY agrees to relocate and/or remove the Sign within thirty (30) calendar

days after receipt of the STATE's written notice to perform the identified work in the event a state highway project requires Sign removal or relocation. If the CITY does not relocate or remove the Sign, the Sign shall be removed by the STATE, and the CITY agrees to pay the STATE the actual direct and related indirect costs in accordance with Section 5.

#### 1.4 Traffic Control.

- 1.4.1 The CITY shall not perform any work authorized under this Agreement in such a manner as to conflict with, impede or disrupt in any way state highway construction, operation or maintenance, or interfere with or endanger the safety of the traveling public.
- 1.4.2 The CITY agrees that all traffic control for any Sign work within the SR 9, state-owned limited access right of way shall be in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) and/or the STATE's Work Zone Traffic Control Guideline, M54-44.
- 1.4.3 Prior to the start of any work for the maintenance, modification, repair, relocation, and/or replacement of the Sign, the CITY shall submit traffic control plans to the NW Region Construction Traffic Control Operations Manager, P.O. Box 330310 Seattle, WA. 98133 for review and prior approval.
- 1.4.4 The CITY shall provide written notice to the STATE Representative, listed in Section 4, five (5) working days (Monday through Friday, excluding holidays) prior to any scheduled maintenance work to be performed within the SR 9, state-owned limited access right of way.

## 2. FAILURE TO MAINTAIN

- 2.1 Should the CITY fail to perform its Sign responsibilities as provided herein and should such failure or deficient Sign work adversely affect the safety of the traveling public or the STATE's ability to perform its highway operations and maintenance obligations, the STATE will provide written notice to the CITY to perform the identified work. The CITY agrees to perform the work within thirty (30) calendar days after receipt of the STATE's written notice.
- 2.2 If a deficiency cannot, with due diligence, be corrected within a period of thirty (30) calendar days from receipt of the STATE's written notice, the CITY may make a written request of the STATE for an extension of time, and the STATE shall respond in writing specifying the number of calendar days extended, if any. The STATE shall not, without good cause, deny such request.
- 2.3 If the CITY cannot correct the noted deficiencies within thirty (30) calendar days, as provided herein, the CITY agrees that the STATE may elect to perform the needed work after the expiration of the thirty (30) calendar day notice or the extension period, whichever comes later at the CITY's sole cost.

2.4 Should the STATE perform the work that is the CITY's obligation under this Agreement, the STATE may use STATE forces or a contractor, and the CITY agrees to make payment in accordance with Section 5.

# 3. EMERGENCY MAINTENANCE

3.1 If the CITY's Representative, or such official's functional successor, is contacted and CITY forces are not available to perform emergency Sign work, the STATE reserves the right, at the CITY's sole cost and expense, to perform the necessary emergency Sign work to the extent necessary to allow for normal operation of SR 9 and provide for the safety of the traveling public. Should the STATE perform the emergency Sign work with STATE forces, or a contractor, the CITY agrees to make payment in accordance with Section 5.

### 4.0 AGENCY REPRESENTATIVES

STATE:	CITY:
Gary Ward	Jim Ballew
Area 2 Maintenance Superintendent	Parks and Recreation Director
Mt. Vernon	City of Marysville, Parks and Recreation
360-848-7230	360-363-8400
WardGL@wsdot.wa.gov	jballew@marysville.wa.gov

#### 5. PAYMENT

- 5.1 The CITY agrees to and shall make payment to the STATE for the actual direct and related indirect costs of any work covered under Section 2.4, 3.1 and 7.2 of this Agreement. The STATE shall provide the CITY with a detailed invoice for the STATE's Sign work performed, and the CITY agrees to make payment within thirty (30) calendar days after the date of a detailed STATE invoice.
- 5.2 If the CITY objects to all or any portion of an invoice, it shall notify the STATE in writing within twenty (20) calendar days from the date of invoice and shall pay that portion of the invoice not in dispute. The STATE and the CITY shall immediately make every effort to settle the disputed portion, and if necessary, utilize the dispute resolution process in Section 11.
- 5.3 The CITY agrees that if it does not make payment on undisputed portions of an invoice within ninety (90) calendar days after invoice date, the STATE may deduct and expend any monies to which the CITY is entitled to receive from the Motor Vehicle Fund as authorized by RCW 47.24.050.

## 6. RIGHT OF ENTRY

6.1 The STATE hereby grants to the CITY and its authorized agents, contractors, subcontractors, and employees a right of entry upon all land over which the STATE has ownership, for the purpose of modifying, maintaining, relocating, repairing, and/or replacing the

Sign.

#### 7. TERMINATION

- 7.1 Either Party may terminate this Agreement with thirty (30) calendar days prior written notice to the other Party, indicating the reason for the termination. Upon such notice, the CITY shall remove the Sign within ten (10) calendar days and will thereafter have no further responsibility regarding the state-owned limited access right of way.
- 7.2 If the CITY is unable to remove the Sign, the STATE may remove the Sign at the CITY's sole cost and expense, and the CITY agrees to make payment in accordance with Section 5.
- 7.3 Any termination of this Agreement shall not prejudice any rights or obligations accrued to the STATE and the CITY prior to termination.

#### 8. MODIFICATIONS AND WAIVERS

8.1 This Agreement constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by the Party of that or any other provision.

## 9. ASSIGNMENT

9.1 Neither the STATE nor the CITY shall transfer or assign any right or obligation under this Agreement without the prior written consent of the other Party.

### 10. SEVERABILITY

10.1 Should any part, term, or provision of this Agreement be determined to be invalld, the remainder of this Agreement shall not be affected, and the same shall continue in full force and effect.

#### 11. DISPUTE RESOLUTION

11.1 In the event that a dispute arises under this Agreement, it shall be resolved as follows:

The CITY and the STATE shall each appoint a member to a Disputes Board; these two members shall select a third member not affiliated with either Party. The three-members to the Disputes Board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third Disputes Board member; however, each Party shall be responsible for its own costs and fees.

### 12. LEGAL RELATIONS

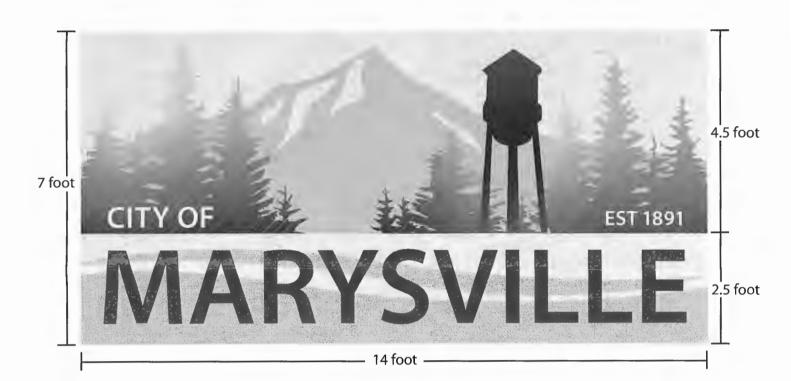
- The CITY shall protect, defend, indemnify, and save harmless the STATE and its employees, authorized agents, and/or contractors, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from the actual placement and location of the Sign on SR 9 state-owned limited access right of way in the Roundabout, as well as arising from the CITY's repair, modification, relocation, replacement and/or maintenance work performed pursuant to the provisions of this Agreement to the extent caused by the negligent acts, errors, or omissions of the CITY, it employees, authorized agents, and/or contractors. The CITY shall not be required to indemnify, defend, or hold harmless the STATE, its employees, authorized agents, or contractors if the claim, suit, or action for injuries, death, or damages (both to persons and /or property) is caused by the negligence of the STATE, its employees, authorized agents, or contractors; provided that, if such claims, suits or actions result from the concurrent negligence of (a) the STATE, its employees, authorized agents, or contractors and (b) the CITY, its employees, authorized agents, or contractors or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of each Party, its employees, authorized agents, and/or contractors.
- 12.2 The STATE shall protect, defend, indemnify, and hold harmless the CITY, its employees, authorized agents, and contractors, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from any work performed or caused to be performed by the STATE under this Agreement. The STATE will not be required to indemnify, defend, or hold harmless the CITY to the extent that the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the negligence of the CITY, its employees, authorized agents, or contractors; provided that, if such claims, suits or actions result from the concurrent negligence of (a) the STATE, its employees, authorized agents, or contractors and (b) the CITY, its employees, authorized agents, or contractors or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of each Party, its employees, authorized agents, and/or contractors.
- 12.3 The CITY agrees that its obligations under this Section 12 extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees. For this purpose, the CITY, by mutual negotiation with the STATE, hereby waives with respect to the STATE only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance Provisions of Title 51, RCW.
- 12.4 This indemnification and waiver shall survive the termination of this Agreement.
- 12.5 In the event that either the CITY or the STATE deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in the superior court

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situated in Thurston County, Washington. Further, the Parties agree that each will be solely responsible for payment of its own attorney's fees, witness fees, and costs.

IN WITNESS, WHEREOF, the Parties hereto have executed this Agreement as of the Party's date signed last below.

CITY OF MARYSVILLE	WASHINGTON STATE DEPARTMENT OF
	TRANSPORTATION
Ву:	By: De Mrech
Mr. Jon Nehring, Mayor	Dave McCormick, P.E.
	Maintenance & Operations Asst. Regional
	Administrator NWR
Date:	Date: 5-7-15
	APPROVED AS TO FORM
	By: Solar Ann E. Salay, Senior Assistant Attorney General
	Detail 5-4-15



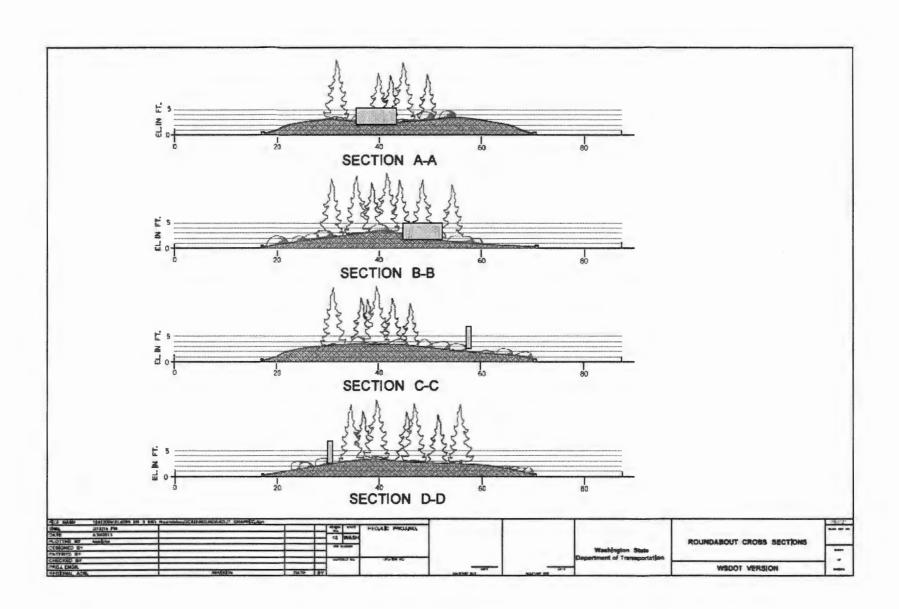
Concrete Slab - flat or curved (designed at 14x7 feet):

I envision this as an L shaped piece of concrete. The mountain and river would be cut/sculpted out of the concrete. A variety of metals could be used for tree lines, water tower and text. A copper product on the trees would eventually develop a greenish patina.



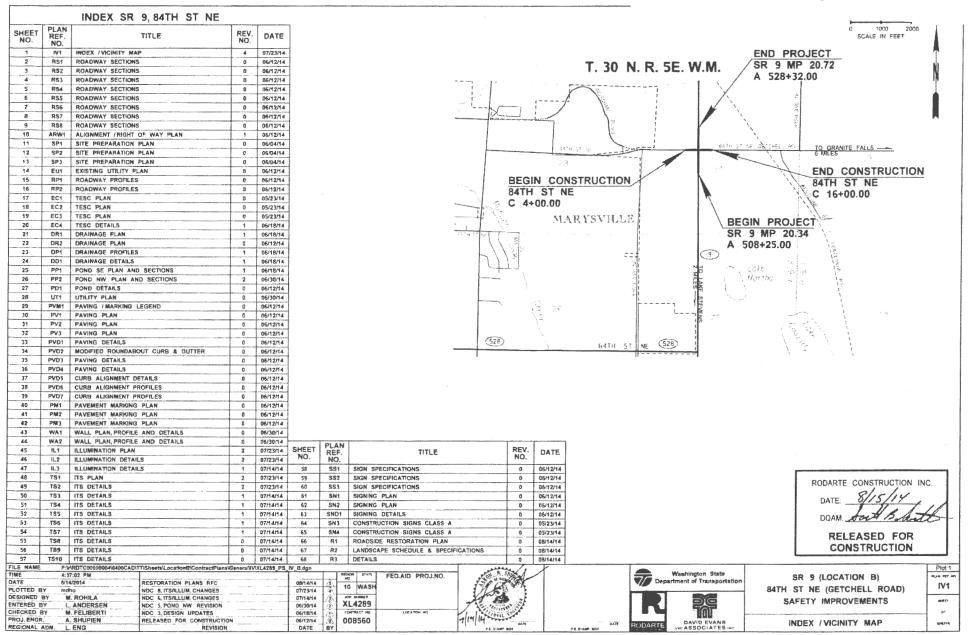


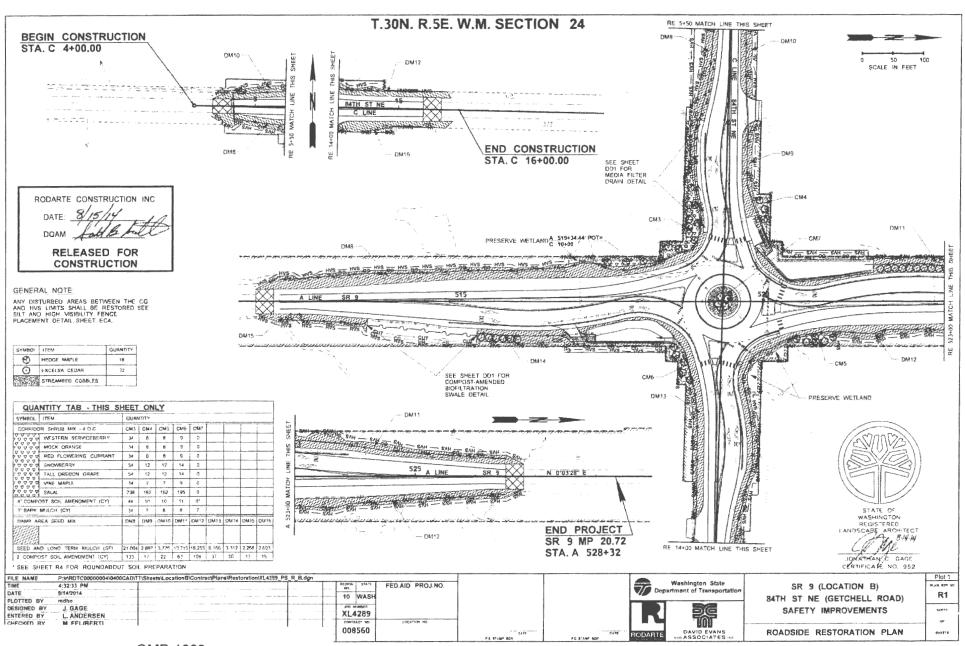
SR 9/84TH (Getchell Roundabout Gateway Sign CITY OF MARYSVILLE EXHIBIT "A" **GMB 1062** 



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# GMB 1062 CITY OF MARYSVILLE CITY OF MARYSVILLE EXHIBIT "A"





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#### LANDSCAPE SCHEDULE

COMMON NAME	BOTANICAL NAME	COMMENTS	COND.	SIZE	SPACING	QUANTITY
TREES		1				i
HEDGE MAPLE	ACER CAMPESTRE	See Notes 2, 3	#15 CONT/B&B	2" CAL MIN.	PER PLAN	32
EXCELSA CEDAR	THU.IA PLICATA 'EXCELSA'	See Note 3	#15 CONT/B&B	5'-8' HT.	12' O.C. MIN	32
SHRUBS		1				
WESTERN SERVICEBERRY	AMELANCHIER ALNIFOLIA	See Note 1	#1 CONT	18" HT. MIN.	4' O.C.	161
MOCK ORANGE	PHILADELPHUS LEWISII	See Note 1	#1 CONT	18" HT, MIN.	4' O.C.	163
RED FLOWERING CURRANT	RIBES SANGUINEUM	See Note 1	#1 CONT	18" HT. MIN.	4' O.C.	163
SNOWBERRY	SYMPHORICARPOS ALBUS	See Note 1	#1 CONT	18" HT. MIN.	4' O.C.	254
TALL OREGON GRAPE	MAHONIA AQUIFOLIUM	See Note 1	#1 CONT	18" HT. MIN.	4' O.C.	254
VINE MAPLE	ACER CIRCINATUM	See Note 1	#1 CONT	18" HT. MIN.	4' O.C.	161
SALAL	GAULTHERIA SHALLON	See Note 4	#1 CONT	6" HT. MIN.	2 O.C.	3459
PLANTING NOTES:		<del> </del>				

1. INSTALL IN CLUSTERS OF 3-5 OF SAME SPECIES AND EQUALLY DISTRIBUTE ACROSS THE PLANTING ZONE

2. TREE SHALL BE STREET TREE GRADE PER STANDARD SPECIFICATIONS 9-14,6(2)

3. STAKE TREE ROOT BALL PER STANDARD PLAN H-10. 10-00 AND PROVIDE 2' RADIUS BARK MULCH RING WHEN PLANTED IN HYDROSEED AREA

4. INSTALL GROUNDCOVER PER DETAIL, SHEET R4

#### PLANT MATERIAL SETBACK CHART

THIS CHART SUPPLEMENTS SECTION 8.02.3(7) OF THE STANDARD SPECIFICATIONS, SETBACKS APPLY UNLESS OTHERWISE ADJUSTED BY ENGINEER DURING PLANT STAKING OR LAYDUT, DISTANCES BELDW ARE TO THE STEM OR TRUNK OF THE PLANT BEING INSTALLED.

	GUARDRAIL BARRIER	EDGE OF ROADWAY	WALL	FENCE	SIGNS	EXISTING TREE TRUNK	EXISTING VEGETATION MASS	OVERHEAD FOWER
GROUNDCOVER *	5'	20'	1.5"	1.5	1.5	5	5'	-
SMALL SHRUB -	5	20	3.	3.	F'	10"	10'	-
TALL SHRUB ***	5'	20'	5'	3"	6.	10"	10'	10"
DECIDUOUS TREE	10"	30'	20.	10"	15'	20'	10'	20"
EVERGREEN TREE	10.	30'	20	10'	15'	20"	10	30.
BIGLEAF MAPLE, RED ALDER	100'	100'	20'	20'	100'	30.	10'	100
BLACK COTTONWOOD	100	100'	20'	201	1D0'	20.	40.	100'

- GROUNDCOVERS GROW NO TALLER THAN 1.5 FEET AT MATURITY, SEE PLANT MATERIAL LIST.
- " SMALL SHRUBS GROW NO TALLER THAN 3 FEET AT MATURITY, SEE PLANT MATERIAL LIST
- " TALL SHRUBS GROW TALLER THAN 3 FEET AT MATURITY, SEE PLANT MATERIAL LIST.

RODARTE CONSTRUCTION INC

DOAM:

RELEASED FOR CONSTRUCTION

#### LANDSCAPE SPECIFICATIONS:

- TOPSOIL TYPE A SHALL BE A THREE-WAY MIX CONSISTING OF 50% LOAM 50IL AND 25% PEAT, AND 25% COMPOST BY VOLUME, SCREENED TO X" AND THOROUGHLY MIXED TOGETHER, CONTAINING 12-15% ORGANIC MATERIAL COMPACT TO 85% MAX. DRY DENSITY PRIDT TO PLANTING
- 2. BARK MULCH SHALL MEET STANDARD SPECIFICATION 9-14.4(3).
- SOIL AMENDMENT SHALL BE COMPOST MEETING STANDARD SPECIFICATION 9-14-4(8) FOR MEDIUM COMPOST.
- 4. STREAMBED COBBLE SHALL MEET STANDARD SPECIFICATION 9-03.11(2) FOR 8" COBBLES.
- 5. PLANT AND TREE FERTILIZER SHALL BE GRANULAR 23N-4P-12K WITH CONTROLLED RELEASED AND MICRONUTRIENTS AND APPLIED PER MANUFACTURER'S WRITTEN RECOMMENDATIONS FOR TREES
- WEED BARRIER SHALL MEET THE FOLLOWING REQUIREMENTS:
   S.O.O.Z. THICK POLYPROPYLENE
   PERMERABILITY: MIN. 12 GAL/5F/MIN
   UV EXPOSURE: 73% AFTER 2500 MRS
   TENSILE STRENGTH: 100 × 60
- LONG TERM MULCH FOR HYDROSEED SHALL MEET STANDARD SPECIFICATIONS 9-14-4(2)A AND BE APPLIED AT A RATE OF 2,000 LBS/ACRE AS PART OF THE HYDROSEED MIXTURE.
- DAMP AREA SEED MIX OF THE FOLLOWING COMPOSITION, PROPORTION, AND QUALITY SHALL BE APPLIED AT A RATE OF 120 LBS/ACRE:

KIND AND VARIETY OF SEED IN MIXTURE	% 8Y ₩EIGHT	% PURE SEED/LB	MIN. % GERMINATION
MEADOW FOXTAIL (ALOPECURUS PRATENSIS)	50	40.00 (MIN)	80
RED FESCUE (FESTUCA RUBRA)	30	29.40 (MIN)	80
WHITE DUTCH CLOVER (TRIFOLIUM REPENS PRE-INOCULATED)	20	19.20 (MIN)	85
WEED SEED		2.00 (MAX)	
INERT AND OTHER CROP		9.40 (MAX)	
TOTAL	100.00%	100.00%	

9. LAWN AREA SEED MIX OF THE FOLLOWING COMPOSITION, PROPORTION, AND QUALITY SHALL BE

KIND AND VARIETY OF SEED IN MIXTURE	% BY WEIGHT	%PURE SEED/LB	MIN. % GERMINATION
TURFTYPE PERENNIAL RYE (LOLIUM PERENE)	60	58.80 (MIN)	90
ANY COMBINATION OF 3 OF THE FOLLOWING CULTIVARS AFFINITY, DERBY, MANHATTAN II, PALMER, PRELUDE, SATURN, OR APPROVED EQUAL			
RED FESCUE (FESTUCA RUBRA)	40	39.20 (MIN)	80

ANY COMBINATION OF 3 OF THE FOLLOWING CULTIVARS CINDY, FLYER, JASPER, LOVISA, MARCROWN, SALEM, OR APPROVED EQUAL

WEED SEED 0.50 (MAX) INERT AND OTHER CROP 1.50 (MAX) 100.00% 100.00%

10. MOW AND MAINTAIN LAWN SEED MIX AREAS PER STANDARD SPECIFICATION 8-02.3 (15) C.

WASHINGTON REGISTERED LANOSCOPE ARCHITECT JONATHAN C GAGE

CERTIFICATE NO 952

R2

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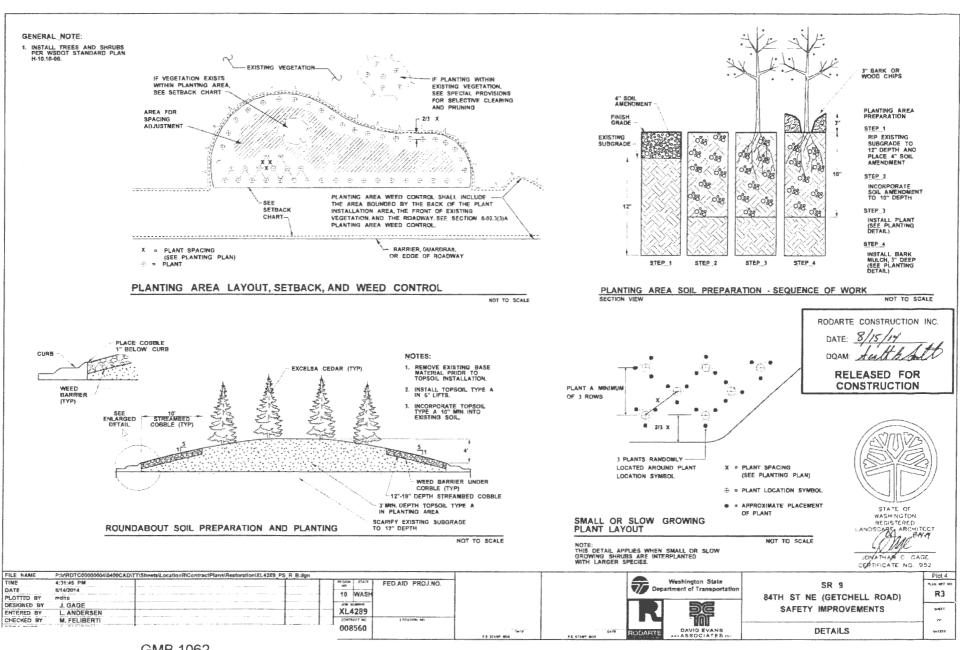
Department of Transportation

84TH ST NE (GETCHELL ROAD) SAFETY IMPROVEMENTS

LANDSCAPE SCHEDULE & SPECIFICATIONS

GMB 1062

SR 9/84TH (Getchell Roundabout Gateway Sign CITY OF MARYSVILLE **EXHIBIT "A"** 



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