


**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/09/17**

<b>AGENDA ITEM:</b>	
Land Use Restriction and Real Property Covenant	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Brooke Ensor	
<b>DEPARTMENT:</b>	
Public Works	
<b>ATTACHMENTS:</b>	
Land Use Restriction and Real Property Covenant	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
NA	\$0.00
<b>SUMMARY:</b> The Land Use Restriction and Real Property Covenant will encumber four City owned properties that are flooded daily within the Qwuloolt restoration project area. The Land Use Restriction and Real Property Covenant must be signed and recorded in order to receive advance wetland mitigation credits. The wetland mitigation credits can be used for future wetland impacts from City projects.	

**RECOMMENDED ACTION:** Staff recommends that the Council authorize the Mayor to sign the Land Use Restriction and Real Property Covenant.

When Recorded Mail To:

City of Marysville  
1049 State Avenue  
Marysville, Washington 98270

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**DECLARATION OF LAND USE RESTRICTION  
AND REAL PROPERTY COVENANT**

Declarant: City of Marysville, a municipal corporation.

Beneficiaries: State of Washington Department of Ecology; United States Army Corps of Engineers.

Assessor's Tax Parcel ID# and Brief Property Description: 30053400300800 SEC 34 TWP 30 RGE 05RT-28A) 1 AC M/L S OF CREEK IN SW COR NW1/4 SW1/4 and portions of 30053300400200 SEC 33 TWP 30 RGE 05RT-17A) 17.50 AC M/L OF THAT PART NE1/4 SE1/4 LY SLY OF CREEK & 12FT STRIP RUNNING PLL. & ADJ TO W SD OF E LN SW1/4 NE1/4, portions of 30053300401000 SEC 33 TWP 30 RGE 05RT-23) LOT 4 and portions of 00918500099000 Section 34 Township 30 Range 05 Quarter SE HARBOR VIEW VILLAGE BLK 000 D-00 - TRS 990 & 992 & 994-996.

This Declaration of Land Use Restriction and Real Property Covenant (the "real property covenant") is made this \_\_\_\_\_ day of \_\_\_\_\_ 2017, by City of Marysville ("Declarant"), for the benefit of the State of Washington Department of Ecology; and the United States Army Corps of Engineers, referred to herein as "the Beneficiaries".

WHEREAS, the Declarant makes the following recitals:

- A. Declarant is the sole owner in fee simple of the real property located in Snohomish County, Washington, legally described on Exhibit A (the "Property"). A map of the Property is attached to and made part of this real property covenant, as Exhibit B.
- B. The Property possesses natural, open space, ecological, and recreational values that are of great importance to Declarant and the Beneficiaries. These values are referred to herein as the "Conservation Values" of the Property.
- C. The Declarant is creating a real property covenant on this Property in accordance with the process described in the advance wetland mitigation agreement ("Wetland Mitigation Plan"),

approved by and developed in compliance with United States Army Corps of Engineers and State of Washington Department of Ecology and executed in April 2013 (Permit # NWS-2013-209).

NOW, THEREFORE, in consideration of the above and the covenants, terms, conditions and restrictions contained herein, Declarant, does hereby establish a real property covenant on the Property as follows:

1. *Declaration of Real Property Covenant*

Declarant as fee simple owner of the Property voluntarily establishes this real property covenant in perpetuity over the Property, on the terms and conditions set forth, exclusively for the purpose of conserving the Conservation Values of the Property. It is the intent of the Declarant that the covenant shall supersede any prior interests the Declarant has in the property and shall run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

2. *Purpose*

It is the purpose of this real property covenant to ensure that the Property will be retained forever in a natural, open space and scenic condition and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property. Declarant and the Beneficiaries intend that this real property covenant will confine the use of the Property to such activities as are consistent with the purpose of this real property covenant.

3. *Rights of the Beneficiaries*

To accomplish the purpose of this real property covenant the following rights may be exercised by the Beneficiaries:

(a) To preserve and protect the Conservation Values of the Property;

(b) To enter upon the Property at reasonable times in order to monitor Declarant's compliance with and otherwise enforce the terms of this real property covenant in accordance with Section 9; provided that, except in cases where the Beneficiaries determine that immediate entry is required to prevent, terminate, or mitigate a violation of this real property covenant, such entry shall be upon prior reasonable notice to Declarant;

(c) To conduct, with reasonable prior notice to Declarant, survey, site preparation, removal of invasive non-native riparian vegetation, installation of native plants, and other activities associated with wetland mitigation. Nothing herein shall be deemed to imply any obligation to perform such restoration activities; and

(d) To prevent any activity on or use of the Property that is inconsistent with the purpose of this real property covenant and to require the restoration of such areas or features of

the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Section 9.

#### 4. *Prohibited Uses*

Any activity on or use of the Property inconsistent with the purpose of this real property covenant is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as permitted in Sections 3 and 5:

(a) *Construction and Improvements.* The placement or construction of any buildings, structures, or other improvements of any kind, including, without limitation, utilities, septic systems, communication lines, communication towers, storage tanks and pipelines.

(b) *Paving and Road and Trail Construction.* The paving or covering of any portion of the Property with concrete, asphalt, gravel, crushed rock, wood shavings or any other paving or surfacing material or the construction of a road or trail.

(c) *Commercial Development.* Any commercial or industrial use or activity on the Property, including, but not limited to, commercial recreational activities involving active recreation.

(d) *Agricultural Activities.* Any domestic animal grazing or agricultural activities of any kind; and application of biocides except when determined by the Beneficiaries to be necessary for the eradication of invasive non-native plant species and such application is by the narrowest spectrum, least persistent material appropriate for the target species.

(e) *Introduced Vegetation.* The planting or introduction of non-native species of plants.

(f) *Waste Disposal.* The disposal, storage, or release of yard waste, hazardous substances, rubbish, garbage, debris, unregistered vehicles, abandoned equipment, parts thereof, or other unsightly or offensive waste or material on the Property. The term "release" shall mean any release, generation, treatment disposal, storage, dumping, burying, abandonment, or migration from off-site. The term "hazardous substances" as used in this real property covenant shall mean any substances, materials, or wastes that are hazardous, toxic, dangerous, harmful or are designed as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous, toxic, dangerous or harmful or as a pollutant by any federal, state, or local law, regulation, statute, or ordinance, including, but not limited to, petroleum or any petroleum product.

(g) *Active Recreation.* Conducting or allowing activities, such as golf courses, ball fields, motocross, equestrian, campgrounds or any other activity involving individuals or the public or private clubs or associations engaging in organized active recreation.

(h) *Hunting.* Conducting or allowing hunting activities, including construction of blinds, camping areas, access trails, and any other hunting related activities.

(i) *Signs.* The placement of commercial signs, billboards, or other commercial advertising material on the Property.

(j) *Mineral Development.* The exploration for, or development and extraction of, any minerals or hydrocarbons.

(j) *Vehicles.* The operation of motorized vehicles except as part of any wetland creation or maintenance activity.

#### 5. *Reserved Rights*

Declarant reserves to itself and to its members and their personal representatives, heirs, successors and assigns, any use of, or activity on, the Property that is not inconsistent with the purpose of the real property covenant and that is not prohibited herein. Without limiting the generality of the foregoing, Declarant specifically reserves the following uses and activities:

(a) *Maintenance, Monitoring and Emergencies.* The right to undertake activities necessary to maintain and monitor the Conservation Values and to public health, property improvements, or human safety, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity.

(b) *Fence.* With reasonable prior notice and approval from the Beneficiaries, which will not be unreasonably withheld or delayed, the right to install and maintain fences around the Property, and the Beneficiaries agrees not to remove or damage said fences.

(c) *Recreational Use.* The right to allow passive recreational use and activities, such as bird watching, photography and the use of human-powered watercraft, provided that such passive recreational use does not include any of the prohibited uses set forth in Section 4 of this real property covenant, and that such passive recreational use is otherwise consistent with the purpose and terms of this real property covenant.

(d) *Informational Signage.* With reasonable prior notice and approval from the Beneficiaries, which will not be unreasonably withheld or delayed, the right to install informational signage about the conservation values of the property.

#### 6. *Responsibilities of Declarant Not Affected.*

Other than as specified herein, this real property covenant is not intended to impose any legal or other responsibility on the Beneficiaries, or in any way to affect any existing obligation of the Declarant as owner of the Property. This shall apply to:

(a) *Taxes.* Declarant shall continue to be solely responsible for payment of all taxes and assessments levied against the Property.

(b) *Upkeep and Maintenance, Costs, Legal Requirements, and Liabilities.* Declarant retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property subject to the terms of the Wetland Mitigation Plan. Declarant remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this real property covenant and conducted by Declarant their agents or employees.

(c) *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any hazardous substances, Declarant agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required. Should Declarant become aware of the release of any hazardous substances on the Property, Declarant shall immediately inform Beneficiaries.

(d) *Control.* Nothing in this real property covenant shall be construed as giving rise to any right or ability in Beneficiaries to exercise physical or managerial control over the day-to-day operations of the Property, or any of Declarant's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or the Model Toxics Control Act, as amended ("MTCA").

(e) *Liability.* Beneficiaries, except for the United States Army Corps of Engineers, and Declarant and their employees, agents, invitees, and heirs hereby release and agree to indemnify, defend and hold each other harmless from any injury, claim, damage, or loss suffered by Beneficiaries or Declarant or their employees, agents, invitees, or heirs on, around or with regard to the Property except to the extent of the party's or parties' negligent or unlawful actions.

#### 7. *The Beneficiaries' Right to Restore the Property*

In the event that any of the Conservation Values of the Property are impaired, the Beneficiaries shall have the right, but not the obligation, to restore all or portions of the Property.

#### 8. *Access*

No right of access by the general public to any portion of the Property is created by this real property covenant.

#### 9. *Enforcement*

The Beneficiaries shall have the right to prevent and correct violations of the terms of this real property covenant as set forth below. Nothing in the foregoing precludes Beneficiaries from taking regulatory enforcement action.

(a) *Notice of Failure.* If the Beneficiaries determine that the Declarant is in violation of the terms of this real property covenant or that a violation is threatened, the Beneficiaries shall give written notice to Declarant of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this real property covenant, to restore the portion of the

Property so injured to its prior condition in accordance with a plan approved by the Beneficiaries.

(b) *Declarant's Failure to Respond.* In addition to the rights granted in Section 3, including the right of entry, the Beneficiaries may bring an action as provided for in Section 9(c) below if Declarant fails to cure the violation within thirty (30) days after receipt of notice thereof from the Beneficiaries; fails to begin curing such violation within the thirty (30) day period under circumstances where the violation cannot reasonably be cured within the thirty (30) day period; or fails to continue diligently to cure such violation until finally cured.

(c) *The Beneficiaries' Action.* The Beneficiaries may bring action at law or in equity in a court of competent jurisdiction to enforce the terms of this real property covenant, to enjoin the violation, *ex parte* as necessary and as allowed under the applicable civil rules, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this real property covenant or injury to any of the Conservation Values protected by this real property covenant, including damages for the loss of the Conservation Values; and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Declarant's liability therefore, the Beneficiaries, in their sole and absolute discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. All such actions for injunctive relief may be taken without the Beneficiaries being required to post bond or provide other security.

(d) *Immediate Action Required.* If the Beneficiaries, in their sole and absolute discretion, determine that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, The Beneficiaries may pursue remedies under this Section 9 without prior notice to Declarant or without waiting for the period provided for cure to expire.

(e) *Nature of Remedy.* The rights under this Section 9 apply equally in the event of either actual or threatened violations of the terms of this real property covenant. Declarant agrees that the remedies at law for any violation of the terms of this real property covenant are inadequate and Beneficiaries shall be entitled to the injunctive relief described in this Section 9 both prohibitive and mandatory, in addition to such other relief to which Beneficiaries may be entitled, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The remedies described in this Section 9 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

(f) *Costs of Enforcement.* Provided the Beneficiaries first provide Declarant with a Notice of Failure and Declarant fails to respond, all reasonable costs incurred by the Beneficiaries in enforcing the terms of this real property covenant against Declarant, including, without limitation, costs and expenses of suit and reasonable attorney's fees and reasonable consultant's fees, and any costs of restoration necessitated by Declarant's violation of the terms of this real property covenant shall be borne by Declarant. The substantially prevailing party in a judicial enforcement action regarding this real property covenant shall be entitled to reimbursement of all reasonably incurred attorney's fees and litigation expenses.

(g) *The Beneficiaries' Discretion.* Any forbearance by the Beneficiaries to exercise

rights under this real property covenant in the event of any violation of any terms of this real property covenant shall not be deemed or construed to be a waiver of such term or of any rights under this real property covenant. No delay or omission by the Beneficiaries in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

(h) *Acts Beyond Declarant's Control.* Nothing contained in this real property covenant shall be construed to entitle the Beneficiaries to bring any action against Declarant to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond Declarant's control, including, without limitation, fire, flood, storm, and earth movement, nor shall Declarant be required to take steps to abate or mitigate injury to the Property resulting from such causes.

10. *Alternate Dispute Resolution*

If a dispute arises between the parties concerning the consistency of any proposed use or activity with this real property covenant, the parties shall attempt to resolve the dispute through informal discussion. The parties may also agree to refer the dispute to mediation and shall select a single mediator to hear the matter. Each party shall bear its own costs, including attorney's fees, if mediation is pursued under this Section 10. The parties shall share equally the fees and expenses of the mediator.

11. *Notice and Approval*

(a) *Notice.* Whenever notice is required under this real property covenant, the party required to give notice ("Notifying Party") shall give reasonable written notice prior to the date the Notifying Party intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the other party to make an informed judgment as to its consistency with the purpose and terms of this real property covenant.

(b) *Evaluation of Proposed Activities.* The purpose of requiring the Notifying Party to notify the other party prior to undertaking certain permitted uses and activities is to afford the other party an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purpose and terms of this real property covenant.

12. *Notice of Transfer of Property by Declarant and Successor and Assigns*

Anytime the Property itself, or any interest in it is transferred, or a legal claim is established by the Declarant to a third party, the Declarant, its successors and assigns, shall notify the Beneficiaries in writing at least 60 days in advance of such action and the document of conveyance, transfer or establishment shall expressly refer to this real property covenant. Declarant shall also include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

**NOTICE: THIS PROPERTY IS SUBJECT TO A CONSERVATION COVENANT GRANTED BY THE CITY OF MARYSVILLE ON \_\_\_\_\_ AND**



**RECORDED WITH THE SNOHOMISH COUNTY AUDITOR UNDER RECORDING NUMBER (\_\_\_\_\_). USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.**

Unless otherwise agreed to in writing by Beneficiaries, Declarant shall provide Beneficiaries with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

13. *Termination of Real property Covenant*

(a) *Frustration of Purpose.* This real property covenant may only be terminated with the concurrence of the Beneficiaries in the event the purpose for this covenant can no longer be fulfilled due to circumstances beyond the Declarant's control but not to include a failure to enforce the terms of this restrictive covenant. In that event, concurrence with the termination of this real property covenant must be received from Beneficiaries.

(b) *Economic Value.* The fact that the Property may become greatly more economically valuable if it were used in a manner that is either expressly prohibited by this real property covenant or inconsistent with the purpose of this real property covenant, or that neighboring properties may in the future be put entirely to uses that would not be permitted hereunder, has been considered by the Declarant in granting this real property covenant. It is the intent of both Declarant and the Beneficiaries that any such change in the economic value of the Property from other use shall not be assumed to be circumstances justifying the termination or extinguishment of this real property covenant pursuant to this section.

14. *Modification*

This real property covenant may be amended only with the concurrence of the Beneficiaries, provided that any such amendment shall be consistent with the purpose of the real property covenant and shall not affect its perpetual duration. All amendments shall be in writing, approved by the Beneficiaries and recorded in the real property records of Snohomish County, Washington.

15. *Interpretation*

This real property covenant shall be interpreted under the laws of Washington, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

16. *Perpetual Duration*

This real property covenant shall be a binding servitude running with the land in perpetuity.

17. *Notices*

Any notices required by this real property covenant shall be in writing and shall be personally delivered or sent by first class mail to the Declarant, at the following address, unless the Beneficiaries have been notified of a change of address.

To Declarant:

City of Marysville  
1049 State Ave  
Marysville, WA 98270

18. *Severability*

If any provision of this real property covenant is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions.

19. *Entire Agreement*

This instrument sets forth the entire agreement of the parties with respect to the terms of this Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this Agreement, all of which merge herein.

IN WITNESS WHEREOF, the Declarant has set its hands on the date first written above.

Declarant:

City of Marysville

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WASHINGTON            )  
  ) ss  
County of \_\_\_\_\_            )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me the undersigned, a Notary Public for the State of Washington, personally appeared \_\_\_\_\_ who stated on oath that he is \_\_\_\_\_ and authorized to execute the within instrument on behalf of said company and acknowledged said instrument as the free and voluntary act of the company for the uses and purposes mentioned therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.

\_\_\_\_\_  
Notary Public for the State of Washington  
Residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

## EXHIBIT A

### Legal Description

The following parcels of real property located in Snohomish County, Washington:

#### WETLAND MITIGATION AREA WEST 2

##### LEGAL DESCRIPTION

TPN: 30053400300800

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M., LYING SOUTHWESTERLY OF THE CENTERLINE OF JONES CREEK.

#### WETLAND MITIGATION AREA WEST 3

##### LEGAL DESCRIPTION

TPN: 30053300401000

THAT PORTION GOVERNMENT LOT 4 IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M., LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4;  
THENCE SOUTH 0 DEGREES 33 MINUTES 04 SECONDS WEST, ALONG THE EAST LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 1137.81 FEET TO A FOUND MONUMENT AT THE MEANDER CORNER;  
THENCE NORTH 0 DEGREES 33 MINUTES 04 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 2.30 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE TO BE DESCRIBED;  
THENCE NORTH 40 DEGREES 35 MINUTES 33 SECONDS WEST A DISTANCE OF 112.62 FEET;  
THENCE NORTH 23 MINUTES 14 MINUTES 51 SECONDS WEST A DISTANCE OF 13.28 FEET;  
THENCE NORTH 0 DEGREES 28 MINUTES 48 SECONDS EAST A DISTANCE OF 389.61 FEET;  
THENCE NORTH 0 DEGREES 42 MINUTES 08 SECONDS EAST A DISTANCE OF 348.72 FEET;  
THENCE NORTH 1 DEGREE 23 MINUTES 18 SECONDS WEST A DISTANCE OF 88.04 FEET;  
THENCE NORTH 9 DEGREES 50 MINUTES 44 SECONDS WEST A DISTANCE OF 29.66 FEET;  
THENCE NORTHWESTERLY ALONG A 305.31 FOOT RADIUS TANGENTIAL CURVE TO THE LEFT, PASSING THROUGH A CENTRAL ANGLE OF 41 DEGREES 52 MINUTES 18 SECONDS, AN ARC DISTANCE OF 223.17 FEET TO A POINT IN THE NORTH LINE OF LINE OF SAID GOVERNMENT LOT 4 THAT BEARS NORTH 88 DEGREES 29 MINUTES 36 SECONDS WEST A DISTANCE OF 200.86 FEET FROM THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4 AND SAID LINE THERE TERMINATING.

SAID LINE ALSO BEING THE EASTERLY LINE OF A 15.00 FOOT WIDE ROAD EASEMENT.

## WETLAND MITIGATION AREA WEST I

### LEGAL DESCRIPTION

TPN: 30053300400200

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 30 NORTH, RANGE 5 EAST, WM, LYING SOUTHERLY OF JONES CREEK, DESCRIBED AS LINE 'JC' BELOW AND LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER;

THENCE NORTH 88 DEGREES 24 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF SAID SUBDIVISION, A DISTANCE OF 200.86 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE TO BE DESCRIBED, SAID POINT BEING A POINT IN A 305.37 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, THE CENTER OF WHICH BEARS SOUTH 38 DEGREES 16 MINUTES 58 SECONDS WEST FROM SAID POINT;

THENCE NORTHERLY, ALONG SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 1 DEGREE 58 MINUTES 34 SECONDS, AN ARC DISTANCE OF 10.58 FEET;

THENCE NORTH 58 DEGREES 41 MINUTES 35 SECONDS WEST, TANGENT TO SAID CURVE, A DISTANCE OF 21.30 FEET;

THENCE NORTH 58 DEGREES 13 MINUTES 13 SECONDS WEST A DISTANCE OF 322.73 FEET;

THENCE NORTH 60 DEGREES 11 MINUTES 01 SECONDS WEST A DISTANCE OF 148.34 FEET;

THENCE NORTH 61 DEGREES 08 MINUTES 50 SECONDS WEST A DISTANCE OF 241.10 FEET;

THENCE NORTH 61 DEGREES 42 MINUTES 39 SECONDS WEST A DISTANCE OF 74.04 FEET;

THENCE WESTERLY ALONG A 308.54 FOOT RADIUS TANGENTIAL CURVE TO THE LEFT, PASSING THROUGH A CENTRAL ANGLE OF 2 DEGREES 36 MINUTES 36 SECONDS, AN ARC DISTANCE OF 16.79 FEET TO LINE 'JC' DESCRIBED BELOW, AND SAID LINE THERE TERMINATING.

SAID LINE ALSO BEING THE EASTERLY LINE OF A 15.00' WIDE ROAD EASEMENT.

LINE 'JC'

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 33;

THENCE NORTH 0 DEGREES 47 MINUTES 10 SECONDS EAST, ALONG THE WEST LINE OF SAID SUBDIVISION, A DISTANCE OF 247.01 FEET;

THENCE NORTH 85 DEGREES 34 MINUTES 27 SECONDS EAST A DISTANCE OF 90.96 FEET;

THENCE NORTH 14 DEGREES 49 MINUTES 02 SECONDS EAST A DISTANCE OF 38.01 FEET;

THENCE NORTH 25 DEGREES 39 MINUTES 22 SECONDS EAST A DISTANCE OF 39.54 FEET;

THENCE NORTH 40 DEGREES 20 MINUTES 37 SECONDS EAST A DISTANCE OF 60.15 FEET;

THENCE SOUTH 87 DEGREES 51 MINUTES 34 SECONDS EAST A DISTANCE OF 143.68 FEET;

THENCE SOUTH 65 DEGREES 11 MINUTES 55 SECONDS EAST A DISTANCE OF 74.61 FEET TO THE TRUE POINT OF BEGINNING OF LINE 'JC' TO BE DESCRIBED;

THENCE NORTH 44 DEGREES 49 MINUTES 48 SECONDS EAST, ALONG THE CENTERLINE OF SAID JONES CREEK AND ITS SOUTHWESTERLY EXTENSION, A DISTANCE OF 253.58 FEET;

THENCE NORTH 21 DEGREES 57 MINUTES 56 SECONDS EAST A, CONTINUING ALONG THE CENTERLINE OF SAID CREEK, A DISTANCE OF 192.50 FEET;

THENCE NORTH 42 DEGREES 40 MINUTES 18 SECONDS EAST A DISTANCE OF 33.97 FEET;

THENCE NORTH 78 DEGREES 19 MINUTES 09 SECONDS EAST A DISTANCE OF 94.26 FEET;

THENCE SOUTH 84 DEGREES 16 MINUTES 58 SECONDS EAST A DISTANCE OF 54.08 FEET;

THENCE SOUTH 74 DEGREES 31 MINUTES 49 SECONDS EAST A DISTANCE OF 107.06 FEET;

THENCE SOUTH 81 DEGREES 37 MINUTES 47 SECONDS EAST A DISTANCE OF 233.33 FEET;

THENCE SOUTH 73 DEGREES 17 MINUTES 31 SECONDS EAST A DISTANCE OF 102.73 FEET;

THENCE SOUTH 44 DEGREES 19 MINUTES 48 SECONDS EAST A DISTANCE OF 108.42 FEET TO A POINT IN THE EAST LINE OF SAID SUBDIVISION THAT BEARS NORTH 0 DEGREES 33 MINUTES 04 SECONDS EAST A DISTANCE OF 654.64 FEET FROM THE SOUTHEAST CORNER OF SAID SUBDIVISION, AND SAID LINE 'JC' THERE TERMINATING.

NOTE: LINE 'JC' IS THE SOUTHERLY LINE OF PARCEL D AS SHOWN ON THAT RECORD OF SURVEY PREPARED BY OSTERGAARD-ROBINSON AND ASSOCIATES FOR THE TULALIP TRIBES, RECORDED UNDER AUDITOR'S FILE NUMBER 200103195004.

## WETLAND MITIGATION AREA EAST

### LEGAL DESCRIPTION

TPN: 00918500099000

THAT PORTION OF TRACT 994, HARBOR VIEW VILLAGE, ACCORDING TO THE PLAT RECORDED UNDER AUDITOR'S FILE NUMBER 200102065008, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 994;  
THENCE SOUTH 20 DEGREES 12 MINUTES 47 SECONDS WEST, ALONG THE WESTERLY LINE OF SAID TRACT 994, A DISTANCE OF 141.34;  
THENCE SOUTH 47 DEGREES 20 MINUTES 21 SECONDS WEST A DISTANCE OF 123.99 FEET;  
THENCE SOUTH 32 DEGREES 59 MINUTES 58 SECONDS WEST A DISTANCE OF 126.36 FEET;  
THENCE SOUTH A DISTANCE OF 85.65 FEET;  
THENCE NORTH 39 DEGREES 44 MINUTES 55 SECONDS EAST A DISTANCE OF 22.25 FEET;  
THENCE NORTH 24 DEGREES 35 MINUTES 15 SECONDS EAST A DISTANCE OF 15.45 FEET;  
THENCE NORTH 3 DEGREES 25 MINUTES 35 SECONDS WEST A DISTANCE OF 22.00 FEET;  
THENCE NORTH 69 DEGREES 57 MINUTES 50 SECONDS EAST A DISTANCE OF 5.50 FEET;  
THENCE SOUTH 85 DEGREES 30 MINUTES 15 SECONDS EAST A DISTANCE OF 12.85 FEET;  
THENCE NORTH 50 DEGREES 23 MINUTES 40 SECONDS EAST A DISTANCE OF 13.35 FEET;  
THENCE NORTH 15 DEGREES 39 MINUTES 50 SECONDS WEST A DISTANCE OF 8.55 FEET;  
THENCE NORTH 6 DEGREES 10 MINUTES 00 SECONDS EAST A DISTANCE OF 18.10 FEET;  
THENCE NORTH 17 DEGREES 44 MINUTES 25 SECONDS EAST A DISTANCE OF 13.95 FEET;  
THENCE NORTH 35 DEGREES 15 MINUTES 20 SECONDS EAST A DISTANCE OF 26.30 FEET;  
THENCE NORTH 14 DEGREES 10 MINUTES 00 SECONDS EAST A DISTANCE OF 24.00 FEET;  
THENCE NORTH 45 DEGREES 54 MINUTES 10 SECONDS EAST A DISTANCE OF 23.65 FEET;  
THENCE NORTH 34 DEGREES 53 MINUTES 30 SECONDS EAST A DISTANCE OF 28.80 FEET;  
THENCE NORTH 28 DEGREES 51 MINUTES 35 SECONDS EAST A DISTANCE OF 18.35 FEET;  
THENCE NORTH 51 DEGREES 30 MINUTES 50 SECONDS EAST A DISTANCE OF 23.60 FEET;  
THENCE NORTH 37 DEGREES 21 MINUTES 40 SECONDS EAST A DISTANCE OF 45.10 FEET;  
THENCE NORTH 44 DEGREES 49 MINUTES 00 SECONDS EAST A DISTANCE OF 23.00 FEET;  
THENCE NORTH 67 DEGREES 11 MINUTES 40 SECONDS EAST A DISTANCE OF 50.15 FEET;  
THENCE NORTH 78 DEGREES 15 MINUTES 35 SECONDS EAST A DISTANCE OF 15.65 FEET;  
THENCE NORTH 73 DEGREES 42 MINUTES 50 SECONDS EAST A DISTANCE OF 60.35 FEET;  
THENCE NORTH 79 DEGREES 10 MINUTES 40 SECONDS EAST A DISTANCE OF 26.15 FEET;  
THENCE NORTH 67 DEGREES 13 MINUTES 50 SECONDS EAST A DISTANCE OF 11.20 FEET;  
THENCE NORTH 5 DEGREES 47 MINUTES 25 SECONDS EAST A DISTANCE OF 8.40 FEET;  
THENCE NORTH 76 DEGREES 11 MINUTES 30 SECONDS EAST A DISTANCE OF 10.20 FEET;  
THENCE SOUTH 56 DEGREES 30 MINUTES 10 SECONDS EAST A DISTANCE OF 8.50 FEET;  
THENCE SOUTH 81 DEGREES 34 MINUTES 50 SECONDS EAST A DISTANCE OF 37.75 FEET;  
THENCE NORTH 26 DEGREES 51 MINUTES 50 SECONDS EAST A DISTANCE OF 17.00 FEET;  
THENCE NORTH 74 DEGREES 16 MINUTES 40 SECONDS EAST A DISTANCE OF 19.30 FEET;  
THENCE NORTH 42 DEGREES 37 MINUTES 35 SECONDS EAST A DISTANCE OF 11.30 FEET;  
THENCE NORTH 4 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 11.00 FEET;  
THENCE NORTH 82 DEGREES 30 MINUTES 30 SECONDS EAST A DISTANCE OF 69.10 FEET;  
THENCE NORTH 10 DEGREES 32 MINUTES 50 SECONDS EAST A DISTANCE OF 32.40 FEET;  
THENCE SOUTH 78 DEGREES 43 MINUTES 35 SECONDS EAST A DISTANCE OF 17.80 FEET;  
THENCE NORTH 70 DEGREES 10 MINUTES 00 SECONDS EAST A DISTANCE OF 11.40 FEET;  
THENCE NORTH 0 DEGREES 50 MINUTES 45 SECONDS WEST A DISTANCE OF 13.50 FEET TO A POINT IN THE NORTH LINE OF TRACT 994, SAID HARBOR VIEW VILLAGE, SAID POINT BEARS SOUTH 88 DEGREES 04 MINUTES 49 SECONDS EAST A DISTANCE OF 344.90 FEET FROM THE NORTHWEST CORNER OF SAID TRACT 994;  
THENCE NORTH 88 DEGREES 04 MINUTES 49 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 344.90 FEET TO SAID NORTHWEST CORNER.

**EXHIBIT B**

**Property Map**





