

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: July 22, 2019

AGENDA ITEM:	
PUD Utility Easement	
PREPARED BY:	DIRECTOR APPROVAL:
Burton Eggertsen	
DEPARTMENT:	
Legal/Public Works	
ATTACHMENTS:	
Proposed Easement	
BUDGET CODE:	AMOUNT:
SUMMARY:	

PUD will be relocating its utility facilities in preparation of the State Avenue Widening Project. PUD is offering the City \$5,000 in exchange for an easement for a utility pole on Tax Parcel # 30051600103800 that will facilitate its utility relocation. PUD has agreed that it will pay any applicable real estate excise taxes.

<p>RECOMMENDED ACTION: Staff recommends Council consider granting the easement to PUD in exchange for PUD paying the City \$5,000 and paying any applicable real estate excise taxes.</p>
--

AFTER RECORDING, PLEASE RETURN TO:
Public Utility District No. 1 of Snohomish County
Real Estate Services
P.O. Box 1107
Everett, Washington 98206-1107

E-_____
WO# 100024766-10 N# 10000063988

DISTRIBUTION EASEMENT

Grantor ("Owner"): City of Marysville, a municipal corporation of the State of Washington
Grantee: Public Utility District No. 1 of Snohomish County
Short Legal Description: SW/NE S16, T30N, R5E, W. M.
Tax Parcel No: 30051600103800

THIS DISTRIBUTION EASEMENT ("Easement") is made this ____ day of _____ 201__, by and between City of Marysville, a municipal corporation of the State of Washington ("Owner"), and Public Utility District No. 1 of Snohomish County, a Washington State municipal corporation ("District"). The Owner and District are sometimes referred to individually herein as "Party" and collectively as "Parties". The District is referred to as "Grantee".

WHEREAS, Owner is the owner of certain lands and premises situated in the County of Snohomish, State of Washington, legally described as follows (hereinafter "Property"):

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 30 NORTH, RANGE 5 EAST, W. M., IN SNOHOMISH COUNTY, WASHINGTON, LYING WESTERLY OF STATE HIGHWAY NO. 1 (SR 99).

Situate in the County of Snohomish, State of Washington

WHEREAS, the Grantee is desirous of acquiring certain rights and privileges across, over, under, upon and through the Property.

NOW, THEREFORE, the Parties agree as follows:

1. Distribution Easement. Owner, for good and valuable consideration, receipt of which is

hereby acknowledged, hereby conveys and grants to Grantee, its agents, contractors, successors and assigns, a non-exclusive easement for the perpetual right, privilege, and authority to patrol, construct, erect, reconstruct, alter, improve, extend, repair, operate, and maintain overhead and/or underground electric distribution lines and facilities, Grantee-owned communication wires and cables, and other necessary or convenient appurtenances, across, over, under, through and upon the following portion of Owner's Property (hereinafter "Easement Area"):

The Easterly 15 feet of the above described real property adjoining to and parallel with State Avenue (aka SR 99, Smokey Point Blvd), together with a strip of land five feet (5') in width having two and a half feet (2.5') of such width on each side of the centerline of the electrical facilities as constructed, to be constructed, extended or relocated within the above described real property and as shown on Exhibit "A" attached hereto and by this reference made a part hereof.

2. Access To and Across Property. Grantee has the right of ingress to and egress from the Easement Area across the adjacent Property of Owner where same is reasonably necessary for the purpose of exercising its easement rights described in Section 1.

3. Owner's Reservation of Rights and Use of Easement Area. Owner reserves the right to use the Easement Area in a manner that does not interfere with the Grantee's use of the Easement Area, and/or present a hazard to Grantee's electric distribution lines and facilities, communication wires and cables, and other appurtenances. The Owner shall not construct or permit to be constructed any structures of any kind in the Easement Area without prior approval of the Grantee. Any installation, facilities or appurtenances installed in the Easement Area pursuant to this Easement (poles, wires, etc.) may be relocated at City's expense if the City deems relocation is necessary for the sale, development, or redevelopment of the Property, or demolition. Grantor shall provide a new Easement Area at a location and of a size that are satisfactory to Grantee, and Grantor and Grantee shall execute a new Easement for the relocated distribution and transmission lines and facilities that contains terms and conditions substantially similar to those contained in this Easement.

4. Clearing of Power Line Right of Way. Grantee has the right at all times to clear said Easement Area and keep the same clear of all brush, debris and trees.

5. Trimming or Removal of Hazardous/Danger Trees. Grantee has the right at all times to cut, slash, or trim and remove brush, timber or trees from the Property which in the opinion of Grantee constitute a hazard to said lines and facilities, communication wires and cables, and other appurtenances or the Grantee's access thereto. Trees, brush or other growth shall be deemed hazardous to the lines or facilities or access of the Grantee when they are of such a height that they could, upon falling, strike the nearest edge of the Easement Area at a height of more than fifteen feet (15'). Except in emergencies, Grantee shall, prior to the exercise of such right, identify such trees and make a reasonable effort to give Owner prior notice that such trees will be trimmed or removed.

6. Title to Removed Trees and Vegetation. The title to all brush, debris and trees removed from the Easement Area and the Property pursuant to Sections 4 and 5 shall be vested in the Grantee, and the consideration paid for this Easement and rights herein described is accepted by Owner as full compensation for said removed brush, debris and trees. Owner shall be entitled to request fallen timber be set aside for Owner's personal use. Grantee shall make reasonable effort to set aside said fallen timber provided doing the same is safe in Grantee's sole opinion. Title to any fallen timber set aside in this manner shall revert to the Owner.

7. Indemnification and Hold Harmless.

a. Grantee shall indemnify, defend, protect and hold Owner harmless from any and all liability, damage or loss (including personal injury and property damage) (collectively "Damages") related to or arising from Grantee's activities, structures, equipment or other improvements, or that of Grantee's agents, employees, contractors, representatives and/or other parties acting for or on behalf of Grantee, in, on, over, under, to or from the Easement Area, except to the extent such Damages arise from or relate to the negligent acts and/or omissions of Owner and/or Owner's agents, employees, contractors, representatives and/or other parties acting for or on behalf of Owner.

b. In the event that the Grantee and the Owner are both liable with regard to any particular event, the Grantee's liability for indemnification of the Owner under this Section shall be limited to the Grantee's contributory negligence for the event that can be apportioned to the District.

c. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Grantee's immunity under industrial insurance, Title 51 RCW, as respects the Grantor only, and only to the extent necessary to provide the Owner with a full and complete indemnity of claims made by Grantee's employees. This waiver has been mutually negotiated by the parties hereto.

d. The provisions of this Section shall survive the termination of this Easement with respect to any event occurring prior to such termination.

e. Nothing contained in this Section of this Agreement shall be construed to create a liability or right of indemnification in any third party.

8. Restoration Provision. To the extent that Owner's Property is disturbed and/or damaged by Grantee's exercise of its rights hereunder, Grantee shall restore the condition of the Property as nearly as reasonably possible to its existing condition prior to said exercise of its rights.

9. Title to Property. The Owner represents and warrants having the lawful right and power to sell and convey this Easement to Grantee.

10. Binding Effect. This Easement and the rights and obligations under this Easement are intended to and shall run with the Property and shall benefit and bind the Parties and their respective heirs, successors and assigns.

11. Governing Law and Venue. This Easement shall be governed by and construed in accordance with the laws of the State of Washington. The venue for any action to enforce or interpret this Easement shall lie in the Superior Court of Washington for Snohomish County, Washington.

12. Authority. Each party signing this Easement, if on behalf of an entity, represents that they have full authority to sign this Easement on behalf of such entity.

13. Grantee Acceptance. By recording this Easement, Grantee hereby accepts all provisions set forth under this agreement.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written

OWNER(S):
City of Marysville

By: _____
Jon Nehring

Its: Mayor _____

(REPRESENTATIVE ACKNOWLEDGMENT)

State of _____
County of _____

I certify that I know or have satisfactory evidence that Jon Nehring
signed this instrument, on oath stated that (he/she/they) (is/are) authorized to execute the
instrument and acknowledged it as the Mayor of the City of
Marysville to be the free and voluntary act for the uses and purposes mentioned in the
instrument.

Given under my hand and official seal this _____ day of _____, 201_.

(Seal or Stamp)

Signature of
Notary Public _____
Print Name: _____
Residing at: _____

My appointment expires _____

GRANTEE:

PUBLIC UTILITY DISTRICT NO.1
OF SNOHOMISH COUNTY, WASHINGTON

By: _____
Maureen Barnes
Title: Manager, Real Estate Services

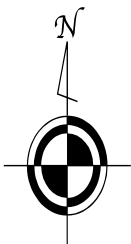
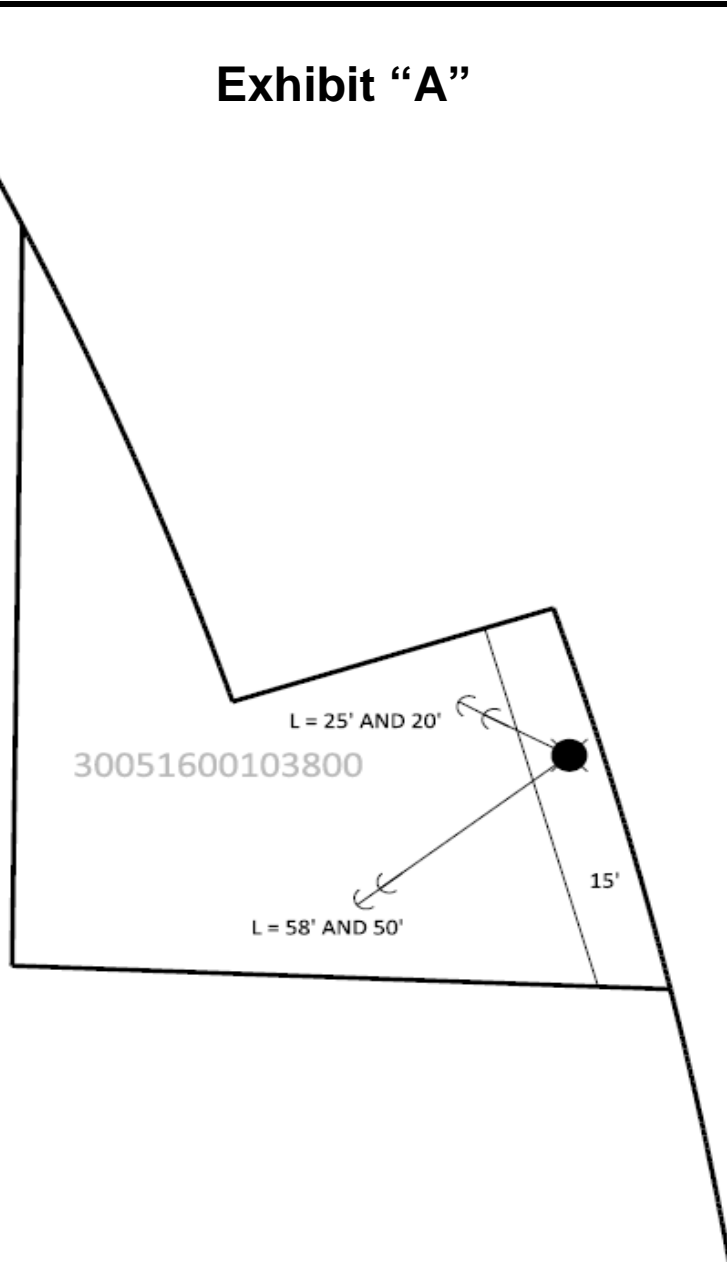
State of Washington
County of Snohomish

I, a Notary Public in and for the State of Washington, certify that I know or have satisfactory evidence that **Maureen Barnes** is the person who appeared before me and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the **Manager of Real Estate Services** of Public Utility District No. 1 of Snohomish County, Washington, a Washington State municipal corporation, to be a free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this _____ day of _____, _____.

Signature: _____
Print Name: _____
Residing at: _____
My appointment expires: _____


Exhibit "A"



Not To
Scale

THIS DRAWING IS FOR INFORMATIONAL
PURPOSES ONLY AND IS NOT INTENDED
TO BE AN ACCURATE SURVEY

NE 16 30N 5E

4/30/19	CITY OF MARYSVILLE	WO#100024766
	Tax Lot # 30051600103800	N#10000063988