

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: September 14, 2020

AGENDA ITEM:	
Centennial Trail Expansion Project	
PREPARED BY:	DIRECTOR APPROVAL:
Burton Eggertsen and Kyle Woods	
DEPARTMENT:	
Public Works	
ATTACHMENTS:	
A. Easement Agreement Package	
BUDGET CODE:	AMOUNT:
SUMMARY:	

The City intends to extend the Centennial Trail in the northern part of Marysville. As part of this project, the City is acquiring easements over private property on which to construct portions of the trail.

One of the properties over which the City intends to extend the Centennial Trail is owned by Paul and Diana Wolfe. In exchange for granting the City easement rights over their property, the City will grant the Wolfes two access easements over a city-owned lot (located just north of the Wolfe's property), and construct certain improvements (a fence constructed along the future recreational trail to screen the Wolfe's property, as well as an asphalt drive over one of the access easements). There is no monetary compensation for this transaction.

RECOMMENDED ACTION: Staff recommends Council consider granting two access/utility easements to Paul and Diana Wolfe in exchange for their grant of easement rights to the City.

PROPOSED MOTION: I move approve the grant of two access/utility easements to Paul and Diana Wolfe in exchange for their grant of easement rights to the City, and to authorize the Mayor to execute all necessary documents to effectuate this transaction.

SETTLEMENT AGREEMENT

Project: Centennial Trail Expansion Project
TPN: 30051300300800; 30051300300700;
Address: 9222 State Route 9 NE, Arlington, Washington 98223
Owner: Paul R. Wolfe and Diana L. Wolfe, husband and wife

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and entered into as of the date of the last signature below, by and between the CITY OF MARYSVILLE, a Washington State municipal corporation (the "City") and Paul R. Wolfe and Diana L. Wolfe, husband and wife, (the "Owner").

The parties agree to convey property and/or interest in property to the other party as described in, and in the form of, the following documents:

EXHIBIT A – Recreational Trail Easement and Real Estate Excise Tax Affidavit (to be conveyed by the Owner to the City)

EXHIBIT B – Temporary Construction Easement and Real Estate Excise Tax Affidavit (to be conveyed by the Owner to the City)

EXHIBIT C – Access and Utility Easement [1] and Real Estate Excise Tax Affidavit (to be conveyed by the City to the Owner)

EXHIBIT D – Access and Utility Easement [2] and Real Estate Excise Tax Affidavit (to be conveyed by the City to the Owner)

Owner agrees to sign and deliver to City additional documents necessary to complete the transaction:

EXHIBIT E – Borrower's Authorization to Communicate with Third Party

1. **TOTAL MONETARY COMPENSATION:** There is no monetary compensation for the easements. Each party is granting and receiving easement rights to and from the other party.

2. **CONDITION OF TITLE:** Title to the property is to be free of all encumbrances or defects, except those acceptable to City. Any liens, encumbrances, easements, restrictions, conditions, covenants, rights, rights-of-way or other matters affecting title to the property that arise or appear of record or are revealed by survey or otherwise after the date of the title report, but before closing, shall be subject to City's acceptance. Title shall be conveyed free and clear of all monetary encumbrances. MORTGAGEES OR LIEN HOLDERS MAY REQUIRE A REDUCTION TO PRINCIPAL OR OTHER PAYMENTS ON THE LOAN IN CONSIDERATION FOR RELEASES OR SUBORDINATIONS. ANY REQUIRED REDUCTION SHALL BE PAID BY OWNER.

3. **CLOSING:** Closing of this transaction shall occur within sixty (60) days after mutual acceptance of this Settlement Agreement, or within sixty (60) days after mortgage and lien subordinations have been secured and title has been cleared of any encumbrances or defects, whichever occurs later.

The date of closing shall be the date upon which all appropriate documents are recorded.

4. **CLOSING COSTS AND PRORATES:** Real estate excise tax, recording, partial releases and subordination fees shall be paid by City. Any delinquent and outstanding property taxes shall be paid by owner of the property underlying the respective easement(s) at or prior to closing.

5. **POSSESSION:** The parties shall be entitled to utilize the easements on the date of closing.

6. **CITY COUNCIL APPROVAL:** Owner acknowledges that this agreement does not bind the City until the City Council approves this Settlement Agreement and the Mayor executes the Agreement.

7. **ADDITIONAL CONDITIONS:** The City has agreed to construct certain improvements as described in the above-noted easements (specifically a fence, an asphalt section, and an asphalt apron). The City will begin construction of these improvements on a date(s) and time(s) that are mutually acceptable to the parties.

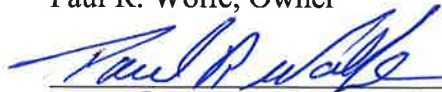
DATED this _____ day of _____, 20_____.

CITY OF MARYSVILLE

By _____
JON NEHRING, Mayor

DATED this 4 day of AUG, 2020.

Paul R. Wolfe, Owner



PAUL R WOLFE (Print Name)

Its: _____

DATED this 4 day of August, 2020.

Diana L. Wolfe, Owner

Diana L Wolfe
Diana L Wolfe (Print Name)

Its: _____

Owner's Mailing Address 8922 SRD NE

Arington Wa 98023

Owner's Email Address: prw67@mac.com

Owner's Phone Number: 425-327-5900

AFTER RECORDING MAIL TO:

City of Marysville
Legal Department
1049 State Avenue
Marysville, WA 98270

Document Title: **Recreational Trail Easement Agreement**
Grantor: **PAUL R. WOLFE AND DIANA L. WOLFE**
Grantee: **CITY OF MARYSVILLE**
Abbreviated Legal: **PTN SEC 13 TWP 30N RGE 5E SW QTR**
Additional Legal on page: **7**
Assessor's Tax Parcel No(s): **30051300300800**

RECREATIONAL TRAIL EASEMENT AGREEMENT

This Recreational Trail Easement Agreement (the "Agreement") is made and entered into as of the date of the last signature below, by and between Paul R. Wolfe and Diana L. Wolfe, husband and wife (the "Grantor"), the City of Marysville, a municipal corporation of the State of Washington (the "Grantee"), and JPMorgan Chase Bank, N.A. (the "Mortgagee").

RECITALS

WHEREAS, the Grantor is the owner of the property commonly known as 9222 State Route 9 NE, Arlington, Washington 98223, the legal description of which is attached as **Exhibit A** and incorporated into this Agreement (the "Property"); and

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

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. Easement. The Grantor, for valuable consideration, the adequacy and receipt of which is hereby acknowledged, hereby conveys and grants to the Grantee, its successors and assigns, a

perpetual non-exclusive easement over, under, through, across, in and upon that portion of the Property described in **Exhibit B** to construct, pave, alter, improve, repair, operate, maintain, and allow public use of a public recreational trail, and all appurtenances associated therewith (the "Easement"). The portion of the Property described in **Exhibit B** will be referred to as the "Easement Area", a depiction of which is attached as **Exhibit C**. The Easement is granted subject to and conditioned upon the terms, conditions, and covenants contained in this Agreement.

2. Access. The Grantee will have the right of ingress and egress to and from the Easement Area across the Property for the purpose of constructing, reconstructing, repaving, repairing, renewing, maintaining altering, changing, patrolling, and operating the Easement and associated trail, and the right to bring heavy equipment and vehicles onto the Property and operate the same to accomplish these purposes.

3. Public Use. The Easement and associated trail is for public access and use, and such public use includes pedestrian, bicycle, and other non-motorized wheel-based activities.

3. Fencing. The Grantee will construct up to five hundred thirty five (535) linear feet of chain link fencing on the Property as shown in **Exhibit C**. The fencing will be six feet (6') high. Upon completion of the fencing, the Grantor will assume all responsibilities to maintain and repair the same. The Grantee will have the right of ingress and egress across the Property to construct the fencing.

4. Vegetation. The Grantee will have the right to cut and/or remove brush, trees, branches, and other vegetation in the Easement Area as required to construct and maintain the Easement and associated trail, or that interferes with the use and/or operation of the Easement and associated trail.

5. Landscaping. The Grantee will have the right to install landscaping within the Easement Area for enhancement of the Easement and associated trail, and to water, fertilize, and otherwise maintain and replant said landscaping.

6. Drainage. The Grantee will have the right to install drainage facilities within the Easement Area and to make cuts and fills as required.

7. Rules; Signs. The Grantee will have the exclusive right to impose rules and regulations concerning the use of the Easement and associated trail and to erect signs and/or fencing for trail purposes within the Easement Area.

8. Restoration. Except for any permanent improvements or modifications to Grantor's Property as contemplated by this Agreement, upon completion of Grantee's construction activities, Grantee shall promptly restore any portion of the Grantor's Property that is affected by Grantee's activities as near as reasonably possible to its condition prior to construction.

9. Grantor's Use of Easement Area. The Grantor will not use the Easement Area except in conformance with the rules and regulations established for trail use and shall not erect any buildings, structures, patios, or other construction of any nature on or in the Easement Area, provided that Grantor shall be entitled to cross the Easement Area to access adjacent lands of

Grantor in a location or locations specified by Grantee, or as the same may be relocated from time to time by Grantee.

10. Warranty. The Grantor covenants to the Grantee that Grantor is lawfully seized and possessed of the Property; has a good and lawful right and power to sell and convey the same and to grant the Easement; that the Easement Area is free and clear of all encumbrances; and that Grantor will forever warrant and defend title to the Easement and the quiet possession of it against the lawful claims and demands of all other persons whomsoever.

11. Indemnification. Grantee agrees to defend, indemnify, and hold the Grantor harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the exercise of Grantee's rights under this Agreement, except for injuries and damages caused by the negligence of the Grantor.

12. Runs with the Land; Successors and Assigns. The Easement and the rights and obligations contained herein shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

13. Governing Law; Attorney's Fees. This Agreement will be governed by the laws of the State of Washington, with venue in Snohomish County. In any action brought by the Grantor or Grantee to enforce the obligations contained herein, the prevailing party shall be entitled to recover reasonable attorney's fees together with costs.

14. Severability. Any provision of this Agreement which proves to be invalid, void or illegal will in no way affect, impair or invalidate any other provision of this Agreement, and the remaining provisions will nevertheless remain in full force and effect.

15. No Waiver. Failure of either party at any time to require performance of any provision of this Agreement will not limit such party's right to enforce the provision, nor will any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of the provision or a waiver of the provision itself.

16. Mortgage. Any mortgage on the Property held by the Mortgagee is hereby subordinated to the rights herein granted to the Grantee, but in all other respects the said mortgage shall remain unimpaired.

17. General. This Agreement (including the attached exhibits): (i) represents the entire understanding of the parties with respect to the subject matter covered; (ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) the captions or headings provided in this Agreement are for convenience only and will not be deemed to be a part of this Agreement; (iv) the recitals are incorporated into and shall be considered a part of this Agreement; (v) the attached Exhibits are incorporated into and shall be considered a part of this Agreement; and (vi) by signing below, each individual signatory certifies that he/she is a person duly qualified and authorized to bind the respective parties to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the last signature below.

PAUL R. WOLFE & DIANA L. WOLFE, GRANTOR:

Paul R. Wolfe
Paul R. Wolfe

8-4-2020
Date

Diana L. Wolfe
Diana L. Wolfe

8-4-2020
Date

MORTGAGEE:

JPMorgan Chase Bank, N.A.

By: _____ (sign)

Date

Its:

CITY OF MARYSVILLE, GRANTEE:

Jon Nehring, Mayor

Date

Attest/Authenticated:

Tina Brock, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

STATE OF _____)
)ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Mayor Jon Nehring is the person who appeared before me, to me known to be the Mayor of the City of Marysville, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this ____ day of _____, 20__

(Notary Signature)

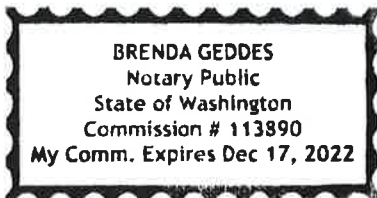
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Paul R. Wolfe is the person who appeared before me, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 2020



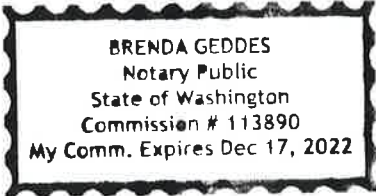
Brenda Geddes
(Notary Signature)
Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Arlington
My commission expires: 12-17-20

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Diana L. Wolfe is the person who appeared before me, and she acknowledged that he signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 2020



Brenda Geddes
(Notary Signature)

Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Arington
My commission expires: 12-17-20

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

On this day, before me personally appeared _____, to me known to be the _____ of _____, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument.

Dated this ___ day of _____, 20__

(Notary Signature)

(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

THE SOUTH 22 ACRES OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 5 EAST W.M., RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING WEST OF NORTHERN PACIFIC RAILWAY;

EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE WEST LINE OF SECONDARY STATE HIGHWAY 1-A.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON

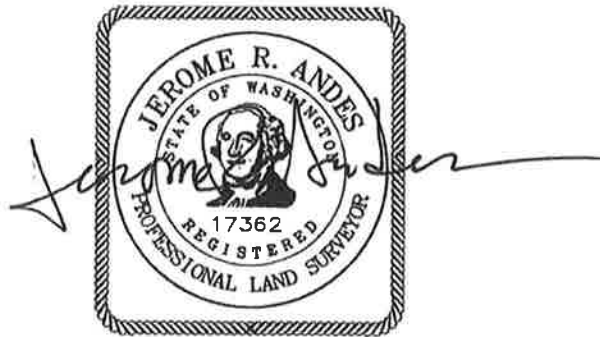
EXHIBIT A

**TRAIL EASEMENT
LEGAL DESCRIPTION**

300513-003-008-00

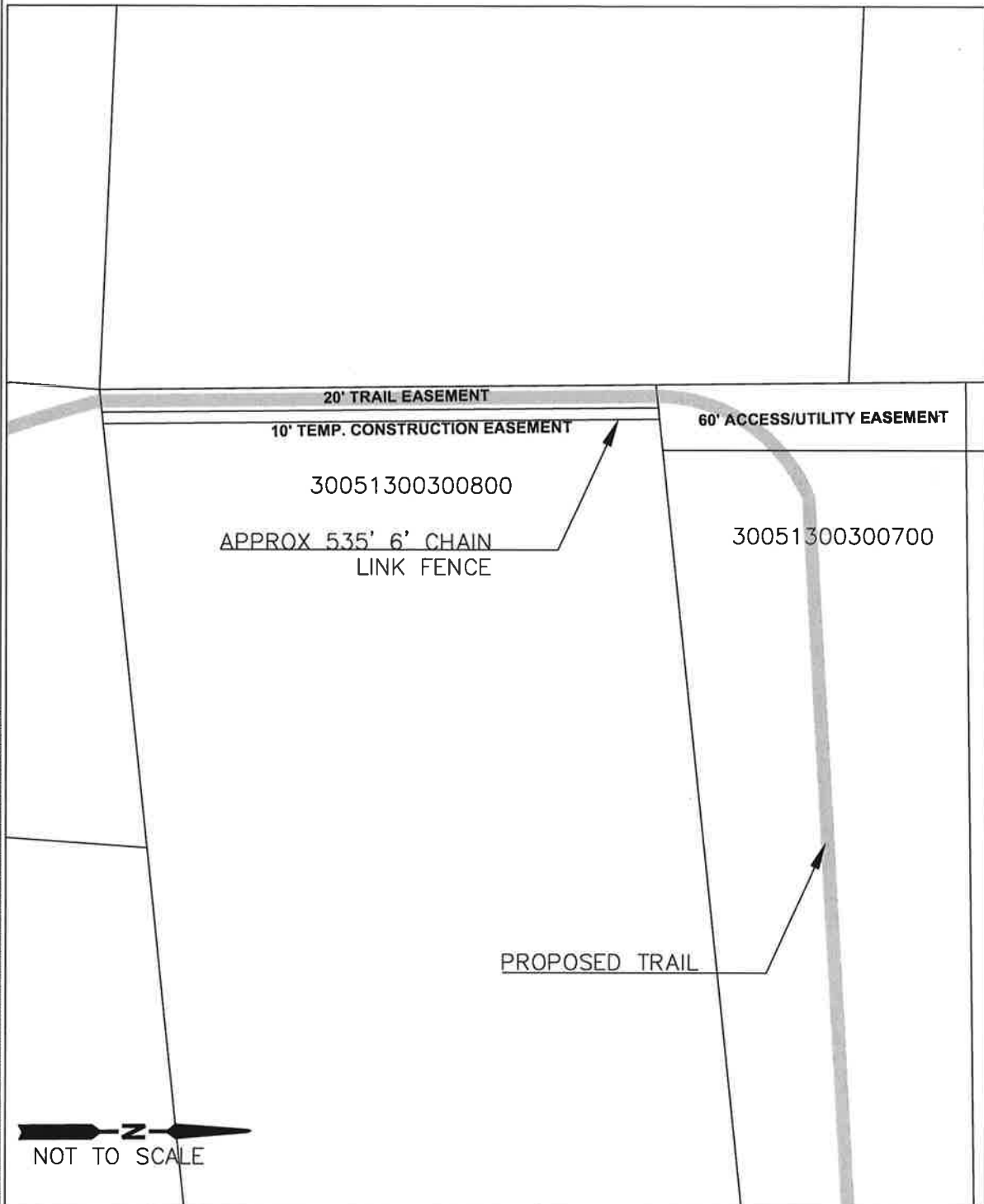
The West 20.00 feet, as measured perpendicular to and parallel with the west line, of the South 22 acres of that portion of the Southwest Quarter of Section 13, Township 30 North, Range 5 East, W.M., lying west of the Burlington Northern Santa Fe Railroad;

EXCEPT that portion thereof lying easterly of the west line of Secondary State Highway 1-A.



7/06/2020

Exhibit C



S:\Eng\Projects\Parks\Bayview Ridge Trail\Phase III - Centennial Trail Connection\CAD\Bayview - Centennial Trail Connector 2018.dwg

	ENTER PROJECT NAME ENTER ACCT# ; PROJ#	RIGHT-OF-WAY EXHIBIT MAP	11/13/2018 <small>DATE</small>
	CITY OF MARYSVILLE PUBLIC WORKS DEPARTMENT <small>80 COLUMBIA AVE MARYSVILLE, WA 98270 (360) 363-8100</small>	ENTER PARCEL NO.	1 OF 1 <small>NUMBER</small>

AFTER RECORDING MAIL TO:

City of Marysville
Legal Department
1049 State Avenue
Marysville, WA 98270

TEMPORARY CONSTRUCTION EASEMENT

Grantor: PAUL R. WOLFE AND DIANA L. WOLFE
Grantee: CITY OF MARYSVILLE
Abbreviated Legal: PTN SEC 13 TWP 30N RGE 5E SW QTR
Additional Legal on page: 5 (**Exhibit A**)
Assessor's Tax Parcel No(s): 30051300300800

In the matter of: Centennial Trail Expansion Project

KNOW ALL MEN BY THESE PRESENTS, that the Grantor, Paul R. Wolfe and Diana L. Wolfe, husband and wife, for and in consideration of the mutual benefits to the parties, do hereby grant to the Grantee, the CITY OF MARYSVILLE, a municipal corporation of the State of Washington, and its employees, contractors, agents, permittees and licensees, the right, permit, license and easement to use and occupy the hereinafter described lands, together with rights of ingress and egress, for the purposes of constructing and installing a recreational trail for public use on adjacent real property until the completion of the construction of this project, and for purposes of removing vegetation that interferes with Grantee's use of the temporary construction easement area, and for any and all other purposes incidental to the construction of said project over, under, through, across, in and upon the hereinafter described lands in the County of Snohomish County, State of Washington.

As described in **EXHIBIT B** attached hereto and incorporated herein by this reference.

It is further understood and agreed that the Grantee shall defend, indemnify, and save the Grantor(s) harmless from any and all claims and causes of action of every kind and description

which may accrue to, or be suffered by any person, persons or property by reason of, arising out of, or resulting from the use and occupancy of said lands by the Grantee, its successors and assigns.

This easement, and all rights granted hereunder, shall terminate automatically and without notice upon completion of the construction of said project.

It is understood and agreed that upon completion of construction of said project, the CITY OF MARYSVILLE or its agents shall restore the easement area as near as reasonably possible to its condition prior to construction.

The covenants herein shall run with the land and shall be binding on the grantors, their heirs, successors and assigns for the term of this agreement.

IN WITNESS WHEREOF, the parties have executed this temporary construction easement on the last date written below.

PAUL R. WOLFE & DIANA L. WOLFE:



Paul R. Wolfe

8-4-2020
Date



Diana L. Wolfe

08.04.2020
Date

CITY OF MARYSVILLE, GRANTEE:

Jon Nehring, Mayor

Date

Attest/Authenticated:

Tina Brock, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

STATE OF _____)
)ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Mayor Jon Nehring is the person who appeared before me, to me known to be the Mayor of the City of Marysville, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this ____ day of _____, 20__

(Notary Signature)

(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Paul R. Wolfe is the person who appeared before me, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 2020

Brenda Geddes
(Notary Signature)
Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Arlington
My commission expires: 5-12-17-20

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Diana L. Wolfe is the person who appeared before me, and she acknowledged that he signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.



Dated this 4th day of August, 20 20

Brenda Geddes
(Notary Signature)
Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Arlington

My commission expires: 12-17-20

EXHIBIT A
(PROPERTY LEGAL DESCRIPTION)

THE SOUTH 22 ACRES OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 5 EAST W.M., RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING WEST OF NORTHERN PACIFIC RAILWAY;

EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE WEST LINE OF SECONDARY STATE HIGHWAY 1-A.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON

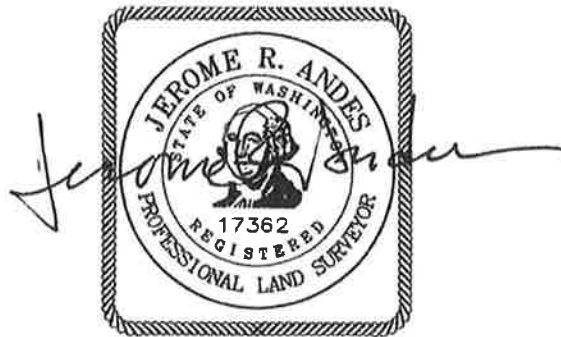
EXHIBIT B

**TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION**

300513-003-008-00

The East 10.00 feet of the West 30.00 feet, as measured perpendicular to and parallel with the west line, of the South 22 acres of that portion of the Southwest Quarter of Section 13, Township 30 North, Range 5 East, W.M., lying west of the Burlington Northern Santa Fe Railroad;

EXCEPT that portion thereof lying easterly of the west line of Secondary State Highway 1-A.



7/06/2020

AFTER RECORDING MAIL TO:

City of Marysville
Legal Department
1049 State Avenue
Marysville, WA 98270

Document Title: **Access and Utility Easement Agreement**
Grantor: CITY OF MARYSVILLE
Grantee: PAUL R. WOLFE AND DIANA L. WOLFE
Abbreviated Legal: PTN OF SEC 13 TWP 30 RGE 05 EAST
Additional Legal on page: 8
Assessor's Tax Parcel No(s): Ptn of 30051300300700

ACCESS AND UTILITY EASEMENT AGREEMENT

This Access and Utility Easement Agreement (the "Agreement") is made and entered into as of the date of the last signature below, by and between the City of Marysville, a municipal corporation of the State of Washington (the "Grantor") and Paul R. Wolfe and Diana L. Wolfe, husband and wife (the "Grantee").

RECITALS

WHEREAS, the Grantor is the owner of the property under tax parcel number 30051300300700, the legal description of which is attached as **Exhibit A** ("Grantor's Property"); and

WHEREAS, the Grantee is the owner of the property commonly known as 9222 State Route 9 NE, Arlington, Washington 98223, the legal description of which is attached as **Exhibit B** (the "Grantee's Property"); and

WHEREAS, Grantor's Property is located between Grantee's Property and 96th Street NE; and

WHEREAS, the Grantee desires to acquire an ingress, egress, and utilities easement across, over, and under Grantor's Property so as to access 96th Street NE; and

WHEREAS, Grantee's Property, for development purposes, is currently subject to the jurisdiction of Snohomish County; and

WHEREAS, zoning of Grantee's Property currently only allows two residences; and

WHEREAS, should a zoning change in the future occur that would allow for the development of the Grantee's real estate into a greater density, Snohomish County or any other jurisdiction having jurisdiction over it, may require the conversion of the Access and Utility Easement to a dedicated right-of-way.

NOW, THEREFORE, the Grantor and Grantee agree as follows:

AGREEMENT

1. Easement. The Grantor, for valuable consideration, the adequacy and receipt of which is hereby acknowledged, hereby grants to Grantee, and Grantee's successors and assigns, a perpetual non-exclusive sixty foot (60') wide easement over, under, through, across, in and upon that portion of Grantor's Property described in **Exhibit C** for ingress, egress, and utilities (the "Easement"). The portion of the Property described in **Exhibit C** will be referred to as the "Easement Area", a depiction of which is attached as **Exhibit D**. The Easement is granted subject to and conditioned upon the terms, conditions, and covenants contained in this Agreement.

2. Construction. The Grantor will construct and pave a twenty-foot (20') wide asphalt section on the Easement Area to connect 96th Street NE to the Grantee's Property (the "Asphalt Section"), and will remove any trees and other vegetation to achieve the same. The Grantor will additionally construct and pave a ten-foot (10') asphalt apron (the "Apron") on the border of Grantee's Property where it connects to the Easement Area, as shown in **Exhibit D**. The Grantor will have the right of ingress and egress to and from the Easement Area across Grantee's Property for the purposes of constructing and paving the above-described Asphalt Section and the Apron, and the right to bring heavy equipment and vehicles onto Grantee's Property and operate the same to accomplish these purposes.

3. Rules; Signs; Modifications. The parties acknowledge that the Easement will cross a planned recreational trail for public use, as shown in **Exhibit D**. The Grantor will have the exclusive right, at any time and in the sole judgment of the Grantor, to erect signs, establish rules regarding use of the Easement Area and Asphalt Section (such as speed limits), or to modify the Easement Area and Asphalt Section (such as building speed bumps) in order to protect users of the trail.

4. Maintenance. Upon completion of the Asphalt Section and the Apron, the Grantee will assume all responsibilities to maintain and repair the same and to maintain and repair the Easement Area, and will have the right to remove any vegetation or tree limbs that may impair use of the Easement. However, the Grantor will be responsible for maintaining the recreational trail including that portion that extends over the Easement Area as shown in **Exhibit D**.

5. Alteration of Easement. Grantee will not take any action that will impair, impede, or affect the recreational trail (such as installing underground utilities) without first obtaining written permission from the Grantor, which permission will not be unreasonably withheld.

6. Restoration. Except for any permanent improvements or modifications to Grantee's Property as contemplated by this Agreement, upon completion of Grantor's construction activities as contemplated by Section 2, Grantor shall promptly restore any portion of the Grantee's Property that is affected by Grantor's activities as near as reasonably possible to its condition prior to construction.

7. Indemnification. The Grantee shall defend, indemnify, and hold the Grantor, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or in connection with the performance of this Agreement, or arising out of or in any respect related to the use of the Easement Area, Asphalt Section, or Apron by the Grantee or Grantee's guests and invitees, except for injuries and damages caused by the sole negligence of the Grantor.

8. Future Zoning. Should the Grantee's property become eligible for a zoning density greater than two (2) residential lots, and should the governing municipal agency require, as a condition of such development, that the Easement Area described herein become a dedicated public right of way, then, and in that event, the City of Marysville agrees to take appropriate action to so dedicate the Easement Area at no cost or expense to the Grantee or the Grantee's heirs, successors or assigns; Provided, However, that costs associated with the development of the right of way to meet then existing construction standards shall be borne by the Grantee or the Grantee's heirs, successors and assigns; Provided, Further, that upon dedication, the governing municipal agency shall be entitled to establish traffic rules (such as set forth in Section 3 above, which rules will not impact the future density of the Grantee's real estate) regarding the use of the right of way that crosses the planned public recreational trail for the protection of the users of the trail. This Agreement will terminate upon the dedication contemplated by this Section.

9. Access to SR 9. Nothing in this Agreement shall be deemed to require the Grantee from abandoning its existing limited access right of way off of SR 9.

10. Warranty. The Grantor covenants to the Grantee that Grantor is lawfully seized and possessed of the Property; has a good and lawful right and power to sell and convey the same and to grant the Easement; that the Easement Area is free and clear of all encumbrances; and that Grantor will forever warrant and defend title to the Easement and the quiet possession of it against the lawful claims and demands of all other persons whomsoever.

11. Runs with the Land; Successors and Assigns. The Easement and the rights and obligations contained herein shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

12. Governing Law; Attorney's Fees. This Agreement will be governed by the laws of the State of Washington, with venue in Snohomish County. In any action brought by the Grantor or

Grantee to enforce the obligations contained herein, the prevailing party shall be entitled to recover reasonable attorney's fees together with costs.

13. Severability. Any provision of this Agreement which proves to be invalid, void or illegal will in no way affect, impair or invalidate any other provision of this Agreement, and the remaining provisions will nevertheless remain in full force and effect.

14. No Waiver. Failure of either party at any time to require performance of any provision of this Agreement will not limit such party's right to enforce the provision, nor will any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of the provision or a waiver of the provision itself.

15. General. This Agreement (including the attached exhibits): (i) represents the entire understanding of the parties with respect to the subject matter covered; (ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) the captions or headings provided in this Agreement are for convenience only and will not be deemed to be a part of this Agreement; (iv) the recitals are incorporated into and shall be considered a part of this Agreement; (v) the attached Exhibits are incorporated into and shall be considered a part of this Agreement; and (vi) by signing below, each individual signatory certifies that he/she is a person duly qualified and authorized to bind the respective parties to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date written below.

PAUL R. WOLFE & DIANA L. WOLFE, GRANTEE:


Paul R. Wolfe

8-4-2020
Date


Diana L. Wolfe

08/04/2020
Date

CITY OF MARYSVILLE, GRANTOR:

Jon Nehring, Mayor

Date

Attest/Authenticated:

Tina Brock, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

STATE OF _____)
)ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Mayor Jon Nehring is the person who appeared before me, to me known to be the Mayor of the City of Marysville, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this ____ day of _____, 20__

(Notary Signature)

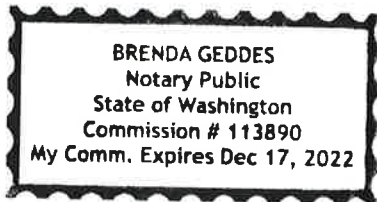
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Paul R. Wolfe is the person who appeared before me, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 2020



Brenda Geddes
(Notary Signature)
Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Actington, WA
My commission expires: 12-17-20

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Diana L. Wolfe is the person who appeared before me, and she acknowledged that he signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 2020



Brenda Geddes
(Notary Signature)
Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Arlington, WA
My commission expires: 12-17-20

EXHIBIT A
GRANTOR'S PROPERTY

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1862 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE EAST TO RAILWAY RIGHT OF WAY;

THENCE SOUTHERLY ALONG THE SAID RIGHT OF WAY TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER;

THENCE WEST TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE NORTH 762 FEET MORE OR LESS TO THE POINT OF BEGINNING, IN SECTION 13, TOWNSHIPS 30 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON.

EXCEPT THE SOUTH 22 ACRES THEREOF;

AND EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY DEEDS RECORDED UNDER RECORDING NUMBERS 788610 AND 1204320.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

EXHIBIT B
GRANTEE'S PROPERTY

THE SOUTH 22 ACRES OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 5 EAST W.M., RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING WEST OF NORTHERN PACIFIC RAILWAY;

EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE WEST LINE OF SECONDARY STATE HIGHWAY 1-A.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON

EXHIBIT C

**ACCESS AND UTILITY EASEMENT
LEGAL DESCRIPTION**

300513-003-007-00

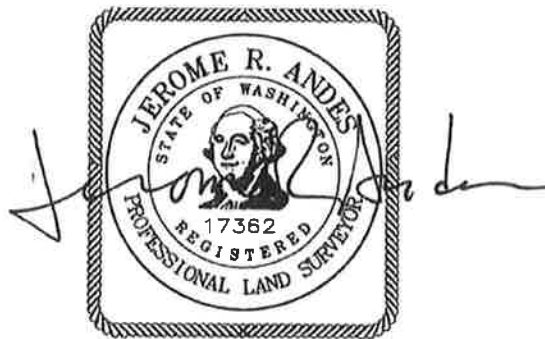
That portion of the Southwest Quarter of Section 13, Township 30 North, Range 5 East, W.M., described as follows:

Beginning at the intersection of the easterly right-of-way line of 96th Street N.E. with the south line of CENTENIAL TRAILS DIV 2, according to the plat filed under Auditor's File Number 200109055001, Records of Snohomish County, Washington; thence Southerly, along the southerly extension of said right-of-way line, a distance of 167.63 feet to the north line of TRACT A, described below; thence westerly, along the north line of said TRACT A, a distance of 60.27 feet to the southerly extension of the westerly right-of-way line of said 96th Street N.E., according to said plat; thence northerly, along said line, a distance of 173.38 feet to the intersection of the westerly right-of-way line of said 96th Street N.E. with the south line of said plat; thence easterly, along said south line, a distance of 60.00 feet to the point of beginning.

TRACT A

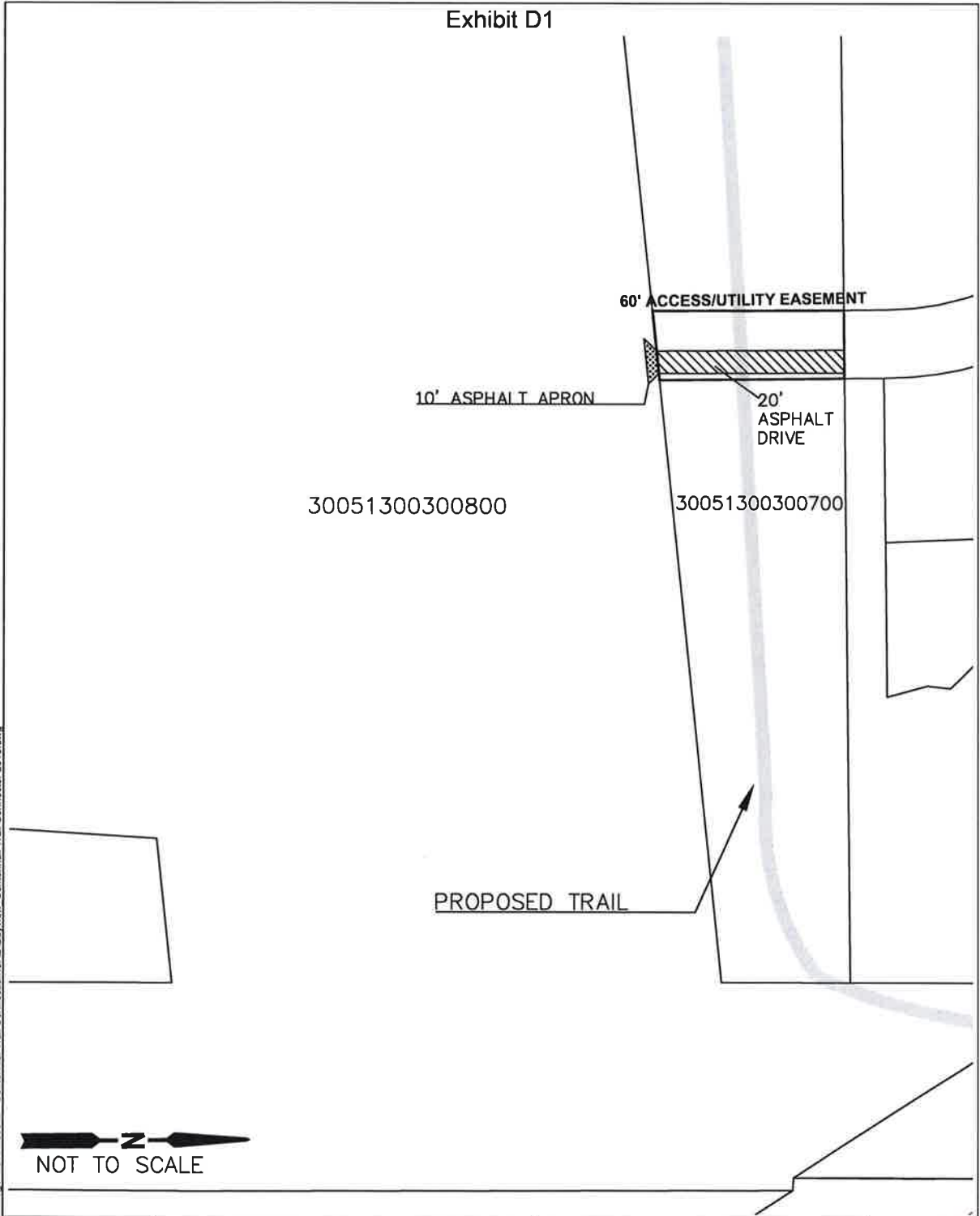
That portion of the Southwest Quarter of Section 13, Township 30 North, Range 5 East, W.M., lying northerly of the north line of the South 22 acres of said subdivision lying west of the Burlington Northern Santa Fe Railroad;
EXCEPT that portion thereof lying easterly of the west line of Secondary State Highway 1-A.

End of TRACT A




7/06/2020

Exhibit D1



S:\Eng\Projects\Parks\Bayview Ridge Trail\Phase III - Centennial Trail Connection\CAD\Bayview Centennial Trail Connector 2018.dwg

		RIGHT-OF-WAY EXHIBIT MAP	5/13/2019 DATE
	CITY OF MARYSVILLE PUBLIC WORKS DEPARTMENT <small>80 COLUMBIA AVE MARYSVILLE, WA 98270 (360) 363-8100</small>	30051300300800	1 of 1 NUMBER

AFTER RECORDING MAIL TO:

City of Marysville
Legal Department
1049 State Avenue
Marysville, WA 98270

Document Title: **Access and Utility Easement Agreement**
Grantor: CITY OF MARYSVILLE
Grantee: PAUL R. WOLFE AND DIANA L. WOLFE
Abbreviated Legal: PTN OF SEC 13 TWP 30 RGE 05 EAST
Additional Legal on page: 7
Assessor's Tax Parcel No(s): Ptn of 30051300300700

ACCESS AND UTILITY EASEMENT AGREEMENT

This Access and Utility Easement Agreement (the "Agreement") is made and entered into as of the date of the last signature below, by and between the City of Marysville, a municipal corporation of the State of Washington (the "Grantor") and Paul R. Wolfe and Diana L. Wolfe, husband and wife (the "Grantee").

RECITALS

WHEREAS, the Grantor is the owner of the property under tax parcel number 30051300300700, the legal description of which is attached as **Exhibit A** ("Grantor's Property");

WHEREAS, the Grantee is the owner of the property commonly known as 9222 State Route 9 NE, Arlington, Washington 98223, the legal description of which is attached as **Exhibit B** (the "Grantee's Property");

WHEREAS, Grantor's Property is located between Grantee's Property and 83rd Avenue NE;

WHEREAS, the Grantee desires to acquire an ingress, egress, and utilities easement across, over, and under Grantor's Property so as to access 83rd Avenue NE; and

WHEREAS, Grantee's Property, for development purposes, is currently subject to the jurisdiction of Snohomish County; and

WHEREAS, zoning of Grantee's Property currently only allows two residences; and

WHEREAS, should a zoning change in the future occur that would allow for the development of the Grantee's real estate into a greater density, Snohomish County or any other jurisdiction having jurisdiction over it, may require the conversion of the Access and Utility Easement to a dedicated right-of-way.

NOW, THEREFORE, the Grantor and Grantee agree as follows:

AGREEMENT

1. Easement. The Grantor, for valuable consideration, the adequacy and receipt of which is hereby acknowledged, hereby grants to Grantee, and Grantee's successors and assigns, a perpetual non-exclusive sixty foot (60') wide easement over, under, through, across, in and upon that portion of Grantor's Property described in **Exhibit C** for ingress, egress, and utilities (the "Easement"). The portion of the Property described in **Exhibit C** will be referred to as the "Easement Area", a depiction of which is attached as **Exhibit D**. The Easement is granted subject to and conditioned upon the terms, conditions, and covenants contained in this Agreement.

2. Rules; Signs; Modifications. The parties acknowledge that the Easement will cross a planned recreational trail for public use, as shown in **Exhibit D**. The Grantor will have the exclusive right, at any time and in the sole judgment of the Grantor, to erect signs, establish rules regarding use of the Easement Area (such as speed limits), or to modify the Easement Area (such as building speed bumps) in order to protect users of the trail.

3. Maintenance. The Grantee will be responsible for all maintenance and repairs of the Easement Area, and will have the right to remove any vegetation or tree limbs that may impair access to the Easement Area.

4. Alteration of Easement. Grantee will not take any action that will impair, impede, or affect the recreational trail (such as installing underground utilities) without first obtaining written permission of the Grantor, which permission will not be unreasonably withheld.

5. Restoration. Except for any permanent improvements or modifications to Grantee's Property as contemplated by this Agreement, upon completion of Grantor's construction activities, Grantor shall promptly restore any portion of the Grantee's Property that is affected by Grantor's activities as near as reasonably possible to its condition prior to construction.

6. Indemnification. The Grantee shall defend, indemnify, and hold the Grantor, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or in connection with the performance of this Agreement, or arising out of or in any respect related to the use of the Easement Area by the Grantee or Grantee's guests and invitees, except for injuries and damages caused by the sole negligence of the Grantor.

7. Future Zoning. Should the Grantee's property become eligible for a zoning density greater than two (2) residential lots, and should the governing municipal agency require, as a condition of such development, that the Easement Area described herein become a dedicated public right of way, then, and in that event, the City of Marysville agrees to take appropriate action to so dedicate the Easement Area at no cost or expense to the Grantee or the Grantee's heirs, successors or assigns; Provided, However, that costs associated with the development of the right of way to meet then existing construction standards shall be borne by the Grantee or the Grantee's heirs, successors and assigns; Provided, Further, that upon dedication, the governing municipal agency shall be entitled to establish traffic rules (such as set forth in Section 2 above, which rules will not impact the future density of the Grantee's real estate) regarding the use of the right of way that crosses the planned public recreational trail for the protection of the users of the trail. This Agreement will terminate upon the dedication contemplated by this Section.

8. Access to SR 9. Nothing in this Agreement shall be deemed to require the Grantee from abandoning its existing limited access right of way off of SR 9.

9. Existing Easements. The parties acknowledge that Puget Sound Energy has a utilities easement affecting a portion of the Easement Area recorded under Snohomish County Auditor's number 200001130473. The parties further acknowledge that Pacific Northwest Communities, LLC holds a temporary construction easement affecting the Easement Area, recorded under Snohomish County Auditor's number 200710120753. Grantee will not use the Easement Area or make any changes to it that impairs the rights of the above-noted parties without their consent.

10. Warranty. Except as otherwise described in this Agreement, the Grantor covenants to the Grantee that Grantor is lawfully seized and possessed of the Property; has a good and lawful right and power to sell and convey the same and to grant the Easement; that the Easement Area is free and clear of all encumbrances; and that Grantor will forever warrant and defend title to the Easement and the quiet possession of it against the lawful claims and demands of all other persons whomsoever.

11. Runs with the Land; Successors and Assigns. The Easement and the rights and obligations contained herein shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

12. Governing Law; Attorney's Fees. This Agreement will be governed by the laws of the State of Washington, with venue in Snohomish County. In any action brought by the Grantor or Grantee to enforce the obligations contained herein, the prevailing party shall be entitled to recover reasonable attorney's fees together with costs.

13. Severability. Any provision of this Agreement which proves to be invalid, void or illegal will in no way affect, impair or invalidate any other provision of this Agreement, and the remaining provisions will nevertheless remain in full force and effect.

14. No Waiver. Failure of either party at any time to require performance of any provision of this Agreement will not limit such party's right to enforce the provision, nor will any waiver of

any breach of any provision of this Agreement constitute a waiver of any succeeding breach of the provision or a waiver of the provision itself.

15. General. This Agreement (including the attached exhibits): (i) represents the entire understanding of the parties with respect to the subject matter covered; (ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) the captions or headings provided in this Agreement are for convenience only and will not be deemed to be a part of this Agreement; (iv) the recitals are incorporated into and shall be considered a part of this Agreement; (v) the attached Exhibits are incorporated into and shall be considered a part of this Agreement; and (vi) by signing below, each individual signatory certifies that he/she is a person duly qualified and authorized to bind the respective parties to this Agreement.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date written below.

PAUL R. WOLFE & DIANA L. WOLFE, GRANTEE:



Paul R. Wolfe

8-24-2020
Date



Diana L. Wolfe

08.04.2020
Date

CITY OF MARYSVILLE, GRANTOR:

Jon Nehring, Mayor

Date

Attest/Authenticated:

Tina Brock, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

STATE OF _____)
)ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Mayor Jon Nehring is the person who appeared before me, to me known to be the Mayor of the City of Marysville, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this ____ day of _____, 20__

(Notary Signature)

(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

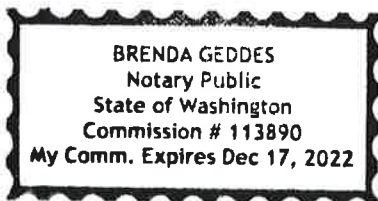
STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Paul R. Wolfe is the person who appeared before me, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 2020

Brenda Geddes
(Notary Signature)

Brenda Geddes
(Print Name)



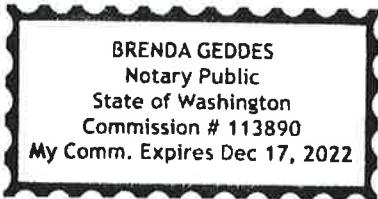
NOTARY PUBLIC in and for the State of Washington
Residing at (city): Arlington

My commission expires: 12-17-20

STATE OF Washington)
)ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Diana L. Wolfe is the person who appeared before me, and she acknowledged that he signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 4th day of August, 20 20



Brenda Geddes
(Notary Signature)
Brenda Geddes
(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): Actington
My commission expires: 12-17-20

EXHIBIT A
GRANTOR'S PROPERTY

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1862 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE EAST TO RAILWAY RIGHT OF WAY;

THENCE SOUTHERLY ALONG THE SAID RIGHT OF WAY TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER;

THENCE WEST TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE NORTH 762 FEET MORE OR LESS TO THE POINT OF BEGINNING, IN SECTION 13, TOWNSHIPS 30 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON.

EXCEPT THE SOUTH 22 ACRES THEREOF;

AND EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY DEEDS RECORDED UNDER RECORDING NUMBERS 788610 AND 1204320.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

EXHIBIT B
GRANTEE'S PROPERTY

THE SOUTH 22 ACRES OF THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 30 NORTH, RANGE 5 EAST W.M., RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING WEST OF NORTHERN PACIFIC RAILWAY;

EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE WEST LINE OF SECONDARY STATE HIGHWAY 1-A.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON

EXHIBIT C

**ACCESS AND UTILITY EASEMENT
LEGAL DESCRIPTION**

300513-003-007-00

The West 60.00 feet, as measured perpendicular to and parallel with the west line, of the following described TRACT A:

TRACT A

That portion of the Southwest Quarter of Section 13, Township 30 North, Range 5 East, W.M., lying northerly of the north line of the South 22 acres of said subdivision lying west of the Burlington Northern Santa Fe Railroad;
EXCEPT that portion thereof lying easterly of the west line of Secondary State Highway 1-A;

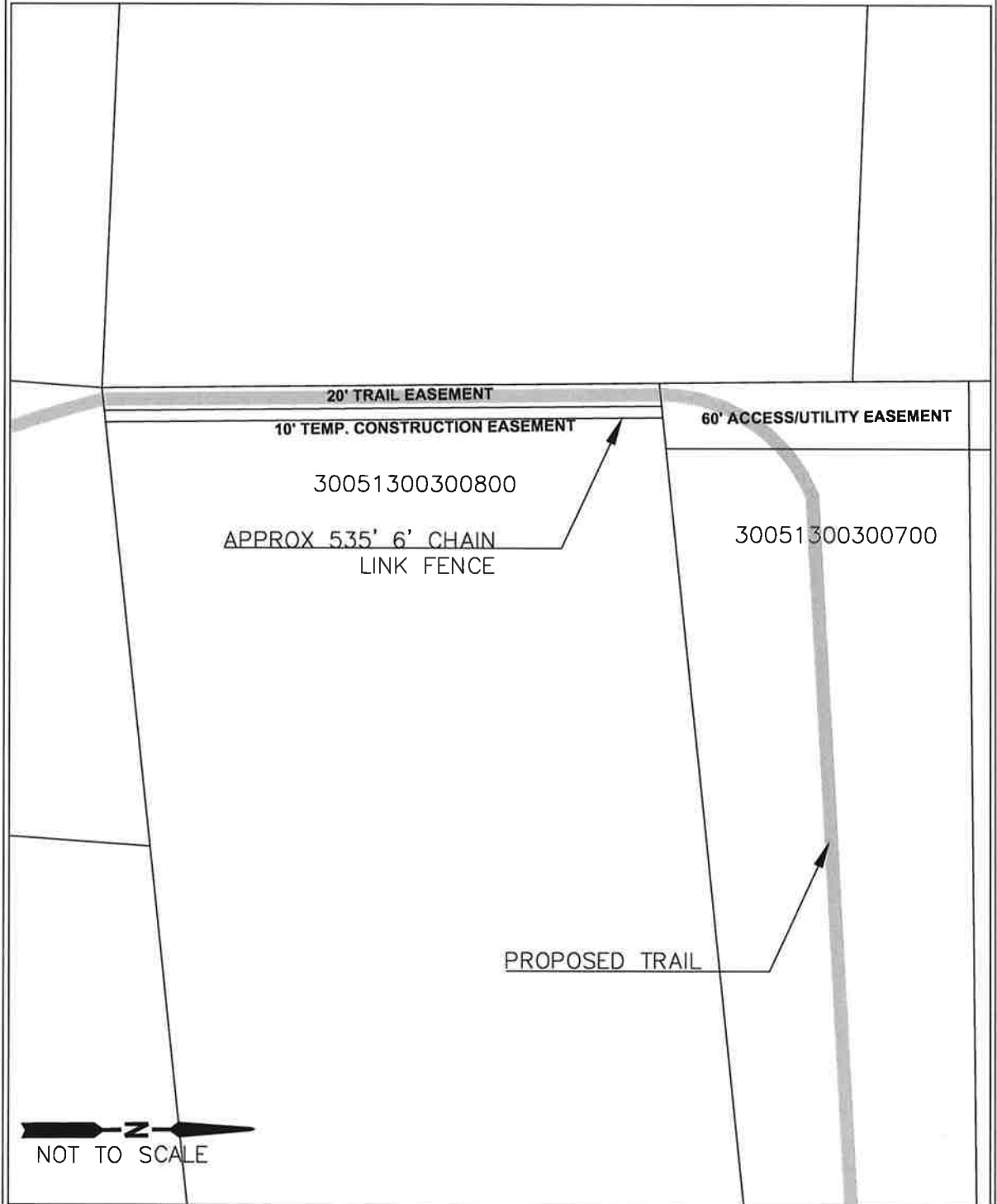
AND lying southerly of the south line of CENTENIAL TRAILS DIV. 2, according to the plat on file under Auditors File Number 200109055001, Records of Snohomish County, Washington.


End of TRACT A



7/06/2020

Exhibit D



	ENTER PROJECT NAME ENTER ACCT# ; PROJ#	RIGHT-OF-WAY EXHIBIT MAP	11/13/2018 <small>DATE</small>
	CITY OF MARYSVILLE PUBLIC WORKS DEPARTMENT <small>80 COLUMBIA AVE MARYSVILLE, WA 98270 (360) 363-8100</small>	ENTER PARCEL NO.	1 OF 1 <small>NUMBER</small>