

**PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT**

210 Lottie Street, Bellingham, WA 98225
Telephone: (360) 778-8300 Fax: (360) 778-8302

January 29, 2009

Mark Johnson
ESA Adolfson
5309 Shilshole Ave. NW
Seattle, WA 98107

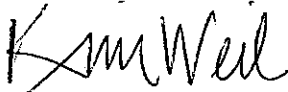
RE: Fairhaven Highlands EIS—roadways crossing COB Park Property

Dear Mark:

Enclosed is a memo from Leslie Bryson, the Design and Development Manager for the City Parks Dept., discussing the proposed roadways that cross City property acquired by her department. Leslie has attached relevant documents and maps to clarify the terms for roadways through these properties.

If you have specific questions about the information provided, please contact Leslie directly at (360)778-7012. Otherwise, you can contact me at (360)778-8356.

Sincerely,

A handwritten signature in black ink that reads "Kim Weil".

Kim Weil, Project Manager for Fairhaven Highlands



BELLINGHAM PARKS AND RECREATION, 3424 Meridian Street, Bellingham, WA 98225
TELEPHONE (360) 778-7000 TTY (360) 738-7366 FAX (360) 778-7001

MEMORANDUM

DT: January 26, 2009

TO: Mark Johnson, ESA Adolfson
Kim Weil, Fairhaven Highlands EIS Project Manager

FM: Leslie Bryson, Design and Development Mgr. *LB*

RE: Fairhaven Highlands Roadways Crossing Park Property

I have been asked to provide information regarding the use of a portion of City owned park property for roadways as shown on several proposed development alternatives for Fairhaven Highlands.

The City owned Assessor's Tax Parcel #370212497234 was acquired by the Parks and Recreation Department in 1998. The approximately 8 acre property was purchased from the Church of Jesus Christ of Latter Day Saints with voter approved Greenway Levy Funds. The property has an easement created by a warranty fulfillment deed dated Sept. 27, 1984 and recorded Oct. 19, 1989 under Whatcom County Auditor's file no 891019046 for an 80 foot road right-of-way to be located in the southeasterly corner of the tract. The exact location of the right of way is not described except that it is to be located in the corner of the property. The warranty fulfillment deed was per a Real Estate Contract filed under AF1338841 which states the dedication of the right of way to the City of Bellingham would occur at such time that the location of the road in the southeasterly corner of the property was officially defined. No other documents have been recorded to alter or further define the road easement. All of the alternative configurations referenced in Kim Weil's e-mail dated 1/21/2009 show the road alignment crossing over into the northeasterly quarter of the property. Locating the road other than in the southeasterly corner of the property will require an additional right of way dedication or acquisition.

In addition, the aforementioned Real Estate Contract provided for an improved 60' access to the City owned property along the west boundary as defined in a development plan for the adjoining property, aka Fairhaven Highlands. This

improved access is not shown on any of the alternatives, and should be provided for future access to the City park property.

The second City owned property impacted by the proposed development is Lot A of the Chuckanut Trust Lot Line Adjustment (Assessor's Tax Parcel #370212500214). This property was acquired by the City in 2001 from the Whatcom Land Trust. A Wetland and Conservation Easement (AF #2011203959) was filed with the property at the time of the exchange.

Restrictions on use of the property under the terms of the easement include any road or utility construction or easements as required by reservations specified in AF#961228146, attached. Such easements and rights-of-way are to be made in favor of the City for access and circulation requirements of the City in connection with subdivision or development of the adjacent land (aka Fairhaven Highlands). Any roads over this conservation property may be allowed only if required by the City and such requirement must be demonstrated to the satisfaction of the Grantor.

Finally, the alternatives show the proposed 24th Street Connector crossing the Interurban Trail, which was improved and is maintained by the City of Bellingham. This important non-motorized transportation corridor should be considered as part of an overall trail/road interface design. The underlying property owner of the Interurban Trail is Puget Sound Energy who must be consulted regarding any crossing.

CHUCKANUT TRUST LOT LINE ADJUSTMENT

PTN. OF THE NE 1/4 OF THE SE 1/4 SEC. 12, TWP. 37 N, RING. 2 E, WM.
CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	N 06°24'47" W	123.3
L2	N 37°40'51" W	57.37
L3	N 72°50'43" W	66.03
L4	N 07°40'05" E	31.46
L5	N 12°55'48" W	24.96
L6	N 08°57'08" E	31.81
L7	N 08°11'02" W	46.50
L8	N 45°24'32" E	27.64
L9	N 02°44'37" W	49.34
L10	N 02°44'37" W	49.34
L11	N 82°33'32" E	54.26
L12	N 80°33'34" E	22.73
L13	N 85°58'36" E	68.62
L14	N 20°01'12" E	45.15
L15	N 16°16'26" E	44.35

LEGEND

- SET REBAR + CAP #1361
- CALC. POINT NOT SET
- ◆ FND. CONC. MONUMENT

LEGAL DESCRIPTION

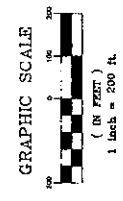
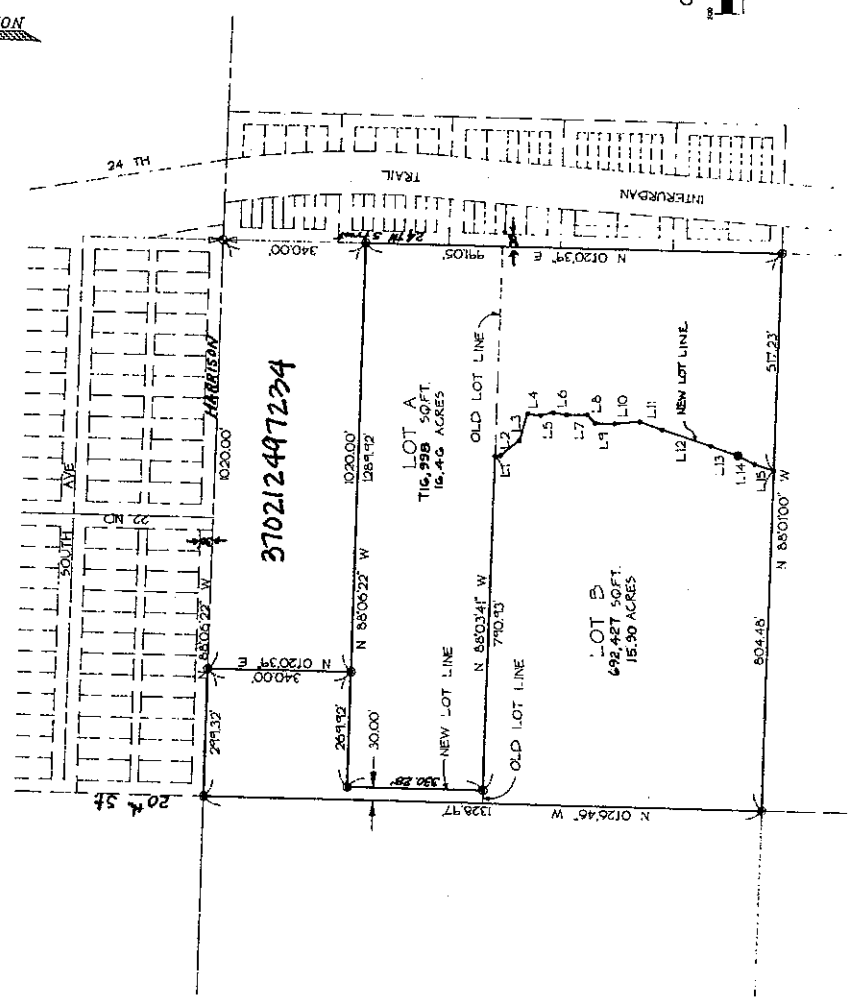
THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER SECTION 12, TWP. 37 NORTH, RING. 2 EAST OF THE EAST 1000 FEET THEREOF.

SURVEY EQUIPMENT + PROCEDURE

THIS SURVEY WAS COMPLETED AND ACCOMPLISHED BY FIELD TRAVERSE USING A TOPCON 615-3C TOTAL STATION ON 11-96.

BASIS OF BEARING

CITY OF BELLINGHAM COMPREHENSIVE MAPPING PROGRAM LINE HELD WAS THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER BEARING N 0120°34' E.



SHEET 2 OF 2

RONALD T. JEPSON & ASSOCIATES
CONSULTING ENGINEERS AND SURVEYORS-PROJECT MGMT. & DEV.
222 GRAND AVE. S.W., C. P.H. NO. (360) 733-5760
BELLINGHAM, WASHINGTON 98225

JOB # 70160

VOL. 36, PG. 19



1990303284
 Page: 1 of 2
 3/18/1999 11:56 AM
 DEED \$9.00
 Whatcom County, WA

Request of: FIRST AMERICAN TITLE INSURANCE

RETURN TO:

CITY OF BELLINGHAM - PARKS AND REC. DEPT.
 3424 MERIDIAN
 BELLINGHAM, WA 98225

~~REMIFFEX~~

Property #549-0278

SPECIAL WARRANTY DEED

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, GRANTOR, of Salt Lake City, County of Salt Lake, State of Utah, hereby conveys and warrants against all claiming by, through or under it, and against acts of itself, to **CITY OF BELLINGHAM, PARKS AND RECREATION DEPARTMENT**, GRANTEE, of 3424 Meridian, Bellingham, County of Whatcom, State of Washington, for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the following parcel of land, situate in the County of Whatcom, State of Washington, and more particularly described as follows:

THAT PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 2 EAST OF W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTH HALF OF SAID SUBDIVISION; THENCE EASTERLY ALONG THE NORTHERLY LINE THEREOF, 300 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING EASTERLY ALONG SAID NORTHERLY LINE, 1020 FEET MORE OR LESS, TO THE NORTHEAST CORNER OF SAID NORTH HALF, WHICH IS ALSO THE EAST QUARTER CORNER OF SAID SECTION 12; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID SECTION, 340 FEET; THENCE WESTERLY PARALLEL WITH THE EAST-WEST CENTER OF SECTION LINE, 1020 FEET; THENCE NORTHERLY 340 FEET, TO THE TRUE POINT OF BEGINNING.

The Grantor specifically reserves and excepts unto itself all minerals, coal, carbons, hydrocarbons, oil, gas, chemical elements and compounds whether in solid, liquid, or gaseous form, and all steam and other forms of thermal energy on, in, or under the above-described land provided that the Grantor does not reserve the right to use the subject property or extract minerals or other substances from the subject property above a depth of 500 feet, nor does the Grantor reserve the right to use the surface of the subject property in connection with the rights reserved herein.

Subject to easements, rights, rights-of-way, reservations, conditions, restrictions, covenants, zoning matters, liens, and taxes and assessments of record or enforceable in law or equity.

00' 11' 11' 00'



1980504464

Page: 1 of 2
5/29/1998 3:03 PM

DEED \$9.00

Whatcom County, WA

Request of: FIRST AMERICAN TITLE INSURANCE

TO:

LDS CHURCH REAL ESTATE DIVISION
12TH FLOOR EAST
50 EAST NORTH TEMPLE STREET
SALT LAKE CITY, UT 84150

Statutory Warranty Deed

THE GRANTORS ALFRED G. & BARBARA R. GUNN,
Trustees,

for and in consideration of nothing

in hand paid, conveys and warrants to Corporation of the
Presiding Bishop of The Church of Jesus Christ of
Latter-day Saints, a Utah corporation sole.
the following described real estate, situated in the County of



**First American Title
Insurance Company**

76428

(this space for title company use only)

WHATCOM

, State of Washington:

That portion of the north half of the northeast quarter of the southeast
quarter of Section 12, Township 37 North, Range 2 East of W.M. described
as follows:

Commencing at the northwest corner of said north half of said
subdivision; thence easterly along the northerly line thereof, 300 feet
to the true point of beginning; thence continuing easterly along said
northerly line, 1020 feet, more or less, to the northeast corner of said
north half, which is also the east quarter corner of said Section 12,
thence southerly along the easterly line of said Section, 340 feet;
thence westerly parallel with the east-west center of Section line, 1020
feet; thence northerly 340 feet, to the true point of beginning.

Excepting and reserving therefrom an 80 foot road right of way for
a proposed city arterial to be located in the southeasterly corner of
the above described tract.

Subject to easements and oil and mineral rights of record.
Assessor's Property Tax Parcel/Account Number(s):

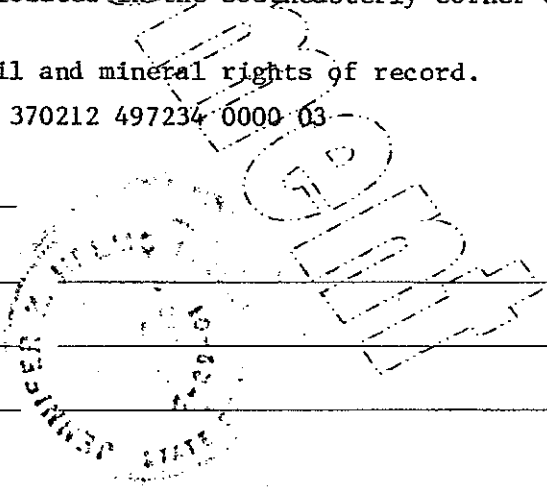
370212 497234 0000 03

Dated February 18th, 19 98

Alfred G. Gunn

Barbara R. Gunn

17415 EX 5/29/98 Paid 82.00



STATE OF WASHINGTON, }
 County of WHATCOM } ss. ACKNOWLEDGMENT - Individual

On this day personally appeared before me ALFRED G. & BARBARA R. GUNN

to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that they
 signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 18th day of February, 19 98

[Signature]
 Notary Public for the State of Washington,
 residing at Bellingham
 My appointment expires 4-29-01

STATE OF WASHINGTON, }
 County of } ss. ACKNOWLEDGMENT - Corporate

On this ___ day of _____, 19___ before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me known to be the _____ President and _____ Secretary, respectively, of _____ the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ authorized to execute the said instrument and that the seal affixed (if any) is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

 Notary Public in and for the State of Washington,
 residing at _____
 My appointment expires _____

This jurat is page ___ of ___ and is attached to ___ dated _____

1980504464
 Page: 2 of 2
 5/29/1998 3:03 PM
 DEED \$9.00
 Whatcom County, WA

Request of: FIRST AMERICAN TITLE INSURANCE



SAFECO TITLE INSURANCE COMPANY

Filed for Record at Request of

NAME HOMESPORT PROPERTIES
ADDRESS 1801 Rooder Avenue Suite 156
CITY AND STATE Bellingham, WA 98225

THIS SPACE RESERVED FOR RECORDER'S USE
WHATCOM COUNTY
BELLINGHAM, WA
10/19/99 10:56 AM
REQUEST OF: /CTI
Shirley Forsico, AUDITOR
BY: JS, DEPUTY
\$7.00 DEED
Vol: 122 Page: 1273
File No: 891019046

WARRANTY
FULFILLMENT
DEED

THE GRANTOR, ALFRED G. GUNN and BARBARA REEVE GUNN, as Trustees under Declaration of Trust, dated December 16, 1977, with full power of sale, for and in consideration of Two Hundred Thousand Dollars (\$200,000.00)

In hand sold, conveyed and warrants to C. ROGER SAHLIN 50% interest, F. D. SMITH 25% interest and RALPH E. HEMINGWAY 25% interest, in and to the following described real estate, situated in the County of Washington: The northeast quarter of the southeast quarter of Section 12, Township 37 North, Range 2 East of W.M., Excepting and reserving therefrom the following described tract:

That portion of the north half of the northeast quarter of the southeast quarter of said Section 12 described as follows: Commencing at the northwest corner of said north half of said subdivision; thence easterly along the northerly line thereof, 300 feet to the true point of beginning; thence continuing easterly along said northerly line, 1020 feet, more or less, to the northeast corner of said north half, which is also the east quarter corner of said Section 12; thence southerly along the easterly line of said Section, 340 feet; thence westerly parallel with the east-west center of Section line, 1020 feet; thence northerly 340 feet, to the true point of beginning.

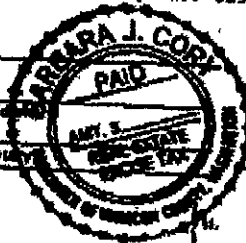
TOGETHER WITH an 80 foot road right of way for a proposed city arterial to be located in the southeasterly corner of the last described tract.

SUBJECT TO easements and oil and mineral rights of record.

This deed is given in fulfillment of that certain real estate contract between the parties hereto, dated October 12, 1979, and conditioned for the conveyance of the above described property, and the covenants of warranty herein contained shall not apply to any title, interest or encumbrance arising by, through or under the purchase in said contract, and shall not apply to any taxes, assessments or other charges levied, assessed or becoming due subsequent to the date of said contract. Said Real Estate Contract is of record under Auditor's File No. 1338841, and Excise Tax was paid thereon 10-15-79, in the amount of \$2,000.00, Treasurer's Receipt No. 8199.

Alfred G. Gunn (Individual)
Barbara D. Gunn
Barbara Reeve Gunn (Individual)

By _____
(President)
By _____
(Secretary)



STATE OF WASHINGTON
COUNTY OF WHATCOM

STATE OF WASHINGTON
COUNTY OF

On this day personally appeared before me ALFRED G. GUNN and BARBARA REEVE GUNN to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me known to be the _____ President and _____ Secretary, respectively, of

GIVEN under my hand and official seal this 19th day of October, 1999
Notary Public in and for the State of Washington, residing at _____
STATE OF WASHINGTON

the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.
Notary Public in and for the State of Washington, residing at _____

10-19-99
890917

REAL ESTATE CONTRACT

THIS CONTRACT made this 12th day of October, 1979, between ALFRED G. GUNN and BARBARA REVE GUNN, as Trustees under Declaration of Trust dated December 16, 1977, with full power of sale, hereinafter referred to as SELLER, and C. ROGER SANLIN 50% interest, F. D. SMITH 25% interest and RALPH E. HEMINGWAY 25% interest, hereinafter referred to as PURCHASER,

WITNESSETH:

The Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase of the Seller the following described real estate with appurtenances situated in Whatcom County, Washington:

The northeast quarter of the southeast quarter of Section 12, Township 37 North, Range 2 East of W. M., Excepting and reserving therefrom the following described tract:

That portion of the north half of the northeast quarter of the southeast quarter of said Section 12 described as follows: Commencing at the northwest corner of said north half of said subdivision; thence easterly along the northerly line thereof, 300 feet to the true point of beginning; thence continuing easterly along said northerly line, 1020 feet, more or less, to the northeast corner of said north half, which is also the east quarter corner of said Section 12; thence southerly along the easterly line of said Section, 340 feet; thence westerly parallel with the east-west center of Section line, 1020 feet; thence northerly 340 feet, to the true point of beginning.

TOGETHER WITH an 80 foot road right of way for a proposed city arterial to be located in the southeasterly corner of the last described tract.

SUBJECT TO easements and oil and mineral rights of record.

The Seller and Purchaser agree to join in a dedication of the aforementioned eighty foot right of way to the City of Bellingham at such time that the location of the same in the southeasterly corner of said last described tract is officially defined.

Purchaser agrees to provide an improved sixty foot access to said last described tract at a location along the west line thereof to be defined by the development plan to be approved by the City of Bellingham for the development of the property covered hereby at such time that the property adjoining said westerly line is final platted.

The terms and conditions of this contract are as follows: The purchase price is Two Hundred Thousand Dollars (\$200,000.00), of which Forty Thousand Dollars (\$40,000.00) has been paid, the receipt whereof is hereby acknowledged, and the balance of said purchase price, together with interest thereon at the rate of 9 1/4% per annum from the date of closing computed on the diminishing principal balance shall be paid in forty equal quarter-annual installments beginning ninety days from and after the date of closing and continuing quarter-annually thereafter. Each

4900.00
HLS
9
46199
OCT-12-79

~~1578~~
~~AF~~

SECTION 12 TWP 37 R2E 7.96 ACRES

300' 60'

132° 14' 00"

8 ACRES

340'

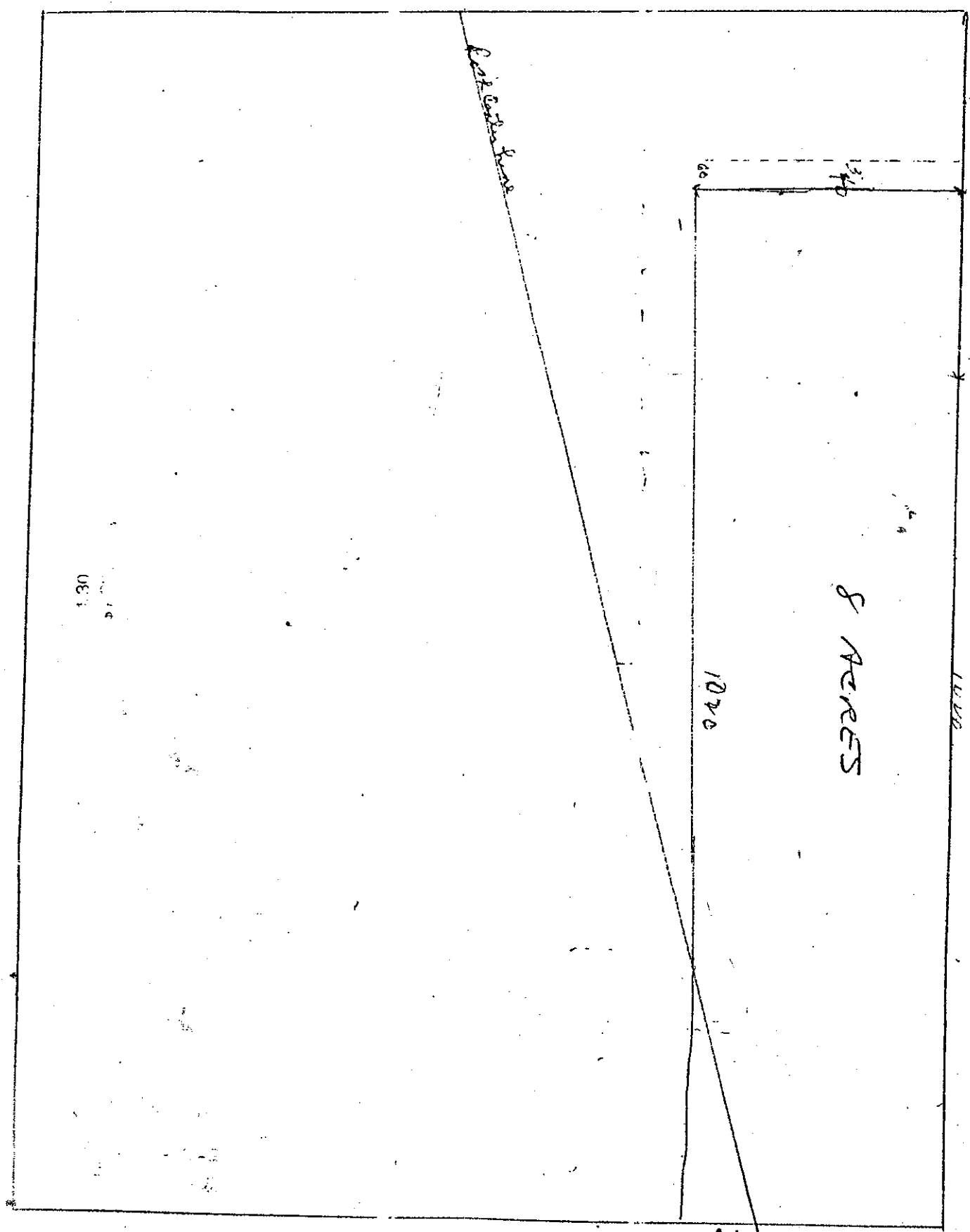
1020'

East corner here

1200'

340'

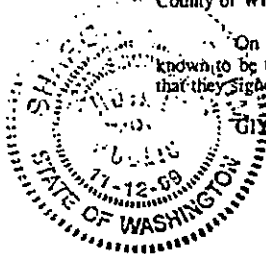
130'



STATE OF WASHINGTON)
County of Whatcom) ss.

On this day personally appeared before me C. ROGER SAHLIN and GERRYANNE SAHLIN, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 4th day of December, 1996.

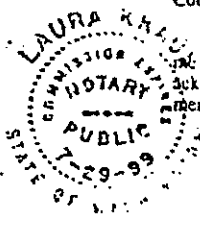


Sharon K. Yocum
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My Commission Expires 11-12-99

STATE OF WASHINGTON)
County of Whatcom King) ss.

On this day personally appeared before me RALPH E. HEMINGWAY and KAY A. HEMINGWAY, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 6 day of Dec, 1996.



Laura Kraus
NOTARY PUBLIC in and for the State of
Washington, Residing at Seattle, WA
My Commission Expires 7-29-99

STATE OF WASHINGTON)
County of Whatcom King) ss.

On this day personally appeared before me F.D. SMITH, to me known to be the individual described in and who executed the within and foregoing instrument; and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 4 day of Nov, 1996.

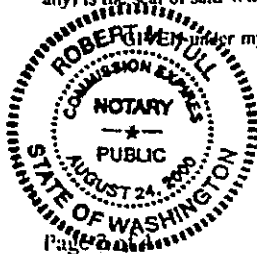


Laura Kraus
NOTARY PUBLIC in and for the State of
Washington, Residing at Seattle, WA
My Commission Expires 7-29-99

STATE OF WASHINGTON)
County of Whatcom) ss.

On this day personally appeared before me Gordon Scott, to me known to be the President of Whatcom Land Trust, the non-profit corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of Whatcom Land Trust, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument and that the seal affixed (if any) is the seal of said Whatcom Land Trust.

GIVEN under my hand and official seal this 20th day of December, 1996.



Robert M. Full
NOTARY PUBLIC in and for the State of
Washington, Residing at Fernald
My Commission Expires August 24, 2000

Vol: 534 Page: 420
File No: 961220146

EXHIBIT A

Limited Restrictions and Reservations Pertinent to the Conservation Lands

Grantors, in addition to the lands described above, are the owners of adjacent lands which are the subject of certain applications filed by Madrona Development Corporation for development approvals pursuant to the laws and ordinances of the City of Bellingham, the State of Washington, and the United States of America. Grantors are entitled to remove from Madrona's "Developer's Option Agreement" the lands subject to this Gift Deed so long as Madrona's ability to fulfill City regulations and utility service requirements is not restricted. Therefore, the following restrictions and reservations are established for the Conservation Lands to reserve to Madrona Development Corporation, and the Grantors and/or their successors if Madrona Development Corporation does not exercise its option to purchase the adjacent lands, the right to convey or dedicate, as further described below, to fulfill City requirements:

- A. Underground utilities and easements therefor may be established, installed and maintained by and for the benefit of City of Bellingham, or public utility companies, subject to the laws of the State of Washington and the City of Bellingham.
- B. Grants or dedication of rights of way for streets, trails, alleys or easements may be made in favor of the City in connection with actual access and circulation requirements of the City in connection with subdivision or development of the adjacent lands of Grantors. The areas of the Conservation lands conveyed herewith which are likely to be affected are depicted on the sketch attached, provided that such depiction is approximate and subject to final determination by the City. Grantor's rights regarding a proposed right of way across and over the Gunn property hereto adjacent shall not be affected by this deed of gift (see Whatcom County Auditor's File Number 891019046). Trails and potential conservation education sites may be established if required by the City.
- C. Drainage and storm water facilities may, subject to prior issuance of all necessary permits or approvals, be installed and maintained over, under and across the Conservation Lands.

Vol: 534 Page: 421
File No: 961228146



2011203958

Page: 1 of 1

12/26/2001 11:35 AM

DEED \$8.00

Whatcom County, WA

Request of: CHICAGO TITLE INSURANCE

Name: City of Bellingham - Park and Recreation Department - Tim Wahl
Address: 3424 Meridian Street
City, State: Bellingham, WA 98225

Chicago Title
Insurance Company
PO Box 1115
1616 Cornwall Avenue, Suite 115
Bellingham, WA 98225

Escrow No.: 154456-LJB

Abbreviated Legal:

Additional Legal(s) on page:

Assessor's Tax Parcel No.: 370212 500214 0000

QUIT CLAIM DEED

THE GRANTOR(S) Whatcom Land Trust, a Washington nonprofit corporation for and in consideration of Ten Dollars (10.00) and other valuable consideration conveys and quit claims to City of Bellingham, a municipal corporation the following described real estate, situated in the County of Whatcom, State of Washington:

Together with all after acquired title of the grantor(s) therein:

Lot A of the Chuckanut Trust Lot Line Adjustment, as recorded in Book 36 of short plats, pages 18 and 19, records of Whatcom County, Washington.

Situate within the City of Bellingham, Whatcom County, State of Washington.

Dated: November 29, 2001

Whatcom Land Trust

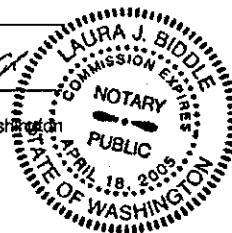
Sharon Digby
By Sharon Digby
President

STATE OF WASHINGTON
COUNTY OF WHATCOM

I certify that I know or have satisfactory evidence that Sharon Digby the person(s) who appeared before me, and said person(s) acknowledged that she signed this instrument, on oath stated that she is authorized to execute the instrument and acknowledged it as the President of Whatcom Land Trust to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: *Dec 10, 2001*

Laura J. Biddle
Laura J. Biddle
Notary Public in and for the State of Washington
Residing at Bellingham
My appointment expires: April 18, 2005



115379 66069 12/26/2011

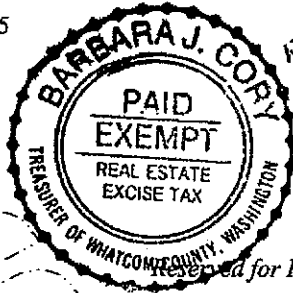
35.60 **



2011203959
 Page: 1 of 11
 12/26/2001 11:35 AM
 ERASE \$18.00
 Whatcom County, WA
 Request of: CHICAGO TITLE INSURANCE

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham - Parks & Recreation Department, Tim Wahl
 3424 Meridian Street
 Bellingham, WA 98225



reserved for Recording Purposes Only

DOCUMENT TITLE: INTERURBAN WETLAND CONSERVATION EASEMENT

REFERENCE NUMBER OF RELATED DOCUMENTS:

GRANTOR: THE CITY OF BELLINGHAM

GRANTEE: WHATCOM LAND TRUST

ABBREVIATED LEGAL DESCRIPTION: LOT A CHUCKANUT TRUST LLA AS REC. BOOK 36 SHORT PLATS PG. 18 AND 19. LOTS 1 & 2 BLOCK 8, CLARK'S ADD TO FAIRHAVEN AS REC. VOL. 2 PLATS PG. 71.

ADDITIONAL LEGAL DESCRIPTION ON Page 11, Exhibit A **OF DOCUMENT.**

ASSESSOR'S TAX/PARCEL NUMBER: 370212 500214 0000

INTERURBAN WETLAND CONSERVATION EASEMENT

I. PARTIES: This Grant of a Conservation Easement is made by the City of Bellingham, a municipal corporation, referred to hereafter as Grantor, to Whatcom Land Trust, a Washington nonprofit corporation, referred to hereafter as Grantee.

II. FACTS AND OBJECTIVES: Grantor owns real property in the City of Bellingham, Whatcom County, Washington, referred to hereafter as the Property, the legal description of which is attached as Exhibit "A".

The Grantee is a publicly supported, nonprofit corporation organized to preserve the ecological, wildlife habitat, scenic, agricultural, recreational and open space value of land. It qualifies under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt nonprofit organization.

City of Bellingham
 CITY ATTORNEY
 210 Lottie Street
 Bellingham, Washington 98225
 Telephone (360) 676-6903

The Property consists of approximately 16.5 acres on the south side of Bellingham adjacent to the Interurban Trail. Approximately 7.6 acres of the Property are wetlands, which border the Interurban Trail and contribute significantly to the natural, outdoor experience of the trail. The wetlands, which have been enhanced by a beaver dam, provide unusually rich urban wildlife habitat for waterfowl and aquatic related species. The upland portion of the Property is wooded with a mature coniferous and deciduous forest, which likewise contributes to the recreational value of the Interurban Trail. The forest also provides valuable urban wildlife habitat and is critically located to provide a link in the City's trail system.

The intent of the Grantor and Grantee, through this conservation easement, is to preserve the wildlife habitat and undeveloped, natural qualities of the Property and to enhance public recreation, education and research activities in a manner compatible with preservation and management of the Property as natural open space.

III. GRANT OF CONSERVATION EASEMENT: Grantor hereby conveys to Grantee, its successors and assigns, in perpetuity, a Conservation Easement pursuant to Revised Code of Washington RCW 84.34.210, over the Property. The Conservation Easement consists of mutual rights and obligations and is subject to the reservation of rights set forth below. Rights, obligations and reservations all operate as covenants running with the land in perpetuity.

IV. PERMITTED USES, PRACTICES AND RIGHTS RESERVED BY GRANTOR: With regard to the Property, Grantor reserves the following rights:

- A. The mutual right and obligation to enforce the covenants contained in this easement.
- B. Through the dry land portion of the Property: to construct, operate and maintain a trail system and furnishings, fixtures and landscape elements necessary for and appurtenant to said trail system.

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C. Over the wetland portion of the Property and only with the consent of the Grantee: to provide, construct, operate and maintain amenities and features to enhance recreational and educational activities compatible with the wetland and the objectives of this easement, including public access features.

D. Only with notice of Grantee: to selectively remove trees that create a significant safety hazard or to enhance wildlife habitat or wildland forest characteristics, on an ecologically-managed basis.

E. To maintain and improve wildlife habitat.

V. **RESTRICTIONS ON USE:** Except as provided above, and as may be necessary to carry out those rights reserved and granted, the Grantor and Grantee shall not on the Property:

A. Subdivide the Property in any manner.

B. Erect or permit buildings, structures or improvements.

C. Grant or allow road or utility construction and easements, except with the consent of the Grantee and except as may be required by reservations specified in Auditors Volume 534, page 421, File No. 961228146.

D. Widen existing trails for bicycle use or encourage bicycle use except where part of and pursuant to an adopted area master plan which seeks to reduce the impacts of roadway construction and off-trail bicycling and to preserve the quieter, nonvehicular character of the majority of the Property.

E. Remove trees.

F. Excavate or grade the Property or otherwise materially alter the landscape or topography.

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- G. Explore for or extract minerals, hydrocarbons, soils or other materials.
- H. Permit hunting or trapping.
- I. Make commercial use of the Property.
- J. Store derelict vehicles or waste of any kind.
- K. Otherwise use the Property inconsistent with the reservation of rights and the purposes of this conservation easement.

VI. RIGHTS AND RESPONSIBILITIES OF GRANTEE: Grantor grants and Grantee accepts the right and shared responsibility to preserve and protect in perpetuity the aesthetic, habitat and ecological values of the Property consistent with the terms of this Easement. In connection with such rights and responsibilities:

- A. Grantor grants to Grantee the right to enter the Property, on reasonable notice, to observe and enforce compliance with the terms of this Conservation Easement.
- B. Should Grantor, its successors or assigns, undertake any activity in violation of this Easement, Grantee shall have the right to recover damages or to compel the restoration of that portion of the Property affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the damages or cost of restoration and Grantee's expenses and costs of suit, including attorneys' fees, shall be borne by Grantor or those of its successors or assigns against whom judgment is entered, or in the event that Grantee secures relief without a completed judicial proceeding, by Grantor or those of its successors or assigns who are otherwise determined to be responsible for the unauthorized activity.

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- C. Any forbearance by Grantee to exercise any rights under this Agreement in the event of a breach shall not be deemed to be a waiver of Grantee's rights under this Easement.

VII. BASELINE DATA: In order to establish the present condition of the Property's resources so as to be able to properly monitor future uses of the Property and assure compliance with the terms of this Agreement, Grantee and Grantor shall, at their earliest possible convenience, prepare or cause to be prepared and accepted an inventory of the Property's relevant features and conditions, known as baseline data, dated. The baseline data shall be used to establish the condition of the Property as of the date of this Easement.

VIII. GRANTOR'S RESPONSIBILITIES:

- A. Grantor agrees to bear all costs of operation, upkeep and maintenance of the Property and to indemnify the Grantee therefrom; in addition, Grantor agrees to pay all real property taxes and assessments levied on the Property, to the extent required by law.
- B. Grantor agrees to take reasonable steps to direct and confine public access to a defined and improved trail surface and to prevent damage to ground cover and understory vegetation and disturbance of wildlife.

IX. ASSIGNMENT OF GRANTEE'S INTERESTS: Grantee may assign its interests in this Easement to a "qualified" organization within the meaning of Section 170(h) of the Internal Revenue Code of 1954, as amended, so long as that organization has a concern for ecological and aesthetic considerations consistent with the terms of this Easement. Should the Grantee cease to exist, this Easement would be assigned to such an organization.

X. GRANT IN PERPETUITY: This Easement shall run with the Property in perpetuity and shall bind the Grantor, its successors and assigns forever.

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XI. PROPERTY INTEREST: Grantor and Grantee agree that this Conservation Easement gives rise to a property right immediately vested in the Grantee, which right has a fair market value that is at least equal to the proportionate value that the Conservation Easement bears to the value of the Property as a whole, upon the date of the execution of the Easement. Through this conservation easement, Grantor relinquishes all property rights other than the permitted uses listed in Section IV above.

If all the conservation purposes of this Easement become impossible to accomplish because of a change of circumstances, this Easement can be extinguished only by judicial proceedings, and on subsequent disposal of the Property the Grantee is entitled to a portion of the proceeds at least equal to the proportionate value of the conservation easement. The Grantee must use the proceeds consistent with the conservation purposes of this easement. In the event of condemnation of the Property in whole or in part, Grantee shall be entitled to compensation proportionate to the loss of conservation values caused by the condemnation. If by eminent domain or otherwise, any governmental entity takes or exercises property rights inconsistent with this conservation easement, the property rights of the Grantee are diminished by the entire value of those rights taken or exercised and all compensation will be payable to the Grantee.

XII. MISCELLANEOUS:

- A. The terms Grantor and Grantee, wherever used in this Easement, shall include the above-named Grantor and its successors and assigns, and the above-named Grantee and its successors and assigns.
- B. In the event that any of the provisions contained in this Easement are declared invalid or unenforceable in the future, all remaining provisions shall remain in effect.
- C. Notice to Grantee shall be to the registered agent of Grantee, who until further notice shall be:

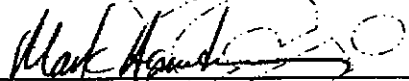
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210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

J. Bruce Smith
Brett & Daugert
300 North Commercial
P.O. Box 5008
Bellingham, WA 98227-5008

IN WITNESS WHEREOF, Grantor has executed this Conservation Easement this ____ day
of _____, 2001.

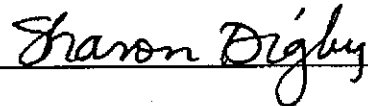
GRANTOR:

CITY OF BELLINGHAM


Mark Asmundson, Mayor NOV 19, 2001

GRANTEE:


WHATCOM LAND TRUST

By: 
Its: President

ATTEST:


THERESE HOLM, Finance Director

APPROVED AS TO FORM:


DANA DAVID, Office of the City Attorney

DEPARTMENTAL APPROVAL:


PAUL LEUTHOLD, Director of Parks & Recreation

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