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Skagit County Auditor

Recording Requested By And
When Recorded Mail To:

Skagit County
Public Works Department
Attn: Emily Derenne
1800 Continental Place
Mount Vernon, Washington 98273

REVIEWED BY
SKAGIT COUNTY TREASURER
DEPUTY Dena Thompson
DATE 6-10-24

SKAGIT COUNTY
Contract # C20240264
Page 1 of 12

DOCUMENT TITLE: **TEMPORARY EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): **Vivienne E. Mitchell** and **Ian C. Mitchell**, a married couple.

GRANTEE(S): **Skagit County**, a political subdivision of the State of Washington.

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within LOT 7, RIVER VALLEY VIEW ESTATES, AS PER PLAT RECORDED MAY 7, 2001, UNDER AF#200105070102, RECORDS OF SKAGIT COUNTY, WASHINGTON.

ASSESSOR'S TAX / PARCEL NUMBER(S): **P118032** (Xref ID: 4777-000-007-0000).

TEMPORARY EASEMENT

(For riparian restoration work under the Natural Resource Stewardship Program project)

The undersigned, **Vivienne E. Mitchell** and **Ian C. Mitchell**, a married couple (herein "Grantors" or "Landowners"), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants to **Skagit County**, a political subdivision of the State of Washington (herein "Grantee" or "County"), a temporary, non-exclusive easement ("Temporary Easement"), as provided herein. Landowners and County may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties." The terms of this Temporary Easement are further provided as follows:

1. Nature and Location of Easement. The Temporary Easement hereby granted by Landowners herein shall be a temporary easement to allow the County, the County's agents, employees, and contractors over, upon, across, through, a portion of real property located within and upon Landowners' Property, such Temporary Easement area as legally described on *Exhibit "A"* and as further described and depicted on *Exhibit "B"*, attached hereto and incorporated herein by this reference, for the purpose of providing a temporary easement (and any related appurtenances thereto), including the right of ingress and egress with all necessary equipment for construction of the riparian restoration work, including the removal of invasive vegetation and installation of native plantings under the Skagit County Natural Resource Stewardship Program (NRSP) as described in *Exhibit "C"*, attached hereto and incorporated by reference (herein referred to as the "Project"). A legal description for the Landowners' Property is attached hereto as *Exhibit "D"*, and is hereby incorporated by reference.

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1.1 The County, through its Department of Public Works (Natural Resources Division), will perform the Project as described in *Exhibit "C"* under its Natural Resources Stewardship Program (NRSP) for the protection, improvement, and enhancement of water quality in Skagit County streams for the benefit of downstream saltwater shellfish habitat.

1.2 Landowners represent and warrant to the County that the Landowners are the legal owners of the property described in Exhibit "D" (the "Landowners' Property"), and further represent and warrant to the County that there are no outstanding rights which interfere with this Temporary Easement agreement. The Landowners also acknowledge that a change in property ownership will not change the encumbrance of the Landowners' Property created by the terms of this Temporary Easement, and the Landowners agree to inform any future owner of Landowners' Property of this Temporary Easement prior to sale or transfer of the Landowners' Property during the term of this Temporary Easement (as the terms of this Temporary Easement shall be binding on any subsequent owner[s] of the Landowners' Property for the duration of this Temporary Easement). The Landowners agree to notify the County, within thirty (30) days of transfer, of changes in ownership during the term of this Temporary Easement.

1.3 Landowners agree to inform the County (and the County's agents, employees, and contractors) of all known safety hazards on Landowners' Property prior to the commencement of the activities described in Exhibit "C".

1.4 Except as provided to the contrary by the terms of this Temporary Easement, the Landowners retain the right to control trespass on Landowners Property, and Landowners shall retain all responsibility for taxes, assessments, and for any claims for damages to Landowners' Property.

1.5 Landowners recognize and agree that participation in the County's Natural Resource Stewardship Program does not eliminate or abrogate any jurisdictional authority, code requirements, or obligations required by any government entity including Skagit County.

2. Use of Easement. The County, County's employees, agents, and contractors shall have the right, with a forty-eight (48) hour notice, (or with such other notice as may be otherwise mutually agreed in writing by and between the parties), and during daytime hours, Monday through Saturday (unless otherwise arranged between the parties), to enter upon the Landowners' Property within the area of the Temporary Easement (as described and depicted in Exhibit "A" and Exhibit "B"), for the purpose of constructing and implementing the Project (described at Exhibit "C") within the area of the Temporary Easement. Landowner shall not have the right to exclude the County, County's employees, agents, and/or contractors from the area of the Temporary Easement.

2.1 Project Components. This temporary easement includes the following components, as described in Exhibit "C": (1) initial site work, (2) monitoring and maintenance, and (3) project preservation.

2.1.1 Initial Site Work. The initial site work includes site preparation, removal of invasive vegetation and installation of native riparian planting as described in Exhibit "C". Initial site work will be conducted within one (1) year of mutual execution of this agreement.

2.1.2 Monitoring and Maintenance. A Restoration and Maintenance Plan (Plan) has been developed for the Project and is included as Exhibit "C". In accordance with the Plan, Skagit County shall provide maintenance of vegetation for three (3) years after planting. The Landowners shall be responsible for plant preservation, not to include active maintenance, following this three (3) year period.

2.1.3 Project Preservation. Landowners agree to preserve the Project in a substantially similar condition as exists at the time of Project completion and agrees to refrain from cutting, damaging, or otherwise harming any of the vegetation planted as part of the Project or in any way intentionally compromising the integrity of the Project for a period of ten (10) years from the date of mutual execution of this Temporary Easement agreement. Except as provided in Section 2.1.2, the Landowners shall be responsible for all riparian restoration preservation required as part of the Project. Landowners may be required to reimburse the County for Project costs funded by the County in the event that the Landowners do not preserve the Project in accordance with the terms of this Temporary Easement.

2.2 The Landowners acknowledge that Landowners are voluntarily participating in the County's NRSP for riparian restoration (as described in Exhibit "C") that is the subject of this Temporary Easement and is permitting the Landowners' Property to be used for such purposes pursuant to the terms of this Temporary Easement. The Landowners agree that the Project, when completed, will not now or in the future result in damages to the Landowners' Property, and that the County is not liable for any impacts to Landowners' Property resulting from the Project. The terms of this Section 2.2 shall survive the termination or expiration of this Temporary Easement.

2.3 The County agrees to be responsible for any damage arising from negligent acts of its employees, agents, or representatives on Landowner's Property in exercise of County's rights herein granted by this Temporary Easement (including for the workplace safety of the County's employees, agents, or representatives while performing Project work on the Landowners' Property). The County assumes no liability for any alleged damage to Landowners' Property resulting from this Temporary Easement, or from any source other than as may be expressly set forth herein.

3. Termination of Temporary Easement. The Project shall be considered complete following the completion of the activities described in Exhibit "C", including project maintenance activities. This Temporary Easement shall otherwise expire by its own terms ten (10) years from the date of mutual execution.

4. Governing Law; Venue. This Temporary Easement shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action arising from or relating to the terms of this Temporary Easement shall be in Skagit County, State of Washington.

5. Entire Agreement. This Temporary Easement contains the entire agreement between the parties hereto and incorporates and supersedes all prior negotiations or agreements. This Temporary Easement may not be modified or supplemented in any manner or form whatsoever, either by course of dealing or by parol or written evidence of prior agreements and negotiations, except upon the subsequent written agreement of the parties. Waiver or breach of any term or condition of this Temporary Easement shall not be considered a waiver of any prior or subsequent breach.

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GRANTORS:
Vivienne E. Mitchell and **Ian C. Mitchell**, a married couple.

Vivienne E Mitchell
By: **Vivienne E. Mitchell**

DATED this 16th day of May, 2024.

Ian C. Mitchell
By: **Ian C. Mitchell**

DATED this 16th day of May, 2024.

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that **Vivienne E. Mitchell** and **Ian C. Mitchell**, a married couple, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, and on oath stated that they executed the forgoing instrument as their duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 16 day of May, 2024.

(SEAL)

Emily J Derenne
Notary Public
State of Washington
Commission Number 185691
My Commission Expires
May 23, 2024

Notary Public
Print name: EMILY DERENNE
Residing at: Bellingham WA
My commission expires: May 23, 2024

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DATED this 3 day of June, 2024.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Peter Browning, Chair

Lisa Janicki, Commissioner

Ron Wesen, Commissioner

Attest:

Clerk of the Board

Authorization per Resolution R20160001:

County Administrator

Recommended:

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney
Erik Pedersen, Reviewed 5/30/2024

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director

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EXHIBIT "A"
TEMPORARY EASEMENT AREA LEGAL DESCRIPTION

A temporary easement for the purpose of restoration and maintenance over and across a portion of the Southeast Quarter of Section 31 and the Southwest Quarter of Section 32, Township 36 North, Range 4 East, W.M., easement more particularly described as follows:

All of Lot 7, RIVER VALLEY VIEW ESTATES, according to the Plat thereof recorded May 7, 2001, under Auditor's File No. 200105070102, records of Skagit County, Washington.

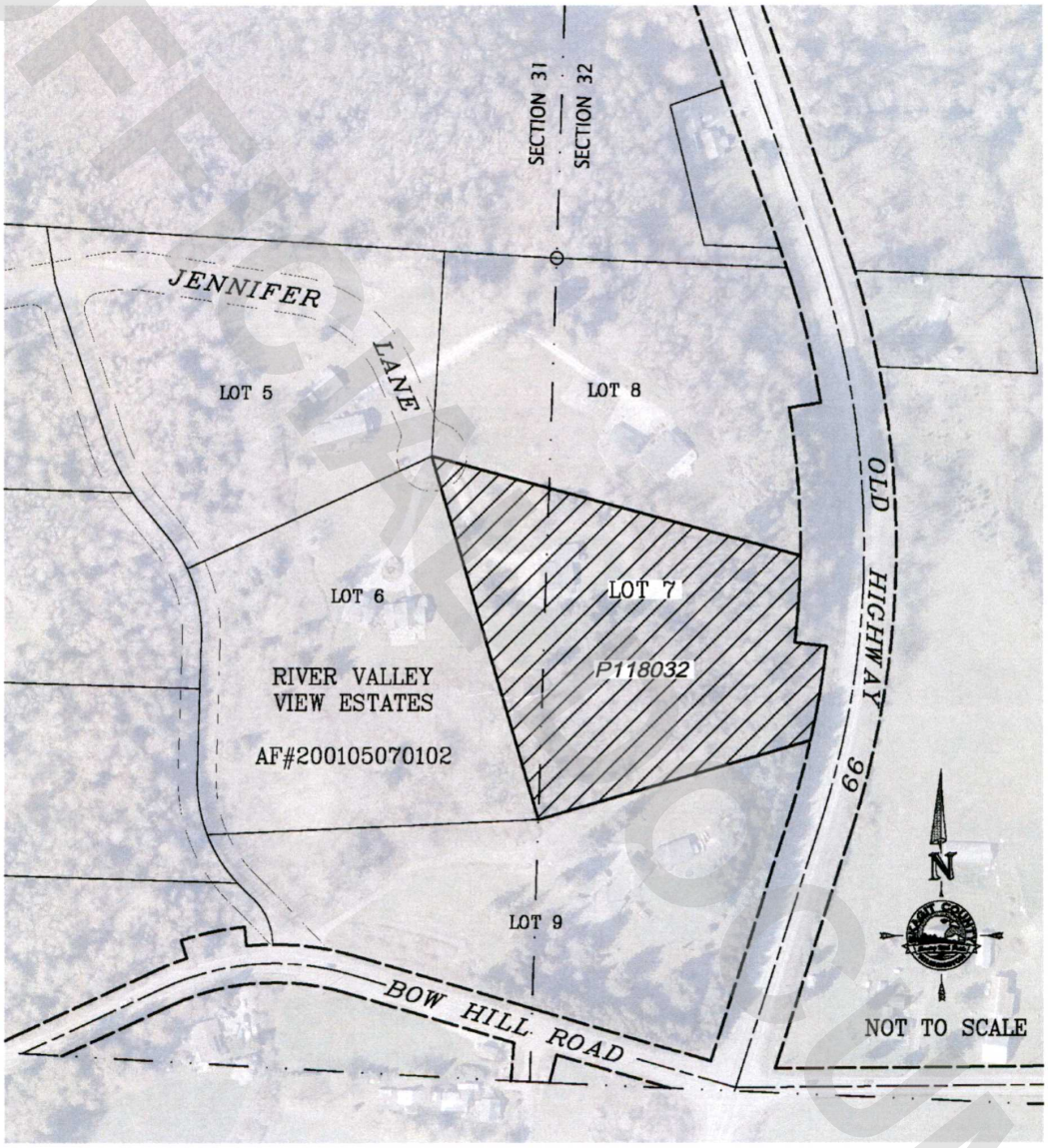
Subject to all covenants, conditions, restrictions, reservations, agreements, easements, provisions, and assessments of record, if any.

Situate in the County of Skagit, State of Washington.

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EXHIBIT "B"
GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA

SITUATE IN A PORTION OF THE SE 1/4 OF SECTION 31 AND THE SW 1/4 OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 4 EAST, W.M., SKAGIT COUNTY, WASHINGTON



TEMPORARY EASEMENT FOR RESTORATION AND MAINTENANCE
P118032 – 5798 JENNIFER LANE, BURLINGTON, WA 98233

SKAGIT COUNTY
PUBLIC WORKS
1800 CONTINENTAL PLACE
MOUNT VERNON, WA 98273-5625
(360) 416-1400 FAX (360) 416-1405

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EXHIBIT "C"
RIPARIAN RESTORATION AND MAINTENANCE PLAN
SCOPE OF WORK

OVERVIEW

This privately owned restoration site (owned by the Landowners herein) is located along an unnamed tributary to Moody Ditch. The goal of this project is to remove a 1.24-acre monoculture of blackberries along the tributary and install native plants. Native plants will be installed on 2.95 acres with the blackberry removal area being new establishment and the remainder being underplanting. Removal of invasive plant species in favor of a diverse mixture of native trees and shrubs will help to improve water quality on site for the protection, improvement, and enhancement of downstream saltwater shellfish habitat in Samish Bay. This project (herein "Project") will support the establishment of approximately 1350 native trees and shrubs over to improve 1,100 linear feet of seasonal stream.



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SITE PREPARATION

Invasive Species Control

Starting in the summer of 2024, the County and/or the County's contractor(s) will work with the Landowner to control invasive weeds on the site in preparation for planting. The primary weed of concern that has been identified at this site is Himalayan blackberry. The intent is to remove blackberry to a point that allows the plantings to thrive; this may not include full removal and may require Landowner participation if full removal is desired.

Himalayan Blackberry: In 2024 the blackberry will be mowed where it occurs throughout the site. The blackberry will re-grow for approximately 6-8 weeks to about shin-height, then be sprayed 2% glyphosate herbicide with non-ionic surfactant. Areas within 25 feet of running water will be sprayed with the aquatic formula of glyphosate in accordance with product label requirements. This treatment will be repeated in 2025 to ensure complete control prior to planting.

Invasive weed species that can impede establishment and growth of native plants will be controlled in a manner that is cost effective and consistent with accepted ecological restoration methods. Herbicide use will be minimized to the maximum extent practical. Herbicide is applied under the supervision of a licensed applicator, with a licensed operator on site at all times during work, and such operators are licensed to work in and around water and in a terrestrial environment. Herbicide will be applied in accordance with guidelines designated by the Environmental Protection Agency on appropriate herbicides for fish bearing streams. No herbicide application is conducted when rain is predicted within 6-hours or winds speeds are greater than 10 mph.

Washington State Class A weeds are those species where control is required when these species are found. If encountered on the Project, Class A weeds will be identified to the Landowners in writing and the Landowners will be provided information on state control requirements and recommended methods. If approved by the Landowners, these weeds will be controlled as part of the Project using recommended methods. Class A weeds will be reported to the appropriate Cooperative Weed Management Area (CWMA).

Washington State Class B weeds are those species where control is recommended by the state and/or recommended/required by the county noxious weed board. If encountered on the Project, Class B weeds will be identified to the Landowners in writing and the Landowners will be provided information on state control requirements and recommended methods. Control of Class B weeds will not be conducted as part of this restoration Project.

The following Class C weeds are considered to be a threat to successful riparian restoration if they occur within restoration sites:

- Himalayan blackberry (*Rubus armeniacus*)
- Evergreen blackberry (*Rubus laciniatus*)
- Morning glory (*Convolvulus arvensis*)
- English ivy (*Hedera spp.*)
- Old man's beard/Travelers joy (*Clematis vitalba*)
- Reed canary grass (*Phalaris arundinacea*)

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The above class C weeds will be controlled as part of restoration site preparation and maintenance when they occur within the restoration area. The above weeds will be controlled within the restoration area for the duration of the Maintenance Period.

The following herbicides are proposed at this site:

1. **Roundup Custom:** https://www.sdslibrary.monsanto.com/MSDS%20Datasheet/8121f99d-ad3b-49ac-875d-228b0ccdb7f3/RoundupCustom-AquaticTerrestrialUse.O15.pdf
2. **Cornerstone Plus:** http://www.cdms.net/ldat/mp9LA003.pdf

Landowners will be notified by phone at least 48 hours prior to any herbicide treatment.

I acknowledge that I have been informed of and agree to use of herbicide at my property.

VEM (Landowner's initials) _____ (Landowner's initials)

RIPARIAN RESTORATION

Riparian Planting

Following two years of site preparation, Riparian Restoration will begin. Assuming the site preparation only takes 2 seasons, planting will begin in the winter of 2025/2026. Crews will plant approximately 1,050 native trees and shrubs over 1.54 acres of newly established riparian habitat from blackberry removal and 450 native conifer trees over 1.29 acres of understory riparian habitat. Plants will be spaced approximately 8 feet apart throughout the "new" planting area and 15 feet apart within the understory area. Due to the steepness and relative shade of the hillside creating an inhospitable environment for voles, no plant protectors or stakes will be installed.

Specific plant species will be determined following completion of site preparation activities. Typical plant species can found in Table 1. This table does not exclude other species from being installed on the site.

Table 1. Typical plant species

Common Coniferous Species	Common Deciduous Shrubs and Trees
Western Red Cedar	Twinberry
Sitka Spruce	Red-osier Dogwood
Douglas Fir	Red Elderberry
Western Hemlock	Osoberry/Indian Plum
Grand Fir	Pacific Ninebark
	Salmonberry
	Big Leaf Maple
	Red Alder

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MAINTENANCE

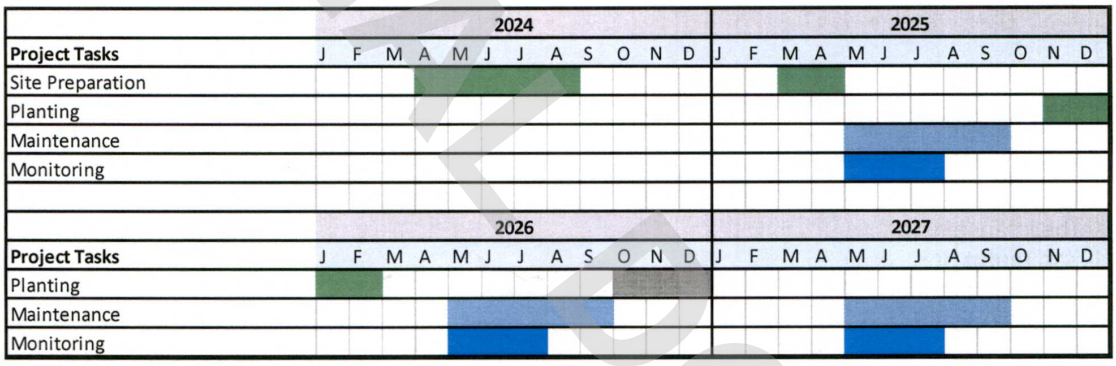
After planting, maintenance will include manual removal of blackberry where feasible. The goal is to be able to maintain the site without using herbicide, this goal is dependent on the weed load and site-specific conditions. If dense re-growth occurs, a combination of spot spraying and manual control may be used. Crews will continue to visit the site at a minimum of once per year to maintain the planting area for three growing seasons after the planting phase of the Project is complete.

MONITORING

Revegetation success will be monitored following standard monitoring protocol. Planting sites are monitored for up-to the life of this Temporary Easement.

Plant mortality, health, and herbivory or other damage is recorded to derive an overall site condition each year. Survival percentage (compared to the original number of plants installed) and tree-stocking (total trees per acre including both planted and naturally recruited trees) are evaluated in each year that monitoring occurs. These data are used to determine the need for revegetation; at least 80% of the plants originally installed are live at the end of the Project.

Timeline



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EXHIBIT "D"
LEGAL DESCRIPTION OF GRANTORS' PROPERTY
(Per Statutory Warranty Deed AF#202006190113)

Lot 7, RIVER VALLEY VIEW ESTATES, according to the Plat thereof recorded May 7, 2001, under Auditor's File No. 200105070102, records of Skagit County, Washington, including a 2003 Silvercrest 51x40 Manufactured Home, Serial Number 17309706, title of which has been eliminated.

Subject to all covenants, conditions, restrictions, reservations, agreements, easements, provisions, and assessments of record, if any.

Situate in the County of Skagit, State of Washington.