

AGENDA

**Bainbridge Island Metropolitan Park & Recreation District
Regular Board Meeting 6:00 pm
Thursday – December 15, 2022**

Bainbridge Island Recreation Center
11700 Meadowmeer Circle NE
Bainbridge Is, WA 98110
206-842-5661

10. CALL TO ORDER

- 10.1 Roll Call
- 10.2 Adjustments to the Agenda
- 10.3 Conflict of Interest Disclosure
- 10.4 Mission Statement

20. PUBLIC COMMENTS (Oral Communications from Audience)

- 20.1 Public comments on topics not itemized elsewhere on the agenda.
Action: Information only.
- 20.2 Public comments on agenda topics.
Action: Information only.

30. BOARD CONSENT

- 30.1 Minutes: Regular Board Meeting of December 1, 2022
- 30.2 Financial: Approval of vouchers and payroll.

40. GENERAL BUSINESS

- 40.1 Bike Park Presentation Roush (30 min)
Action: Information only.
- 40.2 Acceptance of Trail Easements Barrett (10 min)
Action: Possible motion to approve.

50. DIRECTOR'S REPORT

- 50.1 Director's Report
- 50.2 Upcoming Meetings/Work Sessions/Events

01/05/23	Regular Board Meeting	6 pm	Bainbridge Island Recreation Center
01/19/23	Regular Board Meeting	6 pm	Bainbridge Island Recreation Center
02/02/23	Regular Board Meeting	6 pm	Bainbridge Island Recreation Center
02/16/23	Regular Board Meeting	6 pm	Bainbridge Island Recreation Center
03/02/23	Regular Board Meeting	6 pm	Bainbridge Island Recreation Center

60. BOARD MEMBER ITEMS

- 60.1 Remarks from Board Members
- 60.2 Board Member Committee Reports

70. WRITTEN COMMUNICATIONS

80. ADJOURNMENT

90. ADJOURN TO EXECUTIVE SESSION IF NEEDED

- 100. EXECUTIVE SESSION** – Personnel, per RCW 42.30.110(1)(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public.
- 110. RECONVENE TO REGULAR SESSION**
- 120. ADJOURNMENT**

Board Committees

Governance
 Capital Facilities
 Program
 Budget & Finance
 Personnel
 Ad Hoc Committee: Forest Management
 Ad Hoc Committee: Sakai Site Planning

2022 Board Representatives

DeWitt/Kinney
 Janow/Kinney
 Janow
 DeWitt/Goodlin
 Janow/DeWitt
 Swolgaard/DeWitt
 Goodlin/Swolgaard

Board Liaisons

Park District Committees:
 Trails Advisory Committee
 Dog Advisory Committee

Swolgaard/DeWitt
 Kinney/Janow

Community/Public Agencies:
 Bainbridge Island Parks & Trails Foundation
 Intergovernmental Work Group (IGWG)
 Bainbridge Island School District
 City of Bainbridge Island

Janow/Kinney
 DeWitt/Kinney
 Kinney/Goodlin
 Janow/DeWitt

Mission Statement

The mission of the Bainbridge Island Metropolitan Park & Recreation District is to build a healthy community through effective, sustainable stewardship of the District's parks and open space, and through the development and delivery of innovative cultural and recreation opportunities.

**BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT
 REGULAR BOARD MEETING December 1, 2022
 BAINBRIDGE ISLAND RECREATION CENTER**

CALL TO ORDER: A quorum being present, the meeting was called to order at 6:00 pm by Chair DeWitt.

BOARD MEMBERS PRESENT: Ken DeWitt, Tom Goodlin, Dawn Janow, Jay Kinney.

ADJUSTMENTS TO AGENDA: Add an executive session for real estate and potential litigation.

MISSION STATEMENT: Commissioner DeWitt read the Park District’s mission statement: The mission of the Bainbridge Island Metropolitan Park & Recreation District is to build a healthy community through effective, sustainable stewardship of the District’s parks and open space, and through the development and delivery of innovative cultural and recreation opportunities.

BOARD CONSENT

APPROVAL OF MINUTES:

Upon hearing there were no corrections to the minutes of the November 17, 2022 regular board meeting, Chair DeWitt stated the minutes stand approved as submitted.

APPROVAL OF PAYMENTS: MSC: Goodlin/Janow: I have reviewed the following vouchers, warrants and electronic payments and move that they be approved for payment.

Batch Date	Fund Number & Name	Warrant Numbers	Total Batch Amt	Pre-Approved
11/16/22	001 General Fund 300 Capital Improvement Fund 310 Land Acquisition Fund	23965-24024	79,459.05	11/16/22
11/21/22	001 General Fund 005 Aquatics Imprest Fund 310 Land Acquisition Fund	24025-24050 & 335	65,584.63	11/21/22
	001 General Fund (Nov. Payroll)	EFT & 3051-3060	591,507.59	

GENERAL BUSINESS

FORT WARD PLAYGROUND: Park Services Division Director Dan Hamlin said that adding a playground in the Fort Ward area is in the comprehensive plan. At the July 21 board meeting the goal of a walkable neighborhood playground in Fort Ward was introduced and the board asked the neighborhood to have a community meeting and report back. At the September 15 board meeting neighbors shared what they learned after a neighborhood survey was conducted and a neighborhood meeting was held. At the November 3 board meeting Dan Hamlin reviewed the pros and cons of proposed playground sites one through four. The opposition is worried about increased traffic, limited parking, increased noise, crime, loitering, decrease in property values, having it in their backyard, and felt it was not consistent with the historic designation of the area. Proponents feel it will provide a place to take children and grandchildren, offer a place to socialize with neighbors, be a recreation option that does not require driving, and that it could make the area more welcoming to families. Location considerations surround safety, accessibility, privacy, and proximity to homes. Site one is across Fort Ward Hill Road and the biggest concern is children having to cross the road. Site two is on the Fort Ward Parade Grounds. Site two A is in the middle of the Fort Ward Parade Grounds, site two B is on the parcel adjacent to the Fort Ward Parade Grounds, site two C is on the south end of the Fort Ward Parade Grounds and site two D is on the north end of the Fort Ward Parade Grounds. Site three is on the parcel of land adjacent to the Fort Ward Parade Grounds. Site four is in upper Fort Ward Park and is not recommended by staff due to security concerns. Historical photos of the Fort Ward Parade Grounds were shared showing a

baseball field and a parking lot on the Fort Ward Parade Grounds. Other National Historic sites were looked at to compare allowed uses. Fort Stevens allows camping and all sorts of recreational opportunities including a playground. Fort Flagler has a playground. The Fort Ward historic district was added to the National Register in 1996 and according to the National Park Service, the National Register places no restrictions on what a non-federal owner may do with their property. A representative of the Washington State Department of Historic Preservation replied to a staff inquiry saying that they do not think a playground would have an adverse impact on the site. Regarding local recognition of the historic district, City of Bainbridge Island code does not address the Fort Ward Parade Grounds, in fact documentation shows the Fort Ward Parade Grounds as developed lots. The Fort Ward Parade Grounds exists because neighbors recognized development as a problem and protected it from development as open space and in recognition of historical significance. The transfer agreement from the City of Bainbridge Island, as well as the plat, allow for a playground in the park.

Commissioner Janow thanked staff for the additional research and said she read the board packet and understood the same things that have been highlighted this evening. Quite a bit of time has been spent and due diligence has been done on this topic. She said the Park District has put a significant number of resources, time, and energy into the Fort Ward Community Hall, which is a nod to the historical significance of the area. Commissioner Goodlin said that while the Fort Ward Parade Grounds was barely mentioned in the registration form for the National Register of Historic Places, that he is glad the aesthetic was maintained there of an open area. Commissioner DeWitt said he wanted to clarify that in reference to traffic concerns for site one, the City said it would be hard to install a 4-way stop at Parkview and Victorian Lane due to a bus route.

Mary Dombrowski spoke in support of a playground on the Fort Ward Parade Grounds.

Grant Morgan spoke in support of a playground on the Fort Ward Parade Grounds.

Jessica Malouf spoke in support of a playground on the Fort Ward Parade Grounds.

Charlie Olsen spoke in support of a playground on the Fort Ward Parade Grounds.

Nicole Pond spoke in support of a playground on the Fort Ward Parade Grounds.

Mike Sumsky spoke in support of a playground on the Fort Ward Parade Grounds.

JD Sumsky spoke in support of a playground in Fort Ward.

Sienna Sumsky spoke in support of a playground on the Fort Ward Parade Grounds.

Maple Lombardi spoke in support of a playground on the Fort Ward Parade Grounds.

MSC: Kinney/Janow: Move to place the playground on spot D on the Fort Ward Parade Grounds. Commissioner Janow said she has visited the site several times and site two D makes the most sense. She said the mission of Park District is parks and recreation. Commissioner Goodlin said he thinks there is consensus that a playground is needed in the region and site two D makes sense. He said it is great that the Fort Ward Parade Grounds was maintained as open space, but he does not think there is a need to be concerned about altering something historical as the Fort Ward Parade Grounds has already been changed. He has walked the Fort Ward Parade Grounds twice and both times he was drawn to the northern area with existing vegetative screening. He thinks the benefits of providing a walkable playground for the neighborhood outweigh some of the concerns of neighbors who do not want a playground in proximity. He understands the concerns with changing someone's neighborhood and sympathizes, but still thinks the project should move ahead. Commissioner Kinney said that these decisions need to be looked at on the scale of hundreds of years. This is a new neighborhood but there are neighborhoods on the island that are already over 100 years old. Where the playground is placed, it is probably going to stay for decades. The risk of having kids crossing the road to alternative sites is too high to take when there is a safer alternative

on the Fort Ward Parade Grounds. Spot two D is also very central, creating a place to congregate and create community. He understands that some people are worried about the noise, but he thinks it is a reasonable sacrifice to ask for people who live next to a public park. Commissioner DeWitt said he was originally drawn to site one. However, Fort Ward Hill Road is not a safe road for young children to be crossing. It is important to remember this is going to be a tot lot for the neighborhood. Commissioner Janow thanked everyone for their engagement in the process regardless of what side of the issue they are on. Commissioner DeWitt said extensive research has been done on this and he thanked staff for their work. Neither the City nor the state see issues with a playground on this site. Commissioner Goodlin said he heard from so many people opposing the playground on the Fort Ward Parade Grounds that he had been favoring site one. However, given the safety concerns of young children crossing a busy road he thinks it is unwise. He wanted to acknowledge the voices of the opposition and find something else, but he could not, he thinks the Fort Ward Parade Grounds meets the criteria in the best way.

MEETING ADJOURNED to a five-minute recess at 6:51 pm with announced time to reconvene at 6:56 pm. **MEETING RECONVENED** at 6:57 pm.

2023 BOARD MEETING DATES: Executive Director Terry Lande said there are no holidays that would affect any regular board meeting dates for 2023. **MSC: Janow/Kinney: Motion to approve the 2023 board meeting dates as first and third Thursdays of each month.**

DIRECTOR'S REPORT

Park Services Division: Park Services Division Director Dan Hamlin said that Park Maintenance Technician Nino Dosono's retirement party went well, and he will be missed. Cabin five at Fay Bainbridge Park should be opening soon at which time staff will begin work to reopen the Blakely Harbor Park bathroom. Work is being done on installing the benches for the Rotary Club fundraiser project. Senior Planner Perry Barrett said he walked the proposed trail easement west of Blakely Harbor Park with the property owner. He is working with the City of Bainbridge Island regarding the permitting process for Williams-Olson Park. The Park District will be taking the lead on the SEPA process for Williams-Olson Park.

Recreation Division: Recreation Division Director Mark Benishek said next Monday the winter/spring catalog will be viewable online. Registration will begin on Saturday, January 7. The Eagledale Pottery Studio is holding a pottery sale this weekend. Additional parent/child programming has been added in response to community interest. A twelve days of fitness challenge is going on this month at Bainbridge Island Recreation Center. The youth basketball league has 285 participants. Gymnastics teams start their competition season in the next several weeks. Ski bus driver interviews are underway.

Executive Director Terry Lande said the investigation report regarding Bainbridge Island Swim Club Head Coach Kyle Harris has been redacted in accordance with the applicable exemption. It will be released tomorrow to public records requestors including the two local newspapers. It is the opinion of staff that there is nothing in the report that requires further action by the Park District.

BOARD MEMBER ITEMS:

- Commissioner DeWitt said that he took part in the recent Trail Work Party which predominantly consisted of cub scouts from Pack 4496 and their parents and leaders, and he was amazed at the work that got done in two hours.

MEETING ADJOURNED to a five-minute recess at 7:22 pm with announced time to reconvene at 7:27 pm. **MEETING RECONVENED** at 7:27 pm.

MEETING ADJOURNED TO EXECUTIVE SESSION at 7:27 pm for discussion of personnel and real estate and potential litigation with announced time to reconvene at 7:57 pm.

MEETING RECONVENED at 7:57 pm and **ADJOURNED TO EXECUTIVE SESSION** at 7:57 pm for continued discussion of the above items, with announced time to reconvene at 8:57 pm.

MEETING RECONVENED at 8:57 pm and **ADJOURNED** at 8:57 pm.

Helen M. Stone
Terry M. Lande
BAINBRIDGE ISLAND METROPOLITAN
PARK & RECREATION DISTRICT

BY: _____
Kenneth R. DeWitt

BY: _____
Jay C. Kinney

BY: _____
Tom Goodlin

BY: _____
Dawn Janow

ATTEST: _____
John Thomas Swolgaard

DRAFT

WHEN RECORDED RETURN TO
Law Office of Hayes Gori, PLLC
271 Wyatt Way NE, Suite 112
Bainbridge Island, Washington 98110

TRAIL EASEMENT TRANSFER AGREEMENT

Grantor:

Bainbridge Island Parks & Trails Foundation, a 501(c)(3) nonprofit corporation of the State of Washington

Grantee:

Bainbridge Island Metropolitan Park and Recreation District, a Washington State municipal corporation

Abbreviated Legal Description (lot, block and plat name, or section-township-range):

PTN SE1/4 SW1/4, S28, T25N, R2E W.M.

Assessor's Parcel Account Numbers: 282502-3-052-2004

Reference Numbers: Kitsap County Auditor Record # 202206020175

This **TRAIL EASEMENT TRANSFER AGREEMENT** (“**Agreement**”) is entered into by and between the Bainbridge Island Parks & Trails Foundation, a 501(c)(3) nonprofit corporation of the State of Washington (“**Foundation**”), and the Bainbridge Island Metropolitan Park and Recreation District, a Washington State municipal corporation (“**District**”). In entering into this Agreement, the Foundation and the District (“the **Parties**”) recognize and agree to the following recitals:

- A. The Foundation holds a temporary public trail easement over certain **Property** (described on **Attachment 1**) pursuant to a Trail Easement Agreement dated June 2, 2022, and recorded on June 2, 2022 under AFN 202206020175, which agreement is attached hereto as **Attachment 2** and incorporated herein by this reference.
- B. The Trail Easement Agreement may be assigned by the Foundation to the District.
- C. The Foundation desires to assign the Trail Easement Agreement to the District, and the District desires to assume the Temporary Trail Easement Agreement, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Assignment and Assumption of Trail Easement Agreement**: The Foundation hereby assigns, transfers, grants and warrants to the District all of the Foundation's obligations, rights, title, and interest in, under, and to the Trail Easement Agreement. The District hereby assumes all of the Foundation's obligations, rights, title, and interest in, under, and to the Trail Easement Agreement. The District shall record this Agreement with the Kitsap County Auditor, and the District shall file a Real Estate Excise Tax Affidavit with the Kitsap County Treasurer, if necessary. The Foundation shall pay all recording fees and all real estate excise tax.

2. **Consideration**. The Foundation is assigning the Trail Easement Agreement to the District for the costs incurred to obtain the easement, which is Two thousand, two hundred and twenty-one dollars (\$2,221.00). The purpose of the Trail Easement Agreement is to permanently establish a public trail across the Property described on Attachment 1 for the benefit of the general public.

3. **Indemnity**. The District shall hold harmless, indemnify, and defend the Foundation and its officers, employees, agents, volunteers, and contractors, and their heirs, personal representatives, successors, and assigns ("Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any real or personal property, resulting from the District's ownership, operation, or maintenance of the Trail Easement or any interest therein, regardless of cause, unless due solely to the gross negligence or intentional misconduct of any of the Indemnified Parties; or (2) the District's or the District's officers', employees', agents', or contractors' violation of any covenant, easement, or restriction touching or concerning the Trail Easement.

4. **Miscellaneous**.

4.1 **Attorney Fees**. In the event of any dispute, including mediation, arbitration, or litigation concerning this Agreement or if this Agreement is otherwise placed with an attorney for action, then the prevailing party shall be awarded all reasonable litigation costs and expenses, and reasonable attorney fees. In the event of trial or arbitration, the amount of the attorney fees shall be fixed by the court or arbitrator.

4.2 **Binding Effect**. The conditions, covenants, and terms of this Agreement apply to, inure to the benefit of, and are binding on not only the Parties, but on their successors, heirs, assigns, devisees, legatees, and personal representatives.

4.3 **Notices**. All notices, demands, consents, approvals, and other communications which are required or desired to be given by the Parties shall be in writing and shall be hand delivered or sent by United States regular mail, postage prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered or three (3) days after mailing to the following addresses:

To the Foundation: Bainbridge Island Parks & Trails Foundation
Attn: Executive Director
PO Box 11127
221 Winslow Way West, Suite 104
Bainbridge Island, Washington 98110

To the District: Bainbridge Island Metropolitan Park and
Recreation District
Attn: Executive Director
7666 NE High School Road
Bainbridge Island, Washington 98110

4.4 Assignment. Except as otherwise provided in the Trail Easement Agreement, the District shall not assign this Agreement or the Trail Easement Agreement except with the express written consent of the owners of Property.

4.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

4.6 Venue. The venue for any action to enforce or interpret this Agreement shall exclusively lie in the Superior Court of Washington for Kitsap County, Washington.

4.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Signatures transmitted electronically shall be deemed the equivalent of original signatures for all purposes.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the later of the signature dates included below.

FOUNDATION:
Bainbridge Island Parks & Trails Foundation

DISTRICT:
Bainbridge Island Metropolitan Park and Recreation
District

Date: _____

Date: _____

By: _____

By: _____

Mary Meier, Executive Director

Terry Lande, Executive Director

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that Terry Lande is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Executive Director of Bainbridge Island Metropolitan Park and Recreation District to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington

Commission Expires: _____

ATTACHMENT 1
Description of Property

Assessor's Parcel Account Number: 282502-3-052-2004

Legal Description:

LOT B OF SHORT PLAT NO.4697, RECORDED IN VOLUME 2 OF PLATS, PAGE 236, UNDER AUDITOR'S FILE NO. 8805230083, BEING A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON.

WHEN RECORDED RETURN TO
Bainbridge Island Parks & Trails Foundation
PO Box 11127
Bainbridge Island, WA 98110
Attn: Executive Director

TRAIL EASEMENT AGREEMENT

Document Title: **Trail Easement Agreement**

Grantors: Michael Ryan Sheets and Carolyn Mitchell-Sheets

Grantee: Bainbridge Island Parks & Trails Foundation

Abbreviated Legal Description (lot, block and plat name, or section-township-range):

PTN SE1/4 SW1/4, S28, T25N, R2E W.M.

Assessor's Parcel Account Number: 282502-3-052-2004

Courtesy recording only. No liability for validity and/or accuracy is assumed. This document was filed for record by Aegis Land Title Group as an accommodation only. It has not been examined as to proper execution or as to its effect upon title.

2022EX04149 2022-06-02 HSWANSON \$37.00
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WHEN RECORDED RETURN TO
Bainbridge Island Parks & Trails Foundation
PO Box 11127
Bainbridge Island, WA 98110
Attn: Executive Director

TRAIL EASEMENT AGREEMENT

Document Title: **Trail Easement Agreement**

Grantors: Michael Ryan Sheets and Carolyn Mitchell-Sheets

Grantee: Bainbridge Island Parks & Trails Foundation

Abbreviated Legal Description (lot, block and plat name, or section-township-range):

PTN SE1/4 SW1/4, S28, T25N, R2E W.M.

Assessor's Parcel Account Number: 282502-3-052-2004

TRAIL EASEMENT AGREEMENT

This Trail Easement Agreement (“this Agreement”) is made and entered into as of this second day of June, 2022, by and between Michael Ryan Sheets and Carolyn Mitchell-Sheets, having an address at 6789 Vincent Rd NE, Bainbridge Island, WA 98110, herein referred to collectively as “Grantor” and the Bainbridge Island Parks & Trails Foundation, a 501(c)(3) nonprofit corporation of the State of Washington, having an address at PO Box 11127, 221 Winslow Way West #104, Bainbridge Island, WA 98110, herein referred to as “Grantee”.

Recitals

WHEREAS, Grantor is the owner of the real property located at 6789 Vincent Rd NE, Bainbridge Island, WA 98110 Bainbridge Island, Washington and legally described in Exhibit A (the “Property”); and

WHEREAS, Grantor wishes to grant a non-exclusive easement for public trail usage on the Property, as further described and depicted herein; and

WHEREAS, Grantee wishes to accept the easement for the purposes of creating and maintaining a non-motorized public trail,

NOW THEREFORE in consideration of the mutual covenants contained herein, the parties agrees as follows:

1. GRANT OF TRAIL EASEMENT. In consideration of payment by Grantee of the sum of Two Thousand Dollars (\$2000), the receipt of which is acknowledged by Grantor, and the covenants contained herein, Grantor conveys and warrants to Grantee a perpetual, non-exclusive easement for public trail purposes (the “Easement”) over, under and across two strips of land within the Property, one being ten (10) feet wide and twenty-three (23) feet long and the other being eight (8) feet wide and thirty (30) feet long (collectively, the “Easement Area”). Each portion of the Easement Area is located contiguous to the easterly boundary of the Property and consequently to an existing trail easement along the westerly boundary of the adjoining property, as depicted on Exhibit B. The exact location and legal description of the Easement Area shall be determined by a survey to be paid for and provided by Grantee with reasonable prior notice to Grantor. Upon completion of the survey, Grantee is authorized by Grantor to prepare and record an amendment to this Agreement amending Exhibit B to include the legal description of the Easement Area and attaching a copy of the survey as Exhibit C indicating the location of the Easement Area. Grantor hereby appoints Grantee its attorney in fact for the limited purpose of executing and recording such amendment as attorney in fact for Grantor. Grantee hereby accepts the Easement and covenants as set forth herein.

2. PURPOSE OF EASEMENT; PERMITTED USES; COMMENCEMENT OF PUBLIC USE. The purpose of the Easement is to establish a public trail connection across the Property for the benefit of the general public. The Easement is intended to enable the trail on the contiguous trail easement to bypass large trees on the adjoining property, as noted on Exhibit B. Grantee may use the Easement Area as necessary for constructing, operating, maintaining, removing, repairing, replacing and using the trail. Except as provided below, permitted uses of the trail by the public within the Easement Area shall include access, ingress, egress, and underground utilities related to public use activities including without limitation walking, running, bicycling, and horseback riding. Motorized self-propelled vehicles or devices of any kind, including motorized bicycles and scooters, shall not be operated within the Easement Area, except in connection with trail and utility construction and maintenance, or emergency services. Public use of the trail is not permitted under this Agreement until this Agreement has been transferred to the Bainbridge Island Metropolitan Park & Recreation District or the City of Bainbridge Island as provided herein.

3. AFFIRMATIVE OBLIGATIONS OF GRANTEE. In consideration of conveyance of the Easement, Grantee agrees to the following covenants:

- a. Grantee may construct or improve, as necessary, a trail partly or entirely within the Easement Area, to allow the trail in the easement on the adjoining property to bypass large trees. If entirely within the Easement Area, the trail shall not exceed (6) feet in width without the prior written consent of Grantor.
- b. Grantee shall repair and maintain the trail within the Easement Area as reasonably necessary for the permitted uses described herein, including, but not limited to: repair of trail bed, drainage, and steps (if any); clearing plant material that interferes with trail use; installation of boardwalks and bridges; and removing trash within the Easement Area.
- c. Grantee shall post signage suitable in its discretion to direct trail users to stay on the trail and to respect adjacent private property and in connection therewith shall consult with Grantor as to the content of such signage.
- d. Grantee shall regularly monitor trail usage and take action to enforce against any illegal or unpermitted uses of the trail.
- e. Grantee shall install a split-rail fence approximately twenty-three feet long on the westerly side of the northerly segment of the Easement Area.

Grantee's obligations under this paragraph may be carried out by its agents or contractors.

4. TITLE. Grantor warrant that it owns the Property in fee simple and has the right to convey the Easement. Grantor agrees to defend, indemnify and hold Grantee harmless from and against any and all claims, assessments, penalties, costs, liabilities and expenses, including reasonable attorney fees, incurred by Grantee arising out of or related in any way whatsoever to breach of this warranty.

5. GRANTOR'S RETAINED RIGHTS. Grantor is entitled to utilize the Easement Area in any manner that does not materially interfere with the easement rights granted hereunder to Grantee or the use thereof by the general public.

6. ASSIGNMENT. Grantee may convey the Easement and assign its rights and obligations under this Agreement to the Bainbridge Island Metropolitan Park & Recreation District or the City of Bainbridge Island for the purpose of constructing and maintaining a public trail. Upon such conveyance and assignment, Grantee shall have no further liability or obligations of any kind under this Agreement except liability arising from acts or omissions by Grantee occurring before such conveyance and assignment.

7. AMENDMENT. Except as provided in Section 1, this Agreement may be amended only in writing and signed by Grantor and Grantee or their respective successors or assigns.

8. NOTICE REQUIREMENT. If Grantee conveys the Easement and assigns this Agreement to the Bainbridge Island Metropolitan Park & Recreation District or the City of Bainbridge Island, Grantee shall notify Grantor thereof within thirty (30) days after such conveyance and assignment.

9. NOTICE PROCEDURE. Any notice required by this Agreement shall be in writing and either delivered personally or sent by certified U.S. mail or courier service, postage or delivery charges prepaid, to the following addresses until or unless a written notice of change of address is delivered to the other by U.S. mail to the last known address:

IF TO GRANTOR:

Michael Ryan Sheets and Carolyn Mitchell-Sheets
6789 Vincent Rd NE
Bainbridge Island, WA 98110

IF TO GRANTEE:

Bainbridge Island Parks & Trails Foundation
PO Box 11127
Marge Williams Center, Suite 104
221 Winslow Way West
Bainbridge Island, WA 98110
Attn: Executive Director

10. LIABILITY; INDEMNITY.

- a. The liability of the parties is limited to the extent of the application of RCW 4.24.210 ("Recreational Use Statute").

- b. Grantee agrees to defend, indemnify and hold Grantor harmless from all liability and expenses (including reasonable attorney fees) incurred by Grantor in connection with any and all claims, suits and actions of every name, kind and description brought against Grantor or the Property, or any portion thereof, as a result of or on account of any actual or alleged injuries or damages arising out of or in connection with or as a result of the acts or omissions of Grantee, its agents, contractors or employees, in exercising any of the rights granted to Grantee under this Agreement, except for any alleged injuries or damages resulting from the Grantor's negligence or intentional conduct.

11. COMPLETE AGREEMENT, SEVERABILITY. This Agreement contains the entire agreement of the parties and supersedes any and all prior or contemporaneous agreements, written or oral, between the parties regarding the subject matter hereof. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

12. INTERPRETATION. This Agreement shall not be interpreted or construed against any of the parties on the basis that it was drafted by legal counsel for any of the parties. The headings used in this Agreement have been inserted for convenience only and shall not affect the construction of this Agreement.

13. GOVERNING LAW AND VENUE. This Agreement shall be interpreted and enforced pursuant to the laws of the State of Washington, without regard to conflict of law principles thereof. Venue for any lawsuit arising out of this Agreement shall lie exclusively in Kitsap County, Washington.

14. VOLUNTARY EXECUTION. The parties acknowledge that they have had ample opportunity to consult with counsel of their choosing regarding this Agreement, that they have voluntarily and knowingly executed this Agreement after independent investigation, and that they have executed this Agreement in the absence of fraud, duress, or undue influence.

15. COUNTERPARTS. This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement and all of which shall constitute one agreement. Signatures transmitted electronically shall be deemed the equivalent of original signatures for all purposes.

16. ATTORNEY FEES. In the event of any controversy, claim or dispute between the parties relating to this Agreement, including without limitation arbitration, the prevailing party shall be entitled to recover from the non-prevailing party all of its expenses, including without limitation reasonable attorney fees.

17. MEDIATION AND ARBITRATION OF DISPUTES. Any action between the parties arising out of, or relating in any way to any of the provisions of this Agreement, shall first be




mediated with the parties dividing the mediator's fee equally. If mediation is unsuccessful, then any disputes remaining will be arbitrated in Kitsap County, Washington, according to the procedural rules of the American Arbitration Association ("AAA") then in effect, but not under the auspices of the AAA. The decision of the arbitrator shall be binding upon the parties. The arbitration proceedings shall be final and there shall be no right of appeal therefrom. The party receiving an award rendered in any such arbitration proceeding shall be entitled to have judgment entered thereon. The arbitrator shall determine the "prevailing party" and such party shall be entitled to its reasonable attorney fees and mediation costs and arbitration costs, which shall be part of the award. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the selection of the arbitrator or mediator, or the arbitrator's determination of the merits of the controversy.

18. RECORDATION. This Agreement and any amendments or assignments of this Agreement shall be recorded by Grantee in the official records of Kitsap County, Washington. Grantee shall pay all costs of recording, and any other related costs, including any real estate excise tax owed.

19. EXHIBITS; RECITALS. Exhibits A, B and C (if none, then when attached pursuant to Section 1) attached hereto and the Recitals are incorporated herein.

20. RUNNING COVENANTS; SUCCESSORS AND ASSIGNS. This Agreement, including without limitation the Easement and the rights, restrictions and covenants contained herein, are intended to be covenants real and run with the land in perpetuity, and be binding upon and inure to the benefit of the heirs, representatives, successors and assigns of the parties.

EXECUTED on the 2nd day of June, 2022:

<p>GRANTOR:</p>  <p>Michael Ryan Sheets</p>  <p>Carolyn Mitchell-Sheets</p>	<p>GRANTEE:</p> <p>BAINBRIDGE ISLAND PARKS & TRAILS FOUNDATION</p>  <p>Mary Meier, Executive Director</p>
---	---

[Acknowledgements on next page]

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this day personally appeared before me Michael Ryan Sheets and Carolyn Mitchell-Sheets 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 2nd day of June, 2022



Mary Blossom
NOTARY PUBLIC in and for the State of Washington,
residing at Bainbridge Island
My appointment expires 4/9/25
Print Name Mary Blossom

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that Mary Meier is the person who appeared before me personally on behalf of Grantee, the Bainbridge Island Parks & Trails Foundation, and acknowledged that she signed this instrument, stated that she was authorized to execute the instrument and acknowledged it as the Executive Director of the Bainbridge Island Parks & Trails Foundation, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this 2nd day of June, 2022



Mary Blossom
NOTARY PUBLIC in and for the State of Washington,
residing at Bainbridge Island
My appointment expires 4/9/25
Print Name Mary Blossom

EXHIBIT A

Description of Grantor's Property

LOT B OF SHORT PLAT NO.4697, RECORDED IN VOLUME 2 OF PLATS, PAGE 236, UNDER AUDITOR'S FILE NO. 8805230083, BEING A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON.

Initial:

Grantor: AK & CS

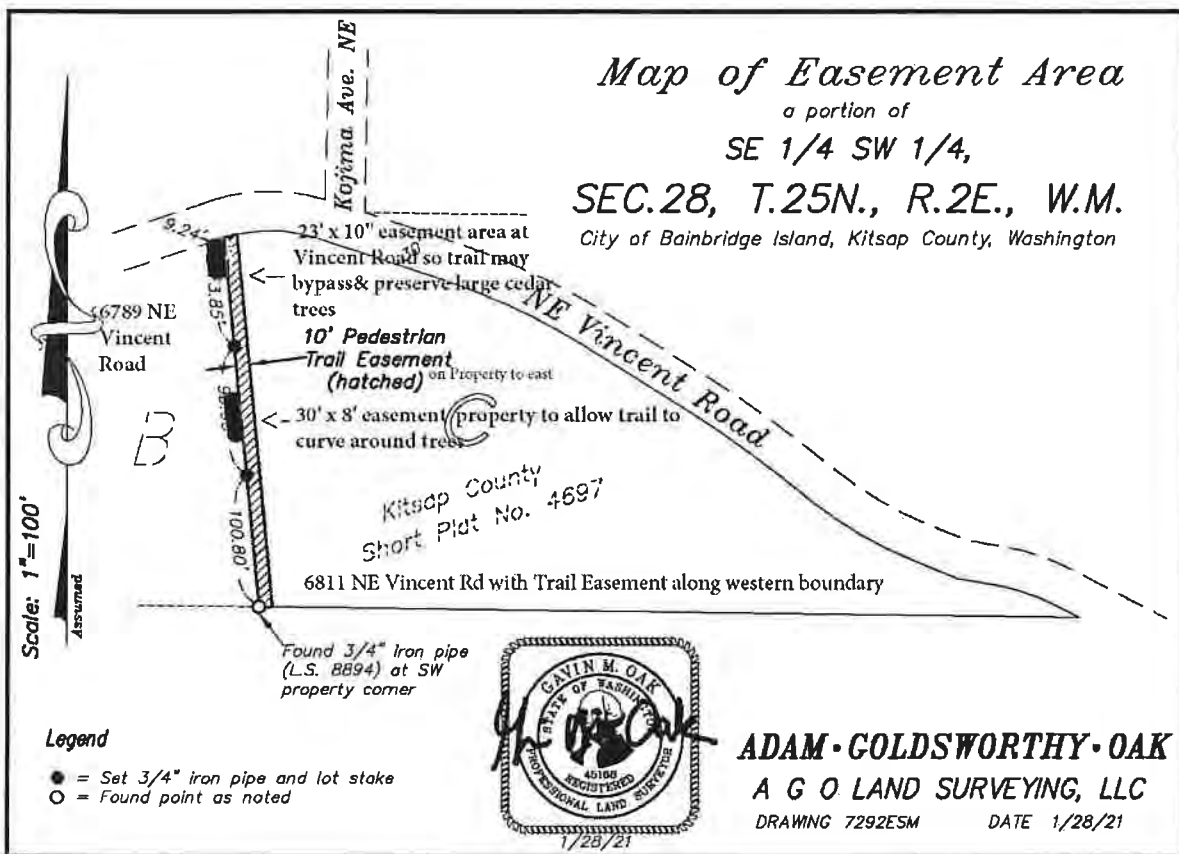
Grantee: M.M.

EXHIBIT B

Description of Easement Area

(To be replaced pursuant to Section 1 of the Trail Easement Agreement)

The Easement Area comprises two separate areas indicated in solid black below. These areas are on the Property's easterly boundary line, contiguous to the surveyed easement corridor on the adjoining property to the east, widening the easement corridor to allow for the trail to bypass existing stands of trees.



Initial: Grantor: [Signature] & [Signature]

Grantee: [Signature]

WHEN RECORDED RETURN TO
Law Office of Hayes Gori, PLLC
271 Wyatt Way NE, Suite 112
Bainbridge Island, Washington 98110

TRAIL EASEMENT TRANSFER AGREEMENT

Grantor:

Bainbridge Island Parks & Trails Foundation, a 501(c)(3) nonprofit corporation of the State of Washington

Grantee:

Bainbridge Island Metropolitan Park and Recreation District, a Washington State municipal corporation

Abbreviated Legal Description (lot, block and plat name, or section-township-range):

LOT C, SP 4697, PTN SE1/4 SW ¼ S28, T 25N, R2E W.M.

Assessor's Parcel Account Numbers: 282502-3-053-2003

Reference Numbers: Kitsap County Auditor Record # 202102220367

This **TRAIL EASEMENT TRANSFER AGREEMENT** (“**Agreement**”) is entered into by and between the Bainbridge Island Parks & Trails Foundation, a 501(c)(3) nonprofit corporation of the State of Washington (“**Foundation**”), and the Bainbridge Island Metropolitan Park and Recreation District, a Washington State municipal corporation (“**District**”). In entering into this Agreement, the Foundation and the District (“the **Parties**”) recognize and agree to the following recitals:

- A. The Foundation holds a temporary public trail easement over certain **Property** (described on **Attachment 1**) pursuant to a Trail Easement Agreement dated February 16, 2021, and recorded on February 22, 2022 under AFN 202102220367 which agreement is attached hereto as **Attachment 2** and incorporated herein by this reference.
- B. The Trail Easement Agreement may be assigned by the Foundation to the District.
- C. The Foundation desires to assign the Trail Easement Agreement to the District, and the District desires to assume the Temporary Trail Easement Agreement, on the terms and conditions set forth in

this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Assignment and Assumption of Trail Easement Agreement**: The Foundation hereby assigns, transfers, grants and warrants to the District all of the Foundation's obligations, rights, title, and interest in, under, and to the Trail Easement Agreement. The District hereby assumes all of the Foundation's obligations, rights, title, and interest in, under, and to the Trail Easement Agreement. The District shall record this Agreement with the Kitsap County Auditor, and the District shall file a Real Estate Excise Tax Affidavit with the Kitsap County Treasurer, if necessary. The Foundation shall pay all recording fees and all real estate excise tax.

2. **Consideration**. The Foundation is assigning the Trail Easement Agreement to the District for the costs incurred to obtain the easement and construct a fence, which is Seventeen thousand, seven hundred and forty-two dollars (\$17,742.00). The purpose of the Trail Easement Agreement is to permanently establish a public trail across the Property described on Attachment 1 for the benefit of the general public.

3. **Indemnity**. The District shall hold harmless, indemnify, and defend the Foundation and its officers, employees, agents, volunteers, and contractors, and their heirs, personal representatives, successors, and assigns ("Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any real or personal property, resulting from the District's ownership, operation, or maintenance of the Trail Easement or any interest therein, regardless of cause, unless due solely to the gross negligence or intentional misconduct of any of the Indemnified Parties; or (2) the District's or the District's officers', employees', agents', or contractors' violation of any covenant, easement, or restriction touching or concerning the Trail Easement.

4. **Miscellaneous**.

4.1 **Attorney Fees**. In the event of any dispute, including mediation, arbitration, or litigation concerning this Agreement or if this Agreement is otherwise placed with an attorney for action, then the prevailing party shall be awarded all reasonable litigation costs and expenses, and reasonable attorney fees. In the event of trial or arbitration, the amount of the attorney fees shall be fixed by the court or arbitrator.

4.2 **Binding Effect**. The conditions, covenants, and terms of this Agreement apply to, inure to the benefit of, and are binding on not only the Parties, but on their successors, heirs, assigns, devisees, legatees, and personal representatives.

4.3 **Notices**. All notices, demands, consents, approvals, and other communications which are required or desired to be given by the Parties shall be in writing and shall be hand delivered or sent by United States regular mail, postage prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered or three (3) days after mailing to the following addresses:

To the Foundation: Bainbridge Island Parks & Trails Foundation
Attn: Executive Director
PO Box 11127
221 Winslow Way West, Suite 104
Bainbridge Island, Washington 98110

To the District: Bainbridge Island Metropolitan Park and
Recreation District
Attn: Executive Director
7666 NE High School Road
Bainbridge Island, Washington 98110

4.4 Assignment. Except as otherwise provided in the Trail Easement Agreement, the District shall not assign this Agreement or the Trail Easement Agreement except with the express written consent of the owners of Property.

4.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

4.6 Venue. The venue for any action to enforce or interpret this Agreement shall exclusively lie in the Superior Court of Washington for Kitsap County, Washington.

4.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Signatures transmitted electronically shall be deemed the equivalent of original signatures for all purposes.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the later of the signature dates included below.

FOUNDATION:
Bainbridge Island Parks & Trails Foundation

DISTRICT:
Bainbridge Island Metropolitan Park and Recreation
District

Date: _____

Date: _____

By: _____

By: _____

Mary Meier, Executive Director

Terry Lande, Executive Director

ATTACHMENT 1
Description of Property

Assessor's Parcel Account Number: 282502-3-053-2003

Legal Description:

LOT C SHORT PLAT NO 4697 RECORDED UNDER AUDITOR NO 8805230083 (SOUTH OF NE VINCENT ROAD) A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID SECTION 28, N89°17'58 W 93.15 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF NORTHEAST VINCENT ROAD; THENCE CONTINUING N89°17'58 W 624.97 FEET; THENCE N5°20'40 W 283.52 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF NE VINCENT ROAD; THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY OF THE FOLLOWING: FIRST ON A CURVE TO THE RIGHT THE CENTER OF WHICH BEARS S18°25'00 E 110.00 FEET AN ARC DISTANCE OF 70.27; THENCE S71°49'E 103.00 FEET; THENCE ON A 485.00 RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 119.35 FEET; THENCE S57°43'E 93.00 FEET; THENCE ON A 785.00 CURVE TO THE RIGHT AN ARC DISTANCE OF 89.06 FEET; THENCE S51°13'E 26.00 FEET; THENCE ON A 315.00 RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 92.09 FEET; THENCE S67°58'E 35.58 FEET; THENCE S80°00'E 31.58 FEET; THENCE ON A 155.00 RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 46.94 FEET; THENCE S62°39'E 20.11 FEET TO THE TRUE POINT OF BEGINNING. SUBJECT TO EASEMENT FOR EXISTING ROAD OVER THE SOUTHEAST CORNER.****
BUILDING ONLY ACCOUNT FOR WATER RESERVOIR 282502-3-053-2102 ****

WHEN RECORDED RETURN TO
Bainbridge Island Parks Foundation
PO Box 11127
Bainbridge Island, WA 98110
Attn: Executive Director

TRAIL EASEMENT AGREEMENT

Document Title: Trail Easement Agreement

Grantors: Mark Julian and Diane Hutchings

Grantee: Bainbridge Island Parks Foundation

Courtesy recording only. No liability for validity and/or accuracy is assumed. This document was filed for record by Aegis Land Title Group as an accommodation only. It has not been examined as to proper execution or as to its effect upon title.

Legal Description of the Property:

LOT C SHORT PLAT NO 4697 RECORDED UNDER AUDITOR NO 8805230083 (SOUTH OF NE VINCENT ROAD) A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID SECTION 28, N89°17'58 W 93.15 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF NORTHEAST VINCENT ROAD; THENCE CONTINUING N89°17'58 W 624.97 FEET; THENCE N5°20'40 W 283.52 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF NE VINCENT ROAD; THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY OF THE FOLLOWING: FIRST ON A CURVE TO THE RIGHT THE CENTER OF WHICH BEARS S18°25'00 E 110.00 FEET AN ARC DISTANCE OF 70.27; THENCE S71°49'E 103.00 FEET; THENCE ON A 485.00 RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 119.35 FEET; THENCE S57°43'E 93.00 FEET; THENCE ON A 785.00 CURVE TO THE RIGHT AN ARC DISTANCE OF 89.06 FEET; THENCE S51°13'E 26.00 FEET; THENCE ON A 315.00 RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 92.09 FEET; THENCE S67°58'E 35.58 FEET; THENCE S80°00'E 31.58 FEET; THENCE ON A 155.00 RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 46.94 FEET; THENCE S62°39'E 20.11 FEET TO THE TRUE POINT OF BEGINNING. SUBJECT TO EASEMENT FOR EXISTING ROAD OVER THE SOUTHEAST CORNER.**** BUILDING ONLY ACCOUNT FOR WATER RESERVOIR 282502-3-053-2102 ****

Assessor's Parcel Account Number: 282502-3-053-2003

THIS TRAIL EASEMENT AGREEMENT (Agreement) is made and entered into as of this 16th day of February 2021, by and between Mark Julian and Diane Hutchings having an address at 5955 Rose Loop, Bainbridge Island, WA 98110, herein referred to as "Grantors" and the Bainbridge Island Parks Foundation, a 501(c)(3) nonprofit corporation of the State of Washington, having an address at PO Box 11127, 221 Winslow Way West #104, Bainbridge Island, WA 98110, herein referred to as "Grantee", also called the "Parties."

2021EX01153
2021-02-22
HSWANSON
\$93.00

WHEREAS, Grantors are the owners of the real property at 6811 NE Vincent Rd, Bainbridge Island, Washington ("Property") described in its entirety above and in Exhibit A, which is attached hereto and incorporated herein by this reference; and

WHEREAS, Grantors wish to grant a non-exclusive easement for public trail usage ("Trail Easement") upon and across the Property, as further described and depicted herein by this reference; and

WHEREAS, Grantee wishes to accept the Trail Easement for the purposes of creating and maintaining public trail.

NOW THEREFORE in consideration of the mutual covenants and promises herein described, it is agreed:

1. **GRANT OF TRAIL EASEMENT.** Grantors hereby agree to convey to Grantee a Trail Easement. The legal description of the Trail Easement is shown in Exhibit B and depicted in the survey in Exhibit C. The Trail Easement shall be located along the property's west boundary, which measures 274.5 feet in length, ten feet (10') in width. The Trail Easement is non-exclusive, runs over, under and across the Property and is for public trail usage. Grantee hereby agrees to accept the Trail Easement upon the terms and conditions hereinafter set forth. This Agreement, including without limitation the Trail Easement and the rights, restrictions and covenants contained in it, shall run with the land in perpetuity, and be binding upon and inure to the benefit of the successors, heirs, representatives and assigns of the Parties.
2. **CONSIDERATION.** Grantors are selling the Trail Easement to the Grantees at the cost of Five Thousand and Five Hundred Dollars (\$5,500) for the purpose of establishing a public trail connection.
3. **AFFIRMATIVE OBLIGATIONS OF GRANTEE.** In consideration of conveyance of the Trail Easement, Grantee agrees to the following conditions:
 - a. Grantee, its assigns, agents or representatives shall construct a trail that initially is not more than five foot (5') in width and is contained entirely within the Trail Easement. Grantee may thereafter increase the trail width to six feet (6') without Grantor's approval, and greater than six feet (6') with Grantor's express prior approval. Any such expansions must also be entirely within the Trail Easement.
 - b. Grantee, its assigns, agents or representatives shall maintain the trail at its sole discretion within the Trail Easement for allowed uses, including, without limitation, access, ingress, egress, and underground utilities related to public use activities of walking, bicycling, and/or horseback riding. Vehicular use is limited to non-motorized types except in connection with trail, grounds and utility construction and maintenance, or emergency services. Use of automobiles, golf carts, ATVs and motorcycles shall be prohibited.
 - c. Grantee, its assigns, agents or representatives shall regularly monitor trail usage and take action to enforce against any illegal or unpermitted uses of the Trail Easement.
 - d. Grantee, its assigns, agents or representatives shall maintain the trail within the Trail Easement in a reasonable manner including, but not limited to, posting signage to direct trail users to stay within the Trail Easement and to respect adjacent private property; clearing plant material that interferes with trail use; and removing trash within the Trail Easement.

- e. Grantee, its assigns, agents or representatives shall construct a six foot cedar slat privacy fence with butted or overlapped edges on the eastern edge of the Trail Easement between the trail and the driveway along the full two hundred eighty-five feet (285') of the Trail Easement.
4. **TITLE**. Grantors warrant that they have the right to convey the Trail Easement. Grantors agree to defend, indemnify and hold Grantee harmless from and against any and all claims, assessments, penalties, costs, liabilities and expenses, including reasonable attorney fees, arising out of or related in any way whatsoever to breach of this warranty.
5. **GRANTORS' RETAINED RIGHTS**. Grantors are entitled to utilize the Trail Easement in any manner that does not materially interfere with the easement rights granted hereunder to Grantee or the use thereof by the general public.
6. **ASSIGNMENT**. This Agreement, or any portion of it, may not be assigned prior to closing without the non-assigning party's prior consent. After closing the Grantee or Grantee successor may assign its rights and obligations under the Trail Easement to the Bainbridge Island Metropolitan Park & Recreation District or the City of Bainbridge Island for the purpose of constructing and maintaining a public trail.
7. **AMENDMENT**. The Trail Easement may be amended only in writing and signed by the Grantors and by the Grantee or their successors and assigns. Any amendments shall be recorded in the official records of Kitsap County, Washington.
8. **NOTICE REQUIREMENTS**. Notice is required to be made within 30 days if either Grantor or Grantee has a change of address, or if the Grantors sell the Property to a new owner, or if Grantee assigns the Trail Easement to the Bainbridge Island Metropolitan Park & Recreation District or the City of Bainbridge Island.
9. **NOTICE PROCEDURE**. Any notice required by this Agreement shall be in writing and either delivered personally or sent by certified U.S. mail or courier service, postage prepaid, to the following addresses until or unless a written notice of change is delivered to the other by mail to the last known address:

GRANTORS:

Mark Julian and Diane Hutchings
5595 Rose Loop
Bainbridge Island, WA 98110

GRANTEE:

Bainbridge Island Parks Foundation
PO Box 11127
Marge Williams Center, Suite 104
221 Winslow Way West
Bainbridge Island, WA 98110
Attn: Executive Director

10. INDEMNITY. The liability of the Parties is limited to the extent of the application of RCW 4.24.210 (“Recreational Use Statute”). In addition, Grantee agrees to defend, indemnify and hold Grantors harmless from all liability and expenses (including reasonable attorney fees) in connection with any and all claims, suits and actions of every name, kind and description brought against Grantors or the Property, or any portion thereof, as a result of or on account of any actual or alleged injuries or damages arising out of or in connection with or as a result of the acts or omissions of Grantee, its agents, contractors or employees, in exercising any of the rights granted to Grantee under this Agreement, except for any alleged injuries or damages resulting from the Grantors’ negligence or intentional conduct.
11. COMPLETE AGREEMENT, SEVERABILITY. This Agreement contains the entire agreement of the Parties and supersedes any and all prior or contemporaneous agreements, written or oral, between the Parties regarding the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision.
12. TERMINATION OF RIGHTS AND OBLIGATIONS. A Party’s rights and obligations under this Trail Easement terminate upon transfer of the Party’s entire interest in the Easement, except that liability for acts or omissions occurring before transfer shall survive transfer.
13. INTERPRETATION. This Agreement shall not be interpreted or construed against any of the Parties on the basis that it was drafted by legal counsel for any of the Parties. The headings used in this Agreement have been inserted for convenience only and shall not affect the construction of this Agreement.
14. GOVERNING LAW AND VENUE. This Agreement shall be interpreted and enforced pursuant to the laws of the State of Washington, without regard to conflict of law principles thereof. Venue for any lawsuit arising out of this Agreement shall lie exclusively in Kitsap County, Washington.
15. VOLUNTARY EXECUTION. The Parties acknowledge that they have had ample opportunity to consult with counsel of their choosing regarding this Agreement, that they have voluntarily and knowingly executed this Agreement after independent investigation, and that they have executed this Agreement in the absence of fraud, duress, or undue influence.
16. COUNTERPARTS. This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement and all of which shall constitute one agreement. Signatures transmitted electronically shall be deemed the equivalent of original signatures for all purposes.
17. ATTORNEY FEES. In the event of any controversy, claim or dispute between the Parties relating to this Agreement, including without limitation arbitration under Section 18 below, the prevailing party shall be entitled to recover from the non-prevailing Party all of its expenses, including without limitation reasonable attorney fees.
18. MEDIATION AND ARBITRATION OF DISPUTES. Any action between the Parties arising out of, or relating in any way to any of the provisions of this Agreement, shall first be mediated with the parties dividing the mediator’s fee equally. If mediation is unsuccessful, then any disputes remaining will be arbitrated in Kitsap County, Washington, according to the

STATE OF WASHINGTON)
)
) SS :
)
COUNTY OF KITSAP)

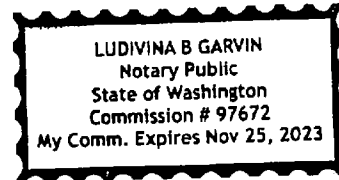
I certify that Mark Julian and Diane Hutchings personally appeared before me, who executed the within and foregoing instrument, and acknowledged the said instrument to be a free and voluntary act and deed for the use and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

Dated this 16th day of February, 2021

Given under my hand and official seal on the day and year first above written

Ludivina B. Garvin

NOTARY PUBLIC in and for the State of WA
Washington, residing at Port Orchard
Print Name: Ludivina B. Garvin
My commission expires 11/25/2023

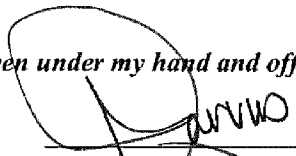


STATE OF WASHINGTON)
)
COUNTY OF KITSAP) SS :

I certify that I know or have satisfactory evidence that Barbara Trafton is the person who appeared before me personally on behalf of Grantee, the Bainbridge Island Parks Foundation, and said person acknowledged that she/he signed this instrument, stated that she/he was authorized to execute the instrument and acknowledged it as the Executive Director of the Bainbridge Island Parks Foundation, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 16th day of February, 2021

Given under my hand and official seal on the day and year first above written



NOTARY PUBLIC in and for the State of
Washington, residing at Poulsbo
Print Name: Gretchen M. Parvus
My commission expires 6/9/24



EXHIBIT A
Description of Grantor's Property

Assessor's Parcel Account Number: 282502-3-053-2003

Legal Description:

LOT C SHORT PLAT NO 4697 RECORDED UNDER AUDITOR NO 8805230083 (SOUTH OF NE VINCENT ROAD) A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 25 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID SECTION 28, N89°17'58" W 93.15 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF NORTHEAST VINCENT ROAD; THENCE CONTINUING N89°17'58" W 624.97 FEET; THENCE N5°20'40" W 283.52 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF NE VINCENT ROAD; THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY OF THE FOLLOWING: FIRST ON A CURVE TO THE RIGHT THE CENTER OF WHICH BEARS S18°25'00" E 110.00 FEET AN ARC DISTANCE OF 70.27; THENCE S71°49'E 103.00 FEET; THENCE ON A 485.00 RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 119.35 FEET; THENCE S57°43'E 93.00 FEET; THENCE ON A 785.00 CURVE TO THE RIGHT AN ARC DISTANCE OF 89.06 FEET; THENCE S51°13'E 26.00 FEET; THENCE ON A 315.00 RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 92.09 FEET; THENCE S67°58'E 35.58 FEET; THENCE S80°00'E 31.58 FEET; THENCE ON A 155.00 RADIUS CURVE TO THE RIGHT AN ARC DISTANCE OF 46.94 FEET; THENCE S62°39'E 20.11 FEET TO THE TRUE POINT OF BEGINNING. SUBJECT TO EASEMENT FOR EXISTING ROAD OVER THE SOUTHEAST CORNER.**** BUILDING ONLY ACCOUNT FOR WATER RESERVOIR 282502-3-053-2102 ****

Initial:

Grantors: 

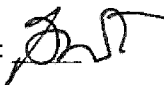
Grantee: 

EXHIBIT B

Legal Description of Trail Easement

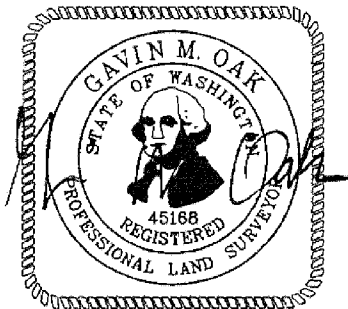
ADAM • GOLDSWORTHY • OAK
A G O Land Surveying, LLC

1015 NE Hostmark Street, Suite 103
Poulsbo, WA 98370
360.779.4299 206.842.9598
WWW.AGOLS.COM

January 28, 2021 March 20, 2020
BAINBRIDGE ISLAND PARK FOUNDATION – JOB NO. 20-7292

PEDESTRIAN TRAIL EASEMENT DESCRIPTION

The West 10.00 feet of Lot C of Short Plat No. 4697 recorded under Kitsap County Auditor's File No. 8805230083, being a portion of the Southeast quarter of the Southwest quarter of Section 28, Township 25 North, Range 2 East, W.M., City of Bainbridge Island, Kitsap County, Washington.



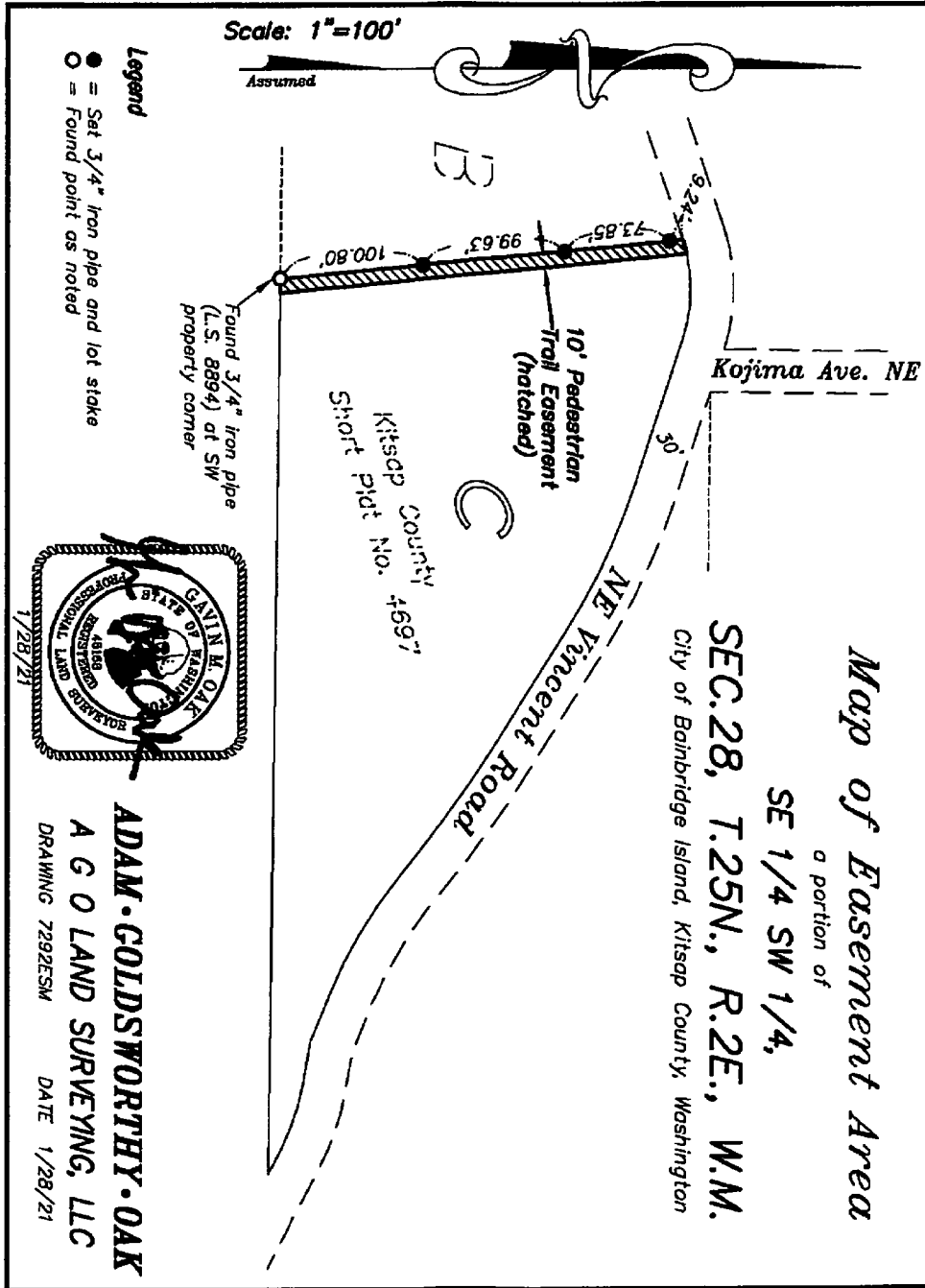
1/28/21

Initial:

Grantors: AG & OAK

Grantee: BIF

EXHIBIT C
Survey of Trail Easement



Initial: Grantors: [Signature] Grantee: [Signature]

Bainbridge Island Parks& Trails Foundation
BIPF Trails Fund - Vincent Rd Trail Easements - Statement of Activity Detail
All Dates

Date	Transaction Type	Num	Name	Memo/Description	Amount
Ordinary Expenditures - Vincent Rd Trail easements for Vincent to Gazzam Trail					
525 Trail Easements - Julian/Hutchings -Vincent Rd Trail Easement					
02/03/2021	Check	1182	AGO Land Survey LLC	3007 - Julian-Vincent Road Survey	1,732.50
02/10/2021	Check	1186	Julian, Mark and Diane	Vincent Road Trail Easement	5,500.00
02/23/2021	Check	1187	Aegis Land Title Group	Vincent Road Easement	209.86
06/23/2021	Bill	254	Heritage Landscaping Fence and Deck	Deposit - Vincent TE - Fencing	6,180.30
09/08/2021	Bill	268	Heritage Landscaping Fence and Deck	Balance - Vincent TE - Fencing	4,120.20
				TOTAL	17,742.86
525 Trail Easements - Sheets- Vincentt Rd Trail Easement					
06/02/2022	Check	1203	Aegis Land Title Group	Vincent to Gazzam	221.50
06/02/2022	Check	1381	Sheets, Michael Ryan and Carolyn Mitchell- Sheets	Vincent to Gazzam	2,000.00
				TOTAL	2,221.50
Total for 525 Trail Easements - Vincent to Gazzam					\$ 19,964.36

WHEN RECORDED RETURN TO:

Bainbridge Island Metropolitan Park and Recreation District
Attn: Executive Director
11700 NE Meadowmeer Circle
Bainbridge Island, Washington 98110

TRAIL EASEMENT AGREEMENT

Grantor: Jeffrey & Rachel O'Donald

Grantee: Bainbridge Island Metropolitan Park and Recreation District

Legal Description: RESULTANT PARCEL E OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 3194250, RECORDS OF KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., CITY OF BAINBRIDGE ISLAND, KITSAP COUNTY, WASHINGTON. Additional legal on Exhibit A attached hereto.

Tax Parcel Account No.: #: 032402-4-016-2007

THIS TRAIL EASEMENT AGREEMENT is made and entered into this 30 day of September 2022, by and between Jeffrey and Rachel O'Donald ("Grantor") and the Bainbridge Island Metropolitan Park and Recreation District, a Washington State municipal corporation ("Grantee"). Grantor and Grantee are referred to herein individually as a "Party" and collectively as "the Parties."

Recitals

WHEREAS, Grantor is the owner of the real property ("Property") described in its entirety in Exhibit A, which is attached hereto and incorporated herein by this reference; and

WHEREAS, Grantor wishes to grant a non-exclusive easement for public trail usage ("Trail Easement") over, under and across the Property, as depicted in Exhibit B which is attached hereto and incorporated herein by this reference; and

WHEREAS, Grantee wishes to accept the Trail Easement for the purposes of creating and maintaining a non-motorized, public trail.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein described, it is agreed:

1. **GRANT OF EASEMENT.** Grantor hereby grants and conveys to Grantee a twenty-foot (20') wide non-exclusive easement (the "Trail Easement") over, under and across the Property for the purpose of constructing, maintaining, and utilizing a non-motorized public trail (the "Trail") and related underground and above-ground facilities. The location of the Trail Easement ("Trail Easement Area") is depicted and described in Exhibit B. The construction and maintenance rights hereunder are reserved to Grantee (and not the general public), and the Trail Easement includes the right of Grantee to enter upon the Property for the purpose of constructing and maintaining the Trail and related facilities. Use of internal combustion motorized vehicles/equipment within the Trail Easement is prohibited, except in connection with construction and maintenance of the Trail and related facilities, or emergency evacuation of persons requiring such assistance. Grantee hereby accepts the Trail Easement upon the terms and conditions in this Agreement. This Agreement, including, without limitation, the Trail Easement, shall run with the land in perpetuity, and be binding upon and inure to the benefit of the successors, heirs, representatives and assigns of the Parties.

2. **CONSIDERATION.** Grantor is providing the Trail Easement for no consideration.

3. OBLIGATIONS OF GRANTEE. In consideration for the Trail Easement, Grantee agrees as follows:

a. Grantee shall maintain a (four to - six') trail ("the Trail") within the Trail Easement Area for public use, which includes, without limitation, hiking, bicycling and horseback riding. Use of the full twenty -foot (20') width of the Trail Easement by Grantee is authorized for Trail-related uses, provided that no portion of the Trail shall be more than six feet (6') in width without the consent of Grantor.

b. Grantee shall post signage regarding Trail usage and location (directing Trail users to stay within the Trail Easement Area); take action to prevent illegal or unpermitted uses within the Trail Easement Area, such as use of motorized vehicles/equipment; and keep the Trail Easement Area clear of trash, debris, and anything else that interferes with Trail use.

4. TITLE. Grantor warrants that it owns the Property in fee simple and has the right to convey the Trail Easement. Grantor agrees to defend, indemnify, and hold Grantee harmless from and against any and all claims, assessments, penalties, costs, liabilities and expenses, including reasonable attorney fees, arising out of or related in any way whatsoever to breach of this warranty.

5. GRANTOR'S RETAINED RIGHTS. Grantor is entitled to utilize the Trail Easement Area in any manner that does not materially interfere with the easement rights granted hereunder to Grantee or the use thereof by the general public.

6. ASSIGNMENT; MODIFICATION. Neither Party may assign this Agreement without the advance written consent of the other Party. This Agreement may not be modified by either Party without the other Party's prior written consent.

7. NOTICE. Any notice required by this Agreement shall be in writing and either delivered personally, electronically, or sent by U.S. mail or courier service, postage, or delivery charges prepaid, to the following addresses until or unless a written notice of change of address is delivered to the other by U.S. mail to the last known address:

GRANTOR:

Jeffrey & Rachel O'Donald
824 Eagle Cliff Rd NE
Bainbridge Island, WA 98110

GRANTEE:

Bainbridge Island Metropolitan Park and Recreation District
Attn. Executive Director
11700 NE Meadowmeer Circle
Bainbridge Island, WA 98110

8. INDEMNITY. The liability of the Parties is limited to the extent of the application of RCW 4.24.210 (“Recreational Use Statute”). In addition, Grantee agrees to defend, indemnify and hold Grantor harmless from and against all liability and expenses (including reasonable attorney fees) in connection with any and all claims, suits and actions of every name, kind and description brought against Grantor or the Property, or any portion thereof, as a result of or on account of any actual or alleged injuries or damages arising out of or in connection with or as a result of the acts or omissions of Grantee, its agents, contractors or employees, in exercising any of the rights granted to Grantee under this Agreement, except to the extent such injuries or damages result from the negligence or intentional conduct of Grantor.

9. COMPLETE AGREEMENT; SEVERABILITY. This Agreement contains the entire agreement of the Parties and supersedes any and all prior or contemporaneous agreements, written or oral, between the Parties regarding the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

10. INTERPRETATION. This Agreement shall not be interpreted or construed against any of the Parties on the basis that it was drafted by legal counsel for any of the Parties. The headings used in this Agreement have been inserted for convenience only and shall not affect the construction of this Agreement.

11. GOVERNING LAW AND VENUE. This Agreement shall be interpreted and enforced pursuant to the laws of the State of Washington, without regard to conflict of law principles thereof. Venue for any lawsuit arising out of this Agreement shall lie exclusively in Kitsap County, Washington.

12. VOLUNTARY EXECUTION. The Parties acknowledge that they have had ample opportunity to consult with counsel of their choosing regarding this Agreement, that they have voluntarily and knowingly executed this Agreement after independent investigation, and that they have executed this Agreement in the absence of fraud, duress, and undue influence.

13. COUNTERPARTS. This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. Signatures transmitted electronically shall be deemed the equivalent of original signatures for all purposes.

14. ATTORNEY FEES. In the event of a dispute between the Parties relating to this Agreement, including without limitation arbitration under Section 15 below, the prevailing party shall be entitled to recover from the non-prevailing party all of its expenses, including without limitation reasonable attorney fees.

15. DISPUTE RESOLUTION. Any dispute between the Parties relating to this Agreement shall first be mediated by a neutral, third-party mediator, with the Parties sharing equally in the mediator’s fee. If mediation is unsuccessful, then upon the demand of either Party the dispute will be arbitrated in Kitsap County, Washington, according to the procedural rules of the

American Arbitration Association (“AAA”) then in effect, but not under the auspices of the AAA. The decision of the arbitrator shall be final and binding upon the Parties, and there shall be no right of appeal therefrom. The party receiving an award shall be entitled to have judgment entered thereon. The arbitrator shall determine the “prevailing party,” and such party shall be entitled to its reasonable attorney fees and mediation and arbitration costs, which shall be part of the award. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the selection of the arbitrator or mediator, or the arbitrator’s determination of the merits of the controversy.

16. RECORDING. Upon execution, Grantee shall record this Agreement with the Kitsap County Auditor. Grantee shall pay all costs of recording, and any other related costs, including any real estate excise tax owed.

EXECUTED on the date hereinabove written:

GRANTOR:

[Name]

STATE OF WASHINGTON)
) ss :
COUNTY OF KITSAP)

On this ____ day of _____ 20__, before me personally appeared _____, the individual who executed the within and foregoing instrument, and acknowledged said instrument to be a free and voluntary act and deed for the use and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

Given under my hand and official seal on the day and year first above written

NOTARY PUBLIC in and for the State of
Washington, residing at _____
Print Name: _____
My commission expires _____

GRANTEE:

BAINBRIDGE ISLAND METROPOLITAN PARK AND RECREATION DISTRICT

By:
Terry Lande, Executive Director

STATE OF WASHINGTON)
) **ss:**
COUNTY OF KITSAP)

On this ____ day of _____, 20__, before me personally appeared Terry Lande, Executive Director of Bainbridge Island Metropolitan Park and Recreation District, a Washington State municipal corporation, who executed the within and foregoing instrument and acknowledged said instrument to be a free and voluntary act and deed of said political subdivision for the use and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

Given under my hand and official seal on the day and year first above written

NOTARY PUBLIC in and for the State of
Washington, residing at _____
Print Name: _____
My commission expires _____

EXHIBIT A

Description of Grantor's Property

Tax Parcel Account No.: 032402-4-016-2007

Legal Description:

Legal Description Resultant Parcel E of Boundary Line Adjustment recorded under Auditor's File No. 3194250, records of Kitsap County, Washington, described as follows: That portion of the Southeast Quarter of Section 3, Township 24 North, Range 2 East, W.M., City of Bainbridge Island, Kitsap County, Washington, described as follows: Beginning at the South Quarter Corner of said Section 3; Thence along the South Line of said Section 3, South 89°05'04" East 1973.04 feet; Thence North 14°32'30" East 201.82 feet; Thence North 27°22'26" East 451.10 feet; Thence North 05°33'56" East 415.30 feet; Thence North 29°31'25" West 403.02 feet to the True Point of Beginning; Thence South 75°00'44" West 778.94 feet; Thence Northerly on a 400.00 foot radius curve to the right, the center of which bears South 79°02'33" West, through a central angle of 55°34'25", an arc distance of 387.98 feet; Thence North 44°36'58" East 232.05 feet; Thence on a 500.00 foot radius curve to the left, through a central angle of 23°09'26", an arc distance of 202.09 feet; Thence North 21°27'32" East 302 feet, more or less, to the Southerly Right-of-Way of NE Blakely Avenue; Thence Easterly along said Right-of-Way 309 feet, more or less, to a point which bears North 02°11'41" East from the True Point of Beginning; Thence South 02°11'41" West 654 feet, more or less, to the True Point of Beginning. Subject to and together with easements, restrictions, and reservations of records.

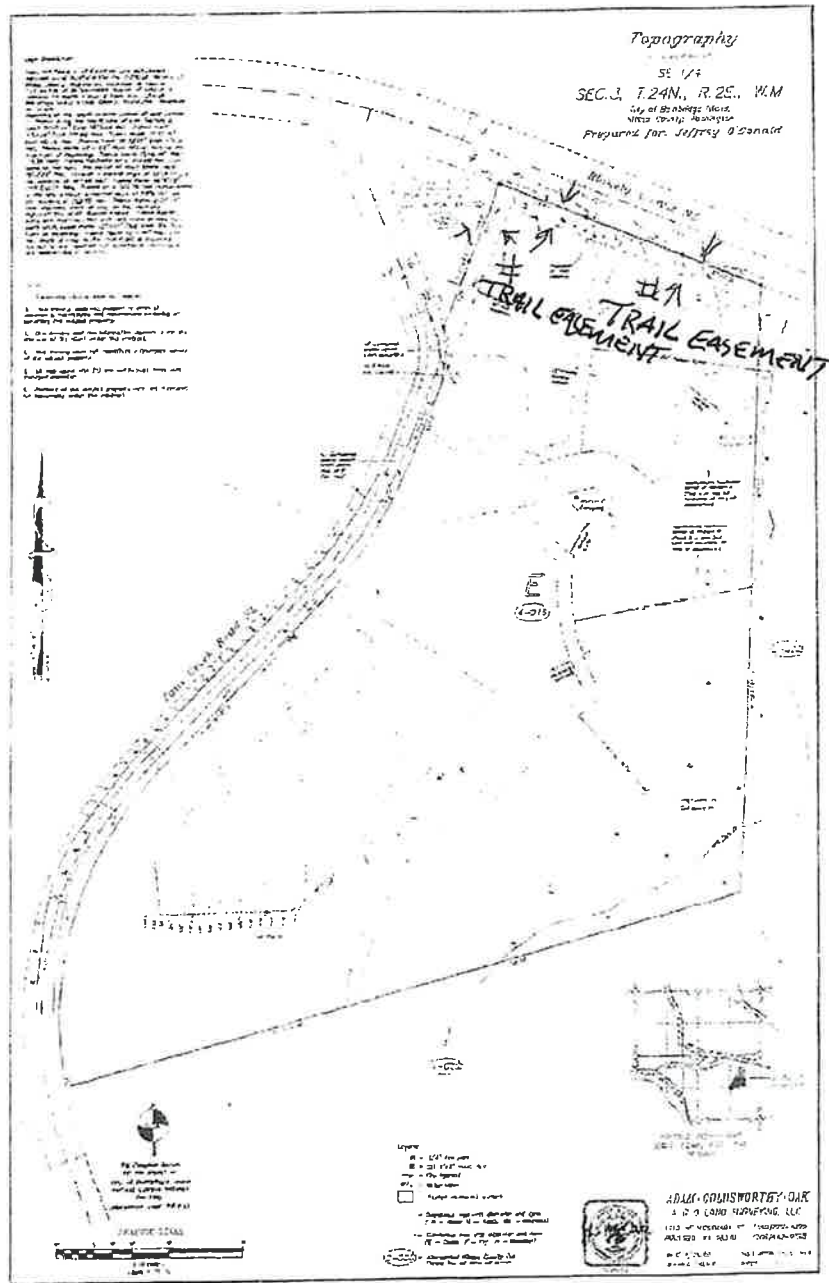
Initial:

Grantor: ____

Grantee: ____

EXHIBIT B

Description and Depiction of Trail Easement Area



Initial: _____
 Grantor: _____
 Grantee: _____