

Instrument Number: 20211124000051 Document:AG Rec: \$211.50 Page-1 of 9
Record Date:11/24/2021 7:22 AM
Electronically Recorded King County, WA

Return Address:

City of Mercer Island
Attn: City Engineer
9611 SE 36th Street
Mercer Island, WA 98040

ENCROACHMENT LICENSE AGREEMENT

Grantor: City of Mercer Island, a Washington Municipal Corporation

Grantee: Wells Fargo Bank, N.A., As Trustee of the Title Holding Trust Dated 10-06-99

Property Legal Description (Abbreviated): Ptns of GL 1, sn 01-24-04

Complete Legal Description: Exhibit B.

Property Tax Parcel ID Number: 5452302216

THIS ENCROACHMENT LICENSE AGREEMENT ("Agreement") is entered into this 22nd day of November, 2021. The parties ("Parties") to this Agreement are the City of Mercer Island, a Washington municipal corporation ("Grantor") and Wells Fargo Bank, N.A., As Trustee of the Title Holding Trust Dated 10-06-99 ("Grantee").

A. Description of Property. The Grantee owns certain real properties commonly known as 8000 SE 20th Street, Mercer Island, WA, and legally described above ("Property").

B. Improvements. Grantee has constructed the private improvements described in Attachment A ("Improvements"). These Improvements currently encroach or will encroach on property owned by the City of Mercer Island commonly known as SE 20th Street ("City Property").

NOW, THEREFORE the Parties agree as follows:

1. License. The Grantor hereby grants a temporary, nonexclusive license to Grantee to permit the Improvements to remain or to be constructed on the City Property so long as

the Improvements continue to meet the conditions specified in the Right of Way Use Permit, do not interfere with the reasonable public access to the City Property, do not threaten public health, safety or welfare, and/or Grantor does not wish to use the City Property for any other purpose. This license may be revoked by the City at any time with or without cause.

2. Agreement to Remove. In the event the City Engineer determines that the Improvements have failed to meet the conditions specified in the Criteria for Evaluating Encroachments set forth in Section 19.06.060 of the Mercer Island Unified Land Development Code; threaten public health, safety or welfare; or the City wishes to terminate this Agreement for any other reason, the Grantee shall remove or modify the encroaching improvements within sixty (60) days of receiving notice from the City Engineer, at Grantee's sole cost and expense.

In the event the Improvements interfere with routine operations and maintenance of public improvements, the Grantee shall remove the Improvements within fourteen (14) days of receiving notice from the City Engineer, at Grantee's sole cost and expense.

In the event of an emergency, the Grantee shall immediately remove the Improvements or alternatively, the City may enter the Property in order to remove the Improvements and the costs to remove the Improvements shall become a lien on the Property.

Upon removal of the Improvements, Grantee agrees to return the City Property to its original condition or as near to its original condition as reasonably prudent.

3. Grantor's Remedy if Grantee Fails to Remove. In the event the Grantee has received notice to remove the Improvements and the removal or modification is not done in a timely fashion or does not meet other removal requirements specified in the removal notice, the Grantor is authorized to do the necessary work or to designate a third party to perform the work. The Grantee shall be responsible for all costs associated with the performance of such work, including reasonable overhead and attorney fees.

The Grantor shall not be responsible for any resulting damage to or destruction of the Improvements. Further, the debt shall be a lien against the Property.

In the event of an emergency that requires immediate repair to the public improvements or access to the public right of way, the Grantor may demolish, remove or modify the Improvements with no notice to the Grantee. The Grantor shall not be liable for any resulting damage to or destruction of the Improvements.

4. Maintenance of Improvements. Maintenance of the Improvements shall be the sole cost and responsibility of the Grantee. The Grantee shall maintain the Improvements

according to the specifications of the Right of Way Use Permit. If Grantee fails to maintain the Improvements, the Grantor may take steps to ensure that the Improvements do not interfere with reasonable public access to any public property or threaten public health, safety or welfare. These steps may include removing or modifying the Improvements as outlined in Section 2 of this Agreement.

The city will not be responsible for repairing or replacing any landscaping, shrubs, sod, gravel parking, retaining walls, gate, concrete pavement and all private improvements in the public right of way damaged by the city maintenance department while performing routine activities such as, but not limited to, catch basin inspections and cleaning, snow plowing and any other miscellaneous actions. They are the sole responsibility of the property owners.

5. Indemnification. The Grantee agrees to indemnify, hold the City, its elected officials, officers, employees, agents and assigns harmless from any and all claims, demands, losses, actions, liabilities (including all costs and attorney fees) arising out of damages to persons or property resulting from the construction, location or removal of the Improvements. The provisions of this Section shall survive the expiration or termination of this Agreement.

6. Recording Requirement. The Grantee shall record this Agreement against the Property with the King County Recorder's Office and pay all recording fees. This Agreement shall run with the land, and therefore bind Grantee, Grantee's heirs, assigns and any subsequent owners of the Property. No Right of Way Permit will be granted until the Grantor receives a copy of the Agreement from the Recorder's Office.

7. Right of Way Permit & Fee. The Grantee shall obtain a Right of Way Permit and pay the Public Right of Way Permit fee and the Right of Way Encroachment Agreement fee as established by the Grantor, prior to receiving a Right of Way permit.

8. General Provisions. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement. No provision of the Agreement may be amended or modified except by written agreement signed by the Parties. This Agreement shall be binding upon and insure to the benefit of the Parties' successors in interest, heirs and assigns. Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorney fees, costs and expenses. The venue for any dispute related to this Agreement shall be King County, Washington. Failure of the City to declare any breach or default immediately upon the occurrence thereof, or delay in

taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

GRANTOR: CITY OF MERCER ISLAND

By: Rupis - RYUJI DING
Patrick Yamashita (Signed for Patrick Yamashita)
City Engineer/Deputy Director of Public Works

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

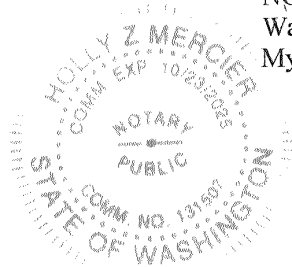
RYUJI DING

On this day personally appeared before me ~~Patrick Yamashita~~, to me known to be the City Engineer/Deputy Director of Public Works of the City of Mercer Island, a Washington municipal corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

GIVEN my hand and official seal this 22nd day of NOVEMBER, 2021.

Notary Name: HOLLY Z. MERCIER
NOTARY PUBLIC in and for the State of Washington.

My commission expires: 10/23/2025

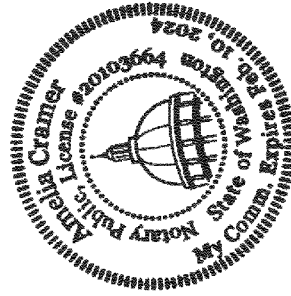


By: _____
Name: Steve An
Title: AVP

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Steve An is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Real Estate Asset Manager of Wells Fargo Bank, N.A., as Trustee of the Title Holding Trust Dated 10-06-99, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

GIVEN my hand and official seal this 2nd day of November 2021.



By: Amelia Cramer
Notary Name: Amelia Cramer
NOTARY PUBLIC in and for the State of Washington.
My commission expires: Feb 10, 2024
My commission expires: Feb 10, 2024

ATTACHMENT A

Legal Description

LOT B OF CITY OF MERCER ISLAND SHORT PLAT NUMBER MI84-01-02, RECORDED UNDER RECORDING NUMBER 8406269002, AS ALTERED BY KING COUNTY RECORDING NUMBER 20180417900035, SAID SHORT PLAT BEING A SUBDIVISION OF THE WEST 90 FEET OF THAT PORTION OF GOVERNMENT LOT 1, SECTION 1, TOWNSHIP 24 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING NORTH OF A LINE WHICH IS 1,374.15 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID GOVERNMENT LOT 1, BEING A PORTION OF MERCER PARK, HERETOFORE VACATED BY ORDER OF KING COUNTY COMMISSIONER, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 8 OF PLATS, PAGE 27, IN KING COUNTY, WASHINGTON.

TOGETHER WITH AN UNDIVIDED ONE-HALF INTEREST IN TRACT X OF SAID SHORT PLAT.

TOGETHER WITH THE EAST 105 FEET OF THE WEST 195 FEET OF THAT PORTION OF GOVERNMENT LOT 1 OF SECTION 1, TOWNSHIP 24 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING NORTH OF NORTH MARGIN OF SOUTHEAST 20TH STREET AS SAID STREET IS PLATTED IN THE PLAT OF MERCER BEACH PARK, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 46 OF PLATS, PAGE 7, IN KING COUNTY, WASHINGTON (BEING PART OF VACATED PLAT OF MERCER PARK, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 8 OF PLATS, PAGE 27, IN KING COUNTY, WASHINGTON);

TOGETHER WITH SECOND CLASS SHORELANDS ADJOINING AND ABUTTING THEREON LYING BETWEEN THE EAST AND WEST BOUNDARY LINES OF THE ABOVE TRACTS PRODUCED AND EXTENDED.

**ATTACHMENT B
Page 1**

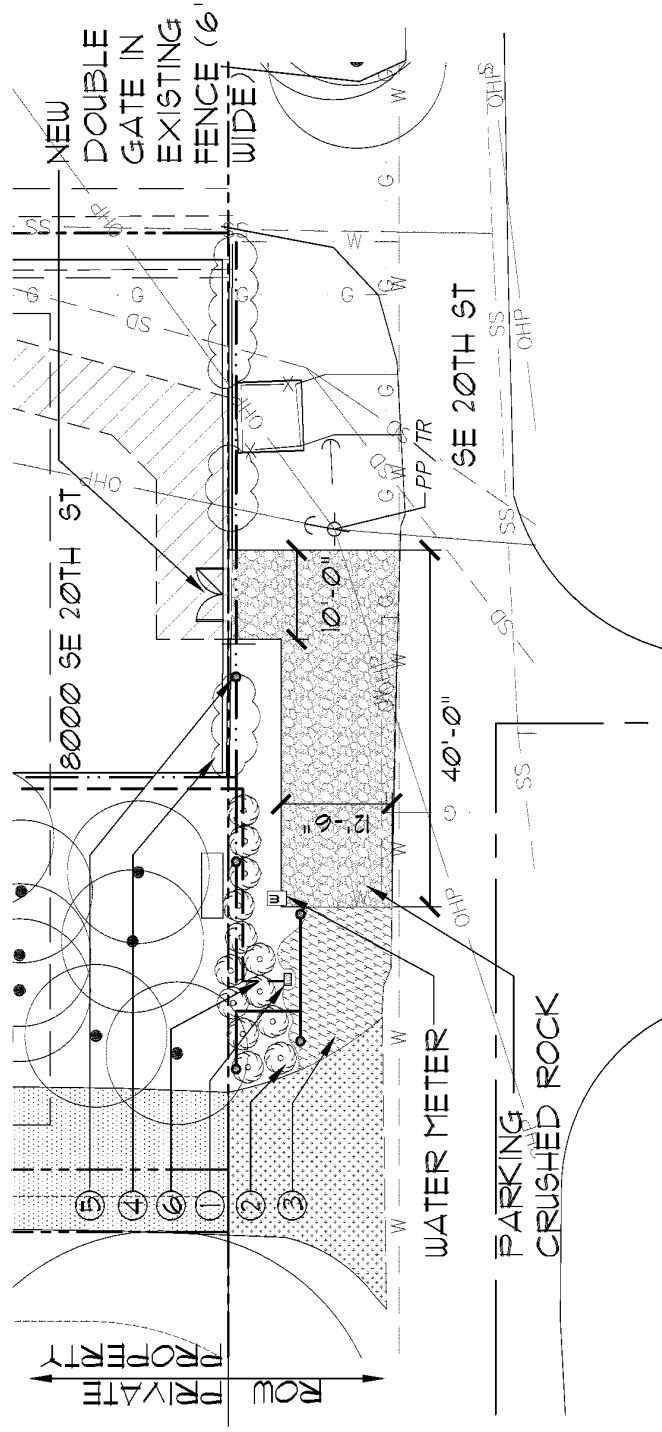
Description of Encroaching Improvements.

An 42" high address marker, 3' high grass, 1' high ground cover, 10' high hedge (Emerald Green), irrigation systems, and low voltage wires are the private improvement located in the public right of way, as shown on the Attachment B, Page 2 and Page 3.

ATTACHMENT "B"
 PAGE 2

RIGHT-OF-WAY ENCROACHMENT ITEMS:

- ① ADDRESS MARKER, SEE ATTACHMENT "C"
- ② 3' HIGH GRASS (MISCANTHUS SINENSIS 'YAKUSHIMA')
- ③ 1' HIGH GROUND COVER (TRACHELOSPERMUM JASMINOIDES)
- ④ 10' HIGH HEDGE, REPLACE EXISTING (THUJA OCCIDENTALIS 'EMERALD GREEN')
- ⑤ IRRIGATION PIPE (1" DIA) & SPRINKLE HEADS
- ⑥ LOW VOLTAGE WIRE TO ADDRESS MARKER



ADDRESS:
 8000 SE 20TH ST
 MERCER ISLAND, WA. 98040



ENLARGED PLAN
 SCALE: 1" = 20'-0"

