

DAY RIGHT-OF-ENTRY AGREEMENT

THIS AGREEMENT, is dated this ____ day of _____, 2022, by and between DANA E. DAY (herein referred to as "OWNER"), and the CITY OF TUMWATER (herein referred to as "CITY"), a Washington municipal corporation.

RECITALS:

- A. OWNER owns property, more particularly described in Exhibit A attached hereto and by this reference incorporated herein ("Property"), across which the CITY requests access to reach the Barnes Lake shoreline to facilitate Barnes Lake Management District (LMD) vegetation management activities;
- B. OWNER is a member of the Barnes Lake Management District and is interested in assisting with the necessary and routine vegetation management of Barnes Lake;
- C. CITY is a municipality organized under the laws of the State of Washington and administers the privately-funded Barnes Lake Management District;
- D. OWNER desires to allow CITY access across and over the Property to the Barnes Lake shoreline, through the Right of Entry area depicted in Exhibit B, hereinafter referred to as the "Project Site".

NOW, THEREFORE, in consideration of the terms, covenants, and conditions contained herein, the parties agree as follows:

- 1. **Purpose.** CITY and its agents, designees and/or assigns shall have the right, at such times as deemed necessary by CITY, to enter upon the Project Site to access Barnes Lake to conduct vegetation management activities. At times, it may be necessary to improve access to the water through the design and construction of an access ramp to protect the property and equipment, and enhance through reconstruction, operation, repair, and maintain any facilities, and all appurtenances thereto ("Project").
- 2. **Access.** CITY shall have the right of access from CITY right-of-way across and over the Property to the Project Site to enable CITY to exercise its rights hereunder by utilizing the Property at 231 LARK STREET SW in Tumwater, WA to conduct activities in support of vegetation management goals as mutually agreeable to OWNER and CITY. CITY shall notify OWNER at least 48 hours in advance of Project activity to ensure access is available and OWNER is onsite during Project activity.

3. **Compensation.** In consideration of the access provided by the OWNER to the CITY, the CITY shall compensate the OWNER as follows:

CITY shall pay two-hundred forty dollars and no cents (\$240.00) to the OWNER for access provided by OWNER under this agreement. In the event the LMD assessment changes, the compensation for the OWNER will change as adopted by the LMD and CITY.

4. **Obstructions; Landscaping.** CITY may from time to time remove vegetation, trees, or other obstructions within the Project Site, and may level and grade the Project Site to the extent reasonably necessary to carry out the purposes set forth above, provided, that following the completion of the Project activities, CITY shall, to the extent reasonably practicable, restore the Project Site to a condition similar to its condition prior to such work. OWNER may undertake any ordinary improvements to the landscaping of the Project Site, provided that no obstructions shall be placed thereon, which would be unreasonably expensive or impractical for CITY to remove and restore.
5. **OWNER's Use of Project Site.** The parties acknowledge and agree that the access herein granted is non-exclusive, and the OWNER shall be entitled at all times to travel over the Project Site, and to conduct any and all activities which they may desire within the Project Site provided they do not unreasonably interfere with the CITY's use of said Project Site for the storage, operation or use of the Project Site for vegetation management activities.
6. **Indemnification.** Owner agrees to indemnify, defend, and hold City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Easement.
7. **Successors and Assigns.** The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns for the duration of this Agreement.
8. **Duration.** This Agreement shall be in full force and effect upon execution by the parties and shall remain in effect until January 31, 2025. The termination or extension of this Agreement may otherwise occur at any other time by signed agreement of both parties.
9. **Removal of Vegetation Management Facilities.** Upon termination of this Agreement, CITY shall restore the Project Site to a condition similar to that existing at the time Project activities are initiated. Such restoration

EXHIBIT A

The following legal descriptions represent the parcels through which the OWNER authorizes the CITY to access under this Right of Entry Agreement:

Parcel No. 09080025000: SECTION 34 TOWNSHIP 18 RANGE 2W
N BARNES JR DC COM 1261.45 F W OF E4 COR SEC 34 N 7-15 W 20 W 203.4



EXHIBIT B
City of Tumwater / Barnes Lake Management District
Access Area

The following depiction outlines the approximate boundaries of the Project Site which will be entered by the CITY and its assigns. Field condition may alter the final location of Project Site under this Agreement; however, all Project Activities will be within the boundaries identified in red, below.

