RESOLUTION NO. 2020-34

A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON AUTHORIZING THE RELINQUISHMENT OF A PORTION OF A PUBLIC UTILITY EASEMENT RETAINED IN THE VACATED SOUTH TWENTY (20) FEET OF LARRABEE AVENUE ABUTTING LOT 21, BLOCK 10, MAP OF PLAT OF EAST FAIRHAVEN, THAT IS SURPLUS TO THE CITY'S NEEDS

WHEREAS, on October 20, 1953, under Ordinance No, 6881, the City of Bellingham vacated 20 feet on each side of Larrabee Avenue between Pacific Highway [Samish Way] to 40th Street, including Block 10, in the Plat of East Fairhaven ("**Vacated Street**"), subject to the City's retention of an easement for the construction, maintenance and repair of existing or future public utilities within the Vacated Street as authorized in RCW 35.79.030 ("**Retained Utility Easement**"); and

WHEREAS, the Retained Utility Easement area is legally described in Exhibit A hereto and graphically depicted in Exhibit B hereto; and

WHEREAS, Scott Butterworth and Niki Mantas Butterworth, ("**Owners**") own certain real property commonly known as 3708 Larrabee Avenue, Bellingham, Washington, legally described in Exhibit C hereto ("**Subject Property**"), a portion of which is encumbered by the City's Retained Utility Easement; and

WHEREAS, Owners have requested that the City relinquish that portion of the Retained Utility Easement that encumbers the Subject Property, that portion being approximately 20 feet wide by 115 feet in length as more particularly described in Exhibit D hereto and graphically depicted in Exhibit E hereto ("**Proposed Relinquishment Area**"); and

WHEREAS, the purpose of the requested relinquishment is to facilitate private development and construction of a wheelchair access on the Subject Property; and

WHEREAS, RCW 35.94.040 authorizes cities to lease, sell or convey property originally acquired for utility purposes if, following a public hearing, the legislative authority for the city determines by resolution that such property is surplus to the city's needs and is not needed for providing continued public utility service; and

WHEREAS, surplus utility easements that were reserved during street vacations are typically relinquished at no cost to the property owner because the City usually acquires such easements at no cost to the City and because the property owner or their predecessor in interest has typically previously paid the City an amount equal to the appraised value of the property as a condition of street vacation; and

WHEREAS, the City's Public Works Department has determined that the Proposed Relinquishment Area is surplus to the City's needs and is not needed for continued utility service and has recommended to City Council that it be relinquished; and

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210 Lottie Street
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WHEREAS, a public hearing was held on September 28, 2020 by the City Council to consider the proposed relinquishment; and

WHEREAS, following said public hearing, City Council determined that the Proposed Relinquishment Area is surplus to the City's needs, is not needed for continued utility service, and may be relinquished without any additional compensation from owners.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

The mayor is authorized to execute all documents necessary to relinquish that portion of the Retained Utility Easement that encumbers that portion of the Subject Property identified herein as the Proposed Relinquishment Area, as legally described in Exhibit D hereto and graphically depicted in Exhibit E hereto. The relinquishment instrument shall be in a form approved by the Office of the City Attorney.

PASSED by the Council this 28th day of September, 2020.

Gene Knutson, Council President

APPROVED by me this 9 day of October, 2020.

Seth Fleetwood, Mayor

ATTEST:

Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

City of Bellingham
City Attorney
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EXHIBIT A

FROM ORDINANCE NO. 6881

TWENTY (20) FEET ON EACH SIDE OF LARRABEE AVENUE FROM THE PACIFIC HIGHWAY (LAKE SAMISH BRANCH) TO 40TH STREET, REDUCING SAID STREET TO SIXTY (60) FEET, IN THE CITY OF BELLINGHAM: VACATING SAID PORTIONS OF LARRABEE AVENUE:

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EXHIBIT B
Retained Utility Easement

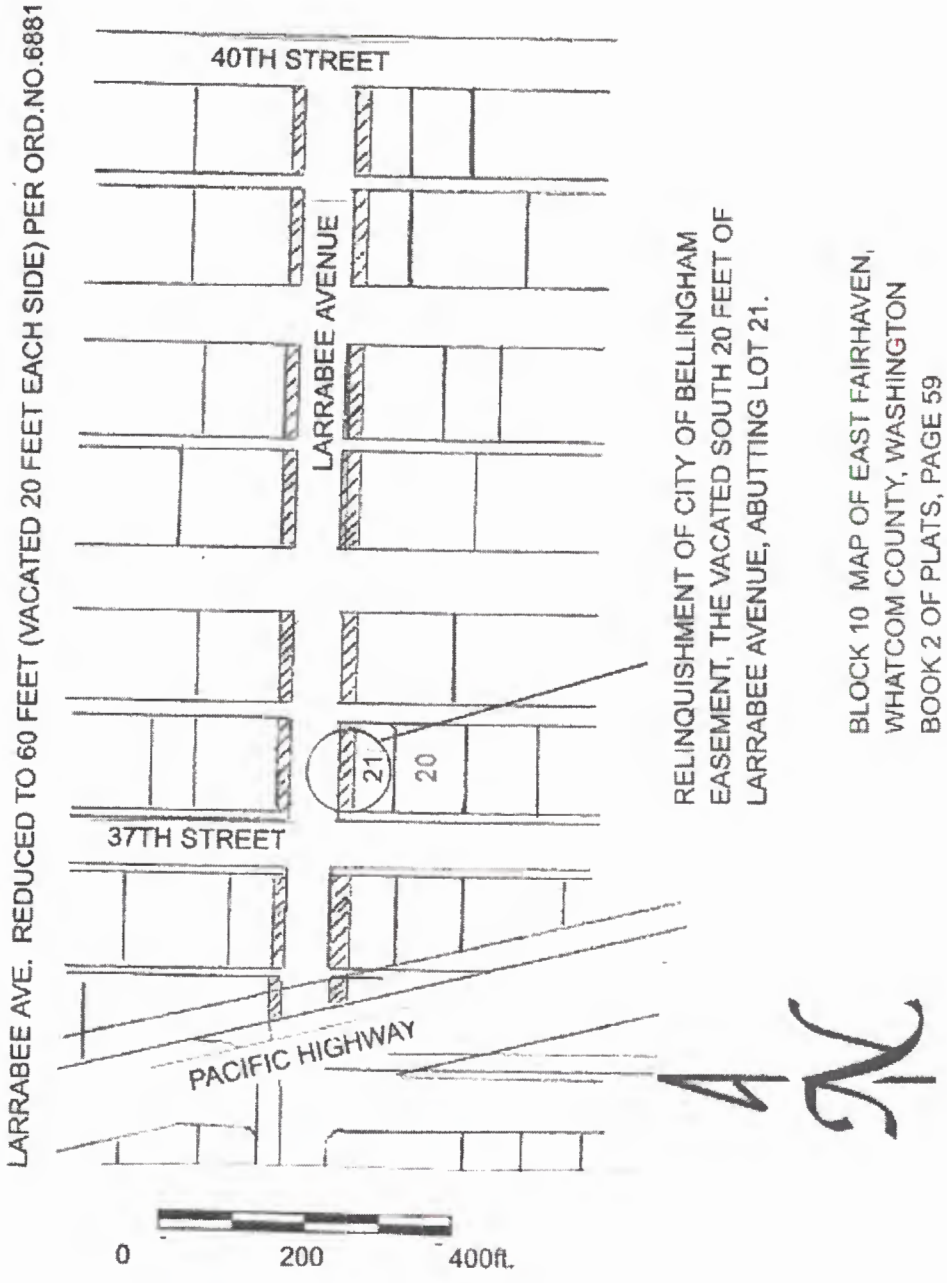

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EXHIBIT C

LOTS 20 AND 21, BLOCK 10, MAP OF EAST FAIRHAVEN, WHATCOM COUNTY, WASHINGTON, NOW PART OF THE CONSOLIDATED CITY OF BELLINGHAM, AS PER THE MAP THEREOF, RECORDED IN BOOK 2 OF PLATS, PAGE 59, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. TOGETHER WITH THE VACATED EAST 10 FEET OF 37TH STREET AND THE VACATED SOUTH 20 FEET OF LARRABEE AVENUE ABUTTING LOT 21, AS WOULD ATTACH BY OPERATION OF LAW.
SITUATE IN WHATCOM COUNTY, WASHINGTON

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EXHIBIT D

THE VACATED SOUTH 20 FEET OF LARRABEE AVENUE ABUTTING LOT 21, BLOCK 10, MAP OF EAST FAIRHAVEN, WHATCOM COUNTY, WASHINGTON, NOW PART OF THE CONSOLIDATED CITY OF BELLINGHAM, AS PER THE MAP THEREOF, RECORDED IN BOOK 2 OF PLATS, PAGE 59, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. SITUATE IN WHATCOM COUNTY, WASHINGTON

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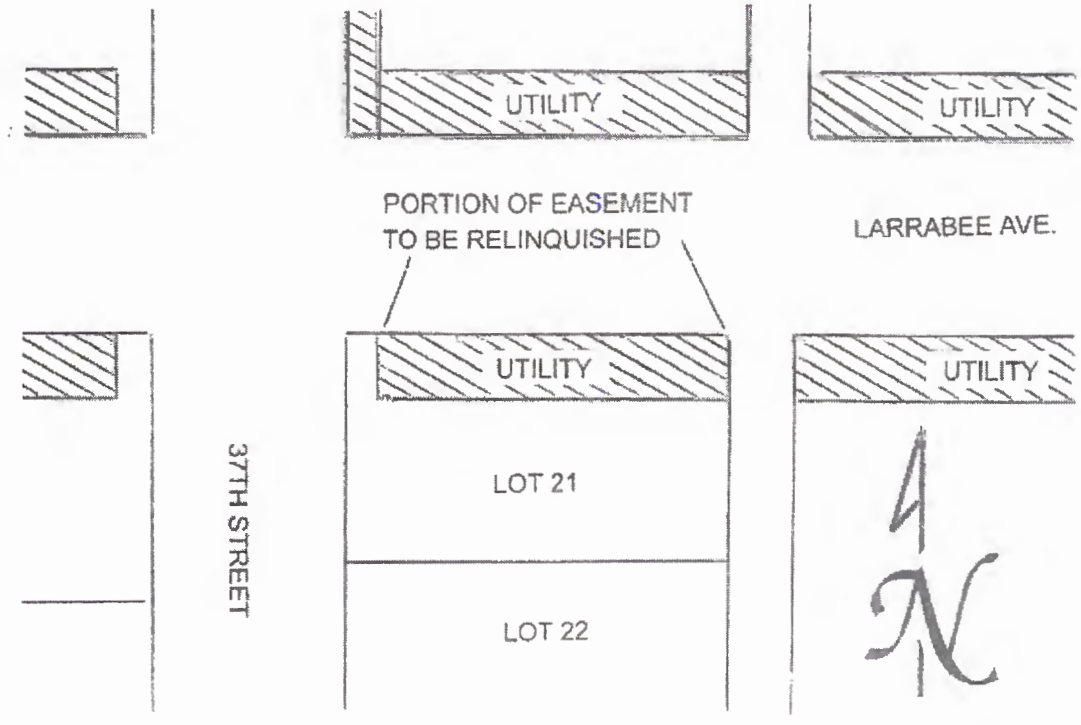
EXHIBIT E

RETAINED AREA TO BE RELEASED

115' by 20' EASEMENT RETAINED UPON
VACATION OF LARRABEE AVENUE IN
1953 (CITY ORDINANCE 6881)



RELINQUISHMENT OF CITY OF BELLINGHAM EASEMENT, THE VACATED SOUTH 20 FEET OF LARRABEE AVENUE, ABUTTING LOT 21.

0 50 100ft.

BLOCK 10 MAP OF EAST FAIRHAVEN,
WHATCOM COUNTY, WASHINGTON
BOOK 2 OF PLATS, PAGE 59

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