



# MONROE CITY COUNCIL

## Agenda Bill No. 19-013

<b>SUBJECT:</b>	<b>Authorize Mayor to Sign Utility Easement (Eaglemont 4 PRD)</b>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
01/22/2019	Public Works Design & Construction	Tom Gathmann	Brad Feilberg	<b>Consent Agenda #5</b>

**Discussion:** 01/22/2019  
**Attachments:** 1. Utility Easement Agreement

**REQUESTED ACTION:** Move to authorize the Mayor to sign the Utility Easement Agreement with Fred Ballinger; and expressly authorize further minor revisions as deemed necessary or appropriate.

### POLICY CONSIDERATIONS

*Monroe City Council Rules of Procedure reference RCW 35A.11.020; which states, among other powers, the power of each city’s legislative body “in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification or public ways, (and) real property of all kinds.”*

*Since the City Council is the legislative body for the City of Monroe, it must approve this easement acquisition.*

### DESCRIPTION/BACKGROUND

The preliminary plat for the Eaglemont 4 Planned Residential Development (PRD) was approved with conditions by the Hearing Examiner on March 3, 2017. Eaglemont 4 PRD encompasses 27.75-acres with 115 single family lots bordered on the west by 191<sup>st</sup> Avenue SE and south of Skyview Ridge PRD. The new sanitary sewer system for Eaglemont 4 includes an extension to serve property owned by Fred Ballinger and that extension lies upon Mr. Ballinger’s property. MainVue WA, LLC, the owner and developer of Eaglemont 4, have obtained a public utility easement for the sanitary sewer facilities on the Ballinger property. The City of Monroe must accept the easement prior to recording at the Snohomish County Auditor’s Office.

### FISCAL IMPACTS

None.

### TIME CONSTRAINTS

The easement must be accepted and recorded prior to, or concurrent with, the final plat approval of the second phase of the Eaglemont 4 PRD.

### ALTERNATIVES

No reasonable alternatives. There are no negative impacts to accepting this easement and without the easement the City will not be able to access the sewer main for maintenance activities.

AFTER RECORDING, RETURN TO:

City of Monroe  
c/o City Clerk  
806 West Main Street  
Monroe WA 98272

**UTILITY EASEMENT AGREEMENT**

**Grantor:** Fred Ballinger

**Grantee:** City of Monroe

**Legal Description:** That portion of Lot 2 of City of Monroe Boundary Line Adjustment BLA2016-02  
and that portion of Lot 1 City of Monroe Short Plat SP2011-01

**Assessor's Tax Parcel ID#:** 28063600105400 & 28063600105300

{JZL1784827.DOC;1/13011.900000/ }

## UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT ("Easement"), is made this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between Fred Ballinger ("Grantor"), and the City of Monroe, a Washington municipal corporation ("Grantee").

### WITNESSETH:

A. WHEREAS, Grantor owns fee simple title in the property legally described in Exhibit A, attached hereto and incorporated by this reference as if set forth in full ("the Property"); and,

B. WHEREAS, Grantee desires a permanent easement in, along, over, under and across the Property for utility purposes, including without limitation the installation and operation of sanitary sewer facilities; and

C. WHEREAS, Grantor agrees to grant such easement to Grantee in consideration of ten dollars (\$10.00) in hand paid, and such other consideration, the receipt and sufficiency of which is hereby mutually acknowledged.

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Permanent Easement. Grantor hereby grants to Grantee a perpetual easement in, along, over, upon and under the Property in the location legally described in Exhibit B and depicted in Exhibit C, incorporated by this reference as if set forth in full ("Utility Easement Area"), for the purpose of installing, constructing, operating, maintaining, expanding, removing, repairing, inspecting, testing, replacing and/or using certain utility facilities, including without limitation sanitary sewer facilities ("Grantee's Facilities") throughout said Utility Easement Area, together with all connections and appurtenances thereto, as well as reasonable rights of ingress and egress.

Section 2. Noninterference. Grantee's access to the Utility Easement Area shall be unrestricted. Grantor shall avoid and prevent interference with and/or obstruction of the Utility Easement Area and Grantee's Facilities as follows:

2.1. Grantor shall not construct or install, or allow to be constructed or installed, any building, wall, fence, rockery or structure of any kind within the Utility Easement Area unless approved in writing by Grantee. Grantee shall not cause or allow any trees, plantings or other vegetation located on the Property, including any roots thereof, to damage or otherwise interfere with Grantee's Facilities or Grantee's reasonable access thereto.

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2.2. Grantor shall not deposit, or allow to be deposited, any fill material within the Utility Easement Area.

2.3. Grantor shall not dig, tunnel or excavate, or allow any digging, tunneling or excavation, within three feet (3') of Grantee's Facilities, and Grantor shall ensure that the ground surface within the Utility Easement Area is maintained at the level and grade approximately extant at the time Grantee's Facilities were installed, except for minor, temporary disturbances not affecting Grantee's Facilities.

2.4. Except for utility facilities extant as of the effective date of this Easement, Grantor shall not construct or install, or allow to be constructed or installed, any other utility facilities or appurtenances of any kind, including without limitation any utility service connections, within ten (10) feet of any portion of Grantee's Facilities, unless approved in writing by Grantee.

2.5. Grantor shall not in any manner block, restrict or impede, or allow to be blocked, restricted or impeded, Grantee's access to or use of the Utility Easement Area.

2.6. Grantor shall not convey to any third party any easement, license or other interest or right of use involving the Utility Easement Area that would impair, encroach upon, interfere with or limit the easement rights granted herein.

Section 3. Easement to Run with Property. This Easement and the terms and conditions referenced herein shall be deemed covenants running with the land (subject to the terms hereof) and shall inure to the benefit of and shall be binding upon Grantor's and Grantee's respective successors and assigns.

Section 4. Costs of Maintenance. Grantee shall bear and properly pay all costs and expenses of maintenance of any utility facilities constructed or otherwise installed by Grantee within the Utility Easement Area.

Section 5. Compliance with Laws and Rules. Grantee shall at all times exercise its rights herein in accordance with the requirements of all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.

Section 6. Grantee's Use and Activities. Grantee shall exercise its rights under this Easement so as to reasonably minimize and avoid, if reasonably possible, interference with Grantor's reasonable use of the Property. Following any entry by Grantee upon the Property hereunder, Grantee agrees to restore Grantor's Property in at least as good as condition as it currently exists, and Grantee shall remove all debris and restore the surface of the Grantor's Property as nearly as possible, to the condition extant at the commencement of such work.

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Section 7. Integration; Amendment. This Easement represents the entire understanding between the parties regarding the subject matter hereof, and supersedes any prior oral agreements. This Easement may only be terminated by a recorded, acknowledged writing executed by Grantee. This Easement may be amended or modified only by a writing, mutually executed by the parties, recorded and acknowledged.

Section 8. Governing Law; Venue. This Easement shall be governed by and construed in accordance with the laws of the State of Washington. Any litigation arising out of, or in connection with, this Easement shall be conducted in Snohomish County, Washington. The substantially prevailing party in any such litigation shall be entitled to an award of its reasonable attorneys' fees and costs.

Section 9. Counterparts. This Easement may be signed in counterparts.

Section 10. Indemnification. Grantee shall indemnify, defend and hold harmless Grantor from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss or expense arising out of or otherwise resulting from Grantee's use of the Utility Easement Area. Grantor shall indemnify, defend and hold harmless Grantee from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss or expense arising out of or otherwise resulting from any breach or violation by Grantor hereunder. Each party's obligations under this section shall apply only to the extent such injury, damage loss or expense is proximately caused by the negligence or willful misconduct of that party or the party's agents or invitees.

The provisions of this section shall survive the termination of this Easement.

Section 11. Warranty of Title. Grantor represents and warrants that Grantor is the lawful owner of the Property, that the rights and privileges set forth herein do not breach or otherwise violate the legal rights of any third-party, and that Grantor is fully authorized to execute and grant this Easement.

Section 12. Signatory Warranty. Each signatory below represents and warrants that he/she has been authorized to execute this Easement on behalf of the party for which said signatory is purporting to sign.

IN WITNESS WHEREOF, the parties have caused this Easement to be executed as of the date hereinabove set forth.

GRANTOR:  
FRED BALLINGER

GRANTEE:  
CITY OF MONROE

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WITNESS my hand and official seal hereto affixed this \_\_\_\_ day of \_\_\_\_\_, 2018.

DATED: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Appointment Expires: \_\_\_\_\_

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**EXHIBIT "A"**

**PROPERTY LEGAL DESCRIPTIONS**

**APN 28063600105400:**

LOT 2 OF CITY OF MONROE BOUNDARY LINE ADJUSTMENT FILE NO. BLA 2016-02, RECORDED UNDER AUDITOR FILE NO. 2016032165009, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

**APN 28063600105300:**

LOT 1 OF CITY OF MONROE SHORT PLAT NO. SP2011-01, RECORDED UNDER AUDITOR FILE NO. 201207185001, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

Project Name: Plat of Eaglemont 4  
December 3, 2018  
Revised: December 19, 2018

BDG / JSE / KMA  
17841L.005.doc



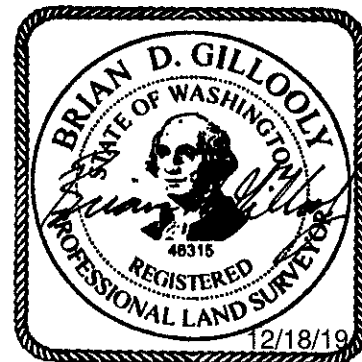
**EXHIBIT "B"**

**LEGAL DESCRIPTION**

**OFFSITE SEWER EASEMENT**

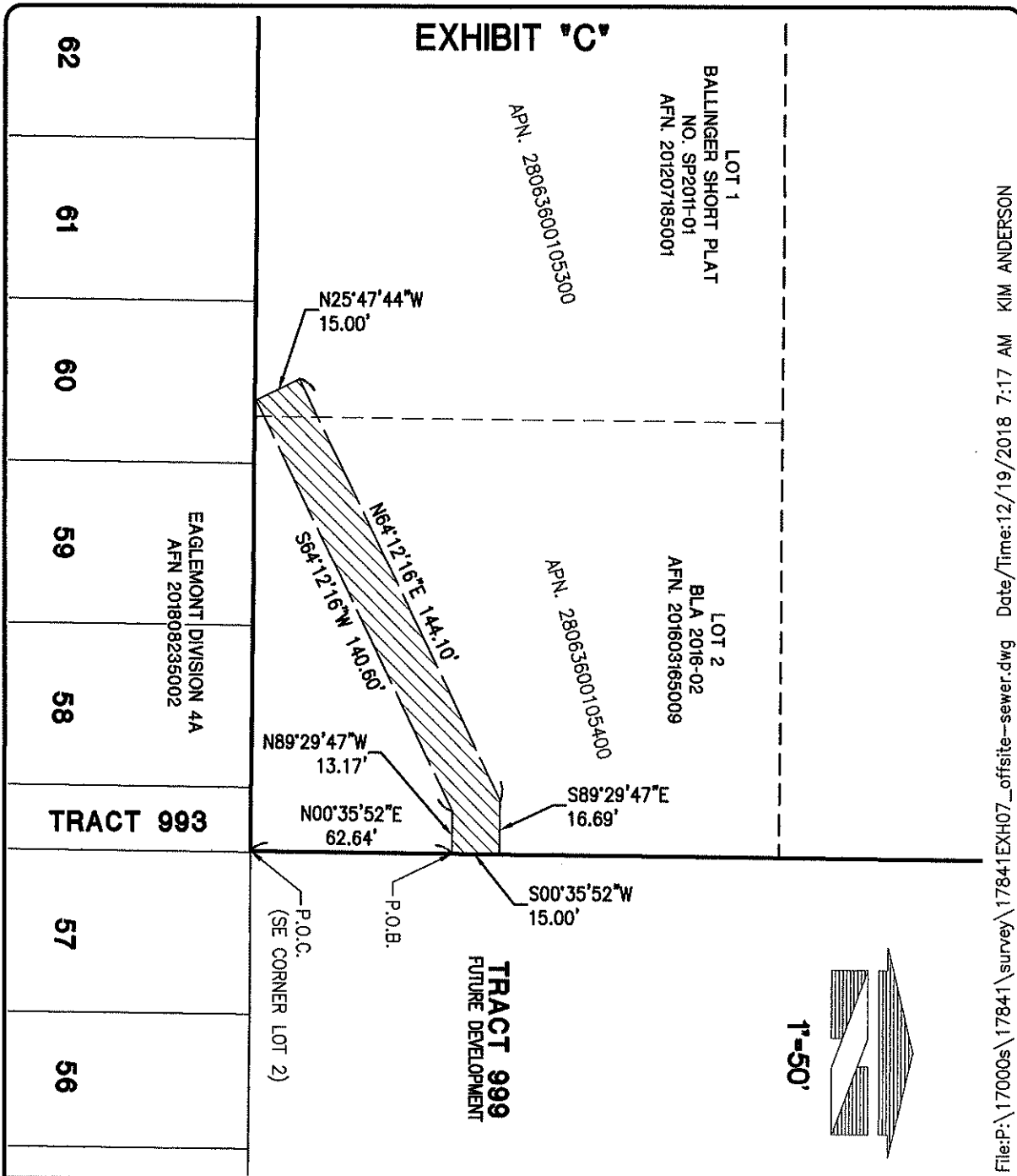
THAT PORTION OF LOT 2 OF CITY OF MONROE BOUNDARY LINE ADJUSTMENT FILE NO. BLA 2016-02, RECORDED UNDER AUDITOR FILE NO. 2016032165009 AND THAT PORTION OF LOT 1 OF CITY OF MONROE SHORT PLAT NO. SP2011-01, RECORDED UNDER AUDITOR FILE NO. 201207185001, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 2 OF CITY OF MONROE BOUNDARY LINE ADJUSTMENT BLA 2016-02;  
THENCE NORTH 00°35'52" EAST, 62.64 FEET ALONG THE EAST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING;  
THENCE NORTH 89°29'47" WEST, 13.17 FEET;  
THENCE SOUTH 64°12'16" WEST, 140.60 FEET;  
THENCE NORTH 25°47'44" WEST, 15.00 FEET;  
THENCE NORTH 64°12'16" EAST, 144.10 FEET;  
THENCE SOUTH 89°29'47" EAST, 16.69 FEET TO SAID EAST LINE OF LOT 2;  
THENCE SOUTH 00°35'52" WEST, 15.00 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.



Project Name: Plat of Eaglemont 4  
December 3, 2018  
Revised: December 19, 2018

BDG / JSE / KMA  
17841L.005.doc



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<b>SCALE:</b> HORIZONTAL 1"=50' VERTICAL N/A	<b>For:</b> <b>PLAT OF</b> <b>EAGLEMONT 4</b>	<b>JOB NUMBER</b> <b>17841</b>
	<b>Title:</b> <b>OFFSITE SEWER</b> <b>EASEMENT</b>	17841L.005.DOC  <b>SHEET</b> <b>1 of 1</b>
<b>DESIGNED</b> XXX <b>DRAWN</b> JSE <b>CHECKED</b> BDG <b>APPROVED</b> BDG <b>DATE</b> 12/03/18		