

September 9, 1991  
Mueller.ord NM:mcp  
clerk:jym

Introduced by: Audrey Gruger

Proposed No.: 91-318

ORDINANCE NO. **10094**

AN ORDINANCE authorizing the executive to grant to Randy Mueller an easement for ingress, egress and utilities through Tracy Owen Station Park in Council District 1.

STATEMENT OF FACTS

1. In accordance with the provisions of R.C.W. 36.68.010 and K.C.C. 4.56.010, the King County council may authorize the King County executive to grant an easement through county property.

2. Randy Mueller has requested a 20-foot wide access easement through a strip of land acquired as a part of Tracy Owen Station Park. The easement provides the only viable access to Mr. Mueller's landlocked property.

3. Tracy Owen Station Park property was acquired by King County in 1973 utilizing federal and state funding. The Interagency Committee for Outdoor Recreation and the National Park Service have reviewed and recommended approval of Mr. Mueller's easement request. As a condition of obtaining the easement, Mr. Mueller was required to provide compensation, either in the form of land of comparable value or monetary compensation to be used for future park acquisitions in the area. Mr. Mueller agreed to pay compensation for the easement.

4. An appraisal established that just compensation for this easement would be \$11,500.

5. The natural resources and parks division finds that the granting of an easement for ingress, egress and utilities will not interfere with the use of the park property and that the surface and subsurface rights are surplus to the county's foreseeable needs.

6. The council of King County finds that granting this easement would be in the best interests of the people of King County.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The executive is hereby authorized to sign and deliver to Randy Mueller an easement for ingress, egress and utilities, substantially in the form of attached Exhibit "A", over, under, across, and upon the following described property, situate in King County, Washington.

A strip of land 20 feet in width in Government Lot 4, Section 11, Township 26 North, Range 4 East, W.M., described as follows:

Beginning at the Government Meander corner common to Section 10 and 11, Township 26 North, Range 4 East, W.M., and proceeding thence South 33°05'12" East 61.93 feet to the Northwesterly corner of the land herein described and the True Point of Beginning; thence South 33°05'12" East 20.44 feet to a point on a line parallel to and distant

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45.00 feet Southerly from the center line of the Northern Pacific Railway right of way; thence along said line on the arc of a curve to the right having an initial course of North 44°46'22" East and a radius of 774.02 feet, a distance of 481.46 feet; thence North 17°53'51" West 20.00 feet to the Southerly boundary of the Northern Pacific Railway right of way; thence along said Southerly boundary of Northern Pacific Railway right of way on the arc of a curve to the left having a radius of 794.02 feet to the True Point of Beginning.

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SECTION 2. This easement shall only be granted by King County after the grantee satisfies all relevant codes and ordinances of King County necessary to obtain a residential building permit.

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INTRODUCED AND READ for the first time this 26<sup>th</sup> day of August, 1991.

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PASSED this 9<sup>th</sup> day of September, 1991.

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KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Lois North  
Chair

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ATTEST:

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Gualdo L. Pott  
Clerk of the Council

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APPROVED this 20<sup>th</sup> day of September, 1991.

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Jim Hill  
King County Executive

ACCESS EASEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between King County, a political subdivision of the State of Washington, hereinafter called the Grantor, and Randy Mueller, hereinafter called the Grantee.

WITNESSETH:

WHEREAS, the Grantor herein is the owner of that certain parcel of land described as follows:

A strip of land 20 feet in width in Government Lot 4, Section 11, Township 26 North, Range 4 East, W. M., described as follows:

Beginning at the Government Meander corner common to Sections 10 and 11, Township 26 North, Range 4 East, W. M., and proceeding thence South 33°05'12" East 61.93 feet to the Northwesterly corner of the land herein described and the True Point of Beginning;  
thence South 33°05'12" East 20.44 feet to a point on a line parallel to and distant 45.00 feet Southerly from the center line of the Northern Pacific Railway right-of-way;  
thence along said line on the arc of a curve to the right having an initial course of North 44°46'22" East and a radius of 774.02 feet, a distance of 481.46 feet;  
thence North 17°53'51" West 20.00 feet to the Southerly boundary of the Northern Pacific Railway right-of-way;  
thence along said Southerly boundary of Northern Pacific Railway right-of-way on the arc of a curve to the left having a radius of 794.02 feet to the True Point of Beginning.

The said Grantor for and in consideration of \$11,500.00 dollars, receipt of which is hereby acknowledged, do by these presents grant unto the said Grantee, his heirs, successors, and assigns, an access easement for ingress, egress, and utilities over, through, across, and under the above described property situated in King County, Washington.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

GRANTEE:  
RANDY MUELLER

GRANTOR:  
KING COUNTY, WASHINGTON

BY \_\_\_\_\_

BY \_\_\_\_\_  
Tim Hill

TITLE \_\_\_\_\_

TITLE County Executive

DATE \_\_\_\_\_

DATE \_\_\_\_\_

APPROVED AS TO FORM:

BY  \_\_\_\_\_  
Deputy Prosecuting Attorney

DATE 3.13.91

STATE OF WASHINGTON)  
  ) ss  
COUNTY OF KING          )

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I certify that \_\_\_\_\_

signed this instrument on oath stated that he was authorized by the King  
County Executive to execute the instrument, and acknowledged it as the  
\_\_\_\_\_ of King County, Washington

to be the free and voluntary act of said County for the uses and purposes men-  
tioned in the instrument.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at \_\_\_\_\_

STATE OF WASHINGTON)  
  ) ss  
COUNTY OF KING          )

On this day personally appeared before me \_\_\_\_\_

to me known to be the person who signed the above and foregoing instrument for  
the uses and purposes therein stated and acknowledged to me that he signed the  
same as the free and voluntary act and deed of the \_\_\_\_\_  
and that he was authorized to so sign.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

Terms and conditions applicable to the easement granted by King County.

1. PERMIT REQUIRED

Before any work is performed under this agreement, Grantee must obtain a right of way construction permit or a utility use permit from the Real Property Division. Before any permit will be issued, Grantee must submit complete plans and specifications of the proposed project including details of landscaping, and comply with any and all other provisions as more specifically set forth in the permit application.

2. RESTORATION AFTER INSTALLATION

After any construction by the Grantee involving the use of Grantor's property, Grantee will return the Grantor's property to its original condition or to a condition satisfactory to the Grantor, by repairing any damage done to Grantor's property, including but not limited to: property damage to slopes, shrubbery, landscaping, fencing, roadway or structures.

3. DAMAGES

If any damage is caused by reason of performing any act authorized by this easement, Grantee will promptly pay the damaged party the amount necessary to put the damaged party in the position he would have been in had the damage not occurred.

King County will not be held liable to Grantee for any damages that may occur by reason of the County's or other governing body's improvements, repairs, or maintenance, or by the exercise of any rights reserved in this section.

4. EMERGENCY SITUATIONS

In the event of an emergency, the Grantee will take immediate steps to perform any necessary repairs. If the Grantee fails to perform any necessary repairs, the Grantor may do all work necessary at the sole cost and expense of Grantee.

5. ASSESSMENTS

Grantor and its property shall not be subjected to any charge, assessment or expense resulting from Grantee's easement, excepting those agreed upon prior to the granting of this Easement. If the Grantor or its property is legally subjected to any charge, assessment or expense after the granting of this Easement, Grantee will pay Grantor, as additional compensation for rights granted by this document, the amount of charge, assessment or expense paid by the Grantor.

6. INDEMNITY AND HOLD HARMLESS

The Grantee agrees to indemnify and hold harmless King County as provided herein to the maximum extent possible under law. Accordingly, the Grantee agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Grantee's exercise of rights and privileges granted by this easement. The Grantee's obligations under this section shall include:

(a) Indemnification for such claims whether or not they arise from the sole negligence of either the County or the Grantee, the concurrent negligence of both parties, or the negligence of one or more third parties.

(b) The duty to promptly accept tender of defense and provide defense to the County at the Grantee's own expense.

(c) Indemnification of claims made by the Grantee's own employees or agents.

(d) Waiver of the Grantee's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable from the Grantee.

In the event it is determined that RCW 4.24.115 applies to this easement agreement, the Grantee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Grantee's negligence. Grantee agrees to defend, indemnify, and hold harmless the County for claims by Grantee's employees and agrees to waiver of its immunity under Title 51 RCW, which waiver has been mutually negotiated by the parties.

#### 7. NON-EXCLUSIVE EASEMENT

This easement is not exclusive. It does not prohibit King County from granting other easements of a similar nature or easements for other public or private utilities in, under, over, and across any County property.

#### 8. JURISDICTION

This easement is not a warranty of title or title of interest in County property. It is intended to convey limited rights and interest only for the construction, operation, maintenance, and repair of Grantee's facilities and appurtenances on County property in which King County has an actual interest.

This easement does not affect King County's jurisdiction over any County property covered by this easement.

This easement does not deprive King County of any powers, rights or privileges it now has or may later acquire in the future to regulate the use of and to control the County property covered by this easement.

#### 9. RESERVATIONS

Grantor reserves to itself, licensees, lessees, successors and assigns, the right to continue to keep, use, or operate all other facilities or structures now on, under, or over the described easement. The Grantor also reserves the right to install, use or operate other facilities and structures.

#### 10. REMOVAL OR RELOCATION OF FACILITIES

In the event of any development by King County which includes use of the property encumbered by this easement, the Grantee shall upon written request of King County relocate or remove Grantee's facilities at its own expense. Such relocation or removal shall be accomplished within 60 days of the date that the request is received.

#### 11. EMINENT DOMAIN

This easement and limited rights and interest for the construction, operation, maintenance, and repair of grantee's facilities and appurtenances are subject to the exercise of eminent domain. In the event of an exercise of eminent domain by King County, the value to be attributed to all the rights granted under this easement shall not exceed the actual amount paid to King County in consideration of the granting of this easement.

#### 12. TERMINATION AND ABANDONMENT

In the event that the Grantee abandones or discontinues the use of the easement for the purposes expressed in this document, or if the Grantee violates any provision of this document, the Grantee's easement will terminate.

Upon termination, the Grantee will surrender possession of the easement premises to the Grantor, and title to the easement premises will remain in the Grantor, its successors or assigns, free of any and all claims of the Grantee.

In the event that Grantee's easement is terminated for any reason, Grantee will remove, at its sole expense, all facilities placed on the easement property by the Grantee, and will restore the property to the condition that existed before the installation of facilities, or to a condition that is satisfactory to the Grantor.

If the Grantee has not completed removal and restoration within ninety (90) days after being notified that its easement has been terminated, revoked, or abandoned, the Grantor may do all work necessary to remove facilities of Grantee and restore the easement property. The Grantee will be responsible for the costs incurred by the Grantor in any removal of facilities or restoration of easement property.

#### 13. ASSIGNMENT

The Grantee may not assign this easement or any rights acquired under it without the prior written consent of the Grantor. All terms and conditions of this easement are binding upon the heirs, successors and assigns of the Grantee, and all privileges and obligations of the Grantee apply to its heirs, successors and assigns as if they were specifically mentioned wherever the Grantee is mentioned.

#### 14. HIRING AND EMPLOYMENT

In all hiring or employment made possible or resulting from this agreement, there shall be no discrimination against any employee or applicant for employment because of sex, sexual orientation, age, race, color, religion, national origin, marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification, and this requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this agreement on the ground of sex, sexual orientation, race, color, religion, national origin, age (except minimum age and retirement provisions), marital status, or the presence of any sensory, mental or physical handicap.

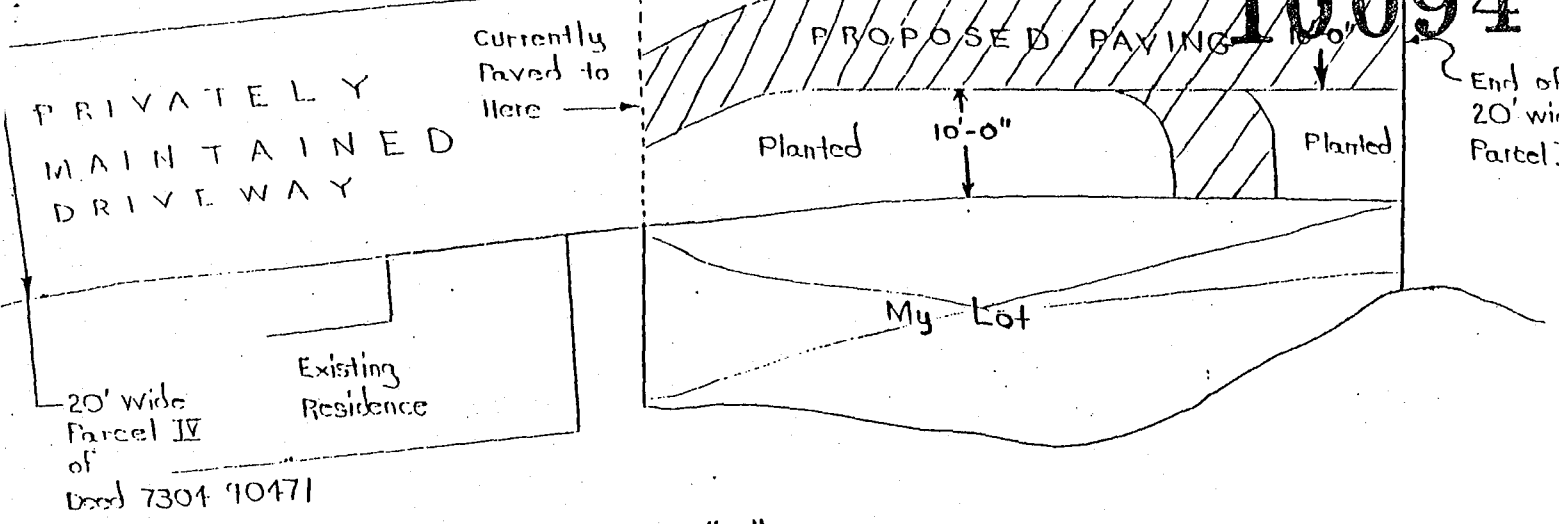
Any violation of this provision shall be considered a violation of a material provision of this agreement and shall be grounds for cancellation, termination or suspension in whole or in part of the agreement by the County and may result in ineligibility for further County agreements.

The Grantee shall make the best efforts to make opportunities for employment and/or contracting services available to women and minority persons. The Grantee recognizes that King County has a policy of promoting affirmative action, equal opportunity and has resources available to assist Grantee in these efforts.

#### 15. OTHER APPLICABLE LAWS

Grantee will comply with all federal, state and local laws, and will assume all cost, expense, and responsibility in connection with compliance, without any liability on the part of the Grantor.

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INSET "A"

