

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

City of Auburn
25 W Main
Auburn, WA 98001
ATTN: Josh Arndt

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of or any warranty contained in the document itself.

Document Title: Easement Agreement
Grantor: City of Auburn, a Washington municipal corporation
Grantee: MSRE Apartment, LLC, a Washington limited liability company
Tax Parcel ID Numbers: 733140-0135
Q-S-T-R of burdened property: SW-18-21-5
Full Legal Descriptions Located: Exhibits A, B, C and D

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2021 (the “Effective Date”), by and between City of Auburn, a Washington municipal corporation (“Grantor”), and MSRE Apartment, LLC, a Washington limited liability company (“Grantee”).

RECITALS

A. Grantor is the owner of real property more particularly described and depicted in **Exhibit A**, attached hereto and incorporated herein by reference (“Grantor Property”).

B. Grantee is the owner of real property more particularly described and depicted in **Exhibit B**, attached hereto and incorporated herein by reference (“Grantee Property”)

C. In connection with the proposed development of the Grantee Property, Grantor has agreed to sell and grant the following easements to Grantee over the Grantor Property in exchange for TWO HUNDRED AND FIVE THOUSAND DOLLARS (\$205,000): one for vehicular ingress and egress from Grantee’s Property through the drive aisles of the parking lot comprising the Grantor Property to an adjoining public street, a second for exclusive parking for the loading and

unloading of parcels, furnishings, and equipment, the location of which at the time of executing this Agreement being depicted in **Exhibit C**; and a Fire Service Easement, to install and maintain a fire line water facility located in that area of the Grantor's property described and depicted in **Exhibit D**, attached hereto, by upon the terms and conditions set forth in this Agreement. The size, shape, and location of each such easement is herein called the "Easement Areas".

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. **Grant of Access Easement.** Grantor, on behalf of Grantor and Grantor's successors and assigns, hereby grants and conveys to Grantee a perpetual non-exclusive easement over, across, and through the drive aisles of the parking lot on Grantor's Property (Exhibit A) solely for purposes of vehicular access to Grantee's Property to and from an adjoining public street (the "Access Easement Area"). Grantor reserves the right in its sole and absolute discretion to relocate, remove, or add to the number of ingress/egress points of access to and from a public street, and control, amend, alter, direct, or redirect the flow and direction of vehicular traffic and drive aisles on Grantor's Property provided that, with the exception of what may currently exist at the execution of this Agreement, the revised Access Easement Area shall meet all applicable governing code requirements for legal drive aisles, the Access Easement Area shall maintain a minimum clear height of 12 feet and the revised Access Easement Area shall provide Grantee with functional access to Grantee's Property. Grantor is responsible, at its sole cost and discretion, for the maintenance, reconfiguration, repair, replacement and care (together "Work") to the surface and subsurface of the Grantor's property located within the Access Easement Area. The Grantor has full discretion and authority as to the type of surface, manner of repair, and manner of replacement of the surface and subsurface used or placed upon Grantor's property, and all other aspects of any Work performed in the Access Easement Area. Grantee acknowledges that the Work may result in blocked access to the Access Easement Area for those periods of time reasonably required to accomplish the Work. Grantor will make all reasonable accommodations to protect, maintain and minimize interruption of access to the Grantee's property while conducting its Work, including providing for an alternative route to the extent possible. Grantee shall reimburse Grantor for the reasonable cost to repair any damage to the Access Easement Area specifically caused by Grantee, its employees, contractors or agents. If Grantee fails to do so within ninety (90) days of notice by Grantor, which shall include reasonable supporting documentation, the unpaid amount for such repair shall be secured by a continuing consensual lien on the dominant estate for the benefit of Grantor.

In exercising Grantee's right of ingress and egress over, across and through the Access Easement Area, Grantee will make all reasonable accommodations to minimize interruption of and protect and maintain access by the public, if the Area is open to the public. Grantee shall diligently remove or cause to have removed any obstructions to vehicular travel in the Access Easement Area caused by Grantee or Grantee's employees, contractors, agents, licensees, lessees, or guests ("Grantee's guests" is defined as any individual, or individuals living, visiting, or working in, at, or on Grantee's Property).

2. Grant of Exclusive Parking Easement. Grantor, on behalf of Grantor and Grantor's successors and assigns, hereby grants and conveys to Grantee a perpetual exclusive easement for parking over and upon that portion of Grantor's Property depicted in **Exhibit "C"** (the "Parking Easement Area") for purposes of loading and unloading parcels, furniture, fixtures, equipment and materials (the "Parking Easement"). Grantor in its sole cost and discretion is responsible for the maintenance, repair, replacement and care (together "Work") to the surface and subsurface of the Grantor's property located within the Parking Easement Area. The Grantor has full discretion and authority as to the type of surface, manner of repair and manner of replacement of the surface and subsurface used or placed upon Grantor's property, but covenants that all Work will be performed in a commercially reasonable manner and all Work and materials will meet the existing codes. Grantor will make all reasonable accommodations to minimize interruptions of, and protect and maintain access to the Grantee's property while fulfilling its work obligations, however Grantee acknowledges that the Work may result in blocked access to the Parking Easement Area for periods of time. Unless Grantor is performing Emergency Work (being defined as repair, replacement or restoration of the Grantor's Property or a facility or utility located on, above or below Grantor's Property not otherwise planned and being made necessary to protect persons or property from imminent exposure to danger, or work to restore utility services), Grantor further agrees to temporarily relocate the Parking Easement Area if Grantor does Work that will result in inaccessibility to the Parking Easement Area for more than 48 hours.

2.1 Size and Location of the Parking Easement. The initial location of the Parking Easement Area is set forth in **Exhibit C**. Grantor reserves the right to relocate Parking Easement Area from time-to-time after no less than 7 days written notice to Grantee. Grantor agrees to work in good faith with Grantee to identify the relocation area of Parking Easement Area and to relocate it to a reasonable location. The Grantor may modify the size and shape of the Parking Easement Area in connection with such relocation provided that the modification maintains approximately the same length and width as the area depicted in **Exhibit C** and a 12ft minimum clear height, so as to not diminish the utility of the Parking Easement for Grantee's intended purpose identified above (such as the new Parking Easement is reasonably close to Grantee's Property). Temporary relocation of the Parking Easement Area resulting from Work being performed by Grantor shall not be subject to size requirements, only that the temporary relocation area meet City code requirements of a legal parking stall. The Temporary relocation means the duration of such relocation is less than 30 days.

2.2 Signage. Grantee shall have the right at Grantee's expense to designate and mark Grantee's Parking. Grantee covenants to obtain all necessary permits for signing the Parking Easement Area.

2.3 Leasehold Excise Tax. Grantee shall pay to City upon execution of this agreement the leasehold excise tax required by Chapter 82.29A RCW, or 12.84% of the portion of Grantee's payment to City that is compensation for the city's grant of the Parking Easement. City and Grantee agree that the excise tax amount is \$2,447.95.

3. Fire Service Easement. Grantor, on behalf of Grantor and Grantor's successors and assigns, hereby grants and conveys to Grantee a, perpetual nonexclusive easement under, over,

through and across Grantor's property for the purpose of laying, maintaining, and installing a fire line water facility (the "Fire Service Facility") upon that portion of Grantor's Property located five feet on either side of the centerline of the Fire Service Facility, more specifically described and depicted in **Exhibit D** (the "Fire Service Easement Area").

Grantor additionally grants to the Grantee, the use of such additional area immediately adjacent to the Fire Line Easement Area as shall be required for the construction, maintenance and operation of said fire line facilities, provided Grantee shall use reasonable efforts to not block, restrict or impeded access or full use of the Grantor's property. The use of such additional area shall be held to a reasonable minimum and in the case of any damage or disruption of Grantor's Property, the Grantee shall return the property to a condition reasonably comparable to its condition as it existed immediately before entry and/or work was performed by the Grantee or its agents.

Grantee shall coordinate all construction, maintenance and similar activities in the Fire Line Easement Area with Grantor so as to minimize disruption to the public's access over the Easement Area

4. Conditions of Easements. The Easements are granted subject to and conditioned upon the following terms, conditions, and covenants which the parties, their agents, tenants, successors and assigns, agree to fully observe and perform:

4.1 Rights of Easement. Grantee, its agents, contractors, subcontractors and their respective successors and assigns, shall have the use of the Easement Areas for the purposes identified in Section 1, 2 and 3 above, and shall have the right to use abutting land adjoining the Easement Areas when necessary for the fulfilment of Grantee's purposes described in Section 3. Grantee shall, at all times, leave intact all security facilities around the Grantor Property (if any) and shall, upon entering and leaving the Grantor Property, secure all gates, fences, and other security facilities against intrusion by third parties (if and when applicable). No such security facilities shall impede Grantee's use of the Easement Areas.

4.2 Permissible Use. Grantee agrees it will use the Easement Areas only for purposes set forth in this Agreement.

4.3 Improvements and Activities. Except with respect to the Fire Line Facility, any Improvements constructed in the Easement Areas shall be owned by Grantor, and the expense of installation and construction of any improvements to the Grantor's property (the "Parking Lot Improvements") from time to time shall be paid by Grantor. Grantee shall neither construct, erect, or install any improvements or structures within the Parking and Access Easement Areas, nor have any obligations or expense with respect to any Parking Lot Improvements.

4.4 Retained Rights. In addition to those specific rights reserved in Sections 1, 2 and 3 above, Grantor shall have all rights to the Easement Area(s) not granted hereby. Without limiting the foregoing, Grantor shall have all rights, except for the rights that have been explicitly given to Grantee in this Agreement, to enter, cross and occupy the Easement Areas, to permit the

public to do so, and to construct driveways and walk-ways and other Parking Lot Improvements there on which are consistent with the rights granted Grantee hereunder.

4.5 Assignment and Successors. The rights and obligations of the parties set forth in this Agreement shall inure to the benefit of, and shall be binding upon, their respective successors and assigns.

5. Indemnification. Grantee, its successors and assigns, releases, covenants and agrees to defend, indemnify and hold harmless Grantor and Grantor's officers, employees, representatives, agents, successors and assigns (hereinafter collectively the "Indemnitees") from all claims, losses, expenses, liens (including, without limitation, liens or claims for services rendered for labor or materials furnished), encumbrances, liabilities, penalties, judgments, settlements, fines, damages, environmental response and cleanup costs, actions (civil, criminal or administrative), and costs, including without limitation, attorney's fees, court costs, consultant fees, expert fees and other litigation-related expenses, brought against, imposed upon, suffered by or paid by Grantor and arising out of or in connection with or resulting from, indirectly or directly, the use by Grantee, its agents, employees, tenants, contractors, invitees, and successors and assigns of the easement areas defined throughout this Agreement.

6. Automatic Easement Termination. The rights granted within this easement are specific to the development and construction of the improvements as permitted by the City of Auburn under building permit **BLD19-0154**. Upon the building being demolished, this Agreement and all rights and privileges granted within this Agreement will automatically terminate. Notwithstanding the foregoing, the rights granted herein shall not terminate if the improvements are damaged or destroyed by earthquake, fire or other casualty and Grantee or its successor diligently commence and pursue reconstruction or replacement of the improvements within a commercially reasonable period of time and in compliance with then applicable codes and ordinances.

7. General Provisions. The following general provisions shall apply with respect to this Agreement:

7.1 Successors and Assigns. The rights and obligations created pursuant to this Agreement shall bind all subsequent owners of the Grantor and Grantee's Property, as described in **Exhibits A & B**.

7.2 Running Covenants. The terms, and conditions, covenants and easements in this Agreement shall be deemed to be covenants running with the land and shall inure to and be binding upon the successors, assigns, heirs, and personal representatives of all the parties.

7.3 Legal Construction. This easement agreement will not be construed more or less favorably between the Parties by reason of authorship as both Parties had an opportunity to have the document reviewed by their counsel. This agreement may be executed in duplicate original counterparts and all copies of this agreement so executed shall be deemed to be one agreement.

7.4 Entire Agreement; Modifications. This Agreement represents the entire understanding between the parties with respect to the transactions contemplated herein and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision in this Agreement may be waived, modified, amended, discharged, or terminated, except by an instrument in writing signed by both parties and then, only to the extent set forth in such instrument.

7.5 Notices. Any notice required or permitted to be delivered under this Agreement shall be in writing and shall be validly given and made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing. If such notice is personally delivered, it shall be deemed given and received at the time of such delivery. If such notice is delivered by UPS, Federal Express, or other overnight delivery service of recognized standing, it shall be deemed given one (1) business day after the deposit with such delivery service. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is given, as follows:

If to Grantor:	City of Auburn City Attorney's Office Auburn, Washington 98001 Attn: City Attorney Email: N/A Phone: (253) 804 3108
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If to Grantee:	MSRE Apartments, LLC 334 Wells Avenue S., Suite G Renton, Washington 98057 Attn: Melina Lin Email: melina@ms-apartment.com Phone: (206) 686-9886
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By giving to the other party at least fifteen (15) days written notice, the parties to this Agreement and their respective successors and assigns shall have the right from time to time and at any time to change their respective address and each shall have the right to specify as its address any other address.

7.6 Severability. If one or more of the provisions of this Agreement, or its application, is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or any other application shall in no way be affected or impaired.

7.7 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

7.8 Recording. Grantee shall, at its expense, record this easement agreement with the King County Recorder. After this agreement is recorded, Grantee shall provide Grantor with a copy of the recorded easement agreement.

7.9 Attorneys' Fees. If either party shall bring suit to enforce or interpret this Agreement and a judgment is entered, the substantially prevailing party shall be paid its attorneys' fees by the other party, and all costs and expenses in connection with such suit shall also be paid to the substantially prevailing party, which sum shall be included in any such judgment or decree. Such attorneys' fees and expenses shall include those incurred before, during and after trial, including those related to any appeal.

GRANTOR:

CITY OF AUBURN, a Washington municipal corporation

By: _____
Name: Nancy Backus, Mayor

GRANTEE:

MSRE Apartments, LLC, a Washington limited liability company

By: _____
Melina Lin, Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of June, I certify that I know or have satisfactory evidence that Melina Lin is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Manager of MSRE Apartments, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Printed Name: _____
Notary Public in and for the State of Washington
residing at _____
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of February, I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (s)he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of the City of Auburn, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Printed Name: _____
Notary Public in and for the State of Washington
residing at _____
My commission expires: _____

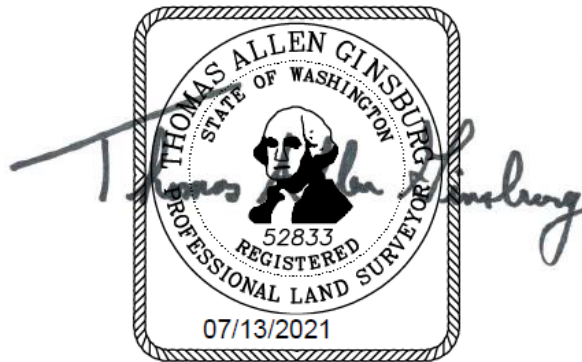
**EXHIBIT A
GRANTOR PROPERTY**

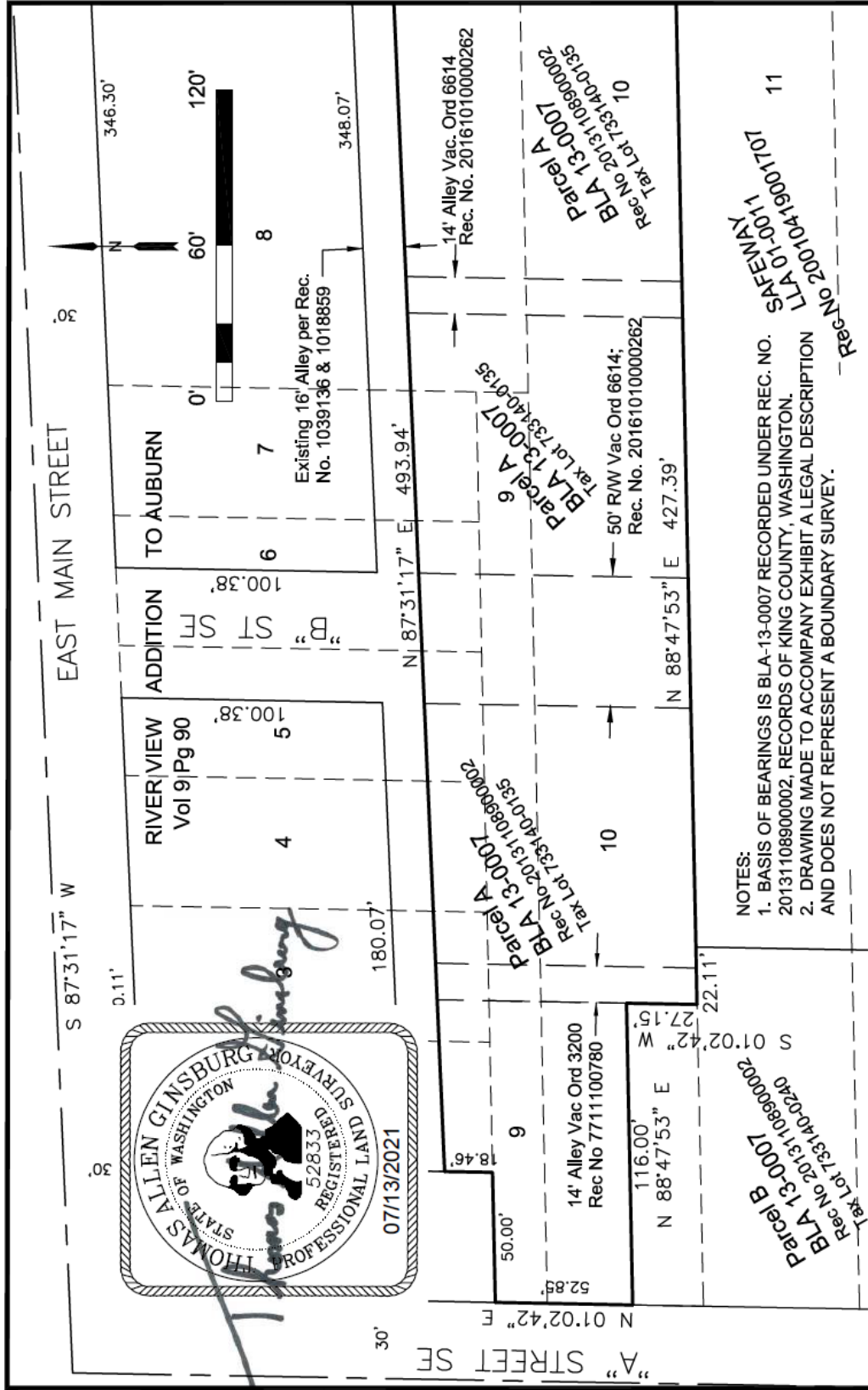
PARCEL A, CITY OF AUBURN BOUNDARY LINE ADJUSTMENT NUMBER BLA13-0007 RECORDED UNDER RECORDING NUMBER 20131108900002 RECORDS OF KING COUNTY, WASHINGTON LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 21 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, KING COUNTY, WASHINGTON;

TOGETHER WITH VACATED ADJOINING ALLEY PER CITY OF AUBURN ORDINANCE NUMBER 3200 UNDER RECORDING NUMBER 7711100780;

TOGETHER WITH VACATED ADJOINING ROAD AND ALLEY PER CITY OF AUBURN ORDINANCE NUMBER 6614 UNDER RECORDING NUMBER 20161010000262;

SITUATE IN CITY OF AUBURN, KING COUNTY, WASHINGTON.





NOTES:
 1. BASIS OF BEARINGS IS BLA-13-0007 RECORDED UNDER REC. NO. 20131108900002, RECORDS OF KING COUNTY, WASHINGTON.
 2. DRAWING MADE TO ACCOMPANY EXHIBIT A LEGAL DESCRIPTION AND DOES NOT REPRESENT A BOUNDARY SURVEY.

CITY OF AUBURN
 PUBLIC WORKS DEPARTMENT

EXHIBIT A DEPICTION
 PARCEL A, COA BLA13-0007 REC. NO. 20131108900002
 A PORTION OF THE NW 1/4 of SW 1/4 SEC 18-21-05

PROJ: FAC19-0014
 7/13/2021
 SCALE: 1"=60'
 DRAWN BY: TAG

EXHIBIT B
GRANTEE PROPERTY

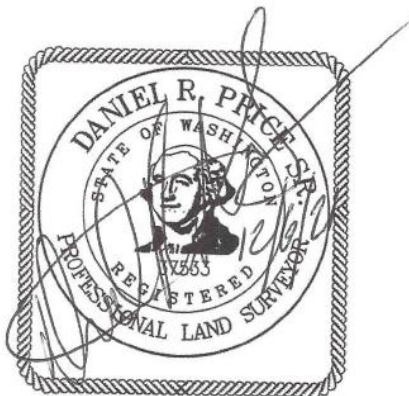
LEGAL DESCRIPTION

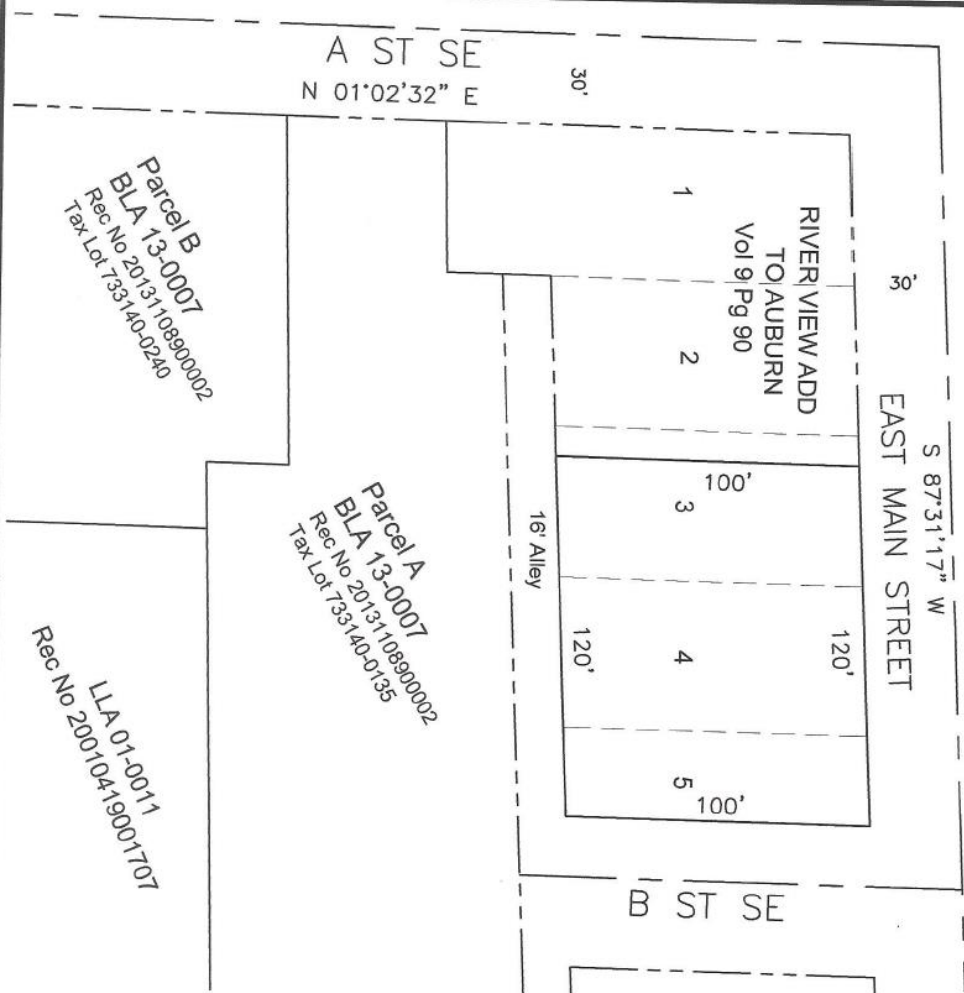
THAT PORTION OF LOTS 3, 4 AND 5, RIVER VIEW ADDITION TO AUBURN, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 9 OF PLATS, PAGE 90, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS :

BEGINNING AT A STONE MONUMENT ON THE CENTERLINE OF EAST MAIN STREET "FORMERLY FIRST STREET" WHICH IS A MORE WESTERLY OF TWO STONE MONUMENTS AT THE INTERSECTION OF EAST MAIN STREET "FORMERLY FIRST STREET" AND SOUTH "A" STREET "FORMERLY MAIN STREET" IN THE CITY OF AUBURN, BOTH OF WHICH ARE RECOGNIZED BY THE CITY OF AUBURN AS QUARTER CORNERS, THENCE NORTH $86^{\circ}56'30''$ EAST 139.5 FEET ALONG THE CENTERLINE OF SAID EAST MAIN STREET, THENCE SOUTH 30.05 FEET TO THE TRUE POINT OF BEGINNING, WHICH POINT IS SITUATED 6 INCHES WEST OF THE EAST SIDE OF THE EAST WALL OF THE ADIE BUILDING, THENCE SOUTH PARALLEL TO SAID EAST WALL 100 FEET; THENCE NORTH $86^{\circ}56'30''$ EAST PARALLEL TO THE CENTERLINE OF SAID EAST MAIN STREET, 120 FEET; THENCE NORTH PARALLEL TO THE EAST WALL OF SAID ADIE BUILDING 100 FEET; THENCE SOUTH $86^{\circ}56'30''$ WEST ALONG THE PROPERTY LINE 30 FEET SOUTH OF THE CENTERLINE OF EAST MAIN STREET, 120 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE CITY OF AUBURN, COUNTY OF KING, STATE OF WASHINGTON

(LEGAL DESCRIPTION FROM FIRST AMERICAN TITLE INSURANCE COMPANY ALTA COMMITMENT FILE NO. NCS-943856-WA1 DATED JANUARY 16, 2019)





NOTES:

1. BASIS OF BEARINGS IS SOUTH 01°02'32" WEST, BEING THE MONUMENTED CENTERLINE OF A STREET SE.
2. DRAWING MADE TO ACCOMPANY EXHIBIT B LEGAL DESCRIPTION AND DOES NOT REPRESENT A BOUNDARY SURVEY.

EXHIBIT B DEPICTION
GRANTEE PROPERTY
A PORTION OF THE NW 1/4 of SW 1/4 SEC 18-21-05

DWN. BY	SCALE	
DRP	1"=60'	6 DEC 2021

DAN PRICE LAND SURVEYING
17923 52ND AVE E. #B
TACOMA, WA 98446
CELL (253) 377-7647



[illegible]

EXHIBIT D
FIRE SERVICE EASEMENT AREA

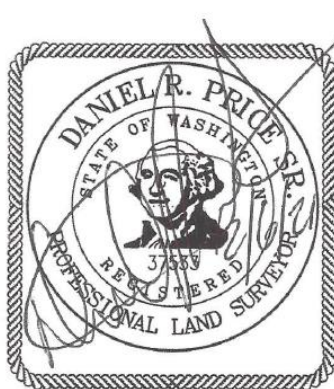
LEGAL DESCRIPTION

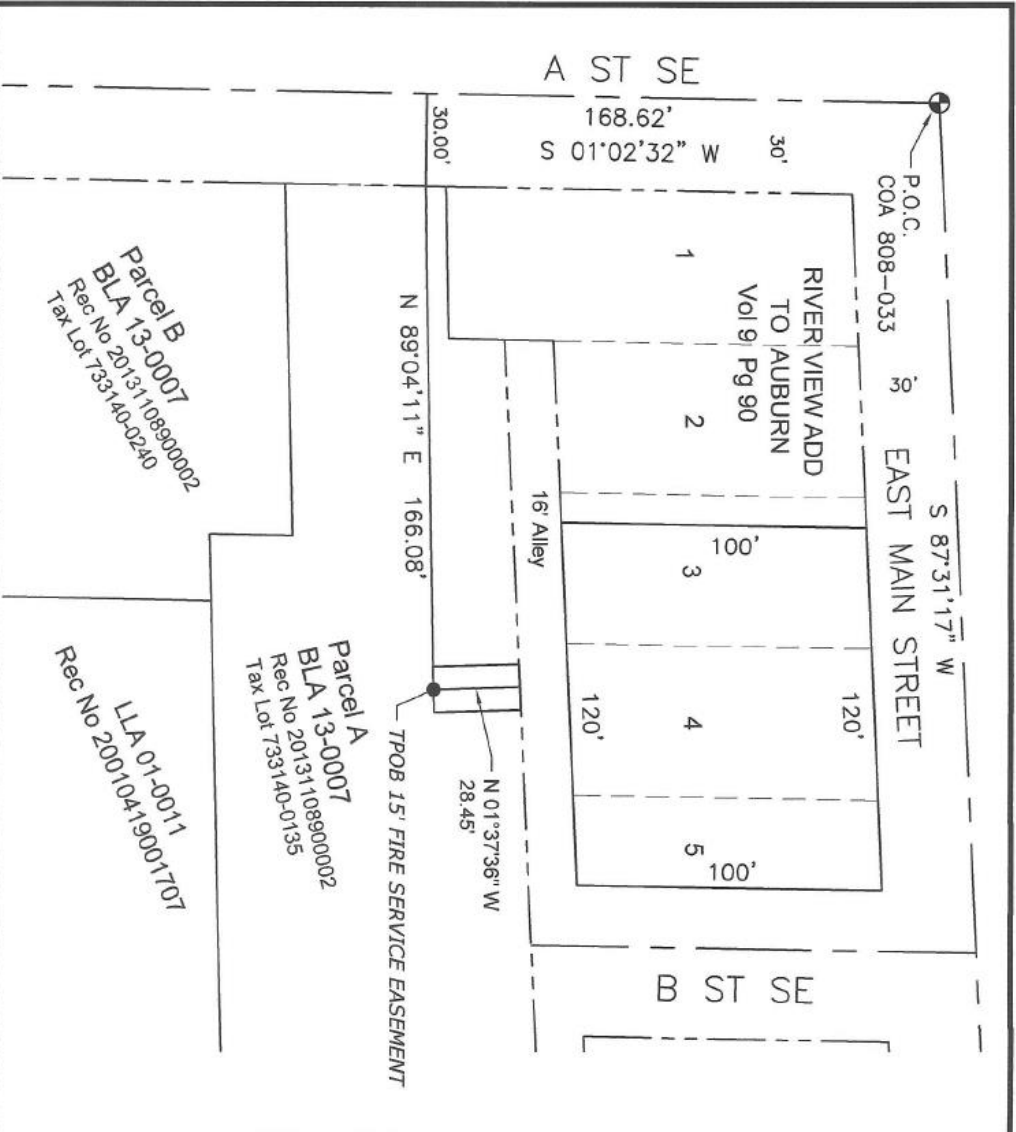
THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 18,
TOWNSHIP 21 NORTH, RANGE 5 EAST, W.M., CITY OF AUBURN, KING COUNTY, WASHINGTON,
DESCRIBED AS FOLLOWS :

COMMENCING AT THE MONUMENTED INTERSECTION OF EAST MAIN STREET AND A STREET
SOUTHEAST, A MONUMENT BEING KNOWN AS AUBURN GPS 127 AND CITY OF AUBURN CONTROL
POINT 808-033; THENCE ALONG THE MONUMENTED CENTERLINE OF A STREET SOUTHEAST, SOUTH
01°02'32" WEST A DISTANCE OF 168.62 FEET; THENCE SOUTH 88°57'28" EAST A DISTANCE OF 30.00
FEET TO THE EAST RIGHT OF WAY MARGIN OF SAID STREET; THENCE NORTH 89°04'11" EAST, A
DISTANCE OF 166.08 FEET TO THE TRUE POINT OF BEGINNING OF A FIRE SERVICE EASEMENT 15 FEET IN
WIDTH BEING 7.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: THENCE NORTH
01°37'36" WEST A DISTANCE OF 28.45 FEET TO THE NORTH LINE OF PARCEL A, CITY OF AUBURN
BOUNDARY LINE ADJUSTMENT NUMBER BLA13-0007 RECORDED UNDER RECORDING NUMBER
20131108900002 AND THE TERMINUS OF SAID CENTERLINE.

SIDELINES OF SAID EASEMENT TO BE LENGTHENED OR SHORTENED TO INTERSECT BOUNDARY LINES.

THIS EASEMENT DESCRIPTION CONTAINS AN AREA OF 427 SQ. FT., MORE OR LESS.





DWN. BY DRP	SCALE 1"=60'	6 DEC 2021
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DAN PRICE LAND SURVEYING
17923 52ND AVE E. #B
TACOMA, WA 98446
CELL (253) 377-7647




EXHIBIT D DEPICTION
FIRE SERVICE EASEMENT

A PORTION OF THE NW 1/4 of SW 1/4 SEC 18-21-05

- NOTES:
1. BASIS OF BEARINGS IS SOUTH 01°02'32" WEST, BEING THE MONUMENTED CENTERLINE OF A STREET SE.
 2. DRAWING MADE TO ACCOMPANY EXHIBIT D LEGAL DESCRIPTION AND DOES NOT REPRESENT A BOUNDARY SURVEY.