

Advance Notice  
May 12, 2022

Recommendation to Approve Temporary Construction Easement at Newcastle Elementary – Kuper/Mullins

**Action to be taken: I recommend the Board approve the Temporary Construction Easement at Newcastle Elementary School.**

Coal Creek Utility District (CCUD) along with a land owner/developer that share a property line with Newcastle Elementary School (NCES), have requested that ISD allow a connection from the development to the existing CCUD owned water main that runs through the NCES parking lot.

This proposed Temporary Construction Easement (TCE) would allow the CCUD and the developer to construct a main connection from the shared property line, through the NCES landscape and parking lot to the existing CCUD owned water main.

ISD will receive from the developer \$600.00 as other good and valuable consideration for this TCE. The value of the TCE was determined through an official appraisal process.

Tom Mullins can be available, if necessary, to answer` any questions the Board may have regarding this recommendation.

*Please scroll down to view documentation related to this recommendation (8 pages).*

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# TEMPORARY CONSTRUCTION EASEMENT

Assessor's Tax Parcel ID#: 342405-9037

THIS AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of May, \_\_\_\_\_, between Issaquah School District, a political subdivision of the State of Washington ("Grantor") and Coal Creek Utility District, a Washington municipal corporation ("Grantee") (individually a "Party" and collectively the "Parties") for the purposes set forth below.

1. Grantor, for and in consideration of the sum of One dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, hereby grants and conveys to the Grantee and its agents, contractors and assigns, a temporary construction easement ("Temporary Construction Easement") to use and occupy the real property legally described on **Exhibit A** and depicted on **Exhibit B** attached hereto and incorporated herein by this reference ("Real Property" or "Construction Easement Area") for the limited purposes related to the construction and installation of utility water lines, facilities and appurtenances the Grantee's public water system (the "Work").

2. Grantee's rights hereunder shall be governed by the following:

a. Grantee shall have the right, with at least two (2) business days' advance written notice to Grantor to enter upon the Construction Easement Area for the purposes of exercising its rights under this Agreement; provided that, Grantee's access shall be only from adjacent property and Grantee shall not have any right to access any portion of the Grantor's property outside of the Construction Easement Area. Without limiting the foregoing, if Grantee proposes performing the Work during school operations (that is, outside of summer break), Grantee shall coordinate the Work with Grantor such that the Work does not interfere with school operations, including a mutually agreed work schedule and construction fencing to separate the Work from school operations.

b. Grantee shall be responsible, at its sole cost and expense, for all costs related to the Work and any of Grantee's obligations hereunder.

c. Grantee shall, prior to commencing the Work, obtain any and all permits, approvals and authorizations required for the Work and shall comply with all applicable laws, rules and regulations in the performance of the Work. Without limiting the foregoing, Grantee shall obtain all required approvals related to removal and replacement of trees as a part of the Work and shall ensure that replacement meets at least minimum requirements of the permitting jurisdiction(s).

d. The Work shall commence no earlier than June 27, 2022 and be complete no later than August 12, 2022 (the "Completion Date").

e. Grantee shall, at all times when active Work is suspended, secure any open ditches, trenches, holes or similar openings with plating or similar stable materials. In the event Grantee starts but suspends temporarily its Work, Grantee shall inform Grantor of the estimated length of such suspension. Grantee shall be solely responsible for the safety and security of the Work and the Construction Easement Area and Grantor shall have no obligation with regard to same.

f. Grantee shall be required at all times to ensure that Grantee and any party acting by or through Grantee who will perform work on the Construction Easement Area complies with the prohibition on the use of all tobacco products on public school property consistent with RCW 28A.210.310 and that no such person has been found guilty of any felony crime as specified in RCW 28A.400.330, generally regarding crimes against children.

g. For the term of this Temporary Construction Easement, the Grantor shall not: (1) erect or maintain any buildings or structures in the Construction Easement Area; or (2) develop, landscape or otherwise improve the Construction Easement Area in any way that would interfere with Grantee's use of the Construction Easement Area for the purposes allowed under this Temporary Construction Easement, or increase the cost to the Grantee of restoring the Construction Easement Area.

3. Grantee shall protect, defend, indemnify and save the Grantor, its employees, officers, and authorized agents harmless from and against any and all claims, costs, judgments, and causes of action of every kind and description which may be suffered by any person or property to the extent such claims and actions arise out of or result from Grantee's negligent acts or omissions in Grantee's use and occupancy of the Construction Easement Area. Grantee's use of the Construction Easement Area includes Grantee's employees, authorized agents, invitees, and contractors' use of the property. Grantee shall not be required to indemnify, defend, or hold harmless Grantor to the extent that the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the Grantor. If any claims, suits, or actions result from the concurrent negligence of: (a) the Grantor, its successors or assigns, employees, authorized agents, invitees, or contractors and (b) the Grantee, its employees, authorized agents, invitees or contractors, and/or involve those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of each Party, its employees, authorized agents, invitees, and/or contractors. The Grantor and Grantee agree that the indemnities and limitations herein extend to any claim, demand, and/or cause of action brought by, or on behalf of, any third party or any of its respective employees or agents while occupying the Construction Easement for any purpose. For this purpose, Grantor and Grantee, by MUTUAL NEGOTIATION, hereby waive with respect to the other Party only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions chapter 51.12 RCW. The defense, indemnification and WAIVER provisions contained in this Section shall survive the termination or expiration of this easement.

This Section 3 shall survive termination of this Agreement.

4. Grantee, or Grantee's agents, assigns or contractors, shall obtain and maintain occurrence-based commercial general liability insurance (including contractual liability coverage) covering occurrences within the term of this Agreement and against claims for bodily injury, death or property damage occurring on, in or about the Construction Easement Area, combined single limit coverage of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall name Grantor as an additional insured. Upon execution of this Agreement, Grantee shall furnish Grantor with copies of the policies evidencing such insurance. The policies of such insurance shall provide that they shall not be canceled, materially changed or non-renewed without the giving of thirty (30) days prior written notice to Grantor.

5. This Agreement, and all rights granted hereunder, shall terminate automatically and without notice upon the completion of the Work and the restoration obligations as required pursuant to Section 6.

6. Grantee, upon the completion of the Work, shall restore the Construction Easement Area as nearly as reasonably possible to its condition prior to any such material disturbance from the Work. While Grantee does not have authority under this Agreement to disturb any area of the Real Property outside of the Construction Easement Area, to the extent any such disruption should occur, Grantee shall be required to immediately, without waiting for completion of the Work, restore such area to the condition prior to such disturbance.

7. This Agreement and its terms and conditions shall be binding on the Parties and their respective successors, heirs and assigns. Grantors warrant that Grantors own fee title to the Real Property and warrant the Grantee quiet enjoyment of the Construction Easement Area.

8. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington. The Parties agree that venue of any legal action brought to enforce this Agreement shall be in King County, Washington. In the event of any litigation to enforce or interpret the rights, duties and obligations of the Parties set forth herein, the substantially prevailing party shall be entitled to an award of reasonable costs, expenses and attorneys' fees in connection therewith, at trial and on appeal.

SIGNATURES FOLLOW

DATED this \_\_\_ day of \_\_\_\_\_, 2022.

GRANTOR  
ISSAQUAH SCHOOL DISTRICT

*By:* \_\_\_\_\_

*Its:* \_\_\_\_\_

GRANTEE  
COAL CREEK UTILITY DISTRICT

*By:* \_\_\_\_\_

*Its:* \_\_\_\_\_





**EXHIBIT A**  
**LEGAL DESCRIPTION OF REAL PROPERTY**  
**AND CONSTRUCTION EASEMENT AREA**

THE SOUTH 239.41 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., CITY OF NEWCASTLE, KING COUNTY, WASHINGTON.

AND

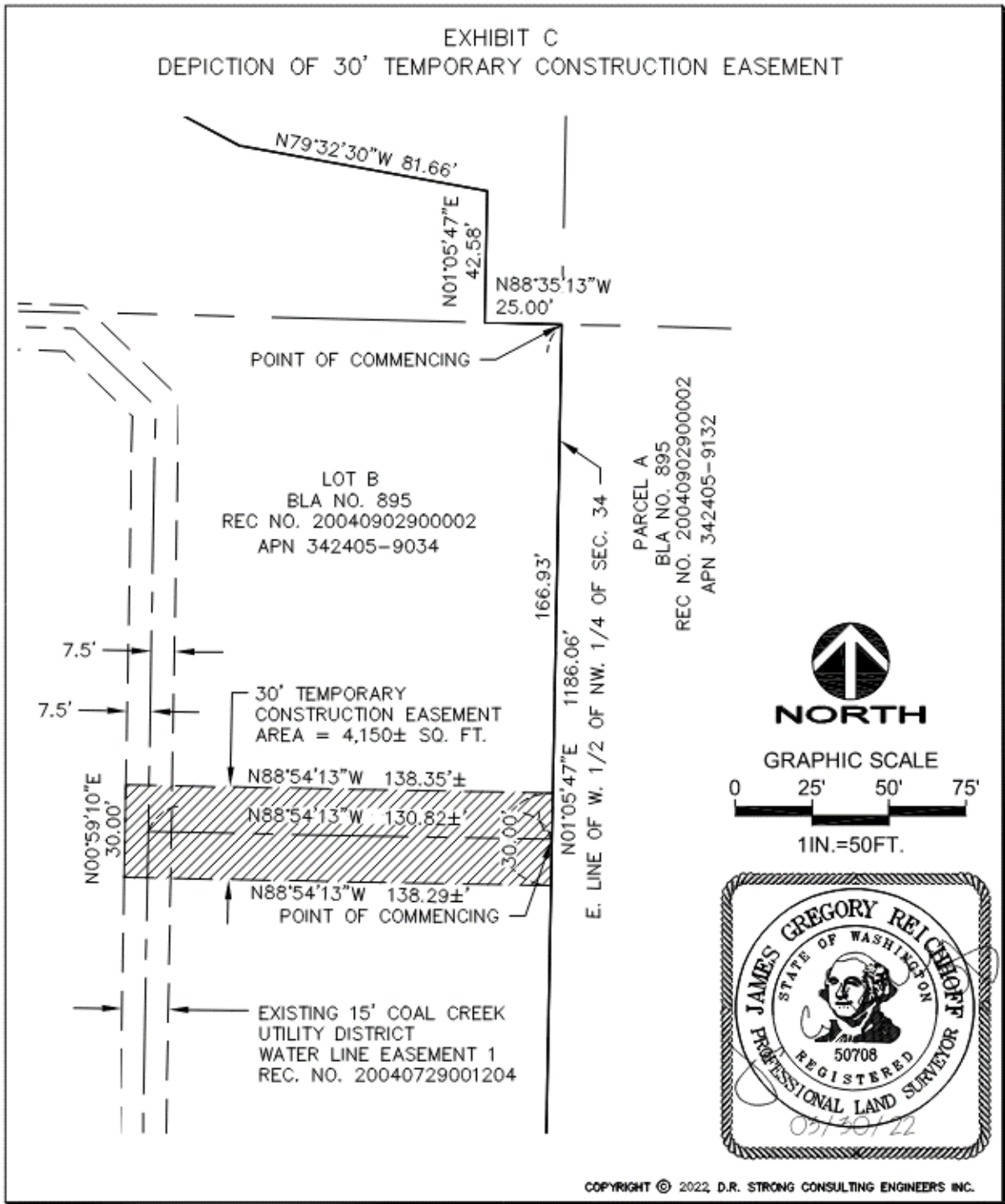
BEGINNING 239.41 FEET NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, OF SECTION 34, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., CITY OF NEWCASTLE, KING COUNTY, WASHINGTON; THENCE NORTH TO THE NORTHEAST QUARTER OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER; THENCE WEST 292.42 FEET MORE OR LESS TO THE EAST MARGIN OF MORRISON ROAD; THENCE SOUTHERLY ALONG SAID MARGIN TO A POINT WEST OF THE POINT OF BEGINNING; THENCE EAST 404.44 FEET MORE OR LESS TO THE POINT OF BEGINNING; EXCEPT THE NORTH 20 FEET THEREOF.

AND

THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 24 NORTH, RANGE 5 EAST., W.M., CITY OF NEWCASTLE, KING COUNTY, WASHINGTON, LYING SOUTHEASTERLY OF MORRISON ROAD (136TH AVE SE).



# EXHIBIT B DEPICTION CONSTRUCTION EASEMENT AREA



**COAL CREEK UTILITY DISTRICT**  
**30' TEMPORARY CONSTRUCTION EASEMENT**  
**APN 342405-9034**

**EXHIBIT C**

**DRS**

**D.R. STRONG**  
**CONSULTING ENGINEERS**  
ENGINEERS PLANNERS SURVEYORS  
825 - 7th Avenue, Kirkland, WA 98033  
© 425.827.2000 F 425.827.2002

PROJECT SURVEYOR: JGR  
DRAFTED BY: JGR  
FIELD BOOK:  
DATE: 03-30-2022  
PROJECT NO.: 20023

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DRAWING: EXHIBIT C  
SHEET: 1 OF 1