

# CLARK COUNTY STAFF REPORT

**DEPARTMENT:** Public Works/Engineering & Construction Division/Real Property Services

**DATE:** January 15, 2015

**REQUESTED ACTION:** Approve a Possession and Use Agreement from Alan M. Tworek for tax parcel number 105613-018; and authorize the County Manager to execute.

**SR Number:**

**FOR APPROVAL BY:**   X   BOCC        COUNTY MANAGER        HEARING

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## **PUBLIC WORKS GOALS:**

- Provide safe and efficient transportation systems in Clark County
- Create and maintain a vibrant system of parks, trails and green spaces
- Continue responsible stewardship of public funds
- Promote family-wage job creation and economic development to support a thriving community
- Maintain a healthy, desirable quality of life
- Increase partnerships and foster an engaged, informed community
- Cultivate a nimble, responsive work force
- Make Public Works a great place to work

## **BACKGROUND**

Portions of these properties are being acquired for the NE 94<sup>th</sup> Avenue road project; (NE Padden Parkway to NE 99<sup>th</sup> Street) County Road Project 350822. The property owners have executed Possession and Use Agreements, which will allow the project to proceed to construction while acquisition negotiations and title clearance continues.

## **ADMINISTRATIVE POLICY IMPLICATIONS**

None.

## **COUNCIL POLICY IMPLICATIONS**

None. Funds for these parcels are included in the 2015-2020 Transportation Improvement Program and the 2015 Annual Construction Program.

## **PREVIOUS REVIEWS AND ACTIONS**

None.

## **COMMUNITY OUTREACH**

This project has been involved in a public outreach program that included, two General Notices, Heads Up informational mailings as well as (one) 1 open house event.



**BUDGET IMPLICATIONS**

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

**DISTRIBUTION OF BOARD STAFF REPORTS:**

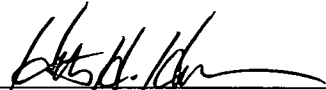
Distribution of staff reports is made via the Grid. <http://www.clark.wa.gov/thegrid/>  
Copies are available by close of business on the Thursday after council deliberations.

**DISTRIBUTION OF COUNTY MANAGER STAFF REPORTS:**

Public Works Administration – Anita Temme  
Please notify Real Property Services of the Board’s action by calling extension 4975.

**PUBLIC WORKS APPROVALS:**

  
\_\_\_\_\_  
Tom Grange, P.E.  
Engineering & Construction Division Manager

  
\_\_\_\_\_  
Heath H. Henderson, P.E.  
Public Works Director/County Engineer

Attachments:

- Possession and Use Agreements

**APPROVED:** \_\_\_\_\_  
**CLARK COUNTY, WASHINGTON**  
**BOARD OF COUNTY COUNCILORS**

DATE: Jun. 27, 2015

SR #: 008-15

**COUNTY MANAGER ACTION\RECOMMENDATION**

**By:** Mark McCauley

**Date:**

**SR Number:**

**REQUESTED ACTION:**

Approve a Possession and Use Agreement from Alan M. Tworek for tax parcel number 105613-018; and authorize the County Manager to execute.

**COUNTY MANAGER RECOMMENDATION:**

<b>Action</b>	<b>Conditions</b>	<b>Referral to council?</b>
<i>Approval\denial</i>	<i>Enter conditions or requests here</i>	<i>Yes\No</i>

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**Mark McCauley**  
**Acting County Manager**

**DISTRIBUTION**

Public Works Administration – Anita Temme

After recording return to:  
Clark County Public Works  
Real Property Services  
PO Box 9810  
Vancouver, WA 98666-9810

Document Title: Possession and Use Agreement  
Additional Legal Description is attached as Exhibit "A"  
Legal Description: Glenmar Lot 9  
Serial #: 105613-018-(186)  
Project: NE 94th Ave (NE Padden Parkway to NE 99th St)  
CRP #: 350822 Fed Aid #: STPUL-4401(007) / TA-4945

PW 15-4

**POSSESSION AND USE AGREEMENT**

THIS AGREEMENT is made and entered into by and between CLARK COUNTY, a political subdivision of the State of Washington, hereinafter referred to as the County, and ALAN M. TWOREK, an unmarried man, hereinafter referred to as the Owner.

**WITNESSETH**

WHEREAS, the County affirms that the Owner's real property described herein is required by the County for immediate road construction; and

WHEREAS, the County affirms that any delay in its construction program is contrary to the public interest; and

WHEREAS, the County has made a firm and continuing offer to pay the amount of Twelve Thousand Two Hundred and No/100 Dollars (\$12,200.00) which includes \$8,250.00 for the purchase of 1,173 sq. ft. of fee ownership, \$950.00 for a 819 sq. ft. temporary construction easement, \$2,500.00 for improvements and \$500.00 for damages of the property in Clark County, Washington, being more fully described in Exhibit "A" attached hereto.

WHEREAS THE Owner requires additional time to evaluate said offer and/or to resolve any questions concerning just compensation.

IT IS AGREED THAT:

1. The above-described real estate is necessary for a public use of the County.
2. This instrument will be treated as and accorded the same provisions as the Order for Immediate Possession provided by RCW 8.25.070.

Possession and Use Agreement

Serial #: 105613-018-(186)

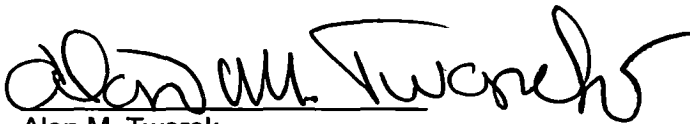
Project: NE 94th Ave (NE Padden Parkway to NE 99th St)

CRP #: 350822 Fed Aid #: STPUL-4401(007) / TA-4945

3. If a satisfactory negotiation has not been reached between the Owner and the County within thirty (30) days from your receipt of this Agreement and it becomes necessary to institute condemnation proceedings, the Owner has no objection to the County entering forthwith an Order Adjudicating Public Use provided by RCW 8.08.040.
4. At such time as questions concerning just compensation are resolved, the Owner will convey to the County all interest in the above-described property by Statutory Warranty Deed, free of any and all liens, at which time this Possession and Use Agreement will no longer be in effect.

IT IS UNDERSTOOD AND AGREED that delivery of this Agreement is hereby tendered and that the terms and obligations hereof shall not become binding upon the County until this document is accepted and approved by the Clark County Board of County Commissioners or its duly authorized representative.

Dated this 17<sup>th</sup> day of December, 2014.



Alan M. Tworek

Clark County, Washington

By: 

Mark McCauley

Acting County Manager

Approved as to form  
Anthony F. Golik  
Prosecuting Attorney  
Signature on File  
Chris Horne

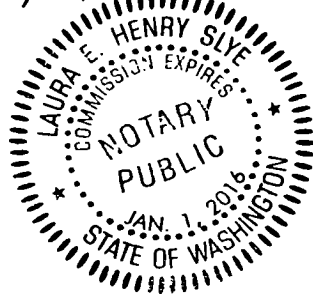
Possession and Use Agreement  
Serial #: 105613-018-(186)  
Project: NE 94th Ave (NE Padden Parkway to NE 99th St)  
CRP #: 350822 Fed Aid #: STPUL-4401(007) / TA-4945

STATE OF WASHINGTON

COUNTY OF CLARK

I hereby certify that I know or have satisfactory evidence that Alan M. Tworek is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Date: December, 17, 2014



A handwritten signature in black ink, appearing to read "Laura E. Henry Slye", written over a horizontal line.

Notary Public in and for the State of WA  
Residing at RIDGEFIELD, WA  
My commission expires: 1-1-2016

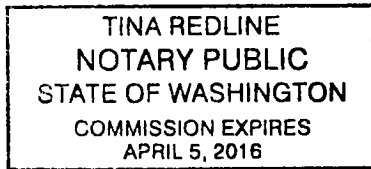
STATE OF WASHINGTON

COUNTY OF CLARK

I certify that I know or have satisfactory evidence that Mark McCauley signed this instrument on oath stated that he is authorized to execute the instrument and acknowledged it as the Acting County Manager of Clark County, Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: Jan. 27, 2015

A handwritten signature in black ink, appearing to read "Tina Redline", written over a horizontal line.



Notary Public in and for the State of WA  
Residing at VANCOUVER, WA  
My commission expires: APRIL 5, 2016



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**CLARK COUNTY**  
WASHINGTON

*Superior service that is responsive and cost justified*

**PUBLIC WORKS**  
**COUNTY-SURVEYOR'S OFFICE**

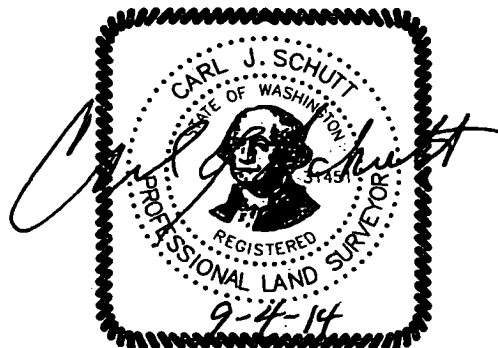
**EXHIBIT "A"-1**  
**CRP # 350822 - NE 94th AVENUE**  
**TWOREK PARCEL**

A parcel of land lying in the southwest 1/4 of Section 4, Township 2 North, Range 2 East of the Willamette Meridian in Clark County, Washington, described as follows:

All that portion of Lot 9 as shown on the plat of Glenmar, as recorded in Book G of Plats at Page 304, listed as Serial No. 105613-018, records of Clark County, Washington, lying easterly of the following described line:

Beginning at a point on the south line of said parcel, said point being 40.00 feet westerly of, when measured at right angles to the centerline of NE 94th Avenue, as described in Exhibit "B", attached; thence to a point 40.00 feet westerly of, when measured at right angles to said centerline opposite Engineers' station 36+69.00; thence to a point on the north line of said parcel, said point being 62.00 feet westerly of, when measured at right angles to said centerline, also being on the south right of way line of NE 88th Street, and there terminating, all in Clark County, Washington.

This description contains 1,173 square feet as calculated by the double meridian distance method.



WRITTEN BY: *CJS*  
REVIEWED BY: *JMB*



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**CLARK COUNTY**  
WASHINGTON

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**PUBLIC WORKS**  
**COUNTY SURVEYOR'S OFFICE**

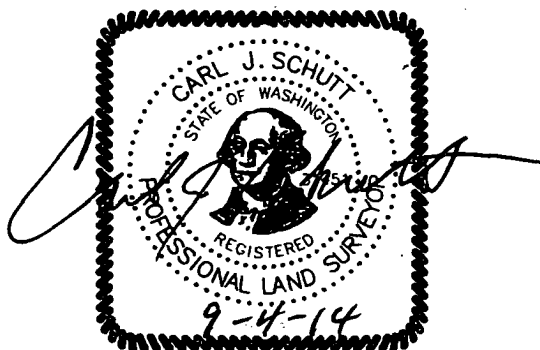
**EXHIBIT "A"-2**  
**CRP # 350822 - NE 94th AVENUE**  
**TWOREK PARCEL**  
**TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION**

A parcel of land lying in the southwest 1/4 of Section 4, Township 2 North, Range 2 East of the Willamette Meridian in Clark County, Washington, described as follows:

All that portion of Lot 9 as shown on the plat of Glenmar, as recorded in Book G of Plats at Page 304, listed as Serial No. 105613-018, records of Clark County, Washington, lying easterly of a line 45.00 feet westerly of, when measured at right angles to the centerline of NE 94th Avenue, as described in Exhibit "B", attached, **together with** all that portion thereof lying northerly of the following described line:

Beginning at a point on the northerly line of said Lot 9, also being the southerly right-of-way line of NE 88th Street; said point being 100.00 feet westerly of, when measured at right angles to said centerline; thence to a point 100.00 feet westerly of, when measured at right angles to said centerline opposite Engineers' station 36+76.00; thence to a point 128.00 feet westerly of, when measured at right angles to said centerline opposite station 36+76.00; thence to a point 128.00 feet westerly of, when measured at right angles to said centerline on the northerly line of said Lot 9, and there terminating, all in Clark County, Washington.

This description contains 819 square feet as calculated by the double meridian distance method.



WRITTEN BY: *[Signature]*  
REVIEWED BY: *[Signature]*





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**CLARK COUNTY  
WASHINGTON**

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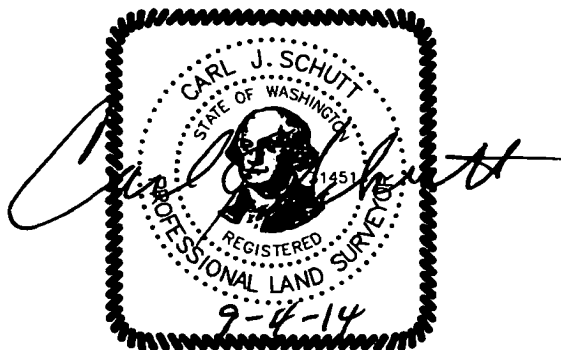
**PUBLIC WORKS  
COUNTY SURVEYOR'S OFFICE**

**EXHIBIT "B"  
NE 94th AVENUE CENTERLINE DESCRIPTION  
CRP #350822**

A strip of land lying in the west half of Section 4, Township 2 North, Range 2 East and the west half of Section 33, Township 3 North, Range 2 East of the Willamette Meridian, the centerline of said strip being more particularly described as follows:

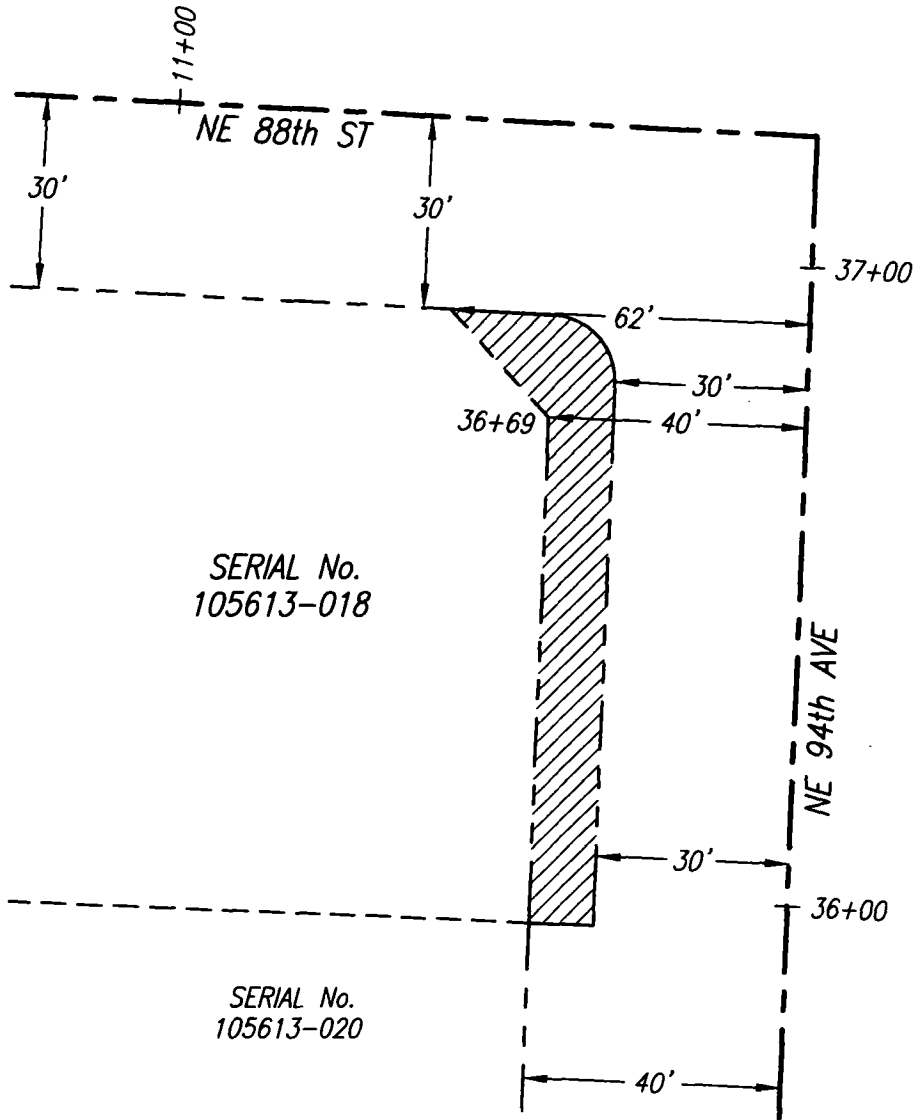
Beginning at a 5/8" rebar with cap marked "CC Surveyor" marking the intersection of the centerline of NE 81st Street and NE 94th Avenue, said point bears South 2°31'36" West 2133.69 feet from a brass cap marking the southwest corner of the J. McAllister DLC, being designated as Engineers' station 19+52.15; thence North 2°12'16" East 619.32 feet to a 5/8" rebar with cap marked "CC Surveyor"; thence North 3°34'44" East 500.14 feet to a 5/8" rebar with cap marked "CC Surveyor"; thence North 2°12'16" East 1014.34 feet to the aforementioned brass cap; thence North 2°09'58" East 2660.34 feet; thence North 2°02'24" East 1330.77 feet to a point that bears South 36°36'53" East 1221.15 feet from an iron pipe marking the west quarter corner of said Section 33, Township 3 North, Range 2 East of the Willamette Meridian, and there terminating, all in Clark County, Washington.

Bearings hereon used are based on line between the SW corner of Newton Addition (Book A of subdivisions at page 60) and the SW corner of the J. McAllister DLC as being North 2°12'11" East.



WRITTEN BY: CSJ  
REVIEWED BY: JMB

EXHIBIT "C"<sup>1</sup>  
 SERIAL No. 105613-018

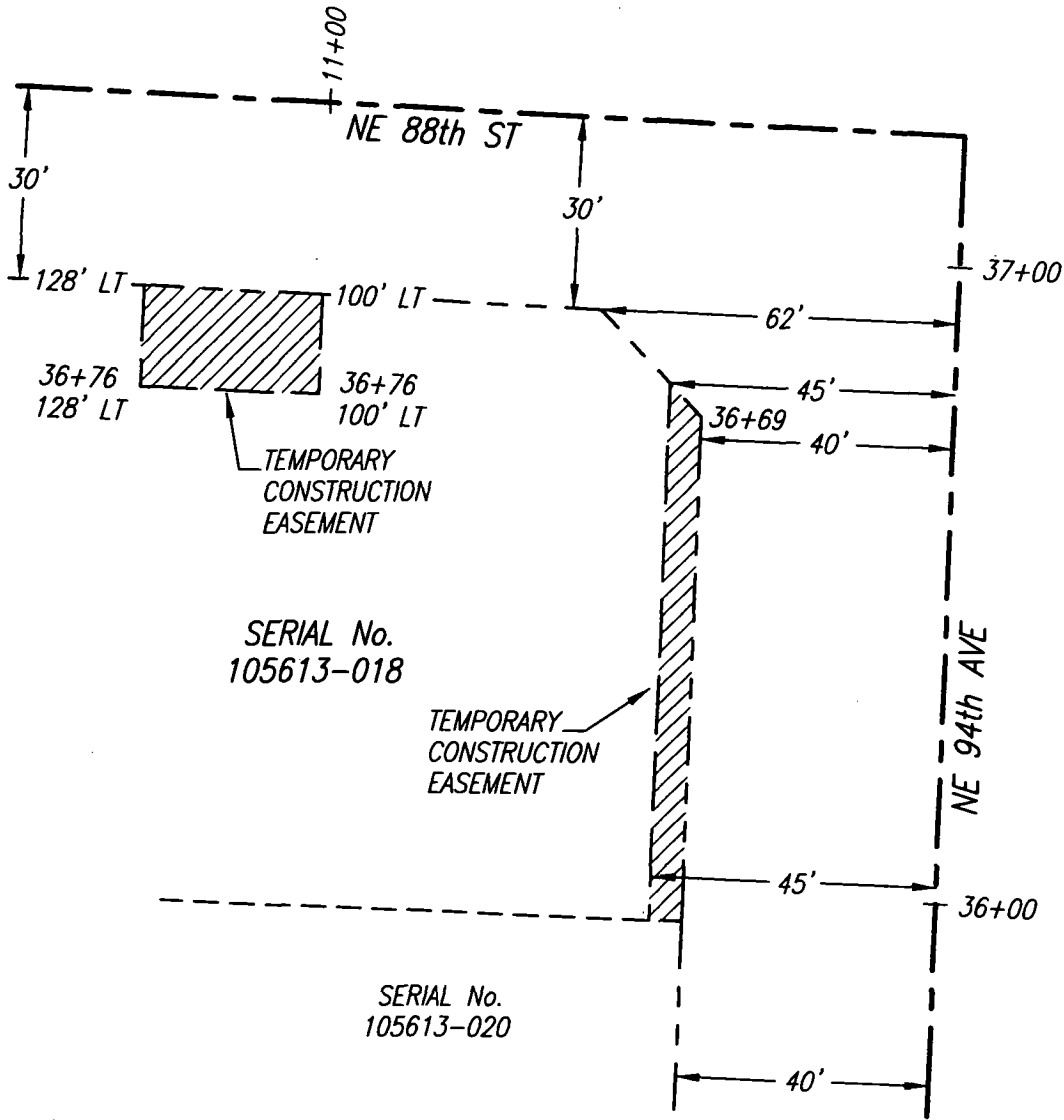


NOT TO SCALE



Clark County Public Works Vancouver, Washington		
DESIGN & ENGINEERING DIVISION OFFICE OF THE COUNTY SURVEYOR		
SW 1/4 SECTION 4 T 2 N, R 2 E, W.M.		
SKETCH TO ACCOMPANY LEGAL DESCRIPTION		
DATE	SCALE	DRAWN BY
AUG 2014	NOT TO SCALE	CJS

EXHIBIT "C"-2  
 SERIAL No. 105613-018

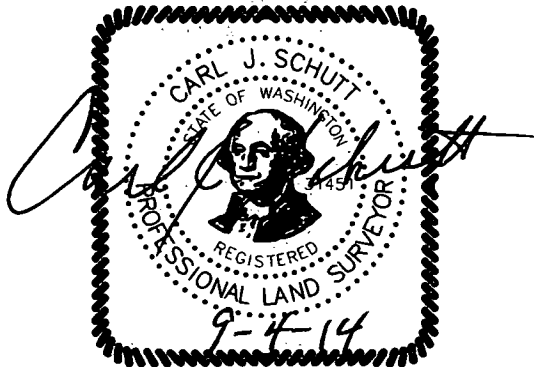


SERIAL No.  
105613-018

TEMPORARY  
CONSTRUCTION  
EASEMENT

SERIAL No.  
105613-020

NOT TO SCALE



Clark County Public Works Vancouver, Washington		
DESIGN & ENGINEERING DIVISION OFFICE OF THE COUNTY SURVEYOR		
SW 1/4 SECTION 4 T 2 N, R 2 E, W.M.		
SKETCH TO ACCOMPANY LEGAL DESCRIPTION		
DATE	SCALE	DRAWN BY
AUG 2014	NOT TO SCALE	CJS