

RESOLUTION 2026-LL

**A RESOLUTION OF THE TOWN OF EATONVILLE, WASHINGTON, APPROVING
AND AUTHORIZING THE MAYOR TO EXECUTE A STORMWATER UTILITY
EASEMENT WITH 106 CENTER STREET WEST, LLC**

WHEREAS, 106 Center Street W, LLC (“Grantor”) is the record owner of Pierce County assessor’s parcel number 3605001390, 106 Center Street West (the “Property”); and

WHEREAS, the Town of Eatonville (“Town”) owns, operates and maintains a municipal stormwater system and an existing stormwater pipe is located across a portion of the Property described in Exhibit A; and

WHEREAS, it is necessary and in the public interest for the Town to obtain a perpetual non-exclusive utility easement over the portion of property containing the existing stormwater pipe for the maintenance, replacement and repair of the existing stormwater utility; and

WHEREAS, the easement shall run with the land and shall bind and benefit all parties having or acquiring any right, title, or interest in the land described within the Stormwater Utility Easement; and

WHEREAS, 106 Center St W, LLC is willing to grant the Stormwater Utility Easement to the Town, in the form attached hereto, in exchange for a Twelve Thousand, Five Hundred Dollar (\$12,500.00) payment from the Town of Eatonville; now, therefore;

**THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, WASHINGTON, HEREBY
RESOLVES AS FOLLOWS:**

THAT: The Town Council accepts and approves the Stormwater Utility Easement, attached hereto as Exhibit A, and authorizes the Mayor to sign the easement on behalf of the Town.

PASSED by the Town Council of Town of Eatonville and attested by the Town Clerk in authentication of such passage this 10th day of August 2026.

Emily McFadden, Mayor

ATTEST:

Miranda Doll, Town Clerk

RESOLUTION 2026-LL

Town of Eatonville
201 Center Street West
PO Box 309
Eatonville, WA 98328
Phone: 360-832-3361
townclerk@eatonville-wa.gov

Document Title: Stormwater Utility Easement
Reference Number of Related Document: N/A
Grantor(s): 106 Center S.W., LLC
Grantee(s): Town of Eatonville
Legal Description: Lots 11 and 12, Block 18, Town of Eatonville, according to the plat thereof recorded in Volume 7 of Plats, Page 41, records of Pierce County, Washington
Additional Legal Description is on Page (9-10) of Document.
Assessor's Tax Parcel Number: 3605001390

STORMWATER UTILITY EASEMENT

THIS STORMWATER UTILITY EASEMENT is made and entered into by and between **106 CENTER S.W., LLC**, (herein called the “**Grantor**”) and **THE TOWN OF EATONVILLE**, a Washington municipal corporation (“**Grantee**”).

1. GRANT OF EASEMENT

Grantor is the record owner of the Property (defined herein) and hereby grants to Grantee a perpetual non-exclusive easement (the “**Easement**”) for the maintenance, replacement, and repair of an underground stormwater utility which includes an existing stormwater pipe as depicted in Exhibit B (the “**Facilities**”), over, through, upon and under the following described real property owned by the Grantor and situated in Pierce County, State of Washington commonly known as, 106 Center St W., Eatonville, WA 98328:

TAX PARCEL NO 3605001390 (the “Property”).

The Property is legally described in **Exhibit A** and the easement area is depicted in **Exhibit B** attached hereto and incorporated herein (collectively, the “**Easement Area**”). The easement area shall extend five (5) feet from the centerline of the existing stormwater pipe on each side, including below. Should the Grantee upsize, deepen, or expand capacity, the easement area will maintain the original size before the change. The easement is granted for stormwater conveyance only. The grantee shall not add additional utilities nor convert use without the Grantor’s prior written consent.

2. GRANTEE’S RIGHTS AND OBLIGATIONS

Grantee shall have access for ingress and egress over and across the Easement Area for the limited purpose of any necessary maintenance, replacement, and repair of the Facilities in the Easement Area. Grantee acknowledges that temporary interruption of business operations, including loss of access and reduced customer flow, may result from work within the Easement Area and shall use commercially reasonable efforts to minimize such impacts to the Grantor when scheduling any work to the Facilities including scheduling work outside of business hours (determined by posted business hours at time of notice), minimizing closure duration, mitigating the Grantor’s stormwater while work is in progress, and maintaining maximum partial operations. Grantee shall provide notice for work to the Facilities. Notice shall be written and include the scope, schedule, and estimated duration for planned work as follows:

Construction Access. Except in a documented emergency, the Town shall provide not less than thirty (30) calendar days prior written notice before commencing any construction, repair, replacement, or other work that will materially impact drive-thru operations, parking, or vehicular access.

Non-Construction Access. For non-construction activities that do not materially impact business operations, including inspection and surveying, the Town shall provide not less than forty-eight (48) hours prior written notice.

Emergency Access. Emergency shall mean an unanticipated condition posing an immediate and substantial risk to life, public safety, or imminent failure of the stormwater system requiring immediate corrective action. The Grantee shall have no obligation to provide prior notice to the Grantor, but shall notify Grantor as soon as practicable following emergency entry.

Nothing herein shall prohibit the Grantee from entering the Easement Area at an earlier time with Grantor’s prior permission.

Grantee shall maintain the Facilities in good working order and repair, consistent with prudent utility practice, and shall not allow the Facilities to fall into a state of disrepair that increases the risk of failure, leakage, or damage to the Property. Nothing in this paragraph shall be construed to require Grantee to upgrade or replace the Facilities except as Grantee determines necessary in its reasonable discretion, but Grantee's obligation to maintain the Facilities in good working order shall survive regardless of whether such determination is made.

Grantee shall be solely responsible for the cost of work performed in connection with its Facilities, and shall ensure such work is undertaken within a reasonable time, completed in a good workmanlike manner, and in compliance with all applicable rules, regulations, orders, ordinances, statutes, laws and other requirements of all governmental authorities. Should the Grantee’s

Facilities require improvements or protection beyond the Grantor's baseline development needs, the associated costs will be the responsibility of the Grantee and coordinated with the Grantor. In the event any mechanic's or materialman's lien is filed in connection with work authorized by Grantee, Grantee shall take all steps necessary, including but not limited to bonding, or commencing appropriate litigation, in order to remove such claim or lien against the Property, and shall indemnify Grantor with respect to such claim or lien.

3. GRANTOR'S RIGHTS AND OBLIGATIONS

Grantor reserves the right to grant non-exclusive easements to other utilities or services which may intersect or transect the Easement conveyed hereunder. Grantor especially reserves unto itself, its successors and assigns, all right, title and interest into the Easement and the Easement Area not specifically granted to Grantee herein. Notwithstanding anything herein to the contrary, Grantor shall retain the full right to use and occupy the Easement Area in any manner not inconsistent with the terms herein.

Grantor shall not alter the sub-surface of the Easement Area by grading or excavating without Grantee's prior written consent. Such consent shall not be unreasonably withheld, conditioned, or delayed, and shall remain specific to protecting the existing pipe only. Grantee shall respond to any request for consent under this paragraph, in writing, within thirty (30) calendar days of receipt of a complete written request. If Grantee fails to respond within such period, consent shall be deemed granted for the specific work described in the request. Grantee shall be responsible for any subsidence, settlement, or structural damage to surface improvements arising from its activities within the Easement Area, including latent defects attributable to Grantee's work.

Nothing in this easement shall be construed to limit Grantor's rights under EMC 16.54.050.

Nothing in this Easement shall be construed to waive, release, limit, or impair any rights or remedies available to Grantor under applicable law. Grantor specifically retains the right to assert claims and seek recovery of all damages, whether direct, indirect, consequential, or otherwise recoverable under applicable law, arising from Grantee's activities, including but not limited to business interruption losses, loss of access, loss of use, and property damage.

4. RESTORATION.

Following the repair of its facilities, Grantee shall, to the extent reasonably practicable, restore landscaping and surfaces and portions of the Property affected by Grantee's work to at least the condition existing immediately prior to such work. Grantee shall reimburse Grantor for all resulting costs, damages, and losses that cannot be remedied through restoration alone. Grantee shall use good faith efforts to perform its restoration obligations under this paragraph as soon as reasonably possible after the completion of Grantee's work, not to exceed (72) hours unless otherwise mutually agreed upon. Restoration is subject to the notice and access provisions of Section 2. Grantor shall have the right to inspect and approve restoration, which will not be unreasonably withheld nor delayed. Grantor shall complete its inspection and provide written approval or written objection, with reasons, within thirty (30) calendar days following Grantee's notice that restoration is complete. If Grantor fails to respond within such period, the restoration shall be deemed approved.

5. INDEMNIFICATION.

Grantee shall defend, indemnify and hold Grantor harmless from any and all claims, losses, liens, damages, costs and cause of action which may accrue to or be suffered by Grantor by reason of, arising out of or resulting from the use by Grantee, or the use by Grantee's employees, agents, licensees, invitees or guests, unless the claim or cause of action is caused by or results from the negligence of Grantor, or Grantor's agents, guests, employees, tenants or invitees. For purposes of this indemnification, Grantee specifically and expressly waives its immunity under Title 51 RCW (Industrial Insurance) and acknowledges that this waiver was mutually negotiated by the parties. In the event of concurrent negligence of the parties, their agents, guests, employees, tenants or invitees, each party shall be responsible only to the extent of their own negligence and that of their agents, guests, employees, tenants or invitees.

6. FORCE MAJEURE.

Neither party shall be liable for delays caused by events beyond its reasonable control.

7. TERM.

The term of this agreement shall be perpetual. The easement automatically terminates upon permanent abandonment of the stormwater facility. For purposes of this Section, "permanent abandonment" means Grantee's cessation of all use of the Facilities for stormwater conveyance for a continuous period of five (5) years, coupled with Grantee's physical removal or disconnection of the Facilities from the active stormwater system. Upon permanent abandonment, Grantee shall, within ninety (90) days, execute and record with the Pierce County Auditor a written release or termination of this Easement, at Grantee's expense. Grantor may record a notice of abandonment if Grantee fails to do so, which notice shall become conclusive evidence of termination unless Grantee objects in writing within thirty (30) days of such recording. Termination of this Easement shall not affect or extinguish compensation set forth in Section 16.

8. GOVERNING LAW.

This agreement shall be governed by the laws of the State of Washington without regard to its conflict of law rules.

9. SEVERABILITY.

If any portion of this agreement shall be invalid or unenforceable to any extent, the remaining provisions of this agreement shall be valid and enforceable to the fullest extent permitted by law.

10. ATTORNEYS' FEES.

Any disputes arising under this Agreement shall first be submitted to mediation. If unresolved, disputes shall proceed to litigation in Pierce County. In any lawsuit to enforce the terms of this agreement, the prevailing party shall be awarded its reasonable attorney's fees and costs, whether such fees and costs are incurred before, during or after trial, or on appeal.

11. SUCCESSORS AND ASSIGNS.

This Easement is binding upon and will inure to the benefit of the successors and permitted assigns. Grantee may not assign or otherwise transfer any of its rights, obligations or interest under this Easement without the prior written consent of the Grantor or their successors in interest, which consent may not be unreasonably withheld. Grantor shall respond to any request for consent to assignment within thirty (30) calendar days of receipt of a complete written request, including such information as Grantor may reasonably require to evaluate the proposed assignee. If Grantor fails to respond within such period, consent shall be deemed granted. Notwithstanding the foregoing, Grantee may assign or apportion this Easement or rights hereunder to a governmental successor or other public entity responsible for operation of the stormwater system.

12. COMPLETE AGREEMENT; AMENDMENT; COUNTERPARTS.

This Easement contains the entire agreement of the parties with respect to this subject matter and supersedes all prior writings or discussions relating to the Easement. This Easement may not be amended except by a written document executed by the authorized representatives of Grantor and Grantee. This Easement may be executed in counterparts, each of which shall be treated as an original for all purposes and all executed counterparts shall constitute one agreement. This Easement is a private property agreement and shall not be construed as a development agreement, land use approval, or waiver of any governmental regulatory authority except as expressly stated herein.

13. WARRANTY AND REPRESENTATION OF AUTHORITY.

The parties each represent to the other that the person or persons executing this Easement have authority to do so and to bind the parties hereunder. All consents, permissions and approvals related to this Easement, and the obligations hereunder, have been obtained. Grantor further warrants to Grantee that it has the necessary right, title and interests in the Property to grant the easement rights set forth herein. If a conflict with prior recorded instruments is discovered, the Grantee and Grantor shall cooperate in good faith to amend or adjust this Easement in a manner that preserves the rights granted herein while resolving the conflict. Such amendments shall not materially reduce Grantor's protections or the scope of the Easement.

14. CUP INTEGRATION.

Execution of this Easement constitutes full and final satisfaction of any and all Conditional Use Permit (CUP) requirements relating to stormwater easement. The parties understand and acknowledge that while this Easement is being provided in connection with the CUP, it shall remain in effect regardless of how the property is subsequently used (subject to Section 7 of this Easement).

15. HISTORICAL USE AND RELEASE.

The parties acknowledge that Grantee's stormwater facilities have been present on and traversing the Property for a period of years prior to and continuing through Grantor's acquisition of the Property. Grantee acknowledges that no recorded easement authorizing such historical use has been produced. In consideration of the compensation set forth in Section 16, this Easement resolves all claims arising from Grantee's historical use of the Property for stormwater conveyance prior to the effective date hereof.

16. COMPENSATION.

In consideration of (i) Grantor's grant of this Easement and (ii) Grantor's release of claims relating to Grantee's historical use of the Property as set forth in Section 15, Grantee shall pay Grantor \$12,500 (TWELVE THOUSAND FIVE HUNDRED DOLLARS).

17. RECORDING.

This Easement shall be recorded with the Pierce County Auditor's Office upon execution by both parties. Grantee shall be responsible for causing such recordation at Grantee's expense and shall provide Grantor with a conformed copy bearing the Auditor's recording number within 15 days of recordation. All exhibits attached hereto shall be recorded as part of this Easement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, dated this ____ day of _____ 2026.

GRANTOR:

106 Center S.W., LLC

By: _____

Name: _____

Title: _____

ACCEPTED:

TOWN OF EATONVILLE

By: _____

Name: _____

Title: _____

[Notaries on following page]

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that _____
_____ is the person who appeared before me, and said person acknowledged that he/she signed this
instrument, on oath, stated that he/she was authorized to execute the instrument and acknowledged it
as the _____ of **106 Center S.W., LLC**
to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

NOTARY PUBLIC
My Commission Expires: _____
In and for the State of Washington

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that _____
_____ is the person who appeared before me, and said person acknowledged that he/she signed this
instrument, on oath, stated that he/she was authorized to execute the instrument and acknowledged it
as the _____ of **TOWN OF EATONVILLE** to be the free and voluntary act of such
party for the uses and purposes mentioned in the instrument.

DATED: _____

NOTARY PUBLIC
My Commission Expires: _____
In and for the State of Washington

Exhibit A

Legal Description

Storm Easement

Those portions of Lots 11 and 12, Block 18, Town of Eatonville, according to the plat thereof, recorded in Volume 7 of Plats, Page 41, records of Pierce County, Washington, except the east 30.00 feet thereof, being a strip of land 10.00 feet in width, lying 5.00 feet on each side of the following described centerline: **Commencing** at the southwest corner of said Lot 12, said point being on the east margin of Rainier Avenue North.

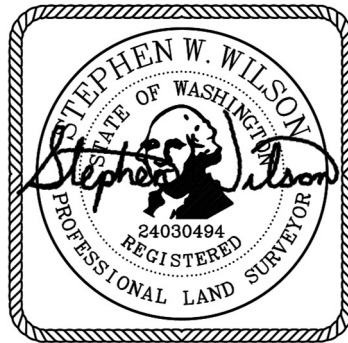
Thence along said east margin, North 01°06'40" East 74.95 feet to the **Point of Beginning**.

Thence departing said east margin, North 73°30'38" East 82.49 feet to the north line of said Lot 11 and the **terminus** of this centerline description.

The sidelines of said easement shall be shortened or lengthened as necessary to meet at all angle points and to intersect with the west and north lines of said Lot 11 and the west line of the east 30.00 feet of said Lot 11.

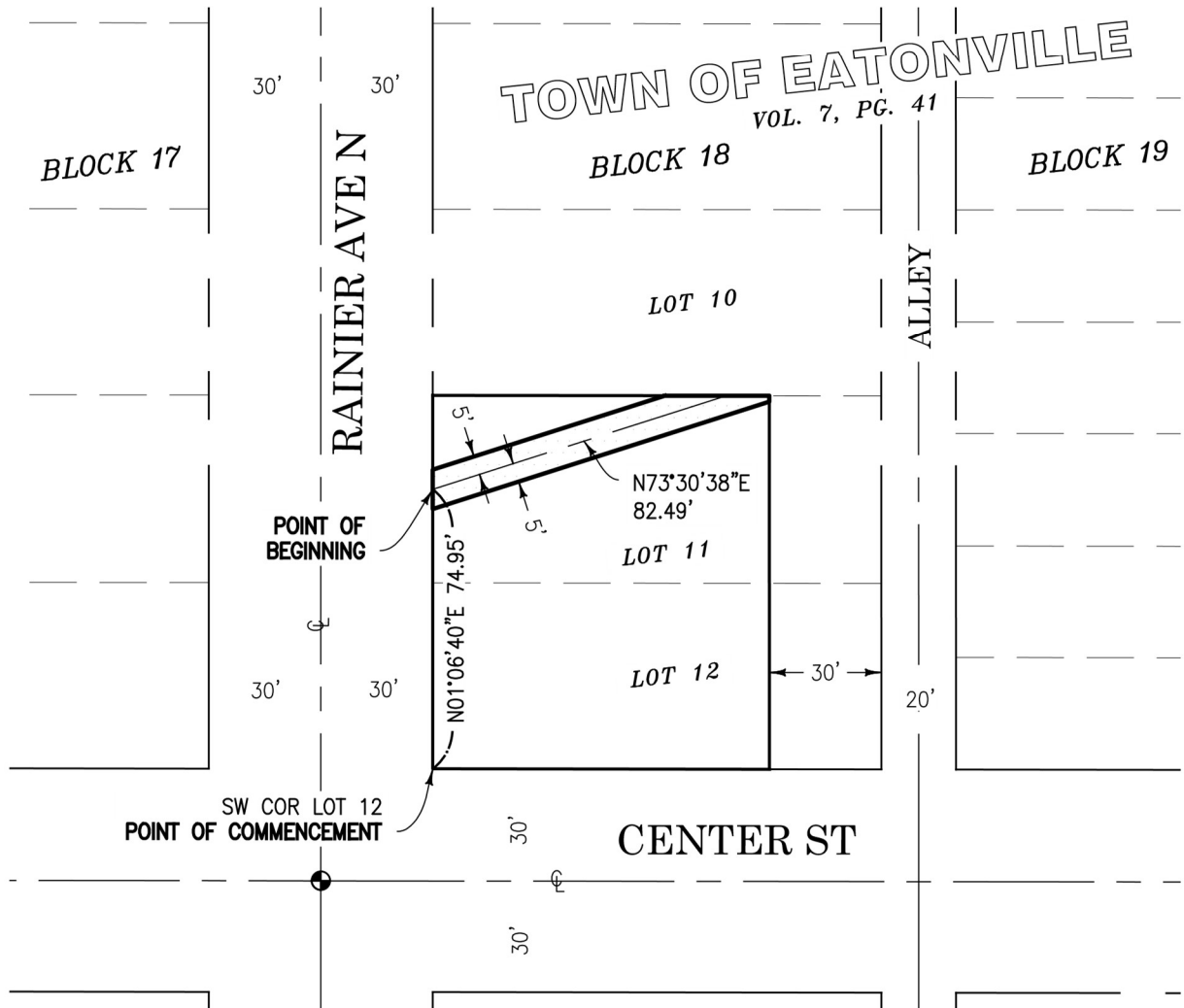
Situate in the County of Pierce, State of Washington.

The above described easement contains an area of 821 square feet, more or less.

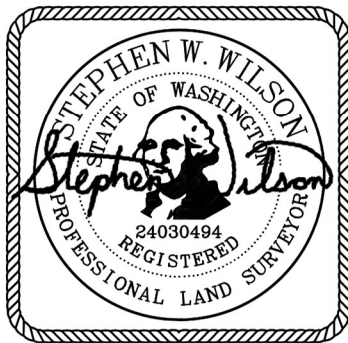


7-27-2026

EXHIBIT B
STORM EASEMENT
SW ¼ SECTION 14, TOWNSHIP 16 N, RANGE 4 E, W.M.
CITY OF EATONVILLE, PIERCE COUNTY, WA



 STORM EASEMENT
AREA = 821 SF



7-27-2026



(IN FEET)
1 inch = 50 ft.

Parametrix

1019 39th Avenue SE, Suite 100 • Puyallup, WA 98374
Ph: 253.604.6600

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