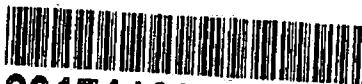


2

CHICAGO TITLE NCS
REF# 106410-112 9/83
After recording return to:
Sound Transit
Real Property Division
401 S. Jackson Street, M/S O4N-4
Seattle, WA 98104-2826


20171109001138
CONSENT Rec: \$82.00
11/9/2017 3:37 PM
KING COUNTY, WA

**WASHINGTON STATE COUNTY AUDITOR/RECORDER INDEXING
FORM**

Document Title(s) (or transactions contained therein): CONSENT TO INSTALLATION AND MAINTENANCE OF SOIL NAILS
Reference Number(s) of Documents assigned or released: Additional reference numbers on page ___ of document 8101280689, 8101280692, 8209160435, 9606120703, 20000103001655, 20081001001754, and 20081001001755
Grantor(s): (Last name first, then first name and initials) REDMOND, CITY OF
Grantee(s): (Last name first, then first name and initials) CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY
Legal Description: (abbreviated form i.e. lot, block, plat name, section-township-range) Nw-23-25-05
Assessor's Property Tax Parcel Account Number(s): 232505-9049, 232505-9120
City of Redmond Reference: Sound Transit Soil Nails - Augusta Drive Central Puget Sound Regional Transit Authority Reference: EL346 EL347 Project Number: Permit Number:

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein

Contract 8878

**CONSENT OF CITY OF REDMOND TO INSTALLATION AND
MAINTENANCE OF SOIL NAILS AND AGREEMENT OF SOUND TRANSIT
AND MICROSOFT REGARDING SAME**

THIS CONSENT AND AGREEMENT ("Agreement") is entered into by the CITY OF REDMOND, a Washington optional municipal code city (the "City"), the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority organized under the laws of the State of Washington ("Sound Transit"), and MICROSOFT CORPORATION, a Washington corporation ("Microsoft"), collectively "Parties" and individually "Party."

RECITALS

A. The City is the grantee of certain water, sewer, and stormwater utility easements (the "Utility Easements") recorded under King County Recorder Nos. 8101280689, 8101280692, 8209160435, 9606120703, 20000103001655, 20081001001754, and 20081001001755. Microsoft owns the fee interest in the property encumbered by the Utility Easements.

B. Sound Transit will be constructing a high capacity light rail transit system on land adjacent to the Utility Easements. Sound Transit desires to place soil nails within the property encumbered by the Utility Easements to support construction of the light rail system. The soil nails must be maintained in perpetuity to provide the necessary support for the light rail system. Microsoft and Sound Transit have agreed upon an easement under which Sound Transit will have the authority to install the soil nails.

C. Soil nailing is a technique by which soil slopes, excavations, or retaining or shoring walls are reinforced by the insertion of slender elements – usually steel reinforcing bars – that extend from the slope face, excavation, or retaining or shoring wall into the adjacent soil and that are inserted into a pre-drilled hole and grouted in place, creating a permanent reinforced soil mass that functions as a gravity retaining wall. The soil nails to be installed and maintained by Sound Transit will extend into and underneath the property encumbered by the easements, as measured from the property line between Sound Transit's rail line property and Microsoft's property. Upon completion of the light rail line, the soil nails will remain in place.

D. The City, Sound Transit, and Microsoft all agree that installation of the soil nails can be accomplished without unreasonably interfering with the City's utilities and the Utility Easements so long as certain terms and conditions are complied with. The City is willing to consent to the installation of the soil nails within the property encumbered by the Utility Easements under the terms and conditions set forth in this Agreement and Sound Transit and Microsoft are willing to comply with the terms and conditions.

NOW, THEREFORE, in consideration of and subject to the terms and conditions hereinafter set forth, the Parties agree as follows:

1. City's Consent. Subject to Sound Transit's compliance with the terms and conditions set forth in this Agreement, the City hereby consents to Sound Transit's installation and maintenance in perpetuity of soil nails within the property encumbered by the Utility Easements. The City agrees that installation and maintenance of the soil nails according to such terms and conditions will not unreasonably interfere with the City's easement rights.

2. Soil Nail Location. Sound Transit will provide the City with a plan showing the design and location of the soil nails for City's review and approval. Soil nails shall be installed below existing and planned utilities. Unless otherwise approved by the City Engineer, soil nails shall be designed to meet the following clearance requirements:

- a. Minimum of eight feet below finished grade at the final Right of Way or utility easement line, whichever closer to the soil nail wall face.
- b. A design clearance of eight feet shall be provided to all existing and planned Utilities, including the boundaries of duct banks, structures, and appurtenances. The design clearance shall be measured from the neat-line perimeter of the grout hole to the nearest point on the neat line edge of the Utility.

The City will review the plans expeditiously and the City's approval shall not be unreasonably withheld.

3. Installation, Maintenance and Repair of Soil Nails. Sound Transit shall take all reasonable precautions in order to ensure that the City's utilities located in the Utility Easements are not damaged by the installation, maintenance or repair of the soil nails, including but not limited to precautions against subsidence of the soil underneath the utilities. Sound Transit shall also implement quality control measures during installation to ensure soil nails are installed in conformance with the approved plans and that horizontal and vertical clearance between soil nails and the City's utilities is maintained.

4. As-Builts. Following completion of the light rail line, Sound Transit shall provide record drawings to the City showing the as-built locations of the soil nails, both in terms of depth from the ground surface and horizontal extension into the property encumbered by the Utility Easements.

5. Indemnity. Sound Transit shall be wholly responsible for the quality of the work performed to install, maintain and repair the soil nails, for all consequences of any condition of the soil nails, and for any and all damage to any utility installed or to be installed by the City in the Utility Easements caused by or arising out of the installation, maintenance, or repair of the soil nails. Sound Transit agrees, on its behalf and that of any successor or assign, to indemnify, defend, protect, and hold harmless the City and its elected and appointed officials, officers, agents, and employees (collectively referred to as the "indemnitees") from and against any and all actions, claims, costs, damages, demands,

expenses, fines, injuries, judgments, liabilities, losses, penalties, or suits, including without limitation, attorneys' fees and costs (collectively "claims") of any kind arising directly or indirectly from Sound Transit's installation, maintenance, or repair of soil nails underneath the surface of the property encumbered by the Utility Easements, including but not limited to, those claims arising from subsidence by collapse or faulting of the terrain, which may accrue to or be suffered by the indemnitees or any person by reason of Sound Transit installing, maintaining, or installing the soil nails; provided, however, that such indemnification shall not extend to any claim, action, or damage to the extent that such claim, action or damage results from the sole negligence of the City. Sound Transit shall further indemnify, defend, and hold the indemnitees harmless from any claims from liens or claims for services rendered or labor or materials furnished in or for the installation, maintenance, or repair of the soil nails and other elements of the soil nail retaining wall system.

Sound Transit hereby releases and waives any and all claims now existing or that may arise in the future against the City for any damages, losses, costs and expenses relating to any damage or injury to, or destruction of, the soil nails or other elements of the soil nail wall system (e.g. concrete facing, etc.) arising from the City's installation, maintenance, replacement of its utility lines and facilities within the Utility Easements, except to the extent arising from the sole negligence or willful misconduct of the City or any of its contractors.

If a court of competent jurisdiction determines that this Agreement is subject to the provisions of RCW 4.24.115, the parties agree that the indemnity provisions hereunder shall be deemed amended to conform to said statute and liability shall be allocated as provided therein.

The provisions of this Section shall apply to claims by Sound Transit's own employees and the employees of Sound Transit's agents, representatives, contractors, and subcontractors to which Sound Transit might otherwise be immune under Title 51 RCW. This waiver of immunity under Title 51 RCW has been mutually negotiated by the parties hereto, and Sound Transit acknowledges that the City would not enter into this Agreement without Sound Transit's waiver thereof.

6. **Insurance.** Sound Transit shall cause its contractor to provide policies of insurance evidencing the minimum coverage and limits set forth below and shall provide copies of certificates evidencing that insurance to the City upon request. The minimum insurance coverage and limits shall be maintained at all times during the term of this Agreement:

A. **Worker's Compensation and Employer's Liability.** Limits shall not be less than (i) Worker's Compensation: statutory; (ii) Employer's Liability: \$500,000 each accident-injury; (iii) \$500,000 each employee-disease; and (iv) \$500,000 disease-policy. Such insurance shall evidence that coverage applies in the State of Washington.

B. Comprehensive Motor Vehicle Liability. Limits for vehicles owned, non-owned or rented shall not be less than \$1,000,000 bodily injury and property damage combined single limit.

C. Commercial General Liability. Limits shall not be less than \$1,000,000 Bodily Injury and Property Damage Combined Single Limit. Coverage is to be written on an "occurrence" basis and shall include (i) premises operations; (ii) products/completed operations; (iii) independent contractors; (iv) personal injury (with employment exclusion deleted); (v) broad form property damage endorsement; and (vi) contractual liability.

D. Umbrella Liability. Limits shall not be less than \$2,000,000 bodily Injury and Property Damage combined Single Limit. This policy shall apply in excess of the limits stated in A, B, and C above.

NEITHER THE INSURANCE REQUIRED TO BE CARRIED, NOR THE GRANTING OF PERMISSION HEREIN, NOR ANYTHING IN THIS AGREEMENT SHALL LIMIT THE SOUND TRANSIT'S RESPONSIBILITY UNDER THE LAW TO THE CITY FOR DAMAGE TO PERSONS, LAND, BUILDINGS, OR OTHER PROPERTY.

7. Compensation for Damages to Utilities. Sound Transit agrees that it shall compensate the City for damages to the City-owned utilities located therein resulting from the installation or maintenance of the soil nails, including costs related to repair, reconstruction, or restoration, construction of temporary facilities and bypasses, traffic redirection, barricades, fences, and other measures taken to protect the public, the public right-of-way, and utilities therein.

8. Microsoft's Agreement. Microsoft agrees not to grant any rights to Sound Transit that are inconsistent with the provisions of this Agreement.

9. Covenants Run with the Land. This Agreement shall be deemed to be a covenant running with the land and shall be binding upon the heirs, successors in interest, assigns, and devisees of the parties.

10. Recovery of Litigation Costs. If any Party brings suit against another Party in order to enforce the provisions of this Agreement or to redress any breach thereof, the prevailing Party in such action shall be entitled to recover its reasonable costs and reasonable attorney's fees incurred in such action from the non-prevailing party, in addition to any other relief to which the prevailing party may be entitled.

11. Underground Locator Service – Signs. As the Facility Owner and Operator of the Soil Nail Wall System, Sound Transit shall subscribe to a One-Number Locator Service per RCW Chapter 19.122 if the same is available for such facilities. Evidence of

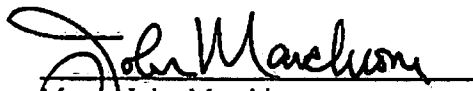
registration with the One-Number Locator Service shall be submitted to the City before commencing any work in the City's Utility Easements. Sound Transit shall also post signs in the vicinity of the soil nails in order to advise potential excavators of their presence and of a contact number at Sound Transit that excavators must call before working in that portion of the Utility Easements in which the soil nails are located. The location of such signs shall be approved by the City and Microsoft prior to the commencement of work in the Utility Easements.

12. Miscellaneous. Other than the easement agreements referenced herein, this Agreement constitutes the entire agreement between the Parties concerning its subject matter and supersedes any previous agreements or negotiations. This Agreement may only be amended in writing, signed by the Parties. This Agreement shall be governed by the laws of the State of Washington and venue shall be properly in King County Superior Court.

13. Counterparts. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. The Parties agree that an executed original counterpart of this Agreement may be delivered electronically and shall be deemed an original; in such event a hard copy of the original counterpart shall thereafter be delivered as a courtesy.


IN WITNESS WHEREOF, the parties have executed this easement as of the last date set forth below.

CITY OF REDMOND

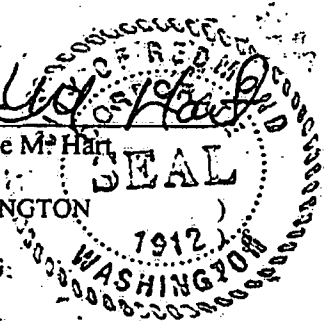


Mayor John Marchione
Date: 10/19/2017

ATTEST/AUTHENTICATED:

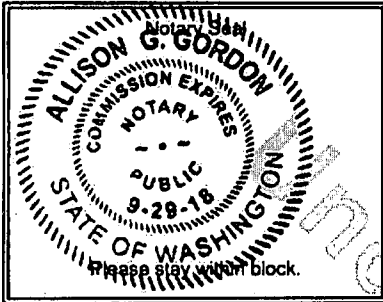


City Clerk Michelle M. Hart
STATE OF WASHINGTON
COUNTY OF KING:



I certify that I know or have satisfactory evidence that John Marchione is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they was authorized to execute the instrument, and acknowledged it as the Mayor of the City of Redmond, Washington, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this 19th day of October, 2017.



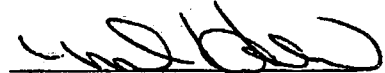
Notary Signature: Allison G. Gordon

Notary Print Name: Allison G. Gordon
Notary Public in and for the State of Washington

Residing at Kirkland, WA

My Appointment Expires: 9/29/18

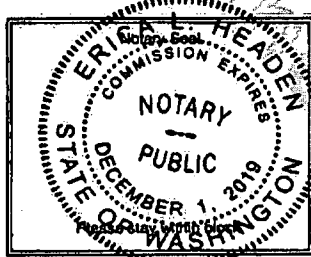
CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY


By: Michael Harbour
Date: 11-8-17

STATE OF WASHINGTON)
) §
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Michael Harbour is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Deputy CEO of the Central Puget Sound Regional Transit Authority, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this 8th day of November, 2017.



Notary Signature: Erica L. Header
Notary Print Name: Erica L. Header
Notary Public in and for the State of Washington
Residing at Kent, WA
My Appointment Expires: December 1, 2019

Approved as to Form

By: _____
Sound Transit Legal Counsel

MICROSOFT CORPORATION

[Signature]
By: Regional Director
Date: 10-30-17

STATE OF WASHINGTON)
) §
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Rob Towne is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Regional Director of Microsoft Corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this 30th day of October, 2017.



Notary Signature: [Signature]
Notary Print Name: Tania Romero
Notary Public in and for the State of Washington
Residing at Redmond, WA
My Appointment Expires: 11-19-19

UNOFFICIAL COPY

After recording return to:
Sound Transit
Real Property Division
401 S. Jackson Street, M/S O4N-4
Seattle, WA 98104-2826

**WASHINGTON STATE COUNTY AUDITOR/RECORDER INDEXING
FORM**

Document Title(s) <i>(or transactions contained therein):</i> CONSENT TO INSTALLATION AND MAINTENANCE OF SOIL NAILS
Reference Number(s) of Documents assigned or released: Additional reference numbers on page ____ of document 8101280689, 8101280692, 8209160435, 9606120703, 20000103001655, 20081001001754, and 20081001001755
Grantor(s): <i>(Last name first, then first name and initials)</i> REDMOND, CITY OF
Grantee(s): <i>(Last name first, then first name and initials)</i> CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY
Legal Description: <i>(abbreviated form i.e. lot, block, plat name, section-township-range)</i> Nw-23-25-05
Assessor's Property Tax Parcel Account Number(s): 232505-9049, 232505-9120
City of Redmond Reference: Sound Transit Soil Nails – Augusta Drive Central Puget Sound Regional Transit Authority Reference: EL346 EL347 Project Number: Permit Number:

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein

**CONSENT OF CITY OF REDMOND TO INSTALLATION AND
MAINTENANCE OF SOIL NAILS AND AGREEMENT OF SOUND TRANSIT
AND MICROSOFT REGARDING SAME**

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RECITALS

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B. Sound Transit will be constructing a high capacity light rail transit system on land adjacent to the Utility Easements. Sound Transit desires to place soil nails within the property encumbered by the Utility Easements to support construction of the light rail system. The soil nails must be maintained in perpetuity to provide the necessary support for the light rail system. Microsoft and Sound Transit have agreed upon an easement under which Sound Transit will have the authority to install the soil nails.

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The City will review the plans expeditiously and the City's approval shall not be unreasonably withheld.

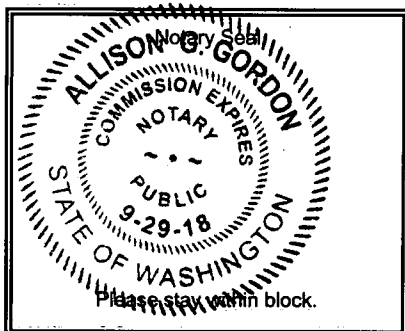
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4. As-Builts. Following completion of the light rail line, Sound Transit shall provide record drawings to the City showing the as-built locations of the soil nails, both in terms of depth from the ground surface and horizontal extension into the property encumbered by the Utility Easements.

5. Indemnity. Sound Transit shall be wholly responsible for the quality of the work performed to install, maintain and repair the soil nails, for all consequences of any condition of the soil nails, and for any and all damage to any utility installed or to be installed by the City in the Utility Easements caused by or arising out of the installation, maintenance, or repair of the soil nails. Sound Transit agrees, on its behalf and that of any successor or assign, to indemnify, defend, protect, and hold harmless the City and its elected and appointed officials, officers, agents, and employees (collectively referred to as the "indemnitees") from and against any and all actions, claims, costs, damages, demands,

I certify that I know or have satisfactory evidence that John Marchionis is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they was authorized to execute the instrument, and acknowledged it as the Mayor of the City of Redmond, Washington, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this 19th day of October, 2017.



Notary Signature: Allison G. Gordon

Notary Print Name: Allison G. Gordon
Notary Public in and for the State of Washington

Residing at Kirkland, WA

My Appointment Expires: 9/29/18

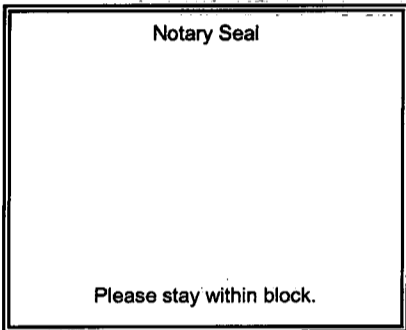
CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY

By: _____
Date: _____

STATE OF WASHINGTON)
) §
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the _____ of the **Central Puget Sound Regional Transit Authority**, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2017.



Notary Signature: _____

Notary Print Name: _____

Notary Public in and for the State of Washington

Residing at _____

My Appointment Expires: _____

Approved as to Form

By: _____
Sound Transit Legal Counsel

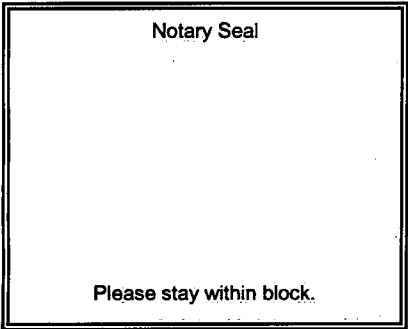
MICROSOFT CORPORATION

By: _____
Date: _____

STATE OF WASHINGTON)
) §
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the _____ of **Microsoft Corporation**, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2017.



Notary Signature: _____
Notary Print Name: _____
Notary Public in and for the State of Washington
Residing at _____
My Appointment Expires: _____

CITY CONTRACT ROUTING & APPROVAL

Instructions on Back

Project Title: Consent to Installation and Maintenance of Soil Nails

Project No: N/A

Type of Service: Soil Nails

Provider of Service: Central Puget Sound Regional Transit Authority

Source of Funding: N/A

Original Contract/Agreement Amount: N/A Estimated Start Date: after recording

Current Contract/Agreement Amount (includes previous supplements, if any): N/A

Proposed Increase: _____ Council Approval Date: _____

New Contract Total: _____ Estimated Completion Date: _____

Project Administrator: Mike Paul Ext: 2721

Return contract to: Maria O'Neill Mailstop: 4NPW Ext: 2720

Supervisor/Manager Signature [Signature] Date 10/18/17
Department Head/Designee Signature _____ Date _____

Remarks:

ROUTING PROCESS: (3 copies)

To: City Clerk (for routing and signatures) [Signature] Date 10/18/17

Risk Manager [Signature] Date 10/18/17
(Signature or initials)

City Attorney [Signature] Date 10/19/17
(Signature or initials)

Mayor [Signature] Date 10/19/17
(Signature or initials)

City Clerk [Signature] Date 10/25/17
(Signature or initials)

Note: Please return the fully executed routing sheet, contracts and agreements to the Originating Division for distribution except for one original retained by the City Clerk.

FINANCE USE ONLY: Dynamics (PA) Number [] City Contract Number 8878