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**MEMORANDUM**

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**TO:** PARKS AND RECREATION ADVISORY BOARD  
**FROM:** LAINE POTTER, PARKS DEPT. DESIGN & DEVELOPMENT MANAGER  
**CC:** NICOLE OLIVER, PARKS DIRECTOR  
**SUBJECT:** BRAMAN PROPERTY DONATION  
**DATE:** OCTOBER 12, 2022

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Susan Braman property in the South Neighborhood at the southern end of 28<sup>th</sup> St. and Cody Circle, directly northeast of Hoag's Pond. The property is currently unimproved and heavily forested. The parcel is bordered to the west by the City's Interurban Greenway and Trail, including a conservation and public access easement over adjacent private property. Ms. Braman would like to donate the parcel to the City with a permanent deed restriction that it remains undeveloped and used solely for park purposes. Due diligence of acceptance of this property donation was approved by the Greenways Advisory Committee and Parks and Recreation Advisory Board at their October 7, 2021 and October 13, 2021 meetings, respectively. City Council approved due diligence on October 25, 2021.

Acceptance of this donation will expand contiguous open space, habitat preservation, and future trail connectivity, and is consistent with the South Neighborhood Plan. Acquisition of the property is consistent with Section 5.4.1 of the 2020 PRO Plan – "Acquire additional greenway corridors as identified on the map following this section." The property lies within an identified open space corridor. The PRO Plan identifies a future trail connection from the end of 28th St./Cody Circle to Hoag's Pond. The topography and wetlands will make trail alignment challenging, and this parcel will expand the opportunities to align the trail in less steep terrain and connect the residents from Happy Valley and Old Fairhaven Parkway via 28th St. to Hoag's Pond and Interurban Trail. The 2019-2023 Greenways Strategic Plan includes a primary priority project to improve habitat connectivity throughout Bellingham and identifies that land should be acquired in linear corridors when possible and enhance and extend existing conservation and open space sites. The property lies within wetland protection and forest block protection areas as identified in the Bellingham Habitat Restoration Technical Assessment. The parcel lies within a key forested wildlife corridor between the large forested lands of Chuckanut Mountain to the south and the Padden Creek corridor to the north.

The attached draft Revocable Transfer on Death Deed has been provided by Ms. Braman's counsel and includes proposed restrictions on use. Please review the proposed use restrictions. Staff recommendation is to accept the terms of the deed restrictions, excepting any limitations on bicycling, as the limitation is inconsistent with

the multimodal trail corridor identified in the PRO Plan. A future trail, that may use a portion of the subject parcel, is a key north-south link for both commuters and recreational users between the Happy Valley and South Neighborhoods, and Interurban Greenway.

**RETURN TO:**

Catherine A. Moore  
Carmichael Clark, P.S.  
P.O. Box 5226  
Bellingham, WA 98227

**DOCUMENT TITLE:**

REVOCABLE TRANSFER ON DEATH DEED

**REFERENCE NUMBER OF RELATED DOCUMENT:**

**GRANTOR:**

SUSAN BRAMAN, as her separate property

**GRANTEES:**

The City of Bellingham, a Washington Municipal Corporation

**LEGAL DESCRIPTION:**

LOTS 23 & 24, BLK 3, PLAT OF STAR ADDN TO FAIRHAVEN

**ASSESSOR'S TAX PARCEL NUMBER(S):**

370307 154333 0000

**REVOCABLE TRANSFER ON DEATH DEED**

GRANTOR. The Grantor is SUSAN BRAMAN, who acquired title as her separate property.

PRIMARY BENEFICIARY. The Grantor designates the following primary beneficiary if the primary beneficiary survives the Grantor: The City of Bellingham, a Washington Municipal Corporation, for park purposes only

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO TRANSFER ON DEATH:**

LOTS 23 AND 24, BLOCK 3, PLAT OF THE STAR ADDITION TO FAIRHAVEN, WASHINGTON,  
ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 54, RECORDS OF  
WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON

TRANSFER ON DEATH. The Grantor transfers all the Grantor's interest in the above-described property, including without limitation any after-acquired title of the Grantor, to the primary beneficiaries as designated above. The transfer to the beneficiaries is to occur at Grantor's death. Before Grantor's death, the Grantor has the right to revoke this deed.

RESTRICTIONS ON USE. The above-described property is granted to the Beneficiary so that it may be protected in perpetuity as public open space, and developed with a pedestrian-only footpath with biking prohibited. The beneficiary shall not conduct the following activities within or upon above-described property:

- a. Remove, damage, or kill native trees or native vegetation, except in the case of a tree which poses an imminent hazard or is determined to be hazardous by an ISA-certified arborist;
- b. Permit grazing of domestic animals;
- c. Excavate, dredge, fill, dike or otherwise alter the landscape or topography;
- d. Store derelict vehicles, equipment, hazardous substances, waste, or materials of any kind;
- e. Operate heavy equipment;
- f. Construct, erect or place any buildings, structures or parking areas, either of a temporary or permanent nature;
- g. Grant or allow road or utility construction and easements;
- h. Alter the surface or subsurface hydrology; or
- i. Otherwise use the property in ways inconsistent with its purpose as public open space.

Further, should the Beneficiary ever transfer or assign the above-described property to another entity, it may only do so to another public entity or an entity considered "qualified" within the meaning of Section 170(h) of the Internal Revenue Code of 1954, as amended, and RCW 64.04.0130 and RCW 84.34.250.

These restrictions on use shall constitute covenants running with the land and shall bind all successors and assigns of the Beneficiary in perpetuity.

REAL ESTATE EXCISE TAX EXEMPTION. The recording of this Revocable Transfer on Death Deed is not a "sale" as defined in RCW 82.45.010(1) and is therefore not subject to real estate excise tax. The transfer that will occur under this Revocable Transfer on Death Deed at the time of the Grantor's death is exempt from the Washington Real Estate Excise tax by reason of RCW 82.45.010(3)b) and WAC 458-61A-202(5)(d). No real estate excise tax affidavit is required or accepted for the filing of this Revocable Transfer on Death Deed as provided by WAC 458-61A-303(3)(j)

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

\_\_\_\_\_  
SUSAN BRAMAN, Grantor

STATE OF WASHINGTON     )  
  ) §  
County of Whatcom         )

I certify that I know or have satisfactory evidence that SUSAN BRAMAN is the individual who appeared before me, and said person acknowledged that she executed this instrument and acknowledge it to be her free and voluntary act for the uses and purposes therein mentioned.

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington. Residing in \_\_\_\_\_.  
My Commission expires \_\_\_\_\_.