

NO. \_\_\_\_\_

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF SETTling SPOKANE )  
COUNTY V. LOREN J. BURNETT AND )  
DANA D. BURNETT, SPOKANE COUNTY )  
SUPERIOR COURT CASE NO. 17-2-04077-5 )

**R E S O L U T I O N**

**WHEREAS**, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County has the care of County property and the management of County funds and business; and

**WHEREAS**, the County filed a Petition for Eminent Domain against Loren J. Burnett and Dana D. Burnett in Spokane County Superior Court Cause No. 17-2-04077-5; and

**WHEREAS**, the parties attended mediation and executed a Mediated Settlement Agreement on June 21, 2019; and

**WHEREAS**, Counsel on this matter Mike Connelly and Jessica Pilgrim recommend the Board of County Commissioners fully settle and resolve this matter as set forth in the “Mediated Settlement Agreement”, attached hereto as Exhibit 1,

**WHEREAS**, the Board of County Commissioners concur with this recommendation.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Board of County Commissioners of Spokane County that the Chairman of the Board or a majority of the Board authorizes and confirms settlement of the above captioned cause of action as recommended by Legal Counsel.

**APPROVED BY THE BOARD** this \_\_\_\_\_ day of July, 2019.

BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

\_\_\_\_\_  
MARY L. KUNEY, CHAIR

ATTEST:

\_\_\_\_\_  
AL FRENCH, VICE-CHAIR

\_\_\_\_\_  
Ginna Vasquez, Clerk of the Board

\_\_\_\_\_  
JOSH KERNS, COMMISSIONER

EXHIBIT 1

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

SPOKANE COUNTY, a municipal	)	
subdivision of the State of Washington,	)	NO. 17-2-04077-5
	)	
Petitioner,	)	<b>CR 2A MEDIATED SETTLEMENT</b>
	)	<b>AGREEMENT</b>
v.	)	
	)	
LOREN J. BURNETT and DANA D.	)	
BURNETT, husband and wife,	)	
individually and as a marital	)	
community,	)	
	)	
Respondents.	)	
_____	)	

At the scheduled mediation on June 21, 2019, Petitioner Spokane County and Respondents Loren J. Burnett and Dana D. Burnett, individually and as husband and wife, in the above-captioned matter, have reached an accord and settlement which will resolve all claims and causes of action by and between all of the parties and do hereby agree as follows:

A. Petitioner shall pay to Respondents by depositing in the Registry of Spokane County Superior Court the sum of \$124,500.00 inclusive of \$78,825.00 previously paid, leaving a balance of \$45,676.00 due within 14 days of the date of

approval of this Agreement by the Spokane County Board of Commissioners which may be removed pursuant to further order of the Court. In consideration of said payment, Respondents agree to execute the Right of Way Deed and Construction Memorandum as set forth in the Right of Way Deed and Construction Memorandum and map attached hereto as Exhibits 1 and 2.

B. This Settlement Agreement does not preclude Respondents and/or their successors or assigns from initiating any claim resulting from future impact or damage to the well serving their property as a result of any construction activity undertaken by or for the benefit of Petitioner.

C. Upon signature of this Agreement by the parties, approval of the Spokane County Board of Commissioners, and receipt of full payment as set forth in this Agreement, Petitioner's counsel shall prepare, and all parties shall sign, a Stipulated Judgment Decree of Appropriation, and Order of Dismissal with Prejudice.

D. Each of the parties shall bear their own costs and attorneys' fees not expressly set forth in this Agreement and shall execute such pleadings or other writings necessary to effectuate the terms of this Agreement.

E. The parties shall equally bear any costs charged by mediator David A. Thorner in this matter.

F. The parties mutually agree and acknowledge that this settlement constitutes a full, final and complete release of any and all claims or causes of action against one

another or any other party named in the Petition, which was made part of the Petition, or could have claims in a Petition against the named Respondents as it relates to the underlying cause of action which forms the basis of this dispute.

G. In any action to enforce the terms of this agreement, the prevailing party shall be entitled to reimbursement of costs and attorneys' fees incurred therein. Any dispute as to or arising from this Agreement or the above-referenced final documents shall be resolved by David A. Thorner, as the final binding arbitrator.

**SIGNED AND AGREED TO:**

DUNN & BLACK, P.S.



Date: June 21, 2019


ROBERT A. DUNN, WSBA #12089  
Attorney for Respondents Loren J. Burnett  
and Dana D. Burnett

ETTER, MCMAHON, LAMBERSON,  
VAN WERT & ORESKOVICH, P.C



MICHAEL F. CONNELLY, WSBA #12448  
Attorneys for Petitioner

Date: June 21, 2019



MEGAN C. CLARK, WSBA #46505  
Attorneys for Petitioner

Date: June 21, 2019

  
\_\_\_\_\_  
LOREN J. BURNETT

Date: June 21, 2019

  
\_\_\_\_\_  
DANA D. BURNETT

Date: June 21, 2019

# EXHIBIT 1

After Recording Return To:  
Spokane County Engineer's Office  
Attn.: Right of Way Department  
1026 West Broadway Avenue  
Spokane, WA 99260-0170

Document Title: Right of Way Deed  
Grantors: Burnett, Loren J. and Dana D.  
Grantee: Government, County of Spokane  
Legal Description: SW 1/4 of Section 29, Township 26 North, Range 44 East, W.M., Spokane County, WA  
Additional Legal Description: See Page 3  
Assessor's Tax Parcel Number: 46293.9052

CRP 2989 - Bigelow Gulch Road - Map No. 28  
STPR-32B1(003) and RAP No. 3207-01

SPOKANE COUNTY DIVISION OF ENGINEERING  
Spokane County, Washington

### RIGHT OF WAY DEED

IN THE MATTER OF BIGELOW GULCH ROAD - RF NO'S. 376'O' & 2366

KNOW ALL MEN BY THESE PRESENTS, that the Grantors, Loren J. Burnett and Dana D. Burnett, husband and wife, for and in consideration of Ten Dollars and other valuable consideration, conveys and grants unto Spokane County, a political subdivision of the State of Washington, Grantee under the imminent threat of the Grantee's exercise of its right of Eminent Domain, the following described real estate, situated in Spokane County, State of Washington:

PORTION OF ASSESSORS PARCEL NO. 46293.9052

See Attached Legal Description as Exhibit "A".

TO HAVE AND TO HOLD the same, unto the said Spokane County for the purposes of a public road forever.

Dated this 23 day of June, ~~2016~~ 2018 <sup>JS</sup><sub>KB</sub>

By: Loren J. Burnett  
Loren J. Burnett

By: Dana D. Burnett  
Dana D. Burnett



STATE OF WASHINGTON )  
COUNTY OF SPOKANE ) ss

I certify that I know or have satisfactory evidence that Loren J. and Dana D. Burnett are the persons who appeared before me, and said persons acknowledged that they signed this instrument, and acknowledged it as their free and voluntary act, for the uses and purposes mentioned in the instrument.

Dated this 23<sup>RD</sup> day of JUNE 2018  
~~2016~~ (FB)

By: *[Signature]*  
Notary name: ~~Jack Aquino~~ **FAITH BYERS** (FB)  
Notary Public in and for the State of Washington, ~~residing at Yakima~~ **Spokane** (FB)  
My appointment expires: ~~August 11, 2018~~ **Aug. 18, 18** (FB)

Notary Public  
State of Washington  
FAITH BYERS  
My Appointment Expires Aug 18, 2018

**RIGHT OF WAY DEED LEGAL DESCRIPTION**

**EXHIBIT "A"**

PORTION OF ASSESSORS PARCEL NO. 46293.9052

A portion of The West 330 feet of the North 660 feet of the East half of the East half of the Southwest quarter, of Section 29, Township 26 North, Range 44 East, W.M. in Spokane County, Washington; Except Bigelow Gulch Road.

Said portion described as the North 30.00 feet of said above described parcel.

CRP 2989 – Map 28

## EXHIBIT 2



# Public Works Department

Spokane County, Washington

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May 2, 2018

Re: Bigelow Gulch Project 4, CRP2989  
Assessor Parcel No.: 46293.9052  
Property Address: 9600 E. Bigelow Gulch Road

In the transaction between the Spokane County and **Loren J. Burnett and Dana D. Burnett** (hereinafter "**Owners**") tax parcel number **46293.9052**, on the above-referenced project, the following special considerations were made. The Owners herein grant to Spokane County, or its assigns, the right to enter upon the Owners' lands where necessary to perform any needed work.

- Spokane County agrees to construct a new driveway approach for the landowners during construction. The driveway approach location is shown on the attached map.

These above items are required by the property owner as a condition of settlement and are for the sole benefit thereof.

**Accepted and Approved  
Property Owner's Name**

**Accepted and Approved  
Spokane County**

By: \_\_\_\_\_  
**Loren J. Burnett**

By: \_\_\_\_\_  
**Scott Dickinson**

By: \_\_\_\_\_  
**Dana D. Burnett**

Date: \_\_\_\_\_

Date: \_\_\_\_\_



Spokane County Department of Public Works  
 1026 W. Broadway Ave. SPOKANE, WA  
 99260-0170  
 (509) 477-3600

COUNTY ROAD PROJECT No. 2989  
**BIGELOW GULCH ROAD PHASE 4**  
 FROM OLD ARGONNE ROAD TO 3,658 FT. WEST OF EVERGREEN ROAD