

TOWN OF EATONVILLE

Agenda Staff Report

Agenda Item No.:	_____	Meeting Date:	<u>September 28, 2020</u>
Subject:	<u>Resolution 2020-Q Approving and</u>	Prepared by:	<u>Greg Jacoby</u>
	<u>Authorizing the Mayor to Execute Two</u>		<u>Town Attorney</u>
	<u>Easements with CenterPoint Eatonville</u>	Atty Routing No:	<u>001-20</u>
	_____	Atty Review Date:	<u>September 25, 2020</u>

Summary: Some years ago, the Town sold the property that is now owned by CenterPoint Eatonville. At that time, the Town reserved to itself an easement across the property so that it could access Town-owned property that is adjacent to and south of the CenterPoint parcel, where the Town maintains public works infrastructure (adjacent to Eatonville Mill Pond).

The purpose of these two easements is to update the terms and conditions relating to utilities and to the location of the Town's ingress and egress. These two easements will supersede the original easement, which will be extinguished.

Recommendation: Staff recommends adoption of Resolution 2020-Q approving and authorizing the Mayor to sign two easements with CenterPoint Eatonville.

Motion for consideration: I move to adopt Resolution 2020-Q approving and authorizing the Mayor to sign two easements with CenterPoint Eatonville.

Fiscal Impact: None

Attachments:

- Resolution 2020-Q
- Exhibit A: Utilities Easement
- Exhibit B: Ingress Egress Easement

RESOLUTION NO. 2020-Q

**A RESOLUTION OF THE TOWN OF EATONVILLE, WASHINGTON,
APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE TWO
EASEMENTS WITH CENTERPOINT EATONVILLE**

WHEREAS, CenterPoint Eatonville (CenterPoint) owns real property in the Town of Eatonville, assessor's parcel number 0416231051 (the "Property"); and

WHEREAS, at one time the Town owned the Property but conveyed it to CenterPoint's predecessor in interest, reserving unto itself an easement across the Property for the benefit of the Town so that the Town could access Town-owned property adjacent to and south of the Property where public works infrastructure is located (Old Easement); and

WHEREAS, CenterPoint intends to develop a portion of the Property for church related purposes and proposes to 1) grant to the Town a new utility easement (Utility Easement), 2) grant to the Town an easement for ingress and egress (Ingress Egress Easement), and 3) extinguish the Old Easement; and

WHEREAS, Town staff have reviewed the terms and conditions of the Utility Easement and the Ingress Egress Easement and determined they better serve the Town's interests because they clarify the terms, conditions and location of the Town's right to locate utilities and underground conduit while ensuring the Town has access to the Town-owned property; now, therefore;

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

THAT: The Town Council accepts and approves the Utility Easement and the Ingress Egress Easement, copies of which are attached hereto as Exhibits A and B, and authorizes the Mayor to sign the easements 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 28th day of September 2020.

Mike Schaub, Mayor

ATTEST:

Miranda Doll, Town Clerk

When Recorded Return to:
ABBY GRIBI, City Administrator
Town of Eatonville
P.O. Box 309
Eatonville, Washington 98328

EASEMENT FOR UTILITIES

GRANTOR: Centerpoint Eatonville, a Washington nonprofit
GRANTEE: Town of Eatonville, a Washington municipal corporation
LEGAL DESCRIPTION: A portion of Revised Parcel A of Town of Eatonville Boundary Line Adjustment as described and depicted on record of survey recorded under recording no. 201104145001, records of Pierce County, WA
ASSESSOR'S PARCEL NO.: 0416231051

1. Date and Parties. This Easement is dated, for reference purposes only, the ____ day of _____, 2020 between CENTERPOINT EATONVILLE ("Grantor") and Town of Eatonville ("Grantee").

2. Recitals.

A. Grantor owns real property in Pierce County, Washington legally described in Exhibit A, attached hereto and hereby made a part hereof (the "Property").

B. Grantee is the general purpose municipal government that has land use and zoning permit authority over the Property.

C. Grantee at one time owned the Property, but conveyed it to the predecessor in interest of Grantor, reserving unto itself an easement across the Property for the benefit of property that the Grantee retained ("Town Property"), as set forth in the

Statutory Warranty Deed recorded under Pierce County Auditor's Number 2785670 ("Old Easement").

D. Grantor intends to develop the Property for church related purposes and proposes to give to the Grantee another easement that will better serve both the interests of the Grantor and the Grantee, and extinguish the Old Easement after the recording of this instrument.

3. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive perpetual easement through, upon, under, across and along that portion of the Property legal described in Exhibit A, and pictorially illustrated in Exhibit B attached hereto and hereby made a part hereof (the "Easement Area"), for the purpose of constructing, installing, maintaining, repairing and operating underground utilities to serve said Property and the Town Property.

4. Improvements to Easement Area. The Grantee may install surface mount utility equipment pedestals related to underground utility lines so long as they are located within landscaped areas, or unimproved areas within the Easement Area and Grantee shall restore the area to its pre-construction condition, including replacing landscaping, and providing screening, if any is required by Town of Eatonville development standards for utility pedestals.

5. Right of Access. Grantee shall have a non-exclusive right of access to the Easement Area, over and across Grantor's Property to enable Grantee to exercise its rights hereunder, provided, however, that, except in the case of an emergency, Grantee's access to Grantor's Property shall be preceded by reasonable advance notice to Grantor. Any improvements on Grantor's Property damaged or removed by Grantee shall be repaired or replaced in-kind. Grantee's access rights herein shall not provide the general public with the right of ingress and egress to the Easement Area, but is reserved solely and exclusively for Grantee, its personnel, and other governmental invitees of Grantee.

6. Indemnification. Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor or the negligence of others.

7. Grantor's Rights. The Grantee has the right to use the Easement Area only for the purposes and uses set forth herein, and no other uses or purposes. The Grantor retains

the right to use and enjoy the Easement Area in any manner not inconsistent with the rights granted herein.

8. Right to Convey Easement. The Grantor covenants that Grantor is the owner of the Property on which the easement is situated, has the right to convey the easement described herein and that title to the property is free and clear of any encumbrances which would interfere with the ability to grant the easement.

9. Assignability. The Grantee shall not have the right to assign, convey, sublease, apportion or otherwise transfer any or all of its rights, benefits, privileges, and interests arising in and under this easement, except with the written authorization of Grantor, which authorization shall not be unreasonably withheld.

10. Successors. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns.

EXECUTED as of the date hereinabove set forth.

GRANTOR:

GRANTEE

Jonathan Cross, Senior Pastor

Mike Schaub, Mayor

Town Acknowledgement:

STATE OF WASHINGTON)
) ss.
County of Pierce)

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

DATED: _____ 2020.

 NOTARY PUBLIC
 Print Name: _____
 My appointment expires: _____

 Name (typed or printed): _____
 NOTARY PUBLIC in and for the State of Washington
 My appointment expires: _____

Grantor Acknowledgement

STATE OF WASHINGTON)
) ss.
 County of Pierce)

1. I certify that I know or have satisfactory evidence that Jonathan Cross is the person who appeared before me, and said person acknowledged that he/she signed this instrument, and, on oath, stated that he/she was authorized to execute the instrument and acknowledged it as the Senior Pastor of Centerpoint Eatonville to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

2.

DATED: _____ 2020.

 NOTARY PUBLIC
 Print Name: _____
 My appointment expires: _____

EXHIBIT A
Legal Description of Easement Area

Description of an Ingress, Egress and Utility Easement:

That portion of the Northwest Quarter of the Northeast Quarter of Section 23, Township 16 North, Range 4 East of the Willamette Meridian, in Pierce County, Washington, more particularly described as follows:

Beginning at the most west corner of New "A" Parcel, as illustrated on Record of Survey for Boundary Line Adjustment, recorded April 14, 2011, under Pierce County Auditor's Fee No. 201104145001;

Thence North 39°44'19" East, along the northwest boundary of said New "A" Parcel, a distance of 605.94 feet to the west corner of the north boundary of said New "A" Parcel;

Thence South 89°24'19" East along said north boundary, a distance of 51.58 feet;

Thence South 39°44'19" West, parallel with the northwest boundary of said New "A" Parcel and 40.00 feet perpendicular southeast therefrom, a distance of 436.44 feet; Thence North 50°23'53" West, a distance of 30.00 feet;

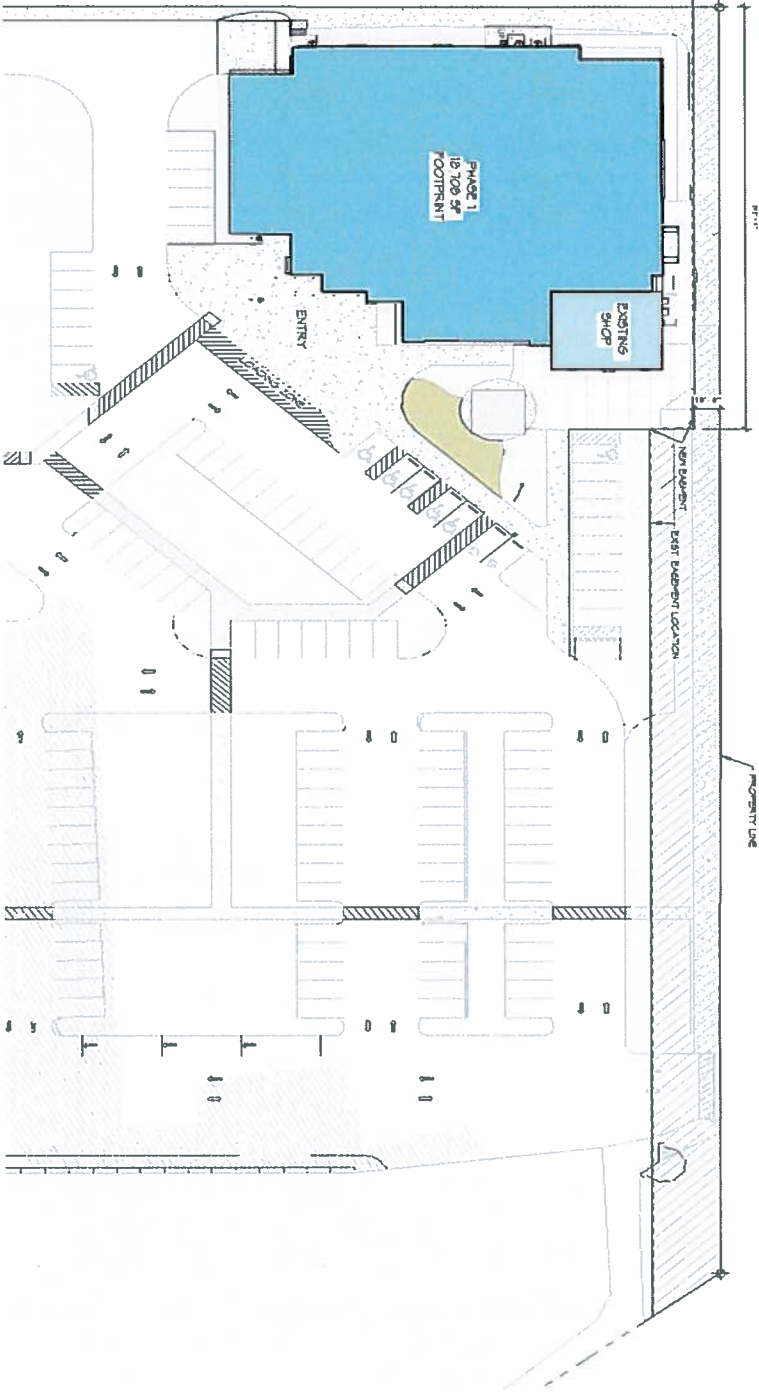
Thence South 39°44'19" West, parallel with the northwest boundary of said New "A" Parcel and 10.00 feet perpendicular southeast therefrom, a distance of 202.00 feet to the southwest boundary of said New "A" Parcel;

Thence North 50°15'00" West, along said southwest boundary, a distance of 10.00 feet to the Point of Beginning. Containing 18,828 S.F., 0.43 Acres.

Situate in the County of Pierce, State of Washington.

EXHIBIT B

**Pictorial Illustration of Easement Area
With Developed Condition Overlay**



When Recorded Return to:
ABBY GRIBI, City Administrator
Town of Eatonville
P.O. Box 309
Eatonville, Washington 98328

EASEMENT FOR INGRESS EGRESS AND UTILITIES

GRANTOR: Centerpoint Eatonville, a Washington nonprofit
GRANTEE: Town of Eatonville, a Washington municipal corporation
LEGAL DESCRIPTION: A portion of Revised Parcel A of Town of Eatonville Boundary Line Adjustment as described and depicted on record of survey recorded under recording no. 201104145001, records of Pierce County, WA
ASSESSOR’S PARCEL NO.: 0416231051

1. Date and Parties. This Easement is dated, for reference purposes only, the _____ day of _____, 2020 between CENTERPOINT EATONVILLE (“Grantor”) and Town of Eatonville (“Grantee”).

2. Recitals.

A. Grantor owns real property in Pierce County, Washington legally described in Exhibit A, attached hereto and hereby made a part hereof (the “Property”).

B. Grantee is the general purpose municipal government that has land use and zoning permit authority over the Property.

C. Grantee at one time owned the Property but conveyed it to the predecessor in interest of Grantor and retained for itself the real property adjacent to and south of the Property (“Town Property”).

D. Grantor intends to develop the Property for church related purposes and proposes to give to the Grantee an easement for underground conduits and for ingress and egress to the Town Property.

3. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive perpetual easement through, upon, under, across and along that portion of the Property legal described in Exhibit A, and pictorially illustrated in Exhibit B attached hereto and hereby made a part hereof (the "Easement Area"), for the purpose of providing ingress and egress to the Town Property immediately south of and adjacent to the Property, and to construct, install, maintain, repair and operate underground utilities to serve said Property and the Town Property.

4. Improvements to Easement Area. The Easement Area, once the Property is developed, will be within the drive lanes of a paved parking lot. Grantee may use the paved portion of the easement area for ingress and egress and will not be responsible for any maintenance to the paved area that is caused by normal usage. Grantor will notify Grantee at least two months before Grantor intends to pave the parking lot so that if Grantee chooses to do so, it can install its conduit prior to the parking lot being paved, and the Parties will coordinate their construction schedules accordingly so that there is no delay to the development of Grantor's project. Provided, should Grantee choose to bury utilities within the Easement Area after the parking lot is paved, it shall do so only after reasonable notice to Grantor and the timing of the work shall be coordinated with the Grantor so as to not unreasonably interfere with church related events on the Property. Grantee shall restore the Easement Area to its original condition after installing underground conduits. The Grantee may install surface mount utility equipment pedestals related to underground conduits so long as they are located within landscaped areas, or unimproved areas within the Easement Area and Grantee shall restore the area to its pre-construction condition, including replacing landscaping, and providing screening, if any is required by Town of Eatonville development standards for utility pedestals.

5. Right of Access. Grantee shall have a non-exclusive right of access to the Easement Area, over and across Grantor's Property to enable Grantee to exercise its rights hereunder, provided, however, that, except in the case of an emergency, Grantee's access to Grantor's Property shall be preceded by reasonable advance notice to Grantor. Any improvements on Grantor's Property damaged or removed by Grantee shall be repaired or replaced in-kind. Grantee's access rights herein shall not provide the general public with the right of ingress and egress to the Easement Area, but is reserved solely and exclusively for Grantee, its personnel, and other governmental invitees of Grantee.

6. Indemnification. Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights

the Mayor of the Town of Eatonville to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____ 2020.

NOTARY PUBLIC
Print Name: _____
My appointment expires: _____

Name (typed or printed): _____
NOTARY PUBLIC in and for the State of Washington
My appointment expires: _____

Grantor Acknowledgement

STATE OF WASHINGTON)
) ss.
County of Pierce)

1. I certify that I know or have satisfactory evidence that Jonathan Cross is the person who appeared before me, and said person acknowledged that he/she signed this instrument, and, on oath, stated that he/she was authorized to execute the instrument and acknowledged it as the Senior Pastor of Centerpoint Eatonville to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

2.

DATED: _____ 2020.

NOTARY PUBLIC
Print Name: _____
My appointment expires: _____

EXHIBIT A

Legal Description of Easement Area

Description of a 26 Feet Wide Ingress, Egress and Utility Easement:

That portion of the Northwest Quarter of the Northeast Quarter of Section 23, Township 16 North, Range 4 East of the Willamette Meridian, in Pierce County, Washington, more particularly described as follows:

A strip of land, 26.00 feet wide, lying 13.00 feet on both sides of the following described line:

Commencing at the most west corner of New "A" Parcel, as illustrated on Record of Survey for Boundary Line Adjustment, recorded April 14, 2011, under Pierce County Auditor's Fee No. 201104145001;
Thence North $39^{\circ}44'19''$ East, along the northwest boundary of said New "A" Parcel, a distance of 514.07 feet to the Point of Beginning of the centerline of this description;
Thence along said centerline the following courses:
South $50^{\circ}23'53''$ East, a distance of 49.12 feet;
Thence South $39^{\circ}36'07''$ West, a distance of 188.80 feet;
Thence South $50^{\circ}23'53''$ East, a distance of 28.97 feet;
Thence South $39^{\circ}36'07''$ West, a distance of 28.26 feet;
Thence South $05^{\circ}23'53''$ East, a distance of 202.60 feet;
Thence South $39^{\circ}36'07''$ West, a distance of 154.31 feet to the southwest boundary of said New "A" Parcel, being the end of the centerline of this description.
Said end of the centerline of this description is South $50^{\circ}15'00''$ East, a distance of 222.58 feet from the Point of Commencement at the most west corner of New "A" Parcel.
The sidelines of said strip are to be shortened or lengthened to intersect adjacent segments on both sides of the centerline of this description (no curves), and to terminate at the boundary of said New "A" Parcel.

Situate in the County of Pierce, State of Washington.

EXHIBIT B

**Pictorial Illustration of Easement Area
With Developed Condition Overlay**

