

PROPOSAL RE: PETITION TO VACATE PUBLIC RIGHT-OF-WAY **(IDAHO CODE TITLE 40) – FILE NO. VS0002-21**

Through the *Petition to Vacate Public Right-Of-Way (Idaho Code Title 40)* filed on or about February 3, 2021 (hereinafter, “Application”), M3 ID Camp Bay, LLC (hereinafter, “Petitioner”) has sought to vacate/abandon approximately 2,550 ft (2.93 acres) of the Camp Bay Road “right-of-way” easement (hereinafter, “Road”) as located from the north boundary of the Petitioners Parcel No. R56N01E184800A, to the terminus of the road near Lake Pend Oreille (hereinafter, “Lake”), in Parcel No. R56N01E187801A (hereinafter, “Vacation”). Pursuant to the procedural history outlined below, the Application will again be set for a public hearing that is anticipated to occur within the next twenty-two (22) to thirty (30) days.

In terms of pertinent history, although the Application was initially approved by the Bonner County Board of County Commissioners (hereinafter, “Board”) upon a hearing on April 7, 2021 (hereinafter, “Hearing”), it was thereafter denied by the Board upon rehearing on February 16, 2022 (hereinafter, “Rehearing”). As reflected in the public record concerning the same, the Board declined to approve the Application in part on the grounds of its uncertainty as to whether the Road provided public access to the Lake, thereby expressly inviting judicial intervention as to resolve the same. Petitioner obliged and correspondingly sought judicial review (Case No. CV09-22-0316). Although this issue ostensibly remained contested, communications amongst the parties suggested an opportunity to reach resolution concerning the underlying Vacation/Application. Through its *Motion for Order Permitting Presentation of Evidence or, in the Alternative, Remand* (hereinafter, “Motion”), as stipulated to by Bonner County (hereinafter, “County”), Petitioner moved the presiding court to remand the underlying matter back to the Board for purposes of (re)considering the Application in light of the proposal generally set forth therein. The Motion was granted in part and the matter has been remanded back to the Board by way of the *Memorandum Decision and Order on Remand*, as entered by the Hon. Cynthia K.C. Meyer on September 21, 2022.

As to its substance, the proposal generally provides that in exchange for the Application’s approval and the Road’s corresponding vacation, Petitioner will create and dedicate a public easement for a pathway (hereinafter, “Pathway”) ultimately providing the residents of Bonner County and others with a fifty (50) foot wide public access point to the Lake (hereinafter, “Proposal”). The Pathway, whose precise location is yet to be determined, will be located somewhere in the portion of attached Exhibit A highlighted in yellow based upon field conditions including in part the terrain, creek, and existing trees. As to facilitate the precise situation, construction, and subsequent use of the Pathway, the Proposal is subject to certain terms and conditions, tentatively consisting of the following:

- (1) Upon the County’s approval of the Application and satisfaction of its requisite obligations to provide a complete memorialization of the same, Petitioner shall immediately record a construction easement (hereinafter, “Construction Easement”) for the construction of the Pathway as running to the boundary of the Petitioner’s property and the Lake, with said terminus point specifically ending at the Lake’s pre-dam ordinary highwater mark of 2,051 ft. above sea level. This will provide undisputed public access to the Lake within the confines of the Permanent Easement (as defined below). The Pathway will itself be comprised of a natural dirt trail measuring between four (4) feet to six (6) feet in width (hereinafter, “Trail”). The Trail’s anticipated general location and alignment is generally depicted in attached Exhibits B and C as a red line and is subject to Petitioner determining its final location within the Construction Easement. As further depicted in the portions of attached Exhibits B and C highlighted in green, the Trail will ultimately orient as to provide lake frontage constituting a fifty (50) foot-wide access point to the Lake (hereinafter,

“Lakeshore”). To be clear, the Pathway is inclusive of both the Trail and the Lakeshore. The general public will not utilize the Pathway until such time as the Pathway is constructed and the Permanent Easement is recorded in accordance with (2) below.

- (2) Within twelve (12) months of the Application’s approval, and the expiration of all applicable administrative and judicial appeals period(s) if so necessitated, Petitioner will cause for the Pathway to be fully constructed at Petitioner’s expense within the articulated parameters of the Construction Easement. Upon the Pathway’s construction, the location of the Pathway will be formally surveyed and a legal description reflecting the Pathway will be prepared by a licensed engineer on behalf of the Petitioner in compliance with the points set forth herein. The Legal Description shall, in part, expressly reflect that the Trail will be ten (10) feet in total width (as evenly split respective to the Trail’s center line) and will ultimately run into the Lakeshore, which again is to provide fifty (50) feet of lake frontage terminating at the Lake’s pre-dam ordinary highwater mark of 2,051 ft. above sea level (hereinafter, “Permanent Easement”). Petitioner shall thereafter immediately record the Permanent Easement.
- (3) The Pathway will be open daily for public non-motorized use between the hours of 8:00 AM to 8:00 PM. In using the Pathway, members of the public will be mindful of and respectful to the property rights of those neighboring properties to the Pathway and will not trespass on adjacent private land. Moreover, given the possibility that such conduct will impair the quiet enjoyment of the Pathway and surrounding lands and endanger the wellbeing of surrounding property owners and those enjoying the Pathway and Lake, members of the public using the Pathway shall keep all dogs on a leash at all times and shall not litter, start any fires, camp overnight, and/or attempt to moor or anchor any motorized boats or watercraft upon any portion of the Pathway (although such individuals may utilize the Pathway to portage non-motorized watercraft such as kayaks and/or canoes to the Lake) (hereinafter, collectively as set forth in this section “Use Conditions”). The Petitioner will construct signage denoting the Pathway’s alignment and boundaries as well as articulating the Use Conditions. Petitioner and the Camp Bay Homeowners Association assume no responsibility for any injuries derived from or related to the use of the Pathway.
- (4) Petitioner (and/or the Camp Bay Homeowner’s Association or owners of parcels neighboring the Pathway) shall have the right to engage law enforcement in order to remedy violations of the Use Conditions and to enforce their general rights under the law. The County will police the Pathway and the Lakeshore in a manner fully commensurate with its general efforts throughout the county and the Use Conditions, thus responding to calls for service when they occur.
- (5) In the event of any continued violations of the Use Conditions that are not otherwise resolved by the County or law enforcement, and upon Petitioner’s provision of five (5) written notices to the County to cure the same, Petitioner (either directly or through a designee thereof) will have the right to take reasonable measures to remedy the same, including but not limited to employing private security, placing a gate and/or other barriers or signage preventing the prohibited use referenced herein (e.g., access outside of the articulated hours of operations, use of any motorized vehicles, etc.).

EXHIBIT A - CONSTRUCTION EASEMENT

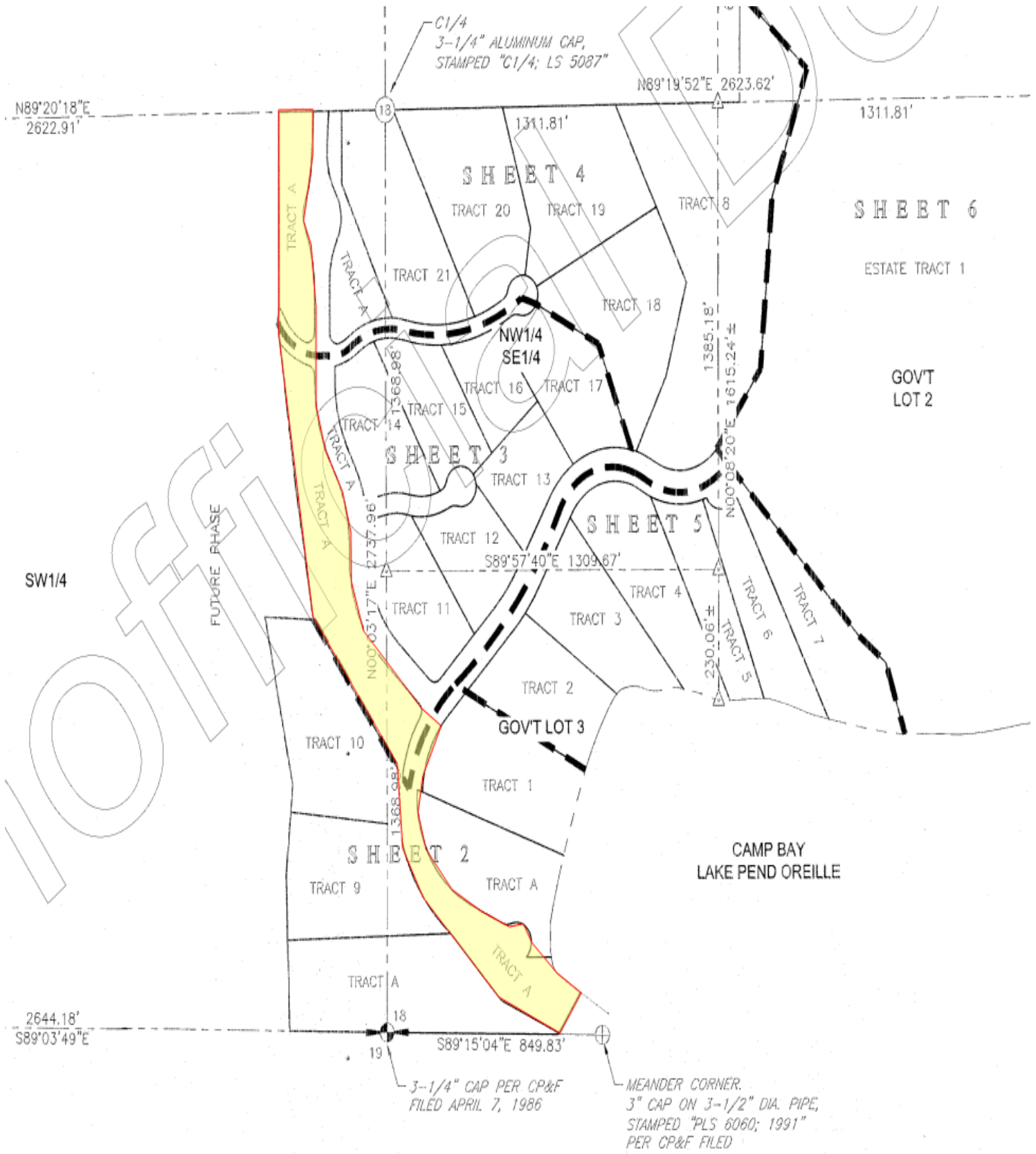


EXHIBIT B - GENERAL LOCATION OF ANTICIPATED PATHWAY
(TO BE FIELD LOCATED FOR ILLUSTRATION PURPOSES ONLY)

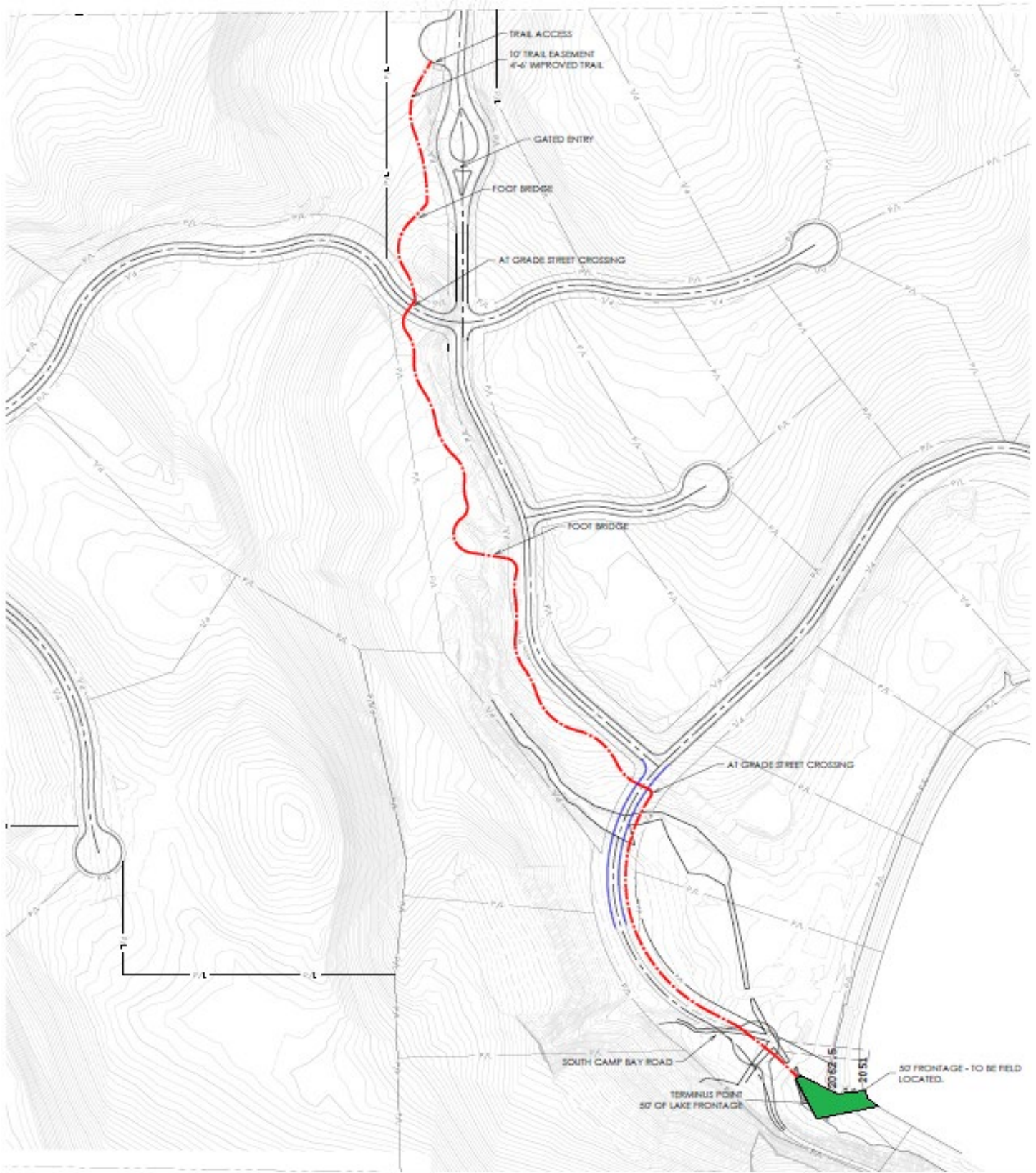


EXHIBIT C – TRAIL AND LAKESHORE
(TO BE FIELD LOCATED FOR ILLUSTRATION PURPOSES ONLY)

