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Skagit County Auditor

6/4/2002 Page 1 of 11

1:26PM

RETURN TO:

PORT OF SKAGIT COUNTY

P. O. BOX 348

BURLINGTON, WA 98233

Document Title: Interlocal Agreement

Reference number of documents assigned or released: N/A

Grantors: Port of Skagit County

Grantees: Town of LaConner/Skagit County Fire District #13

Partial Legal Description: (Full legal on Exhibit "2")

That portion of the unplatted first class tidelands abutting Tracts 2 and 3, Plate No. 20, LaConner Harbor in Section 31, Township 34 N, R 3, E W.M.

Assessor's Parcel/Tax I.D. Number: P119160

## INTERLOCAL AGREEMENT

**WHEREAS**, the PORT OF SKAGIT COUNTY (the "PORT"), and the TOWN OF LA CONNER (the "TOWN"), and SKAGIT COUNTY FIRE DISTRICT #13 (the "DISTRICT") are all municipal corporations of the State of Washington; and

**WHEREAS**, the PORT is the owner of real property described in a deed dated August 25, 1970, a copy of which is marked Exhibit 1, attached hereto;

**NOW THEREFORE**, for and in consideration of the mutuality of benefit, conditions and considerations herein contained, the PORT, the TOWN, and the DISTRICT hereby agree, in accordance with INTERLOCAL COOPERATION ACT, RCW 39.34 *et. seq.*, as follows:

1. Purpose:

The purpose of this agreement is to provide a site for fire station and facilities for personnel and equipment for fire protection services for the TOWN, the DISTRICT, and the PORT. There shall be no fees or charges to the PORT for such fire protection services, provided the PORT and its tenants shall pay all fire protection related fees, charges, assessments and taxes, as applicable, that apply generally to owners and occupants of property in LaConner. The Town and the District shall construct a fire hall with a footprint of approximately 6,400 square feet on the property. Said fire hall shall be substantially complete by December 31, 2002 or this easement shall automatically terminate.

2. Easement and Reservation of Rights:

The PORT does hereby grant to the TOWN and the DISTRICT an easement in and to approximately 20,735 square feet of the real property which is a portion of the property described in Exhibit 1, as specifically described in Exhibit 2, attached hereto, and as illustrated on Exhibit 3, attached hereto. This easement shall be subject and subordinate to any and all rights which may in the future be granted to the TOWN by the PORT for ingress and egress to and from, and the maintenance and support of, the TOWN's waste water treatment plant and/or other authorized TOWN municipal facilities, now or as may be hereinafter developed.

3. Environmental Impacts:

For any project undertaken by the TOWN or the DISTRICT related to the property which is the subject of this INTERLOCAL AGREEMENT, the TOWN or the DISTRICT hereby agrees to cooperate fully with Skagit County, as lead agency, for the purpose of the assuring compliance with State Environmental Policy Act (SEPA) including the provision of information for the threshold determination procedures, or preparation of an environmental impact statement if the same be required. The PORT agrees to assist and cooperate with the TOWN or the DISTRICT in complying with SEPA, but the TOWN or the DISTRICT shall be responsible for all costs

Town of La Conner, Fire District 13 and Port of Skagit County  
Interlocal Agreement/Fire Hall Easement



200206040075

Skagit County Auditor

6/4/2002 Page 2 of 11

1:26PM

connected therewith. All rights granted to the TOWN or the DISTRICT hereunder are contingent upon the TOWN'S or the DISTRICT'S compliance with SEPA.

4. Permits:

For any project undertaken by the TOWN or the DISTRICT related to the property which is the subject of this INTERLOCAL AGREEMENT, all permits necessary to effect the purposes of the agreement shall be obtained in a timely manner by and at the expense of the TOWN or the DISTRICT, provided that the PORT shall upon request by the TOWN or the DISTRICT, assist and cooperate in obtaining such permits, provided however, that the PORT shall have no responsibility to share in the cost of such permits.

5. Financing:

The TOWN and the DISTRICT agree to be solely responsible for all financial arrangements necessary for the construction, maintenance and operation of the fire station and facilities.

6. Operation and Maintenance:

The TOWN and the DISTRICT shall be solely responsible for the operation and maintenance of the fire protection facilities and the upkeep of the easement area described in Exhibit 2.

7. Limitation of Use:

The TOWN and the DISTRICT shall at all times comply with applicable local, state, and federal guidelines, standards, rules and regulations, and laws.

8. Release and Indemnity:

The TOWN and the DISTRICT does release, indemnify and promise to defend and save harmless the PORT from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by the PORT in the defense thereof, asserted or arising directly or indirectly out of acts or omissions of the TOWN or the DISTRICT or the TOWN'S or DISTRICT'S servants, agents, employees and contractors in the exercise of the rights granted herein.

The PORT does release, indemnify and promise to defend and save harmless the TOWN and the DISTRICT from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by the TOWN and the DISTRICT in the defense thereof, asserted or arising directly or indirectly out of acts or omissions of the PORT or the PORT'S servants, agents, employees and contractors in the exercise of the rights granted herein.

Town of La Conner, Fire District 13 and Port of Skagit County  
Interlocal Agreement/Fire Hall Easement



200206040075  
Skagit County Auditor

The TOWN and the DISTRICT further agree to purchase and maintain during the entire existence of this INTERLOCAL AGREEMENT a policy of public liability insurance. The initial amount will have minimum limits of the One Million Dollars (\$1,000,000) covering the fire station and facilities. On each fifth anniversary of this agreement, this amount may be adjusted to an amount to reflect the change in the purchasing power of the dollar as indicated by the consumer price index, all urban consumers, for the Seattle-Tacoma-Bremerton area (CPI), or such other appropriate successor index. The TOWN and/or the DISTRICT agree, if requested by the PORT, to provide the PORT with evidence of said insurance.

9. Duration:

The duration of this agreement shall be for fifty (50) years to December 31, 2052, unless automatically terminated beforehand on account of breach of this agreement by either party.

10. Validity of Agreement:

The parties acknowledge that the property subject to this agreement was acquired by the PORT from the State of Washington by virtue of a special act of the legislature and a deed executed pursuant thereto, and in the event that any court declares this agreement invalid for want of the power of the PORT to execute this agreement, the PORT shall have no liability or obligation to the TOWN or the DISTRICT, and the TOWN and the DISTRICT agree to indemnify and hold the PORT harmless from any such liability.

11. Termination for Breach:

In the event that the TOWN or the DISTRICT breaches or fails to perform or observe any of the terms or conditions herein or fails to cure such breach or default within ninety (90) days of the PORT'S giving the TOWN or the DISTRICT notice thereof, or if not reasonably capable of being cured within such ninety (90) days or within such other period of time as may be reasonable in the circumstances, the PORT may terminate the TOWN'S and the DISTRICT'S rights under this agreement in addition to and not in limitation of any other remedy of the PORT at law or in equity, and the failure of the PORT to exercise such right at any such time shall not waive the PORT'S right to terminate for any breach or default.

12. Termination for Cessation of Use:

In the event the TOWN or the DISTRICT ceases to use the property for the stated purpose for a period of twenty-four (24) consecutive months, all of the rights of the TOWN and the DISTRICT pursuant to this agreement shall terminate and revert to the PORT.



13. Termination and Disposition of Improvements:

The parties agree that the ownership of all buildings and improvements erected on the subject premises by the TOWN or the DISTRICT shall remain with the TOWN or the DISTRICT, and at the time of termination of this agreement, for any reason, the TOWN and the DISTRICT shall remove said buildings and improvements and return the property to its original condition.

14. Notices:

All notices required under this INTERLOCAL AGREEMENT shall be in writing and delivered to the executive director of the PORT, in the case of the PORT, the mayor of the TOWN, in the case of the TOWN, or the manager or chairman of the commission of the DISTRICT, in case of the DISTRICT, at the regular business addresses within the time frame required herein.

15. Modification:

The terms and conditions of this agreement may be modified only upon mutual written agreement hereto, signed and dated by each party, and attached hereto.

16. Release of Obligation or Termination:

The termination of this agreement shall not release the TOWN or the DISTRICT from any liability or obligation with respect to any matter occurring prior to such termination.

17. Assignment:

The parties agree that neither shall have the right to sell, assign or transfer the benefits of this agreement without the prior written consent of the other party.

18. Force Majeure:

If either municipality is rendered unable, wholly or in part, by force majeure or any other cause of any kind not reasonably within its control to perform or comply with any obligation or condition of this agreement upon giving written notice to the other party, such obligation or condition shall be suspended during the continuance of the inability so caused and such party shall be relieved of any liability during such period. The term force majeure shall include, without limitation by the following enumeration, acts of God, federal, state, county, or municipal orders, regulations or directives of any governmental authority or persons purporting to act therefor, or when the supply of product or any facility of production, manufacture/storage, transportation, distribution or delivery contemplated by either party is the public enemy, riots, other disturbances, earthquakes, hurricanes, strikes, or lockouts of any class of workmen, or stoppage of labor, or damage to piers or essential equipment, floods, fire, explosion, or

Town of La Conner, Fire District 13 and Port of Skagit County  
Interlocal Agreement/Fire Hall Easement



200206040075  
Skagit County Auditor

destruction from any cause of any character either similar or dissimilar to the foregoing and reasonably beyond the control of the party failing to perform.

19. Filing Requirements:

The PORT agrees to file this agreement with the Skagit County Auditor.

20. Administration:

Each municipality shall timely undertake the appropriate procedural steps required by each to implement this agreement, including the identification of the undersigned as the individuals responsible for administering this joint and cooperative undertaking.

21. Effectiveness:

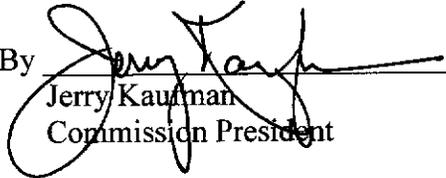
This agreement shall become immediately effective between the parties upon completion of the last of all the following actions:

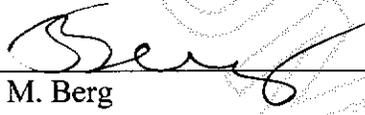
- a) Execution by the PORT following authorization by its commission;
- b) Execution by the TOWN following authorization by its council;
- c) Execution by the DISTRICT following authorization by its commission; and
- d) Filing of a duplicate original of this agreement with the Skagit County Auditor;

DATED this 9<sup>th</sup> day of May 2002.

**PORT OF SKAGIT COUNTY**

**TOWN OF LA CONNER**

By   
Jerry Kauffman  
Commission President

By   
Eron M. Berg  
Mayor



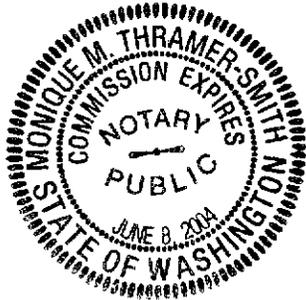
SKAGIT COUNTY FIRE DISTRICT #13

By John R. Church  
John R. Church  
Executive Director

STATE OF WASHINGTON )  
: ss  
COUNTY OF SKAGIT )

On this 9<sup>th</sup> day of May, 2002 personally appeared Jerry Kaufman, to me known to be the Commission President of the PORT OF SKAGIT COUNTY, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute the same and that the seal affixed is the corporate seal of said corporation.

In witness whereof I have hereunto set my hand and official seal the day and year first above written.



Monique M. Thramer-Smith  
(Signature)

monique m. Thramer-Smith  
(Print Name)

Notary Public in and for the State of Washington,  
residing in Burlington  
My appointment expires 6-8-04

STATE OF WASHINGTON )  
: ss  
COUNTY OF SKAGIT )

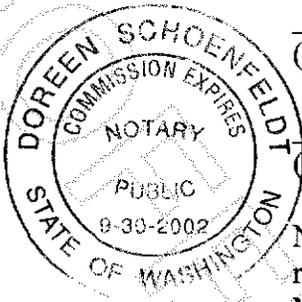
On this 2nd day of May, 2002, personally appeared Eron M. Berg, to me known to be the Mayor of the TOWN OF LA CONNER, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and mentioned, and on oath stated that he was duly authorized to execute the same and that the seal affixed is the corporate seal of said corporation.

Town of La Conner, Fire District 13 and Port of Skagit County  
Interlocal Agreement/Fire Hall Easement



200206040075  
Skagit County Auditor

In witness whereof I have hereunto set my hand and official seal the day and year first above written.



Doreen Schoenfeldt  
(Signature)

Doreen Schoenfeldt  
(Print Name)

Notary Public in and for the State of Washington,  
residing in Sedro-Woolley  
My appointment expires 09-30-02

STATE OF WASHINGTON )

: ss

COUNTY OF SKAGIT )

On this 2nd day of May, 2002, personally appeared John R. Church, to me known to be the Executive Director of SKAGIT COUNTY FIRE DISTRICT #13, a municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and mentioned, and on oath stated that he was duly authorized to execute the same and that the seal affixed is the corporate seal of said corporation.

In witness whereof I have hereunto set my hand and official seal the day and year first above written.



Linda Blymyer  
(Signature)

Linda Blymyer  
(Print Name)

Notary Public in and for the State of Washington,  
residing in Mount Vernon  
My appointment expires 9.25.02



EXHIBIT 1

DEED—FIRST CLASS TIDE WAKSXXXXX LANDS sold subsequent to June 7, 1911.

743223

STATE OF WASHINGTON

IN CONSIDERATION OF CHAPTER 127, SESSION LAWS OF 1969

the State of Washington does hereby grant, bargain, sell and convey unto

PORT OF SKAGIT COUNTY, a municipal corporation, its

heirs and assigns, the following described tide lands of the first class, situate in front of the City of La Conner in Skagit County, Washington, to-wit:

The unplatted tidelands of the first class, owned by the State of Washington, situate in front of, adjacent to, or abutting upon Tracts 1, 2, 3, 4 and 5, La Conner Tide Lands, in Section 31, Township 34 North, Range 3 East, W.M., said Tracts 1, 2, 3, 4 and 5 being as shown on Plate 20 of the official maps of La Conner Tide Lands on file in the office of the Commissioner of Public Lands at Olympia, Washington.

Subject, however, to an easement for a right of way for a County Road granted to Skagit County on December 4, 1945, under Application No. 1790.

Subject, however, to an easement for a right of way for a storm drain channel granted to Skagit County Drainage District No. 15 on November 19, 1968, under Application No. 33044.

Whenever the Port of Skagit County, a municipal corporation, shall cease to hold and use said tidelands for public port purposes, the grant of said tidelands shall be terminated thereby, and said tidelands shall revert to the State.

The above described lands are sold subject to all the provisions of Chapter 212 of the Statutes Laws of 1927, to which reference is hereby made, and which shall be as binding upon the grantee and any successor in interest of said grantee as though set out at length herein and hereafter.

Subject, in any case or cases that may arise or be created in consequence of or pursuant to the provisions of an act of the Legislature of the State of Washington, entitled "An Act prohibiting the uses of waterways for the uses of navigation may be executed by private contract, provided for here upon the and there lands belonging to the state," approved March 2, 1922, being chapter 22 of the Session Laws of 1922.

The grantor hereby expressly gives, excepts and reserves out of the great hereby made, unto itself, its successors and assigns forever, all oil, gas, coal, iron, minerals and benefits of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oil, gas, coal, iron, minerals and fossils; and it also hereby expressly gives and reserves out of the great hereby made, unto itself, its successors and assigns forever the right to enter by itself, its agents, attorneys and servants upon said lands or any part or parts thereof, at any and all times, for the purpose of exploring, developing and working the oil, gas, coal, iron, minerals and fossils, and to that end it further expressly reserves and out of the great hereby made, unto itself, its successors and assigns forever, the right by it or their agents, servants and attorneys at any and all times to erect, construct, maintain and use all such buildings, machinery, roads and railroads, and such shall, remove such soil, and to remove all such lands or any part thereof for the purposes of mining and to occupy or work all lands as may be necessary or convenient for the successful prosecution of such mining business hereby expressly reserved to itself, its successors and assigns, so aforesaid, and to exercise all rights and powers in, to and over said lands, whether herein expressed or not, reasonably necessary or convenient to carry out, execute and fulfill the complete enjoyment of the property and rights hereby expressly reserved. Provided, That no rights shall be exercised under this reservation by the State, its successors or assigns, said provision has been made by the State, its successors or assigns to pay to the owner of the land upon which the rights hereby reserved to the State, its successors or assigns or sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said lands.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said

PORT OF SKAGIT COUNTY, a municipal corporation, its heirs and assigns forever.

WITNESS the Seal of the State, affixed this 25th

day of August, 1970

David J. Evans Governor

Attest: Secretary of State

[REAL]



App. No. 222

State record of Tide Land Deeds, Volume 24, Page 468

Cont. No. dl



200206040075 Skagit County Auditor

EXHIBIT "2"

April 22, 2002

LEGAL DESCRIPTION FOR: Easement Parcel, Port of Skagit County

That portion of the unplatted first class tidelands abutting Tracts 2 and 3, Plate No. 20, La Conner Harbor in Section 31, Township 34 North, Range 3 East, W.M., as shown on the official Tide and Shorelands map on file in the office of the Washington State Commissioner of Public Lands, described as follows:

Commencing at a point on the West line of said Section 31 which lies North 1°24'28" East, 128.44 feet from the West quarter corner of said Section; **thence** South 88°24'45" East, 462.64 feet; **thence** South 80°34'37" East, 120.06 feet to a point on the Easterly line of said Tract 3; **thence** South 10° 22' 24" West, along said Easterly line, 30.00 feet to a point on the South line of that certain easement for a right of way for county road known as Chilberg Road granted to Skagit County on December 4, 1945, under Washington State Department of Public Lands Application No. 1790 and recorded under Skagit County Auditor's File No. 387326, and the **TRUE POINT OF BEGINNING**; **thence** South 80° 34' 37" East, along said South line, 220.83 feet; **thence** South 4°03'47" West, 72.36 feet to a fence line as it existed September 19, 2001; **thence** North 80° 43' 11" West, along said fence line and its Westerly projection, 228.79 feet; to a point on said Easterly line of Tract 3; **thence** North 10° 22' 24" East, along said Easterly line, 72.62 feet to the **TRUE POINT OF BEGINNING**.

(Containing 16,261 square feet.)

Situate in the County of Skagit, State of Washington.



200206040075  
Skagit County Auditor  
6/4/2002 Page 10 of 11 1:26PM

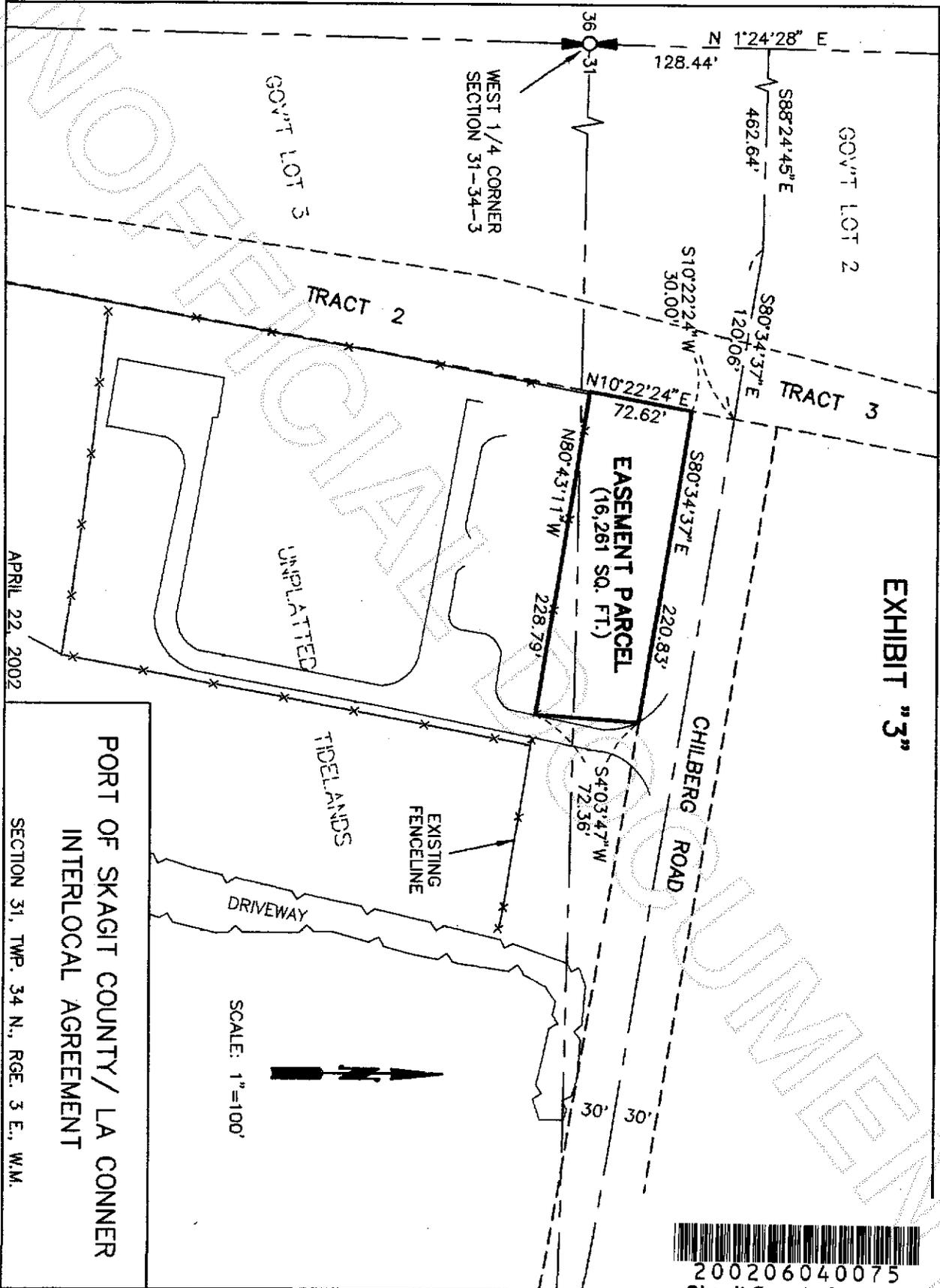


EXHIBIT "3"



200206040075  
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