

After recording return document to:

Burlington City Attorney
900 E. Fairhaven
Burlington, WA 98233



200305200041

Skagit County Auditor

5/20/2003 Page

1 of

8 10:06AM

Document Title: Possession and Use Agreement

*Grantor(s): Vern Sims Family Limited Partnership I
Gilbert Family Properties, L.L.C.*

Grantee: The City of Burlington

Legal Description: That portion of revised short plat 48-76, as recorded in Book 2 of Short Plats, Page 11, Auditor's file number 848370, Records of Skagit County, Washington, Situate in the NW 1/4 of the NE 1/4 of SEC 7, TWNShp 34 N., RANGE 4 e, W.M., as more specifically described in Appendix A attached hereto and made a part hereof.

Assessor's Tax Parcel Number(s): P24062; P24065; P24064

POSSESSION AND USE AGREEMENT

RE:

This **AGREEMENT** is made and entered into by and between Vern Sims Family Limited Partnership I, a Limited Partnership and Gilbert Family Properties, L.L.C., hereinafter referred to as the "Owner", and The City of Burlington, hereinafter referred to as the "City":

WITNESSETH

WHEREAS, the City affirms that the Owner's real estate described herein is required by the City for immediate construction of a transportation project.

AND WHEREAS, the City affirms that any delay in its construction project is contrary to the public interest;

AND WHEREAS, the City has made a firm and continuing offer to pay the amount of One Dollars (\$1.00) (the "Offer") for the purchase of the following described real estate situated in County, in the State of Washington:

POSSESSION AND USE AGREEMENT

SEE APPENDIX "A" ATTACHED HERETO AND MADE A PART HEREOF.

AND WHEREAS, the Owner requires additional time to evaluate the Offer and/or to resolve any questions concerning just compensation;

NOW THEREFORE, for and in consideration of the payment of the Offer, the Owner hereby grants to the City a right to possess and use the above described real estate and the parties further agree that:

1. The real estate is necessary for a public use of the City of Burlington.
2. The City will issue a warrant in payment, if any, to the Owner of the amount of the Offer, subject only to deduction of the value of interests of others therein.
3. Execution of this Agreement by the Owner shall not prejudice Owner's right to subsequent adjudication of just compensation pursuant to state law, and neither shall this Agreement, nor the basis therefore, be construed as an admission of fair market value or just compensation by any of the parties named herein.
4. If it becomes necessary for the City to institute condemnation proceedings, the Owner has no objection to the City entering an Order Adjudicating Public Use, as provided by RCW 8.12.090, and agree that this instrument shall be treated as having the same legal effect as an Order for Immediate Possession provided by RCW 8.25.070.
5. The date of valuation for the determination of just compensation shall be the date that this Agreement is accepted and approved by the City of Burlington, and Offer paid to Owner.
6. The Owner hereby waives the requirement of a written notice to move, as provided by RCW 8.26.180, and will surrender possession of the above described real estate to the City not later than April 15, 2003.
7. Nothing herein shall preclude the City from hereafter changing its plans to increase or decrease the nature or extent of the acquisition nor from mitigation of damages. If the acquisition is enlarged a supplemental Possession and Use Agreement is contemplated.



200305200041

Skagit County Auditor

5/20/2003 Page

2 of

8 10:06AM

POSSESSION AND USE AGREEMENT

It is understood and agreed that delivery of this agreement is hereby tendered and that the terms and obligations hereof shall not become binding upon the City unless and until accepted and approved hereon in writing by the City of Burlington.

Dated 5-16-03, 2003.

GRANTOR:

By: [Signature]
Name: Vern Sims Family Limited Partnership I

Date: 5-16-03

Title: President

By: [Signature]
Name: Gilbert Family Properties L.L.C.
Warren M. Gilbert, Manager

Date: _____

Title: Manager



200305200041
Skagit County Auditor

5/20/2003 Page

3 of

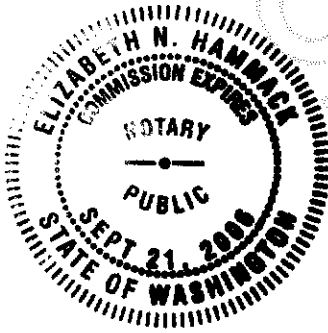
8 10:06AM

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

Signed: Vern Sims
Vern Sims, President

Dated: 9-16-23
Notary Signature: Elizabeth Hammack

Notary Public in and for the State of Washington
Notary (print name): Elizabeth Hammack
Residing at: Mount Vernon
My appointment expires: 9-21-06



Dated this 16th day of May, 2003.



200305200041
Skagit County Auditor

POSSESSION AND USE AGREEMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that WARREN M. GILBERT
(MANAGER OF GILBERT FAMILY L.L.C.) signed this instrument, on oath stated that
(she) (was/were) authorized to execute the instrument and acknowledged it to be the free
and voluntary act of such party for the uses and purposes mentioned in the instrument.

Signed: *Warren M. Gilbert*
Warren M. Gilbert, Manager

Dated: May 15, 2003

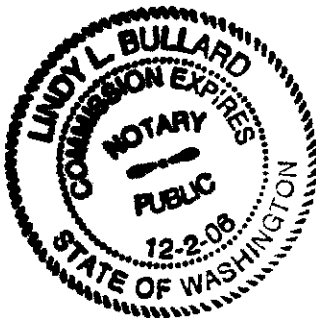
Notary Signature: *Lindy L. Bullard*

Notary Public in and for the State of Washington

Notary (print name): Lindy L. Bullard

Residing at: Sedro Woolley

My appointment expires: 12/2/03



Dated this 15th day of May, 2003.



200305200041
Skagit County Auditor

POSSESSION AND USE AGREEMENT

APPENDIX "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF RIGHT-OF-WAY TAKE FOR PARCEL 340407-1-014-0001:

THAT PORTION OF REVISED SHORT PLAT 48-76, AS RECORDED IN BOOK 2 OF SHORT PLATS, PAGE 11, AUDITOR'S FILE NUMBER 848370, RECORDS OF SKAGIT COUNTY, WASHINGTON, SITUATE IN THE NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SEC 7, TOWNSHIP 34 N., RANGE 4 E, W.M. DESCRIBED AS FOLLOWS:

COMMENCING AT THE SE CORNER OF SAID SHORT PLAT;
THENCE N. 09°03'53" E. ALONG THE WESTERLY R-O-W LINE OF PRIMARY STATE HIGHWAY 1 (I-5) A DISTANCE OF 288.17 FT, MORE OR LESS, TO AN ANGLE POINT IN SAID WESTERLY R-O-W;
THENCE N. 00°06'22" W. ALONG SAID WESTERLY R-O-W LINE, A DISTANCE OF 414.35 FT TO THE POINT OF BEGINNING;
THENCE N. 87°33'46" W., 60.06 FT;
THENCE N. 00°06'22" W., 555.19 FT;
THENCE N. 00°32'48" E., 9.04 FT, MORE OR LESS, TO THE NORTH LINE OF THE NE $\frac{1}{4}$ OF SEC 7, TOWNSHIP 34 N., RANGE 4 E., W.M.,
THENCE S. 87°06'15" E. ALONG SAID N. LINE A DISTANCE OF 60.05 FT TO THE SAID WESTERLY R-O-W LINE;
THENCE S. 00°32'48" W. A DISTANCE OF 6.24 FT TO AN ANGLE POINT IN SAID WESTERLY R-O-W LINE;
THENCE S. 00°06'22" E. ALONG SAID WESTERLY R-O-W LINE, A DISTANCE OF 557.51 FT TO THE POINT OF BEGINNING;

CONTAINING 33,839 SQ.FT, OR 0.78 ACRES, MORE OR LESS.

After/Acquisition Plan (P24062)

[Along with additional Westerly 15 ft. for a temporary easement]

APPENDIX "A" PAGE 1 OF 3



200305200041
Skagit County Auditor

5/20/2003 Page

6 of

8 10:06AM

POSSESSION AND USE AGREEMENT

APPENDIX "A"
LEGAL DESCRIPTION

LEGAL DESCRIPTION OF R-O-W TAKE FOR PARCEL 340407-1-014-0407:

THAT PORTION OF REVISED SHORT PLAT 48-76, AS RECORDED IN BOOK 2 OF SHORT PLATS, PAGE 11, AUDITOR'S FILE NO. 848370, RECORDS OF SKAGIT COUNTY, WASHINGTON, SITUATE IN THE NW ¼ OF THE NE ¼ OF SEC. 7, TWNShp 34 N., RANGE 4 E., W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE SE CORNER OF SAID SHORT PLAT;
THENCE N 09°03'53" E ALONG THE WESTERLY R-O-W LINE OF PRIMARY STATE HIGHWAY NO. 1(I-5), A DISTANCE OF 288.17 FT, MORE OR LESS, TO AN ANGLE POINT IN SAID WESTERLY R-O-W;
THENCE N 00°06'22" W ALONG SAID WESTERLY R-O-W LINE, A DISTANCE OF 313.24 FT TO THE POINT OF BEGINNING;
THENCE N 87°33'46" W, 60.06 FT;
THENCE N 00°06'22" W, 101.11 FT;
THENCE S 87°33'46" E, 60.06 FT TO THE SAID WESTERLY R-O-W LINE;
THENCE S 00°06'22" E ALONG SAID WESTERLY R-O-W LINE, A DISTANCE OF 101.11 FEET TO THE POINT OF BEGINNING;

CONTAINING 6,067 SQ.FT., OR 0.14 ACRES, MORE OR LESS

Legal Description for acquisition at P24065 (Sims)

[Along with an addition Westerly 15 ft for a temporary easement.]

APPENDIX "A" PAGE 2 OF 3



200305200041

Skagit County Auditor

5/20/2003 Page

7 of

8 10:06AM

POSSESSION AND USE AGREEMENT

APPENDIX "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF R-O-W TAKE FOR PARCEL 340407-1-014-0209:

THAT PORTION OF REVISED SHORT PLAT 48-76, AS RECORDED IN BOOK 2 OF SHORT PLATS, PAGE 11, AUDITOR'S FILE NO. 848370, RECORDS OF SKAGIT COUNTY, WASHINGTON, SITUATE IN THE NW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SEC. 7, TWNShp 34 N., RANGE 4 E., W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE SE CORNER OF SAID SHORT PLAT;
THENCE N 09°03'53" E ALONG THE WESTERLY R-O-W LINE OF PRIMARY STATE HIGHWAY NO. 1(I-5), A DISTANCE OF 288.17 FT, MORE OR LESS, TO AN ANGLE POINT IN SAID WESTERLY R-O-W;
THENCE N 00°06'22" W ALONG SAID WESTERLY R-O-W LINE, A DISTANCE OF 229.67 FT TO THE NE CORNER OF THAT CERTAIN R-O-W DEEDED TO THE CITY OF BURLINGTON PER AUDITOR'S FILE NO. 9510200047, AND THE POINT OF BEGINNING;
THENCE S 89°53'38" W ALONG THE N EDGE OF SAID CITY OF BURLINGTON R-O-W, A DISTANCE OF 50.00 FT TO THE NW CORNER OF SAID CITY OF BURLINGTON R-O-W;
THENCE CONTINUING S 89°53'38" W, 10.00 FT;
THENCE N 00°06'22" W, 86.24 FT;
THENCE S 87°33'46" E, 60.06 FT TO THE WESTERLY R-O-W LINE OF SAID PRIMARY STATE HIGHWAY NO. 1(I-5);
THENCE S 00°06'22" E, ALONG SAID WESTERLY R-O-W LINE, A DISTANCE OF 83.57 FT TO THE POINT OF BEGINNING;

CONTAINING 5,094 SQ.FT., OR 0.12 ACRES, MORE OR LESS.

Legal Description for acquisition at P24064

[ALONG WITH ADDITIONAL WESTERLY 15 FT FOR A TEMPORARY EASEMENT.]

APPENDIX "A" PAGE 3 OF 3



200305200041
Skagit County Auditor

5/20/2003 Page

8 of

8 10:06AM