



200603140132

Skagit County Auditor

3/14/2006 Page 1 of 10 2:53PM

When Recorded Return To:

Donald W. Black
OGDEN MURPHY WALLACE, P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101-1686

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

MAR 14 2006

Amount Paid
By Skagit Co. Treasurer
Deputy

CHICAGO TITLE IC31157

UNIT 101 WALKWAY EASEMENT AGREEMENT

Reference Number(s)
of Related Documents:

Additional Reference #s on page: N/A

Grantor (Last, First, M.I.):

CHALLENGE DEVELOPMENTS II, L.L.C., a Washington state
limited liability company

Additional Grantors on page: N/A

Grantee (Last, First, M.I.):

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2
(d/b/a Island Hospital), a Washington state public hospital district,
ISLAND MEDICAL CENTER CONDOMINIUM
ASSOCIATION, a Washington state corporation

Additional Grantees on page: N/A

Legal Description (abbreviated):

Units 101 and LL1, ISLAND MEDICAL CENTER
CONDOMINIUM, a condominium, according to the Declaration
thereof recorded March 14, 2006, under Auditor's File No.
200603140130 AND Survey Map and Plans thereof recorded
March 14, 2006 under Auditor's File No. 200603140131,
records of Skagit County, Washington..

Additional Legal on pages: 9-10

Assessor's Tax
Account Number:

P6128, P100698 and P 31917

UNIT 101 WALKWAY EASEMENT AGREEMENT

THIS **UNIT 101 WALKWAY EASEMENT AGREEMENT** (the "Agreement") is made and entered into as of the ___ day of March, 2006 (the "Effective Date"), by and between SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 2 (d/b/a ISLAND HOSPITAL), a Washington State public hospital district ("Hospital"), as owner of Condominium Unit LL1 and CHALLENGE DEVELOPMENTS II, L.L.C., a Washington State limited liability company ("CD"), as owner of Condominium Unit 101, which are both part of the Island Medical Center Condominium (the "Condominium"), and ISLAND MEDICAL CENTER CONDOMINIUM ASSOCIATION, a Washington State corporation ("Condo Assn."), as the association of condominium unit owners in the Condominium.

RECITALS

- A. CD is the owner of Condominium Unit 101 located in the Condominium, as more fully described in **Exhibit A**, attached hereto and incorporated herein by this reference.
- B. Hospital is the owner of Condominium Unit LL1 located in the Condominium, as more fully described in **Exhibit B**, attached hereto and incorporated herein by this reference.
- C. Condo Assn. is the association of condominium unit owners in the Condominium and manages the common elements of the Condominium on behalf of those owners.
- D. CD has agreed to grant the Hospital an access easement ("Walkway Easement") over a portion of Unit 101 in order to permit the Hospital, and its Permittees (as hereinafter described) access to Unit LL1, as generally described in Section 1.1 below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants of and benefits to the parties hereto, the receipt and sufficiency of which are hereby acknowledged, Hospital, CD and Condo Assn. (each a "Party" and collectively the "Parties") agree that the foregoing recitals are true and correct and incorporated herein by this reference, and further agree as follows:

1. GRANT OF EASEMENT; TERM

1.1 Grant of Walkway Easement by CD to Hospital. CD hereby grants to the Hospital, its successors and assigns and Permittees, a non-exclusive pedestrian access easement on and over CD's Condominium Unit 101 of approximate four (4) feet in width and total area of approximately nine hundred forty five (945) feet as more fully described in the Survey Map and Plans of the Condominium filed on March 13, 2006 at Skagit County Auditor's No. _____. For the purposes of this Agreement, "Permittees" shall mean the Hospital's officers, directors, employees, agents, partners, contractors, customers, visitors, invitees, licensees, lessees, tenants, subtenants, and concessionaires, their successors and assigns and any



other persons authorized by the Hospital to be in or have access to the Hospital's Condominium Unit LL1.

1.2 Term. The term of this Agreement ("Term") shall commence on the date hereof and shall continue thereafter for so long as the Condominium remains in existence, unless sooner terminated for default or by agreement of the Parties.

2. USE OF THE EASEMENTS

2.1 Maintenance and Repair. CD shall maintain, repair and keep (or cause to be maintained, repaired and kept), the Walkway Easement granted pursuant to this Agreement in good, clean and operable condition, all in a manner it deems desirable in the exercise of its reasonable business judgment.

2.2 Alterations and Reconfiguration of Easement Areas. CD shall have the right to change, modify, reconfigure, remodel, alter or relocate the Walkway Easement granted to the Hospital herein (collectively "Changes") without the necessity of obtaining the approval of the Hospital, provided that, to the extent it is commercially reasonable in the opinion of the Hospital, the rights for use of the Walkway Easement granted to the Hospital pursuant to this agreement should: (i) not be materially impaired other than on a temporary basis; (ii) be of sufficient size to allow for future use in a manner generally consistent with the use as of the Effective Date; and (iii) be in compliance with applicable law, including without limit, the Americans with Disabilities Act. CD agrees that any Changes shall be diligently prosecuted to minimize the disruption to the Hospital's, and its Permittees', access to and use of the Hospital's Condominium Unit LL1.

3. INSURANCE AND CASUALTY

CD, the Hospital and the Condo Assn shall maintain such insurance as is required under the Condominium Declaration or related agreements. In the event of any casualty to any part of CD's Condominium Unit 101, CD shall repair, replace or rebuild the same as it may be separately required to do under the terms of the Condominium Declaration or related agreements and, so long as it is diligently pursuing the same, CD shall not be liable to the Hospital for any temporary loss of use or obstruction of the Walkway Easement granted herein.

4. MISCELLANEOUS

4.1 Subordination; Mortgagee Protection. All Deeds of Trust encumbering the estate of CD in its Condominium Unit 101 shall be subordinate to this Agreement, which shall survive foreclosure of any such Deeds of Trust. However, nothing in this Agreement will otherwise affect the validity of any Deed of Trust.

4.2 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington.



4.3 Easements, Restrictions and Covenants Running With the Land. Except as expressly set forth herein to the contrary, the easements, restrictions and covenants imposed on CD's interest in its Condominium Unit 101 pursuant to the terms and provisions of this Agreement shall be binding upon all present and future owners, users and occupants of that Condominium Unit 101 and shall inure to the benefit of the Hospital and its grantees, successors and assigns. Such restrictions and covenants shall run with and bind Condominium Unit 101 during the Term of this Agreement.

4.4 Easements Appurtenant/ Enforcement of Rights. All covenants and agreements of the Hospital and CD hereunder, together with the benefits and burdens thereof, shall be deemed to be real covenants which touch and concern their respective Condominium Units, as described herein. All covenants and agreements hereunder may be enforced by an action for specific performance, and in the event of a violation of any such covenant or agreement, Hospital and/or CD may exercise any remedy available hereunder, at law or in equity, and recover all amounts expended in connection with exercising any such remedy (including without limitation, court costs and attorneys' fees).

4.5 Survivability. The easement created herein or pursuant hereto shall not terminate as a result of the merger of estate or merger of title of the subject Condominium Units under the same ownership, foreclosure, merger of title to the Condominium Units or any other cause, unless the holder of the merged estates expressly terminates this Agreement.

4.6 Severability. To the extent that any provision or portion of any provision of this Agreement shall be invalid or unenforceable in any circumstance, the balance of this Agreement shall be enforceable nonetheless, and the entirety of this Agreement shall be enforceable in all other circumstances.

4.7 Counterparts. This Agreement may be signed in counterparts, each which shall be deemed an original, and when taken together shall constitute one instrument.

4.8 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of Condominium Unit 101 to the general public or for the general public or for any public use or purpose whatsoever, it being the intention and understanding of the parties hereto that this Agreement shall be strictly limited to and for the purposes herein expressed and solely for the benefit of the parties hereto.

4.9 Disclaimer of Derivative Rights. No consent to the modification, from time to time, or termination of the provisions of this Agreement shall ever be required of any of the Hospital's Permittees, other than the Hospital or Condo Assn.; nor shall any such Permittees have any right to enforce any of the provisions herein.

4.10 Attorneys' Fees. If any legal action, suit or proceeding is commenced between the parties regarding their respective rights and obligations under this Agreement, the prevailing party shall be entitled to recover, in addition to damages or other relief, costs and expenses, attorneys' fees and court costs (including, without limitation, expert witness fees). As used herein, the term "prevailing party" shall mean the party which obtains the principal relief it has



sought, whether by compromise, settlement or judgment. If the party which commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

[Remainder of this page intentionally left blank - Signature Pages Follow]



IN WITNESS WHEREOF, the Hospital, CD and Condo Assn. have executed this Unit 101 Walkway Easement Agreement as of the date first set forth above.

**SKAGIT COUNTY PUBLIC HOSPITAL
DISTRICT NO. 2 (d/b/a ISLAND HOSPITAL)**

By: Vincent C. Oliver
Print Name: Vince Oliver
Title: Superintendent and CEO

CHALLENGE DEVELOPMENTS II, L.L.C.

By: Jerry Zavalney
Print Name: Jerry Zavalney
Title: Member

**ISLAND MEDICAL CENTER
CONDOMINIUM ASSOCIATION**

By: Vincent C. Oliver
Print Name: VINCENT C. OLIVER
Title: President



STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT)

On this 13 day of March, 2006, before me personally appeared Vincent C. Oliver, to me known to be the CEO of Skagit County Public Hospital District No. 2, (d.b.a. Island Hospital), the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Mansfield
(Signature)

Mary Mansfield
(Name legibly printed or stamped)

Notary Public in and for the State of Washington,
residing at Anacortes

My appointment expires 10-28-09

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT)

On this 13 day of March, 2006, before me personally appeared Jerald L. Zavaney, to me known to be the member of Challenge Developments II, L.L.C., the company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Mansfield
(Signature)

Mary Mansfield
(Name legibly printed or stamped)

Notary Public in and for the State of Washington,
residing at Anacortes

My appointment expires 10-28-09



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 13th day of March, 2006, before me personally appeared Vincent C. Oliver, to me known to be the President of Island Medical Center Condominium Association, 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/she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Mansfield
(Signature)

Mary Mansfield
(Name legibly printed or stamped)

Notary Public in and for the State of Washington,
residing at Albion

My appointment expires 10-28-09



EXHIBIT "A"

LEGAL DESCRIPTION OF CONDOMINIUM UNIT 101

Units 101, ISLAND MEDICAL CENTER CONDOMINIUM, a condominium, according to the Declaration thereof recorded March 14, 2006, under Auditor's File No. 200603140130 AND Survey Map and Plans thereof recorded March 14, 2006 under Auditor's File No. 200603140131, records of Skagit County, Washington.

Situated in Skagit County, Washington.



200603140132
Skagit County Auditor

3/14/2006 Page

9 of 10 2:53PM

EXHIBIT "B"

LEGAL DESCRIPTION OF CONDOMINIUM UNIT LL1

Unit LL1, ISLAND MEDICAL CENTER CONDOMINIUM, a condominium, according to the Declaration thereof recorded March 14, 2006, under Auditor's File No. 200603140130 AND Survey Map and Plans thereof recorded March 14, 2006 under Auditor's File No. 200603140131, records of Skagit County, Washington.

Situated in Skagit County, Washington.

