



200610180116
Skagit County Auditor

10/18/2006 Page 1 of 9 3:34PM

Document Title: Maintenance Agreement

Reference Number:

Grantor(s): additional grantor names on page ___

1. Parsons, David & Sheila
2. Coonc, Lois & 3. Engh Patricia

Grantee(s): additional grantee names on page ___

1. Public
- 2.

Abbreviated legal description: full legal on page(s) ___

Lots 35, 36, & 39
Parker business Center

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ___

P 80398

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

OCT 18 2006

Amount Paid \$
By Skagit Co. Treasurer
Dep.

**ROAD CONSTRUCTION
AND
MAINTENANCE AGREEMENT**

This Road Construction and Maintenance Agreement ("Agreement") is made effective as of the 16 day of October, 2006 by and between David and Sheila A Parsons (a married couple), Patricia D Engh, and Lois Coonc.

WHEREAS, David and Sheila A Parsons own Parcels #P80394, #P80395, and #P80398 Lots 35, 36 and 39 together with the east ½ of the former Buck Way abutting said lot in the replat of Parker Business Center AF# 200605010167 located in Mount Vernon, Washington; and

WHEREAS, Patricia D Engh owns Parcel #P80396, Lot 37 together with the west ½ of the former Buck Way abutting said lot in the replat of Parker Business Center AF# 200605010167 located in Mount Vernon, Washington;

WHEREAS, Lois Coonc owns Parcel #P80397, Lot 38 together with the west ½ of the former Buck Way abutting said lot in the replat of Parker Business Center AF# 200605010167 located in Mount Vernon, Washington;

WHEREAS, access to and through lots 35,36,37,38, and 39 is provided by a private roadway ("Road") formerly known as Buck Way prior to its being vacated;

WHEREAS, the parties desire to create a means of ingress and egress primarily for the use of employees of businesses located on said lots but also open to use of customers and clients;

WHEREAS, it is to the benefit of all parties to cooperatively provide for the construction, repair, and maintenance of the Road;

WHEREAS, the terms of this Agreement shall run with the land described herein and shall be binding on all parties, their heirs, successors, and/or assigns.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Road Construction

A. The parties recognize that not all decisions need to be made by a committee of the parties in their entirety. To the end of avoiding unnecessary complications, the parties appoint Lois Coonc as manager. The manager shall be responsible for coordination of construction work in accordance with the provisions of this Agreement.

B. The parties shall accept construction bids for jobs pertaining to the Road only from bonded and licensed contractors for the construction of the Road through the usual and customary bidding procedure. The Road is to be bid separate from the adjacent project on Lots 37 and 38 that may be under bid or construction at the same time as the Road. At least three bids must be requested for any material portion of the work unless all parties agree that less would be acceptable. All factors may be taken into consideration as to which bid to accept, and the lowest bid will not necessarily be chosen. The parties may choose to delegate decision making to the manager for specific job bids or the parties may choose to vote. If voting, David and Sheila Parsons have one vote each, as do Patricia Engh and Lois Coonc. There are four votes in all, and a majority is necessary for a bid to be accepted. When all bid choices have been made, there shall be bond or monies designated for the estimated costs by each party. These funds need not be held in a joint account for this purpose.

C. The construction itself shall, in brief, be completed as follows: an asphalt road with rolled edge, twenty-six (26) feet wide, along the path of the vacated Buck Way section. This road is not a public road but is designated for the primary use of employees and secondary use of customers and clients as ingress and egress for the five lots, and thus need not have curbs and sidewalks. The time frame of Road construction shall be controlled by ^{either} adjacent project on Lots 37 and 38 that may be under bid or construction at the same time as the Road, ~~Thus, the owners of Lots 37 and 38 do have some measure more control of the time frame than the owners of lots 35, 36, and 39.~~ This is what the parties intend. *DP* *PE* *adjacent LOTS 35, 36, and 39* *PE*

D. An easement is considered by the parties to be necessary for construction and use of the Road. Said easement shall be a separate document and shall be executed at the same time as this Agreement, and that easement must be recorded in Skagit County in order to run with the land and be valid against subsequent purchasers if the interest is taken without notice of the claim. This Agreement will be referenced in the easement language, but should also be recorded in Skagit County to ensure that it runs with the land and is valid against subsequent purchasers.



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2. Road Maintenance

A. The parties shall repair and at all times maintain in good condition the Road. As contemplated in this agreement, the parties shall be responsible to repair and maintain the Road in such a manner that it provides a reasonable means of ingress and egress on a year round basis for employees, customers, and clients of businesses located nearby. This maintenance shall include, but not be limited to, periodic surface work together with any other ordinary and necessary repair maintenance work as may be required in view of the nature and scope of the uses to which the Road is intended to be put.

B. The parties recognize that not all decisions need to be made by a committee of the parties in their entirety. To the end of avoiding unnecessary complications, the parties appoint Lois Coonc as manager. The manager shall be responsible for coordination of maintenance and repair work in accordance with the provisions of this Agreement.

3. Request for Maintenance or Repair Work

If one of the parties to this Agreement believes that repair or maintenance work is required, that party may deliver written notice to Lois Coonc in her capacity as manager, specifying the nature of the maintenance or repair work required and, to the extent necessary, identifying the location on the Road where such maintenance or repair work is needed. Upon receipt of such notice, the manager may schedule the appropriate maintenance or repair work, or if she does not believe such maintenance or repair work is required or is unclear as to the nature of the request made by a party the manager may, within ten days after receipt of such notice, request a meeting to be held between the parties or their representatives in order to discuss the request and reach agreement thereon. In the event the parties are unable to agree on the requested repair or maintenance work, the parties shall submit the matter to Arbitration in accordance with the provisions of Paragraph 7, below.

4. Extraordinary Maintenance or Repair

A. Prior to performing any Extraordinary Maintenance or Repair Work on the Road, the manager shall provide the parties ten days advance written notice of their intention to do so, which said notice shall describe the nature of the work to be performed and the estimated cost therefor. This said notice shall also include, to the extent available, any plans, specifications, cost estimates and bids for the said work. Parties may, within five days after delivery of such notice, provide the manager written objection to the proposed extraordinary maintenance or repair work, which said objections shall state the nature and reasons for any such objection. Within five days of the delivery of such objection, the parties or representatives thereof shall meet in order to discuss and attempt to reach agreement on the proposed



Extraordinary Maintenance or Repair Work. In the event the parties cannot reach an agreement, the matter shall be submitted to Arbitration in accordance with the provisions of Paragraph 7, below.

B. As used in this Agreement, the term "Extraordinary Maintenance or Repair Work" is defined to mean any maintenance or repair work exceeding five-thousand dollars (\$5,000.00) in cost, or which is the type of maintenance, or repair work which is ordinarily performed less often than annually. Extraordinary Maintenance or Repair Work does not include repair work as may be required under Paragraphs 2 or 3 above.

5. Emergency Repair

The notice requirements set forth in the immediately preceding paragraph regarding Extraordinary Maintenance or Repair Work do not apply in emergency situations where repair or maintenance is required to protect persons or property.

6. Cost Sharing

A. The costs associated with both Road construction and maintenance and repair of the Road shall be apportioned in the following manner: the owners of Lots 37 and 38, lots as indicated in the revised plat of Parker Business Center, shall be responsible for 50% of construction and maintenance costs, regardless of proportionate share based on total square footage or benefit from such expenditure. The owners of Lots 36 and 39, lots as indicated in the revised plat of Parker Business Center, shall be responsible for 50% of construction and maintenance costs, regardless of proportionate share based on square footage or benefit from such expenditure. All expenditures related to construction and maintenance of the Road are presumed to be for the equal benefit of all parties.

B. The costs and expenses of Road construction, maintenance, and repair work shall be paid by parties within 30 days of receipt of bill for said work. "Receipt" shall be defined as first notice of said bill. If any party pays their portion of a bill late (as defined by the company or individual submitting said bill) then any late fees or other penalties shall be the sole responsibility of the late party and shall not be apportioned under the provisions of Paragraph 6A.

7. Mediation or Arbitration

A. In the event the parties cannot reach agreement on any dispute or any other matter as set forth above, the parties agree to submit the dispute to binding arbitration as a second step to resolving any conflicts prior to escalating any conflict through legal means. In the event a disagreement arises between the parties related to any matters described in this Agreement, or otherwise arising out of the repair and maintenance of the Road, either party may demand arbitration and shall give



UNIVERSITY
written notice to that effect to the other party specifying in such notice the name, address and professional qualifications of the person designated to act as arbitrator on behalf of that party. Within ten days after delivery of such notice, the other party shall give written notice to the party who has demanded arbitration specifying the name, address and professional qualifications of the person designated to act as arbitrator on behalf of that second party. The two arbitrators shall, within five days thereafter, select a third arbitrator. The three arbitrators shall form an arbitration panel. The decision of the arbitration panel shall be rendered within a period of twenty days after the appointment of such third arbitrator. Each party shall pay the fees and expenses of the arbitrator appointed by or on behalf of that party and one half the fees and expenses of the third arbitrator.

B. If a party receiving a request for arbitration fails to appoint an arbitrator within the time specified above or if the two arbitrators so selected cannot agree on the selection of a third arbitrator within the time specified above, or if the result of such arbitration is unsatisfactory to one or more of the parties, then any party may avail itself of any legal or equitable remedy available to it under Washington law then the presiding judge of the Skagit County Superior Court shall, upon the petition of either party, appoint the additional arbitrator.

C. The decision of the arbitrators selected in the manner set forth above shall be binding upon each of the parties hereby, and shall not be subject to appeal or review except to the extent required by law.

8. No Partnership or Joint Venture

Nothing contained in this Agreement shall be deemed to create a partnership or joint venture between the parties, it being the intention that this Agreement will be strictly limited to and for the purposes expressed herein.

9. Agreement Scope

The provisions of this agreement are limited to David and Sheila A Parsons (a married couple), Patricia D Engh, and Lois Coonc and any succeeding owners of the properties herein described. The provisions, obligations and benefits of this agreement may not be extended beyond the boundaries of the Parcels and Lots mentioned above with their attached portions of the Road without the written approval of all parties. Any such approval may be conditioned on required maintenance contributions for extraordinary repairs by the party to whom the obligation is extended.

10. Severability

If any term or provision of this Agreement, to any extent, shall be held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected



thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

11. Enforcement

In the event of a breach of any term, covenant, restriction or condition of this Agreement by either party, the other party shall have, in addition to the right to collect damages, the right to enjoin such breach or threatened breach in a court of competent jurisdiction; provided, however, that the parties shall have first submitted the matter to Arbitration as set forth in Paragraph 7 above. In the event of arbitration, the prevailing party shall be entitled to recover its reasonable costs and attorney fees.

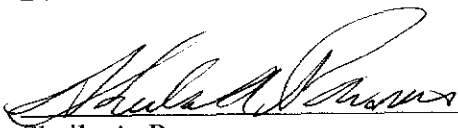
12. Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the State of Washington.

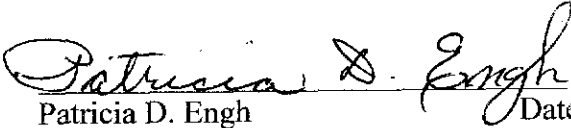
IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first set forth above.


David Parsons

10-16-06
Date


Sheila A. Parsons

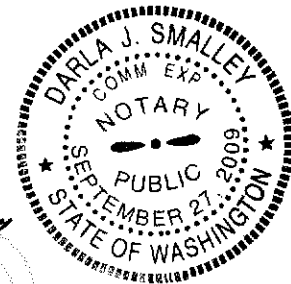
10-16-06
Date


Patricia D. Engh

10-18-06
Date


Lois Coonc

10-18-06
Date



200610180116

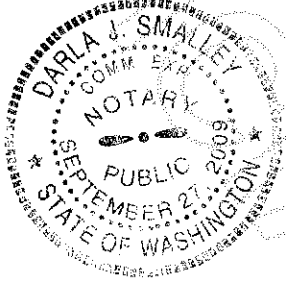
Skagit County Auditor

STATE OF WASHINGTON
COUNTY OF SKAGIT

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 10 day of October, 2006 personally appeared before me DS David and Sheila A Parsons (a married couple), ~~Patricia D Engh, and Lois Coone~~, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Darla J. Smalley

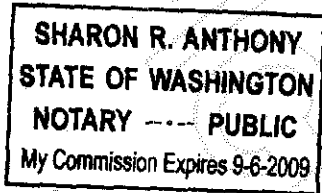
Notary Public in and for the State of Washington
Residing at Bellingham wa
My commission expires: 9.27.09



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Skagit County Auditor

STATE OF WASHINGTON
COUNTY OF SKAGIT

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 31 day of October, 2006, personally appeared before me Patricia D Engh Lois Coon to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he or she signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.



Sharon R. Anthony
Notary Public in and for the State of Washington
Residing at Mount Vernon
My commission expires: 9-6-2009

