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City of Mount Vernon
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200810210080

Skagit County Auditor

10/21/2008 Page 1 of 16 3:35PM

LAND TITLE OF SKAGIT COUNTY

11-17676

Document Title(s) (or transactions contained therein)

JUDGMENT AND DECREE OF APPROPRIATION

3449
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

Grantor(s) (Last name, first, then first name and initials)

NWCC INVESTMENTS VIII LLC

OCT 21 2008

Amount Paid \$
Skagit Co. Treasurer/
By Deputy
Lp

Grantee(s) (Last name first, then first name and initials)

CITY OF MOUNT VERNON, a Washington municipal corporation

Legal Description (abbreviated: i.e., lot, block plat or section, township, range, qtr./qtr.)

Ptn of Tr 9, Mount Vernon Acreage

Reference Number(s) of Documents assigned or released:

N/A

Assessor's Property Tax Parcel/Account Number

3746-0000-009-0202

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2008 OCT -1 PM 1:34

SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

In the Matter of the Petition of the City of Mount
Vernon to acquire by condemnation certain
property and property rights for the improvement
of College Way and Riverside Drive, as
contemplated by City of Mount Vernon
Ordinance No. 3401,

*[In re City of Mount Vernon - College Way/
Riverside Drive (P53847 - NWCC)]*

No. 08-2-00769-6

STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW,
JUDGMENT AND DECREE OF
APPROPRIATION

CLERK'S ACTION REQUIRED

Petitioner, City of Mount Vernon (the "City"), and Respondent NWCC
INVESTMENTS VIII LLC ("NWCC") stipulate as follows:

1. JUDGMENT SUMMARY

1.1 AMOUNT OF JUDGMENT

1.1.1	Total amount:	\$ 86,000
1.1.2	Previous Possession and Use Deposit	\$ 86,000
1.1.3	Costs	\$ - 0 -
1.1.4	Balance remaining:	\$ - 0 -

1.2 JUDGMENT CREDITORS. NWCC by Michael S. Courtnage, Alston,
Courtnage & Bassetti LLP, 1000 Second Avenue, Suite 3900, Seattle, WA 98104; Phone 206-
623-7600.

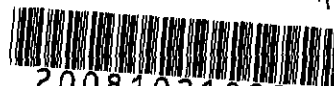
1.3 JUDGMENT DEBTOR. City of Mount Vernon by Kevin Rogerson, City
Attorney and P. Stephen DiJulio, Foster Pepper PLLC, 1111 Third Avenue, Suite 3400, Seattle,
WA 98101; Phone 206-447-4400.

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 1

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700

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1.4 JUDGMENT AMOUNT

1.4.1	Balance remaining:	\$ - 0 -
1.4.2	Interest owed:	\$ - 0 -
1.4.3	Costs	\$ - 0 -
1.4.4	Total amount due from the City:	\$ - 0 -

1.5 COSTS. Statutory costs are waived.

1.6 LEGAL DESCRIPTION. See attached Exhibit A ("the Property").

1.7 SKAGIT COUNTY TAX ACCOUNT NUMBER: P53847.

2. INTRODUCTION

THIS MATTER came before the undersigned judge of the above-entitled court on the stipulation of the City and NWCC. The City is represented by Kevin Rogerson, City Attorney and P. Stephen DiJulio of Foster Pepper PLLC. NWCC is represented by Michael S. Courtneage, of Alston, Courtneage & Bassetti LLP. The Court, having received the stipulation of the parties for entry of this judgment and having been advised in the premises; NOW, THEREFORE makes and enters the following judgment ("Judgment").

3. PUBLIC USE AND NECESSITY

An Order on Public Use and Necessity was entered on May 23, 2008.

4. OTHER PARTIES

4.1 The other parties to this action include tenants, a deed of trust trustee, a deed of trust beneficiary, and Skagit County as a taxing entity.

4.2 On June 13, 2008, the Court entered an order of default against Chicago Title Insurance Company, Artesia Mortgage Capital Corporation, Great Clips for Hair/Kanga Inc., Emerald City Pizza, Mountain Top Inc./Zahir Fakugi d/b/a The Copy and Print Store, and Jin Namju d/b/a Best Teryaki. These defaulted parties have no interest in the just compensation for the Property or in the total Judgment Amount.

4.3 On August 19, 2008, a stipulated dismissal against MV Nails was entered. MV

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 2

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
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1 Nails has no interest in the just compensation for the Property or in the total Judgment Amount.

2 4.4 On August 19, 2008, a stipulated dismissal against Advance America was
3 entered. Advance America has no interest in the just compensation for the Property or in the
4 total Judgment Amount.

5 4.5 On July 1, 2008, a stipulated dismissal against AT&T Mobility was entered.
6 AT&T Mobility has no interest in the just compensation for the Property or in the total
7 Judgment Amount.

8 4.6 No party other than NWCC has an interest in the just compensation for the
9 Property or in the total Judgment Amount.

10 5. JUDGMENT AND APPROPRIATION

11 5.1 The total just compensation to be paid by the City to NWCC for and in
12 connection with the taking and damaging of the real property described in the Petition for
13 Condemnation ("Petition") and in Exhibit A attached hereto (the "Property"), together with all
14 improvements thereon, attorney, expert/evaluation fees and interest, if any, is the amount of
15 Eighty-Six Thousand Dollars (\$86,000.00), less any taxes owed to Skagit County at the time of
16 disbursement, if any.

17 5.2 The City has previously paid into escrow ("Escrow") pursuant to a Possession
18 and Use Agreement the just compensation in the total amount of \$86,000. The total balance due
19 from the City is Zero Dollars (\$0.00).

20 5.3 Upon entry of this Judgment, the City shall have all right, title and interest in the
21 Property, and all of the Respondent's interest in the Property will be extinguished.

22 6. JUST COMPENSATION

23 6.1 Within ten (10) days of entry of this Judgment, the City shall issue instructions
24 to the Escrow authorizing the Escrow to release to NWCC funds deposited with the Escrow as
25 payment in full of just compensation and costs for the Property ("Judgment Amount").
26

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 3

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700

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1 6.2 Upon entry of this judgment, the City shall have all right, title and interest in the
2 Property, as described in Exhibit A.

3 6.3 The parties agree to the disbursement from Escrow of the entire Judgment
4 Amount to NWCC, as follows: payment shall be made payable to and mailed to Respondent
5 NWCC c/o Michael S. Courtnage, Alston, Courtnage & Bassetti LLP, 1000 Second Avenue,
6 Suite 3900, Seattle, WA 98104.

7 6.4 NWCC's interest in the Property will be extinguished as of the date of entry of
8 this judgment.

9 6.5 The City shall provide to NWCC a temporary easement for NWCC's
10 construction and maintenance of an advertising sign on the neighboring property commonly
11 referred to as the "Tesoro Parcel" ("Temporary Easement") The location of the Tesoro Parcel
12 and the temporary easement are indicated in Exhibit B; "Easement B" on Exhibit B is the
13 Temporary Easement. The Temporary Easement is more particularly described in Exhibit C.
14 The City and NWCC acknowledge that the City has obtained fee title to the Tesoro Parcel by
15 statutory warranty deed recorded September 11, 2008.

16 6.6 The City will cooperate with NWCC and NWCC affiliates regarding the
17 potential sale of the Tesoro Parcel to NWCC or to an NWCC affiliate.

18 6.7 If, seven months after the date of entry of this judgment or upon ninety-days notice
19 by City to NWCC, whichever is sooner, NWCC or an NWCC affiliate has not entered a purchase
20 and sale agreement to acquire a fee interest in the Tesoro Parcel from the City, NWCC will relocate
21 all NWCC signage on the Temporary Easement to a permanent easement indicated as "Easement
22 A" on Exhibit B and described more particularly in Exhibit D (the "Permanent Easement").

23 6.8 The City and NWCC acknowledge that the just compensation payment provided
24 for in this judgment includes all payment for relocation and/or damages to NWCC's sign. Any
25 relocation of the sign, including to the Temporary Easement and/or to the Permanent Easement
26 is NWCC's sole financial obligation. The City has no further financial obligation regarding the

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 4

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SEATTLE, WASHINGTON 98101-3299
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1 relocation of the sign.

2
3 **7. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

4 Sections 3 through 6 above shall be and hereby are adopted as and made the Findings of
5 Fact and Conclusions of Law. Now, therefore, in accordance with the foregoing Findings of
6 Fact and Conclusions of Law, it is hereby ordered, adjudged and decreed as follows:

7 **8. JUDGMENT**

8 8.1 Sections 3 through 7 above are incorporated herein by this reference.

9 8.2 Upon entry of this Judgment, the City shall have all right, title and interest in the
10 Property as described in the Petition and in Exhibit A attached hereto, and all of the
11 Respondent's interest in the Property will be extinguished.

12 8.3 The total amount to be paid by the City to NWCC, as payment in full of just
13 compensation, is Eighty-Six Thousand Dollars (\$86,000.00). The total balance due from the
14 City is \$0.00.

15 8.4 The Clerk shall issue no "certified abstract of judgment" contained in the
16 execution docket, otherwise denominated by the Clerk "transcript of judgment docket," the sole
17 and only purpose of which is presentation for payment. The sole method of payment shall be
18 through the Escrow.

19 8.5 Costs are waived as to all parties.

20 SO ORDERED this 1 day of Oct September, 2008.

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23 JUDGE / COURT COMMISSIONER

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STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 5

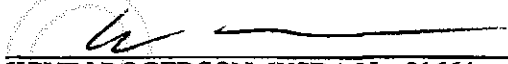
FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700

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1 Stipulated to and Presented by:
2 CITY OF MOUNT VERNON

3 
4 KEVIN ROGERSON, WSBA No. 31664
Prosecuting Attorney, and

5 FOSTER PEPPER PLLC
6 P. Stephen DiJulio, WSBA No. 7139
Michael S. Schechter, WSBA No. 35602
7 Special Assistant City Attorneys

8 Stipulated to and Approved for Entry by:

9 ALSTON, COURTNAGE & BASSETTI LLP

10 
11 Michael S. Courtage, WSBA No. 2149
12 Attorneys for Respondent NWCC

13 Stipulated to and Approved for Entry by:

14 SKAGIT COUNTY PROSECUTING ATTORNEY
15 RICHARD A. WEYRICH

16 
17 Steve Fallquist, WSBA No. 31678
18 Civil Deputy
19 Attorney for Respondent Skagit County

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STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION - 6

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FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
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EXHIBIT A

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**STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION**

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FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700



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Parcel Number P53847

EXHIBIT A

LISSE & ASSOCIATES, PLLC

320 Milwaukee St, PO Box 1109, Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Description for New Road Right-of-way

February 8, 2008

That portion of the following described Tract "X", lying Westerly of the following described line:

Commencing at the Southwest corner of the Northwest 1/4 (West 1/4 corner) of Section 17, Township 34 North, Range 4 East, W.M.;
 thence South 87°37'00" East along the South line of said Northwest 1/4 for a distance of 275.04 feet;
 thence North 0°40'15" West for a distance of 30.00 feet, more or less, to the Southeast corner of Tract B Short Plat No. MV-26-76, approved September 10, 1976 and recorded September 23, 1976 in Volume 1 of Short Plats, page 175 under Auditor's File No. 843161;
 thence continue North 0°40'15" West along the East line of said Short Plat No. MV-26-76 for a distance of 10.00 feet, more or less, to the North line of the South 40.00 feet of said Northwest 1/4 and being the TRUE POINT OF BEGINNING of said line description;
 thence North 74°32'14" West for a distance of 29.71 feet;
 thence North 88°30'23" West for a distance of 158.19 feet;
 thence North 44°36'10" West for a distance of 47.07 feet;
 thence North 2°57'41" West for a distance of 75.83 feet;
 thence North 2°57'41" West for a distance of 92.27 feet;
 thence North 0°40'15" West for a distance of 37.19 feet;
 thence North 89°19'45" East for a distance of 2.00 feet;
 thence North 0°40'15" West for a distance of 17.65 feet;
 thence North 2°51'58" West for a distance of 241.29 feet;
 thence North 89°19'45" East for a distance of 2.00 feet;
 thence North 2°51'58" West for a distance of 129.48 feet, more or less, to the North line of Tract 6, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.", as per plat recorded in Volume 3 of Plats, page 102 records of Skagit County, Washington, at a point bearing North 89°19'45" East a distance of 8.80 feet from the Northwest corner of said Tract 6 and being the terminus of said line description.

Tract "X"

(Shown as description on Land Title Company Limited Liability Report Order No. 123884)

The West 168 feet of Tract 9, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.," as per plat recorded in Volume 3 of Plats, page 102, records of Skagit County, Washington, and the North 29.5 feet of the East 100 feet of the West 268 feet of said Tract 9, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.,"

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the City of Mount Vernon, County of Skagit, State of Washington.

Area of new right-of-way = 2,628 sq. ft.

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EXHIBIT B

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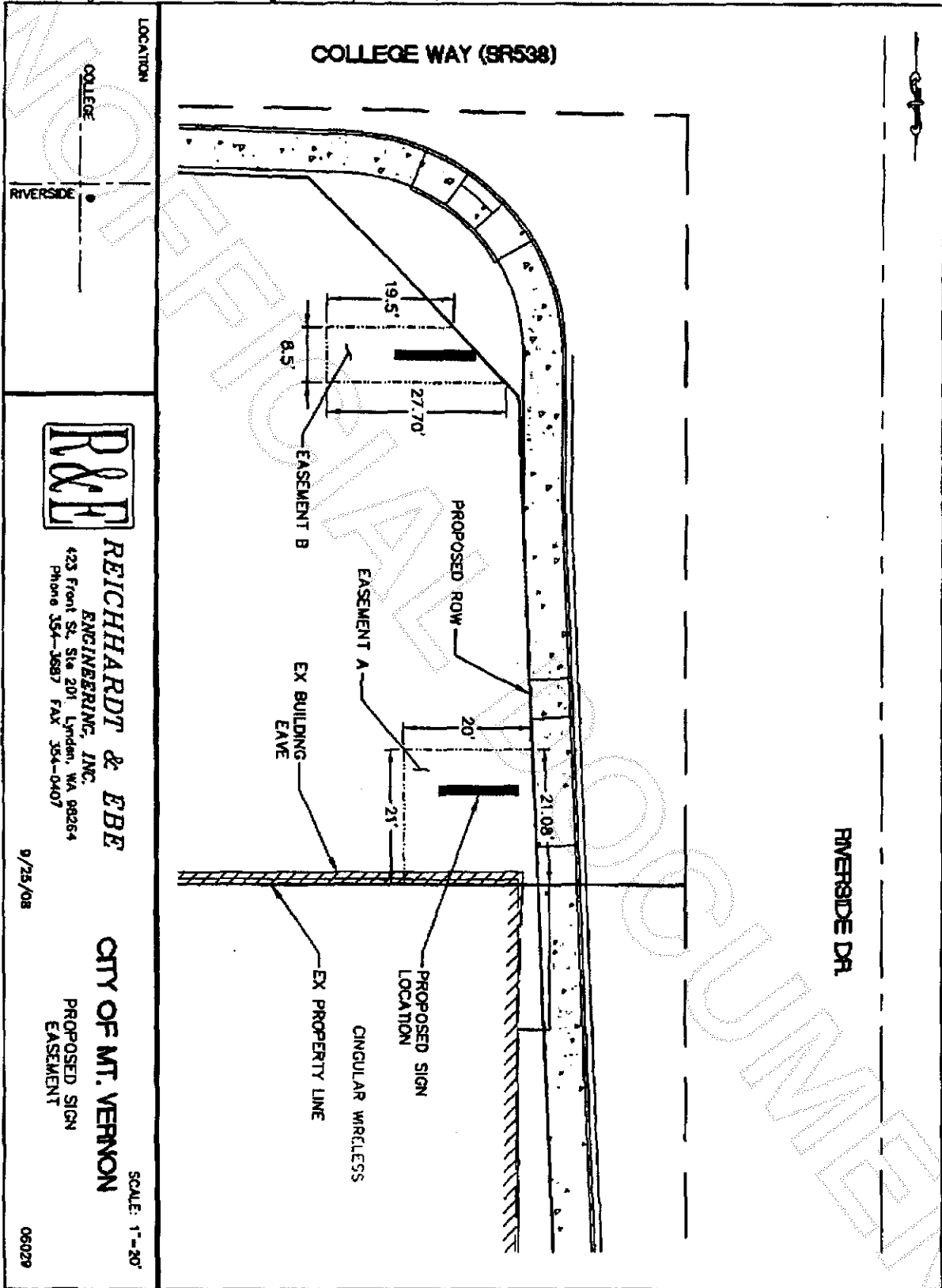
STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION

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FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700



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EXHIBIT C

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STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION

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FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700



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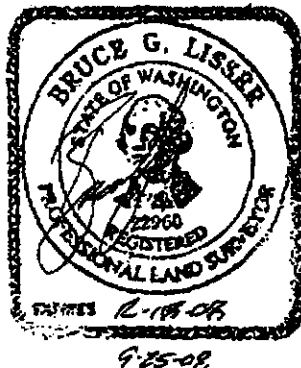
**Proposed Signage Easement B
(P-53850)**

An easement for signage installation and the maintenance thereof over, under, and across a portion of Tract 10, "Plat of Mount Vernon Acreage, Skagit County, Wash.," as per plat recorded in Volume 3 of Plats, Page 102, records of Skagit County, Washington and being more particularly described as follows:

Beginning at the Northwest corner of said Tract 10, "Plat of Mount Vernon Acreage, Skagit County, Wash."; thence North 89° 19' 45" East along the north line of said Tract 10 for a distance of 22.69 feet, more or less, to the proposed easterly right of way margin of Riverside Drive thence South 2° 57' 41" East along said proposed easterly right of way margin for a distance of 75.83 feet to an angle point on said margin; thence South 44° 36' 10" East along said margin for a distance of 2.80 feet to the TRUE POINT OF BEGINNING; thence North 89° 21' 14" East along said north line for a distance of 27.70 feet; thence South 0° 38' 46" East for a distance of 8.50 feet; thence South 89° 21' 14" West for a distance of 19.50 feet, more or less, to said proposed easterly right of way margin of Riverside Drive at a point bearing South 44° 36' 10" East from the TRUE POINT OF BEGINNING; thence North 44° 36' 10" West along said proposed easterly right of way margin for a distance of 11.81 feet, more or less, to the TRUE POINT OF BEGINNING

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the City of Mount Vernon, County of Skagit, State of Washington.



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EXHIBIT D

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STIPULATED FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF APPROPRIATION

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FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700



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**Proposed Signage Easement A
(P-53850)**

An easement for signage installation and the maintenance thereof over, under, and across a portion of Tract 10, "Plat of Mount Vernon Acreage, Skagit County, Wash.," as per plat recorded in Volume 3 of Plats, Page 102, records of Skagit County, Washington and being more particularly described as follows:

Beginning at the Northwest corner of said Tract 10, "Plat of Mount Vernon Acreage, Skagit County, Wash."; thence North 89° 19' 45" East along the north line of said Tract 10 for a distance of 22.69 feet, more or less, to the proposed easterly right of way margin of Riverside Drive and being the TRUE POINT OF BEGINNING; thence continue North 89° 19' 45" East along said north line for a distance of 20.78 feet; thence South 0° 51' 22" East for a distance of 21.00 feet; thence South 89° 08' 38" West for a distance of 20.00 feet, more or less, to said proposed easterly right of way margin of Riverside Drive at a point bearing South 2° 57' 41" East from the TRUE POINT OF BEGINNING; thence North 2° 57' 41" West along said proposed easterly right of way margin for a distance of 21.08 feet, more or less, to the TRUE POINT OF BEGINNING

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the City of Mount Vernon, County of Skagit, State of Washington.



UNOFFICIAL

State of Washington, } ss.
County of Skagit

I, Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of the Superior Court of the State of Washington, do hereby certify that the foregoing is a true and correct copy of the original consisting of 14 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County, my office at Mount Vernon, this 20th day of October, 2008.

Nancy K. Scott, County Clerk

By

Deputy Clerk



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