

AFTER RECORDING MAIL TO:

Name CITY OF SEDRO WOOLLEY
Address 325 METCALF STREET
City/State SEDRO WOOLLEY, WA 98284



200903130010

Skagit County Auditor

3/13/2009 Page

1 of

9 10:01AM

Document Title(s): (or transactions contained therein)

1. AMENDED MEMORANDUM OF AGREEMENT
- 2.
- 3.
- 4.



Reference Number(s) of Documents assigned or released:

200812010119

☐ Additional numbers on page _____ of document

GUARDIAN NORTHWEST TITLE CO.

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

1. CITY OF SEDRO WOOLLEY
- 2.
- 3.
- 4.
5. ☐ Additional names on page _____ of document

ACCOMMODATION RECORDING ONLY

M4311

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

1. PATRICK RIMMER FAMILY LIMITED PTNSHIP
2. PATRICK ROAD LLC
- 3.
- 4.
5. ☐ Additional names on page _____ of document

Abbreviated Legal Description as follows: (i.e. lot/block/plat or section/township/range/quarter/quarter)

PTN LOTS 3-5, BLK 1 MOORES ADD. TO WOOLLEY

☐ Complete legal description is on page _____ of document

Assessor's Property Tax Parcel / Account Number(s):

876818, 76819, 76820, 122745

NOTE: The auditor/recorder will rely on the information on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

AMENDED MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this 6th day of January, 2009 by and between the CITY OF SEDRO-WOOLLEY, a Washington Municipal Corporation, hereinafter referred to as "CITY", the PATRICK A. RIMMER FAMILY LIMITED PARTNERSHIP and PATRICK ROAD, LLC, a Washington Limited Liability Company, hereinafter referred to as "RIMMER", is for the purpose of agreeing to certain terms and conditions related to the City's "F&S Grade Road and SR 20 project" (hereafter Project).

RECITALS

A. The City is in the process of improving the intersection of F&S Grade Road and SR 20 and creating a new roundabout intersection on SR 20 in front of Skagit County parcel no. 76818; and

B. The City is planning to spend approximately \$3.5M on this Project which will be publicly bid before the end of 2008 and constructed beginning in spring of 2009 with the Project scheduled for completion in 2009; and

C. RIMMER is owner of that certain property located in Sedro-Woolley identified as a portion of Lots 3 to 8, Block 1 Moore's Addition to Woolley, Skagit County parcel no. 76818; and

D. RIMMER is the owner of the Les Schwab Tire Center and Alignment shop located on Parcels 76818, 76819, 76820 and 122795, which property together with the property described in Recital C, above are hereafter referred to as "the Premises"; and

E. RIMMER or its members is owner of an adjoining 22 acre parcel that is being redeveloped into an industrial park and will be served with access by the City's Project.

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

1. RIMMER agrees to fulfill its pledge to donate fifty thousand Dollars (\$50,000) to the City for the construction of the Project; said donation to occur no later than thirty (30) days after the City's request, provided, that the City shall not request the funds unless needed for the project. It is the intent of the parties that RIMMER'S donation is the last money.

2. RIMMER agrees to donate certain right-of-way necessary for this Project including a Slope Easement. The value of this donation is as follows: as appraised for 10,472 square feet of land from Parcel 76818 and as appraised for 1642 square feet of land in the public utility and slope easement. The donation letter, statutory warranty deed, public utility and slope easement and real estate excise tax affidavits are attached hereto as Exhibits A, B, C and D, respectively. RIMMER agrees to execute these



documents contemporaneously with this Agreement. RIMMER is responsible for establishing the value of the donations.

3. RIMMER agrees to donate to the City that structure located on Parcel 76818, the alignment shop, including fixtures and equipment. RIMMER is responsible for establishing the value of that structure, fixtures and equipment for its own purposes; the City agrees to provide RIMMER with a letter acknowledging the donation of the structure. Donation is to occur contemporaneously with this agreement.

3.1 CITY agrees to lease back to RIMMER the structure on a lease in the form as attached in Exhibit E, *provided*, that **under no circumstance may RIMMER continue in possession of the premises beyond June 6, 2009.**

4. RIMMER agrees to demolish the donated structure as required by the City. RIMMER has salvage rights to the equipment, fixtures, and materials. RIMMER agrees to comply with state requirements for public projects, including but not limited to compliance with the prevailing wage laws. Beginning June 7, 2009 and ending no later than July 6, 2009, RIMMER agrees to demolish the structure. **In the event RIMMER fails to perform by July 6, 2009, the CITY has the immediate right to demolish the structure without further notice to RIMMER.**

5. RIMMER agrees to construct certain improvements on its property in conjunction with this project including paving to provide access to the new alignment shop and paving to provide access to Parcels 37450, 37451 and 76817. RIMMER agrees to dedicate right of way, including a ten foot utility easement, as attached hereto as Exhibits G1 and G2. RIMMER agrees that the improvements are to be constructed as specified and approved by the City Public Works Director. The improvements required to be constructed herein shall be done before or in conjunction with the Project as directed by the City Public Works Director.

5.1 In constructing the improvements to provide access to Parcels 37450, 37451, and 76817, RIMMER has the option to temporarily construct this access with a gravel road built to the standards provided by the City Public works Director. If RIMMER opts to build a temporary gravel access, then RIMMER agrees to maintain the gravel on the roadway and to complete the improvements with the final paving to occur no later than September 30, 2010.

6. RIMMER agrees to construct certain improvements on its property in conjunction with this project including paving of the proposed Patrick Road (arterial road between SR 20 and East Jones Road) to City standards and to dedicate this ROW as required for this project and as a condition of approval of the RIMMER binding site plan (BSP) in the future. City and Rimmer agree that Rimmer will be eligible for transportation impact fee credits under SWMC 15.60 for the cost of improvements and land constructed and dedicated for this new arterial street. While most of these credits will be issued as part of the BSP process, for that portion of the improvements and dedication made as part of this Project, Rimmer shall be granted credits.

7. RIMMER agrees to convey certain property legally described in Exhibit H to the ESTATE OF LAURA G. MORGAN, hereinafter referred to as "MORGAN", and CARY W. EDWARDS, a single man, hereinafter referred to as "EDWARDS" for the purchase price of \$82,660.00. RIMMER agrees to enter into a separate purchase and sale agreement with MORGAN and EDWARDS on the terms and conditions set forth in this Agreement.

8.0 GENERAL PROVISIONS

8.1 Recording. This Agreement shall, when approved by the City Council and executed by the parties hereto, be filed as a matter of public record in the office of the Skagit County Auditor and shall be in the nature of a covenant running with the Premises. It is the intent to have this Agreement, so long as it is in force, to be considered, interpreted, and regarded as a covenant running with the land as to Rimmer's Property.

8.2 Applicable Law. This Agreement shall be governed by and be interpreted in accordance with the laws of the State of Washington with venue for any disputes to lie exclusively in Skagit County.

8.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each party hereto.

8.4 Severability. If any provision of this Agreement is determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law.

8.5 Modification. This Agreement shall not be modified or amended except in writing signed by the City and RIMMER or their respective successors in interest.

8.6 Merger. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

8.7 Duty of Good Faith. Each party hereto shall cooperate with the other in good faith to achieve the objectives of this Agreement. The parties shall not unreasonably withhold requests for information, approvals or consents provided for, or implicit, in this Agreement.

8.8 No Presumption Against Drafter. This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.



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8.9 Notices. All communications, notices and demands of any kind which a party under this Agreement is required or desires to give to any other party shall be in writing and be either (1) delivered personally, (2) sent by facsimile transmission with an additional copy mailed first class, or (3) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the City: City Attorney, City of Sedro-Woolley, 325 Metcalf Street, Sedro-Woolley, WA 98284

If to RIMMER: P.O. Box 394, Burlington, WA 98233.

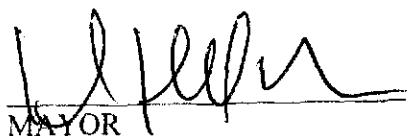
Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed received 48 hours after deposit. Any party at any time by notice to the other party may designate a different address or person to which such notice shall be given.

8.10 Attorney fees. If it is necessary for any Party or its authorized representative, successor, or assign, to institute suit in connection with this Agreement or the breach thereof, the prevailing party in such suit or proceeding shall be entitled to recover its reasonable costs, expenses, and attorneys' fees incurred.

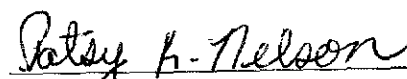
8.11 Entire Agreement. This Amended Agreement and the prior Agreement, including the attached Exhibits, contains all of the covenants, promises, agreements, and conditions, both oral and written, between the Parties. This Agreement is fully integrated and constitutes the complete and final agreement between the parties hereto.

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

CITY OF SEDRO-WOOLLEY


MAYOR

Attest:


CITY CLERK

Approved as to form:

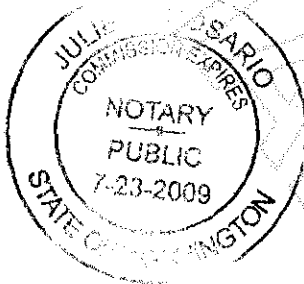

CITY ATTORNEY



STATE OF WASHINGTON)
) SS.
COUNTY OF SKAGIT)

On this day personally appeared before me MIKE ANDERSON and PATSY NELSON, to me known to be the Mayor and Clerk of the City of Sedro-Woolley, a Washington Municipal Corporation, who executed the within and foregoing instrument and acknowledged to me that she signed and sealed the same as the free and voluntary act and deed of the said City, for the uses and purposes therein mentioned.

GIVEN UNDER my hand and official seal this 10th day of January, 2009.



Julie Rosario
Notary Public in and for the State of
Washington, residing at Sedro-Woolley
My Commission Expires: 7/23/09
Print Name Julie Rosario



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RIMMER

PATRICK ROAD, LLC

PATRICK A. RIMMER FAMILY
LIMITED PARTNERSHIP

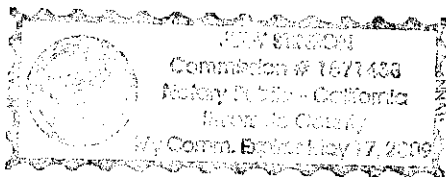

By: Patrick A Rimmer, Managing
Member

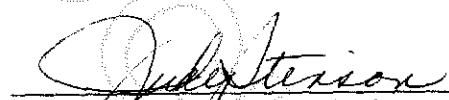

By: Patrick A Rimmer, General Partner

STATE OF California)
COUNTY OF Riverside) SS.

I certify that I know or have satisfactory evidence that PATRICK A. RIMMER is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledge it as the General Partner of the PATRICK A. RIMMER FAMILY LIMITED PARTNERSHIP and as the member of PATRICK ROAD, LLC to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

GIVEN UNDER my hand and official seal this 6th day of January, 2009.




Notary Public in and for the State of California
Washington, residing at Indian Wells
My Commission Expires: May 17, 2009
Print Name Judy Stinson



Listing of Exhibits for that certain Amended Memorandum of Agreement between the CITY OF SEDRO-WOOLLEY, a Washington Municipal Corporation, the PATRICK A. RIMMER FAMILY LIMITED PARTNERSHIP and PATRICK ROAD, LLC, a Washington Limited Liability Company dated January 6th, 2009.

Exhibit A: Donation Letter, on file with City Clerk's office;

Exhibit B: Statutory Warranty Deed, Filed under Skagit County Auditor's File No. 200811190086;

Exhibit C: Public Utility and Slope Easement, Filed under Skagit County Auditor's File No. 200811190087;

Exhibit D: Real Estate Excise Tax Affidavits, on file with City Clerk's office;

Exhibit E: Lease Agreement, on file with City Clerk's office;

Exhibit G1: Statutory Warranty Deed, Filed under Skagit County Auditor's File No. 200811190088;

Exhibit G2: Statutory Warranty Deed, Filed under Skagit County Auditor's File No. 200811250087;

Exhibit H: Legal description, attached hereto.



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EXHIBIT H

LEGAL DESCRIPTION

THAT PORTION OF LOTS 3 THROUGH 5, BLOCK 1 OF "MOORE'S ADD. TO WOOLLEY", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 62, RECORDS OF SKAGIT COUNTY, WASHINGTON MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID LOT 3 AND THE NORTH MARGIN OF SR20; THENCE NORTH 0°55'39" EAST ALONG SAID WEST LINE FOR A DISTANCE OF 1.60 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°55'39" EAST ALONG SAID WEST LINE FOR A DISTANCE OF 138.40 FEET TO THE NORTH LINE OF SAID LOT 3; THENCE SOUTH 88°16'30" EAST ALONG THE NORTH LINE OF SAID LOTS 3 THROUGH 5 FOR A DISTANCE OF 71.55 FEET; THENCE SOUTH 00°35'40" WEST FOR A DISTANCE OF 64.40 FEET TO A POINT ON THE ARC OF A NON TANGENTIAL CURVE WHOSE CENTER BEARS NORTH 75°29'57" WEST HAVING A RADIUS OF 99.50 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 61°59'33" FOR A DISTANCE OF 107.66 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 8,266 SQUARE FEET.

SITUATE IN SECTION 24, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., CITY OF SEDRO-WOOLLEY, SKAGIT COUNTY, WASHINGTON.

SEE ATTACHED EXHIBIT B



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