

FILED FOR RECORD AT THE
REQUEST OF/RETURN TO:
City of Burlington
City Attorney's Office
833 South Spruce Street
Burlington, WA 98233



200904270135

Skagit County Auditor

4/27/2009 Page

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11 11:40AM

EASEMENT FOR ACCESS

Grantor (s) HENRY VAN PELT, as Trustee of the HENRY VAN PELT TRUST, as to an undivided 1/2 interest and HENRY VAN PELT and ROBERT H. VAN PELT, as co-trustees of the RUTH VAN PELT TESTAMENTARY TRUST, as to an undivided 1/2 interest.

Grantee (s) CITY OF BURLINGTON, a Washington municipal corporation.

Additional Grantor(s) on page(s)

Additional Grantee(s) on page(s)

Abbreviated Legal: *Sw 2-34-3*

Assessor's Tax Parcel No's: *P21036, P21037*

SKAGIT COUNTY WASHINGTON
LEGAL ENTRY - EXCISE TAX

THIS AGREEMENT (the "Agreement"), is made the date set forth below, by and between HENRY VAN PELT, as Trustee of the HENRY VAN PELT TRUST, as to an undivided 1/2 interest and HENRY VAN PELT and ROBERT H. VAN PELT, as co-trustees of the RUTH VAN PELT TESTAMENTARY TRUST, as to an undivided 1/2 interest (hereinafter collectively "Grantor"), and the CITY OF BURLINGTON, a Washington municipal corporation (hereinafter "Grantee").

RECITALS:

- A. GRANTOR is the owner of certain real property in Skagit County, Washington, legally described on Exhibit "A", attached hereto.
- B. GRANTEE has previously been granted an easement for sewer utility purposes, which easement was recorded under Skagit County Auditor's Number 821146 on 7-28-75, over and across the real property legally described on Exhibit "B" (the "Original Easement"). A sewer pump station was constructed on the land covered by the Original Easement. Grantee has asked Grantor to expand the easement area for space for construction and additional equipment including a generator and control panel. Grantee has agreed to grant the additional easement according to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1) GRANTOR hereby grants and quit claims to GRANTEE a non-exclusive perpetual easement for the construction, installation, operation, maintenance, repair, restoration, and replacement of a sewer pipeline, pumping station, and related facilities including, but not limited to, electrical panels, generators, and vaults, together with ingress and egress thereto over, under and across the following described property for GRANTEE and GRANTEE'S employees, agents, and contractors, which property encompasses the original property described in Exhibit "B" together with additional areas legally described on Exhibit "C" attached hereto.
- 2) GRANTOR, further grants and conveys to GRANTEE, a non-exclusive temporary construction easement for the construction and installation of a sewer pipeline, pumping station, and related facilities including, but not limited to, electrical panels, generators, and vaults, together with ingress and egress thereto for GRANTEE and GRANTEE'S employees, agents, and contractors over, under and across the property described on Exhibit "D" attached hereto. A site plan for the existing sewer pump station and areas covered by this Agreement is attached as Exhibit "E".
- 3) The GRANTEE when exercising its rights to install improvements in the easement area shall notify GRANTOR of the intended activity and shall restore the easement area to a safe, neat and proper condition following all work. In the event that Grantee should damage or interfere with Grantor's access road or gate next to the sewer pump station, then Grantee shall replace, at Grantee's sole expense, the existing gate and access with an all-weather access (and new 8' tall chain link gate) from Ovenell so that Grantor can access his fields without interruption.
- 4) This easement shall remain in effect in perpetuity, until terminated by the mutual written and recorded agreement of the GRANTOR and GRANTEE, or by the operation of law.
- 5) The benefits, burdens and covenants of the easement shall be deemed to run with the land and bind the owners of the real property described in Exhibits "A," "B," and "C", the Grantor and Grantee, and their respective heirs, successors, and assigns, and all persons possessing the property by, through and under the parties hereto.
- 6) Grantee covenants to indemnify, defend and hold Grantor harmless from and against any and all damages, liabilities, claims and expenses (including without limitation reasonable attorneys' fees and court costs) arising from Grantee's use of Grantor's property pursuant to



the Original Easement and this Agreement, and/or the conduct of Grantee's operations or from any activity, work, or thing done, permitted or suffered by the Grantee in or about Grantor's real property, and shall further indemnify and hold harmless Grantor from and against any and all damages, liabilities, claims and expenses (including without limitation reasonable attorneys' fees and court costs) arising from any breach or default in the performance of any obligation on Grantee's part to be performed under the terms of the Original Easement or this Agreement. If any such action or proceeding is brought against Grantor, then Grantee, upon notice from Grantor, shall defend Grantor against that claim at Grantee's expense by counsel reasonably satisfactory to Grantor. Grantee, as a material part of the consideration to Grantor, hereby assumes all risk of damage to property or injury to persons in or about the Grantor's real property from any cause whatsoever except Grantor's gross negligence or intentionally wrongful conduct and Grantee hereby waives all claims in respect thereof against Grantor.

7) The parties agree to exercise their best efforts in good faith to resolve problems associated with the easement. Should the parties be unable or unwilling to amicably resolve any dispute concerning this easement, including the interpretation of this easement, then they agree to submit to binding arbitration under the Rules of Mandatory Arbitration for Skagit County, Washington, regardless of the nature of the dispute or the amount in controversy, and the parties agree that the results reached in such arbitration shall be binding and may not be appealed. The prevailing party shall be entitled to reasonable costs and attorneys fees.

8) There are no verbal or other agreements which may modify or affect this easement. There are no other agreements between the parties relating to any easements of the subject Property other than those describe herein and this easement shall not be construed as applying to any easements not specifically described herein. This easement is an integrated, complete document and constitutes the entire agreement among the parties.

Dated this 24 day of April, 2009.

CITY OF BURLINGTON

HENRY VAN PELT, as Trustee of the
HENRY VAN PELT TRUST

By: Edward J. Brunz
Mayor Ed Brunz

Henry Van Pelt

Approved as to form:

HENRY VAN PELT, as co-trustee of
The RUTH VAN PELT
TESTAMENTARY TRUST

Henry Van Pelt





City Attorney

ROBERT H. VAN PELT, as co-trustee
of the RUTH VAN PELT
TESTAMENTARY TRUST



Robert H. Van Pelt



State of Washington)
) ss
County of Skagit)

I certify that I know or have satisfactory evidence that Edward Brunz is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it on behalf of the CITY OF BURLINGTON, and to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 4-24-09

Shelley Acero
(Signature)

NOTARY PUBLIC
Shelley Acero

Print Name of Notary

My appointment expires: 10-22-2011



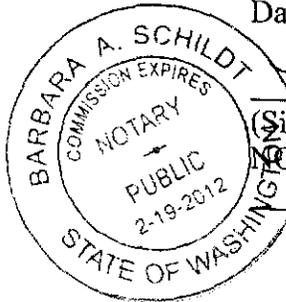
State of Washington)
) ss
County of Skagit)

I certify that I know or have satisfactory evidence that HENRY VAN PELT is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the as Trustee of the HENRY VAN PELT TRUST, and as co-trustee of the RUTH VAN PELT TESTAMENTARY TRUST to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: April 7, 2009

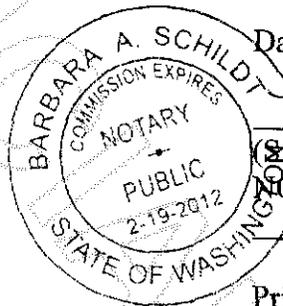
Barbara A. Schildt
(Signature)

NOTARY PUBLIC
BARBARA A. SCHILDT



State of Washington)
) ss
County of Skagit)

I certify that I know or have satisfactory evidence that ROBERT H. VAN PELT is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the as co-trustee of the RUTH VAN PELT TESTAMENTARY TRUST to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: April 7, 2009

Barbara A. Schildt
(Signature)

NOTARY PUBLIC
BARBARA A. SCHILDT

Print Name of Notary

My appointment expires: 2/19/12



EXHIBIT "A"

The land referred to in this report/policy is situated in the State of Washington, County of Skagit, and is described as follows:

The West ½ of the Southwest ¼ of Section 2, Township 34 North, Range 3 East, W.M., lying North of the Ovenell Road, EXCEPT that portion thereof lying Southerly and Easterly of the following described line:

Line:

Commencing at the Southwest corner of said Section 2; thence South 89°36'00" East, a distance of 1,323.94 feet to the Southeast corner of the Southwest ¼ of the Southwest ¼; thence North 0°52'36" West along the East line of said Southwest ¼ of the Southwest ¼, a distance of 737.72 feet to the true point of beginning of this line description; thence North 79°18'48" West, a distance of 271.09 feet; thence North 87°13'01" West a distance of 222.52 feet; thence South 22°37'20" West, a distance of 266.24 feet, to a point on the North line of the Ovenell Road the terminus of this line description.



EXHIBIT "B"
Existing easement area

The West 1/4 of the Southwest 1/4 of Section 2, Township 34 North, Range 3 East W.M., EXCEPT Road and EXCEPT the following described tract:

Beginning at the intersection of the Northerly line of the Ovenell County Road as the same existed on April 21, 1967 with the East line of said subdivision; thence North along the East line of said subdivision 400 feet; thence West parallel with the South line of said subdivision 200 feet; thence South parallel with the East line of said subdivision 144 feet, more or less, to the Northerly line of said County Road; thence Southeasterly along the Northerly line of the County Road to the point of beginning.

Situate in the County of Skagit, State of Washington.

more particularly described as follows:

Beginning at the southeast corner of the SW1/4 of Section 2; thence N 72°40'48" W 2254.71 feet; thence N 52°05'40" W 223.18 feet; thence N 34°28'12" E 34 feet to the true point of beginning; thence continuing N 34°28'12" E 20 feet; thence N 55°31'48" W 25 feet; thence S 34°28'12" W 20 feet; thence S 55°31'48" E 25 feet to the true point of beginning.



EXHIBIT "C"
Revised Easement Area

Legal for Revised Easement:

That portion of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 2,
Township 34 North, Range 3 East, W.M. described as follows:

Begin at the Southeast corner of the Southwest corner of said Section 2;
thence North 72 degrees 40' 48" West, a distance of 2,254.71 feet; thence
North 52 degrees 05' 40" West, a distance of 223.18 feet; thence North 34
degrees 28' 12" East, a distance of 34 feet to the Southerlymost corner of
that certain Easement conveyed to the City of Burlington by document recorded
July 28, 1975 as Auditor's File No. 821146; thence South 55 degrees 31' 48"
East a distance of 4 feet to the True Point of Beginning of this Revised
Easement parcel; thence North 34 degrees 28' 12" East, a distance of 25 feet;
thence North 55 degrees 31' 48" West, a distance of 30 feet; thence South 34
degrees 28' 12" West, a distance of 25 feet; thence South 55 degrees 31' 48"
East, a distance of 30 feet to the True Point of Beginning; (Said 25-foot by
30-foot easement parcel contains the 20-foot by 25-foot Easement parcel
conveyed to the City of Burlington by said AFN 821146.).



EXHIBIT "D"
Construction Easement Area

That portion of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 2, Township 34 North, Range 3 East, W.M. described as follows:

Begin at the Southeast corner of the Southwest corner of said Section 2; thence North 72 degrees 40' 48" West, a distance of 2,254.71 feet; thence North 52 degrees 05' 40" West, a distance of 223.18 feet; thence North 34 degrees 28' 12" East, a distance of 34 feet to the Southerlymost corner of that certain Easement conveyed to the City of Burlington by document recorded July 28, 1975 as Auditor's File No. 821146; thence South 55 degrees 31' 48" East a distance of 4 feet to the True Point of Beginning of this Revised Easement parcel; thence North 34 degrees 28' 12" East, a distance of 25 feet; thence South 55 degrees 31' 48" East, a distance of 5 feet; thence South 34 degrees 28' 12" West, a distance of 25 feet; thence North 55 degrees 31' 48" West, a distance of 5 feet to the True Point of Beginning.





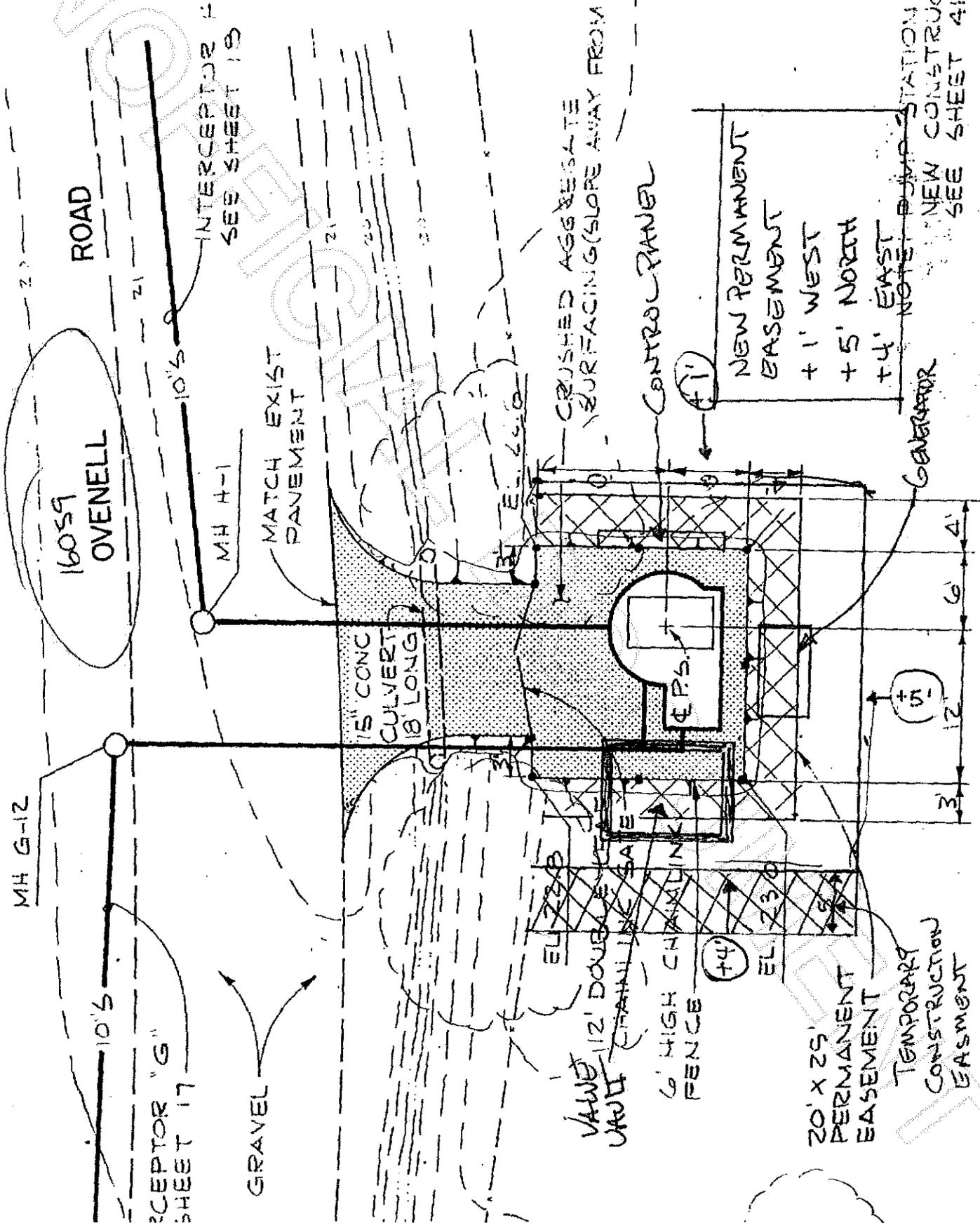
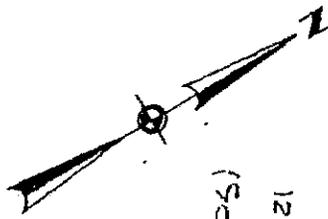
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STATION 10 IS ALL
NEW CONSTRUCTION
SEE SHEET 41

10/11/09

PUMP STATION 10