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Skagit County Auditor

6/5/2009 Page

1 of

12 1:20PM

**COVER SHEET FOR RECORDING DOCUMENTS**

**Return to:** Chrissy Sprouse  
City of Mount Vernon  
P.O. Box 809  
Mount Vernon, WA 98273

**DOCUMENT:** STIPULATED FINDINGS OF FACT, CONCLUSIONS OF  
LAW, ETC.  
In re City of Mount Vernon – College Way/Riverside Drive  
(P25984/P25678 – Mt. Vernon Plaza)

*GRANTEE:*

*GRANTORS:* Norah Lee Smith, Penny Van Buren f/k/a/ Penny Lee Merrell, Wendee Hamilton  
f/k/a Wendee Cyr, Tracie Cyr, Phillip E. Cyr

*GRANTOR: CITY OF MOUNT VERNON*

**ABBREVIATED LEGAL DESCRIPTION:** 17.34.04

See attached EXHIBIT A (“the property”) for Parcel P25984

See attached EXHIBIT A (“the property”) for Parcel P25678

Situate in the County of Skagit, State of Washington.

**AUDITOR’S FILES NO.**

COMPLETE LEGAL DESCRIPTION ON PAGE: See attached EXHIBIT A (“the property”) for Parcel P25984

See attached EXHIBIT A (“the property”) for Parcel P25678

**ASSESSOR’S PARCEL/TAX ID NUMBER:** ~~P53845~~ *125984/125678*

2008 JUN 19 PM 1:35

CERTIFIED COPY

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 (P25984/P25678 - Mt. Vernon Plaza)]*

No. 08-2-00768-8

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF APPROPRIATION AS TO RESPONDENTS NORAH LEE SMITH, PENNY VAN BUREN, WENDEE HAMILTON, TRACIE CYR, AND PHILLIP E. CYR

CLERK'S ACTION REQUIRED

Petitioner, City of Mount Vernon (the "City"), and Respondents Norah Lee Smith, Penny Van Buren f/k/a Penny Lee Merrell, Wendee Hamilton f/k/a Wendee Cyr, Tracie Cyr, and Phillip E. Cyr ("Settling Respondents") stipulate as follows:

1. JUDGMENT SUMMARY

1.1 AMOUNT OF JUDGMENT

1.1.1	Total amount: \$10,372 for each 1/25 interest	\$ 51,860
1.1.2	Previous Payments	\$ 51,860
1.1.3	Costs	\$ - 0 -
1.1.4	Balance remaining:	\$ - 0 -

1.2 JUDGMENT CREDITORS. Norah Lee Smith, Penny Van Buren f/k/a Penny Lee Merrell, Wendee Hamilton f/k/a Wendee Cyr, Tracie Cyr, and Phillip E. Cyr by James G.

STIPULATED ORDER DISMISSING RESPONDENTS NORAH LEE SMITH, PENNY VAN BUREN, WENDEE HAMILTON, TRACIE CYR, AND PHILLIP E. CYR - 1

FOSTER PEPPER PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
Phone (206) 447-4400 Fax (206) 447-0700

08 9 01164 ORIGINAL



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1 Bell of Ludwigson, Thompson, Hayes & Bell, Inc., P.S., 119 No. Commercial Street, PO Box  
2 399, Bellingham, WA, 98227; Phone 360-734-2000.

3 1.3 JUDGMENT DEBTOR. City of Mount Vernon by Kevin Rogerson, City  
4 Attorney and P. Stephen DiJulio and Michael S. Schechter, Foster Pepper PLLC, 1111 Third  
5 Avenue, Suite 3400, Seattle, WA 98101; Phone 206-447-4400.

6 1.4 JUDGMENT AMOUNT

7	1.4.1	Balance remaining:	\$ - 0 -
	1.4.2	Interest owed:	\$ - 0 -
8	1.4.3	Costs	\$ - 0 -
	1.4.4	Total amount due from City:	\$ - 0 -

9  
10 1.5 COSTS. Statutory costs are waived.

11 1.6 LEGAL DESCRIPTION. See attached Exhibit A ("the Property").

12 1.7 SKAGIT COUNTY TAX ACCOUNT NUMBERS: P25984 and P25678.

13 2. INTRODUCTION

14 THIS MATTER came before the undersigned judge of the above-entitled court on the  
15 stipulation of the County and Settling Respondents. The City is represented by Kevin  
16 Rogerson, City Attorney, and P. Stephen DiJulio and Michael S. Schechter of Foster Pepper  
17 PLLC. Settling Respondents are represented by James G. Bell of Ludwigson, Thompson,  
18 Hayes & Bell, Inc., P.S. The Court, having received the stipulation of the parties for entry of  
19 this judgment and having been advised in the premises; NOW, THEREFORE makes and enters  
20 the following judgment ("Judgment").

21 3. PUBLIC USE AND NECESSITY

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

23 4. OTHER PARTIES

24 4.1 The Settlement Respondents are each fee owners of a 1/25 undivided interest in  
25 the Property; that is the Settlement Respondents own a total of 1/5 or 20% of the Property.

26 4.2 The other parties to this matter include the remaining fee owners, a tenant,

STIPULATED ORDER DISMISSING RESPONDENTS  
NORAH LEE SMITH, PENNY VAN BUREN, WENDEE  
HAMILTON, TRACIE CYR, AND PHILLIP E. CYR - 2

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1 easement grantees, and Skagit County, as indicated in Exhibit B to the Petition for  
2 Condemnation. Any interest in the Property held by these other parties is held separately from  
3 any interest in the Property held by the Settling Respondents. The other parties have no interest  
4 in the just compensation received by the Settling Respondents or in the Judgment Amount of  
5 this Judgment.

6 **5. JUDGMENT AND APPROPRIATION**

7 5.1 Each of the five Settling Respondents is a fee owner of an undivided 1/25  
8 interest in the Property. A total of 5/25 interest or 20% of the Property is at issue in this  
9 Judgment.

10 5.2 The Settling Respondents agree that the Fair Market Value of the Property is  
11 \$259,300.00 and that 20% of Fair Market Value is \$51,860.

12 5.3 The total just compensation paid by the City to the Settling Respondents for and  
13 in connection with the taking and damaging of the real property described in the Petition for  
14 Condemnation ("Petition") and in Exhibit A attached hereto (the "Property"), together with all  
15 improvements thereon, attorney, expert/evaluation fees and interest, if any, is the amount of  
16 Fifty-One Thousand Eight Hundred Sixty Dollars (US \$51,860.00). The City has paid to each  
17 of the several Settling Respondent a sum of Ten Thousand Three Hundred Seventy-Two Dollars  
18 (US\$10,372.00) as just compensation for and in connection with the taking and damaging of  
19 each of their 1/25 undivided interests in the Property, together with all improvements thereon.

20 5.4 As Settling Respondents have already been paid by the City, the balance due  
21 from the City is Zero Dollars (US \$0.00) ("Judgment Amount").

22 5.5 Upon entry of this Judgment, recognizing the previous payment made to Settling  
23 Respondents by the City, as set forth in Section 6, below, the City shall have all right, title and  
24 interest in the Property, and all of the Respondents' interest in the Property will be extinguished.

25 5.6 The City may, but need not, further confirm title transfer by recording a  
26 warranty deed executed by Settling Respondents. Recording of a warranty deed, or not, does

STIPULATED ORDER DISMISSING RESPONDENTS  
NORAH LEE SMITH, PENNY VAN BUREN, WENDEE  
HAMILTON, TRACIE CYR, AND PHILLIP E. CYR - 3

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1 not affect the transfer of the Settling Respondents' interest pursuant to this Judgment.

2 **6. JUST COMPENSATION**

3 6.1 The City has made payment in full for just compensation and costs for the  
4 Property.

5 6.2 Upon entry of this Judgment, the City shall have all right, title and interest in the  
6 Settling Respondents' interest in the Property.

7 6.3 The Settling Respondents' interest in the Property will be extinguished as of the  
8 date that this Judgment is entered by the Court.

9 **7. JUDGMENT AS TO FEWER THAN ALL OF THE PARTIES**

10 7.1 This Judgment is a Final Judgment as to fewer than all of the parties, namely  
11 Norah Lee Smith, Penny Van Buren f/k/a Penny Lee Merrell, Wendee Hamilton f/k/a Wendee  
12 Cyr, Tracie Cyr, and Phillip E. Cyr ("Settling Respondents").

13 7.2 The Settling Respondents have been paid just compensation in full for their  
14 undivided individual interests in the Property based on the Fair Market Value of the Property as  
15 agreed to by the Settling Respondents.

16 7.3 The Settling Respondents have no cross-claims or counterclaims pending in this  
17 matter.

18 7.4 The Settling Respondents do not have any additional rights to be adjudicated in  
19 this matter.

20 7.5 There is no just reason for delay of entry of judgment as to the Settling  
21 Respondents.

22 **8. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 Sections 3 through 7 above shall be and hereby are adopted as and made the Findings of  
24 Fact and Conclusions of Law. Now, therefore, in accordance with the foregoing Findings of  
25 Fact and Conclusions of Law, it is hereby ordered, adjudged and decreed as follows:  
26

STIPULATED ORDER DISMISSING RESPONDENTS  
NORAH LEE SMITH, PENNY VAN BUREN, WENDEE  
HAMILTON, TRACIE CYR, AND PHILLIP E. CYR - 4

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1 **9. JUDGMENT**

2 9.1 Sections 3 through 8 above are incorporated herein by this reference.

3 9.2 Upon entry of this Judgment, the City shall have all right, title and interest in a  
4 separate 5/25 or 1/5 interest in the Property as described in the Petition and in Exhibit A  
5 attached hereto, and the interests of Norah Lee Smith, Penny Van Buren f/k/a Penny Lee  
6 Merrell, Wendee Hamilton f/k/a Wendee Cyr, Tracie Cyr, and Phillip E. Cyr in the Property  
7 will be extinguished.

8 9.3 The total amount to be paid by the City to Settling Respondents, as payment in  
9 full of just compensation, is Fifty-One Thousand Eight Hundred Sixty Dollars (US \$51,860.00),  
10 with statutory costs waived. The total balance due from the City is \$0.00.

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STIPULATED ORDER DISMISSING RESPONDENTS  
NORAH LEE SMITH, PENNY VAN BUREN, WENDEE  
HAMILTON, TRACIE CYR, AND PHILLIP E. CYR - 5

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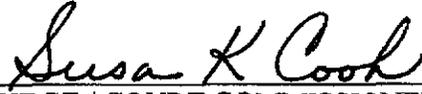


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1 9.4 Pursuant to Rule 54(b), this Court recognizes that this Judgment is a final  
2 judgment as to fewer than all of the parties. The entry of this Judgment as to fewer than all of  
3 the parties is supported by the findings of fact incorporated in this Judgment. There is no just  
4 reason for delay of entry of judgment as to Norah Lee Smith, Penny Van Buren f/k/a Penny Lee  
5 Merrell, Wendee Hamilton f/k/a Wendee Cyr, Tracie Cyr, and Phillip E. Cyr in this matter and  
6 entry of this Judgment as to these parties is expressly directed.

7 SO ORDERED this 19 day of June, 2008.

8  
9  
10   
11 JUDGE / COURT COMMISSIONER

12 Presented By, and stipulation to entry:

13 MOUNT VERNON CITY ATTORNEY  
14 Kevin Rogerson, WSBA No. 31664

15 and

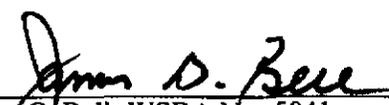
16 FOSTER PEPPER PLLC

17 

18 P. Stephen DiJulio, WSBA No. 7139  
19 Michael S. Schechter, WSBA No. 35602  
20 Special Assistant City Attorneys

21 Notice of presentation waived,  
22 and stipulation to entry:

23 LUDWIGSON, THOMPSON, HAYES & BELL, INC., P.S.

24   
25 James G. Bell, WSBA No. 5041  
26 Attorneys for Respondents Norah Lee Smith,  
Norah Lee Smith, Penny Van Buren, Wendee Hamilton,  
Tracie Cyr, and Phillip E. Cyr

STIPULATED ORDER DISMISSING RESPONDENTS  
NORAH LEE SMITH, PENNY VAN BUREN, WENDEE  
HAMILTON, TRACIE CYR, AND PHILLIP E. CYR - 6

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EXHIBIT A

**LISSER & 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**

June 29, 2007

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

Commencing at the Northwest corner of the Southwest 1/4 (West 1/4 corner) of Section 17, Township 34 North, Range 4 East, W.M.;  
thence South 0°24'00" West along the West line of said Southwest 1/4 for a distance of 669.94 feet, more or less, to the Southwest corner of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of said Section 17;  
thence South 89°42'08" East along said South line for a distance of 37.00 feet to the TRUE POINT OF BEGINNING of said line description;  
thence North 00°24'00" East for a distance of 27.82 feet;  
thence North 2°30'00" East for a distance of 192.33 feet;  
thence South 89°42'08" East for a distance of 2.00 feet;  
thence North 2°30'00" East for a distance of 115.09 feet;  
thence North 89°42'08" West for a distance of 2.27 feet;  
thence North 00°24'00" East for a distance of 73.05 feet;  
thence North 14°26'10" East for a distance of 45.87 feet;  
thence North 00°24'00" East for a distance of 136.54 feet;  
thence North 49°28'26" East for a distance of 37.83 feet;  
thence South 89°37'00" East for a distance of 48.09 feet;  
thence North 87°35'56" East for a distance of 329.36 feet, more or less, to the South line of the North 40.00 feet of said Southwest 1/4 of said Section 17, Township 34 North, Range 4 East, W.M., being the existing Southerly right-of-way margin of SR 538, College Way and also being the terminus of said line description.

Tract "X"

(Shown as Parcels A and B on Land Title Company Limited Liability Report Order No. 123867)

Parcel A

That portion of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., lying West of the Pacific Northwest Traction Company right of way,

EXCEPT the South 450 feet thereof,

AND EXCEPT those portions thereof lying within the boundaries of the County road and State Highway rights-of-way,

AND EXCEPT that portion thereof lying East of a line running South from a point on the South line of the A. W. Furber Road that is 262.33 feet West of the West line of the Old Pacific Northwest Traction Company right-of-way,

AND EXCEPT the North 10 feet conveyed to the City of Mount Vernon by Deeds recorded under Auditor's File Nos 816623 through 816628, inclusive.



**Parcel B**

That portion of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., described as follows:

**BEGINNING** at a point on the East side of the State Highway, 450 feet North of the South line of said subdivision;  
thence South along the East line of said highway, 115 feet;  
thence East parallel to the South line of said subdivision, 211 feet;  
thence North to a point 211 feet East of the POINT OF BEGINNING and 450 feet North of the South line of said subdivision;  
thence West to the POINT OF BEGINNING.

**ALL OF THE ABOVE BEING SUBJECT TO and TOGETHER WITH** easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

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

Area of new right-of-way = 11,709 sq. ft



EXHIBIT A

**LISSER & 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

June 29, 2007

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thence South 0°24'00" West along the West line of said Southwest 1/4 for a distance of 669.94 feet, more or less, to the Southwest corner of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of said Section 17;  
thence South 89°42'08" East along said South line for a distance of 37.00 feet to the TRUE POINT OF BEGINNING of said line description;  
thence North 00°24'00" East for a distance of 27.82 feet;  
thence North 2°30'00" East for a distance of 192.33 feet;  
thence South 89°42'08" East for a distance of 2.00 feet;  
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thence North 87°35'56" East for a distance of 329.36 feet, more or less, to the South line of the North 40.00 feet of said Southwest 1/4 of said Section 17, Township 34 North, Range 4 East, W.M., being the existing Southerly right-of-way margin of SR 538, College Way and also being the terminus of said line description.

Tract "X"

(Shown as Parcels A and B on Land Title Company Limited Liability Report Order No. 123867)

Parcel A

That portion of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., lying West of the Pacific Northwest Traction Company right of way,

EXCEPT the South 450 feet thereof,

AND EXCEPT those portions thereof lying within the boundaries of the County road and State Highway rights-of-way,

AND EXCEPT that portion thereof lying East of a line running South from a point on the South line of the A. W. Furber Road that is 262.33 feet West of the West line of the Old Pacific Northwest Traction Company right-of-way,

AND EXCEPT the North 10 feet conveyed to the City of Mount Vernon by Deeds recorded under Auditor's File Nos. 816623 through 816628, inclusive.



**Parcel B**

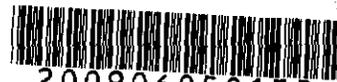
That portion of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., described as follows:

BEGINNING at a point on the East side of the State Highway, 450 feet North of the South line of said subdivision;  
thence South along the East line of said highway, 115 feet;  
thence East parallel to the South line of said subdivision, 211 feet;  
thence North to a point 211 feet East of the POINT OF BEGINNING and 450 feet North of the South line of said subdivision;  
thence West to the POINT OF BEGINNING.

ALL OF THE ABOVE BEING SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

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

Area of new right-of-way = 11,709 sq. ft.



UNOFFICIAL DOCUMENT

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, for the County of Skagit, do hereby certify that the foregoing instrument is a true and correct copy of the original, consisting of 10 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office at Mount Vernon this 5th day of June 2009. Nancy K. Scott, County Clerk

By [Signature]  
Deputy Clerk



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