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Skagit County Auditor

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Document Title: Avigation Easement

Reference Number of Related Document: BP09-0342

Grantor(s): David L Sjogren and Sandra L Sjogren

Additional Grantor(s) on page \_\_\_\_\_ of document.

Grantee(s): Port of Skagit County

Abbreviated legal description:

ACREAGE ACCOUNT, ACRES 0.85, THAT PORTION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 35 NORTH, RANGE 3 EAST, W.M

Assessor's tax/parcel numbers: P35193

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

JUL 13 2009

Amount Paid \$ 0  
By Skagit Co. Treasurer Deputy

*Sp*

## AVIGATION EASEMENT

This easement made this 13<sup>th</sup> day of July, 2009 between David L Sjogren and Sandra L Sjogren (hereafter "Grantor"), and the Port of Skagit County, a municipal corporation within the County of Skagit of the State of Washington (hereafter "Grantee"), provides that:

### RECITALS

The parties hereto acknowledge the following:

- A. Grantor owns certain real property in Skagit County, Washington, described on Exhibit A and depicted on Exhibit B (the "Property"). All exhibits mentioned herein and attached hereto are incorporated herein as if set forth in full.
- B. Grantee is the owner and operator of the Skagit Regional Airport ("Airport"), an identified essential public facility pursuant to the Washington Growth Management Act, Chapter 36.70A RCW. The Airport is operated pursuant to federal law and Title 53 RCW and RCW 36.70A.510 and RCW 36.70.547 and legally described in Exhibit C and depicted in Exhibit D hereto.
- C. The Airport is the principal airport in Skagit County, serving both recreational and commercial aircraft, including freight and passenger carriers. The Airport represents a public asset currently valued at over \$132,230,000.00. The Airport provides an essential transportation service and facilitates economic growth in Skagit County.
- D. Skagit County has identified undeveloped property in the vicinity of the Airport as part of an Urban Growth Area in which urban development is planned to occur. Unless carefully managed, urban development in the vicinity of airports leads to incompatible uses. Persons owning or occupying property within the vicinity of airports experience noise, exhaust fumes, illumination, smoke, vibration and loss of quiet enjoyment due to aircraft overflights associated with landing and taking off ("Overflight Effects"). In response to Overflight Effects, some persons are prone to assert legal claims or to exert other pressures to limit or terminate airport operations. The occurrence of urban development in the vicinity of the Airport therefore could, unless mitigated, have a harmful effect on Airport operations, limit the usefulness of an essential public facility and be contrary to the public interest and the requirements of the Growth Management Act.
- E. Portions of the Property lie within the Skagit Regional Airport Safety Overlay Zones established by the Washington State Department of Transportation's Aviation Division as set forth in Airport Land Use Compatibility Study, prepared by Reid Middleton and published in 2000 and on file with Skagit County. Portions of the Property also lie within certain aircraft noise contours established in the Airport Maser Plan, 1995, prepared by W & H Pacific and on file at the Port of Skagit County. These zones and contours are depicted on maps comprising a portion of the Skagit County UDC Airport Environs Overlay Map Portfolio.



- F. The Property has been continuously subject to aircraft overflights, either directly above the Property or over adjacent properties for an uninterrupted period in excess of ten years. These overflights, known to Grantor and/or Grantor's predecessors, by aircraft either landing at or taking off from the Skagit Regional Airport have subjected the Property to Overflight Effects. Grantee has not sought, nor has either Grantor nor did Grantor's predecessors grant permission to operate the Airport or to cause Overflight Effects upon the Property.
- G. The term "Average sound level" as used herein shall mean the level, in decibels, of the mean-square, A-weighted sound pressure during a specified period, with reference to the square of the standard reference sound pressure of 20 micropascals.
- H. The term "Day-night average sound level" or "DNL" as used herein shall mean the 24-hour Average Sound Level, in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between midnight and 7 a.m., and between 10 p.m., and midnight, local time.
- I. The Federal Aviation Administration has determined that noise from Overflight Effects is incompatible with ground uses when in excess of sixty-five (65) DNL.
- J. Urban Development in the vicinity of the Airport upon which noise from Overflight Effects is sixty-five 65 DNL or less poses minimal risk of harmful effects on the Airport.
- K. Pursuant to Section 14.16.210 of the Skagit County Code, Grantor must grant to Grantee an aviation easement for the portions of Grantor's real property within the Skagit Regional Airport Safety Overlay Zones,
- L. Grantor is willing to grant Grantee an easement with respect to Grantor's real property in accordance with the terms and conditions of this Agreement as a condition of development approval by Skagit County.

### COVEYANCE OF EASEMENT

1. The GRANTOR for and in consideration of fulfillment of a condition of a Skagit County project approval, Skagit County permit number **BP09-0342**, does hereby grant to Grantee, its successors and assigns, a perpetual and assignable easement in, near, upon and over the Property (legally described in Exhibits "A" and "B") for the free and unrestricted passage and flight of aircraft of the class size and category as is now or hereinafter may be operationally compatible with the Skagit Regional Airport ("Aircraft"), across and about the airspace above an imaginary plane, as such plane is defined by Part 77 of the Federal Aviation Regulations, over or in the vicinity of the Property (the "Airspace").
2. The aforesaid easement described in Paragraph Number 1 above includes but is not limited to:



a. For the use and benefit of the public and Grantee, the continuing right to fly, or cause or permit the flight by any and all persons of Aircraft in, through, across or about any portion of the Airspace hereinabove described; and

b. The right to cause or create, or permit or allow to be caused or created upon the Property, Overflight Effects as may be inherent in the proper operation of Aircraft.

c. *Provided*, that the rights conveyed to Grantee pursuant to this Aviation Easement shall be limited to those operations of the Skagit Regional Airport that meet noise level classification sixty-five (65) DNL.

3. The easement herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which now or hereinafter constitutes the Skagit Regional Airport, and shall further be deemed in gross, being conveyed to the GRANTEE for the benefit of the GRANTEE, and any and all members of the general public who may use said easement taking off from, landing upon, or operating such aircraft in or about the Airport, or in otherwise flying through said Airspace.
4. This grant of aviation easement shall not operate to deprive the GRANTOR, its successors or assigns, of any rights that it may otherwise have from time to time against any individual or private operator for negligent or unlawful operation of aircraft.
5. It is understood and agreed that these covenants and agreements run with the land and shall be binding upon the heirs, representatives, administrators, executives, successors, an assigns of the GRANTOR, and that for the purposes of this instrument, the Property shall be the servient tenement and the Airport shall be the dominant tenement.
6. The aviation easement, covenants and agreements described herein shall continue in effect until the Airport shall be abandoned or shall cease to be used for public airport purpose, at which time this easement shall terminate.

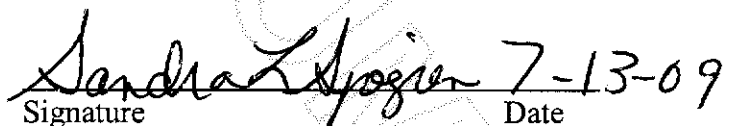
GRANTOR:



Signature

7-13-09

Date



Signature

Date

David L. Sjogren Owner

Print Name and Title

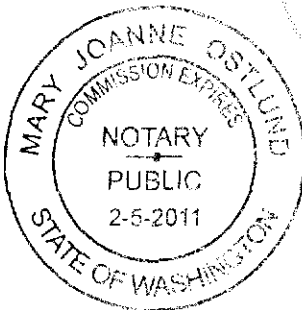
Sandra L. Sjogren owner

Print Name and Title



STATE OF WASHINGTON )  
 ) SS  
COUNTY OF SKAGIT )

**IN WITNESS WHEREOF** I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Jo Anne Ostlund  
(Signature)  
MARY JO ANNE OSTLUND  
(Printed name)  
NOTARY PUBLIC in and for the State of Washington,  
residing at Burlington  
My appointment expires: 2-5-2011

**Exhibit A**  
**Legal Description**

ACREAGE ACCOUNT, ACRES 0.85, THAT PORTION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 35 NORTH, RANGE 3 EAST, W.M., DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 1,125.50 FEET SOUTH OF THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE WEST TO THE EAST LINE OF THE COUNTY ROAD AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE EAST TO A POINT 200.00 FEET EAST OF THE CENTERLINE OF SAID ROAD; THENCE SOUTH 90.00 FEET; THENCE WEST 180.00 FEET, MORE OR LESS, TO THE EAST LINE OF THE COUNTY ROAD; THENCE NORTHERLY ALONG SAID ROAD TO THE TRUE POINT OF BEGINNING. ALSO TOGETHER WITH THAT PORTION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 32, CONVEYED TO DENNIS G. THOMASON AND DONNA M. THOMASON, HUSBAND AND WIFE, BY DEED RECORDED AUGUST 13, 1993, UNDER AF#9308130064, RECORDS OF SKAGIT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 1,125.50 FEET SOUTH OF THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE WEST TO THE EAST LINE OF THE COUNTY ROAD AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE EAST TO A POINT 206.00 FEET EAST OF THE CENTERLINE OF SAID COUNTY ROAD; THENCE NORTH A DISTANCE OF 15.00 FEET; THENCE SOUTH 88 DEGREES 45' 00" WEST TO THE EASTERLY LINE OF THE COUNTY ROAD, BEING 30.00 FEET FROM THE CENTERLINE AT RIGHT ANGLES THERETO; THENCE SOUTHERLY ON THE EASTERLY BOUNDARY OF SAID COUNTY ROAD TO THE TRUE POINT OF BEGINNING. EXCEPT THAT PORTION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 32, CONVEYED TO CARMEN D. JOHNSON BY DEED RECORDED SEPTEMBER 14, 1993, UNDER AF#9309140036, RECORDS OF SKAGIT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THAT CERTAIN TRACT DESCRIBED IN STATUTORY WARRANTY DEED TO DENNIS AND DONNA THOMASON, HUSBAND AND WIFE, RECORDED UNDER SKAGIT COUNTY AF#8309280047, RECORDS OF SKAGIT COUNTY, WASHINGTON, (ALSO BEING THE NORTHWEST CORNER OF LOT 1, SKAGIT COUNTY SHORT PLAT 93-033, RECORDED IN VOLUME 10 OF SHORT PLATS, PAGES 223 AND 224, RECORDS OF SKAGIT COUNTY, WASHINGTON); THENCE SOUTH 00 DEGREES 25' 35" WEST 75.75 FEET ALONG THE EAST LINE OF SAID THOMASON TRACT TO THE TRUE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00 DEGREES 25' 35" WEST 14.25 FEET TO THE SOUTHEAST CORNER OF SAID THOMASON TRACT (ALSO BEING AN ANGLE POINT FOR SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033); THENCE NORTH 89 DEGREES 34' 25" WEST 154.07 FEET ALONG THE SOUTH LINE OF SAID THOMASON TRACT (ALSO BEING THE NORTH LINE OF SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033) TO THE EASTERLY RIGHT OF WAY MARGIN OF BAYVIEW EDISON ROAD); THENCE NORTH 15 DEGREES 11' 32" WEST 13.00 FEET PARALLEL WITH AND 20.00 FEET EASTERLY (AS MEASURED PERPENDICULAR) OF THE AS-BUILT CENTERLINE OF SAID BAYVIEW-EDISON ROAD TO A POINT BEARING SOUTH 89 DEGREES 47' 55" WEST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 47' 55" EAST 157.58 FEET TO THE TRUE POINT OF BEGINNING, ALSO EXCEPT ANY PORTION LYING WITHIN THE BAYVIEW-EDISON ROAD. ALSO TOGETHER WITH THAT PORTION OF LOT 1, SKAGIT COUNTY SHORT PLAT 93-033, APPROVED AUGUST 20, 1993 AND RECORDED AUGUST 20, 1993 IN VOLUME 10 OF SHORT PLATS, PAGES 223 AND 224, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A PORTION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 35 NORTH, RANGE 3 EAST, W.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033; THENCE NORTH 89 DEGREES 34' 25" WEST 267.52 FEET ALONG THE NORTH LINE OF SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033 TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 0 DEGREES 25' 35" WEST 75.75 FEET ALONG THE WEST LINE OF SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033, TO THE NORTHEAST CORNER OF THAT CERTAIN BOUNDARY LINE ADJUSTMENT TRACT DESCRIBED IN QUIT CLAIM DEED TO CARMEN D JOHNSON, RECORDED UNDER SKAGIT COUNTY AF#9309140036; THENCE SOUTH 89 DEGREES 34' 25" EAST 267.53 FEET TO THE EAST LINE OF SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033; THENCE NORTH 0 DEGREES 24' 54" EAST 75.75 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING. ALSO TOGETHER WITH THOSE PORTIONS OF LOTS 1, 2, AND 3, "FINAL PLAT OF BRIDGEWATER ESTATES, PHASE 1", AS PER PLAT RECORDED IN VOLUME 15 OF PLATS, PAGES 174 AND 175, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND BEING MORE PARTICULARLY DESCRIBED IN THOSE CERTAIN QUIT CLAIMS DEEDS TO CARMEN JOHNSON RECORDED UNDER SKAGIT COUNTY AF#9602290042 AND 9602290043. DESCRIBED AS FOLLOWS: THOSE PORTIONS OF LOTS 1, 2, AND 3, "FINAL PLAT OF BRIDGEWATER ESTATES, PHASE 1" AS PER PLAT RECORDED IN VOLUME 15 OF PLATS, PAGES 174 AND 175, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 OF SAID "FINAL PLAT OF BRIDGEWATER ESTATES, PHASE 1" THENCE SOUTH 89 DEGREES 34' 25" EAST 179.04 FEET ALONG THE SOUTH LINE OF SAID LOT 1 TO AN ANGLE POINT IN SAID SOUTH LINE; THENCE SOUTH 0 DEGREES 25' 35" WEST 15 FEET ALONG SAID SOUTH LOT LINE TO THE NORTHWEST CORNER OF LOT 1 OF SKAGIT COUNTY SHORT PLAT 93-033, APPROVED AUGUST 20, 1993, AND RECORDED AUGUST 20, 1993, IN VOLUME 10 OF SHORT PLATS, PAGES 223 AND 224, UNDER SKAGIT COUNTY AF#9308200096, BEING A PORTION OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 35 NORTH, RANGE 3 EAST, W.M. AND BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 34' 25" SECONDS EAST 267.52 FEET ALONG THE NORTH LINE OF SAID LOT 1 OF SKAGIT COUNTY SHORT PLAT 93-033 (ALSO BEING THE SOUTH LINE OF SAID LOTS 1, 2, AND 3, "FINAL OF BRIDGEWATER ESTATES, PHASE 1") TO THE NORTHEAST CORNER OF SAID LOT 1, SKAGIT COUNTY SHORT PLAT 93-033; THENCE NORTH 0 DEGREES 24' 54" EAST 15.24 FEET MORE OR LESS ALONG THE NORTHERLY PROJECTION OF THE EAST LINE OF SAID LOT 1, SKAGIT COUNTY PLAT 93-033 TO AN EXISTING EAST-WEST FENCE LINE AS THE SAME IS SHOWN ON THE FACE OF SAID "FINAL PLAT OF BRIDGEWATER ESTATE, PHASE 1"; THENCE NORTH 89 DEGREES 09' 11" SECONDS WEST 267.52 FEET MORE OR LESS ALONG SAID EXISTING EAST-WEST FENCE LINE OR FENCE LINE PROJECTED TO A POINT BEARING NORTH 0 DEGREES 25' 35" WEST 17.20 FEET TO THE TRUE POINT OF BEGINNING



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Exhibit -C

BAYVIEW AIRPORT - PERIMETER DESCRIPTION

Those portions of Sections 33 and 34, Township 35 North, Range 3 East, W.M., and of Sections 3, 4 and 10, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the intersection of the South line of the County Road along the North line of Section 34, Township 35 North, Range 3 East, W.M., and the West line of said Section 34;  
thence East, along said South line of the County Road, a distance of 208 feet;  
thence South to a point 300 feet North of the South line of the North  $\frac{1}{4}$  of the North  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 34;  
thence East, along a line which is 300 feet North of said South line, a distance of 291 feet to the East line of the West 499 feet of the North  $\frac{1}{4}$  of the North  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 34;  
thence South, along the East line of said West 499 feet, a distance of 300 feet to the South line of said North  $\frac{1}{4}$  of the North  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 34;  
thence East, along said South line, to the East line of the Northwest  $\frac{1}{4}$  of said Section 34;  
thence South, along said East line, to the center of said Section 34;  
thence East, along the East/West center line of said Section 34, to the East line of the West  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 34;  
thence South, along said East line, and along the East line of the West  $\frac{1}{4}$  of the East  $\frac{1}{4}$  of Section 3, Township 34 North, Range 3 East, W.M., to the North line of Ovenell Road;  
thence West, along the North line of Ovenell Road, a distance of 100 feet;  
thence Northwesterly to a point on the North line of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 3 that is 150 feet West of the Northeast corner thereof;  
thence West, along the North line of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  to the Northwest corner thereof;  
thence South, along the North/South center line of said Section 3 and the North/South center line of Section 10, Township 34 North, Range 3 East, W.M., to the Southeast corner of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 10;  
thence South  $0^{\circ}21'30''$  West, along the East line of the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 10, a distance of 379.7 feet to the center of Higgins Slough;  
thence South  $83^{\circ}45'00''$  East, along the center of said slough, a distance of 56.1 feet;  
thence South  $77^{\circ}49'00''$  East a distance of 171.0 feet;  
thence South  $54^{\circ}30'00''$  East a distance of 67.0 feet;  
thence South  $46^{\circ}17'30''$  East a distance of 479.0 feet to the Northerly line of the Great Northern Railway right-of-way;  
thence South  $73^{\circ}20'30''$  West, along said Northerly line, to the North/South center line of said Section 10;  
thence Southwesterly, along Northerly right-of-way line, to the East line of the West 687.7 feet, as measured along the North line, of the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 10;



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thence North, along said East line of the West 687.7 feet, to the North line of said Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$ ;  
 thence West, along the North line thereof, a distance of 687.7 feet to the Northwest corner thereof;  
 thence North, along the West line of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 10, to the North line thereof, which point is also the South line of Section 3, Township 34 North, Range 3 East, W.M.;  
 thence West, along the South line of Sections 3 and 4 of said Township 34 North, Range 3 East, W.M., to the Southwest corner of said Section 4;  
 thence North, along the West line of said Section 4, to the Southwest corner of a tract conveyed to PACCAR Inc., a Delaware corporation, by deed recorded December 21, 1979, under Auditor's File No. 7912210064, said point being South  $1^{\circ}18'41''$  West a distance of 746.70 feet from the West  $\frac{1}{4}$  corner of said Section 4;  
 thence South  $88^{\circ}37'12''$  West, a distance of 3,139.05 feet; along the South line of said PACCAR, Inc. tract, to the Southeast corner thereof;  
 thence North  $0^{\circ}37'03''$  East, along the East line of said PACCAR, Inc. tract, a distance of 3,159.99 feet;  
 thence North  $88^{\circ}39'12''$  West a distance of 120.01 feet;  
 thence North  $0^{\circ}37'13''$  East a distance of 320.36 feet to the North line of said Section 4;  
 thence North  $88^{\circ}37'12''$  West, along the North line of said Section 4, a distance of 2,601.20 feet to the Northwest corner of said Section 4;  
 thence North, along the West line of Section 33, Township 35 North, Range 3 East, W.M., to the North line of the South  $\frac{1}{4}$  of the North  $\frac{1}{4}$  of the North  $\frac{1}{4}$  of said Section 33;  
 thence East, along said North line, to the East line of said Section 33;  
 thence North, along said East line, to the point of beginning.

EXCEPTING THEREFROM those portions above described which lie within the rights-of-way of the County Roads known as Ovenell Road, Farm-to-Market Road, Josh Wilson Road, Peterson Road and Higgins Airport Way.

Situate in the County of Skagit, State of Washington

NOTE: A portion of the property described above has been included within a Binding Site Plan known as "SKAGIT REGIONAL AIRPORT BINDING SITE PLAN PHASE 1", as approved August 22, 1986, and recorded August 25, 1986, in Volume 7 of Short Plats, pages 111 through 120, under Auditor's File No. 8608250002, records of Skagit County, Washington; being a portion of Section 34, Township 35 North, Range 3 East, W.M.

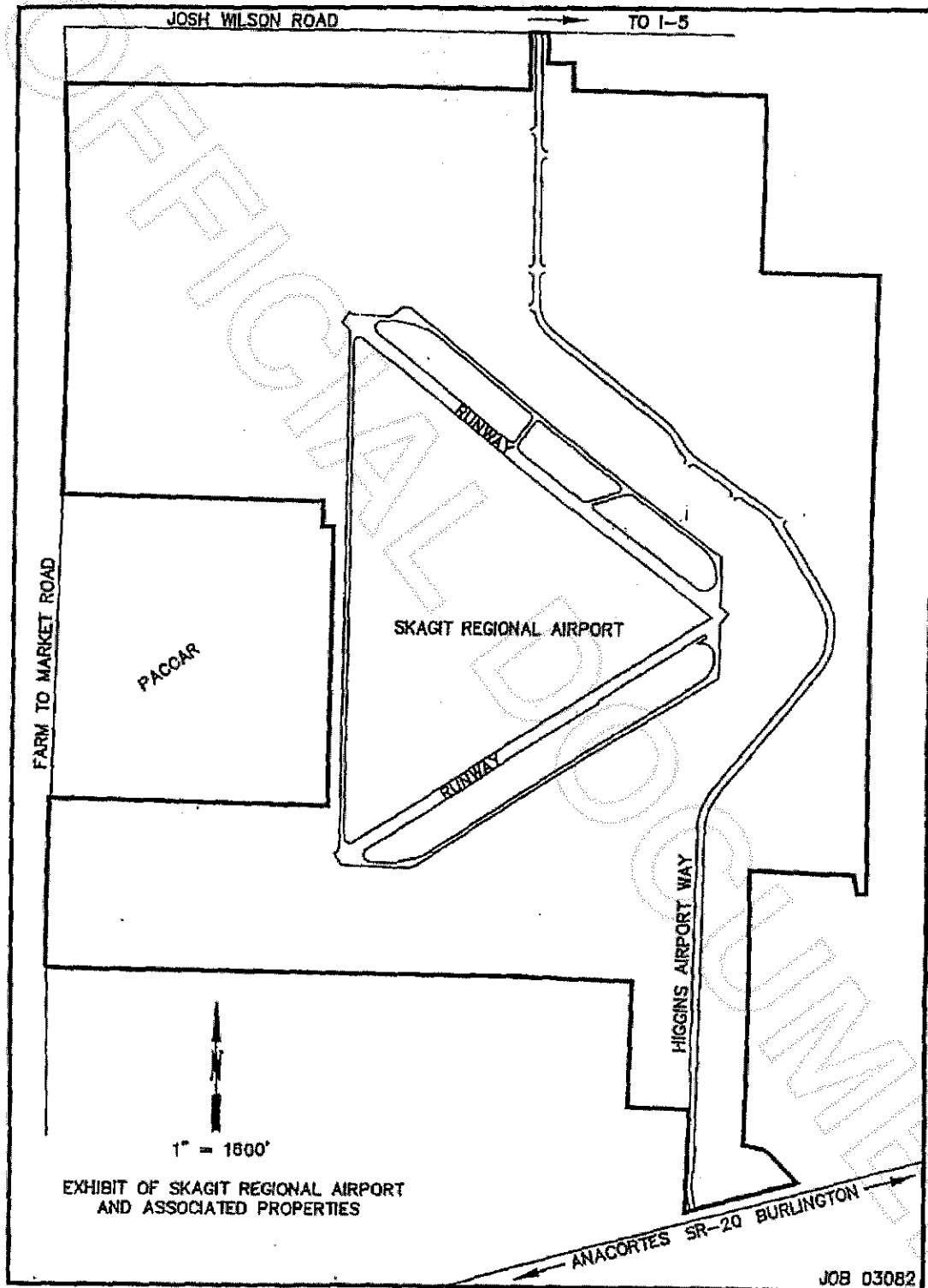
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EXHIBIT D



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