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200912160058

Skagit County Auditor

12/16/2009 Page 1 of 11 2:19PM

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**DECLARATION AND GRANT OF EASMENT FOR
ACCESS, UTILITIES AND
MAINTENANCE**

OWNER OF PARCEL A: ANACORTES GATEWAY MARINA, LLC

OWNER OF PARCEL B: FLORENCE F. LOVRIC & ESTATE OF ANTON M. LOVRIC

ABBREVIATED LEGAL DESCRIPTION: (See Exhibit A for full legal description)
PTN. Tract 2, 23-35-1

ASSESSOR'S TAX PARCEL NO.: (Parcel A) P31705 and (Parcel B) P31735

THIS DECLARATION AND GRANT OF EASMENT FOR ACCESS, UTILITIES AND MAINTENANCE (the "Declaration") is made and entered into this 29th day of May, 2009, by and between ANACORTES GATEWAY MARINA, LLC, a Delaware Limited Liability Company, licensed to do business in the State of Washington ("Owner of Parcel A") and FLORENCE F. LOVRIC and ESTATE OF ANTON M. LOVRIC ("collectively "Owner of Parcel B"), (collectively, the "Owner of Parcel A and Parcel B" are referred herein as the "Declarants" or "Owners").

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RECITALS:

A. WHEREAS, Declarants are the fee simple owners of two (2) contiguous parcels of land located in the County of Skagit, Anacortes, Washington, which parcels are more particularly described as "Parcel A" and Parcel "B", on Exhibit A attached hereto and incorporated herein by this reference (hereinafter individually called "Parcel A" and Parcel "B", and collectively "Parcels A and B").

B. WHEREAS, Owner of Parcel B and the Owner of Parcel A entered into a Boundary Line and Easement Agreement dated March 26, 1989, and recorded under Skagit County Recording No. 8903210033, Vol. 807, Pg. 171 ("BL Easement"), which the Declarants now wish to amend, supplement and confirm, and in connection therewith,

establishing and confirming (i) a nonexclusive mutual easement for ingress and egress over and across a portion of both Parcel A and B to provide paved road access across the Easement Area, as herein defined and (ii) an easement for utilities and maintenance over and across the Easement Area, as herein defined.

NOW, THEREFORE, for and in consideration of the recitals, which are incorporated herein by this reference, and other good and valuable consideration, the receipt of which is hereby acknowledged, Declarants, for themselves and their successors and assigns, do hereby declare, revise, grant, covenant and agree as follows:

1. Access Easement. Declarants do hereby reserve, establish, create and grant, for the benefit of the Owners of Parcels A and B and its successors, assigns, tenants and invitees, a nonexclusive easement for ingress and egress over and across that portion of Parcel A and B described on Exhibit B attached hereto and incorporated herein by this reference (the "Access Easement Area"). The Access Easement Area and the Utilities Easement Area (collectively referred to as the "Easement Area"). The Easement Area is further shown on a map of easements attached as Exhibit C, and incorporated herein by this reference ("Map of Easements").

2. Northeast Side of the Building on Parcel B. The Owner of Parcel A shall have the option to pay for the residing the northeast side of the building facing their property in materials as mutually agreed upon by the parties. If the Owners of Parcel A elect to reside the building, then the Owners of Parcel B will maintain the siding but shall have the right to change the siding in the future. Parcel B agrees to clean up the area in front of the northeast side of the building and shall keep the area clean, i.e. no storing of chains, rusty tanks or equipment, etc.

3. Utilities Easement. The Owner of Parcel A does hereby reserve, establish, create and grant for the benefit of the Owner of Parcel B, their successors, assigns, tenants and invitees, a nonexclusive easement for utilities under and through its portion of the Access Easement Area. The utilities easement is legally described on Exhibit B as Parcel A attached hereto as and incorporated herein by this reference ("the Utilities Easement"). The Utilities Easement is further shown on the Map of Easements attached as Exhibit C.

4. Use. The paved road portion of the Access Easement Area shall be used only for vehicular and pedestrian ingress and egress across the Access Easement Area. Vehicle parking is prohibited in all portions of the Access Easement Area.

5. Construction of the Easement Area. The Declarants hereby agree and consent to the construction of a paved roadway across the Access Easement Area. The Declarants further agree to the construction and placement of utilities underneath the Easement Area to service the Owners of Parcel A and B, which shall initially all be completed by the Owner of Parcel A.



6. Construction Costs. The Owner of Parcel A shall pay the entire cost of constructing the paved roads and connecting the utilities throughout the Easement Area and bring Parcel B utilities back to original service levels.

7. Utilities Hookup Agreement. The Owner of Parcel A acknowledges that the Owner of Parcel B may require the use of the utilities placed in the Utilities Easement. After the initial construction and placement of the utilities, Owner of Parcel B may access such utilities provided it gives prior written notice to the Owner of Parcel A. Upon receipt of such notice the Owner of Parcel B shall have the opportunity to connect to the utilities and Owner of Parcel B shall pay the cost for any hook-up charges or costs established by the providing utility or governmental entity.

8. No Obstruction. The Owners of Parcels A and B, and their successors, assigns, tenants and invitees, shall not obstruct, impede or interfere in the reasonable use of the Easement Area or interfere with or interrupt (other than for reasonable periods to accommodate construction) the service provided by such utility provider to the Owners. No gates shall be erected on the Access Easement Area without the consent of all of the Owners.

9. Maintenance. The Owners of Parcel A and B shall share equally in the cost and expenses of maintaining the Access Easement Area in reasonably good repair as mutually agreed upon by all of the Owners, so that the Access Easement Area may continue to be used for the purposes provided in this Declaration.

10. Damage to Easement. Expenses required as a result of any damage to Easement Area due to the negligence of any Owner of Parcel A or B, or such Owner's agents, employees, tenants or invitees, shall be borne by said Owner, directly or through its agents, employees, tenants or invitees, causing such damage, and such Owner shall repair the damage within sixty (60) days of the occurrence.

11. Definition of Owners. As used herein, "Owner" or "Owners" shall mean the record owner or owners, whether one or more persons or entities of a fee simple title to all or any portion of Parcels A and B, including contract purchasers, but excluding those having such interests merely as security for the performance of an obligation, and such Owners, successors and assigns.

12. Indemnification. The Owners hereby agree to indemnify and hold one another harmless from any and all claims for injuries and/or damages when such injury or damage results from or arise out of or is attributable to their respective use of the easement created hereunder or resulting from the activities of their respective agents, employees, tenants or invitees.

13. Easement to Run With the Land; Binding on Successors and Assigns. The easements, restrictions, benefits and obligations hereunder shall run with the land and shall be binding upon and run for the benefit of the Owners, their heirs, administrators,

Easement



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personal representatives, successors and assigns, and all persons and parties claiming by or through any of them in perpetuity.

14. Final Agreement. The Owners of Parcel A and B acknowledge that this Declaration is intended to amend and supplement the existing BL Easement.

15. Counterparts. This Declaration may be executed in one or more counterparts, and all of the counterparts shall constitute one and the same agreement, notwithstanding that all parties hereto are not signatory to the same or original counterpart.

16. Arbitration. Any controversy or claim arising out of or relating to this Agreement and related documents shall be settled by arbitration unless otherwise provided for in this Agreement. The arbitration shall be held in Mount Vernon, Washington, in accordance with the Mandatory Rules of Arbitration then in effect for the Skagit County Superior Court. The arbitrator shall decide all controversies or claims arising hereto and the decision, judgment, or award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing party in the arbitration shall be entitled to a reasonable attorney's fee, arbitration costs and court costs, if any, to be paid by the non-prevailing party, as fixed by the arbitrator.

IN WITNESS WHEREOF, this Declaration has been executed as of the day and year first hereinabove set forth.

DECLARANTS:

ANACORTES GATEWAY MARINA, LLC

By: [Signature]

Its: [Signature]

SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

DEC 16 2009

12/8/09
Date

Amount Paid \$
By: [Signature]
Skagit County Treasurer Deputy

ESTATE OF ANTON M. LOVRIC

By: Florence F. Lovric
FLORENCE F. LOVRIC, Personal Representative

5/29/09

Date

Florence F. Lovric
FLORENCE F. LOVRIC, Individually

5/29/09

Date



STATE OF WASHINGTON)
COUNTY OF _____)

SS

I certify that I know or have satisfactory evidence that Jerrell Barto is the person who appeared before me and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as a Member of ANACORTES GATEWAY MARINA, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 8th day of December, 2009.



Erinn D.L. Welliver
(Notary's printed name)

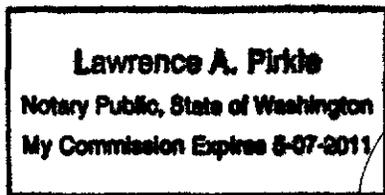
Erinn D.L. Welliver
NOTARY PUBLIC in and for the
State of Washington
Residing at Anacortes
My Commission Expires: 4/1/2010

STATE OF WASHINGTON)
COUNTY OF SKAGIT)

SS

I certify that I know or have satisfactory evidence that FLORENCE F. LOVRIC is the person who appeared before me and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Personal Representative of the Estate of ANTON M. LOVRIC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 29th day of May, 2009.



LAWRENCE A. PIRKLE

Lawrence A. Pirkle
NOTARY PUBLIC in and for the
State of Washington
Residing at Mount Vernon
My Commission Expires: 5/7/11



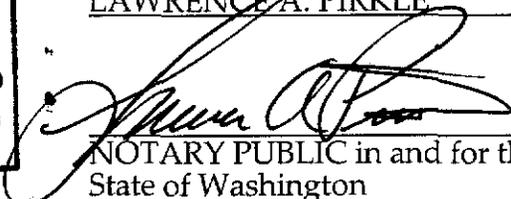
STATE OF WASHINGTON)
)) SS
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that FLORENCE F. LOVRIC is the person who appeared before me and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 29th day of May, 2009.

Lawrence A. Pirkle
Notary Public, State of Washington
My Commission Expires 5-07-2011

LAWRENCE A. PIRKLE



NOTARY PUBLIC in and for the
State of Washington
Residing at Mount Vernon
My Commission Expires: 5/7/11



Exhibit A

Legal Description of Parcels A & B

PARCEL "A" (P31705)

THAT PORTION OF TRACT 2, SECTION 23, TOWNSHIP 35 NORTH, RANGE 1 EAST, W.M., OF "PLATE #7. ANACORTES TIDE LANDS", ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE BOARD OF STATE LAND COMMISSIONERS AT OLYMPIA, WASHINGTON, LYING WITHIN THE FOLLOWING DESCRIBED TRACT;

BEGINNING AT THE INITIAL POINT OF SAID TRACT 2; THENCE NORTH 0°13' 00" EAST, 49.00 FEET; THENCE SOUTH 70° 44'. 00" WEST, 452.00 FEET; THENCE SOUTH 26° 02' 10" EAST, 159.39 FEET; THENCE NORTH 46°20' 00" EAST, 211.67 FEET; THENCE NORTH 57°28' 00" EAST, 29.71 FEET; THENCE NORTH 65°31' 00" EAST 196.00 FEET TO THE POINT OF BEGINNING. \

IN ADDITION

THAT PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY DESIGNATED AS NORTHERN PACIFIC RAILROAD ON THE PLAT OF "NORTHERN PACIFIC ADDITION TO ANACORTES", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 9, RECORDS OF SKAGIT COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 401, OF SAID PLAT; THENCE NORTH 21° 36' 44" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 401. A DISTANCE OF 182 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 401, BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 54°53' 24" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 401, A DISTANCE OF 142.15 FEET; THENCE NORTH 27°30' 00" WEST, A DISTANCE OF 133.24 FEET; THENCE NORTH 46°20' 00" EAST, A DISTANCE OF 211.67 FEET; THENCE NORTH 57°S 28' 00" EAST, A DISTANCE OF 29.71 "FEET; THENCE NORTH 65° 31' 00" EAST, A DISTANCE OF 196.00 FEET; THENCE SOUTH 13° 00' 00" WEST, A DISTANCE OF 217.62 FEET TO A POINT ON THE NORTHERLY LINE OF BLOCK 301, OF SAID PLAT; THENCE SOUTH 66° 28' 42" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 301, A DISTANCE OF 65.64 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 301; THENCE SOUTH 59°09' 28" WEST, A DISTANCE OF 81.05 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 401, BEING THE TRUE POINT OF BEGINNING, EXCEPT THOSE THREE PORTIONS THEREOF CONVEYED TO ADJOINING LANDOWNERS BY DEEDS RECORDED AUGUST 28, 1989, APRIL 26, 1990, AND APRIL 26, 1990. AS AUDITOR'S FILE NOS. 8908280059, 9004260070 AND 9004260071, RESPECTIVELY.



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ALSO

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES AND MATTERS INCIDENTAL THERETO, OVER, UNDER AND ACROSS THE EXISTING ROADWAY, AS DISCLOSED BY RECORD OF SURVEY FILED MARCH 21, 1989. IN VOLUME 8 OF SURVEYS, PAGE 148, UNDER AUDITOR'S FILE NO. 8903210032, ALL AS CONTAINED IN INSTRUMENT RECORDED MARCH 21, 1989, UNDER AUDITOR'S FILE NO. 8903210033.

LEGAL DESCRIPTION FROM STATUTORY WARRANTY DEED FILED UNDER AUDITOR'S FILE NO 200512050215, RECORDS OF SKAGIT COUNTY, STATE OF WASHINGTON.

PARCEL "B"
(P31702)

That portion of the Burlington Northern Railroad right-of-way designated as Northern Pacific Railroad on the plat map of "NORTHERN PACIFIC ADDITION TO ANACORTES", as per plat recorded in Volume 2 of Plats, page 9, records of Skagit County, Washington, being more particularly described as follows:

Beginning at the Southeast corner of Block 901 of said plat of Northern Pacific Addition to Anacortes:

thence North 21° 36' 44" West along the Westerly right-of-way of Illinois Avenue, a distance of 185.00 feet to the true point of beginning:

Thence North 21° 36' 44" West, a distance of 73.05 feet;

Thence North 73° 40' 00" East, a distance of 97.74 feet;

Thence North 67° 41' 20" East, a distance of 270.04 feet;

Thence North 73° 40' 00" East, a distance of 250.00 feet;

Thence East a distance of 100.00 feet;

Thence North 73° 40' 00" East, a distance of 5.24 feet;

Thence South 14° 38' 00" East, a distance of 7.00 feet to an inter-Section with a curve having a radius point bearing North 11° 56' 47" West, a radial distance of 684.80 feet;

thence Easterly along the arc of said curve to the left through a central angle of 2° 51' 28", an arc distance of 34.16 feet to the intersection with a curve having a radius point bearing North 14° 48' 15" West, a radial distance of 1878.10 feet;

Thence Easterly along the arc of said curve to the left through a central angle of 21° 22' 57", an arc distance of 700.90 feet;

Thence South 22° 00' 00" East, a distance of 27.44 feet;

Thence North 58° 55' 00" East, a distance of 79.03 feet;

Thence North 52° 10' 00" East, a distance of 165.00 feet;

Thence North 46° 20' 00" East, a distance of 72.98 feet;

Thence South 27° 30' 00" East, a distance of 133.25 feet;

Thence South 54° 53' 24" West, a distance of 166.32 feet to the Northwesterly corner of Block 401 of said plat;

Thence South 51° 23' 01" West, a distance of 84.12 feet to the Northeasterly corner of Block 501 of said plat;

Thence South 54° 31' 45" West, a distance of 308.94 feet to the Northwesterly corner of said Block 501;



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Thence South 65° 01' 13" West, a distance of 170.24 feet to the Southeast corner of Block 601 of said plat;

Thence North 21° 36' 44" West along the Easterly line of said Block 601, a distance of 93.00 feet to the Northeasterly corner of said Block 601;

Thence South 71° 37' 52" West, a distance of 210.34 feet to the Northwesterly corner of said Block 601;

Thence South 73° 27' 34" West, a distance of 80.31 feet to the Northeasterly corner of Block 701 of said plat;

Thence South 73° 43' 15" West, a distance of 301.25 feet to the Northwesterly corner of said Block 701;

Thence South 74° 05' 54" West, a distance of 80.40 feet to a point on the Easterly line of Block 801 of said plat;

Thence North 21° 36' 44" West along the Easterly line of said Block 801, a distance of 50.38 feet to the Northeasterly corner of said Block 801;

Thence South 68° 05' 05" West, a distance of 299.96 feet to the Northwesterly corner of said Block 801;

Thence South 73° 23' 18" West, a distance of 80.31 feet to the Northeasterly corner of Block 901 of said plat;

Thence North 21° 36' 44" West along the Northwesterly projection of Illinois Avenue right-of-way, a distance of 73.05 feet to the true point of beginning.

Situate in the County of Skagit, State of Washington.

ALSO (P31735)

That portion of Tract 2, of Plate No. 7, "ANACORTES TIDE LANDS", as per plat thereof, on file in the office of the Board of State Land Commissioners at Olympia, Washington, lying within the following described tract:

Beginning at a point 97.3 feet South and 203.3 feet West of the initial point of said Tract 2;

Thence North 22° West 71 feet;

Thence South 70° 44' West 209 feet to the TRUE POINT OF BEGINNING;

Thence South 70° 44' West 111 feet;

Thence South 19° 16' East 100 feet;

Thence South 70° 44' West 173 feet;

Thence South 22° East 158 feet;

Thence North 58° 55' East 82 feet;

Thence North 52° 10' East 165 feet;

Thence North 46° 20' East 64.3 feet, more or less, to a point that is South 27° 30' East 165 feet from the TRUE POINT OF BEGINNING;

Thence North 27° 30' West 165 feet to the TRUE POINT OF BEGINNING.



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Exhibit B

Legal Description of Access and Utility Easement Area

Access and utility easement on Parcel A (P31705):

Commencing in the southeast corner of Parcel B as described in record of survey AF # 200805070069;

Thence N27°30'00"W, 43.45' to the point of beginning;

Thence N48°14'33"E, 52.13';

Thence N57°45'16"W, 59.67';

Thence a curve to the right at a radius of 62.00', for a distance of 96.03';

Thence N59°09'28"E, 33.52' to a point of cusp with a curve concave to the southwest having a radius of 95.50' and to which point a radial line bears S57°25'47"W, thence northwest 149.47' along said curve through a central angle of 89°40'31";

Thence S57°45'16"W, 50.35';

Thence a curve to the right at a radius of 35.50', for a distance of 57.93';

Thence N26°02'10"W, 100.22';

Thence S63°57'50"W, 19.50';

Thence S26°02'10"E, 108.18';

Thence S27°30'00"E, 74.80', to the point of beginning.

Access easement on Parcel B (P31735 & P31702):

Commencing in the southeast corner of Parcel B as described in record of survey AF # 200805070069;

Thence N27°30'00"W, 65.64' to the point of beginning;

Thence S72°33'25"W, 37.90';

Thence S63°57'50"W, 20.17';

Thence N26°02'10"W, 21.00';

Thence N63°57'50"E, 13.31';

Thence a curve to the left at a radius of 25.00', for a distance of 39.27';

Thence N26°02'10"W, 141.82';

Thence N63°57'50"E, 18.00', to the West line of Parcel A as described in record of survey AF # 200805070069;

Thence S26°02'10"E, 140.89';

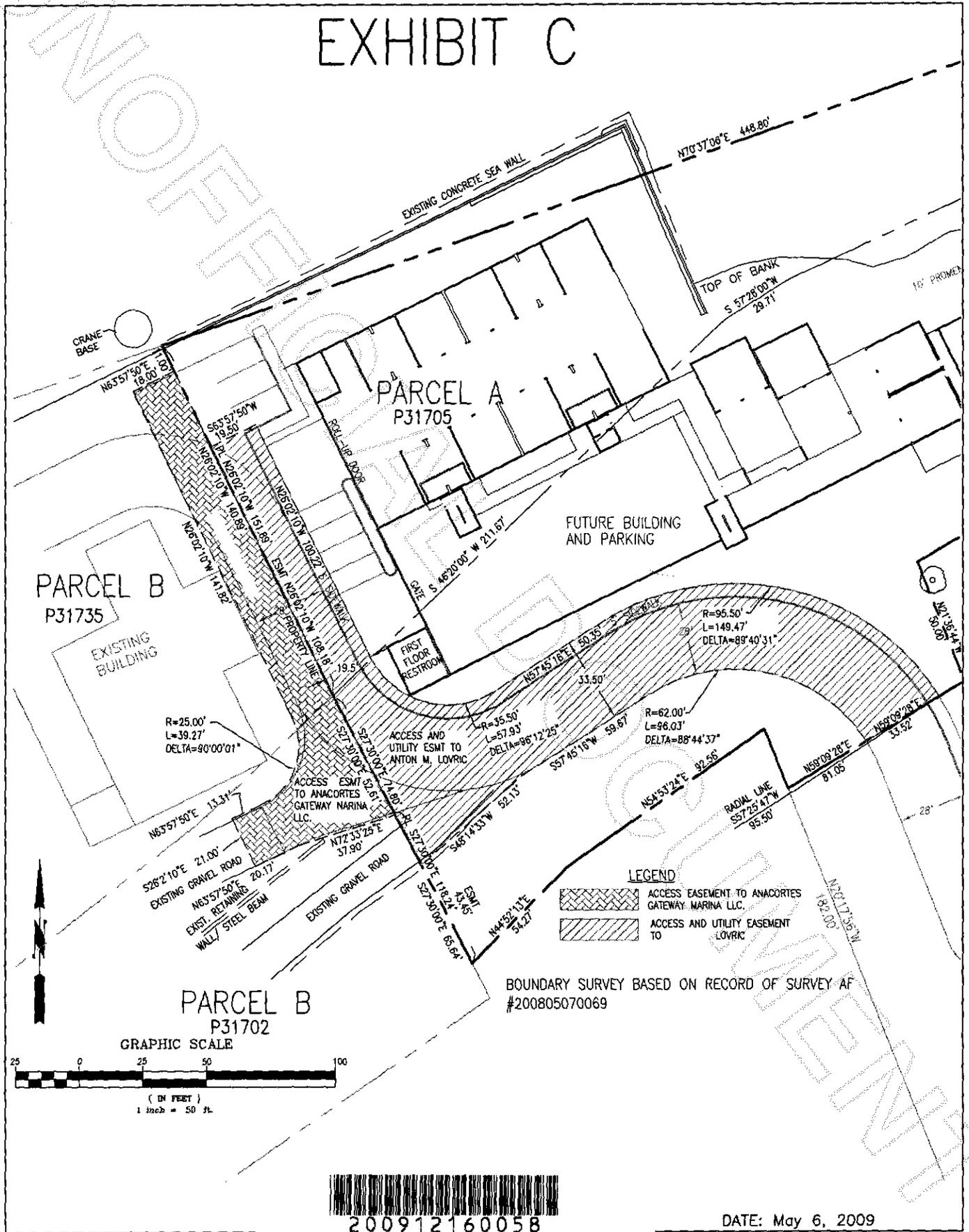
Thence S27°30'00"E, 52.61', to the point of beginning.



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EXHIBIT C



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DATE: May 6, 2009