



200912180063
Skagit County Auditor

12/18/2009 Page 1 of 26 2:38PM

After recording, return to:

PORT OF SKAGIT COUNTY
P.O. BOX 348
BURLINGTON, WASHINGTON 98233

Document Title: Agreement In Lieu Of Condemnation By Grant
Option To Purchase Real Property

Reference number of documents assigned or released: N/A

Grantors: Henry Van Pelt as Trustee of the Henry Van Pelt Trust; Henry Van Pelt and
Robert H. Van Pelt, Trustees of the Ruth H. Van Pelt Testamentary Trust

Grantee: Port of Skagit County, a Washington municipal corporation

Legal Description: Ptn of Sections 2 & 3, Township 34 North, Range 3 East, W.M.,

Assessor's Parcel/Tax I.D. Number: 21088; 103458; 21033; 21034; 21035; 21036

**AGREEMENT IN LIEU OF CONDEMNATION
BY
GRANT OF OPTION
TO
PURCHASE REAL PROPERTY**

THIS AGREEMENT IN LIEU OF CONDEMNATION BY GRANT OF OPTION TO PURCHASE REAL PROPERTY is made this 16th day of December 2009, by and between Henry Van Pelt as Trustee of the Henry Van Pelt Trust, as to Parcel "A;" and in Henry Van Pelt and Robert H. Van Pelt, Trustees of the Ruth H. Van Pelt Testamentary Trust, as to an undivided ½ interest; and Henry Van Pelt as Trustee of the Henry Van Pelt Trust, as to an undivided ½ interest, as to Parcel "B" (hereinafter collectively referred to as "Grantor"), and Port of Skagit County, a Washington municipal corporation (hereinafter referred to as "Grantee").

WHEREAS, the foregoing named Grantor is the owner of the real property legally described in Exhibit A and depicted in Exhibit B hereto (the "Property"); and

WHEREAS, the Board of Commissioners of the foregoing named Grantee adopted Resolution No. 09-31 on November 10, 2009, commencing proceedings to condemn the Property by virtue of the Grantee's power of eminent domain as set forth in RCW 53.08.010, RCW 14.07.020 and RCW 14.08.030 and elsewhere; and

WHEREAS, the Grantor and Grantee have reached an agreement whereby Grantor will grant to Grantee an option to purchase the Property in lieu of further condemnation proceedings, the sum and substance of which each desires to set forth in full as follows:

**GRANT OF OPTION AND AGREEMENT TO TERMS
(In Lieu of Condemnation)**

1. **Property:** The Property subject to this Option Agreement is the real property owned by Grantor legally described in Exhibit A and depicted in Exhibit B hereto (the "Property").

2. **Consideration:** "Consideration" for this Agreement is a non-refundable, cash payment to Grantor in the amount TWELVE THOUSAND DOLLARS (\$12,000.00) the adequacy and sufficiency of which is hereby acknowledged by Grantor. Consideration paid shall be credited at Closing to Grantee. Consideration shall be paid to Closing Agent and immediately disbursed to Grantor.

3. **Grant of Optional Right to Purchase:** Grantor hereby conveys and grants to Grantee the right to purchase the Property on the following terms and conditions:

a. **Exercise of Option:** Grantee may exercise this option by giving written notice thereof ("Concluding Notice") to Grantor at any time NOT more than ONE HUNDRED TWENTY (120) days after mutual acceptance hereof ("Termination Date"). Should Grantee fail

S:\Masterdocs\PORT\real estate\VanPelt2\Final\AGREEMENT IN LIEU OF CONDEMN



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to timely exercise this option on or before the Termination Date, then this option shall automatically terminate and neither party shall have any further rights or obligations hereunder whatsoever. Additionally, the provisions of Section 12 (b), "Hazardous Substances, Grantee's right to Inspect and/or Terminate," notwithstanding, unless Closing is extended by mutual agreement of the parties, this agreement shall terminate should the sale of the Property not close by December 31, 2010.

b. Purchase Price: The purchase price shall be ONE MILLION FIVE HUNDRED THOUSAND dollars (\$1,500,000.00), with credit for Consideration, paid at closing as follows:

i. TWO HUNDRED THOUSAND DOLLARS (\$200,000.00)
(Less Consideration paid) cash; and

ii. Real estate contract for balance with interest from the Closing Date computed at the rate of six percent (6%) per annum, compounded monthly, amortized over FIFTEEN (15) years with semi-monthly payments of principal and interest (substantially as attached in Exhibit C. Payments to be collected by a mutually agreeable third party with any costs thereof split 50/50 between the parties. All principal and accrued interest shall be due in full on the last day of the 120th full month following Closing.

c. Exercise of Option: If the option is exercised, the purchase and sale transaction shall be governed by the following paragraphs:

4. Title:

a. Condition of Title: Unless otherwise specified in this Agreement, title to the Property shall be marketable at closing. Rights, reservations, covenants, conditions, and restrictions, presently of record, easements, and encroachments, not materially affecting the value of the Property or unduly interfering with Grantee's intended use of the Property shall not cause the title to be considered unmarketable. Grantee is in receipt of a Preliminary Commitment for Title Insurance issued by Land Title Company on December 26, 2008 which contains an exception for water rights apparently inadvertently reserved by Henry Van Pelt in a deed to the Ruth Van Pelt Testamentary Trust. Title to the Property shall be subject to all matters of record existing as of the date the option is exercised except for such reservation. Henry Van Pelt has agreed to execute a quit claim deed to the Ruth Van Pelt Testamentary Trust and to the Henry Van Pelt Revocable Living Trust transferring any reserved water rights so that the exception can be eliminated.

b. Supplemental Objections: In the event that any additional encumbrance(s) is revealed by the issuance of a supplement to the preliminary commitment for title insurance, Grantee shall conclusively be deemed to have accepted such encumbrance unless Grantor receives notice of Grantee's objections thereto ("Objection") within thirty (30) days after the



supplement to the preliminary commitment for title insurance is received by or made available to Grantee. Such Objection(s) shall be paid or otherwise removed as encumbrances to title by Grantor on or before closing. If such supplement is issued less than fourteen (14) days before closing, Closing shall be, at Grantee's sole discretion, delayed so as to not occur less than thirty (30) nor more than seventy (70) days after Grantee's receipt of the supplemental commitment.

5. **Title Insurance:** Grantor authorizes Closing Agent, to pay at closing from Grantor's proceeds the premium and sales tax associated with the above-referenced standard form title policy issued by Land Title Insurance Company.

6. **Conveyance:** Title shall be conveyed by statutory warranty deed free of encumbrances and defects except those included in this Agreement or otherwise accepted by Grantee as set forth in paragraph 4. The deed shall state that Grantors make no warranties regarding boundary line encroachments or the locations of boundaries. Grantee acknowledges and agrees that it has been or will prior to the expiration of the option be given a full opportunity to conduct a reasonable inspection and investigation of the Property. Grantee specifically acknowledges and agrees that the Property is being sold in an "AS IS" condition and "WITH ALL FAULTS" as of the Closing. Except as expressly set forth in this Agreement, no representations or warranties have been made or are made and no responsibility has been or is assumed by Grantor as to any matters concerning the Property

7. **Closing:** Closing agent shall be Bradford E. Furlong, FURLONG BUTLER ATTORNEYS, 825 Cleveland Avenue, Mount Vernon, Washington, 98273. This sale shall be closed within thirty (30) days from the date the survey described in paragraph 25 (a), "Survey," is complete and the Per Square Foot Price determined or no later than sixty days from the date the Concluding Notice is received by Grantor, whichever is sooner. "Closing" means the date on which all documents are recorded and the sale proceeds are available for disbursement to Grantor. Grantee and Grantor shall deposit with Closing Agent all documents and monies required to complete this sale in accordance with this Agreement.

8. **Closing Costs & Proration:** Grantor and Grantee shall each pay half (1/2) of the escrow fee. Grantor shall pay real estate excise tax. Taxes for the then current year shall be prorated as of closing. Grantor shall pay for standard form title insurance and any recording fees associated with its obligation to clear title and the recording of the quit claim deed to release reserved water rights as set forth in paragraph 4. Grantee shall hold Grantor harmless from any penalties, assessments, interest and/or back taxes, if any, payable due to the declassification of the Property as farm and agricultural per Chapter 84.34 RCW.

9. **Possession:** Grantee shall be entitled to possession on closing. The foregoing notwithstanding, Grantee shall have full access to the Property at any reasonable time to conduct its due diligence activities and for the purpose of providing site visits to potential funders of the purchase price. Grantee shall indemnify and hold harmless Grantor from any claim made by a third party accompanying a representative of Grantee to the site, and for any of Grantee's due diligence activities.



10. **FIRPTA Compliance:** If Grantee does not intend to use the Property as a principal residence, or if the purchase price exceeds \$300,000, then this sale may be subject to the withholding and reporting requirements of the Foreign Investment in Real Property Tax Act (FIRPTA), unless Grantor furnishes to Grantee an affidavit of nonforeign status. Grantor and Grantee agree to comply with FIRPTA, if applicable.

11. **Notices:** Unless otherwise specified in this Agreement, any and all notices required or permitted to be given under this Agreement must be given in writing. All notices must be signed by an authorized representative of party giving the notice. Notices shall be deemed to be given when actually received at the address of the intended recipient, as set forth below, unless the recipient has prior thereto provided to the other party written notice of change of address. Notices sent via U.S. mail, receipt requested, shall be deemed received three (3) business days after deposit with the Postal Service. Notices sent via facsimile shall be deemed received when transmitted as set forth in a proof of transmission and receipt.

To Grantor:

Henry Van Pelt c/o
Robert H. Van Pelt
16866 Donnelly Road
Mount Vernon, Washington 98273
Facsimile: (360) _____ - _____
Telephone: (360) 424 -9547

To Grantee:

Patricia Botsford-Martin, Executive
Director
Port of Skagit County
P.O. Box 348
15400 Airport Drive
Burlington, Washington 98233
Facsimile: (360) 757-0014
Telephone: (360) 757-0011

12. **Hazardous Substances:**

a. **Grantor's Disclosure:** For purposes of this Agreement and any document delivered at Closing, whenever the phrase "to the best of Grantor's knowledge" or "to the knowledge of Grantor" or words of similar import are used, they shall be deemed to refer to the then current actual knowledge of Henry Van Pelt and/or Robert Van Pelt at the time indicated only and not any implied, imputed or constructive knowledge, without any independent investigation having been made or any implied duty to investigate.

Grantor represents and warrants to Grantee that, to the best of his knowledge: (1) there have been no releases of oil, hazardous waste, toxic substances or other pollutants or material ("Contaminants") on the Property in violation of any local, state or federal law or regulation, but Grantor has disclosed that the Property was used as a working commercial farm for several decades and that farm chemicals were used for weed and pest control on or about the Property, fuel oil and other petroleum products were used on or about the Property and that some minor incidental leaking of petroleum products from equipment may have occurred; (2), there are no hazardous environmental conditions which would affect the Property; (3) neither Grantor nor any other user or occupant of any part of the Property has been cited for violating any federal, state or local environmental law or regulation with respect to Contaminants on or about



the Property while Grantor has owned the Property. To the best of Grantor's knowledge, Grantor has no reports, test results, or other documents in his possession relating to the presence or absence of hazardous materials on or about the Property.

b. **Grantee's right to Inspect and/or Terminate:** Grantor hereby grants to Grantee and Grantee's consultants the right to enter upon the Property at reasonable times to conduct tests and inspections and to collect samples related to the environmental condition of the Property. Grantee shall immediately remedy any disturbance to the Property caused by such testing, inspection or collection. If Grantee shall receive information that the Property has been affected with environmental contaminants Grantee, at its discretion, may extend the term of its right to exercise the option herein granted or Closing up to SIX (6) months to investigate environmental conditions and/or may terminate this agreement.

c. **Hold Harmless:** In the event it is determined, after this transaction closes, that Grantor's representation contained in 12(a) above was false then, and in that event, Grantor agrees to pay, be responsible for and hold Grantee harmless from any liability, cost or expense incurred as a result of such misrepresentation. This Paragraph 12 shall survive closing and shall bind and inure to the benefit of the parties' successors and assigns for a period of 10 (ten) years thereafter when it shall automatically terminate.

13. **Computation of Time:** Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. of the next business day. Any specified period of five (5) days or less shall include business days only.

14. **Termination:** In the event of termination of this Agreement, any costs authorized under this Agreement shall be paid by the party responsible there for.

15. **General Provisions:** Time is of the essence. There are no verbal agreements which modify this Agreement. This Agreement constitutes the full understanding between Grantor and Optionee.

16. **Litigation, Costs:** This Agreement shall be governed by Washington State law. Venue for any action between the parties shall be Skagit County Superior Court. If any legal action or any other proceeding, including action for declaratory relief, is brought for the enforcement of this Agreement or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding (including appeals), in addition to any other relief to which the prevailing party may be entitled. "Prevailing party" shall include without limitation:

- a. a party dismissing an action in exchange for sums allegedly due;



b. a party receiving performance from the other party of an alleged breach of covenant or a desired remedy where the performance is substantially equal to the relief sought in an action; or

c. the prevailing party as determined by a court of law.

17. **Successors and Assigns:** This Agreement shall inure to the benefit of and be binding on the parties and their respective successors, heirs, assigns, mortgagee and/or beneficiaries. All references to "Grantor" and "Grantee" include respective successors, heirs, assigns, mortgagees and/or beneficiaries of each. Grantee may assign its rights hereunder to any person or entity for use as a public park or for preservation so long as written notice of such assignment is provided to Grantor with fourteen (14) days thereof.

18. **Recordation:** This Agreement or memorandum thereof may be recorded at Grantee's option and expense.

19. **Quitclaim Deed:** Upon termination of this Agreement in accordance with its terms, Grantee shall deliver to Grantor a signed and acknowledged Quitclaim Deed in the appropriate form. Grantor may record the Quitclaim Deed following the termination of this Agreement.

20. **Exhibits:** All exhibits and any others referred to in this Agreement are incorporated into this Agreement by reference.

21. **Captions:** Captions and headings in this Agreement, including the title of this Agreement, are for convenience only and are not to be considered in construing this Agreement.

22. **Modification and Amendment:** This Agreement may not be modified or amended except in writing signed by Grantor and Grantee.

23. **Grantor's Obligations:** Grantor shall diligently take all reasonable steps to (1) clear title pursuant to paragraph 4; (2) allow Grantee or Grantee's agents access to the Property to make inspections; and (3) allow Grantee access to records and information to assess the environmental condition of the Property.

24. **Realtor Representation/Commission:** Grantee was represented in this transaction by G. Walter Meagher, CCIM, Fidalgo Commercial-Investment Real Estate Services ("Realtor"). Grantee shall pay at Closing a commission to Realtor in the amount of ninety thousand dollars (\$90,000.00), six percent (6%) of purchase price.

25. **Survey, Reconnaissance Land Analysis and Determination of Per Square Foot Price and Deed Releases.**

a. **Survey:** Promptly after exercise of this option by Grantee pursuant to paragraph 3, "Grant of Optional Right to Purchase," Grantee shall, at its own cost cause: (1) a



survey of the Property boundaries to be completed, which survey shall determine the number of square feet of which the property is comprised and the number of square feet in each Assessor's tax parcel; and (2) a reconnaissance land analysis of the Property to be completed by a qualified wetlands biologist to determine the square footage and location of regulated wetlands and required wetlands buffers on the Property. Grantor hereby grants permission to Grantee and Grantee's agents and contractors to enter upon the Property to undertake such survey and reconnaissance and agrees to reasonably cooperate therewith (but without any expense).

b. Per Square Foot Price: Upon completion of the above-referenced survey and reconnaissance, the purchase price of the Property (\$1,500,000.00) shall be divided by the total square feet of the Property so determined that is net of regulated wetlands and required wetland buffers to derive the "Per Square Foot Price" of the Property. Grantee shall provide prompt written notice to Grantor of the Per Square Foot Price, once determined, and shall therewith supply Grantor with a copy of the survey and reconnaissance land analysis and the surveyor's and the biologist's calculations of total square feet of the Property, its Assessor's tax parcels and total square footage of the regulated wetlands and required wetland buffers.

c. Deed Releases: At any time during which the note set forth in Exhibit C is unpaid, Grantor shall release from the Deed of Trust, attached as Exhibit D, any portion of the Property per square foot of which Grantee pays ONE HUNDRED FIFTY PERCENT (150%) of the "Per Square Foot Price" plus then accrued interest and recording fees; provided, that such amount so paid, less that portion paid for recording fees and to reduce accrued interest to zero, shall be applied to reduce principal owed on the note, described in paragraph 3, "Grant of Optional Right to Purchase," subparagraph b., "Purchase Price," subsection (ii), dollar for dollar. For the release of any portion(s) of a tax parcel, Grantee shall obtain at its cost a survey of the area to be released. If any governmental approval, such as a boundary line adjustment or a subdivision, is required to carry out a release, such approval shall be obtained by Grantee at its sole expense. Grantor shall reasonably (but without any expense) cooperate to obtain such approvals. Grantor shall promptly execute such documents as are reasonably necessary to carry out any release.

26. Grantor's Retention of License: Following Closing and for the lifetime of Henry Van Pelt, Henry Van Pelt shall retain a non-exclusive, personal license permitting him access to, and use of, the red barn and concrete pad located on Skagit County Assessor's Tax Parcel 103458 and depicted in Exhibit D hereto ("License Area"). Access shall be via the established driveway and use of the barn shall be limited to storage of farm implements, wood and agriculture-related materials. No other persons shall utilize the License Area and Grantor shall indemnify and hold harmless Grantee from any claims for injury or property damage associated with the License Area or Grantor's use thereof. Grantee shall have no obligation whatsoever to repair or maintain the red barn, concrete pad or driveway. The parties shall reasonably agree to a legal description of the License Area once the survey contemplated herein is completed. A written license, with legal description, shall be executed at Closing. The parties each waive any right to assert the invalidity of this agreement due to the lack of a legal description of the License Area.



27. **Due Diligence Activities.** Grantor acknowledges that Grantee and/or Grantee's agents will enter the Property before exercising the option to make various inspections and surveys of the Property. Grantor hereby consents to such persons entry onto the Property on condition that each shall stop by the home of Henry Van Pelt at 16183 Ovenell Road, Mount Vernon or call Mr. Van Pelt at (360) 424-3095, and attempt to announce his/her intention to enter the Property. Grantor shall promptly upon termination of this option agreement, if any, provide to Grantee copies of all documentation pertaining to the Property obtained whilst performing due diligence on the Property.

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AGREEMENT IN LIEU OF CONDEMNATION
PORT OF SKAGIT COUNTY-VAN PELT



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28. **Acceptance:** By their respective signatures below, the parties hereby agree to the foregoing terms and conditions

GRANTOR:

HENRY VAN PELT as Trustee of the HENRY VAN PELT TRUST, as to Parcel A; and HENRY VAN PELT, as Trustee of the HENRY VAN PELT TRUST, as to an undivided 1/2 interest as to Parcel B

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

DEC 18 2009

Amount Paid \$
Skagit Co. Treasurer
By *mhm* Deputy

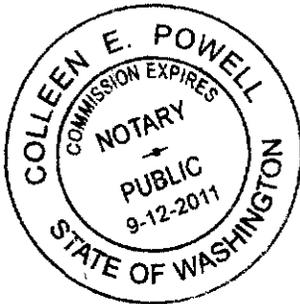
By: *Henry Van Pelt*
HENRY VAN PELT

Date: 12-16-09

STATE OF WASHINGTON)
COUNTY OF Skagit) SS.

On this 16th day of December 2009 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared HENRY VAN PELT, to me known to be the Trustee of the HENRY VAN PELT TRUST that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said testamentary trust, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year first above written.



Colleen E. Powell
Notary Public in and for the state of Washington,
Residing at Anacortes
My commission expires: 9-12-2011
Print Name: Colleen E. Powell



EXHIBIT A
(LEGAL DESCRIPTION OF PROPERTY)
Page 1 of 2

PARCEL "A" (Assessor Parcel Numbers: 21088; 103458):

The East ½ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., lying North of Ovenell Road, EXCEPT the following described tracts:

That portion of the East ½ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the intersection of the West line of said subdivision with the North line of that certain 30 foot strip of land described in deed recorded May 4, 1944, under Auditor's File No. 371228, known as the Ovenell Road;
thence North along the West line of said subdivision 243 feet;
thence East at right angles a distance of 360 feet;
thence South parallel with the West line of said subdivision, a distance of 243 feet, more or less, to the North line of said Ovenell Road;
thence West along said North line 360 feet, more or less, to the point of beginning,

AND ALSO EXCEPT that portion of the East ¼ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the intersection of the West line of said subdivision with the North line of that certain 30 foot strip of land described in deed recorded May 4, 1944, under Auditor's File No. 371228, known as the Ovenell Road;
thence North along the West line of said subdivision 243 feet to the true point of beginning;
thence East at right angles a distance of 360 feet;
thence North parallel with the West line of said subdivision, a distance of 363 feet;
thence West at right angles 360 feet to the West line of said subdivision;
thence South along said West line 363 feet to the true point of beginning,

AND ALSO EXCEPT that portion of the Northeast ¼ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the Northeast corner of said Section 3 as shown on Skagit Regional Airport Binding Site Plan, Phase 2, Division 1, as approved January 22, 2002, and recorded January 22, 2002, under Skagit County Auditor's File No. 200201220163;
thence South 0°18'24" West along the East line of said Section, (called South 0°16'51" West on said Skagit County Short Plat No. 96-012), 2725.88 feet to the East ¼ corner of said Section (also being the Southeast corner of said Lot 4, Skagit County Short Plat No. 96-012);



EXHIBIT A
(LEGAL DESCRIPTION OF PROPERTY)
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PARCEL "A" continued:

thence North 88°19'14" West, along the East-West centerline of said Section, 747.19 feet to a point on the Southeasterly line of the Southeast Runway Protection Zone for Runway 10/28 and being the true point of beginning;
thence continue North 88°19'14" West along said East-West centerline 570.34 feet, more or less, to the Northwest corner of said Northeast ¼ of the Southeast ¼;
thence South 0°14'21" West along the West line of said subdivision 760.22 feet, more or less, to the Northeast angle point of Tract "B", said Skagit Regional Airport Binding Site Plan, also being a point on said Southeasterly line of the Runway Protection Zone at a point bearing South 37°38'02" West from the true point of beginning;
thence North 37°38'02" East along said Southeasterly line 938.84 feet, more or less, to the true point of beginning.

PARCEL "B," (Assessor Parcel Numbers: 21033; 21034; 21035; 21036):

The West ½ of the Southwest ¼ of Section 2, Township 34 North, Range 3 East, W.M., lying North of Ovenell Road,

EXCEPT any portion thereof lying within those parcels described, and delineated as "legal description(s) A, B and C" of that Survey filed in Volume 17 of Surveys, pages 114 and 115, recorded September 14, 1995, under Auditor's File No. 9509140099, records of Skagit County, Washington.

All Situate in the County of Skagit, State of Washington.



EXHIBIT B
(DEPICTION OF PROPERTY)

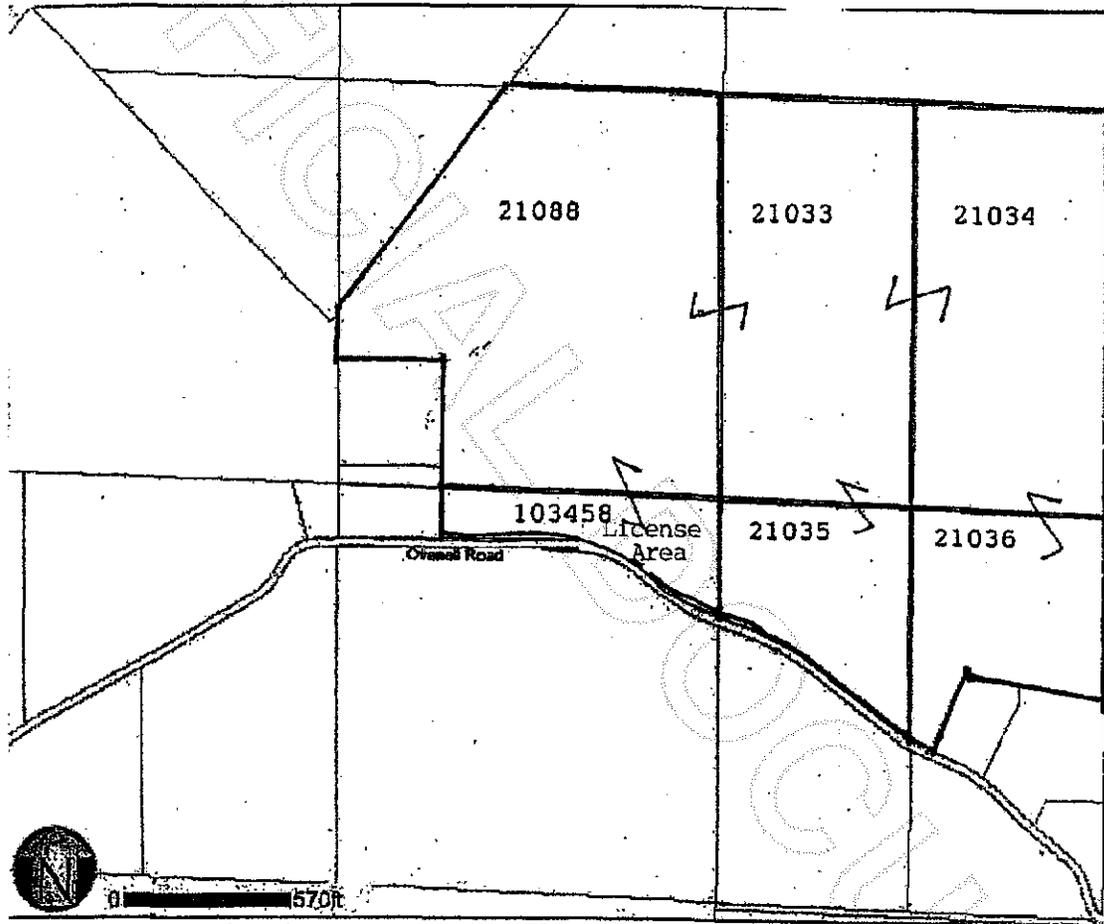


EXHIBIT C
REAL ESTATE CONTRACT

I. SPECIFIC TERMS

A. PARTIES, PROPERTY AND PURCHASE PRICE:

Date: _____

Seller: Henry Van Pelt as Trustee of the Henry Van Pelt Trust, as to Parcel "A," and in Henry Van Pelt and Robert H. Van Pelt, Trustees of the Ruth H. Van Pelt Testamentary Trust, as to an undivided 1/2 interest; and Henry Van Pelt as Trustee of the Henry Van Pelt Trust, as to an undivided 1/2 interest, as to Parcel "B"

Seller's Address: 16866 Donnelly Road
Mount Vernon, WA 98273

Buyer: Port of Skagit County

Buyer's Address: P.O. Box 348
Burlington, WA 98233

Real Property Legal Description: See Attached Exhibit "A"

Personal Property: [barns and sheds]

Title to be Conveyed: Fee

Form of Deed: Statutory Warranty/Fulfillment

Title Exceptions: Per Agreement

Amount Which Has Been Paid to Seller: \$200,000.00

Balance Due:

Buyer to Pay to Seller: \$1,300,000.00 U.S.
Buyer to Pay Directly to
Holders of Prior Encumbrances: None

TOTAL PURCHASE PRICE: \$1,500,000.00 U.S.

B. TERMS OF DEFERRED AMOUNT TO BE PAID TO SELLER:

Interest Rate: 6%

Installment Periods: semi-Monthly

First Installment Due: (TBD)

Installment Amounts: (based on 15 year amortization)

Final Payment Date: (10 years from Closing)

Default Rate: None

Late Charge: None

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Prepayment Provisions: Yes
Repayment Premium: None
Address to which Installment
Amounts are to be Sent: See above

C. MISCELLANEOUS:

Portion of Purchase Price
Allocated to Real Property: \$1,500,000.00 U.S.

Portion of Purchase Price
Allocated to Personal Property: None.

Is the Property to be used principally for agricultural or farming purposes? Yes No

Miscellaneous:
Exhibit A – Legal Description

THE SELLER AND THE BUYER HEREBY AGREE TO THE TERMS HEREINABOVE SET FORTH AND THE COVENANTS AND CONDITIONS CONTAINED IN THE ATTACHED GENERAL TERMS, ALL OF WHICH ARE INCORPORATED BY THIS REFERENCE. IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE SPECIFIC TERMS (INCLUDING ANY EXHIBITS ATTACHED) AND THE GENERAL TERMS, THE FORMER SHALL CONTROL.

[THE REMAINDER OF THIS PAGE 2 LEFT BLANK INTENTIONALLY; SIGNATURES & NOTARIES FOLLOW]



IN WITNESS WHEREOF, the Sellers have executed this agreement as of the date first above written.

SELLERS:

HENRY VAN PELT and ROBERT H. VAN PELT,
TRUSTEES OF THE RUTH H. VAN PELT
TESTAMENTARY TRUST, as to an undivided 1/2 interest
in Parcel B

By: _____
HENRY VAN PELT

Date: _____

By: _____
ROBERT H. VAN PELT

Date: _____

STATE OF WASHINGTON)

COUNTY OF _____)

) SS.

On this ____ day of _____ 20__ before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared HENRY VAN PELT and ROBERT H. VAN PELT, to me known to be the Trustees of the RUTH H. VAN PELT TESTAMENTARY TRUST that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said testamentary trust, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the state of Washington,
Residing at _____
My commission expires: _____
Print Name: _____



D. GENERAL TERMS

1. **PARTIES AND DATE.** This Contract is entered into on _____, 2010 between Henry Van Pelt as Trustee of the Henry Van Pelt Trust, as to Parcel "A;" and in Henry Van Pelt and Robert H. Van Pelt, Trustees of the Ruth H. Van Pelt Testamentary Trust, as to an undivided 1/2 interest; and Henry Van Pelt as Trustee of the Henry Van Pelt Trust, as to an undivided 1/2 interest, as to Parcel "B", as "Seller" and the Port of Skagit County, as "Buyer."

2. **SALE AND LEGAL DESCRIPTION.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the following described real estate in Skagit County, state of Washington: Tax Parcel No. 350515-2-005-0010/P39106

Legal description in Exhibit A hereto.

3. **PERSONAL PROPERTY.** Personal property included: Outbuildings.

No part of the purchase price is attributed to personal property.

4. (a) **PRICE.** Buyer agrees to pay:

	\$1,500,000.00	Total Price
Less	(\$ 200,000.00)	Down Payment
	\$1,300,000.00	Amount Financed by Seller
Results in		

(b) **PAYMENT OF AMOUNT FINANCED BY SELLER.**

Buyer agrees to pay the sum of \$1,300,000.00 as follows:

\$ _____ on or before the ____ day of _____ 2010, including interest at the rate of 6% per annum on the declining balance thereof; and a like amount on semi-monthly each and every month for 10 years, with principal and interest due in full with the 240th payment.

Payments are applied first to interest and then to principal. All payments shall be made to Sellers's address set forth above.

5. **OTHER ENCUMBRANCES AGAINST THE PROPERTY.** The property is subject to encumbrances including the following:

(To be listed at closing)

6. **FULLFILLMENT DEED.** Upon payment of all amounts due Seller, Seller agrees to deliver or have delivered to Buyer a Statutory Warranty Deed in fulfillment of this Contract. The covenants of warranty in said deed shall not apply to any encumbrances assumed by Buyer or to defects in title arising subsequent to the date of this Contract by, through or under persons other than the Seller herein. Any personal property included in the sale shall be included in the fulfillment deed.

7. **POSSESSION.** Buyer is entitled to possession of the property on the date of this Contract.



8. TAXES, ASSESSMENTS AND UTILITY LIENS. Buyer agrees to pay by the date due any taxes and assessments becoming a lien against the property after the date of this Contract. Buyer may in good faith contest any such taxes or assessments so long as no forfeiture or sale of the property is threatened as the result of such contest. Buyer agrees to pay when due any utility charges which may become liens superior to Seller's interest under this Contract. Buyer agrees to pay any real estate taxes and penalties that are assessed against the property subsequent to the date of this Contract because of a change in use prior to the date of this Contract for Open Space, Farm, Agricultural or Timber classifications approved by the County prior to the date of this Contract.

9. INSURANCE. Buyer may at its sole option keep all buildings now or hereafter erected on the property described herein continuously insured under fire and extended coverage policies in an amount not less than the value of all improvements or the principal balance owed herein, whichever is greater. Any such policies shall have loss payable first to any holders of underlying encumbrances then to Seller as their interests may appear and then to Buyer. Buyer may within 30 days after loss negotiate a contract to substantially restore the premises to their condition before the loss. If the insurance proceeds are sufficient to pay the contract price for restoration or if the Buyer deposits in escrow any deficiency with instructions to apply the funds on the restoration contract, the property shall be restored unless the underlying encumbrances provide otherwise. Otherwise, the amount collected under any insurance policy shall be applied upon any amounts due hereunder in such order, as the Seller shall determine. In the event of forfeiture, all rights of Buyer in insurance policies then in force shall pass to Seller.

10. NONPAYMENT OF TAXES, INSURANCE AND UTILITIES CONSTITUTING LIENS. If Buyer fails to pay taxes or assessments, insurance premiums or utility charges constituting liens prior to Seller's interest under this Contract, Seller may pay such items and Buyer shall forthwith pay Seller the amount thereof plus a late charge of 5% of the amount thereof plus any costs and attorney's fees incurred in connection with making such payment.

11. CONDITION OF PROPERTY. Buyer accepts the property in its present condition and acknowledges that Seller, its agents and subagents have made no representation or warranty concerning the physical condition of the property or the uses to which it may be put other than as set forth herein. Buyer agrees to maintain the property in such condition as complies with all applicable laws.

12. RISK OF LOSS. Buyer shall bear the risk of loss for destruction or condemnation of the property. Any such loss shall not relieve the Buyer from any of Buyer's obligations pursuant to this Contract.

13. WASTE. Buyer shall keep the property in good repair and shall not commit or suffer waste or willful damage to or destruction of the property. Buyer shall not remove commercial timber without the written consent of Seller.

14. AGRICULTURAL USE. If this property is to be used principally for agricultural purposes, Buyer agrees to conduct farm and livestock operations in accordance with good husbandry practices. In the event a forfeiture action is instituted, Buyer consents to Seller's entry on the premises to take any reasonable action to conserve soil, crops, trees and livestock.

15. CONDEMNATION. Seller and Buyer may each appear as owners of an interest in the property in any action concerning condemnation of any part of the property. Buyer may within 30 days after condemnation and removal of improvements, negotiate a contract to substantially restore the premises to their condition before the removal. If the condemnation proceeds are sufficient to pay the contract price for restoration or if the Buyer deposits in escrow any deficiency with instructions to apply the funds on the restoration contract, the property shall be restored unless underlying encumbrances provide otherwise. Otherwise, proceeds of the award shall be applied in payment of the balance due on the purchase price, as Seller may direct.

16. DEFAULT. If the Buyer fails to observe or perform any term, covenant or condition of this Contract, Seller may:

- (a) Suit for Installments. Sue for any delinquent periodic payment; or



(b) Specific Performance. Sue for specific performance of any of Buyer's obligations pursuant to this Contract; or

(c) Forfeit Buyer's Interest. Forfeit this Contract pursuant to Ch. 61.30 RCW, as it is presently enacted and may hereafter be amended. The effect of such forfeiture includes: (i) all right, title and interest in the property of the Buyer and all persons claiming through the Buyer shall be terminated; (ii) the Buyer's rights under this Contract shall be cancelled; (iii) all sums previously paid under this contract shall belong to and be retained by the Seller or other person to whom paid and entitled thereto; (iv) all improvements made to and unharvested crops on the property shall belong to the Seller; and (v) Buyer shall be required to surrender possession of the property, improvements, and unharvested crops to the Seller 10 days after the forfeiture.

(d) Acceleration of Balance Due. Give Buyer written notice demanding payment of said delinquencies and payment of a late charge of 5% of the amount of such delinquent payments and payment of Seller's reasonable attorney's fees and costs incurred for services in preparing and sending such Notice and stating that if payment pursuant to said Notice is not received within thirty (30) days after the date said Notice is either deposited in the mail addressed to the Buyer or personally delivered to the Buyer, the entire balance owing, including interest, will become immediately due and payable. Seller may thereupon institute suit for payment of such balance, interest, late charge and reasonable attorney's fees and costs.

(e) Judicial Foreclosure. Sue to foreclose this Contract as a mortgage, in which event Buyer may be liable for a deficiency.

17. RECEIVER. If Seller has instituted any proceedings specified in Paragraph 18 and Buyer is receiving rental or other income from the property, Buyer agrees that the appointment of a receiver for the property is necessary to protect Seller's interest.

18. BUYER'S REMEDY FOR SELLER'S DEFAULT. If Seller fails to observe or perform any term, covenant or condition of this Contract, Buyer may, after 30 days' written notice to Seller, institute suit for damages or specific performance unless the breaches designated in said notice are cured.

19. NON-WAIVER. Failure of either party to insist upon strict performance of the other party's obligations hereunder shall not be construed as a waiver of strict performance thereafter of all of the other party's obligations hereunder and shall not prejudice any remedies as provided herein.

20. ATTORNEY'S FEES AND COSTS. In the event of any breach of this Contract, the party responsible for the breach agrees to pay reasonable attorney's fees and costs, including costs of service of notices and title searches, incurred by the other party. The prevailing party in any suit instituted arising out of this Contract and in any forfeiture proceedings arising out of this Contract shall be entitled to receive reasonable attorney's fees and costs incurred in such suit or proceeding.

21. NOTICES. Notices shall be either personally served or shall be sent certified mail, return receipt requested and by regular first class mail to Buyer and to Seller at the addresses in the Specific Conditions above or such other addresses as either party may specify in writing to the other party. Notices shall be deemed given when served or mailed. Notice to Seller shall also be sent to any institution receiving payments on the Contract.

22. TIME FOR PERFORMANCE. Time is of the essence in performance of any obligations pursuant to this Contract.

23. SUCCESSORS AND ASSIGNS. Subject to any restrictions against assignment, the provisions of this Contract shall be binding on the heirs, successors and assigns of the Seller and the Buyer.



24. CONVEYANCE OF PARTIAL INTEREST. At any time during which the balance herein is unpaid, Seller shall Convey by statutory warranty fulfillment deed, any portion of the Property per square foot of which Buyer pays (ONE HUNDRED FIFTY PERCENT (150%) of the "Per Square Foot Price") plus then accrued interest and recording fees; provided, that such amount so paid, less that portion paid for recording fees and to reduce accrued interest to zero, shall be applied to reduce principal owed hereon dollar for dollar. For such conveyance of any portion(s) of a tax parcel, Buyer shall obtain at its cost a survey of the area to be released. If any governmental approval, such as a boundary line adjustment or a subdivision, is required to carry out a release, such approval shall be obtained by Buyer at its sole expense. Seller shall reasonably (but without any expense) cooperate to obtain such approvals. Seller shall promptly execute such documents as are reasonably necessary to carry out any release.

25. ADDENDA. Any addenda attached hereto are a part of this Contract.

26. ENTIRE AGREEMENT. This Contract constitutes the entire agreement of the parties and supercedes all prior agreements and understandings, written or oral. This Contract may be amended only in writing executed by Seller and Buyer.

[THE REMAINDER OF THIS PAGE 9 LEFT BLANK INTENTIONALLY; EXHIBIT A FOLLOWS.]



EXHIBIT A
(LEGAL DESCRIPTION OF PROPERTY)
Page 1 of 2

PARCEL "A" (Assessor Parcel Numbers: 21088; 103458):

The East ½ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., lying North of Ovenell Road, EXCEPT the following described tracts:

That portion of the East ½ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the intersection of the West line of said subdivision with the North line of that certain 30 foot strip of land described in deed recorded May 4, 1944, under Auditor's File No. 371228, known as the Ovenell Road;
thence North along the West line of said subdivision 243 feet;
thence East at right angles a distance of 360 feet;
thence South parallel with the West line of said subdivision, a distance of 243 feet, more or less, to the North line of said Ovenell Road;
thence West along said North line 360 feet, more or less, to the point of beginning,

AND ALSO EXCEPT that portion of the East ¼ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the intersection of the West line of said subdivision with the North line of that certain 30 foot strip of land described in deed recorded May 4, 1944, under Auditor's File No. 371228, known as the Ovenell Road;
thence North along the West line of said subdivision 243 feet to the true point of beginning;
thence East at right angles a distance of 360 feet;
thence North parallel with the West line of said subdivision, a distance of 363 feet;
thence West at right angles 360 feet to the West line of said subdivision;
thence South along said West line 363 feet to the true point of beginning,

AND ALSO EXCEPT that portion of the Northeast ¼ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the Northeast corner of said Section 3 as shown on Skagit Regional Airport Binding Site Plan, Phase 2, Division 1, as approved January 22, 2002, and recorded January 22, 2002, under Skagit County Auditor's File No. 200201220163;
thence South 0°18'24" West along the East line of said Section, (called South 0°16'51" West on said Skagit County Short Plat No. 96-012), 2725.88 feet to the East ¼ corner of said Section (also being the Southeast corner of said Lot 4, Skagit County Short Plat No. 96-012);



EXHIBIT A
(LEGAL DESCRIPTION OF PROPERTY)
Page 2 of 2

PARCEL "A" continued:

thence North 88°19'14" West, along the East-West centerline of said Section, 747.19 feet to a point on the Southeasterly line of the Southeast Runway Protection Zone for Runway 10/28 and being the true point of beginning;
thence continue North 88°19'14" West along said East-West centerline 570.34 feet, more or less, to the Northwest corner of said Northeast ¼ of the Southeast ¼;
thence South 0°14'21" West along the West line of said subdivision 760.22 feet, more or less, to the Northeast angle point of Tract "B", said Skagit Regional Airport Binding Site Plan, also being a point on said Southeasterly line of the Runway Protection Zone at a point bearing South 37°38'02" West from the true point of beginning;
thence North 37°38'02" East along said Southeasterly line 938.84 feet, more or less, to the true point of beginning.

PARCEL "B," (Assessor Parcel Numbers: 21033; 21034; 21035; 21036):

The West ½ of the Southwest ¼ of Section 2, Township 34 North, Range 3 East, W.M., lying North of Ovenell Road,

EXCEPT any portion thereof lying within those parcels described, and delineated as "legal description(s) A, B and C" of that Survey filed in Volume 17 of Surveys, pages 114 and 115, recorded September 14, 1995, under Auditor's File No. 9509140099, records of Skagit County, Washington.

All Situate in the County of Skagit, State of Washington.



EXHIBIT D
LICENSE AREA

TAX PARCEL NO. 103458

