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Skagit County Auditor

3/15/2011 Page 1 of 30 12:10PM

SKAGIT COUNTY
Contract # C20110102
Page 1 of 30

RELEASE & SETTLEMENT AGREEMENT.

THIS RELEASE & SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between Anchor Cove Marina Condominium Association, a Washington non-profit corporation (referred to herein as "Anchor Cove"), and Skagit County, a Political Subdivision of the State of Washington (hereafter referred to as the "County"). Anchor Cove and the County may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties."

I. RECITALS & BACKGROUND.

WHEREAS, the Anchor Cove Marina Condominium Association, a Washington non-profit Corporation ("Anchor Cove"), is the owner of that certain property in Anacortes, Washington per plat recorded under Skagit County Auditor's file number 825123 on October 21, 1975 and more particularly identified via Skagit County Assessor Tax Parcel Numbers P79149 through P79200 inclusive; P79201 through P79207 inclusive; P79209 through P79300 inclusive; P79301 through P79318 inclusive; and P55884 (herein the "Anchor Cove Property"); and

13-35-01

WHEREAS, the County is the owner of that certain property commonly described as Skagit County Assessor Tax Parcel Numbers: P55889 and P112708 (collectively herein the "County Properties"); and

WHEREAS, on or about June 10, 2010, Anchor Cove filed a Claim for Damages against the County (herein the "Claim for Damages"), alleging that the County was encroaching onto a small portion of the Anchor Cove Property, and seeking damages from the County; and

WHEREAS, the County has alleged that Anchor Cove is encroaching onto a portion of the County Properties (in particular the property owned by the County commonly identified as Skagit County Assessor's Tax Parcel No.: P112708); and

WHEREAS, the parties mutually refute the respective allegations concerning the aforementioned encroachments (collectively the "alleged encroachments"); and

WHEREAS, the County wholly refutes and the County does not concede or recognize in any way whatsoever that the County owes any amount to Anchor Cove in the form of damages, rent, compensation, or any other amount for any other reason; and

WHEREAS, the parties wish to avoid the additional time and costs that would be incurred by both parties in the litigation of the alleged encroachments and Claim for Damages, and the parties recognize and agree that it is in the mutual interest of both parties to resolve and settle any and all matters related to the alleged encroachments and the Claim for Damages (herein the "dispute"); and

WHEREAS, the parties, without admission of fault or liability, have agreed to a compromise and settlement of the dispute, and desire to reduce their agreement to writing and settle all matters associated with the dispute pursuant to the terms of this Agreement.

II. TERMS & CONDITIONS.

In consideration of the forgoing, and of the following terms and conditions, the parties mutually agree as follows:

1. **MUTUAL RELEASE OF CLAIMS:** Upon the mutual execution of this Agreement, and upon the completion, mutual execution, and recording of the Easements (as more particularly described in Section 2., below), the parties hereby forever release and discharge each other and their employees, volunteers, officers and/or agents in both their official and individual capacities from any and all past, present, and/or future claims, demands, judgments, debts, costs, liabilities, expenses, rent, suits, and proceedings of any kind any nature, whether known or unknown, and whether liquidated or unliquidated, existing on, and/or arising from actions prior to the date of this Agreement and/or that have been or could have been alleged as related to the dispute, other than claims alleging breach of this Agreement. Each party shall be responsible for its own legal fees and costs arising from and/or related to the dispute, and neither party shall be liable or responsible for the payment of the other party's legal fees or costs.

1.2 The parties each represent that they have not assigned, transferred, conveyed, pledged, sold, disposed of, or otherwise encumbered any of the claims (or potential claims) they are releasing herein.

1.3 The parties each represent that they know of no other person or entity that has any interest in any of the claims they are releasing herein, or in any other subject matter of this Agreement.

2. **EASEMENTS:** The parties recognize and agree that this Agreement is expressly contingent upon and subject to the completion, mutual execution, and recording of two (2) separate exclusive perpetual easements resolving the alleged encroachments (herein the "Easements"). The substantial form of the Easements are attached hereto as Exhibit "A", and are hereby incorporated by reference. The Easements must be completed to the mutual satisfaction of the parties, and must resolve both the County's alleged encroachment onto the Anchor Cove Property, and Anchor Cove's alleged encroachment onto a portion of the County Properties (in particular the property owned by the County commonly identified as Skagit County Assessor's Tax Parcel No.: P112708). It is the intent of the anticipated Easements to maintain the currently existing "status quo" location of the existing fence-line (as of the date of mutual execution of this Agreement), and a copy of a preliminary draft survey depicting the location of the alleged encroachments (and the corresponding locations of the anticipated legal descriptions for the Easements), is attached hereto as Exhibit "B" and is hereby incorporated by reference. It is the further intention of the parties to maintain the currently existing "status quo" as to a certain fire lane and gate at or near the southwesterly corner of the Anchor Cove property, as shown on Exhibit "B", so that access for the fire department and/or other emergency services to the Anchor Cove property may be maintained at that location. Subsequent to the mutual execution of this Agreement, the parties agree to mutually cooperate in good faith to complete the Easements as soon as possible;



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provided, that in the event that the Easements are not completed (to the mutual satisfaction of the parties), or cannot otherwise be completed within one hundred and eighty (180) days from the date of mutual execution of this Agreement, that this Agreement shall be null and void by its own terms, with no duty or obligation to either party from the other party whatsoever.

3. **PAYMENT:** Upon both the mutual execution of this Agreement, and also upon the completion, mutual execution, and recording of the Easements (as more particularly described in Section 2., above), the County shall pay Anchor Cove a one-time total payment in an amount not to exceed Ten Thousand Dollars (\$10,000), as a full, complete, and final settlement of the dispute, and all matters arising from and/or related thereto (hereafter the "Payment"). Other than the Payment by the County, neither the County nor any other third party shall be obligated to make any further and/or other payment(s) to Anchor Cove in any form or amount arising from and/or related to the dispute in any way. In the event that the parties are unable, unwilling, or fail to complete the Easements within the timeframe[s] provided in Section 2., above, then the County shall not be obligated to make any Payment to Anchor Cove whatsoever, or otherwise perform any duties pursuant to the terms of this Agreement. Unless specifically stated to the contrary in this Agreement, the County is not otherwise obligated to provide any funds, or perform or provide any other services, duties, or responsibilities pursuant to the terms of this Agreement.

4. **NOTICES:** All notices (and documents) which may be required or are required to be given by any party to any other party hereunder shall be in writing, and shall be deemed to have been given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed via U.S. Mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

For Anchor Cove:

Anchor Cove Marina Condominium Association
Attn: Alan R. Souders, Attorney
913 Seventh Street
Anacortes, WA 98221
Ph: (360) 299-3060
Fax: (360) 293-8246

For the County:

Skagit County Prosecuting Attorney's Office,
Civil Division
Attn: Stephen R. Fallquist
605 South Third Street
Mount Vernon, WA 98273
Ph: (360) 336-9460
Fax: (360) 336-9497

5. **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:** The Agreement may be changed, modified, amended or waived only by subsequent written agreement duly executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.



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6. **TREATMENT OF ASSETS AND PROPERTY:** No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, or used pursuant to this Agreement.

7. **SEVERABILITY:** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this extent and end the terms and conditions of this Agreement are declared severable.

8. **NO THIRD PARTY BENEFICIARIES:** This Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, members of the general public, residents, tenants, and/or property owners at or in the vicinity of Anchor Cove, any agent, contractor, subcontractor, consultant, volunteer, employee, or other representative of either party.

9. **COMPLIANCE WITH LAWS:** The parties to this Agreement shall comply with all applicable federal, state, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement.

10. **RIGHT TO REVIEW; DOCUMENTS:** This Agreement is subject to review by any Federal or State auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County. This Agreement is subject to public disclosure pursuant to applicable law (including RCW 42.56). The County shall have the right to use and distribute any and all documents, writings, programs, data, public records or other materials prepared by any party (and/or any party's contractors, consultants, and/or subcontractors), in connection with performance of this Agreement.

11. **WAIVER & MODIFICATION:** Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this Agreement shall be held to be waived, modified or deleted except by a subsequent instrument, in writing, signed by the parties hereto.

12. **DEFAULT:** Failure of the parties to comply with the terms of this Agreement shall constitute default.

13. **VENUE AND CHOICE OF LAW:** In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Skagit. This Agreement shall be governed by the laws of the State of Washington.

14. **CAPTIONS & COUNTERPARTS:** The captions in this Agreement are for convenience and reference only and do not define, limit, or describe the scope or intent of this Agreement. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

15. **NEUTRAL AUTHORSHIP:** Each of the terms and provisions of this Agreement have been reviewed and negotiated, and represents the combined work product of the



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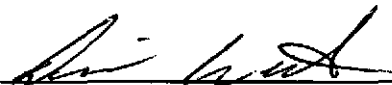
parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Agreement and have either done so, or have voluntarily chosen not to do so. The County does not represent Anchor Cove. The parties represent and warrant that they have fully read this Agreement, that they are duly authorized to enter into this Agreement, that they understand its meaning and effect, and that they enter into this Agreement with full knowledge of its terms. The parties have entered into this Agreement without duress or undue influence.

16. **TIME OF PERFORMANCE:** Time is specifically declared to be of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

17. **ENTIRE AGREEMENT:** This Agreement contains all the terms and conditions mutually agreed upon by the parties. This Agreement supersedes any prior oral statements, discussions, and/or understandings between the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

ANCHOR COVE MARINA CONDOMINIUM ASSOCIATION,
a Washington non-profit corporation (herein "Anchor Cove"):

DATED this 15TH day of FEBRUARY, 2011.

By: 

Print Name: DAVID WILTON

Its (title): ANCHOR COVE LEGAL CHAIRMAN

Approved as to form:



Alan R. Souders, WSBA #26192

Attorney for Anchor Cove Marina Condominium Association



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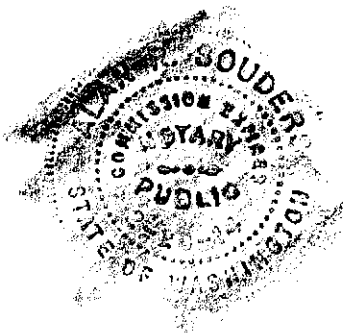
STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that David Wilton
as the Legal Chairman of the ANCHOR COVE MARINA CONDOMINIUM
ASSOCIATION, a Washington non-profit corporation, is the person who appeared before
me, and said person acknowledged that he/she signed this instrument, on oath stated
that he/she was duly authorized to execute the forgoing instrument on behalf of the
corporation, and that he/she executed the forgoing instrument as his/her free and
voluntary act for the uses and purposes herein mentioned.

DATED this 15th day of Feb, 2011

(SEAL)

Alan R. Souder
Notary Public
print name: Alan R. Souder
Residing at Fir Island
My appointment expires 28 Feb 2014



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IN WITNESS WHEREOF, the Skagit County Board of County Commissioners has executed this Agreement this 14th day of March, 2011.

APPROVED:

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ron Wesen
RON WESEN, Chairman

Kenneth A. Dahlstedt
KENNETH A. DAHLSTEDT, Commissioner

Sharon D. Dillon
SHARON D. DILLON, Commissioner

Recommended:

By: Henry Work
Public Works Department Head

By: Lrista Togn
Budget & Finance Director

Approved as to Indemnification:

By: Freida Kamas
Risk Manager

Attest:

Linda Hamman
Clerk of the Board

Approved as to Form:

By: [Signature]
Deputy Prosecuting Attorney



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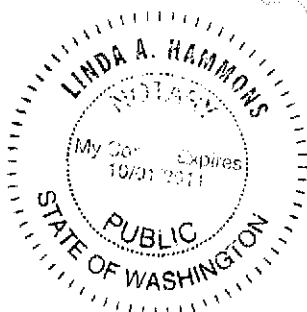
Skagit County Auditor

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Ron Wesen, Kenneth A. Dahlstedt, and/or Sharon D. Dillon is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument, on oath stated that he/she/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 14 day of march, 2011.

(SEAL)



Linda Hammons
Notary Public
print name: Linda Hammons
Residing at Skagit County
My commission expires 10/01/2011



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Exhibit "A"

Substantial Form of Easements.



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Recording Requested By And
When Recorded Mail To:

Anchor Cove Marina Condominium Association
c/o: Alan R. Souders, Attorney
913 Seventh Street
Anacortes, WA 98221

DOCUMENT TITLE: Easement

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR(S): Skagit County, a political subdivision of the State of Washington

GRANTEE(S): Anchor Cove Marina Condominium Association, a Washington non-profit corporation

ASSESSOR'S TAX / PARCEL NUMBER(S): P112708 (XrefID: 3772-134-020-0000)

ABBREVIATED LEGAL DESCRIPTION: An easement located on a portion of ANACORTES, BLOCK 134, THAT PORTION OF BLOCK 134, LYING SOUTH OF THE SOUTH LINE OF THE ALLEY AS SHOWN IN SAID BLOCK 134, INCLUDING THAT PORTION OF THE "RESERVE FOR RIGHT OF WAY FOR THE SEATTLE AND NORTHERN RAILWAY" INCLUDED WITHIN THE BOUNDARIES OF SAID PORTION OF BLOCK 134. TOGETHER WITH ALL OF THE ALLEY IN SAID BLOCK 134 AND THE EAST 1/2 OF "J" STREET ADJACENT TO SAID PORTION OF BLOCK 134 AND ADJACENT TO THE ALLEY IN SAID BLOCK 134, ALL AS VACATED BY CITY OF ANACORTES ORDINANCE NO. 2044, RECORDED OCTOBER 13, 1987, UNDER AUDITOR'S FILE NO. 8710130044. THAT PORTION OF BLOCK 134, LYING SOUTH OF THE SOUTH LINE OF THE ALLEY AS SHOWN IN SAID BLOCK 134, INCLUDING THAT PORTION OF THE "RESERVE FOR RIGHT OF WAY FOR THE SEATTLE AND NORTHERN RAILWAY" INCLUDED WITHIN THE BOUNDARIES OF SAID PORTION OF BLOCK 134. TOGETHER WITH ALL OF THE ALLEY IN SAID BLOCK 134 AND THE EAST 1/2 OF "J" STREET ADJACENT TO SAID PORTION OF BLOCK 134 AND ADJACENT TO THE ALLEY IN SAID BLOCK 134, ALL AS VACATED BY CITY OF ANACORTES ORDINANCE NO. 2044, RECORDED OCTOBER 13, 1987, UNDER AUDITOR'S FILE NO. 8710130044.

EASEMENT

The undersigned, **Skagit County, a Political Subdivision of the State of Washington, Anchor ("Grantor" herein), and Anchor Cove Marina Condominium Association, a Washington non-profit corporation, ("Grantee" herein),** for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to Grantee, and Grantee's successors and assigns, a permanent, perpetual, and exclusive Easement (herein the "Easement") as



provided herein. Grantor and Grantee may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties."

WHEREAS, the Grantor is the fee-simple owner of certain real property located in Skagit County, Washington, commonly described as Skagit County Assessor Tax Parcel Number: P112708 (XrefID: 3772-134-020-0000), and is more particularly described by the legal description attached hereto as **Exhibit "A"** and incorporated herein by reference ("Grantor's Property").

WHEREAS, the parties have executed a Release & Settlement Agreement related to this Easement agreement, and in consideration of the terms of the Release and Settlement Agreement, the parties agree that it would be in the mutual interest and benefit of both parties to have a formal Easement agreement, as provided herein.

In consideration of the forgoing, and of the following mutual terms, provisions, and covenants set forth herein, the parties hereby mutually agree as follows:

1. Nature and Location of Easement. Grantor hereby grants, dedicates and conveys to Grantee an exclusive, permanent, perpetual easement for the purposes set forth herein (the "Easement") over, under, across, and through that certain portion of Grantor's Property, as described at **Exhibit "B"**, attached hereto and incorporated by reference (the "Easement Area"), subject to the terms and conditions set forth in this Easement agreement herein.

2. Purpose and Use of Easement. Grantee, its agents, contractors, designees, successors, and/or assigns, shall have the right, without prior notice to Grantor, and at all times, to enter upon and use the Easement Area for any and all lawful purposes, including, but not limited to, the use of the Easement Area for marina related purposes. Nothing in this Easement agreement herein shall obligate Grantee to commence or complete any improvements whatsoever to the Easement Area; provided, however, that in the event Grantee elects to make any improvements, Grantee shall use reasonable efforts to complete all work as soon as reasonably practicable, and to restore the Easement Area within a reasonable period of time after commencing such work so as to minimize the interference with Grantor's use of Grantor's Property. Grantee is not obligated to pay, provide, or expend any funds, and/or provide and/or perform any other services or other duties, unless otherwise specified by the terms of this Easement agreement.

3. No Interference with Easement. Grantor shall not undertake, authorize, permit, allow, or consent to any activity, construction, or excavation within the Easement Area including, but not limited to, digging, tunneling, or other forms of construction activity, or any other use or activity which might in any way interfere with the Grantee's exclusive use of the Easement Area for any and all lawful purposes. Grantor further agrees that no structure or obstruction including, without limitation, landscaping, vegetation, trees, fences, buildings, foundations, and/or rockeries shall be constructed or places over, upon, under, or within the Easement Area.

4. Obligations Run With the Land. Grantor warrants that Grantor has good title to the Grantor's Property (including the Easement Area) and warrants the Grantee title to and quiet enjoyment of the Easement. This Easement agreement shall be perpetual in duration, and shall run with the land, and shall be binding on the undersigned and all successors, assignees, devisees, and/or transferees of the parties and shall, in all respects, attach to the individual properties legally described in this Easement agreement.

5. Governing Law; Venue. This Easement agreement shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action brought under or relating to the term of this Easement agreement shall be in Skagit County, State of Washington.

6. Severability. Should any term or provision of this Easement agreement set forth herein be found to be void or unenforceable by a court of competent jurisdiction, all other terms and provisions of this Easement agreement shall remain enforceable, binding, and in full force and effect.

7. Neutral Authorship. Each of the provisions of this Easement agreement have been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Easement agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Easement. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Easement agreement and have either done so, or have voluntarily decided not to do so. The parties represent and warrant that they have fully read this Easement agreement, that they understand its meaning and effect, that they are duly authorized to enter into this Easement agreement, and that they enter into this Easement agreement with full knowledge of its terms. The parties have entered into this Easement agreement without duress or undue influence.

8. Captions and Counterparts. The captions of this Easement agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Easement. This Easement agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one Easement agreement.

9. Recording. Upon mutual execution, the Easement agreement shall be recorded with the Skagit County Auditor, and shall become effective immediately upon recording.

10. Entire Agreement. This Easement agreement contains the entire agreement between the parties hereto. This Easement agreement may not be modified or supplemented in any manner for form whatsoever, either by course of dealing or by parol or written evidence of prior agreements and negotiations, except upon the subsequent written agreement of the parties. The parties recognize and agree that the consideration for this Easement agreement is particularly defined and described pursuant to the terms of the Release & Settlement Agreement between Grantor and Grantee, dated March 14, 2011, 2011 (Skagit County Contract # C20110102), and that but for the terms of the above-described Release & Settlement Agreement, the parties would not have executed this Easement agreement.



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Skagit County Auditor

GRANTOR:

DATED this 14 day of March, 2011.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Bon Wesen
Bon Wesen, Chairman

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon
Sharon D. Dillon, Commissioner

Recommended by:

By: Henry Hall
Public Works Director

By: Billie Karmas
Risk Manager

Approved as to Form:

By: [Signature]
Deputy Prosecuting Attorney

ATTEST:

Linda Hammons
Linda Hammons, Clerk of the Board
Skagit County Board of Commissioners



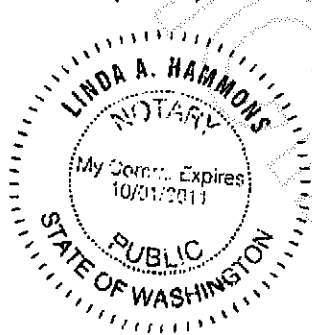
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Skagit County Auditor

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Ron Wesen, Kenneth A. Dahlstedt and/or Sharon D. Dillon is/are the person(s) who appeared before me, and said person(s) acknowledged that she/he/they signed this instrument, on oath stated that she/he/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 14 day of March, 2011.

(SEAL)



Linda Hammons

Notary Public

Print name: Linda Hammons

Residing at: Skagit County

My appointment expires: 10/01/2011



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Skagit County Auditor

GRANTEE:

DATED this 15th day of FEBRUARY, 2011.

**Anchor Cove Marina Condominium Association,
a Washington non-profit corporation:**

By: *David Wilton*

Print Name: DAVID WILTON

Title: ANCHOR COVE ESTATE CHAIRMAN

STATE OF WASHINGTON

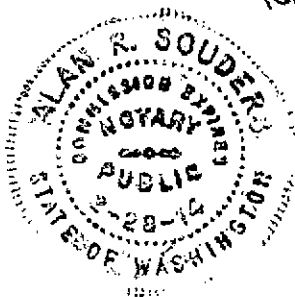
COUNTY OF SKAGIT

} ss

I certify that I know or have satisfactory evidence that David Wilton, as the Legal Chairman of Anchor Cove Marina Condominium Association, a Washington non-profit corporation, is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was duly authorized to execute this instrument and executed the forgoing instrument as his/her free and voluntary act for the uses and purposes herein mentioned.

DATED this 15th day of Feb, 2011.

(SEAL)



Alan R. Souder

Notary Public

Print name: Alan R. Souder

Residing at: Fir Island

My appointment expires: 28 Feb 2014



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Skagit County Auditor

LISSE & ASSOCIATES, PLLC

320 Milwaukee St PO Box 1109 Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Exhibit "A"

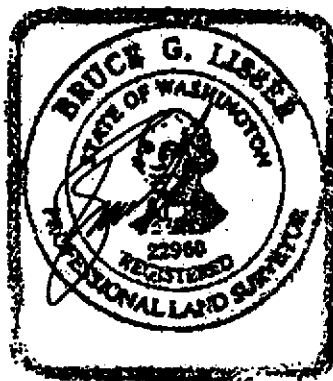
Skagit County, a Political Subdivision of the State of Washington

That portion of Block 134, "Map of the City of Anacortes, Skagit County, Washington," as per plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington, lying South of the South line of the alley as shown in said Block 134, including that portion of the reserve for right of way for the Seattle and Northern Railway included within the boundaries of said portion of Block 134.

TOGETHER WITH all of the alley in said Block 134 and the East 1/2 of "J" Street adjacent to said portion of Block 134 and adjacent to the alley in said Block 134, all as vacated by City of Anacortes Ordinance No. 2044, recorded October 13, 1987, under Auditor's File No. 8710130044, records of Skagit County, Washington.

ALSO SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the City of Anacortes, County of Skagit, State of Washington.



2-1-11



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Skagit County Auditor

LISSE & ASSOCIATES, PLLC

320 Milwaukee St PO Box 1109 Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Exhibit "B"

**Easement area for the benefit of
Anchor Cove Marina, Condominium Association**

An exclusive perpetual easement over, under and across a portion of the vacated alley in Block 134, "Map of the City of Anacortes, Skagit County, Washington;" as per plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington; and that portion of the reserve for right of way for the Seattle and Northern Railway included within the boundaries of said Block 134 and also that portion of vacated "J" Avenue being more particularly described as follows:

BEGINNING at the Southeast corner of Lot 1, Block 134 also being the Northeast corner of said vacated alley on "Map of the City of Anacortes, Skagit County, Washington;"
thence South $1^{\circ}50'00''$ West along the Southerly projection of the East line of said Lot 1, also being the Westerly right of way margin of K Avenue for a distance of 2.94 feet, to the Easterly projection of an existing fence line;
thence North $88^{\circ}06'08''$ West along said projected line for a distance of 1.70 feet, more or less, to a fence corner;
thence continue North $88^{\circ}06'08''$ West along said fence line for a distance of 217.97 feet to an angle point in said fence line;
thence North $88^{\circ}01'49''$ West along said fence line for a distance of 106.84 feet, to an angle point in said fence line;
thence South $84^{\circ}32'35''$ West along said fence line for a distance of 2.27 feet, to an angle point in said fence line;
thence North $2^{\circ}24'28''$ West along said fence line for a distance of 6.43 feet, to an angle point in said fence line;
thence North $12^{\circ}52'56''$ West along said fence line or fence line extended for a distance of 12.02 feet, more or less, to a point on a non-tangent curve on the Northerly margin of said reserve for right of way for the Seattle and Northern Railway;
thence along said Northerly margin, being on a curve to the right concave to the South, having an initial tangent bearing of South $86^{\circ}44'44''$ East, a radius of 2,342.00 feet, through a central angle of $4^{\circ}13'23''$, an arc distance 172.62 feet, to a point of compound curvature;
thence continue along said Northerly margin, along the arc of said curve to the right having a radius of 1,482.66, through a central angle of $1^{\circ}34'44''$, an arc distance of 40.86 feet, more or less, to the North line of said vacated alley in Block 134 at a point bearing North $88^{\circ}06'54''$ West from the POINT OF BEGINNING;
thence South $88^{\circ}06'54''$ East along the North line of said vacated alley, also being the South line of Lots 1, 2, 3 and 4, said Block 134 for a distance of 119.45 feet, more or less, to the POINT OF BEGINNING.



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Skagit County Auditor

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the City of Anacortes, County of Skagit, State of Washington.

Containing 2,884 sq ft



2-1-11



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Exhibit "B"

**Preliminary Draft Survey Depicting Alleged
Encroachments & Current Fire Lane Access.**



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Recording Requested By And
When Recorded Mail To:

Skagit County
Public Works Department
1800 Continental Place
Mount Vernon, Washington 98273

DOCUMENT TITLE: Easement

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR(S): Anchor Cove Marina Condominium Association, a Washington non-profit corporation

GRANTEE(S): Skagit County, a political subdivision of the State of Washington

ASSESSOR'S PARCEL NUMBER(S): P79149 through P79200 inclusive; P79201 through P79207 inclusive; P79209 through P79300 inclusive; P79301 through P79318 inclusive; P55884.

ABBREVIATED LEGAL DESCRIPTION: Portion of S 13, Twp 35N, R 1 E W.M.

EASEMENT

The undersigned, **Anchor Cove Marina Condominium Association, a Washington non-profit corporation** ("Grantor" herein), and **Skagit County, a Political Subdivision of the State of Washington**, ("Grantee" herein), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to Grantee, and Grantee's successors and assigns, a permanent, perpetual, and exclusive Easement (herein the "Easement") as provided herein. Grantor and Grantee may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties."

WHEREAS, the Grantor is the owner of the common area of certain real property located in Skagit County, Washington, commonly described as 1600 Fifth Street, Anacortes, Washington 98221, with the Skagit County Assessor Tax Parcel Numbers as listed above, that being the common area for the condominiums with the parcel numbers listed, and is more particularly described by the legal description attached hereto as **Exhibit "A"** and incorporated herein by reference ("Grantor's Property").

WHEREAS, the parties have executed a Release & Settlement Agreement related to this Easement agreement, and in consideration of the terms of the Release and Settlement Agreement, the parties agree that it would be in the mutual interest and benefit of both parties to have a formal Easement agreement, as provided herein.



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In consideration of the forgoing, and of the following mutual terms, provisions, and covenants set forth herein, the parties hereby mutually agree as follows:

1. Nature and Location of Easement. Grantor hereby grants, dedicates and conveys to Grantee and to the public an exclusive, permanent, perpetual easement for the purposes set forth herein (the "Easement") over, under, across, and through that certain portion of Grantor's Property, as described at **Exhibit "B"**, attached hereto and incorporated by reference (the "Easement Area"), subject to the terms and conditions set forth in this Easement agreement herein.

2. Purpose and Use of Easement. Grantee, its agents, contractors, designees, successors, and/or assigns, including members of the public, shall have the right, without prior notice to Grantor, and at all times, to enter upon and use the Easement Area for any and all lawful purposes, including, but not limited to, the use of the Easement Area for public vehicle parking and other Skagit County uses and operations related in any way to the Guemes Island ferry. Nothing in this Easement agreement herein shall obligate Grantee to commence or complete any improvements whatsoever to the Easement Area; provided, however, that in the event Grantee elects to make any improvements, Grantee shall use reasonable efforts to complete all work as soon as reasonably practicable, and to reasonably minimize interference with Grantor's use of Grantor's Property. Grantee is not obligated to pay, provide, or expend any funds, and/or provide and/or perform any other services or other duties, unless otherwise specified by the terms of this Easement agreement. Grantee agrees to cooperate with Grantor to allow for the continued use and operation of an emergency access fire lane and/or gate (e.g., for fire, ambulance, and police response and access) within the Easement Area in the approximate location as such emergency access fire lane and/or gate presently exists as of the date of mutual execution of this Easement agreement.

3. No Interference with Easement. Grantor shall not undertake, authorize, permit, allow, or consent to any activity, construction, or excavation within the Easement Area including, but not limited to, digging, tunneling, or other forms of construction activity, or any other use or activity which might in any way interfere with the Grantee's exclusive use of the Easement Area for any and all lawful purposes. Grantor further agrees that no structure or obstruction including, without limitation, landscaping, vegetation, trees, fences, buildings, foundations, and/or rockeries shall be constructed or places over, upon, under, or within the Easement Area.

4. Obligations Run With the Land. Grantor warrants that Grantor has good title to the Grantor's Property (including the Easement Area) and warrants the Grantee title to and quiet enjoyment of the Easement. This Easement agreement shall be perpetual in duration, and shall run with the land, and shall be binding on the undersigned and all successors, assignees, devisees, and/or transferees of the parties and shall, in all respects, attach to the individual properties legally described in this Easement agreement.

5. Governing Law; Venue. This Easement agreement shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action brought under or relating to the term of this Easement agreement shall be in Skagit County, State of Washington.

6. Severability. Should any term or provision of this Easement agreement set forth herein be found to be void or unenforceable by a court of competent jurisdiction, all other terms and provisions of this Easement agreement shall remain enforceable, binding, and in full force and effect.



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7. **Neutral Authorship.** Each of the provisions of this Easement agreement have been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Easement agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Easement. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Easement agreement and have either done so, or have voluntarily decided not to do so. The parties represent and warrant that they have fully read this Easement agreement, that they understand its meaning and effect, that they are duly authorized to enter into this Easement agreement, and that they enter into this Easement agreement with full knowledge of its terms. The parties have entered into this Easement agreement without duress or undue influence.

8. **Captions and Counterparts.** The captions of this Easement agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Easement. This Easement agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one Easement agreement.

9. **Recording.** Upon mutual execution, the Easement agreement shall be recorded with the Skagit County Auditor, and shall become effective immediately upon recording.

10. **Entire Agreement.** This Easement agreement contains the entire agreement between the parties hereto. This Easement agreement may not be modified or supplemented in any manner for form whatsoever, either by course of dealing or by parol or written evidence of prior agreements and negotiations, except upon the subsequent written agreement of the parties. The parties recognize and agree that the consideration for this Easement agreement is particularly defined and described pursuant to the terms of the Release & Settlement Agreement between Grantor and Grantee, dated March 14, 2011, 2011 (Skagit County Contract # C20110102), and that but for the terms of the above-described Release & Settlement Agreement, the parties would not have executed this Easement agreement.

GRANTOR:

DATED this 15TH day of FEBRUARY, 2011.

**Anchor Cove Marina Condominium Association,
a Washington non-profit corporation:**

By: [Signature]
Print Name: DAVID WILTON
Title: ANCHOR COVE LEGAL CHAIRMAN



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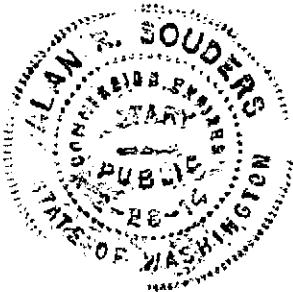
STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that David Wilton, as the Legal Chairman of Anchor Cove Marina Condominium Association, a Washington non-profit corporation, is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was duly authorized to execute this instrument and executed the forgoing instrument as his/her free and voluntary act for the uses and purposes herein mentioned.

DATED this 15th day of Feb, 2011.

(SEAL)

Alan R. Souders
Notary Public
Print name: Alan R. Souders
Residing at: Fir Island
My appointment expires: 28 Feb 2014



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GRANTEE:

DATED this 14 day of march, 2011.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ron Wesen

Ron Wesen, Chairman

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon

Sharon D. Dillon, Commissioner

Recommended by:

By: Henry Hash
Public Works Director

By: Bruce Garmas
Risk Manager

Approved as to Form:

By: [Signature]
Deputy Prosecuting Attorney

ATTEST:

Linda Hammons

Linda Hammons, Clerk of the Board
Skagit County Board of Commissioners



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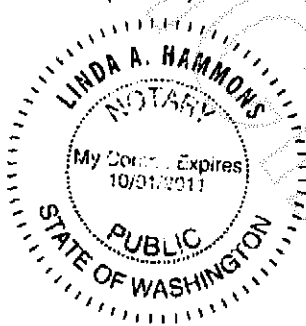
Skagit County Auditor

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Ron Wesen, Kenneth A. Dahlstadt and/or Sharon D. Dillon is/are the person(s) who appeared before me, and said person(s) acknowledged that she/he/they signed this instrument, on oath stated that she/he/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 14 day of March, 2011.

(SEAL)



Linda Hammons

Notary Public

Print name: Linda Hammons

Residing at: Skagit County

My appointment expires: 10/31/2011



201103150042

Skagit County Auditor

LISSER & ASSOCIATES, PLLC

320 Milwaukee St PO Box 1109 Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Exhibit "A"

**Anchor Cove Marina, Condominium Association
(Description provided by Grantor)**

Parcel A

All that portion of Tract 5 1/2 and 6, "Plate No. 8, Tide and Shore Lands of Section 13, Township 35 North, Range 1 East of the Willamette Meridian, Anacortes Harbor," according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington and that portion of Block 139, City of Anacortes, according to the plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington, and vacated streets adjacent thereto, described as follows:

BEGINNING at the intersection of the center lines of "J" Avenue and Sixth Street, as shown on the recorded plat of the City of Anacortes, according to the plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington;
thence North along said center line of "J" Avenue to its point of intersection with the North boundary of the Great Northern Railway right of way being the TRUE POINT OF BEGINNING;
thence continuing North along said centerline of "J" Avenue to a point 273.5 feet North from the intersection of the center lines of "J" Avenue and Sixth Street;
thence at right angles with the centerline West 14.5 feet;
thence North parallel to said centerline 124.5 feet;
thence at right angles East 14.5 feet to the centerline;
thence North along the centerline to the Inner Harbor Line;
thence West along the Inner Harbor Line to a point of intersection with the West side boundary of Lot 5, Tract 6, as shown on Plate No. 8, Tide and Shore Lands of Section 13, Township 35 North, Range 1 East, of the Willamette Meridian, Anacortes Harbor, according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington, projected in a Northerly direction to said point of intersection;
thence South along said projected line, continuing along the West boundary of the aforesaid Lot 5, Tract 6 and if necessary, the projection of said line to point of intersection with the Northerly boundary of the Great Northern Railway right of way;
thence following the line of said Great Northern Railway right of way in an Easterly direction to the TRUE POINT OF BEGINNING.

Parcel B

All that portion of Tract 6, "Plate No. 8, Tide and Shore Lands of Section 13, Township 35 North, Range 1 East of the Willamette Meridian, Anacortes Harbor," according to the map thereof on file in the State Land Commissioner at Olympia, Washington and vacated Railroad Avenue, described as follows:



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BEGINNING at a point where the West line of Lot 5, Tract 6, as shown on Plate No. 8, Tide and Shore Lands of Section 13, Township 35 North, Range 1 East of the Willamette Meridian, Anacortes Harbor," according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington, intersects the Northerly line of the Great Northern Railway right of way;
thence North along the West line of said Lot 5 and said West line projected to the inner harbor line;
thence Westerly along said inner harbor line to the East line of Avenue "I";
thence South on the East line of Avenue "I" to the North line of the Great Northern Railway right of way;
thence Easterly on the North line of said right of way to a point of beginning;

EXCEPT that portion thereof, if any, lying South of the Government Meander Line.

Parcel C

A leasehold estate created by that certain lease from the Port of Anacortes, a municipal corporation, dated January 1, 1974 and recorded April 3, 1974, under Auditor's File No. 798756 and recorded May 31, 1974, under Auditor's File No. 801512 and covering the following described property:

That portion of Lots 7, 8, 9 and 10 lying Northwesterly of a line parallel with and a distance Northwesterly 25 feet from the center line of Great Northern Railway Company as conveyed to said railway company by deed recorded in Volume 90 of Deeds, page 112, records of Skagit County, Washington, all in Block 134, City of Anacortes, according to the plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington.

TOGETHER WITH vacated portion of "J" Avenue and Fifth Street abutting thereon, which has attached thereto by operation of law.

Parcels D and E

A leasehold estate created by that certain lease from the Port of Anacortes, a municipal corporation, dated January 1, 1974 and recorded April 3, 1974, under Auditor's File No. 798757 and covering the following described property:

Parcel D

Lot 6, EXCEPT the East 25 feet thereof; and all of Lots 7, 8, 9 and 10, Tract 5, "Plate No. 8, Tide and Shore Lands of Section 13, Township 35 North, Range 1 East of the Willamette Meridian, Anacortes Harbor," according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington.

TOGETHER WITH those portions of vacationed "J" Avenue, Fifth Street and Railroad Avenue abutting thereon which have attached thereto by operation of law.



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Parcel E

Lots 12, 13, 14 and 15, EXCEPT the East 25 feet thereof, Block 135, City of Anacortes, according to the plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington.

TOGETHER WITH vacated portion of vacated Fifth Street abutting thereon which has attached to said premises by operation of law.

Parcel F

A leasehold estate created by that certain lease No. 2283 from the State of Washington, acting by and through the Department of Natural Resources, for a period of 30 years commencing December 11, 1973 and recorded April 3, 1974, under Auditor's File No. 798754 and covering the following described property:

All harbor area lying in front of Lots 4 through 10, inclusive, Tract 5, Lots 1 through 4, inclusive, Tract 5 1/2, Lots 5 through 10, inclusive, Tract 6 and intervening vacated Avenue "J", "Plate 8, Tide and Shore Lands of Section 13, Township 35 North, Range 1 East of the Willamette Meridian, Anacortes Harbor," according to map thereof on file in the office of State Land Commissioner at Olympia, Washington. The aforesaid being bounded by the inner and outer harbor lines, the West line of said Lot 10, Tract 6 and the East line of said Lot 4, Tract 5, both lines produced Northerly across the harbor area to the outer harbor line as shown on aforesaid tide and shore land map.

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

All of the above situate in the City of Anacortes, County of Skagit, State of Washington.



2-1-11



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Skagit County Auditor

LISSE & ASSOCIATES, PLLC

320 Milwaukee St PO Box 1109 Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Exhibit "B"

**Easement area for the benefit of
Skagit County, a Political Subdivision of the State of Washington**

An exclusive perpetual easement over, under and across portions of Lots 3 – 10 (inclusive),
Block 139 "Map of the City of Anacortes, Skagit County, Washington;"

BEGINNING at the Southwest corner of said Lot 10, Block 139, also being a point on a non-tangent curve on the Northerly margin of the reserve for right of way for the Seattle and Northern Railway shown on the face of said "Map of the City of Anacortes, Skagit County, Washington;"
thence North 1°53'35" East along the West line of said Lot 10, for a distance of 18.12 feet to the Westerly projection of an existing fence line;
thence South 88°41'38" East along said projected line for a distance of 1.49 feet, more or less, to a fence corner;
thence continue South 88°41'38" East along said fence line for a distance of 12.87 feet to an angle point in said fence line;
thence South 87°18'51" East along said fence line for a distance of 13.94 feet to an angle point in said fence line;
thence South 88°03'22" East along said fence line for a distance of 66.18 feet to an angle point in said fence line;
thence South 88°01'17" East along said fence line for a distance of 64.55 feet to an angle point in said fence line;
thence South 88°02'13" East along said fence line for a distance of 69.09 feet;
thence South 0°20'46" West for a distance of 0.49 feet, more or less, to a point on a non-tangent curve along the South line of said Lots 3-10 (inclusive), also being the Northerly margin of said reserve for right of way for the Seattle and Northern Railway;
thence along the arc of said curve to the left, also being the Southerly line of said Lots 3-10 (inclusive) and said Northerly margin, concave to the South, having an initial tangent bearing of North 89°39'14" West, a radius of 2,342.00 feet, through a central angle of 5°35'58" an arc distance of 228.28 feet, more or less, to the POINT OF BEGINNING.

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the City of Anacortes, County of Skagit, State of Washington.

Containing 1,699 sq ft



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