



201104120159

Skagit County Auditor

4/12/2011 Page

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10 4:14PM

Filed for Record at Request of:

CHMELIK SITKIN & DAVIS P.S.
1500 Railroad Avenue
Bellingham, WA 98225
(360) 671-1796

DOCUMENT TITLE(S):

EASEMENT AGREEMENT

REFERENCE NUMBER(S) OF DOCUMENTS AMENDED, ASSIGNED AND/OR RELEASED:

N/A

Additional reference numbers found on page N/A of document.

GRANTOR(S) (Last name, First name and MI):

NORTHWEST EDUCATIONAL SERVICE DISTRICT #189

Additional grantors found on page N/A of document.

GRANTEE(S) (Last name, First name, and MI):

PORT OF ANACORTES

Additional grantees found on page N/A of document.

ABBREVIATED LEGAL DESCRIPTION (Lot, block, plat or section, township, range):

**LOT 2A OF BOUNDARY LINE ADJUSTMENT SURVEY RECORDED UNDER AUDITOR
NO. 2003060196**

Additional legal is on pages 7, 8, 9 of document.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER(S):

P32948

EASEMENT AGREEMENT - 1

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement") is made this 29th day of January, 2011 (the "Commencement Date"), by and between NORTHWEST EDUCATIONAL SERVICE DISTRICT #189, a political subdivision of the State of Washington (hereinafter "Grantor"), and PORT OF ANACORTES, a Washington municipal corporation (hereinafter "Grantee").

WHEREAS, Grantor is the fee owner of a certain parcel of real property situated in Skagit County, Washington, as legally described in Exhibit "A" hereto (the "Servient Estate");

WHEREAS, Grantee is the fee owner of a certain parcel of real property situated in Skagit County, Washington, as legally described in Exhibit "B" hereto (the "Dominant Estate");

WHEREAS, Grantee desires to construct and maintain a public sidewalk, a public parking lot and associated landscaping, a private boat storage enclosure, and utilities over, under, upon and across portions of the Servient Estate; and

WHEREAS, Grantor desires to grant an easement to Grantee to construct and maintain a public sidewalk, a public parking lot and associated landscaping, a private boat storage enclosure, and utilities over, under, upon and across portions of the Servient Estate pursuant to the terms and conditions contained herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor grants an easement to Grantee as follows:

1. **Grant of Easement.** Grantor hereby grants and conveys to Grantee a perpetual, exclusive easement (hereafter the "Easement") for the construction, use and maintenance of a public sidewalk, a public parking lot with associated landscaping, a private boat storage enclosure, and utilities over, under, upon and across that portion of the Servient Estate legally described and depicted in Exhibit "C" hereto (the "Easement Area"). Upon completion, the sidewalk and parking lot shall be open to use by any and all members of the public including, but not limited to, Grantor and its invitees and licensees.

2. **Commencement/Termination of Easement.** This Agreement shall commence upon the Commencement Date. This Agreement and all rights and obligations of Grantor and Grantee under this Agreement shall terminate:

a) If the parking area referenced in Section 4 herein has not been constructed and made available for use by Grantor on or before the third anniversary of the Commencement Date; or

b) If Grantee, its successors and/or any subsequent lessee of the Dominant Estate re-develops the Dominant Estate and/or no longer utilizes the Easement for the Sidewalk, Parking Lot, Boat Storage and Utilities (defined below); or



c) If at any time Grantee or its successors or assigns of the Dominant Estate records a relinquishment of easement that terminates the Easement granted under Section 1 above.

2.1 If this Agreement terminates pursuant to Section 2, above, after development of the Easement, the Grantee or its successors shall return the Easement Area to a condition as reasonably close as possible to the condition the Easement Area was in immediately prior to the Commencement Date within six (6) months after termination of the Agreement. This obligation shall survive termination of the Agreement.

3. Easement Area Development. Grantee shall be entitled to construct, operate and maintain a public sidewalk (the "Sidewalk"), a public parking lot with associated landscaping (the "Parking Lot"), a private boat storage enclosure including, but not limited to, an open-air six foot (6') tall chain link fence storage enclosure (the "Boat Storage"), and utilities (the "Utilities") within the Easement Area. Grantee's development, operation and maintenance of the Sidewalk, Parking Lot, Boat Storage and Utilities within the Easement Area shall be at Grantee's sole cost and expense. Upon completion, Grantee shall maintain all improvements and landscaping within the Easement in good condition and repair and meeting all requirements imposed under (a) that certain Declaration of Covenants, Conditions, Easements, Restrictions and Reservations for South Harbor Center, Anacortes Washington, recorded under Skagit County Auditor's Filing No. 9903020097, including any amendments thereto, and (b) any other document of record affecting the Servient Estate.

3.1 **Indemnification.** To the extent permitted by law, Grantee agrees to indemnify, defend and hold harmless Grantor, its officers, employees, agents and representatives from all claims, actions, suits, losses, harm, liabilities, damages, costs and expenses, including but not limited to, reasonable attorneys' fees, arising in any way out of the use of the easement rights granted to Grantee pursuant to this Easement. Notwithstanding the foregoing, Grantor shall be liable for any such claims in proportion to Grantor's respective fault arising out of or related to Grantor's negligent, grossly negligent, intentional or willful acts or omissions.

4. Grantor's Parking Easement. As consideration for the Easement rights granted herein, Grantee hereby grants to Grantor a perpetual non-exclusive easement (hereafter the "Grantor's Parking Easement") to park standard passenger automobiles on and within any of the developed and delineated parking spaces located on the Dominant Estate's park building parking lot (the "Park Building Parking Lot") or the Parking Lot on a 1st come 1st serve basis.

4.1 Grantor agrees to indemnify, defend and hold harmless the Grantee, its officers, employees, agents and representatives from all claims, actions, suits, losses, harm, liabilities, damages, costs and expenses, including but not limited to, reasonable attorneys' fees, arising in any way out of the provision of Grantor's Parking Easement rights granted to Grantor pursuant to this Section 4. Notwithstanding the foregoing, Grantee shall be liable for any such claims in proportion to Grantee's respective fault arising out of or related to Grantee's negligent, grossly negligent, intentional or willful acts or omissions.

5. Binding Effect. This Agreement, and all rights associated therewith, shall be perpetual in existence and duration and considered and construed as covenants running with the land, and shall be binding upon and inure and extend to the benefit of the successors and assigns of the parties hereto.

6. **Severability**. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7. **Jurisdiction and Venue**. Jurisdiction for any action to enforce the terms of this Agreement shall be in the Superior Court for the State of Washington. Venue for any such action shall be in Skagit County.

8. **Captions**. The captions and paragraph headings contained in this Agreement are for the convenience of the parties and for reference only, and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

9. **Waiver**. No failure by either party hereto to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition.

10. **Neutral Authorship**. Each of the provisions of this Agreement has 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 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.

11. **Amendments**. Except as otherwise set forth herein, this Agreement may not be modified, amended or terminated except by the written agreement of all parties or their successors and assigns.

12. **Notices**. All notices, demands, requests, consents and approvals which may, 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 duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Grantor: Northwest Educational Service District #189
Attn: Superintendent
1601 R Avenue
Anacortes, WA 98221

Grantee: Port of Anacortes
Attn: Robert W. Hyde
P.O. Box 297
Anacortes, WA 98221-0297

13. **Counterparts – Authority**. This Agreement may be executed in counterparts and each executed counterpart shall have the same force and effect as the original instrument and as if all




of the parties to the counterparts had signed the same instrument. Electronic facsimile signatures and/or electronically scanned signatures shall be sufficient to demonstrate a party's assent to this Agreement. Each individual signing this Agreement on behalf of either the Grantor or the Grantee represents that they have the authority to bind the party on who's behalf they are signing and that all steps necessary for their respective entity to execute this Agreement have been taken.

14. **Entire Agreement.** This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes and replaces all written and oral agreements previously made or existing with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date set forth above.

GRANTOR:

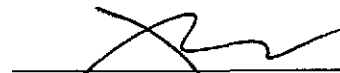
**NORTHWEST EDUCATIONAL
SERVICE DISTRICT #189**



BY: Dr. Gerald W. Jenkins
TITLE: Superintendent

GRANTEE:

PORT OF ANACORTES



BY: Robert W. Hyde
TITLE: Executive Director

Easement
**SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX**

APR 12 2011

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



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 27th day of January, 2011, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Gerald W. Jenkins to me known to be a Superintendent of **Northwest Educational Services District No. 189**, the educational service district that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said district, for the uses and purposes therein mentioned, and on oath stated that he/she is duly authorized to execute the same.

GIVEN under my hand and official seal this 27th day of January, 2011.

JONI L. MORRELL
Notary Public
State of Washington
My Commission Expires
September 15, 2011

Joni L. Morrell
Print Name: Joni L. Morrell
NOTARY PUBLIC in and for the
State of Washington, residing at Anacortes
My commission expires: 9/15/2011

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 27th day of January, 2011, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Robert W. Hyde**, to me known to be the **Executive Director** of the **Port of Anacortes**, the municipal corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is duly authorized to execute the same.

GIVEN under my hand and official seal this 27th day of January, 2011.



Julie M. Lindsey
Print Name: Julie M. Lindsey
NOTARY PUBLIC in and for the
State of Washington, residing at Anacortes, WA
My commission expires: 7-24-12



EXHIBIT "A"
SERVIENT ESTATE LEGAL DESCRIPTION

LOT 2A OF THAT CERTAIN BOUNDARY LINE ADJUSTMENT SURVEY RECORDED JUNE 6, 2003 UNDER AUDITOR'S FILE NO. 200306060196, BEING A REVISION OF LOTS 2A, 2B, 2C AND 2D, "SEAFARER'S VIEW," AS RECORDED UNDER AUDITOR'S FILE NO. 200112030101, AND THAT CERTAIN BOUNDARY LINE ADJUSTMENT SURVEY RECORDED APRIL 29, 2003, UNDER AUDITOR'S FILE NO. 200304290104, RECORDS OF SKAGIT COUNTY, WASHINGTON (THE "BLA SURVEYS"); BEING IN PORTIONS OF GOVERNMENT LOTS 1 AND 2, SECTION 19, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M., AND OF "PLATE NO. 10 TIDE AND SHORE LANDS OF SECTION 19, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M., ANACORTES HARBOR," ACCORDING TO THE OFFICIAL MAP THEREOF ON FILE WITH THE STATE LAND COMMISSIONER AT OLYMPIA, WASHINGTON.

SITUATE IN THE CITY OF ANACORTES, COUNTY OF SKAGIT, STATE OF WASHINGTON.

SKAGIT COUNTY ASSESSOR PARCEL NO. P32948.



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EXHIBIT "B"
DOMINANT ESTATE LEGAL DESCRIPTION

LOT 3 OF SHORT PLAT #ANA-98-003, AS RECORDED ON FEBRUARY 17, 1999 UNDER AUDITOR'S FILE NO. 9902170072, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND BEING LOCATED IN THE NW ¼ OF SECTION 19, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE W.M.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

SKAGIT COUNTY ASSESSOR PARCEL NO. 32960.



EXHIBIT "C"
EASEMENT AREA
LEGAL DESCRIPTION AND MAP
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Leonard, Boudinot & Skodje Inc.
PROFESSIONAL ENGINEERS & LAND SURVEYORS

ROBERT C. BOUDINOT, JR., P.E.

JEFFREY A. SKODJE, P.L.S.

LEGAL DESCRIPTION
For
THE PORT OF ANACORTES
OF
AN EASEMENT IN Lot 2A OF
BOUNDARY LINE ADJUSTMENT SURVEY A.F.#200306060196

December 7, 2010

That portion of Lot 2A of Boundary Line Adjustment Survey for Shared Healthcare Systems, Inc., recorded under Auditor's File Number 200306060196 lying northerly and easterly of the following described line:

Commencing at the most easterly corner of said Lot 2A; thence S 89°26'06" W along the north line of said Lot 2A, a distance of 127.36 feet to a point which lies 78 feet easterly of an angle point in said north line and the initial point of this line description; thence S 68°39'51" W, a distance of 84.59 feet; thence S 89°26'06" W, a distance of 28 feet; thence N 21°52'57" W, a distance of 115.57 feet; thence N 00°34'57" W, a distance of 90.50 feet to the north line of said Lot 2A and terminus of this line description.

Situated in the City of Anacortes, Skagit County, Washington.



603 South First Street, Mount Vernon, WA 98273. (360) 336-5751/FAX (360) 336-3981
Mailing Address: P.O. Box 1223, Mount Vernon, WA 98273. • E-mail Address: office@lbs-inc.com

12/7/10

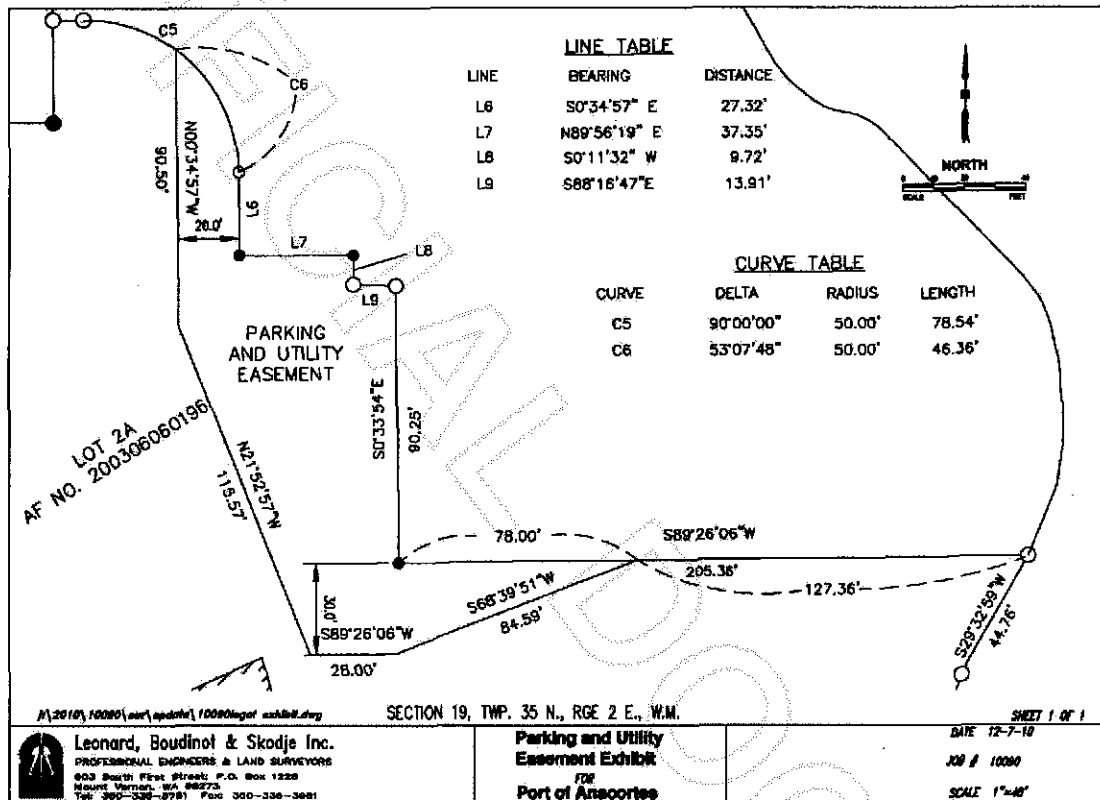
EASEMENT AGREEMENT - 9



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EXHIBIT "C"
EASEMENT AREA
LEGAL DESCRIPTION AND MAP
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