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Skagit County Auditor

10/4/2012 Page 1 of 7 3:39PM

Document Title:

STORM DRAIN EASEMENT REPLACEMENT AGREEMENT

**GUARDIAN NORTHWEST TITLE CO.**

Reference Number : 8112140008

**ACCOMMODATION RECORDING ONLY**

Grantor(s):

additional grantor names on page \_\_\_\_

M4678

1. MJB PROPERTIES LLC, a Washignton limited liability company

2.

Grantee(s):

additional grantee names on page \_\_\_\_

1. CITY OF ANACORTES, a municipal corporation of the State of Washington

2.

Abbreviated legal description:

full legal on page(s) 5.

PTN SW1/4 Sec. 19, Twp. 35N, R2E, W.M.; additional legal description on EXHIBIT "A" attached hereto

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page \_\_\_\_

PTN 78007, PTN 32979, and PTN 32977

**RECORDED AT THE REQUEST OF AND  
AND AFTER RECORDING RETURN TO:**

City of Anacortes  
Attn: Steve Hoglund, Finance Director  
PO Box 547  
Anacortes, WA 98221-0547

**Document Title:** STORM DRAIN EASEMENT REPLACEMENT AGREEMENT  
**Reference numbers of related document(s):** 8112140008  
**Grantor:** MJB PROPERTIES LLC, a Washington limited liability company  
**Grantee:** CITY OF ANACORTES, a municipal corporation of the State of Washington  
**Legal Description (abbreviated):** PTN SW¼ Sec. 19, Twp. 35N, R2E, W.M.; additional legal description on EXHIBIT "A" attached hereto  
**Assessor's Tax Parcel ID #s:** PTN 78007, PTN 32979, and PTN 32977

M9678-2

GUARDIAN NORTHWEST TITLE CO.  
ACCOMMODATION RECORDING ONLY

**STORM DRAIN EASEMENT REPLACEMENT AGREEMENT**

This STORM DRAIN EASEMENT REPLACEMENT AGREEMENT (this "Agreement") is made this 17<sup>th</sup> day of September 2012 by and between the CITY OF ANACORTES, a municipal corporation of the State of Washington, (the "City") and MJB PROPERTIES LLC, a Washington limited liability company, ("MJB") with respect to the following facts:

**Recitals**

A. On December 7, 1981, the City executed an instrument entitled "EASEMENT AND DEDICATION" relating to a 20-foot-wide strip of land (the "Original Easement Strip") legally described therein for the "purpose of maintaining and installing a storm drain, with full rights of ingress and egress to perform any and all work incident to the above named purpose," which instrument (herein referred to as the "Original Storm Drain Easement") was recorded under Skagit County Recording No. 8112140008.

B. A storm drain was installed within and along the 20-foot-wide strip of land legally described in the Original Storm Drain Easement.

C. MJB subsequently acquired and now owns both (a) the Original Easement Strip and (b) lands adjacent to that strip.

D. Pursuant to City permit(s), a portion of the storm drain installed within and along the Original Easement Strip has recently been removed and replaced with a segment of new storm drain that, in part, lies outside of the Original Easement Strip.

E. In view of the above, in this Agreement MJB and the City now wish to replace the Original Storm Drain Easement with a new storm drain easement along a revised 20-foot-wide strip of land legally described on EXHIBIT "A" attached to this Agreement (the "New Easement Strip"). (The layout of the New Easement Strip is graphically depicted on EXHIBIT "B" attached to this Agreement.)

STORM DRAIN EASEMENT REPLACEMENT  
AGREEMENT—Page 1



WHEREFORE, with respect to these facts, the parties grant, covenant, and agree as follows:

**1. Replacement Storm Drain Easement**

**1.1 Grant of Replacement Easement.** Subject to Sections 1.1, 1.2, and 1.3, below, and in consideration of the mutual promises contained in this Agreement, the adequacy thereof which is acknowledged by the parties, and for no monetary consideration, MJB hereby grants to the City a perpetual non-exclusive easement for maintaining, repairing, and replacing a storm drain with all appurtenances incident thereto or necessary therewith) under, along and across the New Easement Strip as legally described on EXHIBIT "A", attached hereto and incorporated by this reference, together with the right of ingress and egress over said New Easement Strip at any and all times for the purpose of doing any work incident to the above-stated purpose of this easement.

**1.2 Reservation of Rights to Grantor.** There is hereby reserved to MJB and its heirs, personal representatives, successors, and assigns, the right and privilege to use the New Easement Strip, at any time, in any manner, and for any purpose not inconsistent with the full use and enjoyment by the City and its successor and assigns of the rights and privileges granted to the City in Section 1.1, above. (Without limiting the generality of the immediately foregoing sentence, either (a) any utility crossings of the storm drain installed within the New Easement Strip that have a minimum of one vertical foot of clearance between the storm drain and the crossing utilit(ies) or (b) any other utility crossings of the storm drain installed along the New Easement Strip that do not materially interfere with the rights granted to the City in Section 1.1, above, shall be deemed to be consistent with the rights granted to the City in Section 1.1, above.)

**1.3 Obligations of the City in Relation to the Easement.** Upon each and every occasion that (a) the storm drain and appurtenances thereto are constructed, maintained, replaced, reconstructed, or removed and/or (b) ingress and/or egress over the New Easement Strip is made, the City shall restore the premises of the Grantor, and any improvements disturbed by the City, to as good a condition as they were in prior to any such installation of work, but if not practicable, then pay the Grantor reasonable compensation.

**1.4 Easement and Associated Rights and Obligations to Run With the Land; Successors and Assigns.** The easement granted in Section 1.1, above, and the various other rights and obligations of the parties set forth throughout Sections 1.1, 1.2, and 1.3, above, shall run with the land, benefiting and burdening the New Easement Property as the case may be, and shall be binding upon MJB and the City and their respective heirs, personal representatives, successors, and assigns.

**2. The City's Termination and Relinquishment of the Original Storm Drain Easement.** The City hereby terminates the Original Storm Drain Easement recorded under Skagit County Auditor's File Number 8112140008 and relinquishes any and all right, title, and interest it has in the Original Storm Drain Easement.

**3. Partial Invalidity.** If any provision of this Agreement is, becomes, or is deemed unlawful, such provision shall be deemed amended to conform to applicable laws so as to be valid and enforceable, or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken and the remainder of this Agreement shall remain in full force and effect.



4. **Entire Agreement.** This Agreement contains the entire agreement between the parties relative to the subject matter contained herein and correctly sets forth the rights, duties, and obligations of the parties. No oral representations or modifications regarding this Agreement shall have any force or effect.

5. **Headings.** The section and/or paragraph headings in this Agreement are for the convenience of the parties only and are not intended to modify or define it in any way.

MJB PROPERTIES LLC, a Washington limited liability company

By: *G. Merlino*  
Gary M. Merlino, Manager

By: *John R. Jones*  
John R. Jones, Manager

CITY OF ANACORTES

By: *H. Dean Maxwell*  
H. Dean Maxwell, Mayor

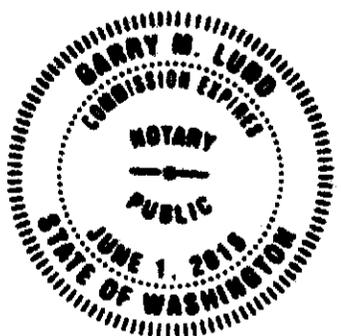
ATTEST:

*Steve Hoglund*  
Steve Hoglund, City Clerk-Finance Director

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that GARY M. MERLINO is the person who appeared before me and acknowledged that he signed the instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Manager of MJB PROPERTIES LLC, a Washington limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this 17<sup>th</sup> day of September 2012.

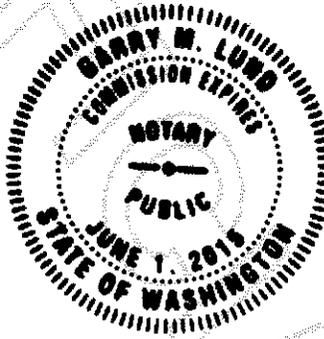


*Barry M. Lund*  
(signature of notary public)  
GARY M. LUND  
(print or type name of notary public)  
NOTARY PUBLIC in and for the State of  
Washington, residing at SEATTLE, WA  
My Commission expires: 6-1-2015

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that JOHN R. JONES is the person who appeared before me and acknowledged that he signed the instrument, on oath stated that he was duly authorized to execute the instrument and acknowledged it as a Manager of MJB PROPERTIES LLC, a Washington limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this 17 day of September 2012.

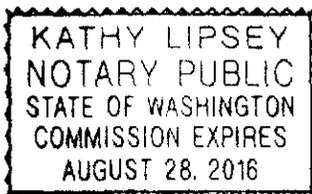


[Signature]  
(signature of notary public)  
GARRY M. LUND  
(print or type name of notary public)  
NOTARY PUBLIC in and for the State of  
Washington, residing at Seattle, WA  
My Commission expires: 6-1-2015

STATE OF WASHINGTON)  
 ) ss.  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that H. DEAN MAXWELL is the person who appeared before me and acknowledged that he signed the instrument, on oath stated that he was duly authorized by the Anacortes City Council to execute the instrument, and acknowledged it as the Mayor of THE CITY OF ANACORTES, a municipal corporation of the State of Washington, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

DATED: October 4, 2012.



[Signature]  
(signature of notary public)  
KATHY LIPSEY  
(print or type name of notary public)  
NOTARY PUBLIC in and for the State of  
Washington, residing at Hamilton  
My Commission expires: Aug 28, 2016

Approved as to form:

[Signature]  
Bradford E. Furlong WSBA #12924  
City Attorney

Date 10-01-12

(Note: Do not write or stamp in the 1" margins.)

Y:\c\2301\012\Storm Drain Easement Replacement\MJB-Anacortes Storm Drain Easement Replacement Agreement F2 (DLH 8-15-2012--legal size).doc

STORM DRAIN EASEMENT REPLACEMENT  
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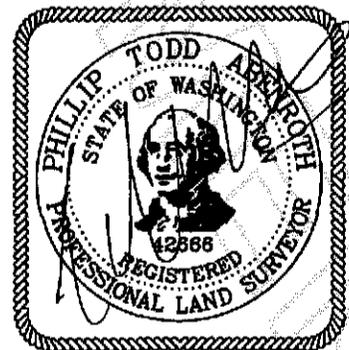
# EXHIBIT "A"

A STRIP OF LAND 20 FEET IN WIDTH BEING 10 FEET ON EACH SIDE OF THE CENTERLINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF "T" AVENUE AND 28TH STREET;  
THENCE NORTH 00°00'00" EAST ALONG THE CENTERLINE OF SAID "T" AVENUE A DISTANCE OF 10.00 FEET;  
THENCE NORTH 89°59'56" EAST PARALLEL WITH THE CENTERLINE OF SAID 28TH STREET A DISTANCE OF 40.00 FEET TO THE EASTERLY MARGIN OF SAID "T" AVENUE, AND THE POINT OF BEGINNING;  
THENCE CONTINUING NORTH 89°59'56" EAST A DISTANCE OF 172.00 FEET;  
THENCE NORTH 16°22'04" EAST A DISTANCE OF 390.24 FEET;  
THENCE NORTH 73°52'16" EAST A DISTANCE OF 77.24 FEET AND THE TERMINUS OF SAID LINE.

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

8-30-12



SCHEMMER JOHNSTON, PLLC  
3014 COMMERCIAL AVE., SUITE C  
ANACORTES, WA 98221

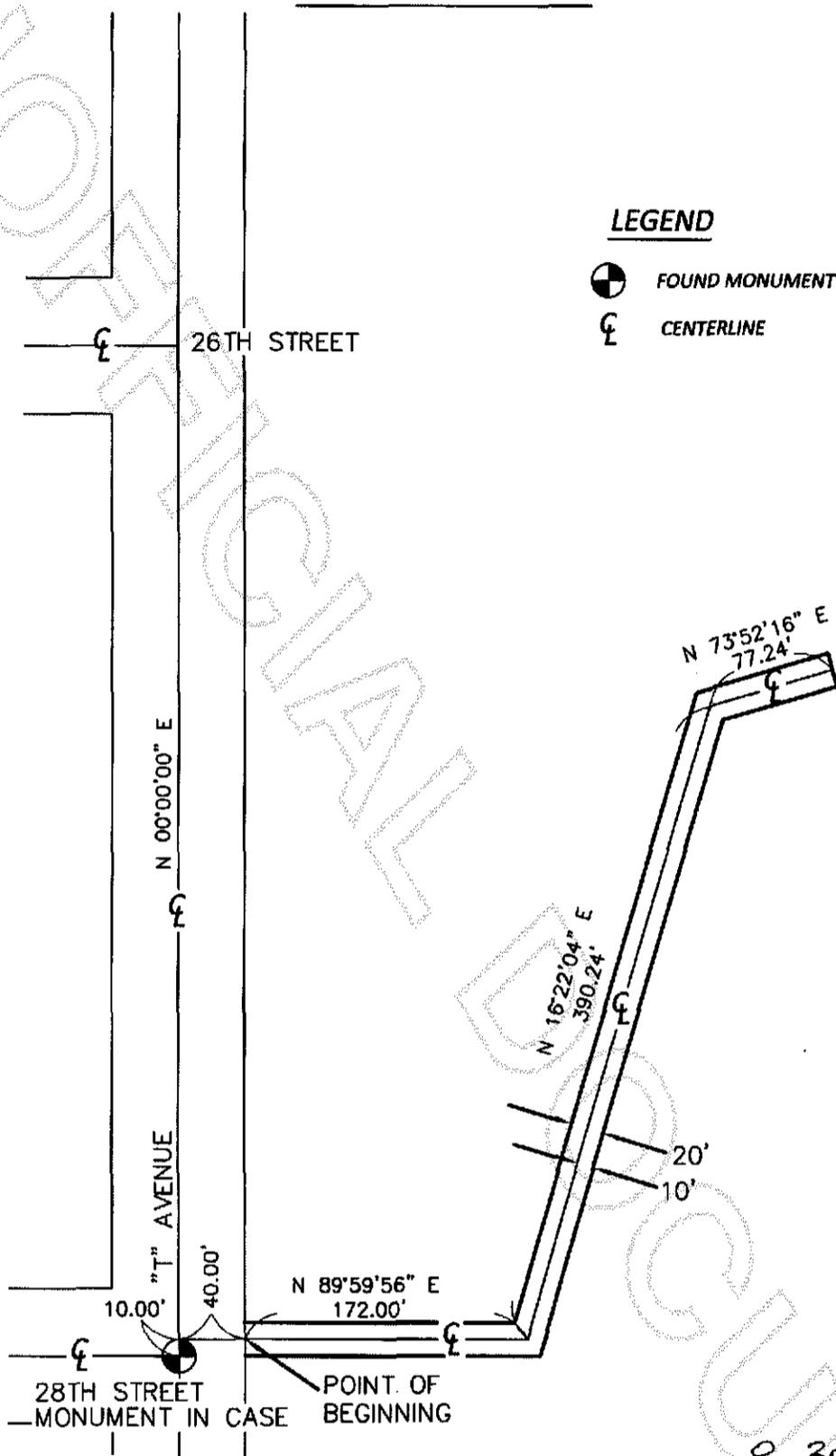
EASEMENT LEGAL DESCRIPTION  
MJB PROPERTIES

DATE: 07-11-2012 SCALE: 1" = 100'  
JOB #: 10-054 SHEET 1 OF 1



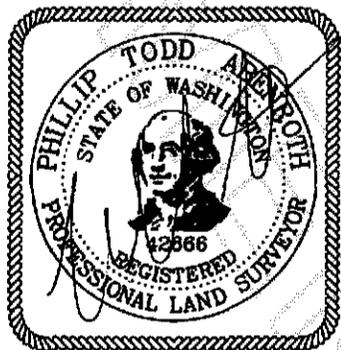
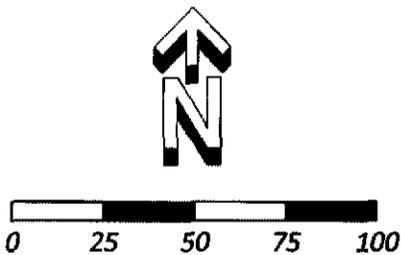
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# EXHIBIT "B"



### LEGEND

-  FOUND MONUMENT
-  CENTERLINE



**S** SCHEMMER JOHNSTON, PLLC  
 3014 COMMERCIAL AVE., SUITE C  
 ANACORTES, WA 98221

EASEMENT MAP EXHIBIT  
 MJB PROPERTIES

DATE: 07-11-2012 SCALE: 1" = 100'  
 JOB #: 10-054 SHEET 1 OF 1



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