



201302120057

Skagit County Auditor

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY BOARD OF COMMISSIONERS
1800 CONTINENTAL PLACE, STE. 100
MOUNT VERNON, WA 98273

DOCUMENT TITLE: Utility Easement

DATE SIGNED: February 11, 2013

GRANTOR: Skagit County

GRANTEE: City of Mt. Vernon

CONTRACT NO.: C20130054

Recording Requested by, and
When Recorded Mail To:

Skagit County
Facilities Management
Attn: Kelley Marriott
1730 Continental Place
Mount Vernon, WA 98273

RECEIVED

DEC 21 2012

SKAGIT COUNTY
PUBLIC WORKS ADMIN

SKAGIT COUNTY
Contract # C20130054
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DOCUMENT TITLE: UTILITY EASEMENT

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

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

GRANTEE(S): City of Mount Vernon, a Washington municipal corporation.

ASSESSOR'S TAX / PARCEL NUMBER(S): P100151 (XrefID: 4367-000-114-1100)
P80363 (XrefID: 4367-000-004-0005)

ABBREVIATED LEGAL DESCRIPTION: PARKER BUSINESS CENTER, PTN PRIVATE COLLEGE WAY ABTG LTS 1,2,3, & 4 PTN PRIVATE COLLEGE WAY ABTG LTS 1,2,3, & 4; and PARKER BUSINESS CENTER, (DK17) LT 4 (DK17) LT 4; situate in the County of Skagit, State of Washington.

UTILITY EASEMENT

The undersigned, **Skagit County**, a political subdivision of the State of Washington ("Grantor"), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants to the **City of Mount Vernon**, a Washington municipal corporation ("Grantee"), a permanent, perpetual, non-exclusive utility easement ("Easement"), as provided herein. Grantor and Grantees may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties." The terms of this Easement are further provided as follows:

1. Nature and Location of Easement. The Easement hereby granted by Grantor herein shall be a permanent, perpetual, non-exclusive, utility easement for the benefit of Grantee, over, upon, across, through, a portion of real property located within and upon Grantor's Property, such Easement as legally described on *Exhibit "A"* and as further described and depicted on *Exhibit "B"*, attached hereto and incorporated herein by this reference, for the purpose of providing a partial route for the placement, installation, use, maintenance, and operation of underground fiber optic lines owned by Grantee. A legal description for the Grantor's Property is attached hereto as *Exhibit "C"*, and is hereby incorporated by reference. The Easement and the covenants, terms, and conditions contained herein are perpetual in

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duration, and shall run with the Grantor's Property and shall be binding upon Grantee and Grantor and each party's respective successors.

2. Use of Easement. The Grantee shall have the right, upon providing reasonable notice Grantor (as determined by Grantor), and at reasonable times (as determined by Grantor), to enter upon the Grantor's Property within the Easement area (as described and depicted in *Exhibit "A" and "B"*) for purposes of using the Easement for the placement, installation, use, maintenance, and operation of underground fiber optic lines owned by Grantee, subject to the terms of this Easement. Grantee shall not have the right to exclude Grantor or third parties the Easement area or from the Grantor's Property (without the revocable written permission of Grantor). Grantee shall not interfere with the Grantor's use of the Grantor's Property whatsoever (including, but not limited to, Grantor's use of the property located within the Easement area). Grantee accepts use of the Easement area on Grantor's property "as is", without any representations or warranties from Grantor whatsoever (express or implied).

2.1 Grantee agrees to be responsible and liable for any damages or impact to Grantor's Property arising from Grantee's use of the Easement, and upon the request of Grantor, the Grantee shall repair and restore the Grantor's Property to a substantially similar condition as existed before Grantees entered onto the Grantor's Property for the purposes described in this Easement. Prior to the commencement of any work within the Easement area, the Grantee shall coordinate with Grantor to avoid any disturbance, impact, or damage to facilities owned by Grantor at or within the Easement area (including, but not limited to, utilities and/or fiber optic lines owned and/or used by Grantor). Any work performed within the Easement area by Grantee shall be performed so as not to not unreasonably interfere with the free passage of pedestrian and/or vehicle traffic therein, or with the reasonable ingress or egress to Grantor's Property. In the event that the Grantor performs (or contracts to have performed) work that the Grantor considers necessary (at the sole judgment and discretion of the Grantor) to repair and/or restore to a safe and/or usable condition any area, equipment, or facilities at or within Grantor's Property which are damaged or disturbed by Grantee, the Grantor shall be reimbursed by the Grantee for the actual costs and expenses incurred by the Grantor for any such repair and/or restoration work (including, but not limited to, labor, materials, supplies, use of Grantor's equipment, and Grantor's staff time); and, in addition thereto, nine percent (9%) of the total actual costs and expenses incurred by the Grantor shall be added for overhead costs for accounting, billing, and administrative services, provided that the Grantor shall submit to the Grantee a certified statement of the costs, and within thirty (30) days thereafter, Grantee shall pay to the Grantor the amount of said statement.

3. Hold Harmless, Defense, & Indemnification. The Grantee hereby unconditionally releases and forever discharges and holds harmless the Grantor (including the Grantor's elected officials, employees, volunteers, officers, and/or agents in both their official and individual capacities) from any and all past, present, and/or future claims, counterclaims, demands, judgments, debts, costs, liabilities, expenses, suits, and proceedings of any kind and nature, as arising from and/or related to the Grantee's use of the Easement area on Grantor's Property. The Grantee agrees to be responsible for and to assume liability for Grantee's own wrongful and/or negligent acts or omissions or those of Grantee's officials, officers, agents, contractors, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the Grantor harmless from any such liability. It is further provided that no liability shall attach to the Grantor by reason of entering into this Easement except as expressly provided herein. The terms of this section shall survive any termination of this Easement, and shall continue in full force and effect.



4. Limitation of Liability. Any party having a claim against the Grantee, however arising, shall have recourse only to the extent of assets and property of the Grantee, and shall have no recourse against the Grantor, its appointed or elected officers, employees, volunteers or its/their assets or credits.

5. Governing Law; Venue. This Easement 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 shall be in Skagit County, State of Washington.

6. Compliance with Laws and Permits. Grantee shall, at Grantee's own cost, expense, and liability, obtain and comply with all applicable federal, state, and local laws, rules, and regulations, and any applicable permits and/or approvals, in using the Easement, and shall be solely and separately liable and responsible for any non-compliance with any applicable federal, state, and local laws, rules, regulations, permits and/or approvals.

7. No Third Party Beneficiaries. This Easement 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, the general public, third party property owner(s) and tenant(s) at or in the vicinity of the Easement area, any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any party.

8. No Assignment. This Easement may not be assigned, contracted, and/or transferred to any other individual, firm, company, party, and/or other entity by Grantee without the express and duly authorized prior written approval of the County. Grantor may assign or transfer this Easement without the consent of Grantee.

9. Other Terms (Modifications; Neutral Authorship; Captions & Counterparts; Entire Agreement). This Easement 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 Easement shall not be considered a waiver of any prior or subsequent breach. In the event any term or condition of this Easement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Easement which can be given effect without the invalid term, condition, or application. To this extent and end the terms and conditions of this Easement are declared severable. Each of the terms and provisions of this Easement have been reviewed and negotiated, and represents the combined work product of the parties hereto. No presumption or other rules of construction which would interpret the provisions of this Easement 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 and have either done so, or have voluntarily chosen not to do so. Grantor (Skagit County) does not represent Grantee. The parties represent and warrant that they have fully read this Easement, that they understand its meaning and effect, and that they enter into this Easement with full knowledge of its terms. The parties have entered into this Easement without duress or undue influence. The captions in this Easement are for convenience and reference only and do not define, limit, or describe the scope or intent of this Easement. This Easement 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. This Easement contains all the terms and conditions mutually agreed upon by the parties. This Easement 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 Easement shall be deemed to exist or to bind any of the parties hereto.

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

GRANTEE:

DATED this 17th day of December, 2012.

CITY OF MOUNT VERNON

By: Jill Boudreau
Jill Boudreau, Mayor

Attest By:

Alicia D. Huschka
Alicia D. Huschka
Finance Director

Approved as to Form:

Kevin Rogerson
Kevin Rogerson
City Attorney

easement
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

FEB 12 2013

Amount Paid \$
Skagit Co. Treasurer
By MF Deputy

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Jill Boudreau, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized execute the instrument and acknowledged it as the Mayor of the City of Mount Vernon, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 17th day of December, 2012.
(SEAL)

Kerri A. Grechishkin
Notary Public
Print name: Kerri A. Grechishkin
Residing at: Mount Vernon
My appointment expires: 7/3/2015

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DATED this 11 day of February, 2013.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Sharon D. Dillon
Sharon D. Dillon, Chair

Ron Wesen
Ron Wesen, Commissioner

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Commissioner

Attest:

Linda Hammer
Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

Henry Haff
Department Head

County Administrator

Approved as to form:

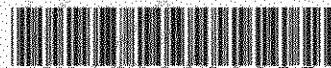
[Signature] 1/4/13
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

[Signature]
Risk Manager

Approved as to budget:

Linda Fogue
Budget & Finance Director



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STATE OF WASHINGTON

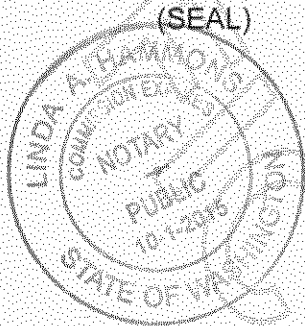
COUNTY OF SKAGIT

} 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 11 day of February, 2013.

(SEAL)



Linda Hammons

Notary Public

Print name: Linda Hammons

Residing at: Skagit County, WA

My appointment expires: 10-1-2015



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EXHIBIT "A"

EASEMENT LEGAL DESCRIPTION

The West 7.5 feet of the following described property:

Tract 4 of the "Parker Business Center", as per plat recorded in Volume 11 of Plats, pages 91 through 96, inclusive, records of Skagit County, Washington,

TOGETHER WITH that portion of the 20 foot wide private road abutting College Way on the South lying between the West line of Lot 4 and the East line of Lot 4 produced North in the plat of "Parker Business Center", as per plat recorded in Volume 11 of Plats, pages 91 through 96, inclusive, records of Skagit County, Washington.

Situate in the City of Mount Vernon, County of Skagit, State of Washington.



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EXHIBIT "B"
GRAPHIC DEPICTION OF UTILITY EASEMENT AREA

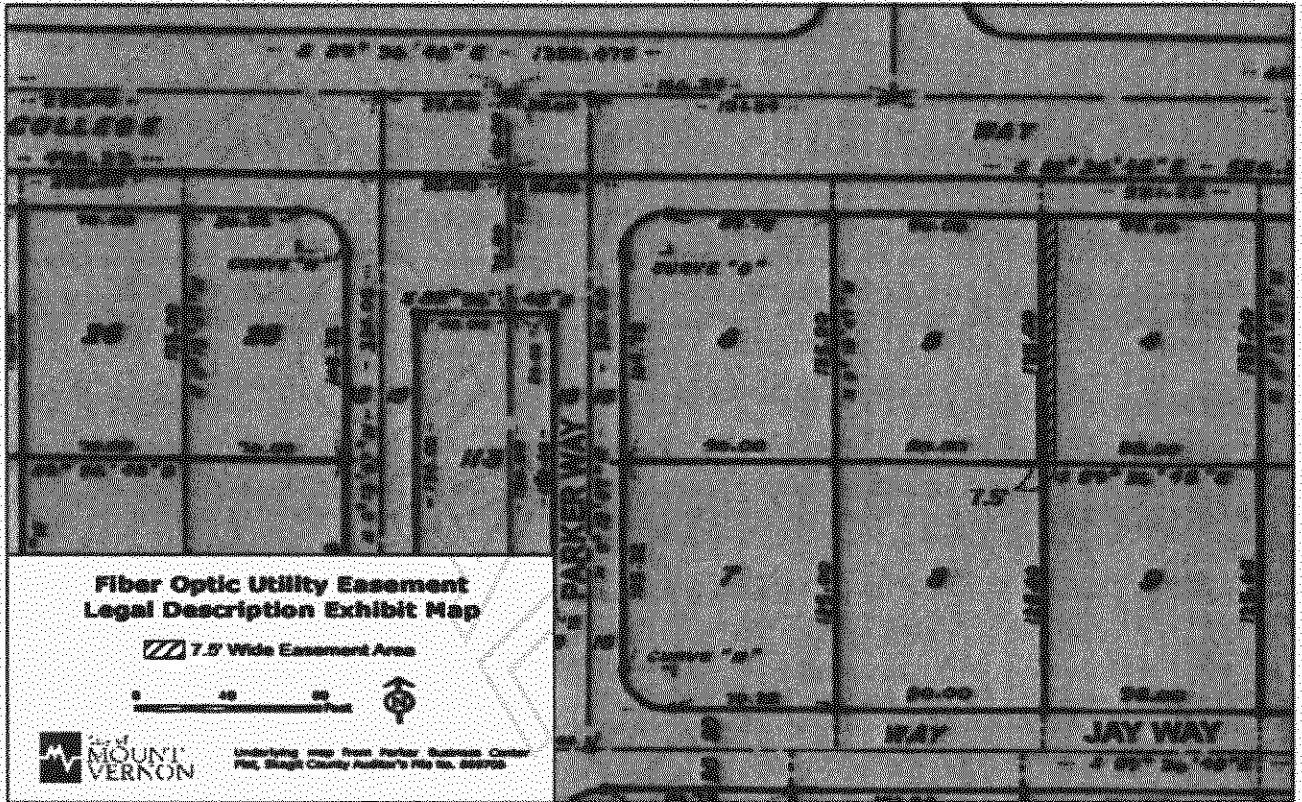


EXHIBIT "C"
LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

Tract 4 of the "Parker Business Center", as per plat recorded in Volume 11 of Plats, pages 91 through 96, inclusive, records of Skagit County, Washington,

TOGETHER WITH that portion of the 20 foot wide private road abutting College Way on the South lying between the West line of Lot 4 and the East line of Lot 4 produced North in the plat of "Parker Business Center", as per plat recorded in Volume 11 of Plats, pages 91 through 96, inclusive, records of Skagit County, Washington.

Situate in the City of Mount Vernon, County of Skagit, State of Washington.



SCHACHT & HICKS, INC., P.S.

ATTORNEYS AT LAW

RICHARD F. SCHACHT - DECEASED
JOHN W. HICKS

1603 SOUTH THIRD STREET

THIRD AND VERA STREETS

P. O. BOX 1165

MOUNT VERNON, WASHINGTON 98273

TELEPHONE
(360) 336-6865

FAX:
(360) 336-6801

January 29, 2013

STEPHEN R FALLQUIST
DEPUTY PROSECUTING ATTORNEY
SKAGIT COUNTY PROSECUTING ATTORNEY
605 S THIRD STREET
MOUNT VERNON WA 98273

Re: College Way Village Association -
Proposed Utility Easement to City of Mount Vernon

Dear Mr. Fallquist,

I believe I have previously discussed these issues with Kim Kleppe at the City of Mount Vernon. The easement location issue was reviewed with Bill Ronhaar at Land Title. The area through which the proposed easement is to run, I believe, is owned by Christenson and the Association has no interest.

Hopefully this meets with your needs set forth in your January 28, 2013, letter.

Respectfully,

SCHACHT & HICKS, INC., P.S.


JOHN W. HICKS

JWH:kn

c: Vera Rothrock, College Way Village Association



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