

Filed for Record at Request of:



201406050106

Skagit County Auditor

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1 of

13 3:28PM

DOCUMENT TITLE: Costs Sharing Agreement

REFERENCE NUMBERS OF RELATED DOCUMENT: N/A

GRANTORS: Northwest Plus Credit Union  
Clearly J&D LLC

GUARDIAN NORTHWEST TITLE CO.

GRANTEES: Northwest Plus Credit Union  
Clearly J&D LLC

A107047-2

ABBREVIATED LEGAL: Lots C & D, BLA to Lots 13-17, Blk 6, Knutzen's Add  
(AF#201105130099)

ASSESSOR'S TAX PARCEL NUMBERS: P130625 (Lot C)  
P130626 (Lot D)

### COSTS SHARING AGREEMENT

This COSTS SHARING AGREEMENT ("Agreement") is entered into as of June 4<sup>th</sup>, 2014, by and between Northwest Plus Credit Union, a Washington nonprofit credit union, and Clearly J&D LLC, a Washington limited liability company, (collectively "Grantors"), and Northwest Plus Credit Union, a Washington nonprofit credit union ("NWPCU"), and Clearly J&D LLC, a Washington limited liability company ("Wald"), (collectively "Grantees").

### WITNESSETH:

WHEREAS, Grantors and Grantees are owners of the real properties respectively described on Exhibits A and B attached hereto and made a part hereof;

WHEREAS, Grantors and Grantees desire to evidence their agreement related to sharing costs associated with and benefitting their respective properties upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties covenant and agree as follows:

1. Cost Sharing. Grantors and Grantees, in consideration of the covenants and agreements to be performed by each and upon the terms and conditions hereinafter stated, do hereby agree to

share equally the costs associated with installation, ~~maintenance, repair and improvements~~ to the Electrical Utilities (Puget Sound Energy) being extended from Cedar Street location to the "Junction Point of Utilities" as shown on Exhibit C, which Electrical Utilities shall be shared by Lots C and D and include at least the specific Electrical Utilities set forth in Exhibit D.

2. Term. The term of this Agreement shall begin the date hereof and expire by agreement of the parties. In other words, this Agreement shall and does run with land of the Grantors and Grantees so long as Lots C and D share Electrical Utilities and Electrical Utility infrastructure and or any costs associated therewith remaining due and owing from one Owner to another.

3. Monetary Obligations. (a) All monetary obligations of parties to ~~acquire, to provide for~~ <sup>install</sup> ~~and to maintain~~ the Electrical Utilities shall be shared equally between the Owner of Lot C and the Owner of Lot D. As of the date of this Agreement, it appears most likely that Lot D will be developed and using the Electrical Utilities first. As such, Lot D shall be 100% responsible for the costs of the Electrical Utilities until such time as Lot C is transferred or developed, whichever occurs first, at which point Lot C Owner must and shall as a precondition to using the Electrical Utilities pay Lot D Owner back 50% of all costs incurred by Lot D Owner in extending the Electrical Utilities as provided for in Paragraph 1, above, together with interest at 3% per annum. All costs associated with Lot C connecting to the Electrical Utilities shall be its Owner's sole costs, including but not limited to restoring the conditions of the affected areas to the preconditions.

4. Best Efforts, Good Faith Obligations and Equal Sharing of Day to Day Operations. The parties agree to use their best efforts to ensure that their tenants, employees, invitees and such shall and will use the Electrical Utilities appropriately. Each party shall police its own users and inform its users of proper policies and procedures for use of the Electrical Utilities. In addition, the parties shall act together in good faith to equitably share and allocate any and all duties of, maintenance and repair of the Electrical Utilities.

5. Access; Alterations. (a) The parties acknowledge that certain Electrical Utilities may be configured such that a party may need access to the other's property for purposes of maintaining or making adjustments or repairs to Electrical Utilities (e.g., pipes, conduits, electrical wiring, etc.) serving such party's property or for such other reasonable purposes. Provided that the party exercising this access right does not unreasonably interfere with the access and use of the other party to the Electrical Utilities, permission for such entry is hereby granted.

(b) No party may make any alterations to its property that would adversely affect the other party's use of the Electrical Utilities, including any alterations that would (i) reduce the availability of Electrical Utilities, (ii) impair access to the other party's property or (iii) cause the other party's property not to comply with applicable law.

6. Assignment and Subletting. (a) The parties may not assign this Agreement, or allow it to be assigned, in whole or in part, by operation of law or otherwise or mortgage or pledge the same (any of the foregoing transactions is herein referred to as a "Transfer"), without the prior written consent of the other, which consent may be withheld by the other in its sole and absolute



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discretion without regard to standards of reasonableness. Notwithstanding the foregoing, this prohibition against Transfer shall not and does not apply to transfers of title of the parties' properties, as this Agreement shall and does run with the land until terminated.

(b) Any purported Transfer consummated in violation of the provisions of this Section 6 shall be null and void and of no force or effect.

7. Consent/Approvals. In the event a party seeks a consent or approval from the other with respect to any matter to which such consent or approval is or should be reasonably required under this Agreement, then the time period, if any, in which the party shall be required to respond to the requesting party shall be thirty (30) days after the party's receipt of the written request therefor. If no response is received in that time period, the response shall be deemed consent. If negative response is received during that time period, the parties shall use their best efforts to resolve the matter before resorting to arbitration.

8. No Waiver. The failure of a party to insist in any instance upon the strict keeping, observance or performance of any covenant, agreement, term, provision or condition of this Agreement or to exercise any election herein contained shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition or election, but the same shall continue and remain in full force and effect. No waiver or modification by a party of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by such party. Nor shall this Agreement be construed as waiving any rights the parties would otherwise have at law or in equity, unless expressly modified in this Agreement.

9. Notices. Any notice or demand which either party may or must give to the other under this Agreement shall be given in writing by mail or personal service, addressed as follows:

If to NWPCU: Northwest Plus Credit Union  
2821 Hewitt Ave.  
Everett, WA. 98201

If to Wald: Clearly J&D LLC  
2304 Hawk Way  
Bellingham, WA 98229

Any party may, by notice in writing, direct that future notices or demands be sent to a different address.

10. Successors. The covenants and agreements herein contained shall bind and inure to the benefit of the parties and their respective permitted successors and assigns.

11. Captions. The captions or headings of paragraphs in this Agreement are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.



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12. Severability. If any provisions of this Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

13. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Washington.

14. Further Assurances. The parties shall execute, acknowledge and deliver such instruments and take such other action as may be necessary or advisable to carry out their rights and obligations under this Agreement.

15. Reasonableness and Good Faith. Whenever this Agreement grants a party the right to take action, exercise discretion or make other determinations regarding the Utilities, such party agrees to act reasonably, timely and in good faith unless a different standard is specified herein.

16. Arbitration. Except for the non-payment of charges due under this Agreement (unless the applicable party first pays under protest as provided for below), all disputes and disagreements between the parties shall be resolved pursuant to an arbitration proceeding pursuant to the rules of the American Arbitration Association. The provisions of this Agreement contain the sole and exclusive method, means and procedure to resolve, as between the parties, any and all disputes or disagreements, including whether any particular matter constitutes, or with the passage of time would constitute, a default. As to any matter submitted to arbitration to determine whether it would, with the passage of time, constitute a default, such passage of time shall not commence to run until any such affirmative determination, so long as it is simultaneously determined that the challenge of such matter as a potential default was made in good faith, except with respect to the payment of money. With respect to the payment of money, such passage of time shall not commence to run in the event that the party which is obligated to make the payment does in fact make payment to the other party. Such payment shall be accompanied by a good-faith notice stating why the party has elected to make a payment under protest. Such protest will be deemed waived unless the subject matter identified in the protest is submitted to arbitration pursuant to this Section 20 within sixty (60) days of the payment made in protest.

17. Counterparts. This document may be executed in counterparts each of which when taken together shall constitute one original.

*[SIGNATURES ON FOLLOWING PAGE]*

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first written above.

GRANTORS:

Northwest Plus Credit Union

Doug Bennett  
By: Doug Bennett  
Its: CEO

Clearly J&D LLC

GRANTEES:

Northwest Plus Credit Union

Doug Bennett  
By: Doug Bennett  
Its: CEO

Clearly J&D LLC

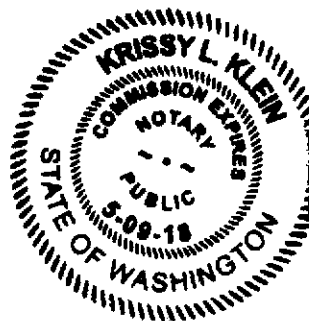
By: Joseph Wald  
Its: Member

By: Joseph Wald  
Its: Member

STATE OF WASHINGTON )  
 ) ss:  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that Doug Bennett is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument as the CEO of Northwest Plus Credit Union, a Washington nonprofit credit union, pursuant to the provisions of the Bylaws of said organization, and acknowledged it to be the free and voluntary act of said organization for the uses and purposes mentioned in said instrument.

DATED THIS 4<sup>th</sup> day of June 2014.



Krissy L. Klein  
Notary Public in and for the state of Washington  
Residing at: Arlington  
My commission expires: 5-9-18



IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first written above.

GRANTORS:

Northwest Plus Credit Union

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Clearly J&D LLC

By: Desiree Casson Wald  
Its: Member

By: Joseph Wald  
Its: Member

GRANTEES:

Northwest Plus Credit Union

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Clearly J&D LLC

By: Desiree Casson Wald  
Its: Member

By: Joseph Wald  
Its: Member

STATE OF WASHINGTON )  
 ) ss:  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument as the \_\_\_\_\_ of Northwest Plus Credit Union, a Washington nonprofit credit union, pursuant to the provisions of the Bylaws of said organization, and acknowledged it to be the free and voluntary act of said organization for the uses and purposes mentioned in said instrument.

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2014.

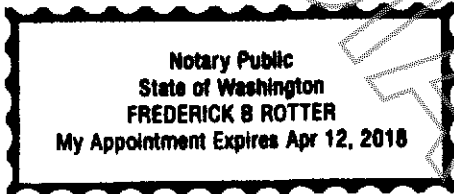
Notary Public in and for the state of Washington  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_





STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )  
 WASHINGTON

I certify that I know or have satisfactory evidence that Joseph Wald and Desiree Casson Wald are the persons who appeared before me, and said persons acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument as the Authorized Member of Clearly J&D LLC, a Washington limited liability company, pursuant to the governing document of said company, and acknowledged it to be the free and voluntary act of said organization for the uses and purposes mentioned in said instrument.



F. B. Rotter  
Notary Public in and for the state of Washington  
Residing at: Bremerton  
My commission expires: April 12, 2018



EXHIBIT A  
(Legal Description for Northwest Plus Credit Union Parcel)

NORTHWEST PLUS CREDIT UNION PARCEL (P130625):

Lot C, Boundary Line Adjustment to Lots 13 through 17, Block 6, Knutzen's Addition to the Town of Burlington, according to that certain Boundary Line Adjustment recorded May 13, 2011, under Skagit County Auditor's File Number 201105130099, more particularly described as follows:

All that portion of Lots 16 and 17, Block 6, "Knutzen's Addition to the City of Burlington" as per the plat recorded in Volume 3, Page 80, records of Skagit County, Washington, lying within the Northwest quarter of the Northwest quarter of Section 5, Township 34 North, Range 4, W.M. and described as follows:

Commencing at the Southeast corner of Lot 13, Block 6 of said plat, thence North  $01^{\circ}36'26''$  East along the East line of said block a distance of 153.52 feet; thence North  $88^{\circ}30'42''$  West a distance of 99.84 feet to the true point of beginning; thence continuing North  $88^{\circ}30'42''$  West a distance of 87.82 feet to the beginning of a tangent curve to the right having a radius of 12.00 feet; thence along the arc of said curve through a central angle of  $90^{\circ}05'39''$  a distance of 18.87 feet to a point on the West line of aforesaid Lot 16, thence North  $01^{\circ}34'57''$  East a distance of 64.32 feet to the Northwest corner of Lot 17; thence South  $88^{\circ}30'42''$  East along the North line thereof a distance of 99.86 feet to a point which bears North  $01^{\circ}35'41''$  East from the true point of beginning; thence South  $01^{\circ}35'41''$  West a distance of 76.34 feet to the true point of beginning.

Situate in Skagit County, Washington.



EXHIBIT B  
(Legal Description for Wald Parcel)

WALD PARCEL (P130626):

Lot D. Boundary Line Adjustment to Lots 13 through 17, Block 6, Knutzen's Addition to the Town of Burlington, according to that certain Boundary Line Adjustment recorded May 13, 2011, under Skagit County Auditor's File Number 201105130099, more particularly described as follows:

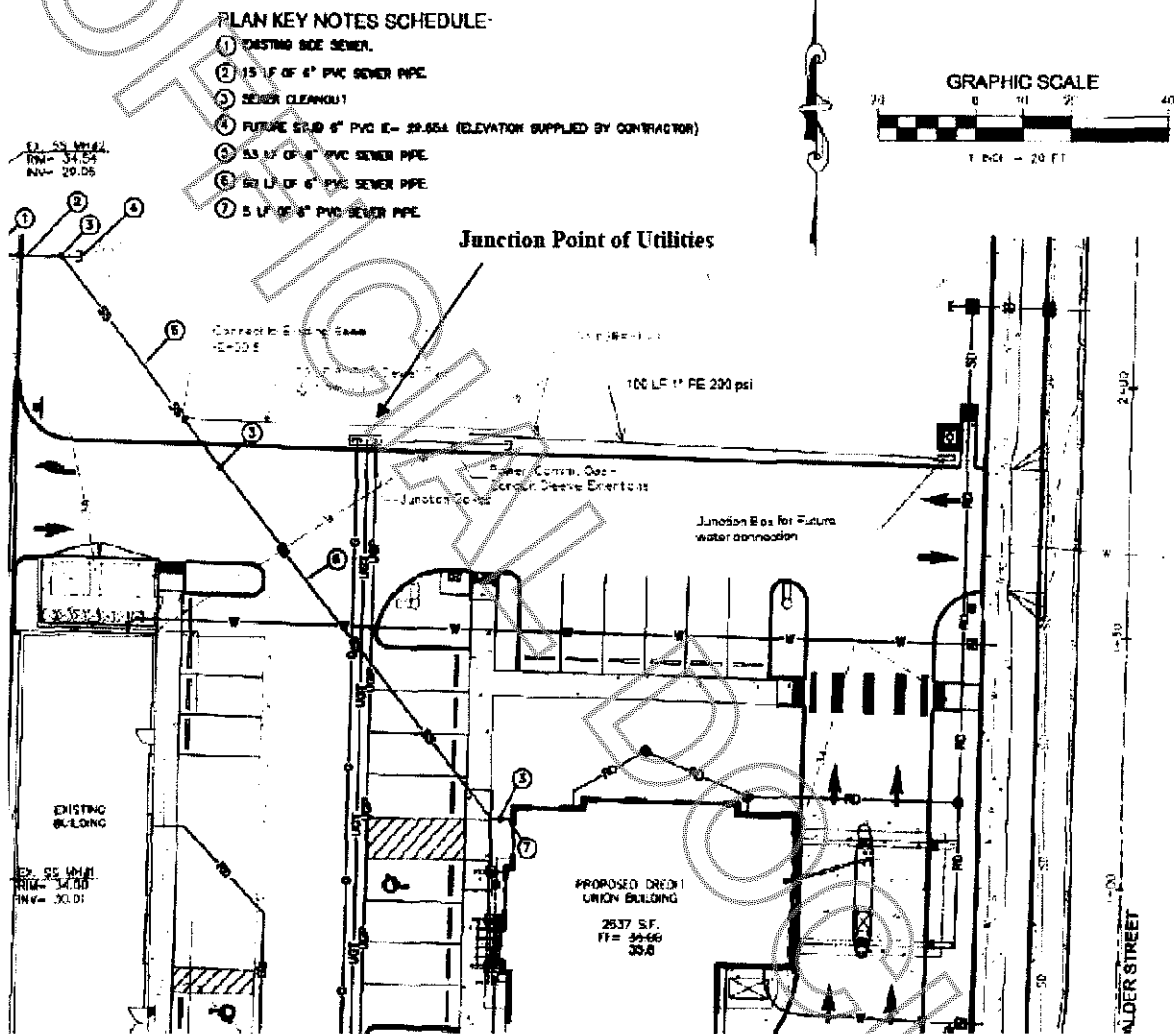
All that portion of Lots 16 and 17, Block 6, "Knutzen's Addition to the City of Burlington" as per the plat recorded in Volume 3, Page 80, records of Skagit County, Washington, lying within the Northwest quarter of the Northwest quarter of Section 5, Township 34 North, Range 4, W.M. and described as follows:

Commencing at the Southeast corner of Lot 13, Block 6 of said plat; thence North  $01^{\circ}36'26''$  East along the East line of said block a distance of 153.52 feet to the true point of beginning; thence North  $88^{\circ}30'42''$  West a distance of 99.84 feet; thence North  $01^{\circ}35'41''$  East a distance of 76.34 feet to the North line of aforesaid Lot 17; thence South  $88^{\circ}30'42''$  East a distance of 99.86 feet to the Northeast corner of said Lot 17; thence South  $01^{\circ}36'26''$  West a distance of 76.34 feet to the true point of beginning.

Situate in Skagit County, Washington.



# EXHIBIT C (Junction Point of Utilities)



201406050106

EXHIBIT D  
(List of Utilities)

For the Mutual Benefit of Lot C and Lot D underground 7,200 volt electrical power service with a single transformer to be located at the Junction Point on Lot C. Capacity shall be adequate to serve Lot C with 240V - 400A, and Lot D with 240V - 400A.

These Electrical Utilities shall be installed in existing conduits within the drive isle of Lot E to a Junction Point on Lot C, as shown on attached Exhibit C.

Costs of installation to the Junction Point on Lot C shall be divided equally between the Buyer and Seller. Electrical Utility Installation and ongoing services beyond the Junction Point and Transformer shall be a cost to and the responsibility of the individual Lot Owners.

If the Owner of Lot D unilaterally commences installation of said Electrical Utilities, the Owner of Lot C's portion of the costs (i.e., 50%) shall become a lien against Lot C. The Owner of Lot C shall have the right to pay the designated amount at any time, without the requirement of a transfer to trigger the pay off. If the Owner of Lot C has not paid off the lien prior to any transfer of title to Lot C, then any such transfer of title to Lot C shall trigger payoff. If payment is not then made, the lien created hereby may be foreclosed non-judicially according to Washington's Deed of Trust Act.

Upon completion of Electrical Utility Installations to the Junction Point and Transformer, all paid Electrical Utility Installation bills shall be presented to the Owner of Lot C so that the total can be recorded as an addendum to this Agreement. Again, one half of this total amount shall be the lien amount to be recorded on Lot C, together with interest as provided in this Agreement.

