



201610120044

Skagit County Auditor  
10/12/2016 Page

1 of 13 3:04PM \$135.00

Document Title:

Access Easement Agreement

Reference Number:

Land Title and Escrow

Grantor(s):☐ additional grantor names on page \_\_\_\_

1. H. Michael Shea  
Kasey Shea
2. Donald E. Fosso

#156000-FAE

accommodation only

Grantee(s):☐ additional grantee names on page \_\_\_\_

1. Yumi Winslow, Trustee of the Eiji Kamisaku Trust
2. Fusako Kamisaku, Trustee of the Fusako Kamisaku Revocable Living Trust

Abbreviated legal description:☐ full legal on page(s) \_\_\_\_

Exh 1 - ptn 4-6, blk 64, map of fidalgo city  
Exh A - lts 2-13, blk63, map of fidalgo city  
Exh B - lots 1&14, blk 63, map of fidalgo city  
Exh C - Lots 5-10, blk. 59, map of fidalgo city

Assessor Parcel / Tax ID Number: ☐ additional tax parcel number(s) on page \_\_\_\_

P73059, P73062, P73061, P102825,

I, Christi P. Straathof, am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$72.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed Dated 10/10/16

## Access Easement Agreement

THIS ACCESS EASEMENT AGREEMENT ("Agreement") is entered into by and between: H. MICHAEL SHEA AND KASEY SHEA (husband and wife, collectively Shea); DONALD E FOSSO ( a single man); YUMI WINSLOW, Trustee of THE EIJI KAMISAKU TRUST and FUSAKO KAMISAKU, Trustee of THE FUSAKO KAMISAKU REVOCABLE LIVING TRUST (collectively Kamisaku) as of 8-30 2016 ("Effective Date")

### RECITALS

- A. Shea is the owner of the real property more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference (Shea Property). Fosso is the owner of real property contiguous with Shea to the South more particularly described in **Exhibit B**, attached hereto and incorporated herein by reference (Fosso Property) and Kamisaku is the owner of real property contiguous with the Shea property to the West more particularly described in **Exhibit C**, attached here to and incorporated here by reference (Kamisaku Property).
- B. Shea and Fosso wish to obtain from Kamisaku an agreement to grant a permanent non-exclusive easement over, under, across and through that portion of the Kamisaku property as described in **Exhibit 1**, attached hereto and incorporated herein by reference (the "Easement Area"), upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, FOR valuable consideration, the sufficiency of which is acknowledged by the parties, the parties agree to the following:

### AGREEMENT

1. Recitals: The above recitals are hereby made a part of this Agreement and the parties represent and warrant they are true and correct.
2. Grant of Easements:

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

OCT 12 2016

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

- 2.1 Kamisaku, on behalf of itself and its successors and assigns, hereby grants and conveys to Shea and Fosso, and their agents, tenants, successors and assigns a permanent and non-exclusive easement over, under, across and through the Easement Area described and referenced in Attached **Exhibit 1** for the purposes of access, ingress, egress and utilities to the Shea property and the Fosso Property and as setback allowance for the existing Shea shop.
- 2.2 Kamisaku, on behalf of itself and its successors and assigns, hereby grants and conveys to Shea, and their agents, tenants, successors and assigns a permanent and exclusive easement over, under, across any portion of the Kamisaku Property which is located under or within fifteen feet of the existing shop located on or

near the boundary line between the Shea Property and the Kamisaku Property for the purposes of access, ingress, egress, utilities and all other uses directly related to or incidental to the use of the shop.

3. Conditions of Easement: The easement identified in Section 2.1 above is granted subject to and conditioned upon the following terms, conditions, and covenants which the parties, their agents, tenants, successors and assigns promise to faithfully and fully observe to perform:

3.1 Rights of Easement. Fosso and Shea, their agents, tenants, successors and assigns, shall have the permanent and non-exclusive use of the Easement Area granted in Section 2.1 above, for the purposes identified in paragraph 2.1 above, and shall have the right to use the Easement area for access, ingress, egress and utilities purposes. Shea, their agents, tenants, successors and assigns shall have permanent right for the existing shop to remain in its current location.

3.2 Kamisaku Road Rights. Kamisaku reserves the right to itself to make any use of the Easement Area identified in Section 2.1 above that is not inconsistent with the rights conveyed to Shea and Fosso under this Agreement and that does not interfere with the use of the Easement Area by Shea and Fosso, including but not limited to Fosso's right, and obligations to construct and maintain roadways, culverts and related improvements in the Easement Area provided that such actions do not in any way interfere with Shea's rights.

3.3 Permitted Use: Fosso agrees to use the Easement Area identified in Section 2.1 for any permissible purposes consistent with the rights and usage set forth in this Agreement as a replacement and substitution for the area and setback occupied by the current Shea shop within that portion of the current easement along the east half of Potter Street. Any easements held by Fosso which grant rights to Fosso to the area under or within fifteen feet of the existing Shea shop are hereby modified so that any and all such rights are terminated as to any area situated under or within fifteen feet of the existing Shea shop or any portion of the Shea Property located to the east of such area.

3.4 Maintenance Obligations: Fosso shall, at its sole cost, responsibility and expense, have the obligation to construct, maintain, repair, reconstruct and rebuild as necessary the road, culverts, shoulders and all other improvements located within the Easement Area and maintain the Easement Area itself.

In addition, Fosso shall agree to become party to the Declaration of Road Maintenance Agreement with Auditors File Number 200406300008 at such time that a Skagit County Permit is issued for Driveway and site Development to the property (P73061) and referenced in Exhibit B.

3.5 Hazardous Substances and Waste: All parties, and their agents, tenants, successors and assigns, covenant and agree they will not use, store or dispose of

any hazardous substance or waste in or around the Easement Area and further covenant and agree they shall comply with any and all governmental laws, regulations and ordinances regarding the handling, transportation and storage of hazardous substances and hazardous wastes.

### 3.6 Indemnification

3.6.1 Right to Indemnification: The parties shall defend, indemnify and hold one another harmless from and against liabilities, claims, actions, damages, costs and expenses of any kind or nature, including but not limited to legal fees and costs and other professional expenses, arising out of or in connection with the indemnifying party's acts or omissions.

3.6.2 Procedure Regarding Indemnification Rights: In the event any party receives notice of a claim or demand against which it is entitled to indemnification pursuant to this paragraph, it shall immediately give written notice of the claim to the other parties. The party obligated to indemnify shall immediately take such measures as may be reasonably required to properly and effectively defend against the claim, and may defend the claim with counsel of its own choosing, approved by the other parties provided such approval is not unreasonably withheld or delayed. In the event the party obligated to indemnify fails to properly and effectively defend the claim, then the parties entitled to the indemnification may defend the claim with counsel of their own choosing at the expense of the party obligated to provide the defense.

3.7 Third Party Rights: Unless otherwise provided by the terms of this Agreement, Kamisaku reserves all rights with respect to the Kamisaku property, including, without limitation, the right to grant easements, licenses and permits to others subject to the rights granted in this Agreement.

4. General Provisions. The following general provisions shall apply with respect to this Agreement:

4.1 Successors and Assigns. The right and obligations created pursuant to this Agreement shall bind all subsequent owners of the Shea Property, as described in Exhibit A, as well as all subsequent owners of the Fosso Property, Exhibit B and as well as all subsequent owners of the Kamisaku Property, Exhibit C.

4.2 Running Covenants: This Agreement is, and in all events shall be, understood to relate to the properties described in Exhibits A, B and C and shall be deemed to be covenants running with the land and shall inure to and be binding upon the successors, assigns, heirs and personal representatives of the parties.

4.3 Entire Agreement Modifications: This agreement is the entire understanding between the parties with respect to the easement described herein and all prior or

UNO  
contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision in this Agreement may be waived, modified, amended, discharged or terminated, except by an instrument in writing signed by all parties and then, only to the extent set forth in such instrument.

4.4 Execution of Documents: The parties agree to execute any documents that may be necessary, appropriate or convenient to carry out the intent of this Agreement.

4.5 Notices: Any notice required or permitted to be delivered under this Agreement shall be in writing and shall be validly given and made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing. If such notice is personally delivered, it shall be deemed given and received at the time of such delivery. If such notice is delivered by Federal Express, or other overnight delivery service of recognized standing, it shall be deemed given one (1) business day after the deposit with such delivery service. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is given as follows, or to such other address as provided by one party to the other in writing in the manner provided for in this paragraph:

If to Shea: H. Michael & Kasey Shea  
14678 Hoxie Lane  
Anacortes, WA 98221

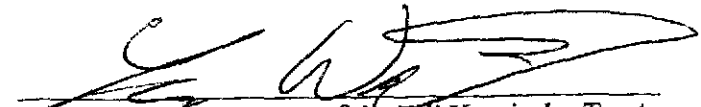
If to Fosso: Donald Fosso  
1469 NE 4<sup>th</sup> Avenue  
Oak Harbor, WA 98277

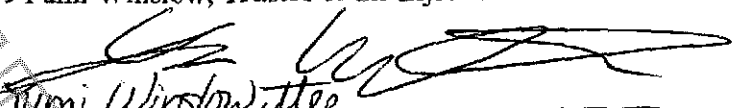
If to Kamisaku Yumi Winslow & Fusako Kamisaku  
14682 Hoxie Lane  
Anacortes, WA 98221

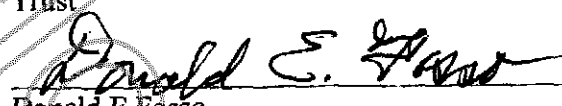
4.6 Attorneys' Fees: Should any party employ an attorney or attorneys to enforce any of the provisions in this agreement or to protect its interest in any manner arising under this agreement, or to recover damages for any breach under this Agreement, the breaching party agrees to pay the non-breaching parties its reasonable costs, damages, and expenses, including attorney's fees incurred.

4.7 Severability: If one or more of the provisions of this Agreement, or its application, is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or any other application shall in no way be affected or impaired.

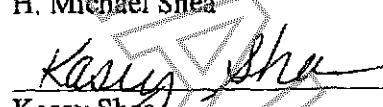
4.8 Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

  
Yumi Winslow, Trustee of the Eiji Kamisaku Trust

  
~~Yumi Winslow, Trustee~~  
Fusako Kamisaku, Trustee of the Fusako Kamisaku Revocable Living Trust

  
Donald E Fosso

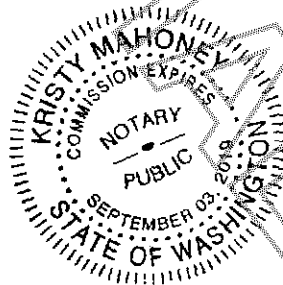
  
H. Michael Shea

  
Kasey Shea

State of Washington )  
 ) ss.  
County of Skagit )

On August 30, 2016 personally appeared before me, Donald E Fosso, known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/hers/their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal



Kristy Mahoney  
Kristy Mahoney  
Notary Public, State of Washington  
Residing in Anacortes County  
My Commission Expires: 9.3.2019

State of Washington )  
 ) ss.  
County of Skagit )

On 8-30, 2016 personally appeared before me, H. Michael Shea known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/hers/their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal

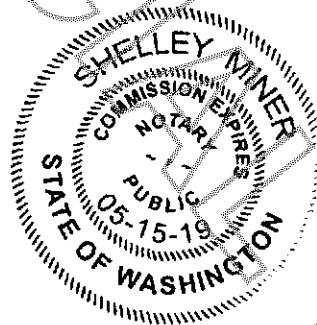


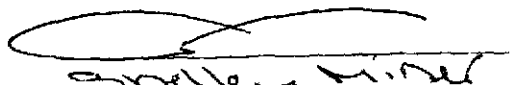
Shelley Miner  
Notary Public, State of Washington  
Residing in Skagit County  
My Commission Expires: 5-15-19

State of Washington )  
 ) ss.  
County of Skagit )

On 8-30, 2016 personally appeared before me, Kasey Shea, known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/hers/their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal



  
Notary Public, State of Washington  
Residing in Skagit County  
My Commission Expires: 5-15-19

JAPAN  
CITY OF TOKYO  
EMBASSY OF THE UNITED STATES OF AMERICA ) ss:  
State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

I certify that I know or have satisfactory evidence that YUMI WINSLOW is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Trustee of THE EJI KAMISAKU TRUST to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: SEP 30 2016

  
Kathleen Wagner  
Consular Associate of  
the United States of America  
NOTARY PUBLIC

Print Name of Notary \_\_\_\_\_  
My appointment expires: INDEFINITE



JAPAN  
CITY OF TOKYO  
EMBASSY OF THE UNITED STATES OF AMERICA ) SS:

State of \_\_\_\_\_ )

County of \_\_\_\_\_ ) SS

I certify that I know or have satisfactory evidence that TUMI WINSLOW is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Trustee of THE FUSAKO KAMISAKU REVOCABLE LIVING TRUST to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: SEP 30 2016

Kathleen Wagner  
(Signature) Consular Associate of  
~~NOTARY PUBLIC~~ the United States of America

Print Name of Notary

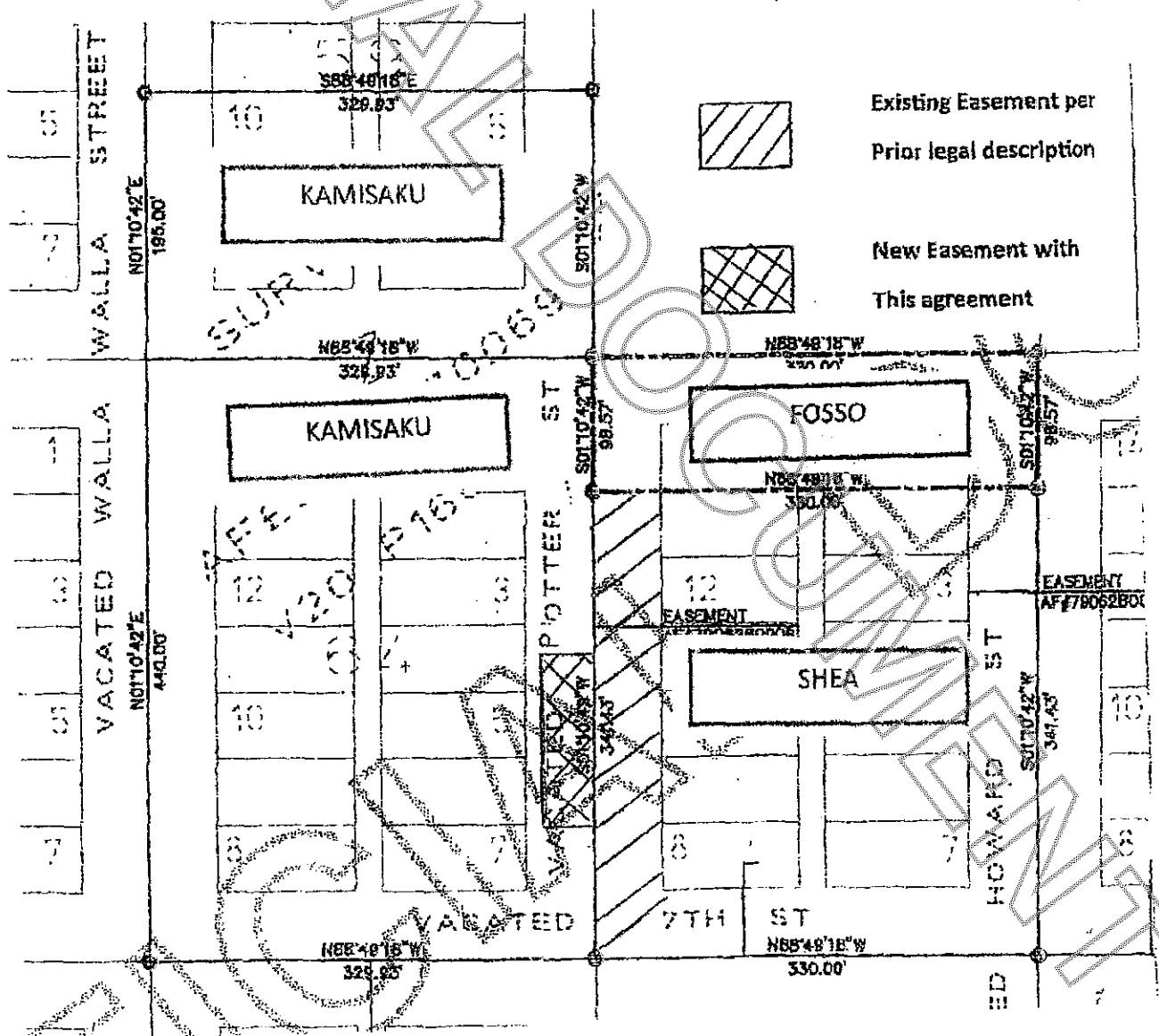
My appointment expires: INDEFINITE

## Exhibit 1

### Legal Description of the New Easement:

East 35 feet of the West half of vacated Potter Street lying between southern half of lot 4 and all of lots 5 and 6, Block 64, Map of Fidalgo City, Skagit County, WA

Generally referenced in the sketch below:



*Exhibit A*

*Shea Property P 102825*  
*Common Address: 14678 Hoxie Lane*

*Legally Described as:*

Lot 2 through 13, Block 63, "MAP OF FIDALGO CITY, SKAGIT CO., WASHINGTON," as per plat recorded in Volume 2 of Plats, pages 113 and 114, records of Skagit County, Washington.

TOGETHER WITH those portions of vacated alley, Potter Avenue, Howard Avenue and 7<sup>th</sup> Street as would attach by operation of law.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities over the North  $\frac{1}{2}$  of 7<sup>th</sup> Street lying between the West line of Highland Avenue and the centerline of Howard Avenue.

Situate in the County of Skagit, State of Washington.

## *Exhibit B*

*Fosso Property P-73061  
Common Address: 14680 Hoxie Lane*

### *Legally Described as:*

*Lots 1 and 14, Block 63, Map of Fidalgo City, according to the plat thereof recorded in Volume 2 of Plats, page 113, records of Skagit County, Washington; together with those portions of vacated alley, Potter Avenue, Howard Avenue, and 8th Street as would attach by operation of law,*

*Together with a non-exclusive easement for ingress, egress, and utilities over the North Half of 7th Street lying between the West line of Highland Avenue and the centerline of Potter Avenue; AND ALSO over the West Half of Howard Avenue and the East Half of Potter Avenue, lying adjacent to Lots 2 through 14, Block 63 in said plat;*

*All Situated in Skagit County, WA. Subject to restrictions, reservations, and easements of record.*

## Exhibit C

Kamisaku Property, P 73059 and P 73062  
Common Address: 14682 Hoxie Lane

*Legally Described as:*

### PARCEL "A":

Lots 5 through 10, inclusive, Block 59, "MAP OF FIDALGO CITY, SKAGIT CO., WASHINGTON", as per plat recorded in Volume 2 of Plats, pages 113 and 114, records of Skagit County, Washington.

TOGETHER WITH that portion of the North  $\frac{1}{2}$  of vacated 8th Street and of the West  $\frac{1}{2}$  of vacated Potter Avenue, and of the East  $\frac{1}{2}$  of vacated Walla Walla Avenue, and of the vacated alley running through said Block 59 that has reverted to said premises by operation of law.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities over the North  $\frac{1}{2}$  of 7th Street lying between the West line of Highland Avenue and the centerline of Potter Avenue.

Situate in the County of Skagit, State of Washington.

### PARCEL "B":

Vacated Block 64, "MAP OF FIDALGO CITY, SKAGIT CO., WASHINGTON", as per plat recorded in Volume 2 of Plats, pages 113 and 114, records of Skagit County, Washington.

TOGETHER WITH that portion of the South 50 feet of vacated 8th Street and that portion of the North 50 feet of vacated 7th Street lying between the centerline of Walla Walla Avenue and the centerline of Potter Avenue.

ALSO, TOGETHER WITH that portion of the East 50 feet of vacated Walla Walla Avenue and that portion of the West 50 feet of vacated Potter Avenue lying between the centerline of 7th Street and the centerline of 8th Street.

ALSO, TOGETHER WITH the vacated alley in said Block 64 which upon vacation reverted to said premises by operation of law.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities over the North  $\frac{1}{2}$  of 7th Street lying between the West line of Highland Avenue and the centerline of Potter Avenue.

Situate in the County of Skagit, State of Washington.