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Skagit County Auditor

\$87.00

6/2/2017 Page

1 of

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After Recording Return To:
Mount Vernon School District
124 E. Lawrence Street
Mount Vernon, WA 98273
Attn: Superintendent

Document Title: TEMPORARY CONSTRUCTION AND WETLAND FILL
EASEMENT AGREEMENT

Grantor: HARJIT K. CHEEMA, an individual

Grantee: MOUNT VERNON SCHOOL DISTRICT NO. 320, a political
subdivision of the State of Washington

Abbreviated Legal Description: Section 22, Township 34, Range 4 East

Additional Legal Description on Exhibits A and B of document.

Assessor's Tax/Parcel Number(s):

Grantor's Property: P126391

Grantee's Property: P131738 and P131739

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX
EASEMENT
JUN 2 2017

Amount Paid \$ —
Skagit Co. Treasurer
By HB Deputy

**TEMPORARY CONSTRUCTION AND
WETLAND FILL EASEMENT AGREEMENT**

THIS TEMPORARY CONSTRUCTION AND WETLAND FILL EASEMENT AGREEMENT (the "Easement") is made this 1st day of June, 2017 by and between HARJIT K. CHEEMA, an individual ("Grantor") and MOUNT VERNON SCHOOL DISTRICT NO. 320, a political subdivision of the State of Washington ("Grantee").

RECITALS

WHEREAS, Grantor owns that certain real property in Skagit County Washington, which is more fully described in the legal description attached hereto and made apart hereof as "Exhibit A" (the "Grantor's Property"); and

WHEREAS, Grantee owns that certain real property in Skagit County, Washington, which is more fully described in the legal description attached hereto and made a part hereof as "Exhibit B" (the "Grantee's Property"); and

WHEREAS, Grantee is constructing a new elementary school and related improvements (the "School") on the Grantee's Property, including a new access road (the "Road") that will serve Grantee's Property and Grantor's Property; and

WHEREAS, two separate isolated wetlands (the "Wetlands") exist on the northwest portion of Grantor's Property and have required buffer zones that cross the Grantor's Property to the north and to west, with one of the Wetlands crossing on to the Grantee's Property, all as illustrated on Exhibit C and marked as Wetland E and Wetland F; and

WHEREAS, Grantee's construction of the School and the Road require addressing the site development limitations related to the Wetlands; and

WHEREAS, the City of Mount Vernon (the "City") has indicated that the Wetlands can be filled, provided that Grantee provide for required off-site mitigation; and

WHEREAS, Grantor will also benefit from the filling of the Wetlands by gaining increased development potential of Grantor's Property and access to the Road; and

WHEREAS, Grantee wishes to receive permission from the Grantor to fill the Wetlands and a temporary easement to use the portion of the Grantor's Property where the Wetlands are located for temporary access and temporary wetland fill activities; and

WHEREAS, Grantor is willing to grant a temporary and nonexclusive easement to the Grantee on the terms and conditions stated below.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee covenant and agree for themselves and their respective heirs, administrators, executors, successors and assigns as follows:

1. Grant of Temporary Construction and Fill Easement.

- 1.1 Declaration of Temporary Construction and Fill Easement. Grantor hereby declares, grants and conveys to Grantee a temporary, nonexclusive and appurtenant easement burdening Grantor's Property and benefiting Grantee's Property for access and other construction activities related to the filling of the Wetlands and permission to fill the Wetlands (the "Temporary Construction and Fill Easement") over, under and across only that portion of the Grantor's Property depicted on the sketch specifically labeled as "Temporary Construction Easement Area" described and depicted on Exhibit C attached hereto and incorporated herein by this reference (the "Temporary Easement Area").
- 1.2 Purpose. The Temporary Construction and Fill Easement is granted solely for the purpose of, and shall be used by Grantee and its agents, contractors, subcontractors and employees solely for the purpose of: (1) vehicular and pedestrian ingress and egress to and from the Temporary Easement Area as may be reasonably necessary for activities related to the filling of the Wetlands; (2) using a work area in the Temporary Easement Area for activities related to the filling of the Wetlands; and (3) activities related to and the filling of the Wetlands.
- 1.3 Duration. The Temporary Construction and Fill Easement shall automatically terminate the earlier of: (i) the date the Wetlands fill work is complete, as evidenced by certification from the City; (ii) November 1, 2019; or (iii) in the event of Grantee's default under this Easement pursuant to Section 1.4 below, the date the Grantor terminates the Easement. Upon the expiration of the term of the Temporary Construction and Fill Easement, all of the rights and benefits of the Grantee in, to and under this Easement with respect to the Temporary Construction and Fill Easement and the Temporary Easement Area shall automatically terminate and be of no further force or effect; provided, that the continuing obligations of the Grantee to indemnify Grantor as set forth in Section 4 below shall survive such expiration; and, provided further, that the Grantee shall, within fourteen (14) business days after a request by Grantor, execute, acknowledge and deliver to Grantor a "Termination of Temporary Easement Rights" in form and content acceptable to the

Grantor, evidencing the expiration and termination of the Temporary Construction and Fill Easement.

1.4 Termination. In the event Grantee, its agents, tenants, contractors, consultants, successors or assigns, fail to cure a breach or default under this Easement within ten (10) days of Grantor giving Grantee written notice of the breach or default, Grantor may immediately terminate Grantee's rights under this Easement in addition to pursuing other remedies available to Grantor in law or in equity.

1.5 Restoration. In the event the Grantor's Property, including the Temporary Easement Area, is in any manner, other than the fill of the wetlands, disturbed by the activities of the Grantee or its contractors or agents relating to, or arising from, the exercise of any of the Grantee's rights under the Temporary Construction Easement, the Grantee shall promptly remove all debris and restore the Grantor's Property to at least the condition in which it existed at the commencement of such activities.

2. **Wetlands Fill Activities.**

2.1 Costs. Grantee shall promptly pay for the cost of all relocation, alteration, restoration and other changes or repairs to Grantor's Property which are reasonably made necessary by reason of the Grantee's activities on Grantor's property.

2.2 Wetlands Fill Activities. Grantee shall conduct all activities related to the fill of the Wetlands in full compliance with all applicable federal, state, and local statutes, ordinances, rules and regulations and in accordance with such other specific conditions and specifications required by the City in granting permission to fill the Wetlands.

2.3 Compliance with Law. Grantee shall at all times exercise its rights herein in compliance with all of the requirements of the statutes, ordinances, rules and regulations of all public authorities having jurisdiction over Grantee's Property and the Grantor's Property and as those statutes, orders, rules and regulations are from time to time amended during the term of this Easement.

2.4 Coordination of Activities. Grantee shall at all times coordinate the dates of its activities in the Temporary Easement Area with Grantor or such employee, agent, successor or assign of Grantor as Grantor may from time to time designate.

2.5 No Liens. Grantee shall keep Grantor's Property free and clear at all times of any claims and liens.

2.6 Hazardous Substances and Waste. Grantee agrees that both it and its agents, employees, contractors, consultants and suppliers covenant and agree they will not use, store or dispose of any hazardous substances or waste in or around the Temporary Easement Area, or the Grantor's Property, and further covenant and agree they shall strictly comply with any and all governmental laws, regulations and ordinance regarding the handling, transportation and storage of hazardous substances and hazardous wastes.

3. Rights of Grantor.

3.1 Continued Access. Grantee shall make provisions satisfactory to Grantor for continued access by Grantor and Grantor's agents, employees, contractors, consultants, tenants, successors and assigns, along, over and across the Temporary Easement Area and Grantor's Property during periods in which Grantee is conducting Wetlands fill activities; provided that, reasonable limitations may be imposed as necessary to ensure safety of persons and property during the Wetlands fill activities. Grantor shall have the right at all times to occupy Grantor's Property with Grantor's facilities and/or equipment and otherwise use the Temporary Easement Area, provided such use does not unreasonably interfere with Grantee's rights under this Easement. Grantee shall exercise its rights under this Easement so as to minimize, and avoid if reasonably possible, interference with Grantor's use of the Property and shall at all times conduct their activities on the Grantor's Property so as not to interfere unreasonably with, obstruct or endanger Grantor's operations and facilities.

3.2 Non-Exclusive Use. All right, title and interest in and to the Temporary Easement Area which may be used and enjoyed without unreasonably interfering with the Easement Rights herein conveyed are reserved to Grantor.

4. Indemnification.

4.1 Grantee's Indemnification. Grantee shall protect, defend, indemnify and save harmless Grantor from any and all claims, demands, loss, damage, expense (including attorneys' fees and costs and fees and costs of other professionals and consultants), liens, charges and liability of every kind and description, including personal injury and for any damage to or loss of or destruction of property whatsoever suffered by Grantor, its heirs, successors and assigns arising from the exercise of any of Grantee's rights granted herein, including but not limited to the filling of the Wetlands or the entry upon the Temporary Easement Area by Grantee, its employees,

agents, contractors, licensees and/or invitees; provided, that Grantee shall not be obligated to indemnify Grantor for the portion of any claim or liability caused by the sole or concurrent negligence of Grantor or its agents or contractors.

4.2 No Release Upon Termination. No termination of this Easement shall release Grantee from any liability or obligation with respect to matters occurring prior to such termination, nor shall the termination release Grantee from its obligations and liability to restore Grantor's Property or indemnify Grantor as set forth herein.

5. **Covenants Running with the Land.** Except as provided in Section 1.3 above, the easements, rights and privileges hereby granted, the restrictions and indemnity hereby imposed, and the agreements contained in this Agreement shall be easements, restrictions, and covenants running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors, and assigns including, but without limitation, all subsequent owners of any portion of the Grantee's Property and/or the Grantor's Property and all persons claiming under them.
6. **Third Party Rights.** Grantor reserves all rights with respect to the Grantor Property, including, without limitation, the right to grant easements, licenses and permits to others subject to the rights granted in this Easement.
7. **Notices.** All notices required or permitted under this Easement shall be in writing and shall be deemed delivered when personally delivered or on the third day after being deposited in the United States registered or certified mail, return receipt requested, at the address appearing below or to such other address as each party may designate by a written notice to the other.

If to Grantor: Harjit K. Cheema
5497 Bcharreell Road
Abbotsford B.C. Canada
V3G 1P8

If to Grantee: Mount Vernon School District
124 E. Lawrence Street
Mount Vernon, WA 98273
Attn: Superintendent

- UNOFFICIAL DOCUMENT
8. **Governing Law.** This Easement shall be governed by the laws of the State of Washington. In the event of any litigation or other proceeding to enforce any provision of this Easement Agreement, the Parties expressly agree that venue shall be located in Skagit County, Washington.
 9. **Attorneys' Fees.** Should either party employ an attorney or attorneys to enforce any of the provisions in this Easement or to protect its interest in any manner arising under this Easement, or to recover damages for any breach under this Easement, the breaching party agrees to pay the non-breaching party its reasonable costs, damages, and expenses, including attorneys' fees incurred.
 10. **Entire Agreement.** This is the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements with respect thereto.
 11. **Severability.** If any one or more of the provisions of this Easement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Easement and all other applications of any such provision shall not be affected thereby.
 12. **Counterpart Signatures.** This Easement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

SIGNATURES FOLLOW

DATED this 1st day of June, 2017.

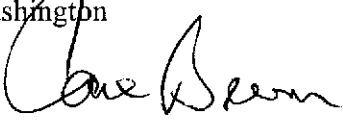
GRANTOR

HARJIT K. CHEEMA, an individual

By: 
HARJIT K. CHEEMA

GRANTEE

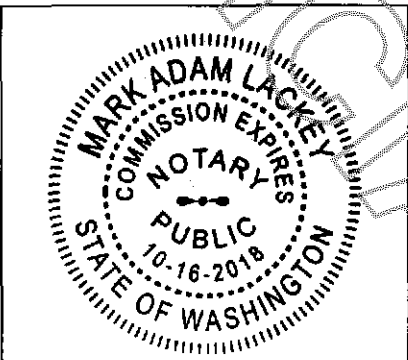
MOUNT VERNON SCHOOL DISTRICT
NO. 320, a political subdivision of the State
of Washington

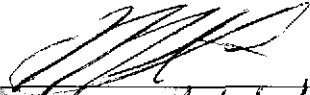
By: 
Name: DR. CARL BRUNER
Its: Superintendent

STATE OF Washington)
) ss.
COUNTY OF Whatcom)

certify that I know or have satisfactory evidence that HARJIT K. CHEEMA is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 6/1/2017




Print Name Mark Lackey
Notary Public in and for the State of Washington
Residing at Bellingham
My commission expires 10/16/2018

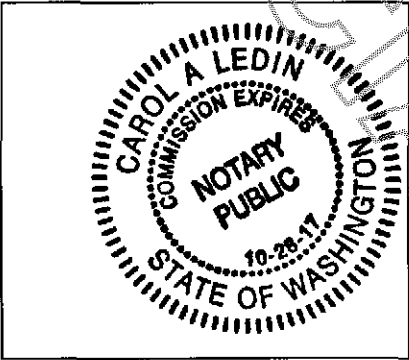
(Use this space for notarial stamp/seal)

UNRECORDED INSTRUMENT

STATE OF Washington
COUNTY OF Skagit) ss.

I certify that I know or have satisfactory evidence that Dr. Carl Bruner 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 and acknowledged it as the SUPERINTENDENT of the MOUNT VERNON SCHOOL DISTRICT NO. 320 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 06/01/2017



Carol A Ledin
Print Name Carol A. Ledin
Notary Public in and for the State of Washington
Residing at Sedro-Woolley
My commission expires 10-28-2017

(Use this space for notarial stamp/seal)

EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22,
TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., EXCEPT THE WEST 638.12 FEET (AS
MEASURED PERPENDICULAR TO THE WEST LINE); EXCEPT THE MOUNT VERNON-BIG
LAKE COUNTY ROAD RUNNING ALONG THE SOUTH LINE THEREOF AND ALSO EXCEPT
THE EAST 150 FEET OF THE SOUTH 300 FEET OF THE REMAINDER.
SITUATE IN CITY OF MOUNT VERNON, COUNTY OF SKAGIT, WASHINGTON

EXHIBIT B

LEGAL DESCRIPTION OF GRANTEE'S PROPERTY

LOT 3, MOUNT VERNON SHORT PLAT NO. LU-13-047, RECORDED UNDER AF#201310140058 BEING A PORTION OF THE WEST 638.12 FEET AS MEASURED PERPENDICULAR TO THE WEST LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. TOGETHER WITH THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. EXCEPT THE EAST 393.93 FEET AS MEASURED PERPENDICULAR TO AND PARALLEL WITH THE EAST LINE THEREOF ALSO TOGETHER WITH THAT PORTION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., LYING NORTH OF THE MOUNT VERNON-BIG LAKE ROAD DIVISION STREET EXCEPT THE SOUTH 210 FEET OF THE EAST 150 FEET OF THE WEST 340 FEET THEREOF AND EXCEPT THE NORTH 700.00 FEET OF THE SOUTH 1,180.00 FEET OF THE WEST 622.39 FEET AS MEASURED PERPENDICULAR TO THE SOUTH AND WEST LINES THEREOF OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. EXCEPT FROM ALL OF THE ABOVE THE RIGHT-OF-WAY FOR THE MOUNT VERNON-BIG LAKE COUNTY ROAD EAST DIVISION STREET. SURVEY AF#201304080065. RE-RECORD SURVEY AF#201307310063

TOGETHER WITH

TRACT X, MOUNT VERNON SHORT PLAT NO. LU-13-047, RECORDED UNDER AF#201310140058 BEING A PORTION OF THE WEST 638.12 FEET AS MEASURED PERPENDICULAR TO THE WEST LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. TOGETHER WITH THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. EXCEPT THE EAST 393.93 FEET AS MEASURED PERPENDICULAR TO AND PARALLEL WITH THE EAST LINE THEREOF ALSO TOGETHER WITH THAT PORTION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., LYING NORTH OF THE MOUNT VERNON-BIG LAKE ROAD DIVISION STREET EXCEPT THE SOUTH 210 FEET OF THE EAST 150 FEET OF THE WEST 340 FEET THEREOF AND EXCEPT THE NORTH 700.00 FEET OF THE SOUTH 1,180.00 FEET OF THE WEST 622.39 FEET AS MEASURED PERPENDICULAR TO THE SOUTH AND WEST LINES THEREOF OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. EXCEPT FROM ALL OF THE ABOVE THE RIGHT-OF-WAY FOR THE MOUNT VERNON-BIG LAKE COUNTY ROAD EAST DIVISION STREET. SURVEY AF#201304080065. RE-RECORD SURVEY AF#201307310063

SITUATE IN THE CITY OF MOUNT VERNON, COUNTY OF SKAGIT, WASHINGTON

EXHIBIT C

Temporary Construction Easement Area

UNOFFICIAL DOCUMENT

WETLAND TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY RIGHT-OF-WAY MARGIN OF EAST DIVISION STREET, SAID POINT BEING THE SOUTHWEST CORNER OF THAT PARCEL HEREIN DESCRIBED IN EXHIBIT "A", SAID POINT ALSO BEING THE SOUTHEAST CORNER OF TRACT "X" OF THAT CERTAIN MOUNT VERNON SHORT PLAT NO. LU-13-047 RECORDED OCTOBER 14, 2013, UNDER AUDITOR'S FILE NO. 201310140058, RECORDS OF SKAGIT COUNTY, WASHINGTON;

THENCE NORTH 0° 15' 39" EAST, ALONG THE EASTERLY BOUNDARY OF SAID TRACT "X", FOR A DISTANCE OF 421.43 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 0° 15' 39" EAST ALONG SAID EASTERLY BOUNDARY OF TRACT "X" FOR DISTANCE OF 211.98 FEET TO THE NORTHEAST CORNER THEREOF AND THE SOUTHERLY BOUNDARY OF LOT 3 OF SAID MOUNT VERNON SHORT PLAT NO. LU-13-047;

THENCE SOUTH 89° 15' 06" EAST ALONG SAID SOUTHERLY BOUNDARY FOR A DISTANCE OF 96.00 FEET;

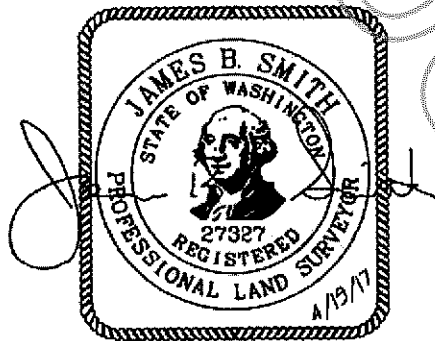
THENCE SOUTH 0°15'39" WEST 54.00 FEET;

THENCE NORTH 89°14'06" WEST 26.00 FEET;

THENCE SOUTH 0°15'39" WEST 158.00 FEET;

THENCE NORTH 89°14'06" WEST 70.00 FEET TO THE POINT OF BEGINNING.

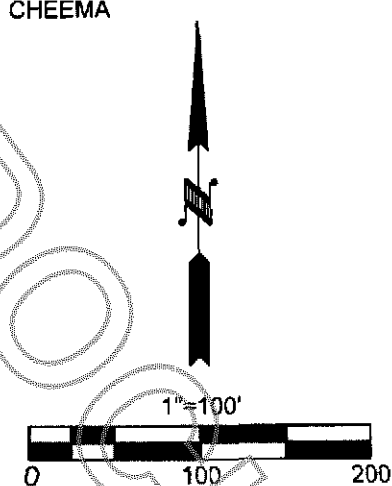
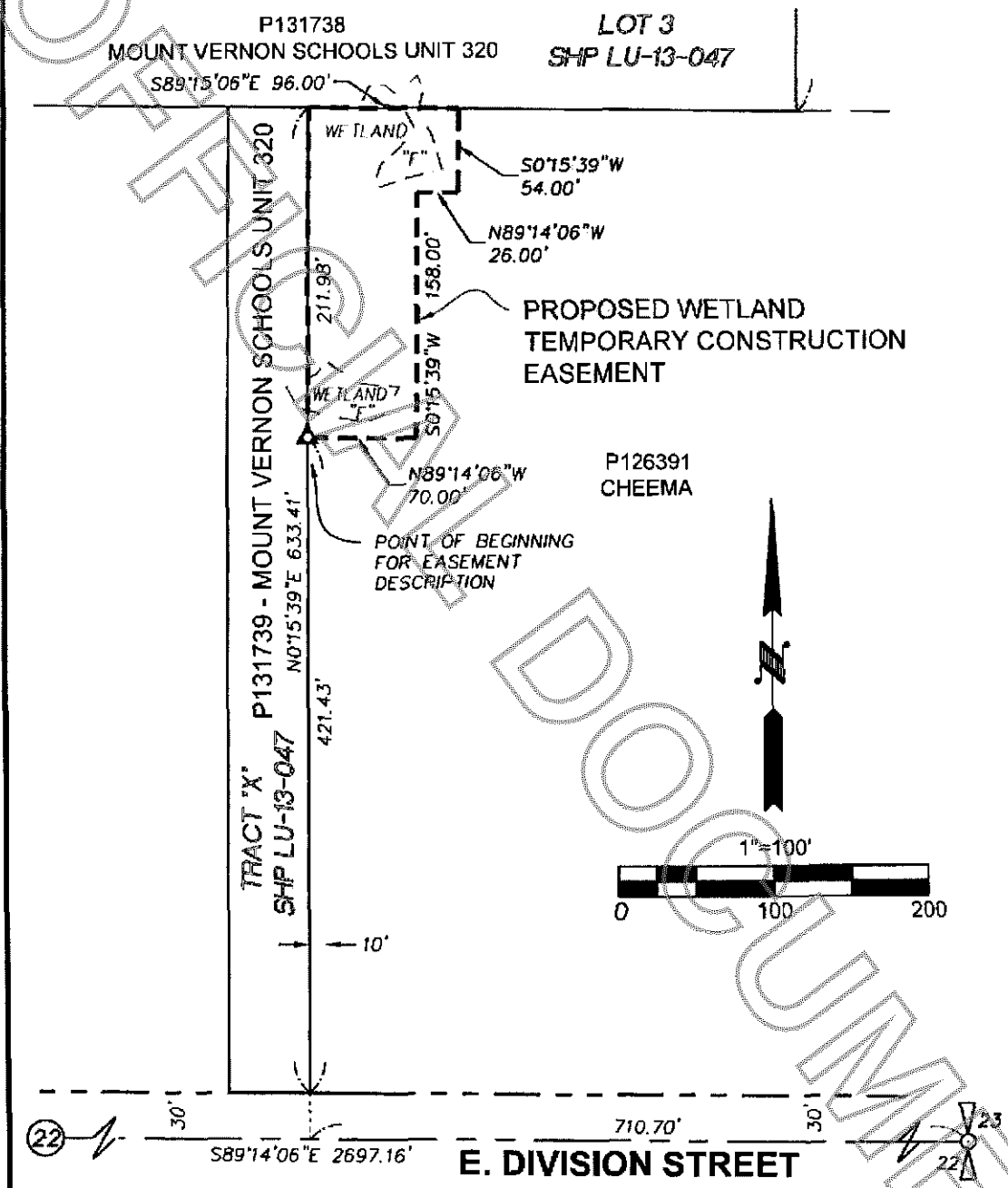
SITUATE IN SKAGIT COUNTY, WASHINGTON.



HARMSSEN & ASSOCIATES INC.
 803 SOUTH FIRST STREET - MOUNT VERNON, WA 98273
 (360) 336-9199 - (888) 794-7811
 WWW.HARMSSENING.COM

PREPARED FOR: MOUNT VERNON SCHOOLS	
JOB NO 16-185	DATE: APRIL 2017

WETLAND TEMPORARY CONSTRUCTION EASEMENT SKETCH
 IN A PORTION OF SECTION 22, TOWNSHIP 34N, RANGE 4E, W.M.



	HARMSSEN & ASSOCIATES INC. 603 SOUTH FIRST STREET - MOUNT VERNON, WA 98273 (360) 336-9199 - (888) 794-7811 WWW.HARMSSENING.COM	PREPARED FOR: MOUNT VERNON SCHOOLS	
		JOB NO. 16-185	DATE: APRIL 2017