

Return Name and Address:

Marcus A. Skeem
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, Washington 98101



201801310098

Skagit County Auditor
1/31/2018 Page

1 of

11

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DOCUMENT
TITLE:

FIRST AMENDMENT TO SEPTIC EASEMENT

GUARDIAN NORTHWEST TITLE CO.

114868

NAME OF
GRANTOR(S):

JJM BOW, LLC

NAME OF
GRANTEE(S):

NORTH EDISON PROPERTIES, LLC

ABBREVIATED
LEGAL
DESCRIPTION:

Ptn Blocks 1 and 3, "Town Plat of Edison (Haller's
Addition)"

Additional or complete legal description is on
Exhibits A

ASSESSOR'S
PROPERTY TAX
PARCEL ACCOUNT
NUMBERS:

P48533 / 360333-0-007-0009
P72960 / 4099-003-009-0009
P48534 / 360333-0-008-0008
P72950 / 4099-001-017-0003
P72949 / 4099-001-010-0000

DOCUMENTS
MODIFIED:

201601250097

FIRST AMENDMENT TO SEPTIC EASEMENT

THIS FIRST AMENDMENT TO SEPTIC EASEMENT (this “**Amendment**”) is made and entered into this 31st day of January, 2018, by and between JJM BOW, LLC, a Washington limited liability company (“**Grantor**”), and NORTH EDISON PROPERTIES, LLC, a Washington limited liability company (“**Grantee**”).

RECITALS

A. Grantor and Grantee entered into that certain Septic Easement (the “**Agreement**”) dated January 16, 2016 and recorded in the Official Records of Skagit County, Washington on January 25, 2016 as Document No. 201601250097. The Agreement relates to an easement on certain property owned by Grantor located in Skagit County, Washington legally described on Exhibit A attached hereto (the “**Drain Field Parcel**”) benefiting certain real property owned by Grantee located in Skagit County, Washington legally described on Exhibit B attached hereto (the “**North Edison Property**”). Capitalized terms used but not defined herein shall have the meaning given in the Agreement.

B. Grantor and Grantee desire to amend the Agreement to provide for (i) limitations on the flowage allowed in the OSS, (ii) apportionment of maintenance costs of the Septic Easement and the OSS, and (iii) other amendments to the Agreement as provided herein.

NOW THEREFORE, for no consideration and solely for the purposes herein stated, the parties hereto agree as follows:

AGREEMENT

1. **Limitations on Use; Metered Use.** Grantor and Grantee have equal use of the OSS. To ensure equal use, Grantor and Grantee agree that each party shall limit its usage of the OSS to 180 gallons of waste water per day each for a total of 360 gallons. To ensure compliance with the foregoing two (2) flow meters measuring each party's waste water input to the OSS will be installed at Grantor's expense. Each party shall have the right to inspect the flow meter of the other to further ensure compliance with this section. If a party is found to exceed the allowed usage of the OSS under this section, the other party may seek any remedy available at law to enforce the terms hereof. In addition, Grantor and Grantee hereby agree that if either party hereto is found to exceed the allowed usage of the OSS under this section, that party shall pay to the other party hereto a fee in the amount of \$250 for each instance of such exceeded use, payable within twenty (20) days of receipt of notice and supporting documentation evidencing the instance of exceeded use from the other party. If the applicable party fails to remit payment to the other party within said

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SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JAN 31 2018

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

twenty (20) day period, interest shall be charged on the amount owed at a rate of twelve percent (12%) per annum until such amount is paid in full.

2. **Maintenance.** Notwithstanding anything to the contrary in the Agreement, Grantor and Grantee shall each pay for fifty percent (50%) of the cost of the operation, maintenance, repair and replacement of the OSS. Inasmuch as the Agreement requires that Grantor operate and maintain the OSS, within a reasonable time following the incurrence of any costs, expenses or fees in connection with the operation, maintenance, repair or replacement of the OSS, Grantor shall deliver to Grantee a statement showing all such costs, expenses or fees incurred for which Grantor seeks reimbursement, including a written itemization of all costs. Within twenty (20) days of receipt of such demand for payment, Grantee shall remit to Grantor an amount equal to fifty percent (50%) of the amount shown on such statement. If Grantee shall fail to remit such amount to Grantor within said twenty (20) days, interest shall be charged on the amount owed to Grantor by Grantee at a rate of twelve percent (12%) per annum until such amount is paid in full. Grantor shall also install a power meter measuring the power usage of the OSS, the cost of which shall be paid in accordance with this section. Power usage shall be considered a cost of operation of the OSS and shall be paid in accordance with this section.

3. **Entire Agreement; Ratification.** This Amendment, Agreement and the exhibits hereto constitutes the final and complete agreement, and supersede all prior correspondence, memoranda or agreements among the parties relating to the subject matter hereto. The express provisions of this Amendment shall control and govern as to any inconsistency or contradiction between the provisions of this Amendment and the provisions of the Agreement.

4. **Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the State of Washington.

5. **Counterparts.** This Amendment may be executed in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

6. **Assignment.** Except as expressly set forth in this Amendment, Grantee shall not assign any covenants or obligations under this Amendment or the Agreement without the prior consent of the Grantor.

7. **No Waiver.** No waiver of any breach of any covenant by any party or condition hereunder shall be implied from any omission by any party to take action on account of such breach if such breach persists or is repeated, and no express waiver shall affect any breach other than the breach specified in the waiver, and then said waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein by any party shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by

any party to or of any act by either party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to or of any subsequent similar acts.

8. **Amendment.** The Agreement, as amended hereby, may be modified or amended only upon the mutual consent of Grantor and Grantee, or their respective legal representatives, successors or assigns, and any such amendment shall become effective only upon the recording of the same in the Official Records of Skagit County, Washington.

9. **Severability.** In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Amendment shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Amendment shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

GRANTOR:

JJM Bow, LLC,
a Washington limited liability company

By: _____

Max Tauber, Member

TAUBER

GRANTEE:

NORTH EDISON PROPERTIES, LLC,
a Washington limited liability company

By: _____

Printed Name: _____

Its: _____

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

GRANTOR:

JJM Bow, LLC
a Washington limited liability company

By: _____
Max Tauber, Member

GRANTEE:

NORTH EDISON PROPERTIES, LLC,
a Washington limited liability company

By: _____
Printed Name: Andrew Valley
Its: Member

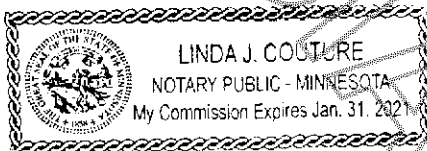
Acknowledgements

STATE OF ~~WASHINGTON~~ ^{Minnesota})

COUNTY OF St. Louis)ss.)

On January 29, 2018, before me personally appeared Max Taubert, to me known to be the member of JJM BOW LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Signature: Linda J. Couture

Name (Print): Linda J. Couture

NOTARY PUBLIC in and for the State of Minnesota
~~of Washington~~, residing at Hermantown, Minnesota
My appointment expires: Jan 31, 2021

STATE OF WASHINGTON)

COUNTY OF _____)ss.)

On _____, 2018, before me personally appeared _____ to me known to be the _____ of NORTH EDISON PROPERTIES, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that _____ was authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Signature: _____

Name (Print): _____

NOTARY PUBLIC in and for the State
of Washington, residing at _____
My appointment expires: _____

Acknowledgements

STATE OF WASHINGTON)

)ss.

COUNTY OF _____)

On _____, 2018, before me personally appeared _____, to me known to be the _____ of JJM BOW LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that _____ was authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Signature: _____

Name (Print): _____

NOTARY PUBLIC in and for the State
of Washington, residing at _____
My appointment expires: _____

STATE OF WASHINGTON)

)ss.

COUNTY OF Whatcom)

On January 29, 2018, before me personally appeared Andrew Vallee, to me known to be the member of NORTH EDISON PROPERTIES, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Signature: Debi Wollin

Name (Print): Debi Wollin

NOTARY PUBLIC in and for the State
of Washington, residing at Custer, WA
My appointment expires: 1/21/19

EXHIBIT A
(Drain Field Parcel)

P72960:

Lot 5 EXCEPT the South 12.00 feet (as measured perpendicular to the South line) and Lots 6-9 (inclusive) all in Block 3, "Town Plat of Edison" (Haller's Addition), as per plat recorded in Volume 1 of Plats, page 7, records of Skagit County, Washington.

TOGETHER WITH that portion of vacated Gilkey Avenue which would attach by operation of law.

AND TOGETHER WITH a non-exclusive mutually beneficial easement for ingress, egress and utilities over, under and across the West 15.00 feet (as measured perpendicular to the West line) of that portion of vacated Gilkey Avenue lying adjacent to Lots 3, 4 and the South 12.00 feet of Lot 5, Block 3, said "Town Plat of Edison" (Haller's Addition).

AND ALSO SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

Situate in the County of Skagit, State of Washington.

AND ALSO:

P48533:

The East half of the following described tract:

That portion of Government Lot 3 of Section 33, Township 36 North, Range 3 East of the Willamette Meridian, bounded on the North, East and West by the Samish Slough and bounded on the South by a line 10 feet North of the North line of the Town Plat of Edison, according to the plat thereof recorded in Volume 1 of Plats, page 7, records of Skagit County, Washington.

Situated in Skagit County, Washington.

SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

EXHIBIT B
(North Edison Property)

Parcel A:

Lots 9-12 (inclusive) and the South 12.00 feet (as measured perpendicular to the South line) of Lot 13, all in Block 1, "Town Plat of Edison" (Haller's Addition), as per plat recorded in Volume 1 of Plats, page 7, records of Skagit County, Washington.

TOGETHER WITH that portion of vacated Gilkey Avenue which would attach thereto by operation of law.

EXCEPT that portion of said vacated Gilkey Avenue described as follows:

BEGINNING at the Southeast corner of said Lot 11;
thence North 89°13'30" East along the extension of the South line of said Lot 11, a distance of 9.13 feet to the TRUE POINT OF BEGINNING;
thence North 00°58'57" East a distance of 33.02 feet to the extension of the North line of said Lot 11;
thence North 89°13'30" East along said line a distance of 11.14 feet;
thence South 00°46'30" East a distance of 33.00 feet to the extension of the South line of said Lot 11;
thence South 89°13'30" West a distance of 12.15 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO a non-exclusive mutually beneficial easement for ingress, egress and utilities over, under and across the East 10.00 feet (as measured perpendicular to the East line) of that portion of said vacated Gilkey Avenue fronting the above-reference Lot 12 and the South 12.00 feet of Lot 13, Block 1, said "Town Plat of Edison" (Haller's Addition).

Parcel B:

Lots 3, 4 and the South 12.00 feet (as measured perpendicular to the South line) of Lot 5, Block 3, "Town Plat of Edison" (Haller's Addition), as per plat recorded in Volume 1 of Plats, page 7, records of Skagit County, Washington.

TOGETHER WITH portion of vacated Gilkey Avenue which would attach by operation of law.

SUBJECT TO a non-exclusive mutually beneficial easement for ingress, egress and utilities over, under and across the West 15.00 feet (as measured perpendicular to the West line) of that portion of said vacated Gilkey Avenue

fronting the above-references Lots 3, 4 and the South 12.00 feet of Lot 5, Block 3,
said "Town Plat of Edison" (Haller's Addition).

ALL OF THE ABOVE PARCELS A AND B BEING SUBJECT TO and
TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases,
court causes and other instruments of record.

All being Situate in the County of Skagit, State of Washington.