

Recording Requested by, and
When Recorded Mail To:

Public Utility District No. 1 of Skagit County
Attn: Mr. George Sidhu, P.E.
1415 Freeway Drive
P.O. Box 1436
Mount Vernon, WA 98274



201901070090

01/07/2019 02:15 PM Pages: 1 of 10 Fees: \$108.00
Skagit County Auditor

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JAN 07 2019

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

DOCUMENT TITLE: UTILITY EASEMENT

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

GRANTEE(S): Public Utility District No. 1 of Skagit County, a Washington municipal corporation.

ASSESSOR'S TAX / PARCEL NUMBER(S): P49105 (XrefID: 360408-0-010-0004)

ABBREVIATED LEGAL DESCRIPTION: (25.8000 ac) NW1/4 SW1/4 N OF CO RD & W 50FT IN NE1/4 SW1/4 N OF CO RD & W OF BDLM RLY LESS R/W & TAX 12 & W 60FT. Situate in 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 **Public Utility District No. 1 of Skagit County**, a Washington municipal corporation ("Grantee"), a permanent, perpetual, non-exclusive utility easement ("Easement"), as provided herein. Grantor and Grantee 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, along, in, and under a portion of real property located within and upon Grantor's Property, such Easement area 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 certain public water system utilities, specifically including, but not necessarily limited to, electrical, water line(s), and related communication lines owned or operated by Grantee, including groundwater wells, appurtenant structures, and access roads (the "Grantee's facilities"). The Grantee recognizes and agrees that any access roads located within the Easement area shall not become County road(s) by virtue of this Easement. 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 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 reasonable right 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 location, placement, installation, use, inspection, improvement, removal, replacement, maintenance, and operation of Grantee's facilities, subject to the terms of this Easement agreement. Grantee shall not have the right to exclude Grantor from the Easement area or from the Grantor's Property (without the revocable written permission of Grantor). Grantee shall not unreasonably interfere with the Grantor's use of the Grantor's Property (including, but not limited to, Grantor's reasonable 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). The Grantee shall be responsible for the payment of any utility expenses (such as electrical charges, etc.) and/or other similar expenses for the Grantee's facilities within the Easement area. The Grantee specifically recognizes and agrees that Grantor is not obligated to make, construct, operate, maintain, or repair any particular improvements or facilities at (or within the vicinity of) Grantor's Property or the Easement area pursuant to the terms of this Easement. The Grantee agrees that use of this Easement by Grantee shall be at the sole expense and risk of the Grantee. Grantor shall conduct its activities and all other activities on the Easement area so as not to unreasonably interfere with Grantee's use of the Easement area. The Parties both reasonably believe that the Grantor owns the Grantor's Property and that Grantor may convey this Easement to Grantee.

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 if Grantee does cause such damage or impact, upon the request of Grantor the Grantee shall repair and restore the Grantor's Property to a substantially similar condition as existed before Grantee entered onto the Grantor's Property for the purposes described in this Easement. Prior to the commencement of any such 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 (if any). Any such work performed within the Easement area by Grantee shall be promptly performed at the sole cost and expense of Grantee.

2.2 The Grantee shall be responsible and liable for the maintenance of vegetation that may affect or impair the Grantee's facilities within the Easement area. The Grantee shall coordinate its vegetation management activities with the Grantor and shall as necessary manage vegetation in close proximity to Grantee's facilities within the Easement area in compliance with all applicable laws, ordinances, regulations, resolutions, policies and rules. Trimming and removal of vegetation within the Easement area shall be performed by the Grantee using the best industry standards and practices. Nothing in this Easement agreement shall impair the Grantor's ability to perform vegetation management activities within the Easement area, as the Grantor may determine to be useful or necessary to serve and protect the public interest and welfare; provided, that nothing in this Easement agreement shall create or impose any duty or obligation on the part of the Grantor to perform any vegetation management activities within the Easement area. Vegetation management activities undertaken by Grantor within the Easement area (if any) shall be performed by Grantor after providing reasonable notice to Grantee, and shall be performed in such a way as to not unreasonably interfere with the Grantee's use of the Easement area.

2.3 Subject to the terms herein, the Grantor agrees that Grantor and Grantor's successors, and assigns will not construct, maintain, or cause to be constructed or maintained upon the Easement Area and within one hundred feet (100') of the Grantee's facilities, so long

as the same is operated to furnish water for public consumption, any potential source of contamination, such as septic tanks and drain fields, sewer lines, underground storage tanks, roads, railroad tracks, vehicles, structures, barns, feed stations, grazing animals, enclosures for maintaining fowl or animal manure, liquid or dry chemical storage, herbicides, insecticides, hazardous waste, or garbage of any kind or description (except as may already currently exist upon Grantor's Property).

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. Except as is otherwise set forth per the terms of this Easement agreement, each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the either party by reason of entering into this Easement except as expressly provided herein. The terms of this section (including Section 3.1, below) shall survive any termination of this Easement, and shall continue in full force and effect.

3.1 The Parties recognize and agree that portions of the Grantor's Property were previously used as a municipal solid waste landfill. As such, the Grantee shall, at Grantee's sole and separate cost, expense, and liability, comply with all hazardous waste laws, rules, and regulations and shall treat, store, dispose of or otherwise handle hazardous substances in a safe and proper manner and the Grantee shall not allow or cause any hazardous, toxic or petroleum materials to be released, disposed of, or discharged on any portion of the Grantor's Property. The term "hazardous substance", "hazardous waste", or "hazardous material" shall specifically include, but shall not be limited to, petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state, and any other material or substance which does cause or may cause environmental pollution or contamination (and associated liability and clean-up costs related thereto) as defined under applicable state and federal laws, rules, and regulations (specifically including, but not limited to, RCW 70.105D, and related Washington State Department of Ecology regulations, specifically including, but not limited to, WAC 174-340). The Grantee shall be solely and separately liable responsible for the remediation of any hazardous materials that are spilled, released, or discharged on or about the Grantor's Property that are caused by the actions, activities, or omissions of the Grantee, the Grantee's employee(s), Grantee's contractor(s), and/or Grantee's agent(s). Grantee shall indemnify, defend and hold the Grantor harmless from any fines, suits, procedures, claims, costs, damages, expense, and actions of any kind arising out of or in any way connected with any releases, spills or discharges of hazardous substances or waste at the Grantor's Property that are caused by the actions, activities, or omissions of the Grantee, the Grantee's employee(s), Grantee's contractor(s), and/or Grantee's agent(s). This indemnity includes, but is not limited to: (a) liability for a governmental agency's including but not limited to, the Grantor's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; and (d) liability for any costs of investigation, abatement, mitigation, correction, cleanup, fines, penalties, or other damages arising under any environmental laws (specifically including, but not limited to,

RCW 70.105D, and related Washington State Department of Ecology regulations, specifically including, but not limited to, WAC 174-340). The parties agree that the Grantor shall not be responsible or liable for the use, operation, or maintenance of Grantee's facilities located within the Easement area in any way.

4. 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.

5. 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.

6. 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/or 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.

7. 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 or Grantee.

8. 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. 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 Easement 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.

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

GRANTEE:

Public Utility District No. 1 of Skagit County, a Washington municipal corporation:

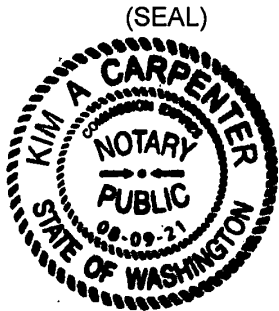
DATED this 6th day of NOVEMBER, 2018

George Sidhu
George Sidhu, P.E.
General Manager

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that George Sidhu, P.E., is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was duly authorized execute the instrument and acknowledged it as the General Manager of the Public Utility District No. 1 of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 6th day of NOVEMBER, 2018.



Kim A. Carpenter
Notary Public
Print name: Kim A. Carpenter
Residing at: Mount Vernon WA
My appointment expires: 08/09/2021

GRANTOR:

DATED this 31 day of December, 2018.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Chair

Lisa Janicki
Lisa Janicki, Commissioner

Ron Wesen
Ron Wesen, Commissioner

Attest:

Linda Hammo
Clerk of the Board

Authorization per Resolution # R20050224:

Recommended:
[Signature]
Department Head

County Administrator

Approved as to form:
[Signature] 12/11/18
Civil Deputy Prosecuting Attorney

Approved as to indemnification:
Shawn D. Bis (12-14-18)
Risk Manager

Approved as to budget:
Lisa Payne
Budget & Finance Director

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Kenneth A. Dahlstedt, Lisa Janicki, and/or Ron Wesen 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 31 day of December, 2018.



Linda Hammons
Notary Public
Print name: Linda Hammons
Residing at: Skagit County, WA
My appointment expires: 10-01-2019

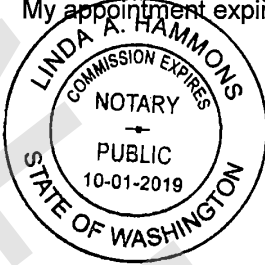


EXHIBIT "A"**EASEMENT AREA LEGAL DESCRIPTION****Easement Description over P49105**

A portion of the Northwest ¼ of the Southwest ¼ of Section 8, Township 36 North, Range 4 East, W.M., more particularly described as follows:

Commencing at the Southwest corner of said Northwest ¼ of the Southwest ¼; thence North 0°47'32" West along the West line of said Southwest ¼ a distance of 124.71 feet to the Northerly Right-of-Way of Alger-Cain Lake Road as conveyed by Deed recorded under Auditor's File No. 463822, records of Skagit County; thence South 84°24'52" East along said Northerly Right-of-Way a distance of 60.37 feet to the Southeast corner of the West 60 feet of said Northwest ¼ as recorded in Quit Claim Deed recorded under Auditor's File No. 712452, records of Skagit County and the Point of Beginning; thence continuing South 84°24'52" East along said Northerly Right-of-Way a distance of 200.00 feet; thence North 0°47'32" West parallel with said West line a distance of 250.00 feet; thence North 84°24'52" West parallel with said Northerly Right-of-Way a distance of 200.00 feet to the East line of said West 60 feet; thence South 0°47'32" East a distance of 250.00 feet to the point of beginning.

Situated in the County of Skagit, State of Washington.

EXHIBIT "B"
DEPICTION OF EASEMENT AREA

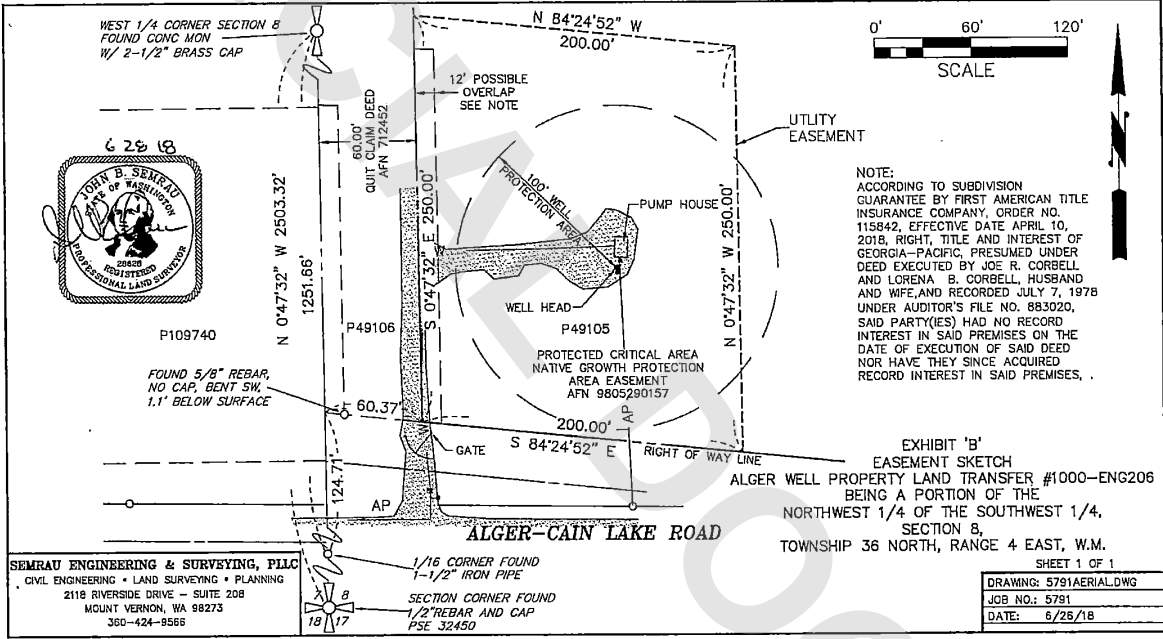


EXHIBIT "C"
LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

P49105

The land referred to herein is situated in the State of Washington, County of Skagit, and is described as follows:

The Northwest 1/4 of the Southwest 1/4 and that portion of the Northeast 1/4 of the Southwest 1/4 lying westerly of Coal Bunker Road, Section 8, Township 36 North, Range 4 East, W.M.; EXCEPT the West 60 feet of said Northwest 1/4 of the Southwest 1/4, EXCEPT the Alger Cain Lake Road, EXCEPT any portion lying Southerly of the Alger Cain Lake Road, AND EXCEPT the following described tract:

Beginning at the Section corner common to Sections 7, 8, 17 and 18, Township 36 North, Range 4 East, W.M.; thence North 29°21' East 1506.4 feet to the true point of beginning; thence North 61°32' East 450 feet; thence N 17°00' West 1000 feet; thence South 61°32' West 450 feet; thence South 17°00' West 1000 feet, more or less, to the true point of beginning.

Situate in the County of Skagit, State of Washington.

NOTE: Course described as "thence N 17°00' West 1000 feet", should read "North 17°00' East 1000 feet as shown on the graphics of ROS AFN 200405260024. The legal description on said ROS contains the same error as shown in the above Legal Description.