

Recording Requested by and
After Recording Return to:

STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, Washington 98101
Attention: Nathan Luce / Alexandra Kleeman

REVIEWED BY
SKAGIT COUNTY TREASURER
DEPUTY Lena Thompson
DATE 05/23/2022

DRAINAGE AND IRRIGATION EASEMENT AGREEMENT

GRANTOR: **WEST COAST REDUCTION USA INC.,**
a Washington corporation

GRANTEE: **DRAINAGE AND IRRIGATION
IMPROVEMENT DISTRICT 19,**
a Washington drainage improvement district

**ABBREVIATED LEGAL
DESCRIPTION (Grantor)** Lots 3, 4 and 5 Sierra Pacific BSP PL 08-0315 in
the NE 1/4 of Sec. 9, Twp 34 N., R. 3 E, WM

**ASSESSOR'S TAX PARCEL
NOS:** Full Legal Description on Exhibit A
P129951/8084-000-003-0000;
P129953/8084-0000004-0000;
P129953/8084-000-005-0000 IOP

DRAINAGE AND IRRIGATION EASEMENT AGREEMENT

This Drainage and Irrigation Easement Agreement (this "**Agreement**") is made this 18th day of May, 2022, by and between West Coast Reduction USA, Inc., a Washington corporation ("**Grantor**") and Drainage and Irrigation Improvement District 19, a Washington drainage improvement district ("**Grantee**").

RECITALS

A. Grantor is the owner of that certain real property located in Skagit County, Washington legally described in Exhibit A attached hereto (the "**Grantor Property**").

B. Grantee is a drainage and irrigation improvement district with certain rights and obligations as set forth under Chapter 86.08 of the Revised Code of Washington. Grantee holds certain unused rights pursuant to a right of way granted to Grantee on Dec. 4, 1922 in the Entry of Judgment for Skagit County Superior Court Cause No. 8889 ("**Prior Drainage Rights**").

C. Grantee has agreed to terminate and relinquish the Prior Drainage Rights in exchange for the grant of a new easement on, across, over, under, and through a portion of the Grantor Property as legally described in Exhibit B attached hereto and depicted on Exhibit C attached hereto (the "**Easement Area**"), which Grantee may use for such drainage and irrigation purposes as may arise consistent with the terms of this Easement Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated herein by this reference.

2. Release of Prior Drainage Rights. Grantee hereby releases, terminates, and relinquishes all rights and interests reserved unto itself for that portion of the Grantor Property legally described on Exhibit D, and as such rights and interests are set forth under the Entry of Judgment for Skagit County Superior Court Cause No. 8889. Accordingly, Entry of Judgment for Skagit County Superior Court Cause No. 8889 shall be of no further force or effect, and may be removed from the real property records.

3. Grant of Drainage and Irrigation Easement. Grantor hereby grants and conveys to Grantee a permanent, non-exclusive easement under and across the Grantor Property for the purpose of accessing, connecting to, repairing, operating, and maintaining drainage and irrigation piping and infrastructure ("**Drainage and Irrigation Improvements**"), including the right to install new lines and related appurtenances in connection therewith (the "**Drainage and Irrigation Easement**"). The Drainage and Irrigation Easement is located in the Easement Area on that portion of the Grantor Property legally described in Exhibit B and depicted in Exhibit C. Upon the construction of any Drainage and Irrigation Improvements, the parties shall record an amendment to this Agreement attaching the final drawing or plans showing the exact location

and nature of the Drainage and Irrigation Improvements. The Drainage and Irrigation Easement includes the right of ingress and egress over the Grantor Property for the purpose of accessing the Easement Area.

4. Use of Easement Area. Grantee may use Grantor's Property only as reasonably necessary for accessing, connecting to, repairing, operating, and maintaining the Drainage and Irrigation Improvements. Grantee's use of Grantor's Property for such activities shall be on a temporary basis only. Grantee agrees that it shall give Grantor at least fourteen (14) days' notice before performing any work pursuant to this Agreement. Grantee, in exercising its rights granted herein, shall not unreasonably interfere with Grantor's use and enjoyment of the Easement Area or the Grantor Property, and shall promptly repair any damage it causes to Easement Area in connection with its rights hereunder as more particularly described below. Grantor hereby reserves the right to use the Easement Area so long as such use does not impede the rights granted to Grantee hereunder.

5. Standard of Work. All work done by Grantee in the Easement Area (a) shall be promptly completed by licensed and bonded contractors in a good and workmanlike manner, lien-free, and in compliance with all applicable laws, ordinances, regulations, codes and permits, and (b) shall be done at times and in ways to minimize as much as reasonably possible the disruption to Grantor and any other users of the Grantor Property. Upon completion of any work done by Grantee in the Easement Area, the Easement Area shall be promptly repaired to its pre-work condition, including (if applicable) repairing and resurfacing the surface area.

6. Remedy for Failure to Maintain. If Grantee fails to comply with the maintenance, repair, and replacement obligations under Section 5, then unless such default shall have been cured within ten (10) business days of Grantee's receipt of written notice from Grantor specifying the nature of the default, or such longer period as may be necessary to cure such default in the event Grantee commences such cure with such ten-business day period and thereafter diligently prosecutes such cure to completion, but in no event more than thirty (30) calendar days from receipt of such notice, Grantor shall have the right to perform any obligation on behalf of Grantee. All of Grantor's substantiated out-of-pocket costs and expenses shall be reimbursed by Grantee within thirty (30) days after Grantor's written demand, which demand shall include reasonably detailed substantiation of the claimed costs and expenses.

7. Indemnification. Grantee hereby releases, indemnifies and promises to defend and save Grantor and Grantor's officers, directors, managers, members, and employees (individually, an "Indemnified Party" or collectively, the "Indemnified Parties"), and hold such Indemnified Parties harmless from and against (a) the breach of this Agreement by Grantee; (b) any all injuries, losses, suits, claims, actions, costs, expenses (including reasonable attorneys' fees) for property damage or personal injury resulting directly or indirectly from the exercise of the rights granted herein, except to the extent caused by the gross negligence or willful misconduct of Grantor, its agents, tenants, subtenants, or employees; (c) the negligence, willful misconduct, or fraud on the part of Grantee.

8. Attorneys' Fees. If any suit or other proceeding is instituted by any of the parties to this Agreement arising out of or pertaining to Grantee or Grantor's breach of this Agreement, the substantially prevailing party shall be entitled to recover its reasonable attorneys' fees and all

costs and expenses incurred from the substantially non-prevailing party, in addition to such other available relief.

9. Binding Effect. The benefits and burdens of this Agreement shall run with the land and shall be binding upon the heirs, executors, administrators, personal representatives, transferees, or successors in interest or assigns of Grantee and Grantor. The rights and obligations set forth herein shall not be extinguished by nonuse or abandonment, or by transfer of any interest in the affected properties.

10. Amendment. This Agreement may not be modified or amended without the prior written approval of both parties hereto, or their respective successors and assigns.

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

12. Unenforceability. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remainder of such provision or any other provisions hereof.

13. Amendment; Modification. This Agreement may be changed, modified or amended in whole or in part only by a written and recorded agreement executed by all of the parties hereto or their respective successors and assigns and consented to by any holder of a mortgage or deeds of trust recorded against the Property at such time.

14. Waiver. A party may, at any time or times, at its election, waive any of the conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by such party. No waiver shall reduce the rights and remedies of such party by reason of any breach of any other party. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

15. Exhibits. The Exhibits referred to herein and attached to this Agreement are incorporated herein as if set forth herein in full.

16. Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, express or implied, and all negotiations or discussions of the parties, whether oral or written, and there are no warranties, representations or agreements among the parties in connection with the subject matter hereof except as set forth herein.

17. Counterparts. This Agreement may be signed in counterpart, each signed counterpart will be deemed an original, and all counterparts together will constitute one and the same agreement. Facsimile or electronic mail transmission of any signed original documents, and retransmission of any signed facsimile transmission, will be the same as delivery of an original.

[Signatures Follow]

IN WITNESS WHEREOF, this Agreement is dated as of the first date above written.

GRANTEE: **DRAINAGE AND IRRIGATION IMPROVEMENT DISTRICT 19,**
a Washington drainage improvement district

By: William M. Rozen
Name: WILLIAM M ROZEN
Title: SECRETARY

GRANTOR: **WEST COAST REDUCTION USA INC.,**
a Washington corporation

By: Thomas Aidley Bestwick
Name: THOMAS AIDLEY BESTWICK
Title: SECRETARY

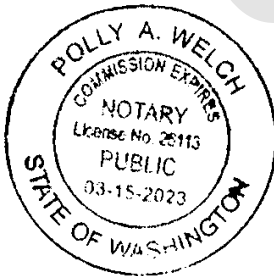
Exhibit A – Legal Description of Grantor Property
Exhibit B – Legal Description of Easement Area
Exhibit C – Depiction of Easement Area
Exhibit D – Legal Description of Prior Drainage Rights Area

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 18th day of May, 2022, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared William H. Rosen known to me to be the Secretary of **DRAINAGE AND IRRIGATION IMPROVEMENT DISTRICT 19**, a Washington drainage improvement district that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of such party for the purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Polly A. Welch
Signature
Polly A. Welch
Print Name
NOTARY PUBLIC in and for the State of
Washington
My commission expires 03/15/2023

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 17 day of May, 2022, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared Thomas Bidley, known to me to be the Secretary of **WEST COAST REDUCTION USA INC.**, a Washington corporation that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of such party for the purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Signature

Kyle Beam

Print Name

NOTARY PUBLIC in and for the State of

WA

My commission expires 9-11-23

EXHIBIT A
Legal Description of the Grantor Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON, AND IS DESCRIBED AS FOLLOWS:

LOTS 3, 4 AND 5, "SIERRA PACIFIC BINDING SITE PLAN PL 08-0315" APPROVED NOVEMBER 16, 2009 AND RECORDED NOVEMBER 16, 2009 AS SKAGIT COUNTY AUDITOR'S FILE NO. 200911160068.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR WATER DETENTION AND TREATMENT OVER, ACROSS AND UNDER POND TRACT F OF "SIERRA PACIFIC BINDING SITE PLAN" NO. PL08-0315 APPROVED NOVEMBER 16, 2009 AND RECORDED NOVEMBER 16, 2009 AS SKAGIT COUNTY AUDITOR'S FILE NO. 200911160068, AS ESTABLISHED, DELINEATED AND DESCRIBED THEREON, AND AS AMENDED BY AMENDMENT TO STORM WATER EASEMENT RECORDED DECEMBER 29, 2009 AS AUDITOR'S FILE NO. 200912290047.

ALSO TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR RAILROAD PURPOSES OVER AND ACROSS THAT PORTION OF LOT 8 OF SAID "SIERRA PACIFIC BINDING SITE PLAN" DELINEATED AS "ACCESS EASEMENT FOR RAILROAD" AS ESTABLISHED, DELINEATED AND DESCRIBED THEREON.

AND ALSO TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR RAILROAD AND ROAD PURPOSES AS ESTABLISHED AND SET FORTH IN INSTRUMENT RECORDED JANUARY 25, 2010 AS AUDITOR'S FILE NO. 201001250143 AS TO RAILROAD ON EXHIBIT "C" THERETO AND AS TO ROADWAY A ON EXHIBIT "D" THERETO.

AND FURTHER TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR RAILROAD PURPOSES AND FOR INGRESS AND EGRESS PURPOSES AS ESTABLISHED BY DOCUMENT RECORDED MAY 27, 2020 AS AUDITOR'S FILE NO. 202005270099.

**EXCEPT THAT PORTION OF SAID LOT 5 DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 OF SAID BINDING SITE PLAN AND A COMMON CORNER TO LOT 8,
THENCE NORTH 1° 15' 35" EAST, A DISTANCE OF 628.07 FEET, ALONG THE EAST LINE OF LOT 5 TO THE NORTHEAST CORNER THEREOF AND THE SOUTHEAST CORNER OF LOT 4;
THENCE SOUTH 84° 42' 43" WEST, A DISTANCE OF 65.92 FEET ALONG THE NORTH LINE OF LOT 5;
THENCE SOUTH 1° 12' 58" WEST, A DISTANCE OF 19.75 FEET TO A POINT OF CURVATURE TO THE RIGHT;
THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE (CONCAVE TO THE WEST) HAVING A RADIUS OF 731.18 FEET, THROUGH A CENTRAL ANGLE OF 27° 30' 21", AN ARC DISTANCE OF 351.02 FEET TO A POINT OF COMPOUND CURVATURE;**

THENCE CONTINUING ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 503.20 FEET, THROUGH A CENTRAL ANGLE OF $31^{\circ} 30' 33''$, AN ARC DISTANCE OF 276.73 FEET TO A POINT OF COMPOUND CURVATURE;
THENCE CONTINUING ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 963.21 FEET, THROUGH A CENTRAL ANGLE OF $9^{\circ} 35' 57''$, AN ARC DISTANCE OF 161.37 FEET TO A NON-TANGENT POINT ON THE SOUTH LINE OF LOT 5;
THENCE CONTINUING ALONG THE SOUTH LINE OF LOT 5 SOUTH $89^{\circ} 36' 55''$ EAST, A DISTANCE OF 479.63 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

ALL OF THE ABOVE BEING A PORTION OF THE EAST $1/2$ AND OF THE NORTHEAST $1/4$ OF THE SOUTHWEST $1/4$ OF SECTION 9, TOWNSHIP 34 NORTH, RANGE 3 EAST, W.M.

EXHIBIT B**Legal Description of Easement Area**

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 34 NORTH, RANGE 3 EAST, W.M. BEING A STRIP OF LAND 30.00 FEET WIDE, 15.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHWEST CORNER OF LOT 5 OF A BOUNDARY LINE ADJUSTMENT APPROVED ON JUNE 22, 2021 AND RECORDED ON JUNE 24, 2021 UNDER AUDITOR FILE NUMBER 202106240105; THENCE SOUTH 1°40'46" WEST ALONG THE WEST LINE OF SAID LOT 5 TO THE INTERSECTION WITH THE CENTERLINE OF AN EXISTING 36 INCH DRAINAGE PIPE A DISTANCE OF 15.09 FEET, THE BEGINNING OF SAID STRIP DESCRIPTION, THENCE THE FOLLOWING COURSES AND DISTANCES ALONG AN EXISTING 36 INCH STROM LINE, NORTH 85°22'54 EAST 410.56 FEET; THENCE NORTH 88° 08'04" EAST TO THE INTERSECTION WITH THE EAST LINE OF SAID LOT 5 A DISTANCE OF 23.21 FEET AND THE TERMINUS OF SAID LINE DESCRIPTION.

THE SIDELINES OF SAID EASEMENT TO BE TRIMMED OR EXTENDED TO THE WEST OR EAST LINE OF SAID LOT 5.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

AREA TO BE ENCUMBERED +/- 13,012 SQ.FT.

EXHIBIT C
Depiction of Easement Area

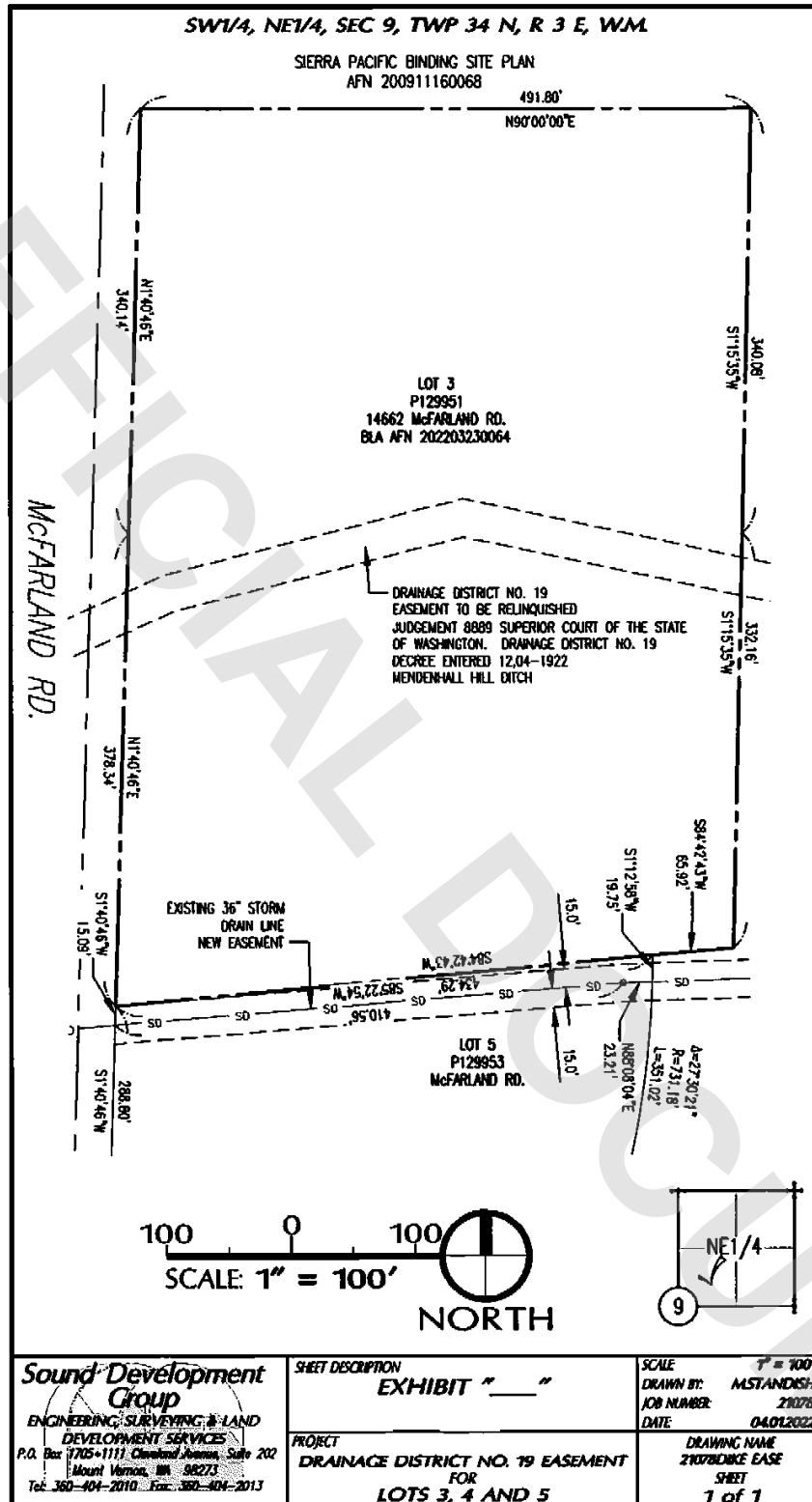


EXHIBIT D**Legal Description of Prior Drainage Rights Area**

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 34 NORTH, RANGE 3 EAST, W.M. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND 30.00 FEET WIDE DESCRIBED BY JUDGEMENT DECREE 8889 FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN FAVOR OF DRAINAGE DISTRICT NO. 19, ENTERED INTO RECORD DECEMBER 4, 1922, DRAINAGE NAMED AS MENDENHALL HILL DITCH. THE LOCATION OF SAID STRIP TO BE RELINQUISHED, BEING THAT PORTION LOCATED ON LOTS 3 AND 4 OF THE "SIERRA PACIFIC BINDING SITE PLAN PL08-0315" APPROVED AND RECORDED ON NOVEMBER 16, 2009 UNDER AUDITOR FILE NUMBER 200911160068.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

AREA TO BE RELINQUISHED +/- 15,333 SQ.FT.