

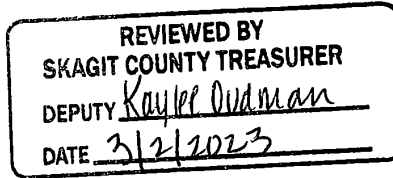


202303020040

03/02/2023 01:15 PM Pages: 1 of 15 Fees: \$217.50  
Skagit County Auditor

Recording Requested by, and  
When Recorded Mail To:

Punkin Center West, LLC  
719 Metcalf Street  
Sedro Woolley, WA 98284



DOCUMENT TITLE: AMENDED AND RESTATED ACCESS & UTILITY EASEMENT

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

GRANTEE(S): Punkin Center West, LLC, a Washington limited liability company; and  
Punkin Center, LLC, a Washington limited liability company; and  
JA Hamilton, LLC, a Washington limited liability company; and  
JF Hamilton, LLC, a Washington limited liability company;

ASSESSOR'S TAX / PARCEL NUMBER(S): P134893 (XrefID: 350614-0-008-1000)  
P41204 (XrefID: 350614-2-004-0009); P41201 (XrefID: 350614-2-001-0002);  
P41175 (XrefID: 350614-0-006-0001); P41178 (XrefID: 350614-0-009-0008); and  
P41193 (XrefID: 350614-1-008-0007).

ABBREVIATED LEGAL DESCRIPTION: PTN NW, and PTN NE, S14, T35N, R6 E, W.M.,

#### ACCESS & UTILITY EASEMENT

This Easement amends, restates, supersedes and replaces that certain Access & Utility Easement recorded July 29, 2020 under Skagit County Auditor's File Number 202007290077.

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 **Punkin Center West, LLC**, a Washington limited liability company, and **Punkin Center, LLC**, a Washington limited liability company, and **JA Hamilton, LLC**, a Washington limited liability company, and **JF Hamilton, LLC**, a Washington limited liability company (collectively "Grantee"), a permanent, perpetual, non-exclusive access and 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, access and 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 an access and utility route to Grantee's adjacent properties commonly

identified as Assessor's Parcel Numbers: P41204 (XrefID: 350614-2-004-0009), P41201 (XrefID: 350614-2-001-0002); P41175 (XrefID: 350614-0-006-0001); P41178 (XrefID: 350614-0-009-0008); P41193 (XrefID: 350614-1-008-0007), (collectively "Grantee's Property") at and in the vicinity of an existing private driveway and private bridge owned by Grantee (the "Grantee's facilities"). A legal description for Grantee's Property is attached hereto as Exhibit "C", and is incorporated herein by this reference. The Grantee recognizes and agrees that any access roads and/or bridges located within the Easement area are not and shall not become County road(s) and/or bridges by virtue of this Easement. Grantor's Property is commonly identified as Assessor's Parcel Number: P134893 (XrefID: 350614-0-008-1000), and a legal description for the Grantor's Property is attached hereto as Exhibit "D", 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 providing an access and utility route to Grantee's Property via 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.

**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.

**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. The Grantee agrees to be responsible for and to assume liability for Grantee's own wrongful and/or negligent acts or omissions or those of Grantee's officials, officers, agents, contractors, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the Grantor harmless from any such liability. It is further provided that no liability shall attach to the Grantor 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 commercial and/or industrial activities are occurring (and/or have occurred and/or may occur) on the Grantee's Property. 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 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 to a governmental agency for all costs, 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 lawful 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 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 and/or the Grantor's Property without the consent of Grantee. Notwithstanding anything to the contrary, Grantee shall have the right under this Easement to permit Puget Sound Energy, or other utility company, to use such portion of this Easement as is necessary to construct, maintain, operate and replace, overhead and/or underground utility lines for Puget Sound Energy, or other utility companies, through the Easement area.

**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.

///

///

///

*(signatures and acknowledgements follow)*

///

///

**GRANTEE:**

JA Hamilton, LLC, a Washington limited liability company.

DATED this 15<sup>th</sup> day of February, 2023By: [Signature]

Print name: Rob Janicki

Its: Manager

STATE OF WASHINGTON }

ss.

COUNTY OF SKAGIT }

I certify that I know or have satisfactory evidence that Rob Janicki, is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was duly authorized execute the instrument and acknowledged it as the Manager of JA Hamilton, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 15 day of February, 2023.

(SEAL)

[Signature]  
Notary PublicPrint name: Tiffany GuwinResiding at: Sedro WoolleyMy appointment expires: 03/18/26

Notary Public  
State of Washington  
Tiffany A Guwin  
Commission No. 22016105  
Commission Expires 03-10-26

JF Hamilton, LLC, a Washington limited liability company.

DATED this 15<sup>th</sup> day of February, 2023

By: [Signature]

Print name: Rob Janicki

Its: Manager

STATE OF WASHINGTON

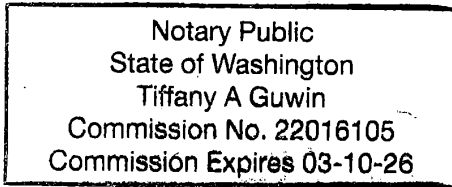
COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that Rob Janicki, is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was duly authorized execute the instrument and acknowledged it as the Manager of JF Hamilton, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 15 day of February, 2023.

(SEAL)



[Signature]  
Notary Public  
Print name: Tiffany Guwin  
Residing at: Sedro Woolley  
My appointment expires: 03-10-26

Punkin Center West, LLC, a Washington limited liability company.

DATED this 15<sup>th</sup> day of February, 2023

By: *Peter Janicki*  
Print name: Peter Janicki  
Its: Manager

STATE OF WASHINGTON }  
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Peter Janicki, is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was duly authorized execute the instrument and acknowledged it as the Manager of **Punkin Center West, LLC**, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 15 day of February, 2023.

(SEAL)

Notary Public  
State of Washington  
Tiffany A Guwin  
Commission No. 22016105  
Commission Expires 03-10-26

*Tiffany Guwin*  
Notary Public  
Print name: Tiffany Guwin  
Residing at: Sedro Woolley  
My appointment expires: 03-10-26



Punkin Center, LLC, a Washington limited liability company.

DATED this 15<sup>th</sup> day of February, 2023

By: [Signature]  
Print name: Rob Janicki  
Its: Manager

STATE OF WASHINGTON }  
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Rob Janicki, is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was duly authorized execute the instrument and acknowledged it as the Manager of Punkin Center, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 15 day of February, 2023.

(SEAL)


[Signature]  
Notary Public  
Print name: Tiffany Guwin  
Residing at: Salmon Valley  
My appointment expires: 03-10-26

Notary Public  
State of Washington  
Tiffany A Guwin  
Commission No. 22016105  
Commission Expires 03-10-26

GRANTOR:

DATED this 28 day of February, 2023.BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

Ron Wesen, Chair

  
Peter Browning, Commissioner**RECUSED**

Attest:

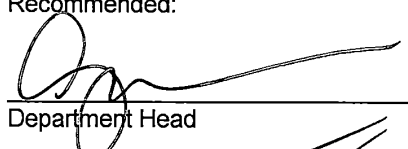
Lisa Janicki, Commissioner

  
Clerk of the Board

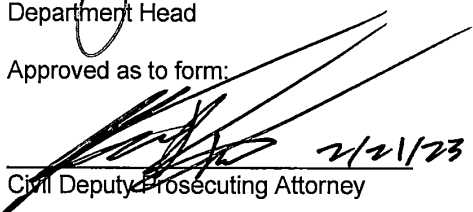
Authorization per Resolution # R20160001:

Recommended:

County Administrator

  
Department Head

Approved as to form:

 2/21/23  
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

  
Risk Manager

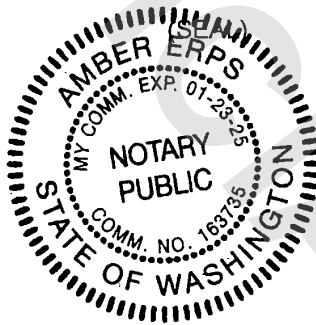
Approved as to budget:

  
Budget & Finance Director

STATE OF WASHINGTON }  
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Peter Browning, Lisa Janieki, 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 28 day of February, 2023.



Amber Erps  
Notary Public  
Print name: Amber Erps  
Residing at: Mount Vernon  
My appointment expires: 01-23-2025

**EXHIBIT "A"****EASEMENT AREA LEGAL DESCRIPTION****ACCESS & UTILITY EASEMENT  
LEGAL DESCRIPTION**

A NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT OVER, UNDER AND ACROSS A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 6 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 60.00 FOOT WIDE STRIP OF LAND BEING 30.00 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: **COMMENCING** AT THE NORTHWEST CORNER OF LOT 3, "PUNKIN CENTER BOUNDARY LINE ADJUSTMENT," AS DESCRIBED IN STATUTORY WARRANTY DEED FOR BOUNDARY LINE ADJUSTMENT FILED UNDER AUDITOR'S FILE NO. 201911200134, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND AS SHOWN ON THE AMENDED RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT FILED UNDER AUDITOR'S FILE NO. 201911200135, RECORDS OF SKAGIT COUNTY, WASHINGTON; THENCE ALONG THE CENTERLINE OF A 60-FOOT ACCESS AND UTILITIES EASEMENT FILED UNDER AUDITORS FILE NO. 201911200136, RECORDS OF SKAGIT COUNTY, WASHINGTON, **NORTH 48°45'54" WEST**, A DISTANCE OF 95.58 FEET, TO A POINT ON THE SOUTHEASTERLY LINE OF THAT TRACT CONVEYED TO SKAGIT COUNTY FOR FLOOD CONTROL BY DEED DATED JULY 7, 1962, RECORDED JULY 30, 1962 AND RECORDED AS AUDITOR'S FILE NO. 624432 RECORD OF SKAGIT COUNTY, WASHINGTON AND RECORDED IN VOLUME 324 OF DEEDS, PAGE 175, AND THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING **NORTH 48°45'54" WEST, 102.44 FEET** TO THE NORTHWESTERLY LINE OF SAID TRACT CONVEYED TO SKAGIT COUNTY FOR FLOOD CONTROL, AND THE **POINT OF ENDING**.

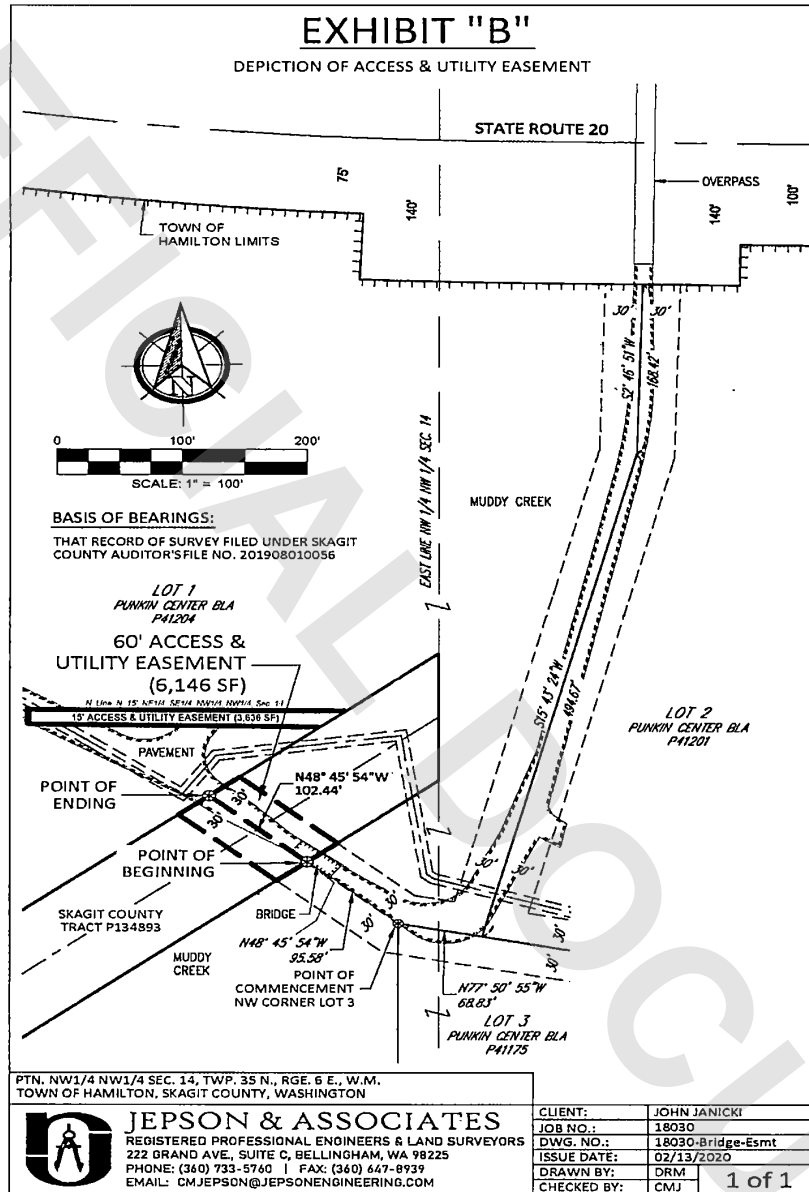
CONTAINING 6,146 SQUARE FEET, MORE OR LESS.

**TOGETHER WITH** THE NORTH 15 FEET OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 6 EAST OF THE WILLAMETTE MERIDIAN.

CONTAINING 3,636 SQUARE FEET, MORE OR LESS.

SITUATE WITHIN THE TOWN LIMITS OF HAMILTON, SKAGIT COUNTY, WASHINGTON.

## EXHIBIT "B" - DEPICTION OF EASEMENT AREA



**EXHIBIT "C"**  
**LEGAL DESCRIPTION OF GRANTEE'S PROPERTY**

LOTS 1-5, INCLUSIVE, OF THAT CERTAIN STATUTORY WARRANTY DEED  
FOR BOUNDARY LINE ADJUSTMENT RECORDED AUGUST 1, 2019, UNDER  
SKAGIT COUNTY AUDITOR'S RECORDING NUMBER 201908010055 AND  
AMENDED NOVEMBER 20, 2019, UNDER SKAGIT COUNTY AUDITOR'S  
RECORDING NUMBER 201911200134.

SITUATE IN THE TOWN OF HAMILTON, SKAGIT COUNTY, WASHINGTON.

**EXHIBIT "D"**  
**LEGAL DESCRIPTION OF GRANTOR'S PROPERTY**

A TRACT OF LAND IN THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 6 EAST OF THE WILLAMETTE MERIDIAN, BEING 100.0 FEET IN WIDTH, LYING 50.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EAST LINE OF SAID SUBDIVISION 672.67 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE SOUTH 56°12'20" WEST 1706.36 FEET TO THE WEST END OF THE STATE HIGHWAY BRIDGE.

LESS ROAD RIGHT OF WAY.

AND TOGETHER WITH THE NORTH 15 FEET OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 6 EAST OF THE WILLAMETTE MERIDIAN

SITUATE IN THE TOWN OF HAMILTON, SKAGIT COUNTY, WASHINGTON.