

After Recording Return to:

John Peth & Sons, Inc.
13397 D'Arcy Rd.
Bow, WA 98232



200212020310
Skagit County Auditor

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re Pump House on Lot 4 of PARCEL 3

DECLARATION OF EASEMENT FOR PUMP HOUSE

Document Summary

Grantor (Burdened Property): John Peth & Sons, Inc.

Grantee(s) (Benefitted Properties):

- (as to **PARCEL 3, Lot 1**): John Peth & Sons, Inc.
- (as to **PARCEL 3, Lot 2**): Don Farmer Insurance Agency, Inc.
- (as to **PARCEL 3, Lot 3**): Randall G. Schultz and Barbara B. Schultz
- (as to **PARCEL 3, Lot 4, except Tracts B, C and Open Space East**):
John Peth & Sons, Inc.
- (as to **PARCEL 4 Lot 1**): Michael D. Yeates
- (as to **PARCEL 4, Lot 2**): Michael D. Yeates
- (as to **IMPROVEMENTS**): Fox Hollow Water System Association

Legal Description (abbr.)(Burdened Property): Portion of Lot 4 of PARCEL 3: Prtn of NW 1/4, S19, T36N, R4E, W.M., Skagit Co., WA

(Benefitted Properties):

PARCEL 3: (the following applies to each Lot 1, Lot 2, Lot 3, portion of Lot 4):

Prtn of NW 1/4, S19, T36N, R4E, W.M., Skagit Co., WA

PARCEL 4: (the following applies to each Lot 1 and Lot 2,): Prtn NE 1/4 of NE 1/4, S24, T36N, R3E, and Prtns of Govt Lots 1 & 2 and SE 1/4 of NW 1/4, S19, T36N, R4E, all W.M., Skagit Co., WA

SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

DEC 02 2002

Amount Paid \$0
By: Skagit County Treasurer Deputy

Assessor's Tax Parcel Number: (Burdened Property): P-49443
(Benefitted Properties):

PARCEL 3-Lot 1: P-118588

Lot 2: P-118589

Lot 3: P-118590

Lot 4 (except Tracts B, C and Open Space
East): P-49443

PARCEL 4-Lot 1: P-49458

Lot 2: P-118655

Reference Numbers of Document Affected: None

THIS EASEMENT AGREEMENT (the "Easement") is made as of this 21 day of November, 2002, by John Peth & Sons, Inc. ("Grantor"); and John Peth & Sons, Inc., a Washington corporation; Don Farmer Insurance Agency, Inc., an Oregon corporation; Randall G. Schultz and Barbara B. Schultz, husband and wife; Michael D. Yeates, a married person as his separate estate; and Fox Hollow Water System Association, a Washington nonprofit miscellaneous and mutual corporation (the "Association") (together "Grantees"). The parties shall sometimes be referred to herein as "owner"/"owners" or "party"/"parties".

RECITALS

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

B. Grantees, except for the Association, are the sole owners of real properties located adjacent to and/or near the Burdened Property, legally described in Exhibit "B", attached hereto (the "Benefitted Property").

C. Grantor wishes to create an easement over, under, across, through and upon a portion of the Burdened Property for the benefit of the Benefitted Property and the Association, for the location, installation, repair, maintenance and operation of a well-water pump house (the "Pump House") and all related fixtures, machinery, improvements and equipment (the "Equipment"). The Pump House and Equipment shall be together referred to herein as the "Improvements".

D. All parties desire that the Association take ownership and operational control of the Improvements.

AGREEMENT

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

DECLARATION OF PUMP HO



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1. **Grant; Easement Area.** Grantor hereby grants and conveys a permanent, non-exclusive easement over, under, across, through and upon that portion of the Burdened Property which is legally described in **Exhibit "C"**, attached hereto (the "**Easement Area**") for the benefit of the Benefitted Property and the Association.

If, in the future, membership in any well association should change to include owners of properties that are not included herein as "benefitted properties" for that particular well, then Grantors hereby agree to further modify the Easement Grant to add said new properties and owners as benefitted properties and grantees.

Further, in the future, membership in any well association should change to not include properties or their owners that are identified herein as "benefitted properties" or grantees for that particular well, then said no-longer-included grantees agree to terminate their rights, herein both as to themselves and as to their property.

2. **Use of Easement Area.** The Easement Area shall be used for the location, installation, repair, maintenance and operation of the Pump House and the Equipment, and for ingress and egress for all uses incidental thereto, whether by the Grantees or the Association.

3. **Improvements.**

a. **Construction and Installation of Improvements.** Grantor shall be solely responsible for the costs of constructing and installing the Improvements. Said Improvements, once constructed and installed, shall include all items located in the Easement Area that are directly related to the delivery of water to the Benefitted Property.

b. **Ownership of Improvements.** For and in consideration already received, as well as in consideration of the signing of this Easement, the Grantor hereby transfers, conveys and quit claims all Improvements to the Association. Each Grantee other than the Association disclaims any direct ownership in the Improvements and confirms that all ownership interests in the Improvements are held by the Association.

c. **Repair and Maintenance of Improvements.** Effective upon the signing by all parties of this Easement and upon the Association becoming operational, the Association shall be solely responsible for the costs of repairing, maintaining, upgrading, and operating the Pump House and the Equipment. Until such time as the Association becomes operational, the Pump House and the Equipment shall be repaired, maintained and operated by or under the supervising direction of the following "**Supervisor**": Matt Farmer, or by such other Supervisor as the Benefitted Property owners may elect by "Majority" vote. ("**Majority**" to be determined by a more than 50% written vote by the owners of the Benefitted Properties for that respective Well and its improvements only, with one (1) vote allotted for each complete 1,000 square feet owned). Upon the Association holding its first meeting and becoming operational, said role of Supervisor shall cease to exist and all responsibilities regarding the Improvement shall pass to the Association.

d. **Operational Costs.** Each Grantee, and any other property owner whose

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property receives water through the Improvements, shall promptly pay its share of the costs of maintaining, repairing and operating the Pump House and the Equipment. The provisions for calculation, assessment, payment, and remedies for non-payment, including lien and foreclosure rights, shall be set forth in the Association's Bylaws and Declaration of Covenants and shall apply.

4. **Insurance and Liability.** Each Grantee shall carry property and liability insurance for the Easement Area and Improvements in amounts that are commercially reasonable for similar projects within the area, and shall name the other Grantees as an additional insureds; PROVIDED, that if an association carries property and liability insurance, in commercially reasonable amounts, for the Easement Area Improvements, and names the other project owners as additional insureds, then said insurance shall be deemed to meet the owners' insurance requirements set forth herein. Each Grantee and association shall indemnify, defend and hold the other Grantees harmless from and against any claims arising from or in connection with the indemnifying owner's use of the Easement Area and the Improvements located thereon. The indemnification obligations under this paragraph shall extend to all liability, loss, expense, claims, causes of action, damages, costs and fees, including attorney fees, arising from or in connection with use of the Easement Area and the Pump House and the Equipment by said indemnifying party, their successors, assigns, heirs, tenants, agents, employees, guests or invitees. Each Grantee's obligation to provide insurance shall commence as of the date that Grantee signs this Easement.

5. **Use of Easement Area by Grantor.** The Grantor may use the Easement Area for any and all purposes not inconsistent with the provisions of this Easement.

6. **Division of Benefitted Property.** If any of the Benefitted Properties are hereafter divided by lawful separation or sub-division, the parts' continuing benefits, if any, under this Easement shall be determined pursuant to the provisions of the Association's Bylaws and Declaration of Covenants.

7. **Running with the Land.** This Easement, along with any and all benefits and burdens arising therefrom, and all covenants, conditions, restrictions and reservations included herein, shall run with the land of the herein described properties and shall be binding upon the owners of the Burdened Property and the Benefitted Property and the Improvements and each of their heirs, successors, and assigns, through all successive transfers of the Properties and Improvements and/or the granting of any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales under security instruments, or of any forfeiture, foreclosures, or sales instituted for non-payment of governmental tax, levy or assessment of any kind, as if each of the properties' future owners or lienholders were the parties to this Easement.

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8. **Attorney Fees.** The prevailing party in any action brought to enforce or interpret the terms of this Easement shall be entitled to recover its costs and reasonable attorney fees incurred in said action, including on appeal, whether or not suit is commenced.

9. **Breach.** In the event of any breach or threatened breach of this Easement by any party, the non-defaulting parties shall have the right to sue for damages and/or for specific performance and/or to enjoin such breach or threatened breach.

10. **No Termination Upon Breach.** No breach of this Easement shall entitle either owner to cancel, rescind or otherwise terminate this Easement; provided, however, that this provision shall not limit or otherwise affect any other right or remedy which an owner may have hereunder by reason of any breach of this Easement.

11. **Captions.** The captions and section headings contained in this Easement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Easement, nor the intent of any provision thereof.

12. **Amendment.** This Easement may not be modified, amended or terminated without the prior written approval of the then owner of the property who is Benefitted or burdened by the provisions of any amendment to the Easement.

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

14. **No Counterparts.** This Easement shall be executed in only one original. Said original document shall be recorded.

15. **Entire Agreement.** There are no verbal or other agreements which modify or affect this Easement, and the parties agree that this Easement and its attached Exhibits constitute the full and complete understanding between them.

Attached: **Exhibit "A"** Legal Description of Burdened Property
Exhibit "B" Legal Description of Benefitted Properties
Exhibit "C" Legal Description of Easement Area

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INDIVIDUAL SIGNATURE AND NOTARIZATION PAGES ARE ATTACHED HERETO AND MADE A PART HEREOF.

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GRANTOR and GRANTEE:

JOHN PETH & SONS, INC.

By: *Dana Peth*
Daniel Peth, its Secretary

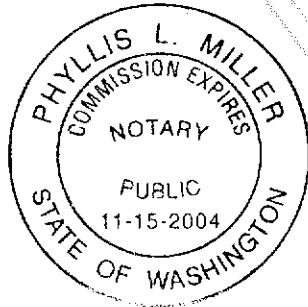
STATE OF WASHINGTON)

: SS

County of Skagit)

I certify that I know or have satisfactory evidence that Daniel Peth is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Secretary of John Peth & Sons, Inc., a Washington corporation, to be the free and voluntary act and deed of the said corporation for the uses and purposes mentioned in the instrument.

DATED this 22nd day of November, 2002.



Phyllis L. Miller
NOTARY PUBLIC for the State of Washington
Printed Name: Phyllis L. Miller
My commission expires 11-15-04



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GRANTEE:

DON FARMER INSURANCE AGENCY, INC.

By: Don Farmer President
Don Farmer, its President

STATE OF OREGON)

:SS

COUNTY OF CURRY

I certify that I know or have satisfactory evidence that Don Farmer is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the President of Don Farmer Insurance Agency, Inc. an Oregon corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 25th day of November 2002.

Tracy L. Dietz

NOTARY PUBLIC for the State of Oregon

Printed Name: Tracy L. Dietz

My commission expires 12-2-2005



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GRANTEE:

Randall G. Schultz
Randall G. Schultz

Barbara B. Schultz
Barbara B. Schultz

STATE OF WASHINGTON)

County of Skagit ^{;SS} Whatcom

I certify that I know or have satisfactory evidence that Randall G. Schultz and Barbara B. Schultz are the persons who appeared before me, and said persons each acknowledged that he/she each signed the foregoing instrument and acknowledged it to be his/her free and voluntary act and deed for the uses and purposes mentioned in this instrument.

DATED this 21 day of November, 2002.

Diana Challenger
NOTARY PUBLIC for the State of Washington
Printed Name: DIANA CHALLENGER
My commission expires 11-27-2004

NOTARY PUBLIC
STATE OF WASHINGTON
DIANA CHALLENGER
My Appointment Expires NOV. 27, 2004



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GRANTEE:

Michael D. Yeates
Michael D. Yeates

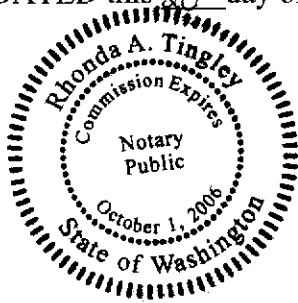
STATE OF WASHINGTON)

:ss

County of Skagit)

I certify that I know or have satisfactory evidence that Michael D. Yeates is the person who appeared before me, and said person acknowledged that he signed the foregoing instrument and acknowledged it to be his free and voluntary act and deed for the uses and purposes mentioned in this instrument.

DATED this 26 day of November, 2002.



Rhonda A. Tingley
NOTARY PUBLIC for the State of Washington
Printed Name: Rhonda A. Tingley
My commission expires 10-1-06

D:\Client Files\RNL\P\peth decl of easement pump house frm



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skagit
Surveyors & Engineers

806 Metcalf St., Sedro-Woolley, WA 98284 Phone: (360) 855-2121 FAX: (360) 855-1658

LEGAL DESCRIPTION
FOR
DAN PETH
OF
PUMP HOUSE EASEMENT

July 25, 2002

An easement for installation, maintenance and operation of a pump house, pumps and pumping facilities over under and through the following described parcel:

Commencing at the northwest corner of the buildable area portion of Lot 4 of Short Plat Number PL00-0345 approved November 13, 2001 and recorded under Auditor's File Number 200111130172; thence N88°59'07"W along the westerly extension of the north line of said Lot 4, a distance of 62.14 feet to the west line of FOX HOLLOW LANE and the point of beginning of this description; thence N73°54'46"W, a distance of 50.00 feet; thence S16°05'14"W, a distance of 60.00 feet; thence S73°54'46"E, a distance of 50.00 feet to the west line of FOX HOLLOW LANE; thence N16°05'14"E along said west line, a distance of 60.00 feet to the point of beginning of this description.

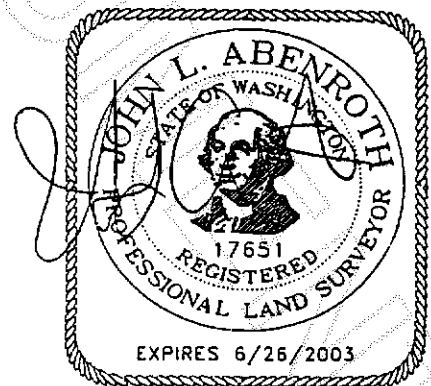
Situate in Skagit County, Washington.



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EXHIBIT C-1



EXPIRES 6/26/2003

7/31/02

PUMP HOUSE, LIFT STATION
 WATER LINE & UTILITY EASEMENT
 EXHIBIT MAP
 for
 Dan Peth
 Sections 18 & 19, Township 36 North,
 Range 4 East, W.M.

July 26, 2002

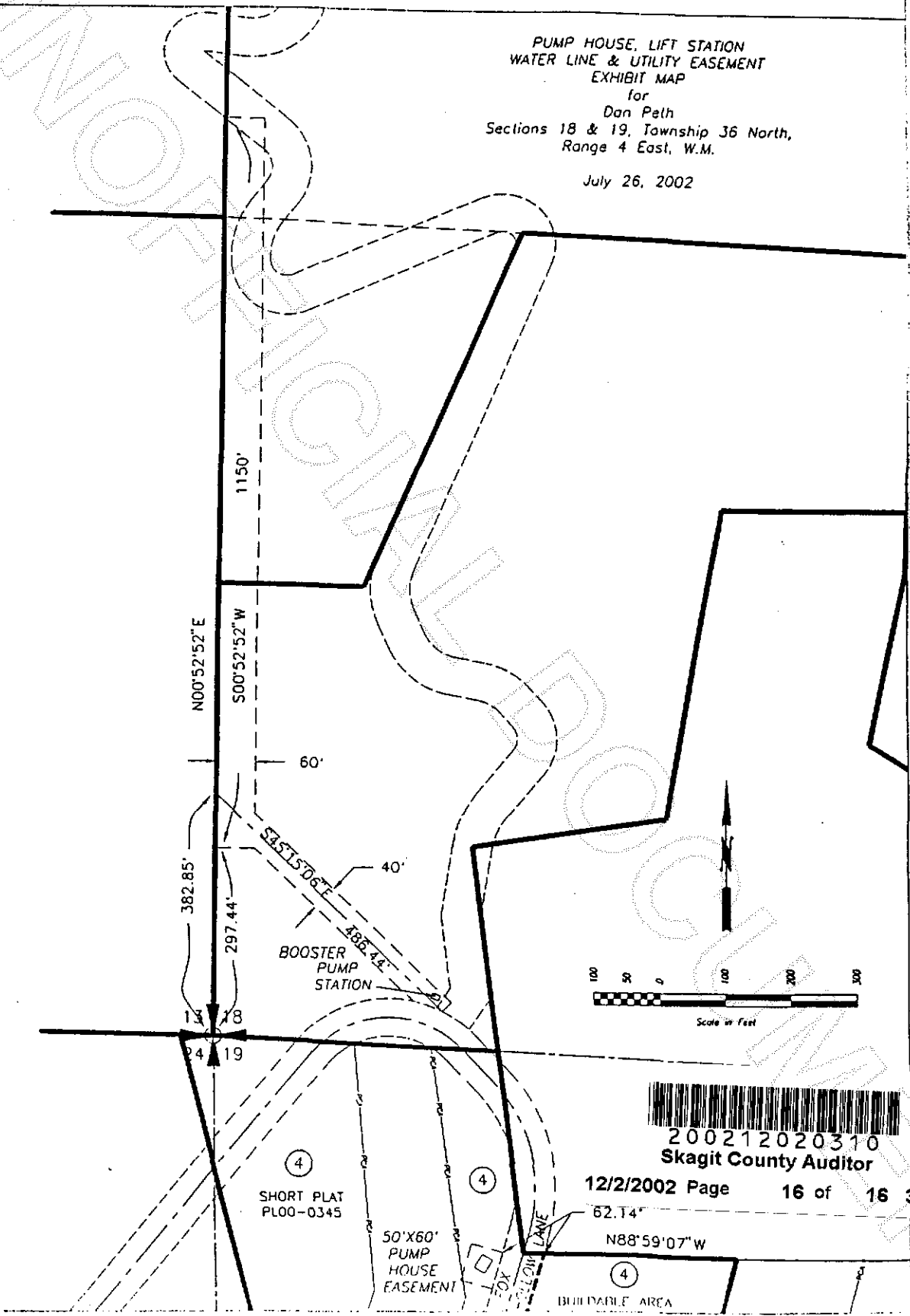


EXHIBIT C-2

GRANTEE:

FOX HOLLOW WATER SYSTEM ASSOCIATION

By: Dan Peth
DAN PETH its President

STATE OF WASHINGTON)

: ss

County of Skagit)

I certify that I know or have satisfactory evidence that Dan Peth is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the President of Fox Hollow Water System Association, a Washington nonprofit miscellaneous and mutual corporation, to be the free and voluntary act and deed of the said corporation for the uses and purposes mentioned in the instrument.

DATED this 2 ^{December} day of ~~November~~, 2002.

Cheryl D. Lanier
NOTARY PUBLIC for the State of Washington
Printed Name: Cheryl D. Lanier
My commission expires 11-15-04



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EXHIBIT "A"

LEGAL DESCRIPTION OF BURDENED PROPERTY

Lot 4 of PARCEL 3

Lot 4, Short Plat No. PL00-0345, approved November 13, 2001, and recorded under Auditor's file No. 200111130172, and being a portion of the Northeast 1/4 of Section 19, Township 36 North, Range 4 East, W.M.

EXCEPTING therefrom, Tract "B", Tract "C", and the following described tract:

The Open Space Future Development (East) portion as designated on the face of said Short Plat; Except a strip of land 8.54 feet wide lying Easterly of, adjacent to, contiguous with the East line, and between the Easterly extensions of the North and South lines of the Buildable Area of said Lot 4.

Situate in the County of Skagit, State of Washington.



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EXHIBIT "B"

LEGAL DESCRIPTION OF BENEFITTED PROPERTIES

Lot 1 of PARCEL 3

Lot 1, Short Plat No. PL00-0345, approved November 13, 2001, and recorded under Auditor's File No. 200111130172, and being a portion of the Northwest 1/4 of Section 19, Township 36 North, Range 4 East, W.M.
Situate in the County of Skagit, State of Washington.

Lot 2 of PARCEL 3

Lot 2, Short Plat No. PL00-0345, approved November 13, 2001, and recorded under Auditor's File No. 200111130172, and being a portion of the Northwest 1/4 of Section 19, Township 36 North, Range 4 East, W.M.
Situate in the County of Skagit, State of Washington.

Lot 3 of PARCEL 3

Lot 3, Short Plat No. PL00-0345, approved November 13, 2001, and recorded under Auditor's File No. 200111130172, and being a portion of the Northwest 1/4 of Section 19, Township 36 North, Range 4 East, W.M.
Situate in the County of Skagit, State of Washington.

Lot 4 of PARCEL 3 (except Tracts B, C & Open Space East)

Lot 4, Short Plat No. PL00-0345, approved November 13, 2001, and recorded under Auditor's file No. 200111130172, and being a portion of the Northeast 1/4 of Section 19, Township 36 North, Range 4 East, W.M.

EXCEPTING therefrom, Tract "B", Tract "C", and the following described tract:

The Open Space Future Development (East) portion as designated on the face of said Short Plat; Except a strip of land 8.54 feet wide lying Easterly of, adjacent to, contiguous with the East line, and between the Easterly extensions of the North and South lines of the Buildable Area of said Lot 4.

Situate in the County of Skagit, State of Washington.



Lot 1 of PARCEL 4

Lot 1, Short Plat No. 99-0031, approved November 19, 2001, and recorded under Auditor's File No. 200111200077, and being a portion of the Northeast 1/4 of the Northeast 1/4 of Section 24, Township 36 North, Range 3 East, W.M., and a portion of Government Lots 1, 2 and the Southeast 1/4 of the Northwest 1/4 of Section 19, Township 36 North, Range 4 East, W.M. Situate in the County of Skagit, State of Washington.

Lot 2 of PARCEL 4

Lot 2, Short Plat No. 99-0031, approved November 19, 2001, and recorded under Auditor's File No. 200111200077, and being a portion of the Northeast 1/4 of the Northeast 1/4 of Section 24, Township 36 North, Range 3 East, W.M., and a portion of Government Lots 1, 2 and the Southeast 1/4 of the Northwest 1/4 of Section 19, Township 36 North, Range 4 East, W.M. Situate in the County of Skagit, State of Washington.



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EXHIBIT "C"

LEGAL DESCRIPTION OF EASEMENT AREA

see attached



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