



200904100083

Skagit County Auditor

4/10/2009 Page

1 of

14 12:57PM

WHEN RECORDED RETURN TO:

City of Mount Vernon
P.O. Box 809
Mount Vernon, WA 98273

123885-102 LAND TITLE OF SKAGIT COUNTY

DOCUMENT TITLE(S):

Amended Stipulated Findings of Fact, Conclusions of Law, Judgment and Decree of Appropriation

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR:

MT. VERNON RETAIL, LLC, a Washington Limited Liability Company

GRANTEE:

CITY OF MOUNT VERNON, a municipal corporation

ABBREVIATED LEGAL DESCRIPTION:

Parcel A Of Survey 200411160108, Aka Trs. B & C Of MV SP 26-76; Ptn Trs. 9-11, Mt. Vernon Acreage

TAX PARCEL NUMBER(S):

3746-000-010-0001, P53849

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2009 APR -7 PM 1:22

CERTIFIED COPY

SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

In the Matter of the Petition of the City of Mount Vernon to acquire by condemnation certain property and property rights for the improvement of College Way and Riverside Drive, as contemplated by City of Mount Vernon Ordinance No. 3401,

No. 08-2-00767-0

AMENDED STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF APPROPRIATION

[In re City of Mount Vernon - College Way/ Riverside Drive (P53849 - Mt. Vernon Retail)]

CLERK'S ACTION REQUIRED

Petitioner, City of Mount Vernon (the "City"), and Respondent Mount Vernon Retail, LLC ("MVR") stipulate as follows:

1. JUDGMENT SUMMARY

1.1 AMOUNT OF JUDGMENT

1.1.1	Total amount:	\$ 99,225
1.1.2	Previous Possession and Use Deposit	\$ 55,100
1.1.3	Costs	\$ - 0 -
1.1.4	Balance remaining:	\$ 44,125

1.2 JUDGMENT CREDITORS. MVR by Michael R. Garner, Stokes Lawrence, P.S., 800 Fifth Avenue, Suite 4000, Seattle, WA 98104; Phone 206-626-6000.

1.3 JUDGMENT DEBTOR. City of Mount Vernon by Kevin Rogerson, City Attorney and P. Stephen DiJulio, Foster Pepper PLLC, 1111 Third Avenue, Suite 3400, Seattle, WA 98101; Phone 206-447-4400.

AMENDED STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, JUDGMENT AND
DECREE OF APPROPRIATION - 1

09-9-00057-1

50930987.3

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700



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1 1.4 JUDGMENT AMOUNT

2	1.4.1	Balance remaining:	\$ 44,125
3	1.4.2	Interest owed:	\$ - 0 -
4	1.4.3	Costs	\$ - 0 -
	1.4.4	Total amount due from the City:	\$ 44,125

5 1.5 COSTS. Statutory costs are waived.

6 1.6 LEGAL DESCRIPTION. See attached Exhibit A ("the Property").

7 1.7 SKAGIT COUNTY TAX ACCOUNT NUMBER: P53849.

8 2. INTRODUCTION

9 THIS MATTER came before the undersigned judge of the above-entitled court on the
10 stipulation of the City and MVR. The City is represented by Kevin Rogerson, City Attorney
11 and P. Stephen DiJulio of Foster Pepper PLLC. MVR is represented by Michael R. Garner, of
12 Stokes Lawrence, P.S. This Amended Stipulated Judgment is filed to correct the inadvertent
13 omission of Exhibit A from the January 9, 2009 Stipulated Judgment in this matter. The Court,
14 having received the stipulation of the parties for entry of this judgment and having been advised
15 in the premises; NOW, THEREFORE makes and enters the following judgment ("Judgment").

16 3. PUBLIC USE AND NECESSITY

17 An Order on Public Use and Necessity was entered on May 23, 2008.

18 4. OTHER PARTIES

19 4.1 The other parties to this action include tenants, a deed of trust trustee, a deed of
20 trust beneficiary, an assignee, an easement grantee, and Skagit County as a taxing entity.

21 4.2 On June 13, 2008, the Court entered an order of default against Chicago Title
22 Insurance Company, Pawn X-Change LLC, Liberty Tax Services, and Wells Fargo Bank. On
23 September 19, 2008, the Court entered an order of default against Artesia Mortgage Capital
24 Corporation. These defaulted parties have no interest in the just compensation for the Property
25 or in the total Judgment Amount.
26

AMENDED STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, JUDGMENT AND
DECREE OF APPROPRIATION - 2

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1 4.3 NWCC Investments, Inc. ("NWCC") has a non-exclusive easement for
2 vehicular and pedestrian ingress, egress, access, and vehicular parking. NWCC has no interest
3 in the just compensation for the Property or in the total Judgment Amount.

4 4.4 No party other than MVR has an interest in the just compensation for the
5 Property or in the total Judgment Amount.

6 **5. JUDGMENT AND APPROPRIATION**

7 5.1 The total just compensation to be paid by the City to MVR for and in connection
8 with the taking and damaging of the real property described in the Petition for Condemnation
9 ("Petition") and in Exhibit A attached hereto (the "Property"), together with all improvements
10 thereon, attorney, expert/evaluation fees and interest, if any, is the amount of Ninety-Nine
11 Thousand Two Hundred Twenty-Five Dollars (\$99,225.00), less any taxes owed to Skagit
12 County at the time of disbursement, if any.

13 5.2 The City has previously paid into escrow with Land Title Company of Skagit
14 ("Escrow") pursuant to the Possession and Use Agreement amount of \$55,100. The total
15 balance due from the City is Forty-Four Thousand One Hundred Twenty-Five Dollars
16 (\$44,125.00).

17 5.3 Upon entry of this Judgment, the City shall have all right, title and interest in the
18 Property, and all of the Respondent's interest in the Property will be extinguished.

19 **6. JUST COMPENSATION**

20 6.1 Within ten (10) days of entry of this Judgment, the City shall deposit the total
21 balance due with Escrow.

22 6.2 The City shall issue instructions to Escrow authorizing Escrow to release to
23 MVR funds deposited with Escrow, less any real property taxes currently due, as payment in
24 full of just compensation and costs for the Property ("Judgment Amount").

25 6.3 Upon entry of this judgment, the City shall have all right, title and interest in a
26 the Property, as described in Exhibit A.

AMENDED STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, JUDGMENT AND
DECREE OF APPROPRIATION - 3

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1 6.4 The parties agree to the disbursement of the entire Judgment Amount to MVR,
2 except as provided in Section 6.2, as follows: payment shall be made payable to and mailed to
3 Respondent MVR c/o Michael R. Garner, Stokes Lawrence, P.S., 800 Fifth Avenue, Suite 4000,
4 Seattle, WA 98104.

5 6.5 MVR's interest in the Property will be extinguished as of the date of entry of
6 this judgment.

7 6.6 The City and MVR acknowledge that the City has acquired fee title to the parcel
8 directly west of MVR's property on College Way, commonly known as the "Tesoro Parcel."
9 The City acquired the Tesoro parcel by statutory warranty deed recorded September 11, 2008.
10 The location of the Tesoro Parcel is indicated on Exhibit B.

11 6.7 The City and MVR shall provide to each other reciprocal cross-easements for
12 ingress and egress at the boundary of the Tesoro Parcel and MVR's parcel as described more
13 particularly in Exhibit B.

14 **7. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

15 Sections 3 through 6 above shall be and hereby are adopted as and made the Findings of
16 Fact and Conclusions of Law. Now, therefore, in accordance with the foregoing Findings of
17 Fact and Conclusions of Law, it is hereby ordered, adjudged and decreed as follows:
18

19 **8. JUDGMENT**

20 8.1 Sections 3 through 7 above are incorporated herein by this reference.

21 8.2 Upon entry of this Judgment and payment as set forth in Section 6.1 above, the
22 City shall have all right, title and interest in the Property as described in the Petition and in
23 Exhibit A attached hereto, and all of the Respondent's interest in the Property will be
24 extinguished.

25 8.3 The total amount to be paid by the City to MVR, as payment in full of just
26 compensation, is Ninety-Nine Thousand Two Hundred Twenty-Five Dollars (\$99,225.00). The

AMENDED STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, JUDGMENT AND
DECREE OF APPROPRIATION - 4

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Skagit County Auditor


1 total balance due from the City is Forty-Four Thousand One Hundred Twenty-Five Dollars
2 (\$44,125.00).

3 8.4 The Clerk shall issue no "certified abstract of judgment" contained in the
4 execution docket, otherwise denominated by the Clerk "transcript of judgment docket," the sole
5 and only purpose of which is presentation for payment. The sole method of payment shall be
6 through the Escrow.

7 8.5 Costs are waived as to all parties.


8 SO ORDERED this ^{7th} ^{April} [?] day of ~~November~~, 2008.
9 SKAGIT COUNTY WASHINGTON
10 REAL ESTATE EXCISE TAX

11 APR 10 2009

12 
13 JUDGE ~~COURT~~ COMMISSIONER

14 Amount Paid \$ ⁰
15 Skagit Co. Treasurer
16 By ^{ME} Deputy

17 Stipulated to and Presented by:
18 CITY OF MOUNT VERNON


19 
20 KEVIN ROGERSON, WSBA No. 31664
21 Prosecuting Attorney, and

22 FOSTER PEPPER PLLC
23 P. Stephen DiJulio, WSBA No. 7139
24 Michael S. Schechter, WSBA No. 35602
25 Special Assistant City Attorneys

26 Stipulated to and Approved for Entry by:
STOKES LAWRENCE, P.S.

Michael R. Garner, WSBA No. 8898
Attorneys for Respondent MVR

Stipulated to and Approved for Entry by:
VANDEBERG JOHNSON & GANDARA, LLP


Constance L. Proctor, WSBA No. 8542
Daniel Gandara, WSBA No. 8635
Attorneys for Respondent Moneytree, Inc.

Stipulated to and Approved for Entry by:
SKAGIT COUNTY PROSECUTING
ATTORNEY RICHARD A. WEYRICH


Steve Fallquist, WSBA No. 31678
Civil Deputy
Attorney for Respondent Skagit County

AMENDED STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, JUDGMENT AND
DECREE OF APPROPRIATION - 5

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1 total balance due from the City is Forty-Four Thousand One Hundred Twenty-Five Dollars
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3 8.4 The Clerk shall issue no "certified abstract of judgment" contained in the
4 execution docket, otherwise denominated by the Clerk "transcript of judgment docket," the sole
5 and only purpose of which is presentation for payment. The sole method of payment shall be
6 through the Escrow.

7 8.5 Costs are waived as to all parties.

8 SO ORDERED this _____ day of November, 2008.

11 _____
12 JUDGE / COURT COMMISSIONER

13 Stipulated to and Presented by:
14 CITY OF MOUNT VERNON

15 _____
16 KEVIN ROGERSON, WSBA No. 31664
Prosecuting Attorney, and

17 FOSTER PEPPER PLLC
18 P. Stephen DiJulio, WSBA No. 7139
Michael S. Schechter, WSBA No. 35602
19 Special Assistant City Attorneys

Stipulated to and Approved for Entry by:
STOKES LAWRENCE, P.S.

20 _____
21 Michael R. Garner, WSBA No. 8898
Attorneys for Respondent MVR
22 1-20-09

20 Stipulated to and Approved for Entry by:
21 VANDEBERG JOHNSON & GANDARA, LLP

22 _____
23 Constance L. Proctor, WSBA No. 8542
Daniel Gandara, WSBA No. 8635
24 Attorneys for Respondent Moneytree, Inc.

Stipulated to and Approved for Entry by:
SKAGIT COUNTY PROSECUTING
ATTORNEY RICHARD A. WEYRICH

25 _____
26 Steve Fallquist, WSBA No. 31678
Civil Deputy
Attorney for Respondent Skagit County

AMENDED STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW, JUDGMENT AND
DECREE OF APPROPRIATION - 5

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EXHIBIT A

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Parcel Number P53849

EXHIBIT A

LISSE & ASSOCIATES, PLLC

320 Milwaukee St, PO Box 1109, Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

Description for New Road Right-of-way

June 26, 2007

That portion of the following described Tract "X", lying Southerly of the following described line:

Commencing at the Southwest corner of the Northwest 1/4 (West 1/4 corner) of Section 17, Township 34 North, Range 4 East, W.M.;
thence South 87°37'00" East along the South line of said Northwest 1/4 for a distance of 275.04 feet;
thence North 0°40'15" West for a distance of 30.00 feet, more or less, to the Southeast corner of Tract B Short Plat No. MV-26-76, approved September 10, 1976 and recorded September 23, 1976 in Volume 1 of Short Plats, page 175 under Auditor's File No. 843161;
thence continue North 0°40'15" West along the East line of said Short Plat No. MV-26-76 for a distance of 10.00 feet, more or less, to the North line of the South 40.00 feet of said Northwest 1/4 and being the TRUE POINT OF BEGINNING of said line description;
thence North 74°32'14" West for a distance of 29.71 feet,
thence North 88°30'23" West for a distance of 158.19 feet;
thence North 44°36'10" West for a distance of 47.07 feet;
thence North 2°57'41" West for a distance of 75.83 feet;
thence North 2°57'41" West for a distance of 92.27 feet;
thence North 0°40'15" West for a distance of 37.19 feet;
thence North 89°19'45" East for a distance of 2.00 feet;
thence North 0°40'15" West for a distance of 17.65 feet;
thence North 2°51'58" West for a distance of 241.29 feet;
thence North 89°19'45" East for a distance of 2.00 feet;
thence North 2°51'58" West for a distance of 129.48 feet, more or less, to the North line of Tract 6, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.", as per plat recorded in Volume 3 of Plats, page 102 records of Skagit County, Washington, at a point bearing North 89°19'45" East a distance of 8.80 feet from the Northwest corner of said Tract 6 and being the terminus of said line description.

Tract "X"

(Shown as Parcel A on Land Title Company Limited Liability Report Order No. 123885)

Tract B, City of Mount Vernon Short Plat No. MV-26-76, approved September 10, 1976, recorded September 23, 1976 in Volume 1 of Short Plats, page 175, under Auditor's File No. 843161; and being a portion of Tracts 9 and 10, "PLAT OF MOUNT VERNON ACREAGE, SKAGIT COUNTY, WASH.," as per plat recorded in Volume 3 of Plats, page 102, records of Skagit County, Washington

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

Situate in the City of Mount Vernon, County of Skagit, State of Washington.

Area of new right-of-way = 2,196 sq. ft

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EXHIBIT B

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LISSER & ASSOCIATES, PLLC

320 Milwaukee St, PO Box 1109, Mount Vernon WA 98273 (360) 419-7442 FAX (360) 419-0581

November 14, 2008

Easement #1

A non-exclusive mutually beneficial easement for ingress and egress over, under and across a portion of the West 120 feet of Lot 10, "Plat of Mount Vernon Acreage, Skagit County, Wash", according to the plat recorded in Volume 3 of Plats, page 102, records of Skagit County, Washington and being more particularly described as follows:

Commencing at the Southwest corner of the Northwest 1/4 (West 1/4 corner) of Section 17, Township 34 North, Range 4 East, W.M.;
thence South 87°37'00" East along the South line of said Northwest 1/4 for a distance of 275.04 feet;
thence North 0°40'15" West for a distance of 30.00 feet, more or less, to the Southeast corner of Tract "B", City of Mount Vernon Short Plat No. MV-26-76, approved September 10, 1976 and recorded September 23, 1976 in Volume 1 of Short Plats, page 175, under Auditor's File No. 843161;
thence continue North 0°40'15" West along the East line of said Tract "B", City of Mount Vernon Short Plat No. MV-26-76 for a distance of 10.00 feet, more or less, to the North line of the South 40.00 feet of the Northwest 1/4, being a point on the proposed Northerly right of way margin of College Way;
thence along said proposed Northerly right of way margin North 74°32'14" West for a distance of 29.71 feet;
thence North 88°30'23" West for a distance of 96.52 feet, more or less, to the West line of said Tract "B", City of Mount Vernon Short Plat No. MV-26-76, also being the East line of said West 120 feet of Lot 10 "Plat of Mount Vernon Acreage, Skagit County, Wash", and also being the POINT OF BEGINNING (hereafter referred to as Point "X");
thence continue North 86°30'23" West for a distance of 9.87 feet;
thence North 0°40'15" West parallel with the East line of said West 120 feet of Lot 10 for a distance of 19.00 feet;
thence North 89°19'45" East for a distance of 9.86 feet, more or less, to said East line of the West 120 feet of Lot 10, also being the West line of said Tract "B", City of Mount Vernon Short Plat No. MV-26-76 at a point bearing North 0°45'15" West from the TRUE POINT OF BEGINNING;
thence South 0°45'15" East along said East line of the West 120 feet of Lot 10, also being the West line of said Tract "B", City of Mount Vernon



Short Plat No. MV-26-76 for a distance of 19.37 feet, more or less, to the TRUE POINT OF BEGINNING.

Easement #2

A non-exclusive mutually beneficial easement for ingress and egress, over, under and across a portion of Tract "B", City of Mount Vernon Short Plat No. MV-26-76, approved September 10, 1976, recorded September 23, 1976 in Volume 1 of Short Plats, page 175, under Auditor's File No. 843161, records of Skagit County, Washington and being more particularly described as follows:

BEGINNING at the aforementioned Point "X";
thence North 0°45'15" West along the West line of said Tract "B", City of Mount Vernon Short Plat No. MV-26-76, also being the East line of the West 120 feet of Lot 10, "Plat of Mount Vernon Acreage, Skagit County, Wash.", as per plat recorded in Volume 3 of Plats, page 102, records of Skagit County, Washington for a distance of 19.37 feet;
thence North 89°19'45" East for a distance of 10.13 feet;
thence South 0°45'15" East for a distance of 19.76 feet, more or less, to a point on said proposed Northerly right of way margin of College Way at a point bearing South 88°30'23" East from the POINT OF BEGINNING;
thence North 88°30'23" West along said proposed Northerly right of way margin of College Way for a distance of 10.13 feet, more or less, to the POINT OF BEGINNING.

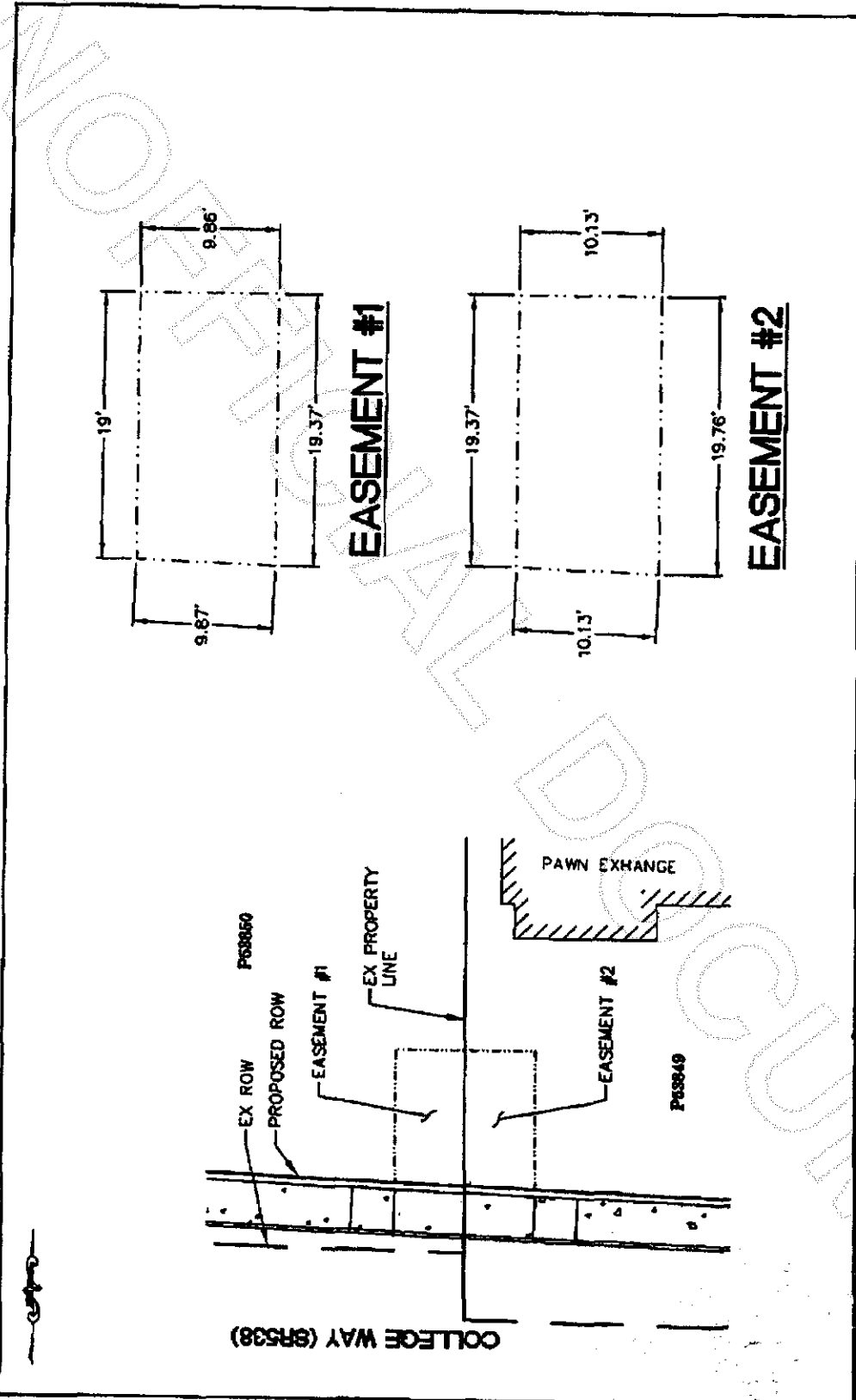
ALL OF THE ABOVE BEING SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants, liens, leases, court causes and other instruments of record.

All situate in the City of Mount Vernon, County of Skagit, State of Washington.



11-14-08





SCALE: 1"=20'
CITY OF MT. VERNON
 PROPOSED JOINT
 ACCESS EASEMENT
 06029

11/12/08
REICHARDT & EBE
 ENGINEERING, INC.
 423 Front St, Ste 201 Lynden, WA 98284
 Phone 364-3887 FAX 364-0407



P:\Projects\0629\dwg\SP5 Easement Exhibit.dwg, EXHIBITS, 11/12/2008 4:06:59 PM



200904100083
 Skagit County Auditor

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State of Washington, } ss.
County of Skagit

I Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of Skagit, do hereby certify that the foregoing is a true and correct copy of the original consisting of 12 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said County of my office at Mount Vernon this 9 day of April 2009. Nancy K. Scott, County Clerk.

By Jennifer Jackson
Deputy Clerk



200904100083
Skagit County Auditor
4/10/2009 Page 14 of 14 12:57PM