

POOR ORIGINAL



201210260049
Skagit County Auditor

After recording, return to:

Town of La Conner
P.O. Box 400
La Conner, WA 98257

Document Title: Consent to Grant of Easement

Reference number of documents assigned or released: (reference DNR lease and Easement)

Grantor(s): Columbia State Bank

Grantee(s): The Town of La Conner and the state of Washington, Department of Natural Resources

Legal Description: Exhibit A

PTN TR 7 Plate 18 LaConner
36-34-2 Tidelands

Assessor's Parcel/Tax I.D. Number: P74457 & P74458

CONSENT TO GRANT OF EASEMENT

This Consent to Grant of Easement (this "Consent") is made this 3 day of October, 2012.

I. RECITALS

WHEREAS, the Washington Department of Natural Resources ("Lessor") and Columbia State Bank, a Washington corporation, as successors to Tore Dybfest d.b.a Lighthouse Restaurant ("Lessee") are parties to DNR leases No. 22-002695 and 22-002650 dated January 23, 1990 and as amended (the "Lease") concerning the real property legally described in Exhibit A and depicted in Exhibit B hereto (the "Property"); and

WHEREAS, Lessor has granted to the Town of La Conner ("Grantee") an easement for construction, repair, maintenance and use of a public access boardwalk over, on and across a portion of the Property legally described in Exhibit C and depicted in Exhibit D hereto (the "Easement Area") for the purposes and subject to the conditions therein stated; and

WHEREAS, the Lessee recognizes the benefit to the public and itself to be derived from the Easement; and

WHEREAS, parties acknowledge that the parties' promises, obligations and rights set forth in this Consent constitute adequate and significant mutual consideration;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS

II. CONSENT

A. Lessee hereby consents to the Easement, for the purposes and subject to the terms therein stated, over, on and across the Easement Area subject to the following terms and conditions:

1. Grantee shall construct all improvements within the Easement Area solely at its own cost and expense and in compliance with applicable federal, state and local laws and regulations.
2. Grantee shall, prior to obtaining a building permit for the improvements provide to Lessee plans accurately depicting said improvements. Lessee shall reasonably approve or disapprove said plans within seven (7) days of such submission. In the event Lessee does not so respond, the plans will be deemed approved.

CONSENT TO EASEMENT
COLUMBIA BANK, LESSEE
TOWN OF La CONNER, GRANTEE

JD
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

Page 2 of 6

OCT 26 2012



201210260049
Skagit County Auditor

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

- UNOFFICIAL
3. Grantee shall notify Lessee at least seven (7) days prior to commencement of construction of the improvements. All improvements shall be constructed and maintained so as to cause minimal disruption of Lessee's quiet enjoyment of the Property. Grantee shall cause all improvements to be promptly constructed in a workman like manner. Grantee shall indemnify and hold harmless Lessee from any claim of lien based on Grantee's construction, repair or maintenance of the improvements within the Easement Area.
 4. All improvements, while intended for the safe convenient passage of the public, shall be designed and constructed to protect the safety and security of Lessee, Lessee's property and Lessee's invitees.
 5. Grantee shall indemnify and hold harmless Lessee from any personal injury to members of the public based on claims related to the use of the Easement Area and not caused by the intentional act or the negligence of the Lessee. Grantee shall further indemnify and hold harmless Lessee from any damage to its property caused by the Grantee, Grantee's contractors or a member of the public; provided, that any claim against such contractor or member of the public is assigned by Lessee to Grantee. Grantee shall also, to the extent of its fault, indemnify and hold harmless Lessee, excepting consequential damages, for damage claimed by the state of Washington due to breach of the Lease resulting from actions by Grantee.
 6. Grantee shall undertake as needed repairs and maintenance to the Easement Area at its sole cost. Should Lessee become aware of damage to the improvements or the presence of any dangerous condition in the Easement Area, Lessee shall immediately attempt to so inform Grantee by telephone at the telephone set forth in paragraph 9 below.
 - ~~7. Lessee shall neither impede nor interfere with the public's lawful use of the Easement Area in compliance with the terms and conditions of the Easement.~~
 8. Lessee, shall, upon termination or assignment of the Lease: (1) provide to the Grantee the name, address and telephone of the successor lessee, if any; and (2) provide a copy of this Consent to any successor.
 9. Notices as called for herein, including notice of change of address, shall be given by hand delivery or U.S. Mail and shall be deemed received on the date of delivery or three days after deposit, postage prepaid, in the U.S. Mail to the parties at the following addresses:

To Lessee:

Columbia State Bank
Special Credits, MS-6115
1301 A Street
Tacoma, WA 98402

CONSENT TO EASEMENT
COLUMBIA BANK, LESSEE
TOWN OF La CONNER, GRANTEE

Page 3 of 6



201210260049
Skagit County Auditor

10/26/2012 Page

3 of 11 9:36AM

Attention: Jim Duncan, Vice President
Telephone: 253-305-0083

To Lessor:

Town of La Conner
P.O. Box 400
204 Douglas Street
La Conner, WA 98257
Attention: Town Administrator
Telephone 360-466-3125

10. This Consent shall be construed according to the laws of the state of Washington. Venue for any action based on this Consent shall be commenced in Skagit County Superior Court and the prevailing party shall receive an award of its reasonable attorney fees and costs, including appeals.
11. Except as set forth in paragraph 5 above, Lessee waives any and all claims for a "taking" and/or compensation for condemnation or inverse condemnation, loss of business opportunity, loss of income or loss of value of its property or loss of value to its leasehold interest in the Lease.

**CONSENT TO EASEMENT
COLUMBIA BANK, LESSEE
TOWN OF La CONNER, GRANTEE**

Page 4 of 6



201210260049
Skagit County Auditor

LESSEE

COLUMBIA STATE BANK

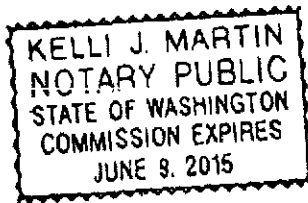
By [Signature]
(its V.P.)

Date 10/3/2012

STATE OF WASHINGTON)
) ss. Pierce
COUNTY OF ~~SKAGIT~~)

On this 3 day of October before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Jim Duncan and [Signature] to me known to be the VP [title] and [title], respectively of Columbia State Bank the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they/he/she is/are authorized to execute the said instrument.

Given under my hand and official seal this 3 day of October 2012



[Signature]
Notary Public in and for the state of
Washington, residing at 1201 AST
My commission expires: 6-09-15
Printed Name: Kelli J. Martin

GRANTEE, TOWN OF LA CONNER

CONSENT TO EASEMENT
COLUMBIA BANK, LESSEE
TOWN OF La CONNER, GRANTEE

Page 5 of 6



201210260049
Skagit County Auditor

UNNO

Ramon Hayes

By Ramon Hayes, Mayor

Date 10/11/12

Attest:

By Lorraine Taylor
Lorraine Taylor, Clerk/Treasurer

Approved as to form:

By Bradford E. Furlong
Bradford E. Furlong, WSB# 12924
Town Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 11th day of October, 2012 before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Ramon Hayes and Lorraine Taylor to me known to be the Mayor and Clerk/Treasurer respectively of the Town of La Conner the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument,

Witness my hand and official seal hereto affixed the say and year first above written.



Cynthia S. Rowe

Notary Public in and for the state of
Washington, residing at La Conner
My commission expires: 09-30-15

Printed Name: CYNTHIA S. ROWE

CONSENT TO EASEMENT
COLUMBIA BANK, LESSEE
TOWN OF La CONNER, GRANTEE

J

Page 6 of 6



201210260049
Skagit County Auditor

CONSENT TO EASEMENT

Exhibit A - Legal Description

Parcel A of Aquatic Lands Lease No. 22-002695 – Restaurant and Deck

A portion of the Harbor Area fronting Tract 7, as shown on the 1986 Corrected Supplement of Plate 18 of La Conner Tidelands as shown on the official map on file at the Office of the Commissioner of Public Lands, Olympia, Washington, more particularly described as follows:

Commencing at the lead plug at the intersection of First Street and Benton Street; thence North $58^{\circ} 47' 00''$ West 45.00 feet; thence North $31^{\circ} 13' 00''$ East 20.00 feet; thence North $58^{\circ} 47' 00''$ West 57.00 feet, more or less, and the True Point of Beginning; thence North $58^{\circ} 47' 00''$ West 27.00 feet, more or less; thence North $29^{\circ} 57' 00''$ East 122.00 feet, more or less; thence South $58^{\circ} 47' 00''$ East 60.00 feet, more or less; thence South $18^{\circ} 16' 00''$ West 94.00 feet, more or less; thence North $58^{\circ} 47' 00''$ West 18.00 feet, more or less; thence South $31^{\circ} 13' 00''$ West 7.00 feet, more or less; thence North $58^{\circ} 47' 00''$ West 20.00 feet more or less; thence South $31^{\circ} 13' 00''$ West 6.00 feet, more or less; thence North $58^{\circ} 47' 00''$ West 7.00 feet, more or less; thence South $31^{\circ} 13' 00''$ West 6.00 feet, more or less; thence North $58^{\circ} 47' 00''$ West 5.00 feet, more or less; thence South $31^{\circ} 13' 00''$ West 15.00 feet, more or less, to the Point of Beginning; containing 9,144.60 square feet.

Parcel A-2 of Aquatic Lands Lease No. 22-002650 – Parking Lot

That portion of the Harbor Area fronting Tract 7 as shown on the 1986 Corrected Supplement to Plate 18, La Conner Tidelands on file in the Office of the Commissioner of Public Lands, Olympia, Washington, more particularly described as follows:

Commencing at the monument at the intersection of First Street and Washington Street; thence 110.00 feet, more or less, to the inner harbor line; thence South $18^{\circ} 16' 00''$ West 32.00 feet, more or less, to the Point of Beginning; thence South $89^{\circ} 55' 40''$ West 23.00 feet, more or less; thence South $26^{\circ} 32' 41''$ West 45.00 feet, more or less; thence South $58^{\circ} 47' 00''$ East 34.00 feet, more or less, to the inner harbor line; thence along the inner harbor line 61.50 feet, more or less, to the Point of Beginning; containing 1,589.00 square feet as shown in red on Exhibit A.



201210260049
Skagit County Auditor

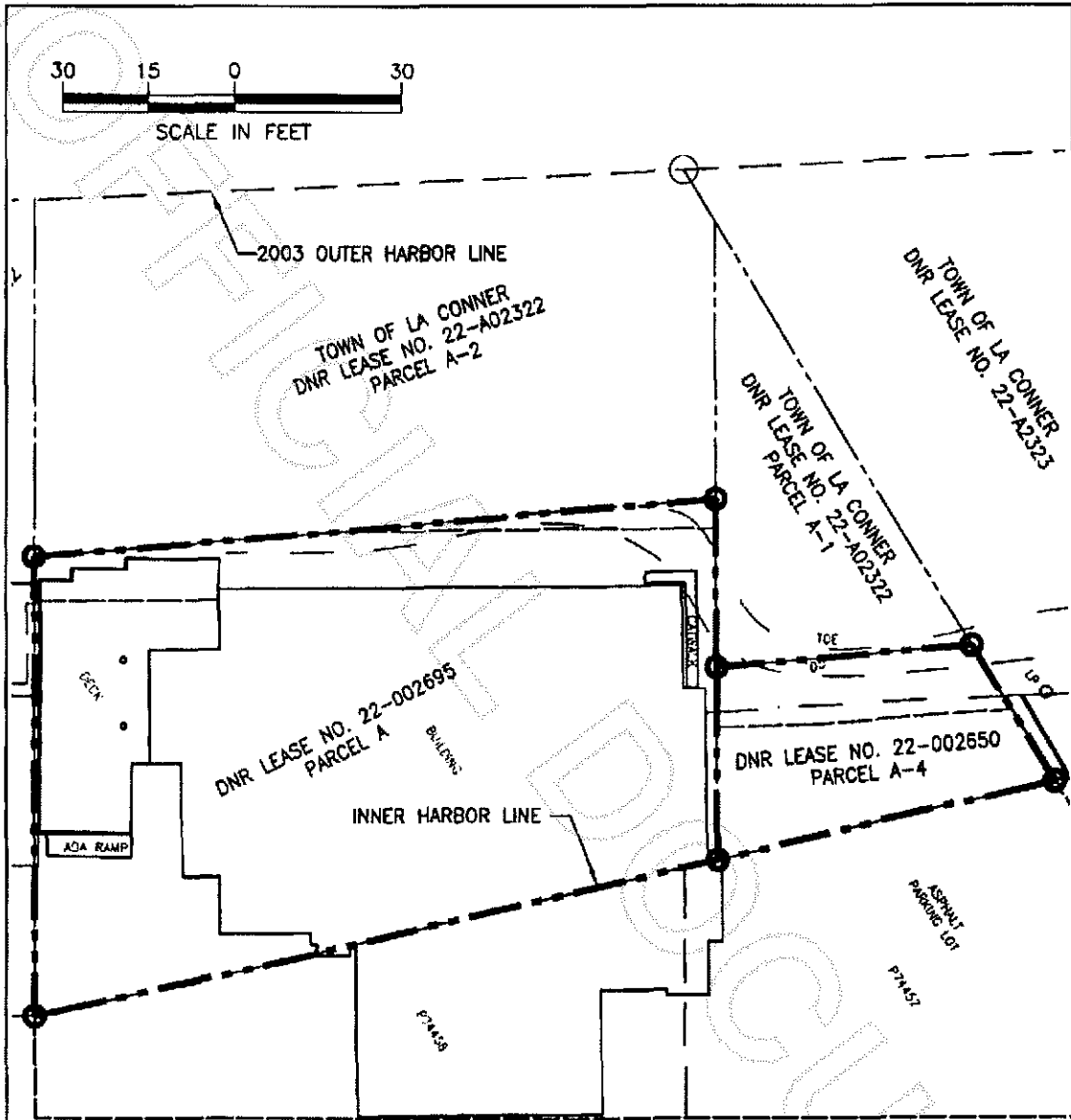




EXHIBIT B

002695 & 002650

 Permanent Easement

 Easement Number

**TOWN OF LA CONNER
DNR LEASE
ESMTS. IN NE 1/4, S36-T94N-R2E
SKAGIT COUNTY**

CHS <small>CHS ENGINEERS LLC.</small>	12507 BEL-RED ROAD SUITE 101 BELLEVUE, WA 98005-2900 TEL (425) 837-3893 FAX (425) 837-3894	Scale 1" = 30'
	Drawn by <u>DJ</u> Approved by <u>EH</u> Checked by <u>EH</u> Date <u>07-16-12</u>	Sheet 1 / 1



 201210260049
 Skagit County Auditor

EXHIBIT C

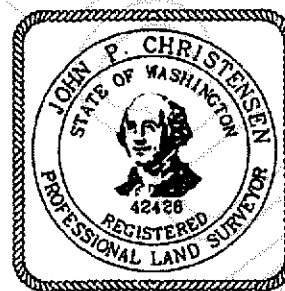
LEGAL DESCRIPTION FOR BOARDWALK EASEMENT - 002695

An easement over, under and across that portion of Aquatic Lands Lease No. 22-002695 – Restaurant and Deck, in the southeast quarter of Section 36, Township 34 North, Range 02 East, W.M., Skagit County, Washington being more particularly described as follows:

Commencing at the northeast corner of said Aquatic Lands Lease parcel;
Thence westerly along said parcel line N 57°27'43" W 23.38 feet and the True Point of Beginning;
Thence continuing along said parcel line N 57°27'43" W 35.10 feet;
Thence S 32°07'46" W 67.87 feet to the west line of said Aquatic Lands Lease parcel;
Thence along said parcel line S 27°42'43" W 52.32 feet to the south line of said Aquatic Lands Lease parcel;
Thence easterly along said parcel line S 57°27'43" E 7.97 feet;
Thence N 32°07'18" E 32.03 feet;
Thence N 57°50'15" W 2.00 feet;
Thence N 32°07'46" E 81.79 feet;
Thence S 57°52'14" E 18.23 feet;
Thence N 32°07'46" E 4.01 feet;
Thence S 57°52'14" E 6.88 feet;
Thence N 32°07'46" E 2.00 feet to the True Point of Beginning;
Situate in the County of Skagit, State of Washington.

See attached Exhibit "D"

Written by: jpc
Checked by: jpc



A handwritten signature in black ink, appearing to be "JPC", written over the seal area.



12507 DEL-RED ROAD SUITE 101
BELLEVUE, WA 98005-2600
TEL (425) 637-3693 FAX (425) 637-3694

K:\20-La Conner\2012\201201 - 2012 Boardwalk\LEGAL\SDNR-2695 Easement.docx



201210260049
Skagit County Auditor

EXHIBIT C

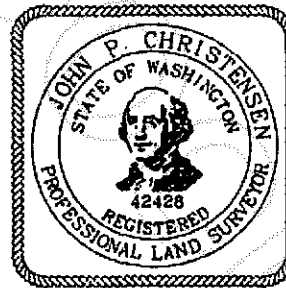
LEGAL DESCRIPTION FOR BOARDWALK EASEMENT – 002650

An easement over, under and across that portion of Aquatic Lands Lease No. 22-002650 – Parking Lot, in the southeast quarter of Section 36, Township 34 North, Range 02 East, W.M., Skagit County, Washington being more particularly described as follows:

Commencing at the northeast corner of said Aquatic Lands Lease parcel;
Thence westerly along said parcel line N 88°45'03" W 14.65 feet and the True Point of Beginning;
Thence continuing along said parcel line N 88°45'03" W 13.39 feet;
Thence S 27°51'55" W 45.55 feet to the south line of said Aquatic Lands Lease parcel;
Thence easterly along said parcel line S 57°27'43" E 10.66 feet;
Thence N 32°07'46" E 16.31 feet;
Thence N 28°04'49" W 36.15 feet to the True Point of Beginning;
Situate in the County of Skagit, State of Washington.

See attached Exhibit "D"

Written by: jpc
Checked by: jpc



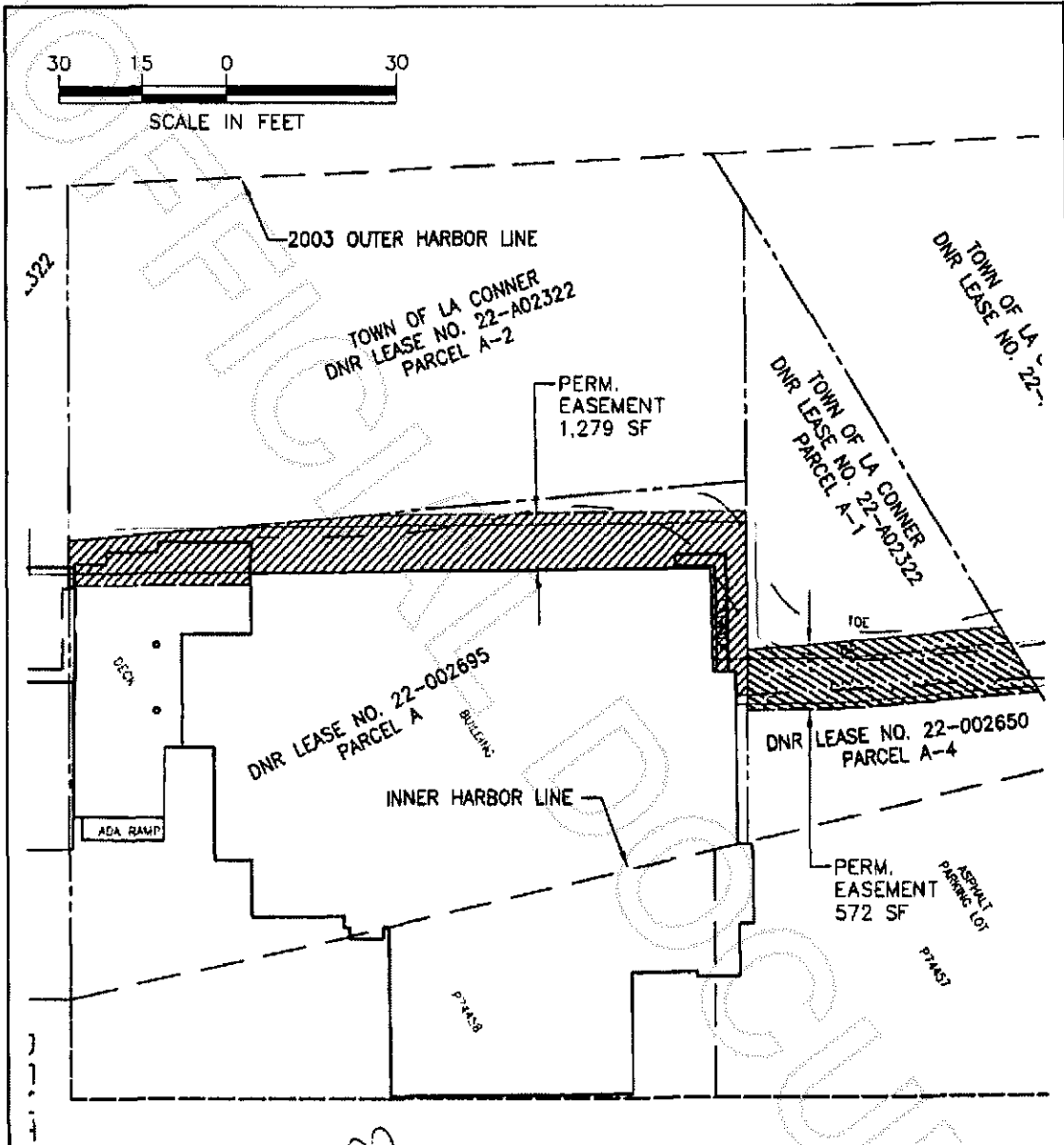
12507 BEL-RED ROAD SUITE 101
BELLEVUE, WA 98005-2800

CHS ENGINEERS, LLC TEL (425) 637-3693 FAX (425) 637-3694

K:\20-La Conner\2012\201201 - 2012 Boardwalk\LEGALS\DNR-2650 Easement.docx






201210260049
Skagit County Auditor



[Signature]

EXHIBIT D
002695 & 002650

 Permanent Easement
 Easement Number

TOWN OF LA CONNER BOARD WALK EASEMENT ESMTS. IN NE 1/4, S36-T34N-R2E SKAGIT COUNTY		
 CHS ENGINEERS LLC.	12807 BEL-RED ROAD SUITE 101 BELLEVUE, WA 98005-2500 TEL (425) 637-3893 FAX (425) 637-3894	Scale 1"=30'
Drawn by <u>DJ</u> Approved by <u>EH</u> Checked by <u>EH</u> Date <u>07-16-12</u>	Sheet 1 / 1	



201210260049
Skagit County Auditor