

ORIGINAL

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is entered into this 7th day of October, 2016, by and between the **PORT OF BELLINGHAM**, a municipal corporation, ("Grantor"), and **BELLINGHAM, HI, LLC** a Washington State Limited Liability Company ("Grantee").

RECITALS

WHEREAS, Grantee desires easements for installation of signs on the property of Grantor ("Grantor's Property"); and

WHEREAS, Grantor is willing to provide such easements upon the terms and conditions herein.

TERMS AND CONDITIONS

The parties hereto agree as follows:

1. **Grant of Easement:** For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, conveys and warrants to Grantee, its successors and assigns, nonexclusive easements in gross to a portion of Grantor's Property for installation, maintenance, operation, repair and/or removal of signs (the "signs") situated on and within the easement areas. Hereinafter, that portion of Grantor's property burdened by the easement shall be referred to as the "Easement Areas." The Easement Areas are described on Exhibits "A, B, C, D and E" attached hereto.

1.1 Subject to obtaining Grantor's written approval as hereafter described, Grantee may make and install, at its own expense, the signs. Grantee's contractor, if any, shall be subject to Grantor's approval, not unreasonably withheld. Grantor reserves the right to condition its approval upon the Grantee providing payment and/or performance bonds satisfactory to the Grantor. Grantee shall submit plans to and obtain written approval from Grantor before commencing any improvements; Grantor shall have a reasonable period of time to review such plans prior to issuing a decision. Grantor may charge Grantee a reasonable fee for staff, consultant or attorney time required to review the plans.

1.2 Grantee agrees to obtain and comply with all necessary permits for any improvements. If Grantee fails to obtain and comply with such permits then Grantee accepts full responsibility for any and all costs incurred by Grantor, including actual attorneys' fees.

1.3 Grantor hereby agrees that the Facilities shall remain the property of Grantee at all times, removable at Grantee's option, with **sixty (60) days' written notice** to Grantor. Grantee shall have the right to enter upon and have access over and across the Easement Areas for installation, maintenance, operation, repair, and/or removal of the Facilities on or from the Easement Areas, during normal working hours. Grantee's right to enter and have access across the Easement Areas shall extend to any time, day or night where Grantee determines that the installation, maintenance, operation, repair, or removal of the Facilities cannot wait until normal working hours.

1.4 Grantee agrees to disturb the Easement Areas no more than reasonably necessary to meet the intent of this Agreement. Grantee further agrees that any actions taken pursuant to

this Agreement will be done in a manner that does not unreasonably disturb the business or operations of Grantor or any of its tenants.

1.5 Grantor, its agents, employees, and tenants may enter upon the Easement Areas at all times and for any reason; provided, that such entry does not unreasonably interfere with the operations of the signs installed within and on the Easement areas.

1.6 Grantee agrees to conform to and abide by all lawful rules, codes, laws, regulations and Grantor's policies in connection with its use of the Easement Areas, and not to permit the Easement Areas to be used in violation of any lawful rule, code, law, regulation, Grantor's policy, or other authority. Grantee covenants and agrees that it will indemnify and hold harmless Grantor from any fine, penalty, or damage which may be imposed by any lawful authority, which may arise as a result of Grantee's failure to comply with the obligations of this paragraph.

2. **Other Easements and Rights:** Grantee recognizes that the Easement Areas are within property that is, or may be, leased by the Grantor. The Grantor reserves the right to grant other easements, licenses, and leases for the Easement Area, to the extent that they do not unreasonably interfere or damage the Grantee's sign Facilities. Further, Grantor reserves the right to install conduit or other utilities in the Easement Area at all times during the term of this Agreement.

3. **Repair:** Grantee shall repair, to the reasonable satisfaction of Grantor, any structure, fence, paving, landscaping or other part of the Property outside of the Easement Areas that is altered or damaged during the installation, maintenance, repair or removal of the Facilities.

3.1 Grantee shall be solely responsible for maintenance and repair of the Easement Areas and the sign Facilities. This repair obligation shall extend to structures both inside and outside the Easement Areas that are affected by Grantee's activities. Grantee agrees to maintain the Easement Areas in the same or similar condition existing on the date of execution of this Agreement. If Grantee fails to conduct repairs inside and/or outside of the Easement Areas after thirty (30) days' written notice from Grantor, then the Grantor may conduct such repairs and collect all costs incurred from Grantee.

4. **Assignment:** Grantee shall not assign, rent or sublease any portions of the Easement Areas.

5. **Term of Agreement:** The Easement shall commence upon execution by both parties; provided, however, that the Easement shall automatically terminate if Grantee fails to install the signs within and on the Easement Areas within one hundred and eighty (180) days after mutual execution. The Easement shall terminate when Grantee no longer maintains operational signs on and within the Easement Areas.

5.1 This Agreement can be terminated by Grantor for breach of Grantee's obligations herein. Grantor agrees to give Grantee thirty (30) days' written notice of any breach. Grantor may unilaterally terminate this Easement Agreement if Grantee fails to cure the breach within the thirty (30) day cure period.

5.2 Grantee agrees that its sole remedy in the event Grantor breaches any provision of this Agreement will be injunctive relief and not damages.

be. Grantee shall further indemnify Grantor from any claims of Grantor's tenants resulting from Grantee's activities on the Easement Areas.

13. **Survival:** All obligations of Grantee as provided for in this Agreement shall not cease upon the termination of this Agreement but shall continue as obligations until fully performed.

14. **Governing Law:** This Agreement and the right of the parties hereto shall be governed by and construed in accordance with the laws of the State of Washington and the parties agree that in any such action jurisdiction and venue shall lie exclusively in Whatcom County, Washington.

15. **Electronic Transmission:** This Agreement may be executed by the parties and transmitted by facsimile or PDF file and, if so executed and transmitted for all purposes as effective as if the parties had delivered an executed original.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed by its Executive Director by authority of the Port Commission of the Port of Bellingham, and this instrument has been signed and executed by Grantee, the day and year first above written.

GRANTEE

Bellingham HI, LLC



Dan Mitzel
Co-Managing Member

GRANTOR

PORT OF BELLINGHAM

Rob Fix
Executive Director

POB/PROP/GENERAL/AT&T EASEMENT AGREEMENT.05.16.00(SLA)

STATE OF WASHINGTON:

ss

COUNTY OF WHATCOM :

ON THIS _____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **ROB FIX**, known to me to be the **Executive Director** of the **PORT OF BELLINGHAM**, 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 were authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

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

Name (Print) _____
NOTARY PUBLIC, in and for the State
of Washington, residing at Bellingham
My Commission expires: _____

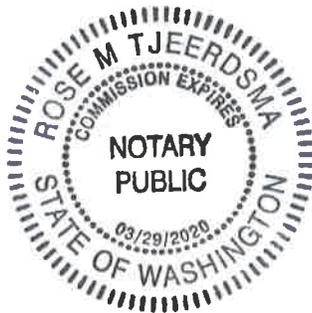
STATE OF WASHINGTON:

ss

COUNTY OF WHATCOM :

ON THIS 18 day of Oct, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Dan R Mitzel known to me to be the Co-Managing Member of Bellingham HI LLC, a Limited Liability Company, 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 verified that he/she was authorized to execute this document on behalf of the limited liability company for the uses and purposes therein mentioned.

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



Rose M Tjeerdsma
Name (Print) Rose M Tjeerdsma
NOTARY PUBLIC, in and for the State
of Washington, residing at Burlington
My Commission expires: 3/29/20

EXHIBIT "A"

A TRACT OF LAND BEING 8.00 FEET NORTH SOUTH AND 10.00 FEET EAST WEST, ALL BEING LOCATED WITHIN "MITCHELL WAY" OF THAT CERTAIN BLI AIRPORT, GENERAL BINDING SITE PLAN AND SPECIFIC BINDING SITE PLAN No.1 AS RECORDED UNDER WHATCOM COUNTY, WASHINGTON AUDITOR FILE NUMBER 2140201921 AS DEPICTED ON PLAN SHEET NUMBERED AS SHEET 11 OF 11, HEREINAFTER KNOWN AS THE PRIVATE ROAD, ALL OF WHICH BEING LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., THE BOUNDARY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID "LEASE AREA NO. 64"; THENCE NORTH 0°57'15" EAST ALONG THE EAST MARGIN OF MITCHELL WAY (PRIVATE ROAD) AND THE WESTERLY LIMIT OF "LEASE AREA NO. 64" A DISTANCE OF 38.37 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID MITCHELL WAY NORTH 0°57'15" EAST 8.00 FEET; THENCE NORTH 89°02'45" WEST 10.00 FEET; THENCE SOUTH 0°57'15" WEST 8.00 FEET; THENCE SOUTH 89°02'45" EAST 10.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 80 SQ. FT. MORE OR LESS.



EXHIBIT "B"

A TRACT OF LAND BEING 11.00 FEET NORTH SOUTH AND 13.00 FEET EAST WEST, ALL BEING LOCATED WITHIN "MITCHELL WAY" OF THAT CERTAIN BLI AIRPORT, GENERAL BINDING SITE PLAN AND SPECIFIC BINDING SITE PLAN No.1 AS RECORDED UNDER WHATCOM COUNTY, WASHINGTON AUDITOR FILE NUMBER 2140201921 AS DEPICTED ON PLAN SHEET NUMBERED AS SHEET 11 OF 11, HEREINAFTER KNOWN AS THE PRIVATE ROAD, ALL OF WHICH BEING LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., THE BOUNDARY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID "LEASE AREA NO. 64"; THENCE NORTH $0^{\circ}57'15''$ EAST ALONG THE EAST MARGIN OF MITCHELL WAY (PRIVATE ROAD) AND THE WESTERLY LIMIT OF THAT RESERVE TRACT ADJACENT TO AND NORTH OF "LEASE AREA NO. 64" A DISTANCE OF 11.00 FEET; THENCE NORTH $89^{\circ}02'49''$ WEST 13.00 FEET; THENCE SOUTH $0^{\circ}57'15''$ WEST 11.00 FEET; THENCE SOUTH $89^{\circ}02'49''$ EAST 13.00 FEET TO THE BEGINNING.

CONTAINING 143 SQ. FT. MORE OR LESS.

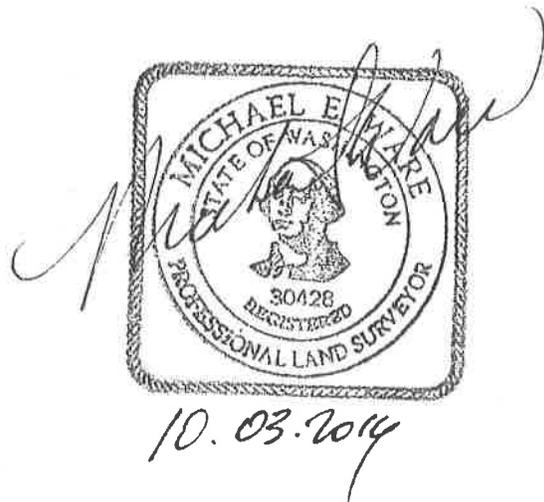


EXHIBIT "C"

A TRACT OF LAND BEING 10.00 FEET NORTH SOUTH AND 13.00 FEET EAST WEST, ALL BEING LOCATED WITHIN "MITCHELL WAY" OF THAT CERTAIN BLI AIRPORT, GENERAL BINDING SITE PLAN AND SPECIFIC BINDING SITE PLAN No.1 AS RECORDED UNDER WHATCOM COUNTY, WASHINGTON AUDITOR FILE NUMBER 2140201921 AS DEPICTED ON PLAN SHEET NUMBERED AS SHEET 11 OF 11, HEREINAFTER KNOWN AS THE PRIVATE ROAD, ALL OF WHICH BEING LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., THE BOUNDARY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

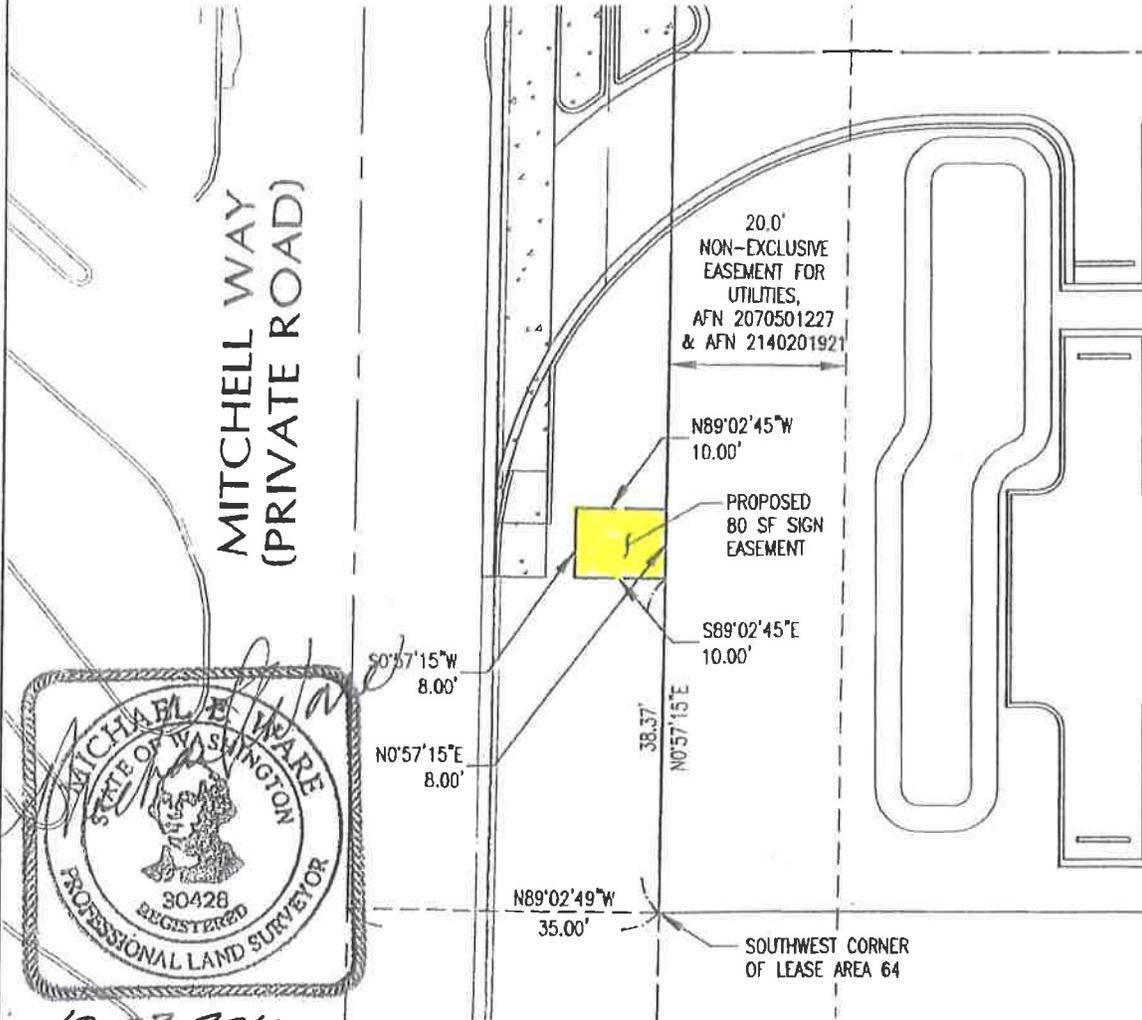
COMMENCING AT THE NORTHWEST CORNER OF SAID "LEASE AREA NO. 64"; THENCE SOUTH 0°57'15" WEST ALONG THE EAST MARGIN OF MITCHELL WAY (PRIVATE ROAD) AND THE WESTERLY LIMIT OF "LEASE AREA NO. 64" A DISTANCE OF 50.75 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°02'45" WEST 13.00 FEET; THENCE SOUTH 0°57'15" WEST 10.00 FEET; THENCE SOUTH 89°02'45" EAST 13.00 FEET TO THE EASTERLY MARGIN OF SAID PRIVATE ROAD; THENCE NORTH 0°57'15" EAST ALONG THE EASTERLY MARGIN OF SAID PRIVATE ROAD 10.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 130 SQ. FT. MORE OR LESS.

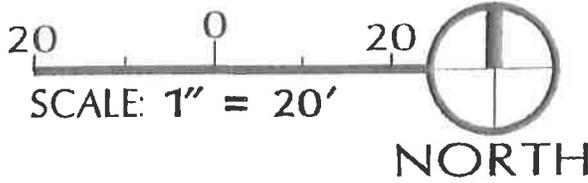

10.07.2016

IN A PORTION OF SECTION 10, TOWNSHIP 38 N., RANGE 2 E., W.M.

EXHIBIT D

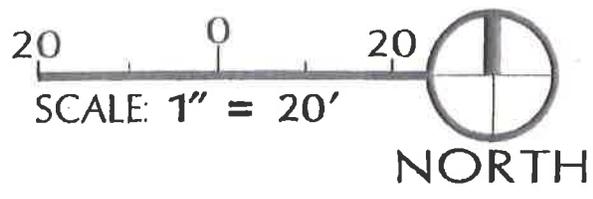
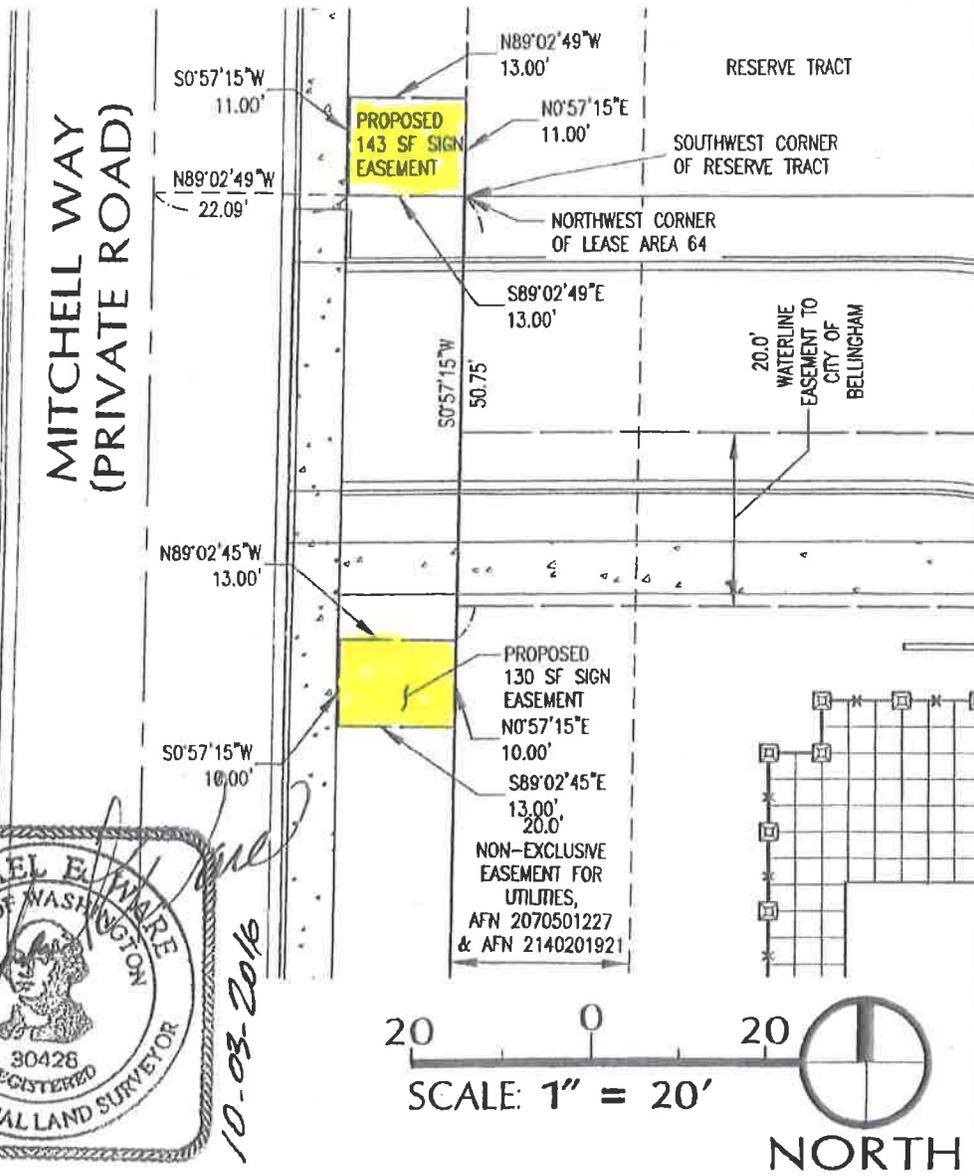


10.03.2016



Sound Development Group ENGINEERING, SURVEYING & LAND DEVELOPMENT SERVICES P.O. Box 1705-1111 Cleveland Avenue, Suite 202 Mount Vernon, WA 98273 Tel: 360-404-2010 Fax: 360-404-2013	SHEET DESCRIPTION <p style="text-align: center;">PROPOSED SIGN EASEMENT</p>	SCALE 1" = 20' DRAWN BY: P.LAU JOB NUMBER: 13012 DATE: 09.29.16
	PROJECT <p style="text-align: center;">BELLINGHAM AIRPORT HOLIDAY INN FOR BELLINGHAM HI, LLC</p>	DRAWING NAME 13012ESMT.dwg SHEET 1 OF 1

IN A PORTION OF SECTION 10 TOWNSHIP 38 N., RANGE 2 E, W.M.
EXHIBIT E



Sound Development Group ENGINEERING, SURVEYING & LAND DEVELOPMENT SERVICES P.O. Box 1705 1111 Cleveland Avenue, Suite 202 Mount Vernon, WA 98273 Tel. 360-404-2010 Fax: 360-404-2013	SHEET DESCRIPTION <p style="text-align: center;">PROPOSED SIGN EASEMENT</p>	SCALE: 1" = 20' DRAWN BY: P.LAU JOB NUMBER: 13012 DATE: 09.29.16
	PROJECT <p style="text-align: center;">BELLINGHAM AIRPORT HOLIDAY INN FOR BELLINGHAM HI, LLC</p>	DRAWING NAME: 13012ESMT.dwg SHEET: 1 OF 1