

Everett School District No. 2
Snohomish County, Washington
July 11, 2006

RESOLUTION NO. 858

A Resolution of the Board of Directors (the "Board") of Everett School District No. 2 (the "District") authorizing the amendment of an easement dated January 14, 1964, and recorded under Snohomish County Auditor's File No. 1670151 ("Easement").

WHEREAS, the District's property benefits from the Easement; and

WHEREAS, the owner of the property burdened by the Easement, has requested that the Board amend the Easement, by accepting an Amended Easement in the form attached hereto ("Amended Easement"). The Amended Easement would change the easement area, change the permitted uses allowed within the amended easement area, and release other rights of the District under the original Easement not set forth in the Amended Easement; and

WHEREAS, the Board has determined that the Amended Easement provides rights necessary or convenient to the foreseeable use of the District's property benefited thereby, and that rights to be released by the District pursuant to the Easement Amendment are surplus to the District's needs; and

WHEREAS, the Board is fully advised;

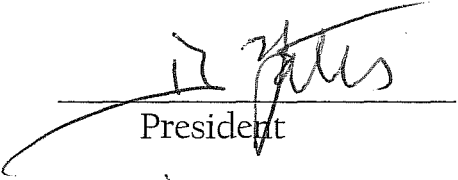
NOW, THEREFORE, be it resolved that:

1. The rights granted by the original Easement that are proposed to be released by the District pursuant to the Amended Easement are surplus to the District's needs; and
2. The Superintendent or her authorized designee is authorized and directed to execute and accept the Amended Easement and release the surplus rights granted by the original Easement not set forth in the Amended Easement; and

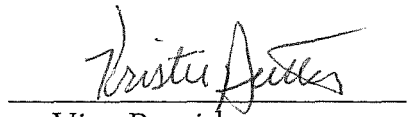
3. The Superintendent or her authorized designee is further authorized and directed to take such other or further actions as may be necessary to accomplish any of the foregoing.

ADOPTED THIS 11th day of July, 2006.

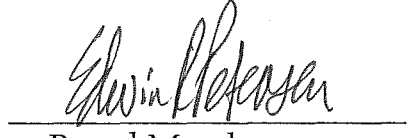
Everett School District No. 2
A municipal corporation of the
State of Washington



President



Vice President

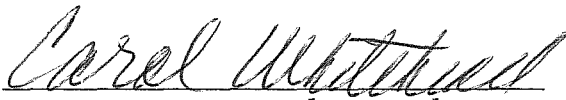


Board Member

Board Member

Board Member

ATTEST:



Secretary to the Board

AFTER RECORDING RETURN TO:

Document Title(s) (or transactions contained therein):

1. **AMENDMENT OF EASEMENT AND PARTIAL RELEASE OF EASEMENT RIGHTS**

Reference Number(s) of Documents assigned or released:

Amending and partially releasing 1670151 and 2343057

(or page ___ of document(s))

Grantor(s) (Last name first, then first name and initials):

1. **Phoenix Development, Inc., a Washington corporation**
2. **Everett School District No. 2, a Washington municipal corporation**

☐ Additional names on page ___ of document.

Grantee(s) (Last name first, then first name and initials):

1. **Everett School District No. 2, a Washington municipal corporation**
2. **Phoenix Development, Inc., a Washington corporation**

☐ Additional names on page ___ of document.

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Portion of the SE ¼ of the NE 1/4 , Sec. 7, T.27N, R.5E, W.M.

☒ Additional legal on pages ___ of document.

Assessor's Property Tax Parcel/Account Number

27050700101200 and 00602000000100, 00602000000200, 00602000000300 and 00602000000400

AMENDMENT AND RESTATEMENT OF EASEMENT

[00791-0800-000000/Evt School Dist amended esmt.doc]

**AMENDMENT OF EASEMENT AND PARTIAL RELEASE OF
EASEMENT RIGHTS**

THIS AMENDMENT OF EASEMENT AND PARTIAL RELEASE OF EASEMENT RIGHTS ("Amendment") is made and entered into this 11 day of July, 2006, by and between PHOENIX DEVELOPMENT, INC., a Washington corporation ("Grantor"), and EVERETT SCHOOL DISTRICT No. 2, a Washington municipal corporation ("Grantee").

Recitals

A. Grantor is the owner of certain property legally described in Exhibit A attached hereto and incorporated herein by this reference ("Grantor's Property");

B. On January 14, 1964, Grantor's predecessors granted an easement, recorded under Snohomish County Auditor's File No. 1670151 ("Original Easement"), which benefits the property legally described in Exhibit B attached hereto and incorporated herein by this reference ("Grantee's Property"), for ingress, egress, and for utilities over and across portions of Grantor's Property more particularly described in the Original Easement ("Original Easement Area"); and

C. On April 1, 1965, Grantor's predecessors granted an easement together with and appurtenant to a fee conveyance, recorded under Snohomish County Auditor's File No. 2343057 (the "Deed Easement"), which again benefits Grantee's Property for ingress, egress, and for utilities over and across the Original Easement Area; and

D. At Grantor's request, Grantee is willing to amend the Original Easement and the Deed Easement to replace the Original Easement Area with the easement area more particularly described on Exhibit C of this Amendment, attached hereto and incorporated herein by this reference ("Amended Easement Area"), which Amended Easement Area is thereafter to be used by Grantee only for the uses and purposes described below.

NOW THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Amendment of Easement Area

1. Grant of Amended Easement: Grantor conveys and warrants to Grantee a nonexclusive, perpetual easement ("Amended Easement") for the benefit of Grantee's Property over, under, upon, along, across, and through the Amended Easement Area.

2. Purpose of Amended Easement: The Amended Easement is appurtenant to and for the benefit of the Grantee's Property. Grantee, its employees, agents, invitees and licensees may use the Amended Easement Area for construction, maintenance, repair, replacement, enlargement, improvement, removal and use of a pedestrian walkway and water, storm and sanitary sewer, electric, gas, telephone, cable TV, fiber optic, internet and other communications and other utility facilities and appurtenances, whether owned by Grantee or others, that (solely or as part of a utility system or network) benefit or serve Grantee's Property ("Permitted Uses"), and for no other purpose. Grantor may use the Amended Easement Area for any purpose not inconsistent with this Easement, provided that Grantor shall not place any building or other structure in the Amended Easement Area without Grantee's prior written consent.

3. Replacement of Original Easement Area and Partial Release of Easement Rights. The Original Easement Area is hereby amended and replaced with the Amended Easement Area. Grantee hereby releases and quitclaims to Grantor (a) any rights with respect to any portion of the Original Easement Area that is not within the Amended Easement Area, and (b) any rights under either the Original Easement or the Deed Easement to use Grantor's Property (including, without limitation, that portion of Grantor's Property within the Amended Easement Area) for uses other than the Permitted Uses.

4. Assignment; Binding Effect. The Amended Easement are covenants running with the land and shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns and apportionees.

DATED as of the date first written above.

GRANTOR

Phoenix Development Inc.

By: 

Its: GRANTOR VICE - PRESIDENT

GRANTEE

Everett School District No. 2

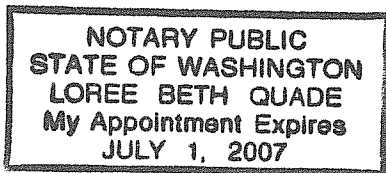
By: 

Its: Supt. Sec'y to the Board

STATE OF WASHINGTON)
) ss.
COUNTY OF ISLAND)

On this 21st day of JUNE, 2006, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Bob Vick, to me known to be the person who signed as Senior V.P. of Phoenix Development, Inc., the corporation that executed the within and foregoing instrument, and acknowledged 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 he was duly elected, qualified and acting as said officer of the corporation, that he was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

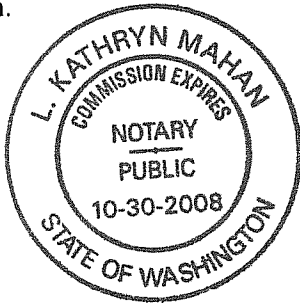


Loree Beth Quade
Print Name: Loree Beth Quade
Notary Public in and for the State of Washington,
residing at Camano Island
My commission expires: 7/1/07

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 11 day of July, 2006, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Carol Whithead to me known to be the person who signed as Supt. of Everett School District No. 2, the municipal corporation that executed the within and foregoing instrument, and acknowledged 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 she was duly elected, qualified and acting as said officer of the municipal corporation, that she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said municipal corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



L. Kathryn Mahan
Print Name: L. Kathryn Mahan
Notary Public in and for the State of Washington
residing at Mt. Vernon, WA
My commission expires: 10-30-08

EXHIBIT A

Grantor's Property

All that portion of the southeast quarter of the northeast quarter of Section 7, Township 27 North, Range 5 East, W.M., described as follows:

Commencing at the northeast corner of Lot 3, Twin Valley Garden Tracts, according to the plat thereof recorded in Volume 10 of Plats, page 21, records of Snohomish County, Washington, said point being on the west line of said southeast quarter of northeast quarter 566.4 feet more or less, north of the southwest corner thereof;
thence South 2°09'40" East along the west line of said subdivision 25.5 feet, more or less, to intersect the southerly line of that certain easement described in instrument recorded under Auditor's File Number 1670151, the True Point of Beginning;
thence northeasterly along the southerly line of said easement 156 feet;
thence South 2°09'40" East, parallel to the west line of subdivision 250 feet;
thence southwesterly on a straight line to a point on the west line of said subdivision that is South 2°09'40" East 250 feet from the True Point of Beginning;
thence North 0°09'40" West 250 feet to the True Point of beginning.

EXHIBIT B

Grantee's Property

Lot 1, Twin Valley Garden Tracts, according to the plat thereof recorded in Volume 10 of Plats, page 21, records of Snohomish County, Washington;

EXCEPT the south 61 feet thereof; and,

EXCEPT the east 20 feet thereof;

TOGETHER WITH the north 121.54 feet of said east 20 feet.

ALSO,

Lot 2, Twin Valley Garden Tracts, according to the plat thereof recorded in Volume 10 of Plats, page 21, records of Snohomish County, Washington;

EXCEPT that portion thereof conveyed to the State of Washington by Warranty Deed recorded under Auditor's File No. 9208110803.

ALSO,

Lot 3, Twin Valley Garden Tracts, according to the plat thereof recorded in Volume 10 of Plats, page 21, records of Snohomish County, Washington.

ALSO,

Lot 4, Twin Valley Garden Tracts, according to the plat thereof recorded in Volume 10 of Plats, page 21, records of Snohomish County, Washington;

EXCEPT that portion thereof acquired by the State of Washington under Snohomish County Superior Court Case No. 92-2-04130-6.

EXHIBIT C

Amended Easement Area

That portion of the southeast quarter of the northeast quarter of Section 7, Township 27 North, Range 5 East, W.M., in Snohomish County, Washington, described as follows:

Beginning at the east quarter corner of said Section 7;
thence N 87°02'25" W, along the south line of said subdivision, 1319.40 feet to the southwest corner of said southeast quarter of the northeast quarter;
thence North 01°41'46" East, along the west line of said subdivision, 332.10 feet to the True Point of Beginning;
thence continuing North 01°41'46" East, a distance of 16.53 feet;
thence North 66°52'34" East, a distance of 62.56 feet;
thence North 40°53'36" East, a distance of 65.86 feet;
thence North 02°57'35" East, a distance of 51.73 feet to an intersection with a curve to the left having a radius of 56.00 feet and from which intersection point the center of said curve bears North 59°37'28" East;
thence southeasterly, along the arc of said curve and consuming a central angle of 49°42'15", an arc distance of 48.58 feet;
thence South 40°53'36" West, a distance of 115.14 feet;
thence South 66°52'34" West, a distance of 72.96 feet to the True Point of Beginning.