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**REAL ESTATE EXCISE TAX**

*N/A*

OCT 20 2010

PAID

*N/A*

*Vickie O'Connell*  
SKAMANIA COUNTY TREASURER

**EASEMENT AGREEMENT**

*SC 31544*

<p><b>Reference Number(s) of related document(s):</b> N/A.</p> <p><b>Grantor:</b> Barbara Weiss, Personal Representative of the Estate of David R. Weiss, deceased</p> <p><b>Grantee:</b> David C. Gorgas</p> <p><b>Legal Description (abbreviated):</b> Lot 2 and 3, Amended D&amp; B Gorgas SP, Bk 3/Pg 291</p> <p>Full legal(s) on Page 1.</p> <p><b>Assessor's Tax Parcel ID Number:</b> 4752540040000; 4752540040200. <i>Jm</i></p>
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**1. Parties and Ownership.**

1.1. Barbara Weiss, Personal Representative of the Estate of David R. Weiss, deceased ("Grantor") owns property known as 332 Cedar Creek Road, Carson, WA and legally described as Lot 2 of the Amended David and Bernadine Gorgas Short Plat, recorded in Book 3 of Short Plats, Page 291, Skamania County Records, State of Washington ("Grantor Property").

1.2. David C. Gorgas, an unmarried man ("Grantee") owns property known as 262 Cedar Creek Road, Carson, WA and legally described as Lot 3 of the Amended David and Bernadine Gorgas Short Plat, recorded in Book 3 of Short Plats, Page 291, Skamania County Records, State of Washington ("Grantee Property").

**2. Background.** Grantee alleges that for in excess of ten years, a driveway has existed over the southwest corner of the Grantor Property as shown on Site Plan attached

hereto as **Exhibit A** ("Driveway"). Grantee also alleges that for in excess of ten years, outbuildings owned by Grantee have been located in part on the Grantor Property without permission of Grantor or Grantor's predecessors and that he has mowed and maintained the area of the Grantor Property south of the Driveway. Grantee may have established prescriptive rights over the Driveway and adverse possession rights to the areas encroached upon by Grantee's outbuildings. Grantor disputes claims of adverse possession as to the area of the Grantor Property south of the Driveway.

**3. Access Easement.** In consideration of the agreements herein and other good and valuable consideration, Grantor hereby conveys and grants to Grantee a perpetual, non-exclusive access easement Thirty feet (30') feet in width ("Driveway Easement") for the benefit of the Grantee Property on, over, and across the Driveway as shown on the site plan and legally described on Exhibit "B" ("Driveway Easement Area") for the purpose of ingress and egress and utilities to the Grantee Property. Such Easement shall amend and supercede that certain "Private Access for Road and Utility Easement" created by the Amended David and Bernadine Gorgas Short Plat recorded in Book 3 of Short Plats, Page 291, Skamania County Records.

**4. Landscaping Easement.** Grantor hereby conveys and grants to Grantee a perpetual non-exclusive easement ("Landscape Easement") appurtenant to and for the benefit of the Grantee Property. The Easement is over and across that portion of the Grantor Property lying south of the Driveway Easement Area legally described on Exhibit "C" and as shown on the Site Plan as ("Landscape Easement Area"). The purpose and scope of allowed use of the Landscape Easement Area is for planting and maintaining vegetation and landscaping.

**5. Utilities Easement.** Grantor hereby conveys and grants to Grantee a perpetual non-exclusive easement ("Utilities Easement") appurtenant to and for the benefit of the Grantee Property. The Easement is over and across that portion of the Grantor Property where underground telephone lines and overhead power lines currently exist, together with the right to access the Grantor Property for repair, maintaining, or replacing same ("Utilities Easement Area"). The purpose and scope of allowed use of the Utilities Easement Area is for the use, maintenance, repair, and replacement of telephone and power utilities.

Notwithstanding the above, Grantor hereby reserves the exclusive right to relocate the utilities at Grantor's sole discretion at any time upon at least two week's advance written notice to Grantee, provided that Grantor shall take reasonable efforts to minimize the time during which Grantee's service will be interrupted and provided further that the power meter and final dropfeed to Grantee's residence not be required to be relocated or in any way require structural modification to Grantee's residence or other improvements (which may or may not include leaving the power pole on Grantor's property nearest to Grantee in place.) Subject to the qualifications above, Grantor may move the utility to a different location and convert any utilities to overhead or underground. Any relocation of utilities will be at Grantor's sole expense. Upon the relocation of any utility Grantee will

have all easement rights for the use, maintenance, repair and replacement of the utilities as stated above.

**6. Grantee Outbuildings.** Grantee acknowledges that two of its outbuildings (as shown on the Site Plan) encroach on to the Grantor Property. Grantee agrees, at Grantee's expense, to remove such outbuildings from the Grantor Property within thirty (30) days of the recording of this Agreement.

**7. Maintenance and Repair of Easement Areas.** Grantee shall bear the cost of maintaining and improving the Driveway Easement Area and Landscaping Easement Area as well as Grantee's utilities located in the Utilities Easement Area; provided, however that any damage to any Easement Area or utilities therein caused by Grantor or its agents, employees or invitees, shall be the responsibility of Grantor.

**8. Indemnification.** Each party hereto agrees, for itself and its successors and assigns, to defend, indemnify and hold harmless the other party from and against all liabilities, damages, claims, costs, and expenses whatsoever (including reasonable attorney's fees and court costs at all trial and appellate levels) arising out of or in connection with the indemnifying party's use of the Easement Areas.

**9. Covenant Running With Land.** This Agreement shall be binding upon and inure to the benefit of Grantor, Grantee, and their respective representatives, successors and assigns. This Agreement shall run with the land and be binding on all future owners of the Grantor Property and the Grantee Property.

#### **10. GENERAL PROVISIONS.**

**10.1. No Dedication.** This instrument is not intended to and should not be construed to dedicate the Easement Area to the general public, nor shall this instrument be construed to restrict the use and development of the Grantor Property and Grantee Property, except as may be stated herein.

**10.2. Severability.** The invalidity of any provision of this instrument, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

**10.3. Captions.** Article and paragraph captions are for convenience only and are not a part of this instrument.

**10.4. Incorporation of Prior Agreement; Amendments.** This instrument contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

**10.5. Covenants and Conditions.** Each provision of this instrument shall be deemed both a covenant and a condition.



GRANTEE:  
David C. Gorgas  
David C. Gorgas

STATE OF WASHINGTON )  
                                  )  
COUNTY OF SKAMANIA )      SS.

I certify that I know or have satisfactory evidence that **David C. Gorgas** is the persons who appeared before me, and said persons acknowledged that he she signed this instrument and acknowledged it to be his her free and voluntary act for the uses and purposes stated therein.

Dated 10-15-10

LISA S ERICKSON  
NOTARY PUBLIC  
STATE OF WASHINGTON  
COMMISSION EXPIRES  
FEBRUARY 1 2013

Lisa S Erickson  
Name: Lisa S Erickson  
NOTARY PUBLIC, State of Washington  
My appointment expires 2-1-2013

Unofficial Copy



**EXHIBIT "B"**  
**DRIVEWAY EASEMENT AREA**

That portion of the Grantor Property consisting of fifteen feet (15') on either side of a centerline starting at a point N 20°08'42" E 59.98' of the southwest corner of Lot 2 (Grantor Property) and extending from such point N 88°06'50" E 63.35'.

**EXHIBIT "B"**  
**LANDSCAPE EASEMENT AREA**

That portion of the Grantor Property commencing at the southwest corner of the Grantor Property (the Point of Beginning), then N 20°08'42" E 59.98', then N 88°06'50" E 63.35', then S 55°10'59" W 102.28' to the Point of Beginning; except for the northerly 15' thereof which is part of the Driveway Easement Area.