



201809270021

09/27/2018 11:07 AM Pages: 1 of 10 Fees: \$108.00
Skagit County Auditor

WHEN RECORDED RETURN TO:

**WILLIAM B. FOSTER, INC., P.S.
1907 Everett Avenue
Everett, Washington 98201**

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

SEP 27 2018

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

Document Title: DECLARATION OF EASEMENT

Grantor(s): DANNY L. CORRELL and MONICA M. CORRELL

Grantee(s): COTTAGE WERKS, LLC

Legal Description:

1. **Abbreviated Legal Description:** A portion of Lot 89, "BIG LAKE WATERFRONT TRACTS", as per plat recorded in Volume 4 of Plats, page 12, records of Skagit County, Washington; Except that portion conveyed to Skagit County for road by deed recorded January 12, 1962, under Auditor's File No. 616757
2. **The complete legal description of the property is on pages two (2) and three (3) of this document.**

Assessor's Property Tax Parcel Account No(s): P130396
P62107

DECLARATION OF EASEMENT

THIS DECLARATION OF EASEMENT (the "Declaration") is made and entered into this 27th day of September, 2018, by **DANNY L. CORRELL and MONICA M. CORRELL**, husband and wife ("Grantor") and **COTTAGE WERKS, LLC**, a Washington limited liability company ("Grantee").

WITNESSETH:

WHEREAS, Grantors are the owners of certain real property situated in Skagit, County, State of Washington, which is legally described as follows, to wit:

Lot 89, "BIG LAKE WATERFRONT TRACTS", as per plat recorded in Volume 4 of Plats, page 12, records of Skagit County, Washington; Except that portion conveyed to Skagit County for road by deed recorded January 12, 1962, under Auditor's File No. 616757;

SUBJECT TO and TOGETHER WITH a non-exclusive easement for ingress and egress and utility purposes on, over, across, and under Lots 86, 87, 88, 89 and 90 of the "FIRST ADDITION TO BIG LAKE WATER FRONT TRACTS", as per plat recorded in Volume 4 of Plats, page 12, records of Skagit County, Washington.

and is referred to herein as the "Servient Tenement"; and

WHEREAS Grantee is owner of the fee simple title to that certain parcel of real property located in the County of Skagit, State of Washington, which is legally described as

Lot 90, "BIG LAKE WATERFRONT TRACTS", as per plat recorded in Volume 4 of Plats, page 12, records of Skagit County, Washington; Except that portion conveyed to Skagit County for road by deed recorded January 12, 1962, under Auditor's File No. 616757;

SUBJECT TO and TOGETHER WITH a non-exclusive easement for ingress and egress and utility purposes on, over, across, and under Lots 86, 87, 88, 89 and 90 of the "FIRST ADDITION TO BIG LAKE WATER FRONT TRACTS", as per plat recorded in Volume 4 of Plats, page 12, records of Skagit County, Washington.

and is referred to herein as the "Dominant Tenement";

NOW, THEREFORE, for and in consideration. of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Easement Upon, Over and Across the Servient Tenement. Grantor hereby

grants for the benefit of the Dominant Tenement and each and every person, firm or corporation presently owning or hereafter owning the Dominant Tenement or any portion thereof or interest therein (including but not limited to as a lessee thereof), an easement over the following described real property (the "Easement Area"), to wit:

A PORTION Lot 89, "BIG LAKE WATERFRONT TRACTS", as per plat recorded in Volume 4 of Plats, page 12, records of Skagit County, Washington; Except that portion conveyed to Skagit County for road by deed recorded January 12, 1962, under Auditor's File No. 616757, described as follows, to wit:

A portion of Lot 89, "FIRST ADDITION BIG LAKE WATERFRONT TRACTS, SKAGIT COUNTY, WASHINGTON", as per plat recorded in Volume 4 of Plats, page 15, records of Skagit County, Washington, more particularly described as follows:

Commencing at the intersection of the Southeasterly line of said Lot 89 and the Easterly right-of-way of that County road known as West Big Lake Boulevard; thence North 43°21'03" East along said Southeasterly line a distance of 33.99 feet to the intersection of said Southeasterly line and the Easterly line of a 20 foot easement recorded under Auditor's File No. 875853, records of Skagit County, Washington and the point of beginning; thence continuing North 43°21'03" East along said Southeasterly line of Lot 89 a distance of 91.01 feet; thence North 70°28'15" West a distance of 70.20 feet to a point on the Easterly line of said 20 foot easement; thence South 2°21'20" East along the Easterly line of said Easement a distance of 89.72 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.

The easement granted herein shall be: (i) a non-exclusive easement for vehicular and pedestrian access, ingress, egress, and turnaround maneuvering upon, over and across the driveways, and accessways located on the Servient Tenement, and (ii) an easement to perform any and all maintenance, repairs, replacements and other work as reasonably necessary within the Easement Area in connection with the ownership, operation, management, maintenance, repair, and replacement of the Dominant Tenement or any part thereof; and (iii) an easement to perform any repair, replacement, maintenance or other work as may be reasonably necessary due to any failure by the owner, from time to time, of the Servient Tenement to perform such owner's obligations hereunder. The easements and rights granted herein are for the benefit of the owner or owners, from time to time, of the fee title to all, or any part of the Dominant Tenement,

and their tenants, agents, employees, contractors, invitees, licensees, customers or patrons, and for public service vehicles that may need access to the Dominant Tenement (hereinafter collectively referred to as "Grantees"). Except for those rights herein expressly established for the benefit of the Dominant Tenement, and provided that the exercise of any such reserved right by Grantor, shall not interfere with the exercise by the Grantees of any easement right or rights granted to them hereunder. Grantor hereby reserves for itself, its successors and assigns, all rights and privileges of ownership of the Servient Tenement, including rights of access, ingress and egress and other rights over and across said Servient Tenement commensurate and equal to those established herein for the benefit of the Dominant Tenement.

2. Maintenance. It is hereby agreed and declared that, but for the exception stated in 2.4 of this agreement, each lot included within this easement shall bear an equal share of any and all costs required for maintenance and repairs of the easement under the terms and conditions as set forth herein. The easement herein granted shall include the right to maintain the Easement Area. The Grantor and Grantee, their respective successors and/or assigns shall be responsible for the maintenance, including, but not limited to, payment of the cost of any maintenance performed.

2.1. General. Said roads described above shall be used by all owners of properties described herein for ingress and egress and/or utilities.

2.2. Right-of-Way. the right-of-way created by said easements shall be maintained in a good, passable condition, under all traffic and weather conditions.

2.3. Frequency of Repair. Repairs on the said roads shall be required when the right-of-way no longer is in a passable condition under all traffic and weather conditions. Upon performance of the maintenance and/or repair, the owners shall then initiate the repairs of said right-of-way, with each owner bearing his prorated share of the costs and expense thereof.

2.4. Notice of Repair. As repairs become necessary to maintain the right-of-way as outlined above, either the owner of the servient or dominant tenement shall provide written notice to the other owner regarding the same. The owners shall then come to a joint agreement on the scope, costs of said repairs, and individual or company to perform the same. If the parties are unable to agree as to the scope of the repairs, the cost of the repairs, and the individual or company to perform the repairs, this dispute shall be resolved by arbitration as provided in the following Section 8.

In the event that the non-moving party does not respond within fourteen (14) days of the date the notice was provided, the moving owner may commence with the necessary repairs as they see fit, and the cost of the repairs shall be borne equally by the owners. Failure to respond to a written notice does not limit an owner's duty to pay for any repairs performed by the moving party.

If an owner makes any repair of the right-of-way and does not provide the adequate written notice to the non-moving owner, the acting owner shall be solely responsible for the costs of the repair for their failure to provide adequate notice.

2.5. Emergency Repairs. In the event the condition of the right-of-way deteriorates to a condition which results in the right-of-way becoming unusable for use as intended, and the owners are unable to agree as to the necessity for maintenance or the scope of the maintenance required in order to restore the right-of-way to a usable condition, any owner shall be entitled to perform maintenance to restore the right-of-way to a usable condition; *provided, however,* emergency maintenance shall not be commenced unless all owners have been provided five (5) day's notice prior to the commencement of the emergency repairs.

2.6. Individual Damages. Every owner of property who shall cause or allow, in any manner, said right-of-way to be used, traversed, or altered by vehicular traffic or otherwise, thereby causing damage to the surface thereof shall bear as his responsibility the costs and expense of repairing such damage.

2.7. Non-Payment. If any owner shall not pay his pro rata share of costs and expenses within ten (10) days of receiving the invoice for the cost of road maintenance performed, the remaining such owners shall be entitled without further notice to engage in dispute resolution according to section 8 hereof for the collection of funds advanced in behalf of such owner who fails to pay his/her pro-rata share, and shall be entitled to recover in such action, in addition to the funds advanced, interest thereon at the of twelve percent (12%) per annum until paid, together with all costs and disbursements of such action, including the sum as and for a reasonable attorney's fee in such amount as the court may fix.

2.8. Dispute Resolution. Any dispute pertaining to the maintenance of the easement, including the payment of the cost of maintenance, shall be resolved pursuant to the Dispute Resolution section of this document hereinafter contained.

3. No Interference with Use. Grantor nor any person claiming by, through or under either of them shall cause or permit any obstruction or impediment to be erected or placed on the Servient Tenement, or any use to be made of the Servient Tenement which would interfere with the free and unrestricted right of use and enjoyment of the easement and rights created and granted herein.

4. Remedies. In the event of a breach of any of the terms or conditions hereof, the parties affected thereby and those holding by, through or under them, including but not limited to the holder of any mortgage or deed of trust thereon, shall be entitled to full and adequate relief from the consequences of such breach by injunction and/or all other available legal and equitable remedies.

5. Nature of Covenants. The covenants, conveyances, easements and servitudes contained herein shall run with the land and shall be binding upon and inure to the benefit of all persons owning or acquiring any interest in or occupying any portion of the Dominant Tenement and Servient Tenement after the date upon which this instrument is recorded.

6. No Public Dedication. No part of this Agreement shall be construed as creating any rights in the general public, nor shall any part hereof be construed as dedicating for public use any part of the Dominant Tenement or the Servient Tenement.

7. Reference in Deeds. Whether or not reference is made in any deed to all or any portion of the Dominant Tenement or the Servient Tenement concerning the covenants, conveyances, easements and servitudes herein set forth, all such covenants, conveyances, easements and servitudes shall be binding upon and (as applicable) inure to the benefit of all persons or entities now or hereafter owning all or any portion of the Dominant Tenement and Servient Tenement, and their heirs, devisees, personal representatives, successors and assigns, as if such persons had personally executed this instrument.

8. Resolution of Disputes. Except as otherwise expressly provided, any dispute arising under or in connection with this easement shall be settled by arbitration as herein set forth.

8.1. The party demanding arbitration shall give the other party or parties from whom it seeks relief a written notice (the "Notice") which shall contain, in addition to the demand for arbitration, a clear statement of the issue(s) to be resolved by arbitration with a reference to the provision of this Agreement under which the dispute arises, the relief requested through arbitration, and the name and address of the arbitrator selected by the demanding party.

8.2. The party receiving the Notice shall provide a written response (the "Response") to the Notice within thirty (30) days following receipt of the Notice. The Response shall contain a clear statement of the responding party's position concerning the issue in dispute and whether the party consents to the use of the arbitrator designated by the demanding party. The responding party may propose an alternate arbitrator.

8.3. If the parties fail to agree on the selection of an arbitrator within forty-five (45) days of receipt of the Notice, either party may apply to the Presiding Department of the Snohomish County Superior Court of appointment of an arbitrator. The method of selection of the arbitrator or the arbitrator as selected may be changed at any time upon agreement of the parties.

8.4. The arbitrator shall be an attorney-at-law admitted to practice and in

good standing in the State of Washington. No party may select an arbitrator who is or ever has been an officer, director, or employee of such party or of any subsidiary or affiliated entity of such party.

8.5. The arbitrator shall meet in Everett, Washington within twenty (20) days after selection and shall allow each party an opportunity to submit oral and written evidence and argument concerning the issue in dispute. The arbitrator shall resolve the matters before him/her in accordance with the rules of law and equity. The arbitrator may only resolve the question or questions submitted to arbitration and shall include as part of his/her consideration a full review of this Agreement, all material incorporated herein by reference. In all other respects, the arbitration shall be conducted in accordance with the Washington Arbitration Act, RCW 7.04.

8.6. In any arbitration pursuant to this Section the arbitrator may assess his/her fees and costs and the costs and expenses of the arbitration, including reasonable attorney's fees, against the non-prevailing party as he/she may in his/her discretion determine. At the conclusion of the arbitration, any party may apply to any court of competent jurisdiction for an order confirming such award.

8.7. Any proceeding in a court of law shall be immediately stayed upon receipt of a notice or demand for arbitration; provided that this shall not preclude any party from applying to any court of competent jurisdiction for equitable relief in the form of injunctions and temporary restraining orders. In any such action or proceeding to compel arbitration or confirm the arbitration award, the prevailing party shall be entitled to recover its costs and expenses incurred therein, including without limitation reasonable attorneys' fees, and including such costs and expense incurred in any appellate proceeding.

9. Titles. All captions, title or headings in this instrument are solely for the purpose of convenience of reference and shall not be deemed to limit modify or otherwise affect any of the provisions hereof or be used in determining the intent or context thereof.

10. Entire Agreement. This instrument, including the Exhibits hereto, if any, constitutes the entire agreement of the parties hereto and supersede any and all prior oral or written agreements or understandings pertaining to the subject matter hereof. No parties hereto have made any representations, warranties or inducements, expressed or implied, to any other party hereto except as expressly set forth herein.

IN WITNESS WHEREOF, Grantor has executed this Agreement as of the day and year first hereinabove written for the purpose herein contained.

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

This is to certify that on this 26th day of September, 2018, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **DANNY L. CORRELL**, to me known to be the individual(s) described herein and who executed the within and foregoing instrument, and acknowledged to me that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.



Elaine M. Wilkinson
NOTARY PUBLIC in and for the State of
Washington, residing at Everett
My commission expires: 11/29/18

