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Skagit County Auditor

FILED FOR RECORD AT THE
REQUEST OF/RETURN TO:

Kelvin Beaton
P.O. Box 205
Burlington, WA 98233

ROAD MAINTENANCE AGREEMENT – MAIN ROAD

Documents Referenced: 200908170134

GRANTOR: KELVIN BEATON, a single man

GRANTEE: THE PUBLIC
KELVIN BEATON, a single man

Abbreviated Legal: Lots 1-4 and Tracts A-F, S/P #PL07-0919, Ptn SW and SE, S7, T35N,
R6E, W.M.

Additional Legal on page(s): See Exhibit A

Assessor's Tax Parcel Nos.: P40810, P40811, P40812, P128427, P128191, P128689, P128690,
P128691, P132607, P117904

I. DESCRIPTION OF AGREEMENT

- 1) GRANTOR, KELVIN BEATON, a single man (“Grantor”) is the owner of real property located in Skagit County, Washington, which is more particularly described on the attached Exhibit “A.” Each of the Skagit County parcel numbers referenced on Exhibit “A” is a “Lot.”
- 2) There exists a 50-foot easement for access and utilities that benefits each of the Lots, which easement is commonly known as Blossomberry Lane, which is more particularly described in Exhibit “B” and a storm drainage facility which is also more particularly described in Exhibit “B”. The entire 50-foot easement, plus the storm drainage facility, plus the drivable surface area of the easement, plus all utilities in the easement are referred to herein, collectively, as the “Road”.

- 3) The intent of Grantor in making this Road Maintenance Agreement (this "Agreement") is to provide for contribution for maintenance and repair of the Road, the roadway, utilities, storm drainage and other associated improvements that benefit the Lots. This Agreement is not intended to, and shall not, terminate any existing easements benefiting the Lots or create any new easements to benefit the Lots.

II. TERMINATION OF PRIOR AGREEMENTS

Grantor declares that the Declaration of Covenants and Conditions for Maintenance of an Easement for Ingress, Egress and Utility Purposes, dated June 12, 2009 and recorded August 17, 2009 under Auditor's File Number 200908170134, is hereby terminated, effective immediately.

III. OBLIGATION FOR COST SHARING

- 1) Agreement is Appurtenant. Grantor hereby declares that all of the Lots are, and will be, held, sold and conveyed subject to and burdened by this Agreement which is for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and that this Agreement shall be binding upon all parties having or acquiring any right, title or interest in the Lots or any part thereof, and shall inure to the benefit of the owner(s) thereof and shall otherwise in all respects be regarded as appurtenant to and as a covenant running with the land. The use of the term "Lot" in this Agreement shall refer to any one of the Lots or any portion thereof.
- 2) Decisions Concerning Maintenance. Any decision to take action to construct, maintain, repair and/or replace ("Maintain" or "Maintenance") the Road, storm drainage, utilities and/or any other associated improvements (the "Improvements") must be approved by the Owners. Approval of a decision to Maintain the Improvements shall consist of the written consent of the Owners who hold majority of the Eligible Votes, as defined herein. The total Eligible Votes shall be equal to the total number of buildable lots located within the Lots. A "buildable lot" is any portion of a Lot which has a unique Skagit County Assessor's Tax Parcel Number and on which a permanent residential structure could be constructed under applicable Skagit County Code and all other applicable laws and regulations. An Owner shall have one vote for each buildable lot owned by the Owner and the total of all such votes shall be the total "Eligible Votes". If a Lot is owned by more than one person, the vote for that Lot shall be cast by them in such manner as is determined by the owners of the Lot. Grantor shall also be entitled to one vote for each Tract of Tracts A-F owned by Grantor. Once Grantor has conveyed ownership of a Tract, then the Tract shall no longer be entitled to a vote unless the Tract meets the criteria of a buildable lot, as set forth above.
- 3) Allocation of Costs. Any costs incurred in Maintenance of the Improvements shall be divided into equal shares, with each Owner of a buildable lot receiving one share for each buildable lot owned by the Owner.

Notwithstanding anything to the contrary, no share of Maintenance cost shall be allocated to a vacant buildable lot if the Owner did not cast a vote on behalf of the vacant buildable lot for such Maintenance. A "vacant buildable lot" is a buildable lot that contains no structures.

Notwithstanding anything to the contrary, no share of Maintenance cost shall be allocated to a buildable lot if the buildable lot does not utilize the Improvement subject to the Maintenance at the time such Maintenance occurs. If a buildable lot is subsequently connected to the Improvement, then the buildable lot shall be allocated a share of any Maintenance cost incurred after the buildable lot is connected to the Improvement. For example, if a buildable lot is not connected to a water line placed within the easement area identified on Exhibit "B" attached hereto at the time Maintenance occurs, then no share of the Maintenance cost related to the water line will be allocated to the buildable lot. If the buildable lot is subsequently connected to the water main, then a share of the cost of any Maintenance performed after the date of connection will be allocated to the building lot.

No share of Maintenance cost shall be allocated to a Lot that is not a buildable lot.

- 4) Damage to Improvements. If an Owner causes identifiable damage to the Improvements (for example: through the installation of utilities or other improvements, or through the use of heavy equipment or abuse of the Improvements), then that Owner shall, as soon as is reasonably possible, immediately restore the Improvements to as good or better condition than the Improvements were in prior to the damage by that Owner. If the Owner does not reasonably comply with the provisions of this Section within ninety (90) days of receipt of a written demand to repair such damage, then the other Owners, after majority approval of the Eligible Votes excluding the Owner that caused the damage, shall have the right to repair the damage and to assess a lien against the Lot(s) of the Owner that caused the damage for the full cost of the repair.

IV. ENFORCEMENT

- 1) Authorization of Lien; Personal Obligation. Each Owner and each subsequent owner of any Lot or portion thereof, by virtue of this Agreement, or a subsequent acceptance of a deed therefor, whether or not it shall be expressed in such deed, agrees to participate in the payment for Maintenance of the Improvements as provided herein by means of assessments as may be established by the majority vote of the Eligible Votes and further agrees to comply with all conditions of this Agreement as set forth herein. Each assessment, together with interest, costs and reasonable attorney's fees required for any enforcement shall be a charge upon the land and shall be a continuing lien upon each Lot which is required to contribute to the assessment and shall also be a personal obligation of the person(s) who was/were the owner(s) of such Lot(s) at the time the assessment fell due. In addition, every Owner who pays an assessment against the Owner's lot, shall have the right to assess a lien against the Lot(s) owned by a defaulting Owner for any and all sums, including attorney's fees, incurred by a non-defaulting Owner in

enforcing this Agreement, if the defaulting Owner has not cured any default under this Agreement within thirty (30) days of written notice of such default.

- 2) Priority of Lien for Assessments. All sums expressed as against any Lot pursuant to this Agreement, together with interest, costs and reasonable attorney's fees, as provided herein, shall be a charge upon the Lots and shall be a continuing lien upon the subject Lots. The lien shall be for the benefit of all Owners who contributed their share of the costs of the Maintenance giving rise to the lien. Such lien shall be superior to all other liens and encumbrances on such lot, except for (a) liens of ad valorem taxes or (b) liens for all sums on an unpaid first mortgage.

All other persons acquiring liens or encumbrances on any Lot after the date this Agreement shall have been recorded shall take subject to this Agreement and such liens or encumbrances shall be inferior to all future liens for assessments, as provided herein, whether or not consent is specifically set forth in the instruments creating such liens or encumbrances.

- 3) Effect of Non-Payment; Remedies. Any amounts assessed under this Agreement which are not paid when due shall become delinquent. If the assessment(s) are not paid within sixty (60) days, a lien as herein provided shall attach and, in addition, the lien shall include interest from the due date of the assessment at the lesser of: (i) twelve percent (12%); or (ii) the maximum legal rate on the principal amount due, all costs of collection, reasonable attorney's fees, and all other amounts permitted by law. In the event the assessment remains unpaid after sixty (60) days, any Owner who is current on all of his/her/its assessments may institute suit to collect such amounts or to foreclose the lien. All payments shall be applied first to costs and attorney's fees, then to interest, then to delinquent assessments. Foreclosure shall be by the same process provided for the non-judicial foreclosure of a deed of trust pursuant to R.C.W. 60.04 et seq. and as hereafter amended.

V. GENERAL PROVISIONS

- 1) This Agreement and the covenants, conditions and restrictions shall run with the real property described herein shall remain in effect in perpetuity. This Agreement and the covenants, conditions and restrictions contained herein may be terminated, revoked or amended, in whole or in part, at any time by any instrument signed by Owners holding not less than two thirds (2/3) of all of the Eligible Votes. However, the Grantor shall have the right to unilaterally amend this Agreement by recording an amendment thereto at any time until Grantor has sold all Lots owned by the Declarant.
- 2) This Agreement binds and is for the benefit of the heirs, successors and assigns of Grantor.
- 3) Those portions of this Agreement and covenants, conditions and restrictions that relate solely to maintenance and repair of the Road shall automatically terminate with respect to any portion of the Road that is dedicated to any municipal corporation or other governmental entity that

assumes full responsibility for the maintenance and repair of the road following such dedication.

- 4) This Agreement is only intended to provide for the maintenance of the existing roadway, to its condition as it existed in January 2021. This Agreement is not intended to alter the size, shape and/or location of any easement on which the existing Road is situated. Nothing in this Agreement shall require any Owner to consent to or to contribute to the enlargement of any easement.
- 5) The term "Owner" or "Owners" as used in this Agreement shall mean and refer to the record owner, whether one or more persons or entities of a fee or undivided fee interest in any Lot that is a part of the properties, including contract purchasers, or, if the Lot is subject to a deed of trust, the grantor, but shall not include a mortgagee or beneficiary under a deed of trust, or those holding record ownership merely as security for the performance of an obligation.
- 6) The subject headings of the paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.
- 7) The failure of any Owner to insist upon strict performance of any of the provisions of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver but the same shall be and remain in full force and effect.
- 8) The invalidity or unenforceability of any provision of this Agreement shall not affect or impair any other provisions of this Agreement.
- 9) This Agreement shall not be deemed to terminate by any merger of the fee ownership of the Owners' properties, unless the Owners' unanimously agree otherwise and record evidence of such unanimous agreement with the Skagit County Auditor. The fee interest in the Owners' properties and this Agreement shall hereafter remain separate and distinct.
- 10) This Agreement shall be construed in accordance with the laws of the State of Washington.
- 11) The Superior Court of Skagit County has exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.
- 12) This Agreement shall take effect upon recording with the Skagit County Auditor.

DATED this 12 day of February, 2021.


KELVIN BEATON

State of Washington)
) ss
County of Skagit)

I certify that I know or have satisfactory evidence that KELVIN BEATON is the person who appeared before me and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: Feb. 12, 2021

Sirikit A. Wollin

(Signature)

NOTARY PUBLIC

SIRIKIT A. WOLLIN

Print Name of Notary

My appointment expires: 10.13.21



Exhibit "A"

Legal Descriptions

Lots 1-4 and Tracts A-F, Skagit County Short Plat No. PL07-0919, recorded August 17, 2009 under Skagit County Auditor's File No. 200908170131, records of Skagit County, Washington, being a portion of the Southeast Quarter and the Southwest Quarter, of Section 7, Township 35 North, Range 6 East, W.M.

Situate in Skagit County, Washington

Skagit County Assessor's Tax Parcel Numbers:

P40810, P40811, P40812, P128427, P128191,
P128689, P128690, P128691, P132607, P117904

Exhibit "B"

Easement Description

Tracts B and C, Skagit County Short Plat No. PL07-0919, recorded August 17, 2009 under Skagit County Auditor's File No. 200908170131, records of Skagit County, Washington, being a portion of the Southeast Quarter and the Southwest Quarter, of Section 7, Township 35 North, Range 6 East, W.M.

Situate in Skagit County, Washington.