



200507010015

Skagit County Auditor

7/1/2005 Page

1 of

5 9:05AM

After recording, return to:

Riddell Williams P.S.  
1001 Fourth Avenue, Suite 4500  
Seattle, WA 98154-1065  
Attention: Robert I. Heller

LAND TITLE OF SKAGIT COUNTY

116742-PAE

**CONDITIONAL EASEMENT FOR SEPTIC TANK AND  
DRAINFIELD LOCATION AND MAINTENANCE**

Grantor: Michael J. Cotton, an unmarried individual as his separate property

Grantee: Denny P. Onslow and Holly S. Onslow, husband and wife

Legal description:

Lots 5 and 6, Block 2, "Madrona View Addition to Similk Beach", as per plat recorded in Volume 5 of Plats, p. 6, records of Skagit County, Washington.

Lots 19, 20 and 21, Block 1, Madrona View Addition to Similk Beach, as per plat recorded in Volume 5 of Plats, p. 6, records of Skagit County, Washington.

Assessor's Tax Parcel Numbers: P69316, P69319, P69320

**RECITALS**

A. Michael J. Cotton ("Cotton"), an unmarried individual as his separate property, owns the real property (the "Cotton Property") in Skagit County, State of Washington, which is legally described as follows:

**Lots 19, 20 and 21, Block 1, Madrona View Addition to  
Similk Beach, as per plat recorded in Volume 5 of Plats,  
p. 6, records of Skagit County, Washington.**

B. Denny P. Onslow and Holly S. Onslow, husband and wife ("Onslow"), own the real property (the "Onslow Property") in Skagit County, State of Washington, which is

legally described as follows:

**Lots 5 and 6, Block 2, Madrona View Addition to Similk Beach, as per plat recorded in Volume 5 of Plats, p. 6, records of Skagit County, Washington.**

Onslow purchased the Onslow Property from Cotton as of the date hereof.

C. The Onslow Property is currently undeveloped, but Onslow intends to seek development permits to construct a single-family residence on the Onslow Property in the future.

D. Cotton and Onslow have agreed that if at the time Onslow seeks to develop the Onslow Property there is no public sewer system available to serve the Onslow Property, and Onslow is not legally permitted to install a conventional on-site sewage disposal system reasonably satisfactory to Onslow on the Onslow Property, Onslow may use a sufficient area of the Cotton Property to obtain a properly functioning septic tank/drainfield system serving the Onslow Property.

E. The parties, therefore, wish to establish this easement, running with the land and binding upon future owners of the their respective properties, to provide for the above-described septic tank/drainfield serving the Onslow Property and to assure that Onslow will be solely responsible for all construction and maintenance costs for these improvements.

#### DECLARATION

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Cotton and Onslow hereby agree as follows:

1. Cotton hereby declares, grants, conveys, imposes, and establishes a nonexclusive easement over, under and across that portion of the Cotton Property as reasonably required for the installation, maintenance, repair and improvement of a septic tank and/or drainfield serving a single-family residence to be constructed on the Onslow Property. This easement shall include the right to construct, install, and use the septic tank/drainfield system and to maintain and repair it in compliance with the laws, rules, ordinances and regulations promulgated by the State of Washington, by Skagit County and by any and all other applicable governmental authorities then in effect.
2. Onslow shall be solely responsible for all costs of design, construction, installation, maintenance and repair of the septic tank/drainfield system described in Section 1 above.
3. The parties agree that the easement created under this Agreement shall be



terminated, and, upon Cotton's request, Onslow shall execute and record a Termination of Easement document to provide notice on title of the same, if, at the time that Onslow seeks to develop a single family residence upon the Onslow Property, there is available to Onslow either (i) an operational community sewage treatment facility able to serve the Onslow Property; or (ii) as determined by Onslow's licensed on-site sewage treatment system designer and reasonably acceptable to Onslow, the ability to install on the Onslow Property and have approved by all applicable governmental and regulatory agencies a conventional on-site septic tank and drainfield system for use of a single family residence on the Onslow Property.

4. Until such time as Onslow proceeds with development of the Onslow Property and determines need for a septic tank/drainfield system which may be placed upon the Cotton Property, Cotton shall take no action that would preclude use of the Cotton Property for the easement purposes described above, including, but not limited to, development of permanent structures or uses that would constrain location of the intended easement use upon the Cotton Property. Thereafter, Cotton shall not take any action that would adversely affect the construction, operation, repair, maintenance of the septic tank/drainfield.

#### GENERAL PROVISIONS

a. Runs with Land. The easements, covenants, terms and conditions conveyed, declared, granted and established under this Agreement shall run with the land and inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, beneficiaries, personal representatives, successors and assigns.

b. Attorneys' Fees. If any legal action or any other proceeding, including arbitration, bankruptcy or appellate proceeding or action for declaratory relief, is brought for the construction or enforcement of this Declaration, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled. "Prevailing party" shall include without limitation (i) a party who dismisses an action in exchange for sums allegedly due; (ii) the party who receives performance from the other party of an alleged breach of covenant or a desired remedy where such is substantially equal to the relief sought in an action; or (iii) the party determined to be the prevailing party by a court of law.

c. Governing Law. The terms and provisions of this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington.

d. Specific Performance. The failure of any party bound by this Agreement to perform its obligations under this Agreement will cause irreparable damage to the other party or parties, and therefore in addition to each party's remedies at law, each



party shall be entitled to a decree of specific performance of the terms of this Agreement.

e. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

DATE: June 30, 2005

GRANTOR

Michael J. Cotton  
Michael J. Cotton

GRANTEE

Robert I. Heller  
Robert I. Heller, attorney-in-fact for  
Denny P. Onslow and Holly S. Onslow



STATE OF WASHINGTON )

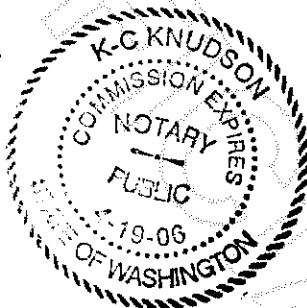
COUNTY OF Skagit )

ss:

I certify that I know or have satisfactory evidence that MICHAEL J. COTTON 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: Jun 30 2005

(Seal or stamp)



KC Knudson  
Notary Signature

KC Knudson  
Print/Type Name

Notary Public in and for the State of Washington,

residing at Seas

My appointment expires 4-19-06

STATE OF WASHINGTON )

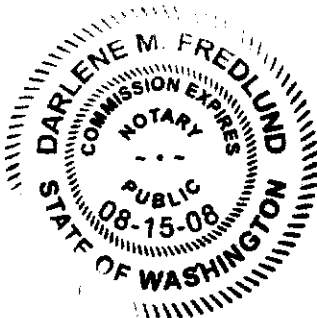
COUNTY OF King )

ss:

I certify that I know or have satisfactory evidence that ROBERT I. HELLER is the person who appeared before me, and said person acknowledged that he signed this instrument as an attorney-in-fact for Denny P. Onslow and Holly S. Onslow and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 6/28/05

(Seal or stamp)



Darlene M. Fredlund  
Notary Signature

DARLENE M FREDLUND  
Print/Type Name

Notary Public in and for the State of Washington,

residing at Billean, WA

My appointment expires 8/15/08

