

FILED FOR RECORD AT THE  
REQUEST OF/RETURN TO:

Mrs. Colleen Nunn  
105 N. 1<sup>st</sup> Street  
La Conner, WA 98257



201609190195

Skagit County Auditor

\$151.00

9/19/2016 Page

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6 3:41PM

### UTILITY EASEMENT AND COST SHARING AGREEMENT

GUARDIAN NORTHWEST TITLE CO.

**GRANTORS:** COLLEEN NUNN, a married woman, as her separate property;  
NICHOLAS EVAN BARKER, Personal Representative of the Estate of  
Ivan G. Barker, Deceased

**GRANTEES:** COLLEEN NUNN, a married woman, as her separate property;  
NICHOLAS EVAN BARKER, Personal Representative of the Estate of  
Ivan G. Barker, Deceased

**Legal Description:**

Abbreviated Form: Unit 3A, La Conner Landing Condominium  
Unit 3, La Conner Landing Condominium

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX  
EASEMENT  
SEP 19 2016

Additional Legal on: Page 1 & 2

Assessor's Tax Parcel No's: 4738-000-003-0100; P116196  
4738-000-003-0000; P116195

Amount Paid \$ —  
Skagit Co. Treasurer  
By HB Deputy

THIS UTILITY EASEMENT AND COST SHARING AGREEMENT is entered into this 13<sup>th</sup> day of September, 2016, by and between COLLEEN NUNN, a married woman as her separate property, (hereinafter referred to as "NUNN") and NICHOLAS EVAN BARKER, Personal Representative of the Estate of Ivan G. Barker, Deceased, under Skagit County Superior Court Cause No. 16-4-00180-7 (hereinafter referred to as "BARKER") to formalize the terms and conditions of this Agreement for the use of a shared electric service and agreement as to sharing of the resultant power bill. NUNN and BARKER (hereinafter sometimes referred to collectively as the "Owners") hereby agree as follows:

## **I. IDENTIFICATION OF PROPERTY**

- 1) NUNN is the owner of the following described real property located in Skagit County, Washington (hereinafter referred to as "Unit 3A"):

Unit 3A, LACONNER LANDING CONDOMINIUM, as shown on "FIRST Amendment to Survey Map and Plans", recorded October 11, 1999, under Auditor's File No. 199910110059, and as identified in Declaration recorded September 24, 1996, under Auditor's File No. 9609240006 and as further identified by Amendments to said Declaration recorded October 16, 1996 and October 11, 1999 under Auditor's File Nos. 9610160001 and 199910110095, respectively,

TOGETHER WITH an undivided interest in the common area and limited common areas as set forth in said Declaration TOGETHER WITH all other rights contained therein.

Situate in the Town of LaConner, County of Skagit, State of Washington.

- 2) BARKER is the owner of the following described real property located in Skagit County, Washington (hereinafter referred to as "Unit 3"):

Unit 3, LACONNER LANDING CONDOMINIUM, as shown on "FIRST Amendment to Survey Map and Plans", recorded October 11, 1999, under Auditor's File No. 199910110059, and as identified in Declaration recorded September 24, 1996, under Auditor's File No. 9609240006 and as further identified by Amendments to said Declaration recorded October 16, 1996 and October 11, 1999 under Auditor's File Nos. 9610160001 and 199910110095, respectively,

TOGETHER WITH an undivided interest in the common area and limited common areas as set forth in said Declaration TOGETHER WITH all other rights contained therein.

Situate in the Town of LaConner, County of Skagit, State of Washington.

## **I. DESCRIPTION OF EASEMENT**

This agreement establishes utilities easements and cost sharing provisions for the provision of utilities to all of the properties owned by the respective Owners. NUNN and BARKER hereby quitclaim and convey to NUNN and BARKER, including after-acquired title, perpetual non-exclusive easements, (hereinafter referred to as the "Easements") for the shared electrical service as is currently located at and serving Unit 3 and Unit 3A from the

point said electrical service leaves the public right of way or other common space to the point it serves only an individual unit, either Unit 3 or Unit 3A, over, under and across the properties owned by NUNN and BARKER.

## **II. AGREEMENT IS APPURTENANT**

This Agreement is to be held by NUNN and BARKER, their heirs and successors and assigns as appurtenant to the lands owned by NUNN and BARKER adjoining to said easements and shall run with the land. This Agreement is for the purposes of benefiting the Owners' properties only.

## **III. UTILITY SERVICE – OBLIGATIONS OF THE PARTIES**

- 1) This agreement is intended to provide for the division of costs associated with the utility services, specifically electrical power jointly servicing Unit 3 and Unit 3A.
- 2) The existing electric meter (the "Electric Meter") is installed in BARKER'S Unit 3. A wattage meter to monitor the electrical consumption of NUNN'S Unit 3A is to be installed contemporaneous to the execution and recording of this Agreement.
- 3) The Owners hereby agree that the power bill for Owners from the electrical service provider shall be maintained in the name of the owner of Unit 3, commencing with BARKER.
- 4) The Owners hereby agree that the power bill shall be divided between them based on their proportional usage of power. NUNN shall be responsible for the percentage of the power bill equal to the percentage of power that the individual meter serving Unit 3A measures compared to the total measured power consumption of Unit 3 and Unit 3A as measured by the Power Meter. BARKER shall be responsible for the remainder of the power bill.
- 5) Upon receipt of the power bill, BARKER shall prepare and forward to NUNN a copy of the power bill together with a meter reading from the wattage meter and the Power Meter. Within ten (10) days of receipt, NUNN shall pay to BARKER the portion of the power bill attributable to the usage of Unit 3A.
- 6) If NUNN fails to timely pay to BARKER the required portion of the power bill, or if BARKER should fail to pay to the utility provider, then the other Owner shall have the right to pay the full amount and the property of the non-contributing Owner shall be subject to a lien as provided for in this Agreement.
- 7) At the time of this Agreement, BARKER'S Unit 3 does not have any water or sewer utility service. This agreement only provides for cost sharing for the electric power utility as identified above that is installed prior to September 19, 2016. No Owner shall be

obligated by this Agreement to contribute to the installation cost of any utility not specifically identified in this Agreement or any utility installed after September 19, 2016, which shall specifically include any water or sewer utility service to BARKER'S Unit 3, nor be deemed to have agreed to any sharing of utility services or meter devices. The Owners agree that BARKER, and BARKER'S successors and assigns, shall be solely responsible for any and all costs associated with establishing any such utility service to Unit 3, including the specific cost of installing separate metering devices for any additional utility services installed at Unit 3.

#### **IV. MAINTENANCE - OBLIGATIONS OF THE PARTIES**

- 1) **Standard of Maintenance.** The utilities and all related improvements shall be maintained in a safe, functional and reasonably good condition consistent with all governmental regulations and utility requirements. Such maintenance shall include, without limitation, removal of obstructions, root intrusion, clogging, leakage, maintenance and repair of any defects; maintaining any appurtenant utilities, pipes, and conduits; and all other undertakings of any kind or nature whatever required to maintain the utilities in a reasonably serviceable and functional state of repair. However, any utility that serves only one property shall be maintained and repaired at the sole cost and expense of the Owner of that property.
- 2) **Proportional Obligations.** The owners shall share the maintenance obligations described hereunder in equal proportions. Such obligation shall be the personal obligation of each owner of a parcel or portion thereof at the time such obligation becomes due and payable, provided, however, that no party having an interest in the property merely as security for the performance of an obligation or payment of a debt shall be personally liable for such obligation and provided further that the above shall not affect the right to impose a lien on the property pursuant to the terms of this Agreement.
- 3) **Commencement of Obligation to Contribute to Utility and Maintenance Costs.** The Owner's obligations under this agreement shall commence immediately upon recording of this Agreement or September 19, 2016, whichever date is later.

#### **V. OBLIGATION TO PAY.**

Any amount that a party is obligated to pay pursuant to this Agreement shall constitute a lien on that portion of the property owned by such party, which may be foreclosed in the same manner as a lien, and the foreclosing Owner shall be entitled to recover reasonable costs and attorney's fees.

#### **VI. DISPUTE RESOLUTION**

The parties agree to exercise their best efforts in good faith to resolve problems

associated with the easement. Should the parties be unable and willing to amicably resolve any dispute concerning this agreement, including the interpretation of this agreement, then they agree to submit to binding arbitration under the then current rules for arbitration in the highest court located in Skagit County, if any, regardless of the nature of the dispute or the amount in controversy, and the parties agree that the results reached in such arbitration shall be binding and unappealable. The prevailing party shall be entitled to reasonable costs and attorney's fees.

## **VII. BENEFITS AND BURDENS**

Benefits, burdens and covenants of this Agreement shall be deemed to run with the land and bind the properties owned by NUNN and BARKER, and their respective heirs, successors, and assigns and all persons possessing the properties by, through and under the parties hereto and their respective heirs, successors and assigns.

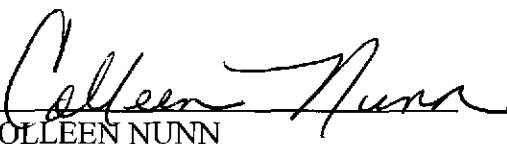
## **VI. MISCELLANEOUS PROVISIONS**

There are no verbal or other agreements that may modify or affect this Agreement. There are no other agreements between the parties for cost sharing relating to any easements other than those described herein and this Agreement shall not be construed as applying to any easements or costs not specifically described herein. This agreement is an integrated, complete document and constitutes the entire agreement among the parties. This easement agreement shall be construed according to the laws of the State of Washington.

This Agreement has been prepared by attorney John T. Burke of Skagit Law Group, PLLC, who is representing NUNN. NUNN and BARKER have independently negotiated the terms of this Agreement and each party has been given the recommendation and opportunity to secure separate legal counsel in the review and finalization of this Agreement.

THE PARTIES HEREBY ACKNOWLEDGE THAT THEY HAVE READ THIS DOCUMENT, UNDERSTAND ITS CONTENTS AND AGREE TO BE BOUND BY THE TERMS HEREOF.

**IN WITNESS THEREOF**, the parties hereto have executed this agreement on the day and year first above written.

  
COLLEEN NUNN

Estate of Ivan G. Barker, Deceased

  
NICHOLAS EVAN BARKER  
Personal Representative

State of California ) ss  
County of Orange

NICHOLAS EVAN BARKER

I certify that I know or have satisfactory evidence that ~~COLLEEN NUNN~~ is the person who appeared before me and said person acknowledged that ~~she~~ signed this instrument and acknowledged it to be ~~her~~ free and voluntary act for the uses and purposes mentioned in the instrument ~~his~~

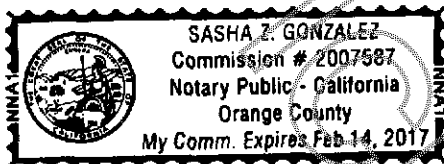
Dated: 9/13/16

(Signature)

NOTARY PUBLIC

Print Name of Notary

My appointment expires: Feb. 14, 2017



State of Washington )  
County of Skagit ) ss

COLLEEN NUNN

I certify that I know or have satisfactory evidence that ~~NICHOLAS EVAN BARKER~~ is the person who appeared before me, and said person acknowledged that he was authorized to execute the instrument and acknowledged it as the ~~Personal Representative of the Estate of Ivan G. Barker, Deceased,~~ to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 9-19-16

(Signature)

NOTARY PUBLIC

VICKI L. HOFFMAN

Print Name of Notary

My appointment expires: 10-8-17

