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Skagit County Auditor

Filed for Record at Request of:

CHMELIK SITKIN & DAVIS P.S.  
1500 Railroad Avenue  
Bellingham, WA 98225  
(360) 671-1796

DOCUMENT TITLE(S):

**DRIVEWAY MAINTENANCE AGREEMENT**

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

**200404230138**

GRANTOR(S) (Last name, First name and MI):

**GREGORY PULLEY AND KATHERINE PULLEY, HUSBAND AND WIFE**

GRANTEE(S) (Last name, First name, and MI):

**GREGORY PULLEY AND KATHERINE PULLEY, HUSBAND AND WIFE**

ABBREVIATED LEGAL DESCRIPTION (Lot, block, plat or section, township, range):

**PTN OF THE SE 1/4 OF SEC. 21, T<sup>26</sup> N, RNG 4 E., W.M.**

Additional legal on page 7 of document.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER(S):

**P49763  
P49699**

## DRIVEWAY MAINTENANCE AGREEMENT

**THIS DRIVEWAY MAINTENANCE AGREEMENT** (the "Agreement") is made and entered into this 19<sup>th</sup> day of June, 2019, by **GREGORY PULLEY AND KATHERINE PULLEY**, husband and wife (hereinafter referred to as "Pulley").

**WHEREAS**, Pulley owns the real properties commonly referred to by Skagit County Assessor Parcel No. P49763 ("Lot 1") and Skagit County Assessor parcel No. P49699 ("Lot 3") (Lot 1 and Lot 3 are collectively referred to herein as the "Lots" which are more particularly described in Exhibit "A" hereto); and

**WHEREAS**, Lot 1 and Lot 3 jointly share and use a common asphalt driveway located on the east half of Lot 1 running north across Lot 1 from Echo Hill Road to Lot 3 (the "Driveway"); and

**WHEREAS**, an easement (the "Driveway Easement") is provided for the Driveway on the face of the Short Plat that created Lot 1 and Lot 3, which is recorded under Skagit County Short Plat No. 96-0022 and Skagit County Auditor No. 200404230138; however, the Driveway Easement does not specify any maintenance obligations between the respective lots; and

**WHEREAS**, Pulley intends to sell Lot 3, and before that sale Pulley desires to enter into this Agreement governing the maintenance and repair of the Driveway.

**NOW, THEREFORE**, in consideration of a gift and the mutual covenants and conditions contained herein, the owners of the Lots do hereby enter into this Agreement under the following terms and conditions:

### **1. Driveway Maintenance.**

1.1 Except as otherwise agreed to by the owners of the Lots, the costs of maintaining the Driveway in good condition and repair as an asphalt, or similar surface, access to the Lots shall be borne by the owners of the Lots as follows:

1.1.1 The owner of Lot 1 shall pay seventy-five percent (75%) of the total costs and the owner of Lot 3 shall pay twenty-five percent (25%) of the total costs for maintaining the Driveway from the entrance to Lot 1 off of Echo Hill Road extending north to the creek crossing (referred to herein as "Section A" and as denoted on the map of the Lots attached hereto as Exhibit "B").

1.1.2 The owner of Lot 3 shall pay one-hundred percent (100%) of the total costs for maintaining the Driveway from the creek crossing north to the southern property line border for Lot 3 (referred to herein as "Section B" and as denoted on the map of the Lots attached hereto as Exhibit "B").

1.2 If either Lot owner believes maintenance or repairs of the Driveway are needed, then that owner shall provide written notice to the other owner identifying the repairs or maintenance believed necessary, along with a bid or estimate of the costs of such repairs or maintenance.

1.2.1 The notice shall be hand-delivered to the owners of the Lot or sent certified mail, return receipt requested, to each owners' mailing address identified in the Skagit County Assessor's Office records. Any notice which is mailed shall be deemed delivered upon the receiving party's signature on the return receipt.

1.2.2 If the receiving Lot owner objects to the proposed repairs or maintenance, that owner must provide written notice (in the same manner as above) of their objection to the Lot owner requesting the maintenance or repairs within ten (10) days of receipt of the notice originally given. Any owner who fails to timely object to a notice of repairs or maintenance shall be deemed to have approved the repairs or maintenance, and all costs associated therewith, as outlined in the notice provided to that Lot owner. Any proposed repair or maintenance work that is not objected to as provided in this Paragraph shall be treated as "Approved Work" in this Agreement.

1.3 The owners of the Lots shall make a good faith effort to come to an agreement with each other on whether to perform any repairs or maintenance on the Driveway and the extent of such repairs or maintenance. Any repair or maintenance work, and all costs associated therewith, agreed to by the owners of the Lots shall be treated as "Approved Work" in this Agreement.

1.3.1 In the event that the owners of the Lots cannot reach an agreement, and the quoted amount of such repairs or maintenance is less than \$5,000, then the owner of Lot 1 shall have the right to make the determination as to the repairs or maintenance for Section A and the owner of Lot 3 shall have the right to make the determination as to the repairs or maintenance for Section B. The determinations of the owners of Lot 1 and Lot 3 under this Paragraph shall be treated as "Approved Work" under this Agreement, provided that those costs do not exceed \$5,000. Any costs in excess of \$5,000 which are incurred as a result of the repairs or maintenance shall be borne by the owner that requested the repairs or maintenance.

1.3.2 In the event that the owners of the Lots cannot reach an agreement, and the amount in dispute for such repairs or maintenance is in excess of \$5,000, then the owners of the Lots shall agree upon and select a third-party arbitrator to make the decision. If the owners of the Lots cannot agree upon an arbitrator, then either party may petition the Skagit County Superior Court to appoint an arbitrator. The decision of the arbitrator shall be treated as "Approved Work" under this Agreement. The costs related to the arbitration under this Paragraph shall be borne equally by the Lot owners, regardless of the prevailing party.

1.4 The maintenance and repair of the Driveway is for the benefit of all the Lots. All owners of the Lots shall pay their proportional share of all costs associated with the Approved Work (as provided above) within thirty (30) days of receiving an invoice for the same. The Lot of any owner who fails to timely pay his or her proportional share of the costs of the Approved Work shall be subject to a lien for the share of any maintenance or repair costs, together with interest at the rate of twelve percent (12%) per annum from the original due date, and all attorneys' fees and costs incurred for collection of the same. Any such lien may be foreclosed in the manner provided for foreclosure of mechanic's and materialmen's liens. The paying owner may, in addition to or instead of foreclosure of the lien, obtain a personal judgment against the delinquent owner.

1.5 Notwithstanding anything to the contrary herein, the costs of repairs caused by the actions of one owner, such as utility installation or damage to the Driveway due to construction, requiring repairs for reasons other than normal wear and tear, shall be paid solely by the owner causing such damage. Normal wear and tear includes, but is not limited to, the driving of vehicles such as cars, trucks, tractors, dump trucks and semi-trucks on the Driveway for residential or home-based business activities. In the event that such damage is caused by a guest, invitee, licensee, customer, employee, or agent of one of the owners, then that owner shall be solely liable for the cost to repair such damage.

**2. Driveway Upgrades.**

2.1 The owners of the Lots shall not be required to pay for optional upgrades, expansion or enhancements to the Driveway, including, but not limited to, cement paving. This Agreement is limited to requiring the owners of the Lots to contribute to the costs to maintain the Driveway in its current location as an asphalt or similarly surfaced access only.

2.2 In the event an owner of one of the Lots upgrades, expands or enhances the Driveway, such owner shall be solely responsible for the costs of such upgrade and solely responsible for all additional future maintenance and repair costs required to maintain the Driveway in such upgraded, expanded or enhanced condition.

**3. Binding Effect.** This Agreement shall be perpetual in duration, shall constitute covenants running with the land, and shall be binding on the undersigned and all successors, assignees, devisees, or transferees of the owners of the Lots and shall, in all respects, attach to the individual Lots legally described in this Agreement. Each of the Lots shall be subject to this Agreement, and all subsequent owners, successors, and assigns of the properties shall take said real property subject to this Agreement.

**4. No Waiver.** Failure to enforce any provision of this Agreement shall not operate as a waiver of any such provision.

**5. Indemnification, Defense and Hold Harmless.** The owner of Lot 3 shall assume full responsibility and liability for acts of its licensees, invitees, employees, agents, contractors, or other authorized people within the Driveway Easement. In this regard, the owner of Lot 3 shall indemnify, defend, and hold the owner of Lot 1 harmless against any and all loss, claim, or liability (including attorneys' fees and costs) incurred as a result of the owner of Lot 3 or its agents', invitees', or licensees' use of the Driveway Easement.

**6. Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of real property described herein to the general public, or for any public use or purpose whatsoever, except as may be specifically provided herein.

**7. Notice.** Any notice or written communication required by this Agreement shall be sent to the Lot owner at the address as it appears on the Skagit County Assessor & Treasurer's website or if that website is no longer in service, a similar County maintained property record system.

**8. 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 provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**9. Litigation.** If, by reason of any default or breach on the part of either Lot owner in the performance of any of the provisions of this Agreement, a legal action is instituted, the substantially prevailing party shall be entitled to an award of its attorneys' fees and costs incurred in connection therewith. It is agreed that the jurisdiction and venue of any legal actions brought under the terms of this Agreement shall be exclusively in the Superior Court for Skagit County, Washington. Washington law shall apply to this Agreement.

**10. Amendments.** Except as otherwise set forth herein, this Agreement may not be modified, amended, or terminated except by the written agreement of the owners of the Lots or their successors and assigns.

**11. Entire Agreement.** This Agreement contains all of the understandings between the Lot owners. Each owner represents that no promises, representations or commitments have been made by the other as a basis for this Agreement, which have not been reduced to writing herein. No oral promises or representations shall be binding upon either owner, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Agreement.

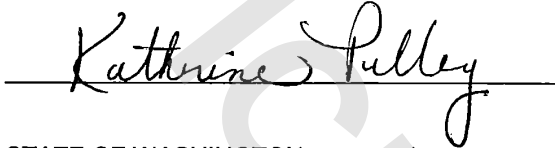
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

GREGORY PULLEY



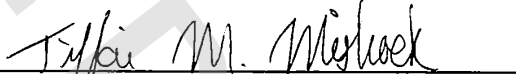
KATHERINE PULLEY



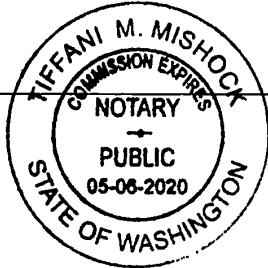
STATE OF WASHINGTON )  
COUNTY OF SKAGIT ) ss.

On this 19<sup>th</sup> day of June, 2019, before me personally appeared Gregory Pulley and Katie Pulley, who executed the within and foregoing instrument, and acknowledged the same instrument to be their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



NOTARY PUBLIC in and for the State of  
Washington, residing at Maryt Vernon  
My Commission expires: 05/06/2020



**EXHIBIT "A"**  
**[LEGAL DESCRIPTIONS OF**  
**LOT 1 AND LOT 3]**

LOT 1, PARCEL NO. P49763

THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, NORTH OF THE NORTHERLY FORK OF THE OLD GRADE ROAD, SOMETIMES KNOWN AS THE OLD RAILROAD, SECTION 21, TOWNSHIP 36 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

LOT 3, PARCEL NO. P49699

THE EAST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 36 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES IN FAVOR OF THE GRANTEEES, THEIR HEIRS, SUCCESSORS OR ASSIGNS, OVER AND ACROSS THE EAST 20 FEET OF THAT PORTION OF THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21, LYING NORTHERLY OF ECHO HILL ROAD.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

**EXHIBIT "B"**  
**[MAP OF DRIVEWAY EASEMENT]**

UNOFFICIAL DOCUMENT

