

WHEN RECORDED RETURN TO:

HomeStreet Bank
601 Union Street, Ste 2000
Seattle, WA 98101-2326

DOCUMENT TITLE(S):
WELL EASEMENT & MAINTENANCE AGREEMENT

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTORS:
Kenneth & Carla Cosentino
HomeStreet Bank

GRANTEE:
To The Public

SKAMANIA COUNTY
REAL ESTATE EXCISE TAX
N/A
DEC 10 2014
PAID N/A
Andrew Johnson
SKAMANIA COUNTY TREASURER

ABBREVIATED LEGAL DESCRIPTION:
SEC 36 T3N R7 ½ E

See Attached Exhibits A,B,C,D for Full Legal Descriptions

TAX PARCEL NUMBER(S):
03-75-36-4-0-0203-00, 03-75-36-4-0-0200-00, 03-75-36-4-0-0201-00, 03-75-36-4-0-0202-00

Well Easement and Maintenance Agreement

This Agreement, made and entered into this 4th day of December by and between Kenneth & Carla Cosentino, party of the first part, hereinafter referred to as the "supplying party," and Home Street Bank, party of the second part, and hereinafter referred to as the "supplied party."

Recitals

1. On June 2, 1981 Joe Jermann applied, under Department of Ecology application number G2-25921, to appropriate water for a group domestic supply for four single family homes with the Jermann Short Plat as such plat is recorded in Book 2 at Page 224-A., Auditor's File # 93164.
2. On August 31, 1999 the Cosentinos executed quit claim deeds for boundary line adjustments such that the well formerly located on what was referred to as Lot 4 of the Jermann Short Plat recorded in Book 2 Page 224-A Skamania Count Short Plat Records, Auditor's File # 93164 is now located on the Lot 202 on Exhibit D attached hereto and incorporated herein.
3. The Cosentinos are the owners of 3 tracts of land recorded as the amended Jermann short plat at Book 194, Pages 596, 598 and 600, Records of Skamania County, Washington:
 - a. Lot 201 includes a single family home and supplies electricity to the well and water system. Described in exhibit "B"
 - b. Lot 202, a buildable lot, contains the pump house, well and water system. Described in exhibit "C".
 - c. Lot 200, a buildable lot. Described in exhibit "D"
4. Home Street Bank is the owner of the tract of land recorded at Book 224, Page 6, records of Skamania County, Washington. Described in exhibit "A"
5. A Declaration of Restrictive Covenant dated July 30, 1981, applicable to the water supply located on the land which is now described in Exhibit "C," is recorded at Book K, Page 383 of the Records of the County of Skamania, State of Washington, Auditor's File No 92858. The parties have reviewed the restrictions contained therein, which run with the land and are binding on the owners of the lands described in Exhibits A-D of this Agreement.
6. The owner of the land described in Exhibit "A," attached hereto and incorporated herein, reserved a utility easement for the benefit of the owner, his heirs, successors and assigns of the land described in Exhibit "A." Said reservation of utility easement is recorded in that deed recorded in Book 118, Page 88, Records of the County of Skamania, State of Washington, Auditor's File No. 109224.
7. The parties to the Agreement anticipate that in the future additional single family residences may be placed on the land described in Exhibits "C" and "D," both descriptions of which are attached hereto and incorporated herein, and have the right to connect to the existing water system.
8. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **OWNERSHIP/NON-EXCLUSIVE USE.** The well situated on the land described in Exhibit "C" attached hereto and incorporated herein, together with the pump house, pump, water lines, distribution system and all appurtenances and equipment relating thereto, except the water lines serving each individual house, shall be for the mutual and non-exclusive use and benefit of one single family dwelling on each of the lands described in Exhibits A-D attached hereto and incorporated herein as if fully set forth. The uses to which the well and water system shall be put are for normal domestic water supply to single family residences, including landscaping and household garden use, and excluding the right to draw water to fill swimming pools of any type.
2. **USE RESTRICTIONS.**
 - a. A 100' radius around the well shall at all times be preserved from contamination due to cesspools, sewer privies, septic tanks, drain fields, manure piles, garbage of any kind, barns, chicken houses, rabbit hutches, pigpens or other enclosures or structures for the keeping of fowls or animals, or storage of liquid or dry chemicals, herbicides or insecticides, and all well users shall abide by such restrictions as may from time to time be enacted by any civil authority relative to the preservation of wells from contamination.
 - b. That only those parcels of real estate hereinabove described and the dwelling located thereon shall be permitted to receive water from said well and pumping equipment; and each of the parties hereto does hereby covenant and agree that he/she will not allow or permit other persons, other than household guests, to take, draw, use or receive water from the well, nor permit other persons to connect to the pipes serving his/her respective parcel.
3. **EASEMENTS.** The Cosentinos, owners of the land described in Exhibit "C" attached hereto and incorporated herein as if fully set forth, hereby grant, bargain, and convey the following non-exclusive easements for ingress and egress for maintenance, eight feet (8') in width over and in the land described in Exhibit "C" to the existing well and all its appurtenances, with the center line of said easements as shown in the sketch attached hereto as Exhibit "E." The illustrations contained in Exhibit "E" represent intent for the location of waterline easements; actual easements will be determined by physical installation of the lines after construction.
 - a. To Home Street Bank, its heirs, successors and assigns, said easement shall be for the purpose of carrying water from the well located on the Cosentino property described in Exhibit "C" to the Home Street Bank property described in Exhibit "A," both exhibits attached hereto and incorporated herein as if fully set forth;
 - b. To the Cosentinos, their heirs successors and assigns, said easement shall be for the purpose of carrying water from the well located on the Cosentino property described in Exhibit "C" to the Cosentino property described in Exhibit "B," both exhibits attached hereto and incorporated herein as if fully set forth.
 - c. To the Cosentinos, their heirs successors and assigns, said easement shall be for the purpose of carrying water from the well located on the Cosentino property described in

Exhibit "C" to the Cosentino property described in Exhibit "D," both exhibits attached hereto and incorporated herein as if fully set forth.

4. **Maintenance and Operation.** Except as provided in Section 4.1, each user shall be responsible for and promptly maintain, repair, and, if necessary, replace all service lines and related water system facilities external to the pump house and water system contained within.
 - a. The owner of lot 202 (Exhibit C) shall be responsible for operating, maintaining, repairing and, if necessary, replacing that portion of the Water System consisting of all facilities including without limitation; the well, pump, pump house, electrical components and electrical line.
 - b. That the undersigned parties shall permit periodic well water sampling and testing by a responsible authority at the request of an undersigned party, mortgagee or the United States of America, Rural Housing Services.
5. **Quality of Service.**
 - a. The supplying party makes no representations or warranties regarding the quality, or volume of water to be produced by the well or the fitness of the same for any purpose and supplying party shall have no liability of any nature to other users of the water system with respect to the quality or quantity of water available. At time of this agreement, the water from said well has arsenic levels above state limits and a point of use (POU), or whole house arsenic filter is recommended and may, in fact, be required.
 - b. That in the event the referenced well shall become contaminated and shall no longer supply water suitable for domestic consumption, or shall no longer supply water adequate for the needs of all relevant parties, or in the event that another source of water shall become available to the respective parcels, then the rights and obligations of the parties created by this Agreement shall cease and terminate in accordance with the terms and conditions hereinafter described.
 - c. That upon the availability of such other source of water, it is contemplated that a reasonable time shall be allowed to effectuate the necessary connections to the new source.
6. **Emergency Access.** Only the supplying party and persons expressly authorized by the supplying party will have access to the well pump house and wellhead; provided, that each user not in default in the payment of fees or charges shall have the right to act to correct an emergency situation and shall have access to the water system in the absence of the supplying party. For emergency purposes, the supplying party shall designate an emergency contact person, shall provide that person with a key to the pump house and shall provide each user a telephone number or other means of contacting that person. An emergency situation shall be defined as the failure of any common portion of the water system to deliver water upon demand.
7. **Term and Termination of Agreement.**
 - a. The term of this agreement shall be perpetual and without limit and shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and assigns of the parties and shall constitute covenants running with each of the parcels described above. This agreement represents the entire understanding of the parties and shall

continue as an encumbrance against their respective lands terminable only upon mutual written agreement.

- b. That the respective rights and obligations of the parties shall continue until the parties who wish to terminate their participation in the Well Agreement have executed and filed a written statement of termination with the Office of the Register of Deeds of the County of Skamania, State of Washington. Upon termination of participation in this Agreement, the owner and occupant of each residence which is terminated from the Agreement shall have not further right to use of the well. The terminated parties shall disconnect their respective lateral connection from said well system and shall have no further obligation to participate in future costs of maintenance and related expenses incurred thereafter. The terminating party shall be responsible for payment of all monthly costs and proportionately shared costs incurred prior to election to disconnect. The costs of disconnecting from the well and water system shall be borne by the owner of the pertinent parcel.
8. **Conservation/Excessive Use.** In the event of a water shortage, each party agrees to restrict water use as much as possible in order to attempt to meet the basic water needs of each party.
9. **Amendments of this Agreement.** That the parties may amend this Agreement to assure equitable distribution of shared costs and responsibilities; however, this Agreement may not be amended during the term of a Federally-insured (direct) or guaranteed mortgage on any property served, except as provided herein, for the purpose of adding to the prescribed number of parties.
10. **Costs for existing connections on lots 201 and 203 of exhibit E**
 - a. Energy to the water system is supplied by the "supplying party". The "supplied party" will pay the "supplying party" a fee of \$20/month.
 - i. At the discretion of the supplying party, this rate may be increased annually no more than the cumulative Consumer Price Index (CPI) rate of inflation from the last rate increase.
 - ii. The supplying party must provide written notice 45 days prior to any energy cost increase.
 - b. The cost of all maintenance, repairs and enhancements to the pump, well casing, tank, water meters, pipes and fittings, electrical components and electricity line to the pump house will be shared by the connected parties based on metered water usage since the last maintenance, repair, or enhancement event. Meter readings will be taken and provided to all parties after each "maintenance event" for the purposes of determining cost sharing of future maintenance, repair, or enhancement needs.
 - c. The cost of all maintenance, repairs or enhancements to the pump house will be shared equally by both supplying and supplied parties. The pump house includes the foundation, walls, door, roof, siding and heating facilities of the pump house building. In case of damage covered by insurance, the insurance deductible costs will be shared equally as well.
11. **Costs to be shared by subsequent Lot Owners using the well.**

- a. The parties to this agreement contemplate that two additional single family residences may use water from the well described in this agreement.
 - b. Subsequent owners whom acquire an interest in lots 200 and 202 shall be allowed access to the community water system so long as the water supply is adequate for the additional service.
 - c. Subsequent owners will bear 100% of the cost of connecting to the water system, making any desired enhancements, and must add a water meter and one-way check value on the user side of the meter with the initial connection.
 - d. After initial connection, subsequent owners will pay for electricity, maintenance, repair, enhancements of the water system and pump as described in section 10a, 10b, 10c above.
12. **Reserve Account.** The supplying party and supplied party, or parties, may at any time, agree to establish and maintain a joint "reserve account" at a banking institution for the purpose of reserving funds for future repair, maintenance, or water system enhancement needs. If no agreement exists, all costs of repair, maintenance, or enhancement of the water system are expected to be paid as described in Section 10b and 10c above, at the time of required work.
13. **Failure to Pay/Disconnect.** The failure to pay monthly energy fees, or system maintenance, repair, or enhancement charges duly imposed shall result in the automatic imposition of the following penalties:
- a. Monthly Energy Fees.
 - i. The parties agree that the payment for energy cost shall be made not later than the 15th day of each succeeding month during the term of this agreement. In the event that any such payment remains unpaid for a period of 20 days, the supplying party may terminate the supply of water to the supplied party until all arrearages in payment are received by the supplying party.
 - ii. Minimum energy fees will continue to accumulate during any period when water service is disconnected.
 - b. System Repair, Maintenance, or Enhancement Charges
 - i. Non-payment for thirty (30) days after due. A late charge of 2% of the supplied party's share of the cost will be assessed.
 - ii. Non-payment for sixty (60) days. Supplying party shall mail a written notice to the supplied party advising that service will be disconnected if all fees and charges are not brought current within thirty (30) days of the date of the notice.
 - iii. Non-payment for ninety (90) days. Water service shall be disconnected to the delinquent supplied party and a \$50.00 disconnect fee shall be assessed to the delinquent party. Supplier may file a lien against the property for the amount due, plus costs and fees, including a reconnect fee.
 - iv. Interest. The maximum allowable interest will be charged on all balances due.
 - v. Enforcement. Supplier shall be entitled to recover past due sums, together with interest at the maximum allowable rate calculated from the date due until the date recovered, by any means available at law or in equity.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

By Kenneth [Signature]
Date 12/03/2014

By Dale J. Cross
Date 12/3/14

By Homestreet Bank
Date 12/4/14

By Kari Alden, AHP
Date 12/4/14

County of Skamania ^{7th} King

State of Washington

Sworn and subscribed before me this 4th day of December, 2014

Notary Public Fernando Espina; Seattle, WA

My Commission expires: 11-19-15

Fernando M. Espina



IN WITNESS WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

By *Kenneth Carter* *Kenneth Carter*
Date 12/03/2014 12/9/2014

By *Dale J. Cross* *Dale J. Cross*
Date 12/3/14 12/9/14

By _____
Date _____

By _____
Date _____

~~County of Skamania~~
~~State of Washington~~
~~Sworn and subscribed before me this _____ day of _____~~
~~Notary Public~~
~~My Commission expires:~~


SEE ATTACHED ACKNOWLEDGMENT


UNOFFICIAL COPY

STATE OF <u>Washington</u> County of <u>Skamania</u> } SS.	ACKNOWLEDGMENT - Individual
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On this day personally appeared before me Kenneth Cosentino & Carla Cosentino to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that They signed the same as Their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 9 day of December x2014




 Notary Public in and for the State of WA
 residing at Carson, Washington
 My appointment expires June 17, 2018

STATE OF WASHINGTON, } County of _____ } SS.	ACKNOWLEDGMENT - Corporate
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On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ and _____ to me known to be the _____ President and _____ Secretary, respectively, of _____ the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ authorized to execute the said instrument and that the seal affixed (if any) is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

 Notary Public in and for the State of Washington,
 residing at _____
 My appointment expires _____

WA-46A (11/96)

This jurat is page 9 of 14 and is attached to Well Easement & Maintenance Agreement dated 12/04/2014.

EXHIBIT A

A tract of land recorded at Book 224, Page 6, Records of Skamania County, Washington legally described as;

Lot 3, Jermann Short Plat, according to the Plat thereof, recorded in Book 2, Page 224, Skamania County Short Plat Records, being a portion of Government Lot 13, Section 36, Township 3 North, Range 7 ½ East of the Willamette Meridian, in the County of Skamania, State of Washington.

Unofficial
Copy

EXHIBIT B

ADJUSTED TAX LOT 201, 3-7 ½-36-D

Beginning at the Northeast corner of Government Lot 13 of Section 36, Township 3 North, Range 7 ½ East of the Willamette Meridian in the County of Skamania and the State of Washington;
 Thence South 00°59'30" West, a distance of 302.22 feet;
 Thence North 89°00'30" West, a distance of 915.25 feet to a ¾ " pipe as set by Book 1 of Surveys, page 37, Skamania County Records on the East line of Lot 1, Jermann Short Plat recorded in Book 2, page 224, Skamania County Short Plat Records and the true point of beginning; Thence along the East line of said Lot 1, South 24°09'37" East, a distance of 109.98 feet to the Southeast corner thereof; Thence along the South line of said Lot 1 and its Westerly extension, South 68°44'50" West, a distance of 178.29 feet;
 Thence North 14°52'03" West, a distance of 133.11 feet;
 Thence North 07°39'48" West, a distance of 51.11 feet;
 Thence North 57°02'34" East, a distance of 61.62 feet;
 Thence South 80°49'21" East, a distance of 97.14 feet to the Northerly extension of the East line of said Lot 1; Thence South 24°09'37" East, a distance of 35.47 feet to the true point of beginning

EXHIBIT C

ADJUSTED TAX LOT 202, 3-7 ¼-36-D

Beginning at the Northeast corner of Government Lot 13 of Section 36, Township 3 North, Range 7 ½ East of the Willamette Meridian in the County of Skamania and the State of Washington;

Thence along the North line of said Government Lot 13, North 89°38'25" West, A distance of 1328.66 feet to the true point of beginning;

Thence South 65°05'40" East, a distance of 167.44 feet;

Thence North 26°30'50" East, a distance of 69.01 feet;

Thence North 81°53'11" East, a distance of 100.79 feet;

Thence South 20°09'45" East, a distance of 83.48 feet;

Thence North 36°29'28" East, a distance of 124.39 feet;

Thence North 37°37'37" East, a distance of 201.49 feet to the Southeast corner Of Lot 2, Jermann Short Plat recorded in Book 2, page 224 Skamania County Short Plat records; Thence along the East line of said Lot 2, North 27°45'00" West a distance of 102.28 feet to the Northeast corner thereof;

Thence along the North line of said Lot 2 and its Westerly extension, South 68°44'50" West, a distance of 178.29 feet;

Thence North 14°52'03" West, a distance of 133.11 feet;

Thence North 07°39'48" West, a distance of 51.11 feet;

Thence North 57°02'34" East, a distance of 61.63 feet;

Thence South 80°49'21" East, a distance of 97.14 feet to Northerly extension of the East line of Lot 1 of said Jermann Short Plat;

Thence along said Northerly extension and said East line, South 24°09'37" East, a distance of 35.36 feet to the Southerly line of the 60 foot wide access road created by said Jermann Short Plat;

Thence along said Southerly line, North 70°20'38" East, a distance of 123.95 feet;

Thence North 61°00'46" East, to the County Road known as Nelson Creek Road;

Thence Westerly and Northerly along said Nelson Creek Road to a point that bears South 69°18'01" East from a ½" iron rod with yellow plastic cap stamped "Wyeast Surveys PLS 29288", that bears South 83°51'08" West, a distance of 966.43 feet from the Northeast corner of said Government Lot 13;

Thence North 69°18'01" West to said ½" iron rod;

Thence South 70°33'21" West, a distance of 91.67 feet;

Thence South 66°32'02" West, a distance of 41.12 feet;

Thence North 81°16'22" West, a distance of 40.12 feet;

Thence North 43°43'18" West, a distance of 78.02 feet;

Thence South 26°01'24" West, a distance of 152.66 feet;

Thence North 80°24'16" West, a distance of 86.65 feet to the West line of said Government Lot 13; Thence along said West line, South 00°37'17" West, a distance of 453.27 feet to the true point of beginning.

EXHIBIT D

ADJUSTED TAX LOT 200, 3-7 ½-36-D

Beginning at the Northeast corner of Government Lot 13 of Section 36, Township 3 North, Range 7 ½ East of the Willamette Meridian in the County of Skamania and the State of Washington;
 Thence along the North line of said Government Lot 13, North 89°38'25" West, a distance of 1328.66 feet to the Northwest corner thereof and the true point of beginning; Thence along the West line of said Government Lot 14, South 00°37'17" West, a distance of 219.01 feet
 Thence South 80°24'16" East, a distance of 86.65 feet;
 Thence North 26°01'24" East, a distance of 152.66 feet;
 Thence South 43°43'18" East, a distance of 78.02 feet;
 Thence South 81°16'22" East, a distance of 40.12 feet;
 Thence North 66°32'02" East, a distance of 41.12 feet;
 Thence North 70°33'21" East, a distance of 91.67 feet;
 Thence South 69°18'01" East to the County Road known as Nelson Creek Road; Thence Northeasterly, Northerly and Westerly along said Nelson Creek Road to the North line of said Government Lot 13; thence West, along said North line to the true point of beginning;
 TOGETHER WITH that portion of the South 6 ½ acres of the Southeast quarter of the Northeast quarter of said Section 36, lying on the southerly side of Nelson Creek Road.

EXHIBIT E

3-71/2-36-4

SEE MAP
3-71/2-36-1

NOTE: This illustration represents intent for the location of waterline easements; actual easements will be determined by physical installation of the lines after construction.

