

Skamania County, WA

Total: \$418.00

EASE CCR

Pgs=12

Request of: TIFFANY MCKAY

2022-001925

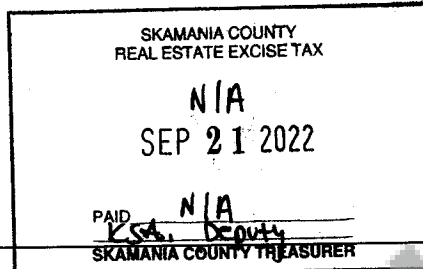
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**WHEN RECORDED RETURN TO:**

Tiffany McKay  
Whiskey Creek Investments, LLC  
25325 NE Butteville Road  
Aurora, OR 97002



**Document Title:**

Declaration of Easements, Covenants, Conditions, Restrictions and Reservations for  
Bulleit Rye Short Plat (2A SP-21-03)

**Reference Number of Related Documents:**

2022-00123

2022-00124

**Grantors:**

Whiskey Creek Investments LLC, a Washington limited liability corporation

**Grantees:**

Whiskey Creek Investments LLC, a Washington limited liability corporation  
The Public

**Brief Legal Description:**

Lots 1-4 of Bulleat Rye Short Plat 2A SP-21-03

Full legal description at page 1.

**Parcel numbers:**

04071500011000

04071500011100

04071500011200

04071500011300

*ym 9/21/22*

**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS  
FOR  
BULLEIT RYE SHORT PLAT (2A SP-21-03)**

THIS **DECLARATION** of Easements, Covenants, Conditions, Restrictions and Reservations ("Declaration") for the Bulleit Rye Short Plat (2A SP-21-03) is made this 21<sup>st</sup> day of September 2022, by Whiskey Creek Investments LLC, a Washington limited liability corporation ("Declarant"), as owner of the Property. This Declaration shall be effective immediately.

**WHEREAS**, the Declarant is the owner in fee of certain real property situated in Skamania County, Washington, legally described and depicted on Bulleit Rye 2A SP-21-03, a short plat recorded under Skamania County Auditor's File No. 2022-000038 (hereinafter referred to as the "Property"); and

**WHEREAS**, the Property consists of four (4) lots of which Lots 1-3 are two (2) acres and Lot 4 is approximately 14.54 acres in size, Skamania County Tax Parcel Nos. 04071500011100, 04071500011200, 04071500011300, and 04071500011000, respectively (hereinafter referred to individually as "Lot" or collectively as "Lots"); and

**WHEREAS**, the Declarant intends to sell the Lots therein for residential use; and

**WHEREAS**, this Declaration is intended to replace the existing Two-Party User Agreements recorded under Auditor's File Nos. 2022-000123 and 2022-000124 related to the two wells that provide water supply to the Lots and to establish in their place this Declaration that provides a method for the maintenance, monitoring, testing, and reporting of the water system that supplies water to the Lots; and

**WHEREAS**, Declarant owns real property adjacent to the Property which in the future Declarant may develop and subject to this Declaration; and

**WHEREAS**, Declarant desires to maintain control and responsibility over the water system that will serve both the Property and future adjacent development for the distribution of potable water in conformance with state regulations; and

**WHEREAS**, the above recitals are a material part of this Declaration,

**NOW THEREFORE**, the DECLARANT hereby covenants, agrees, and declares that all of the Property will be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, and reservations, all of which are for the purpose of ensuring adequate water supply, maintenance, testing, monitoring, and reporting on the Property and in furtherance of the foregoing objectives of Declarant. These covenants, conditions, restrictions, easements, and reservations shall run with the Property, and each part of it, and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each Owner thereof. Acceptance of an interest in a Lot or other portion of the Property shall be deemed an acceptance of the terms and provisions of this Declaration, and any conveyance hereafter of any portion or interest in the Property shall be subject to these easements, covenants, conditions and restrictions.

## ARTICLE 1. DEFINITIONS

**1.1 "Assessments"** mean all assessments imposed based on the costs of monitoring the Wells and greater water system, including but not limited to the maintenance, repair, testing, monitoring, and reporting as required by law.

**1.2 "Association"** means a non-profit corporation organized pursuant to the laws of the State of Washington, whose membership is comprised of the Lot Owners of all Lots and is controlled by a Board of Directors, pursuant to Bylaws adopted by the Association to be established at a later date at the discretion of the Declarant.

**1.3 "Declarant"** Owners signing this Declaration and their successors or assigns shall be referred to as "Declarant" or "Declarants".

**1.4 "Declaration"** means this Declaration of Easements, Covenants, Conditions, Restrictions and Reservations. The term shall also include any lawful amendments to this document.

**1.5 "Lot or Lots"** means a Lot for which any portion lies within the boundaries of the Property, presently known to be Lots 1, 2, 3, and 4, or any additional parcels of real property made subject to this Declaration by Declarant.

**1.6 "Monitoring"** includes all testing, reporting, or other requirements set forth by the State of Washington and Skamania County related to the continued operation and use of the Wells and Water System.

**1.7 "Owner or Lot Owner"** means any person or persons owning a Lot in fee title as shown by the records of the Auditor of Skamania County, Washington.

**1.8 "Person"** means any individual, firm, corporation, partnership, association, unincorporated association or other legal entity.

**1.9 "Property"** means the real property described and depicted on the Bulleit Rye 2A SP-21-03 document recorded under Auditor's File No. 2022-000038, together with all residences and other structures thereon constituting real property, now existing or to be constructed in the future.

**1.10 "Resident"** means each person lawfully residing on or in any part of a Lot and members of the immediately family of each such person living in the same household with such person

**1.11 "Structure"** shall mean any building for which a building permit from Skamania County is required.

**1.12 "Water System"** means the single system made up of the two wells that serve the Lots, Well #541 and Well #810 including without limitation all pumps, pipes, electrical systems and appurtenances, as well as any future wells serving additional properties added to the Property subject to this Declaration.

**1.13 "Water System Manager"** means the Declarant at the time of this Declaration, unless otherwise appointed by Declarant, pursuant to the provisions in this Declaration, responsible for the monitoring, testing, maintenance, and reporting required for the Water System to Skamania County and/or the State of Washington.

**1.14 "Well or Wells"** include the two existing wells that supply water to the Lots, Well #541 on Lot 4 and Well #810 on Lot 1.

**1.15 "Well #541"** means the Well located on Lot 4, which provides water service to both Lot 3 and Lot 4.

**1.16 "Well #810"** means the Well located on Lot 1, which provides water service to both Lot 1 and Lot 2.

**1.17 "Well Access Easements"** are the easements for access to the Wells.

**1.18 "Well Maintenance Easements"** are the easements for maintenance of the Wells.

**1.19 "Well Expenses"** shall mean all costs incurred by the Declarant for management, improvement, maintenance, repairs, reporting, testing, monitoring, or other reasonable expenses for the maintenance and monitoring of the Wells and well easement areas.

## **ARTICLE 2: DECLARANT RIGHTS RESERVED.**

**2.1 Declarant Rights.** The Declarant hereby reserves for itself, and its successors and assigns, by adoption of this Declaration and amendments hereto, the following rights:

**2.1.1** Add real estate or improvements to the Property subject to this Declaration and to the Association; and

**2.1.2** Transfer rights and responsibilities as manager of the Water System to a third-party satellite water management agency or similar private entity for purposes of monitoring, testing, and reporting related to the Water System or to an Association formed at a later date according to the provisions of this Declaration; and

**2.1.3** Carry out the required monitoring, testing, and reporting related to the wells serving the Lots as required under any and all applicable Skamania County and State of Washington rules and regulations; and

**2.1.4** Use easements for the purpose of carrying out the required monitoring, testing, reporting and maintenance of the wells and water system serving the Lots; and

**2.1.5** To establish an Association for the purpose of monitoring the Water System; and

**2.1.6** Withdraw any portion of the Property from the Association; and

**2.1.7** Add additional properties and wells to the Water System as allowed by Skamania County and the State of Washington; and

**2.1.8** Modify or amend this Declaration provided that (i) prior to any such modification or amendment Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary; and (ii) any modification or amendment shall not provide for any type of use not presently permitted by this Declaration; and

**2.1.9** Until Declarant has transferred ownership of all the Lots, appoint or remove any officer or board member of the Association or veto or approve a proposed action of any Board or Association; and

**2.1.10** Subject additional properties to this Declaration at any time prior to the sale of Declarant's last Lot in the Property.

### **ARTICLE 3: EASEMENTS**

#### **3.1 Well Access Easements.**

**3.1.1 Well Access Easement for Well #810.** Declarant hereby expressly reserves a non-exclusive, perpetual easement for ingress, egress over and across Lot 1 for access to Well #810, as provided on the plat, Bulleit Rye 2A SP-21-03, recorded under Auditor's File No. 2022-000038, incorporated by reference herein ("Well Access Easement"). The Well Access Easement for Well #810 burdens Lot 1 for the benefit of Lot 2 and the Declarant for access to Well #810 and all associated pumps, pipes, electrical systems and appurtenances. Subject to the provisions of this Declaration governing use thereof, such easement may be used by Declarant, for all purposes related to the monitoring of the Water System.

#### **3.1.2 Well Access Easements for Well #541.**

**3.1.2.1 Lot 3 Access for Well #541.** Declarant hereby expressly reserves a non-exclusive, perpetual easement for ingress, egress over and across Lot 4 for access to Well #541, as provided on the plat, Bulleit Rye 2A SP-21-03, recorded under Auditor's File No. 2022-000038, incorporated by reference herein ("Well Access Easement"). This Well Access Easement for Well #541 burdens Lot 4 for the benefit of Lot 3 for access to Well #541 and all associated pumps, pipes, electrical systems and appurtenances.

**3.1.2.2 Declarant Access for Well #541.** Declarant hereby reserves a non-exclusive, perpetual easement for ingress, egress, and utilities over, under, and across Lot 4 for access to Well #541. This easement is for the benefit of the Declarant for access to Well #541 and all associated pumps, pipes, electrical systems and appurtenances. Subject to the provisions of this Declaration governing use thereof, such easement may be used by Declarant, for all purposes related to the monitoring of the Water System. Said easement for Well #541 is described in Exhibit A and depicted, for illustrative purposes only as an approximation, in Exhibit B. Owners of Lot 4 may survey the easement established herein, and said survey shall then become Exhibit B which shall be attached hereto and be made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit A.

**3.2 Well Maintenance Easements.** Declarant hereby expressly reserves for the benefit of the Lot Owners non-exclusive perpetual easements over the Lots necessary to manage the Water

System including without limitation, activities related to use, maintenance, operation, repair, and replacement and to perform all other tasks in accordance with the provisions of this Declaration ("Well Maintenance Easements"). The location of said Well Maintenance Easements shall be co-extensive with the Well Protection Areas for the Wells as provided on the plat, Bulleit Rye 2A SP-21-03, recorded under Auditor's File No. 2022-000038, incorporated by reference herein. The Well Maintenance Easements shall allow for the installation, repair, and maintenance of a well house, pumps, water storage reservoirs, pressure tanks, and anything else necessary for the operation of the Water System. The Lot Owners, their heirs, successors and/or assigns, shall not maintain or construct within the Well Protection Area any of the following: septic tanks and drainfields, sewer lines, underground storage tanks, feeding stations, grazing animals, enclosures for maintaining fowl or animal manure, liquid or dry chemical storage, herbicides, insecticides, hazardous waste or garbage of any kind. Operation and maintenance of the Wells and activities within the Well Maintenance Easements shall be in conformance with all applicable Skamania County requirements and regulations.

#### **ARTICLE 4: GENERAL USE RESTRICTIONS AND REQUIREMENTS**

**4.1 Water Supply.** Each Lot Owner shall be entitled to receive a supply of water for one residential dwelling and shall be furnished a supply of potable water for domestic purposes as allowed by State of Washington regulations. Well #541 will serve Lot 3 and Lot 4; Well #810 will serve Lot 1 and Lot 2. No other Lots will be served by the Wells. The Lot 4 will only be entitled to one connection for a residential dwelling regardless of whether it is subdivided in the future.

**4.2 Meters.** The water supply to all Lots will be individually metered and monitored to maintain and ensure an adequate supply of water to all lots served by each well.

**4.3 Maintenance and Repair of Pipelines.** All pipelines in the Water System shall be installed and maintained so that there will be no leakage or seepage, or other defects which may cause contamination of the water, or injury, or damage to persons or property. Pipe material used in repairs shall meet approval of code and Skamania County. Each Lot Owner shall be responsible for the maintenance, repair, and replacement of pipe supplying water from the common water distribution piping to their own Lot. Water pipelines shall not be installed within 10 feet of a septic tank or the sewage disposal drainfield lines.

**4.4 Prohibition on Additional Wells.** No additional wells shall be drilled or otherwise installed on the Lots.

**4.5 Prohibition on Furnishing Water to Additional Parties.** No additional persons, properties, or dwellings may be furnished water from the Water System beyond the Lots provided for in this Declaration.

#### **ARTICLE 5: COSTS & ASSESSMENTS**

**5.1 Costs for Operation of Water System.** Owners of Lot 1 and Lot 2 will be responsible for the costs associated with Well #810 and Owners of Lot 3 and Lot 4 will be responsible for the costs associated with Well #541. All costs and expenses related to the installation, operation (including costs of electrical power), maintenance, repair, and replacement of the Wells and related appurtenances shall be evenly divided between the Owners sharing each Well.



**5.2 Costs for Operation of Individual Equipment.** Each Lot Owner is separately responsible for the costs of maintenance and/or repair of individual water system equipment that extends from the common distribution line to their respective properties and ancillary uses, as applicable.

**5.3 Monitoring Costs as Assessments.** Pursuant to subsection 5.1, all costs required for the monitoring of the Wells shall be collected as Assessments paid by the Lot Owners, as provided herein. Declarants shall establish assessments to pay for recurring expenses involved with monitoring of the Wells on a periodic basis, not more than monthly. Declarant may, in Declarant's discretion, impose special assessments for major repairs or capital improvements that may, in Declarant's judgment, be necessary to meet ongoing water supply obligations to the Lots.

**5.4 Creation of the Lien and Personal Obligation of Assessments.** Each Lot Owner, by acceptance of a deed for that lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Declarant any Assessment duly levied as provided in this Declaration. Any Assessments, together with interest, costs, late charges and reasonable attorneys' fees, shall also be a charge on the land and shall be a continuing lien upon the lot against which each such Assessment is made. Each such Assessment, together with interest, costs, late charges, and attorneys' fees (including all such costs and fees incurred in connection with collection of the Assessment), shall also be the personal obligation of the person who was the lot owner at the time when the Assessment fell due. When ownership of a Lot changes voluntarily other than by foreclosure, the transferee of a lot is jointly and severally liable with the transferor of the Lot for all unpaid Assessments against the transferor up to the time of the transferor's conveyance, without prejudice to the transferee's right to recover from the transferor the amounts paid by the transferee. Assessments payable in installments shall be prorated between the transferor and the transferee based on a 365-day year.

**5.5 Liability for Assessments.** The Lot Owners shall be personally liable for all Assessments imposed on such Lot pursuant to this Declaration, on a joint and several basis. No Lot Owner may exempt himself or herself from liability for his Assessments by abandoning a Lot owned by him or her.

**5.6 Accounts.** Any Assessments collected by the Declarant shall be deposited in one or more federally insured institutional depository accounts established by the Declarant. The Declarant shall have exclusive control of such accounts and shall maintain accurate records thereof. No withdrawal shall be made from said accounts except to pay for charges and expenses authorized by this Declaration.

**5.7 Nonpayment of Assessments; Enforcement.** Each Lot Owner hereby expressly vests in the Declarant and its agents, the right and power to bring all actions against each Owner personally for the collection of such Assessments as a debt, and to enforce lien rights of the Declarant by all methods available for the enforcement of such liens, including without limitation, foreclosure.

## **ARTICLE 6. LIMITATION OF LIABILITY**

**6.1 Limitation of Liability.** So long as the Declarant or any agents of the foregoing has acted in good faith, without willful or intentional misconduct, gross negligence, or a knowing violation of the law, or that involve a transaction in which a director or officer will personally receive a benefit in money, property, or services to which the director or officer is not legally entitled, then that person

shall not be personally liable to any Lot Owner or to any other person for any damage, loss, or claim on account of any, omission, error, or negligence of such person. In connection with all reviews, acceptances, inspections, permissions, consents or approvals required or permitted by or from the Declarant, the Declarant shall be liable to any Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against any Lot Owner or such other person and arising out of or in any way relating to the subject matter of any such review, acceptance, inspection, permission, consent or approval, whether given, granted, withheld or denied.

#### **ARTICLE 7: GENERAL PROVISIONS**

**7.1 Applicable Law, Construction, and Venue.** This Declaration shall be governed and interpreted in accordance with the laws of the State of Washington. In the event this Declaration is in conflict with the provisions of any law or statutes governing the subject matter thereof, such law or statute only to the extent of such conflict shall be controlling. The venue of any action brought to interpret or enforce any provision of this Agreement shall be laid in the Skamania County Superior Court, Skamania County, Washington.

**7.2 Run with the Land.** All rights and obligations of each Lot Owner under this Declaration shall run with the land and be binding on their successors and assigns.

**7.3 Declarant Rights.** Any rights and obligations reserved to Declarant herein, including those with respect to the Water System, may be assigned by Declarant to an Association at any time, under such lawful terms as may be determined by Declarant.

**7.4 Amendment of Declaration.** Any amendment of this Declaration shall be in writing and recorded with county auditor for Skamania County.

**7.5 Nonwaiver of Breach.** Failure to enforce any provision of this Declaration shall not limit the right to enforce such provision, nor shall any waiver of breach of any provision of this Declaration constitute a waiver of any succeeding breach of such provision or waiver of such provision itself.

**7.6 Attorney's Fees and Costs.** The prevailing party in any action brought to enforce any terms, conditions, or provisions of this Declaration shall be entitled to the recovery of its reasonable attorney's fees, costs, and expenses.

**7.7 Severability.** The provisions hereof shall be deemed independent or severable, and a determination of invalidity or partial invalidity or enforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

**7.8 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Water System. The article and section headings, titles and captions have been inserted for convenience only, and shall not be considered in questions of interpretation or construction.

**7.9 Construction and Sales by Declarant.** Consistent with the Declarant Rights, nothing in this Declaration shall limit, and no Lot Owner shall do anything which shall interfere with, the right of Declarant to reasonably subdivide or re-subdivide any portion of the Property owned by Declarant, to add additional real property to the Property governed by this Declaration, or to complete any construction of improvements on the Lots owned by Declarant, or to alter the foregoing and its



construction plans and designs, or to construct such additional improvements on such Lots as Declarant deems advisable prior to completion and sale of the last Lot owned by Declarant. Each Owner, by accepting a deed of a Lot from Declarant, hereby acknowledges that the activities of Declarant may constitute a temporary inconvenience or nuisance to the Owners, but nonetheless shall be permitted. Such right shall include, but shall not be limited to, erecting, construction and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Declarant's business or completing the work of disposing of the Lots by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time prior to conveyance of title by deed to the last Lot owned or planned by Declarant to establish on the Lots owned by Declarant additional easements, reservations and rights-of-way to itself, to utility companies, or to other Persons as may from time to time be reasonably necessary to the property development and disposal of the Lots owned or planned by Declarant. Such easements may be created for the construction, installation, maintenance, removal, replacement, operation and use of utilities, including without limitation sewers, water and gas pipes and systems, drainage lines and systems, wetland mitigation, electric power and conduit lines and wiring, television, internet, telecommunication, and telephone conduits, lines and wires, and other utilities, public or private, beneath the ground surface (except vaults, vents, access structures and other facilities required to be above ground surface by good engineering practice), including the right to dedicate, grant or otherwise convey easements for rights-of-way to any public utility or governmental entity for such purposes.

**7.10 No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use.

**7.11 No Third-Party Rights.** This Declaration is made for the exclusive benefit of the Lot Owners, the Declarant, the Water System Manager, and their successors. This Declaration is expressly not intended for the benefit of any other Person besides the Lot Owners, the Declarant, the Water System Manager, and their successors. No third party shall have any rights under this Declaration.

**7.12 Notices.** Except as otherwise provided in this Declaration, in each instance in which notice is to be given to a Lot Owner, the same shall be in writing and may be delivered personally to the Lot Owner, in which case personal delivery of such notice to one or more Co-Owners of a Lot or to any general partner of a partnership owning a Lot shall be deemed delivery to all Co-Owners or to the partnership. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, or by private carrier, addressed to the Owner at the most recent address or, if no such address exists, to the street address of such Lot. Such notice shall be deemed delivered forty-eight (48) hours after the time of such mailing.

Dated this 21<sup>st</sup> day of September, 2022.

**DECLARANT:**

WHISKEY CREEK INVESTMENTS LLC

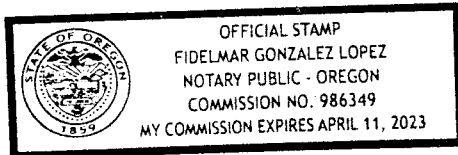


By: Tiffany A. McKay  
Its: Managing Member

STATE OF Oregon )  
 ) §  
COUNTY OF Clackamas )

I certify that I know or have satisfactory evidence that TIFFANY A. MCKAY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the MANAGING MEMBER of WHISKEY CREEK INVESTMENTS LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 21<sup>st</sup> day of September, 2022.



  
NOTARY PUBLIC in and for the State of  
Oregon Residing in Clackamas  
My Commission expires April 11, 2023

**Exhibit A**  
**Legal Description for Well Access Easement for Well #541**

For that certain real property on the Bulleit Rye Short Plat SP-21-03 recorded at Skamania County Auditor's Office under File No. 2022-000038 (Bulleit Rye Short Plat):

Commencing at the southeast corner of Lot 3; thence south along the west boundary of Leete Road right-of-way; thence west along the north boundary of Lot 2 to a distance 40 feet west of the northwest corner thereof; thence north to Well #541 as shown on Bulleit Rye Short Plat; thence due east to the west boundary of Lot 3; thence south along the west boundary of Lot 3 to the southwest corner thereof; thence east along the south boundary of Lot 3 to the point of beginning.

Situate in Skamania County, Washington.

Exhibit B  
Depiction  
for

Well Access and Utility Easement for  
Well #541

