

TREASURER'S USE ONLY	RECORDER'S USE ONLY
<p>REVIEWED</p> <p>05/23/2022</p> <p>KITTITAS COUNTY TREASURER</p> <p>BY: Michelle L. Nixon</p>	

**After recording return to:**

Thorp Landing, LLC  
1410 W. Dolarway Road, Ste 301  
Ellensburg WA 98926

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DOCUMENT TITLE: EASEMENT

DECLARANT: THORP LANDING, LLC, a Washington limited liability company

LEGAL DESCRIPTION: Ptns. NW ¼ of the SW ¼ and the SE ¼ of Section 11, Township 18 North, Range 17 East, W.M., in the County of Kittitas, State of Washington]

ASSESSOR'S TAX  
PARCEL NO(S): 443233; 493233; 19588; 19589; 19590; 19591; 19592; 19593

REAL ESTATE EXCISE TAX: Does not apply - no consideration as defined WAC 458-61A-102(2)

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**EASEMENT**

THIS EASEMENT is made this 28<sup>th</sup> day of April, 2022, by THORP LANDING, LLC, a Washington limited liability company (individually and collectively hereinafter referred to as "Declarant").

A. WHEREAS, the Declarant owns fee title to the real property located in Kittitas County, Washington and legally described as follows:

**Tract A:**

A parcel of land in the Northeast Quarter of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., Kittitas County, State of Washington, which is described as follows:  
Beginning at the center of the Southeast Quarter of said Section; and running Thence North 684.0 feet of the West line of the Northeast Quarter of the Southeast Quarter of said Section;  
Thence South 89°57' East, 80.0 feet;  
Thence South 38°06' East, 545.6 feet;  
Thence South 0°30' East, 260.8 feet to the South line of said Northeast Quarter of the Southeast Quarter; and  
Thence North 89°06' West, 420.0 feet to the point of beginning;

AND

That portion of the South Half of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., Kittitas County, State of Washington, which lies North and East of the North and

East boundary line of the former right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company;

EXCEPT

1. That portion of said parcels of land lying North and Northeasterly of a line described as follows: Beginning at a railroad spike at the Southeast corner of said Section 11, which is South 00°00'00" West, a distance of 2,667.17 feet from a 5/8 inch steel pin at the East Quarter corner of said Section 11;

Thence North 00°00'00" East, on the East line of said Section 11, a distance of 1,233.00 feet to a point;

Thence North 88°49'38" West, a distance of 2,296.00 feet, more or less, to the West right of way boundary line of the county road known as Thorp Highway;

Thence South 00°19'38" West on said road West boundary line a distance of 544.73 feet to a point on the centerline of an irrigation ditch and the true point of beginning of said line;

Thence on the centerline of said irrigation ditch the following courses and distances:

South 87°24'43" West, a distance of 514.18 feet to a point;

North 58°07'21" West, a distance of 164.70 feet to a point;

North 26°42'53" West, a distance of 337.83 feet to a point;

North 15°12'28" West, a distance of 300.55 feet to a 5/8 inch steel pin;

Thence North 35°43'18" West, a distance of 724.92 feet to a 5/8 inch steel pin and the terminus of said line;

2. A tract of land beginning at the Southeast corner of said Section; and running

Thence West 201 feet on the South line of said Section;

Thence North 377 feet perpendicularly from said South line;

Thence East 201 feet in a line parallel with said South line to the East line of said Section;

Thence South 377 feet to the point of beginning;

3. Right of way of Thorp Highway along the East line of said premises.

4. Parcels 6 and 7 of that certain Survey as recorded June 30, 2003, in Book 29 of Surveys, pages 21 and 22, under Auditor's File No. 200306300070, records of Kittitas County, Washington; being a portion of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., in the County of Kittitas, State of Washington.

5. Parcels 1, 2, 3, 4 and 5 of that certain Survey as recorded May 24, 2006, in Book 32 of Surveys, pages 186 and 187, under Auditor's File No. 200605240019, records of Kittitas County, Washington; being a portion of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., in the County of Kittitas, State of Washington.

AND

**Tract B:**

That portion of the Northeast Quarter of the Southwest Quarter and of the Northwest Quarter of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., Kittitas County, State of Washington, which lies North and East of the Northeast boundary line of the former right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company;

EXCEPT

1. The right of way of county road, known as Goodwin Road, along the North boundary thereof; and

2. That portion, thereof, described as follows:

Beginning at a 5/8 inch steel pin at the East Quarter corner of said Section 11, which is North 00°00'00" East, a distance of 2,667.17 feet from a railroad spike at the Southeast corner of said Section 11;

Thence North 89°19'11" West, a distance of 1,329.81 feet to a 5/8 inch steel pin at a point of centerline intersection of a county road known as Goodwin Road, which point is the approximate center East one-sixteenth corner of said Section 11;

Thence South 00°17'19" West, a distance of 20.00 feet to a 5/8 inch steel pin on the South right of way boundary line of said county road and the true point of beginning;

Thence South 00°17'19" West, a distance of 187.00 feet to a 5/8 inch steel pin;  
Thence North 89°19'11" West, parallel with the South right of way boundary line of said county road a distance of 820.19 feet to a 5/8 inch steel pin;  
Thence North 73°03'37" West, a distance of 164.29 feet to a 5/8 inch steel pin;  
Thence North 00°27'51" West, a distance of 131.02 feet to a 5/8 inch steel pin;  
Thence continuing North 00°27'51" West, a distance of 10.00 feet to a point on the South right of way boundary line of said county road;  
Thence South 89°19'11" East on said road South boundary line a distance of 979.45 feet to the true point of beginning.

(hereinafter referred to as the "Recital A Property" or individually as "Parcel 2," "Parcel 3," and so forth); and

B. WHEREAS, the Declarant owns fee title to the real property located in Kittitas County, Washington and legally described as follows:

Parcels 6 and 7 of that certain Survey as recorded June 30, 2003, in Book 29 of Surveys, pages 21 and 22, under Auditor's File No. 200306300070, records of Kittitas County, Washington; being a portion of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., in the County of Kittitas, State of Washington.

(hereinafter referred to as the "Recital B Property" or individually as "Parcel 6" and "Parcel 7"); and

C. WHEREAS, the Declarant owns fee title to the real property located in Kittitas County, Washington and legally described as follows:

Parcels 2, 3, 4 and 5 of that certain Survey as recorded May 24, 2006, in Book 32 of Surveys, pages 186 and 187, under Auditor's File No. 200605240019, records of Kittitas County, Washington; being a portion of the Southeast Quarter of Section 11, Township 18 North, Range 17 East, W.M., in the County of Kittitas, State of Washington.

(hereinafter referred to as the "Recital C Property" or individually as "Parcel 2," "Parcel 3," and so forth for Parcels 4 and 5); and

A. WHEREAS, Declarant desires to declare, create, convey, reserve and establish a certain easement and to establish the property Benefited and burdened by the easement and to establish terms and conditions for use and maintenance of the easement and the improvements placed on the easement.

NOW, THEREFORE, in consideration of the mutual benefits contained and derived hereunder, the Declarant, for and on behalf of itself and its respective successors in interest and assigns, does hereby declare, create, convey, reserve and establish the following easement and further declares that all of the property described above shall be held, sold and conveyed together with and subject to the following easement, assessments and obligations, all of which are for the purpose set forth herein and for the purposes of enhancing and protecting the value, desirability, and attractiveness of the Declarant Property, all as hereinafter set forth.

#### 1. Access Easement.

1.1. Declarant hereby declares, creates, grants, establishes, reserves and conveys a perpetual non-exclusive easement legally described as follows:

An easement of variable width, across Parcels 6 and 7 of that certain survey as recorded June 30, 2003, in Book 29 of Surveys at pages 21 and 22, under Auditor's File No. 200306300070, records of Kittitas County, Washington, and across Parcels 2, 3, 4 and 5 of that certain survey as recorded May 24, 2006, in Book 32 of Surveys at pages 186 and 187, under Auditor's File No. 200605240019, records of said county, and across a portion of the Northeast Quarter of the Southwest Quarter, and a portion of the Southeast Quarter, all in Section 11, Township 18 North,

Range 17 East, W.M., in the County of Kittitas, State of Washington; bounded by a line described as follows:

Beginning at the northeast corner of said Parcel 7 of that certain survey recorded in Book 29 of Surveys at pages 21 and 22, said point being the true point of beginning for said described line; thence S 00°19'38" W, along the east boundary of said Parcel 7 and boundary extended, 78.00 feet to the northeast corner of Parcel 1 of that certain survey as recorded May 24, 2006, in Book 32 of Surveys at pages 186 and 187, under Auditor's File No. 200605240019, records of said county; thence along the north boundary of said Parcel 1, the following three courses:

S 86°36'48" W, 181.61 feet to the point of curvature for a 300.00 foot radius curve to the left; thence along said curve, through a central angle of 52°33'04", an arc distance of 275.16 feet, to a point of reverse curvature for a 260.00 foot radius curve to the right; thence along said curve, through a central angle of 48°00'48", an arc distance of 217.88 feet to the northeast corner of Parcel 2 of said survey, the chord for said curve bears S 58°04'09" W, chord length 211.56 feet; thence S 00°33'25" W, on a non-tangent line, along the east boundary of said Parcel 2, 171.58 feet; thence departing from said east boundary, N 42°13'31" W, 370.40 feet to a point on the northeast boundary of said Parcel 2; thence N 46°37'56" W, along the northeast boundaries of said Parcel 2 and Parcel 3 of said survey, 332.07 feet to an angle point in the northeast boundary of said Parcel 3; thence N 37°30'15" W, along northeast boundaries of said Parcel 3 and Parcel 4 of said survey, 311.73 feet to the northerly most corner of said Parcel 4; thence N 42°11'52" W, 2387.26 feet to a point on the north boundary of the Northeast Quarter of the Southwest Quarter of said Section 11; thence S 89°17'26" E, along said north boundary, 136.53 feet; thence S 42°11'52" E, 2961.90 feet to the point of curvature for a 179.56 foot radius curve to the left; thence along said curve, through a central angle of 102°01'37", an arc distance of 319.75 feet to a point of reverse curvature for a 380.44 foot radius curve to the right; thence along said curve, through a central angle of 50°50'17", an arc distance of 337.56 feet to a point on the north boundary of said Parcel 7 of said survey recorded in Book 29 of Surveys at pages 21 and 22, the chord for said curve bears N 61°11'40" E, chord length 326.59 feet; thence N 87°24'43" E, on a non-tangent line, along said north boundary of said Parcel 7, 186.68 feet to the true point of beginning and end of said line;

EXCEPT any portion thereof within the right of way of county road, known as Goodwin Road, along the North boundary of the Northeast Quarter of the Southwest Quarter of said Section 11.

The Access Easement is graphically depicted on Exhibit A attached hereto and incorporated herein by reference. (hereinafter referred to as the "Access Easement").

1.2. **Use of Access Easement.** The Access Easement shall be used by the real property benefited by the Access easement for the following purposes:

1.2.1 **Private Road for ingress and egress,** together with, but not limited to, the right to reconstruct, replace, repair, maintain and use said road. The private road is intended to be used by the Benefited Property for vehicular, pedestrian and aircraft access; and

1.2.2 **Pipes, conduits, cables and wires,** together with all reasonably necessary or convenient underground or ground-mounted appurtenances thereto for utilities, including, but not limited to, domestic water, power, communication, cable, and natural gas, together with, but not limited to, the right to install, replace, repair, maintain and use said utilities; and

1.2.3 **Underground irrigation pipeline(s),** together with, but not limited to, the right to install, replace, repair, maintain and use said pipeline(s).

1.3. **Property Burdened by Access Easement:** The real property described above in Recitals A, B, and C is burdened by the Access Easement.

1.4. **Property Benefited by Access Easement:** The real property described above in Recitals A, B, and C is benefited by the Access Easement.

1.5. **Restrictions on Use of Access Easement.** The area of the Access Easement shall not be used for long term parking, storage, staging of construction (except construction required for the Access Easement) or any other use that is not specifically identified above in Section 1.2.

1.6. No manmade or natural object which exceeds 18 inches in height may be constructed or located within a 100-foot strip of property within the Access Easement centered on the middle of the Access Easement.

1.7. **Use and Maintenance of the Access Easement:** Declarant has installed an asphalt road on the Access Easement, which has been assigned the name "Thorp Landing, LN" by Kittitas County. Declarant has no future or ongoing obligation to maintain, repair, or improve said road. All decisions concerning the use, repair, replacement, maintenance, reconstruction, or improvement of the easement improvements, including, but not limited to, the road, utilities, and/or pipelines (hereinafter the "Improvements"), shall be agreed upon by a majority vote of the owners of the Parcels benefited by the Easement or Improvement in question. For purposes of this Agreement, each separate parcel, now existing or hereinafter created, within the Recital A Property and Parcels 2, 3, 4, 5, 6, and 7, inclusive, shall each have one vote. In the event of future subdivision of the Recital A Property, then each legal tax parcel created within the Recital A Property shall also have one (1) vote. Benefited

1.7.1. In the event the Benefited Parcel Owners shall determine by majority vote that an Improvement needs repair, replacement, maintenance, modification, or reconstruction (hereinafter collectively "Maintenance"), the Benefited Parcel Owners shall share equally in the cost of such Maintenance, based upon the number of votes as provided hereinabove. Each vote shall equate to a share in said cost; provided, however, Declarant shall not be assessed any Maintenance Cost under the provisions of this Agreement. When a decision is made to perform Maintenance to the Easement or an Improvement, road located on the Easement, or utility within the easement, the Benefited Parcel Owners shall establish an account for said purpose. The account shall be managed by a Parcel Owner or a designated management company, as agreed upon by a majority of votes by the Benefited Parcel Owners. Each Benefited Parcel Owner shall pay its share of the estimated cost of the work into said account within thirty (30) days of written request. In the event the amount paid into the account is not enough to pay the actual cost of the approved Maintenance, each Benefited Parcel Owner shall pay its share of any shortage into the account. If any Benefited Parcel Owner fails to pay its share of the cost of Maintenance when due, the remaining Benefited Parcel Owners, individually or collectively, may pay the defaulting Parcel Owner's share and may record a lien against the defaulting Parcel Owner's real property in favor of the Parcel Owner(s) who advanced the payment. Said lien may be enforced pursuant to the law of the State of Washington. The lien does not have to be foreclosed or otherwise enforced within any specific time period.

1.7.2. No Parcel Owner(s) may upgrade or perform Maintenance on the Improvements on the Access Easement without majority approval by Benefited Parcel Owners.

1.7.3. In the event any Parcel Owner(s) disturb the surface of any Easement area set forth herein during the installation of utilities, storm water drainage or other improvements for the benefit of their own Parcel(s), or through excessive wear and tear, or for any reason damage the Improvements, the Parcel Owner(s) responsible for such damage shall be responsible for repairing and restoring such damaged Improvement to its prior condition, at that Parcel Owner(s)' sole cost and expense.

1.7.4. Declarant has caused utilities and irrigation systems to be located in the Access Easement. Any Parcel Owner who desires to access and use those utilities or irrigation systems shall be responsible for all costs associated with connecting the utilities and irrigation systems in the Access Easement to the Parcel Owner's Parcel. Declarant shall have no obligation to pay any costs associated with connecting a Parcel or a structure on a Parcel to the utilities or irrigation systems in the Access Easement.

2. **UTILITY EASEMENT.** A non-exclusive utility easement described as seven and one-half feet (7.5') in width along and adjacent to the side and rear lot lines of Parcels 2, 3, 4, 5, 6, and 7 exists for the purposes set forth below.

2.1. **Use of Utility Easement:** The Utility Easement shall only be used for the following purposes:

2.1.1. Underground utilities, including, but not limited to, power, telephone, cable and natural gas, together with, but not limited to, the right to install, replace, repair, maintain and use said utilities; and

2.1.2. Underground irrigation pipeline(s), together with, but not limited to, the right to install, replace, repair, maintain and use said pipeline(s).

2.2. **Parcels Burdened by the Utility Easement:** Parcels 2, 3, 4, 5, 6, and 7 are burdened by the Utility Easement.

2.3. **Parcels Benefited by the Utility Easement:** The Recital A Property and Parcels 2, 3, 4, 5, 6, and 7 are benefited by the Utility Easement.

2.4. **Restrictions on Use of the Utility Easement.** The following restrictions govern the use of the Utility Easement:

2.4.1. The Utility Easement described herein is for utilities only and no benefited Parcel Owner may use the Utility Easement for any other purpose, including, but not limited to, a trail, path, or other course of travel by foot, horse, bicycle, or wheeled vehicle.

2.4.2. Any fence placed within the Utility Easement area by the Owner(s) of a Parcel burdened by the Utility Easement must be constructed in such a manner so as to not interfere with and/or damage below ground infrastructure improvements within the Utility Easement area. In the event any fence is constructed within the Utility Easement area by the Owner(s) of a benefited Parcel and said fence or the construction of said fence results in damage to the below ground infrastructure improvements located within the Utility Easement area, then the Owner(s) of the Parcel causing said damage shall promptly repair the damage at their own cost and expense. Owner(s) of a Parcel burdened by the Utility Easement may be required to, at their own cost and expense, remove the fence if the fence interferes with the future use of the Utility Easement.

2.4.3. Fences are allowed on a property line but no other structure or improvements of any kind may be constructed on the surface of the Utility Easement.

2.5. **Use and Maintenance of Utility Easement:** All decisions concerning the use, repair, replacement, maintenance or reconstruction of the easement improvements, including, but not limited to the roads, utilities and/or pipelines (hereinafter the "Improvements"), shall be agreed upon by a majority vote of the owners of the Parcels benefited by the Easement or Improvement in question. For purposes of this Agreement, the Recital A property and Parcels 2, 3, 4, 5, 6, and 7, inclusive, shall each have one vote. Only Parcels having benefited by the Utility Easement or Improvement in question (hereinafter the "Benefited Parcel Owners") shall be entitled to vote on matters related thereto. In the event of future subdivision of the Recital A Property, then each legal tax parcel created within the Recital A Property shall also have one (1) vote.

2.5.1. In the event the Benefited Parcel Owners shall determine by majority vote that an Improvement is in need of repair, replacement, maintenance or reconstruction (hereinafter collectively "Maintenance"), the Benefited Parcel Owners shall share equally in the cost of such Maintenance, based upon the number of votes as provided hereinabove. Each vote shall equate to a share in said cost; provided, however, Declarant shall not be assessed any Maintenance Cost under the provisions of this Agreement. When a decision is made to perform Maintenance to an Improvement, the Benefited Parcel Owners shall establish an account for said purpose. The account shall be managed by a Parcel Owner or a designated management company, as agreed upon by a majority of votes by the Benefited Parcel Owners. Each Benefited Parcel Owner shall pay its share of the estimated cost of the work into said account within thirty (30) days of written request. In the event the amount paid into the account is not enough to pay the actual cost of the approved Maintenance, each Benefited Parcel Owner shall pay its share of any shortage into the account. If any Benefited Parcel Owner fails to pay its share of the cost of Maintenance when due, the remaining Benefited Parcel Owners, individually or collectively, may pay the defaulting Parcel Owner's share and may record a lien against the defaulting Parcel Owner's real property in favor of the Parcel Owner(s) who advanced

the payment. Said lien may be enforced pursuant to the law of the State of Washington. The lien does not have to be foreclosed or otherwise enforced within any specific time period.

2.5.2. No Parcel Owner(s) may upgrade or perform Maintenance on the Improvements within the Utility Easement without majority approval by Benefited Parcel Owners.

2.5.3. In the event any Parcel Owner(s) disturb the surface of any Easement area set forth herein during the installation of utilities, storm water drainage or other improvements for the benefit of their own Parcel(s), or through excessive wear and tear, or for any reason damage the Improvements, the Parcel Owner(s) responsible for such damage shall be responsible for repairing and restoring such damaged Improvement to its prior condition, at that Parcel Owner(s)' sole cost and expense.

**3. IRRIGATION EASEMENT.** Declarant hereby declares, creates, grants, establishes and conveys a non-exclusive irrigation easement legally described as follows:

A strip of property ten (10) feet in width commencing at the Southeast corner of Parcel 4 and running northerly along and adjacent to the easterly boundary of Parcel 4 to the Northeast corner of Parcel 4 where said easement terminates. (Hereinafter referred to as the "Irrigation Easement").

3.1. **Use of the Irrigation Easement:** The Irrigation Easement may only be used for underground irrigation pipeline(s), together with, but not limited to, the right to install, replace, repair, maintain and use said pipeline(s).

3.2. **Parcels Burdened by the Irrigation Easement:** Parcels 2, 3, 4, 5, 6, and 7 are burdened by the Irrigation Easement.

3.3. **Parcels Benefited by the Irrigation Easement:** Parcels 2, 3, 4, 5, 6, and 7 are benefited by the Irrigation Easement.

3.4. **Restrictions on Use of Irrigation Easement.** The following restrictions govern the use of the Irrigation Easement:

3.4.1. The Irrigation Easement described herein is for irrigation purposes only and no benefited Parcel Owner may use the Irrigation Easement for any other purpose, including, but not limited to, a trail, path, or other course of travel by foot, horse, bicycle, or wheeled vehicle.

3.4.2. Any fence placed with in the Irrigation Easement area by the Owner(s) of a Parcel benefited by the Irrigation Easement must be constructed in such a manner so as to not interfere with and/or damage below ground infrastructure improvements within the Irrigation Easement area. In the event any fence is constructed within the Irrigation Easement area by the Owner(s) of a benefited Parcel and said fence or the construction of said fence results in damage to the below ground infrastructure improvements located within the Irrigation Easement area, then the Owner(s) of the Parcel causing said damage shall promptly repair the damage at their own cost and expense. Owner(s) of a Burdened Parcel may be required to, at their own cost and expense, remove the fence if the fence interferes with the future use of the Irrigation Easement.

3.4.3. No structure or improvements of any kind may be constructed on the surface of the Irrigation Easement.

3.5. **Use and Maintenance of Irrigation Distribution System:** All decisions concerning the use, repair, replacement, maintenance, or reconstruction of the irrigation system components, including, but not limited to pipelines, gates, valves, measuring devices, diversion boxes, and other irrigation equipment (hereinafter the "Irrigation Improvements") designed to serve Parcels 2, 3, 4, 5, 6, and 7, shall be agreed upon by a majority vote of the owners of the Parcels benefited by the Easement or Irrigation Improvements in question. For purposes of this Agreement, Parcels 2, 3, 4, 5, 6, and 7, inclusive, shall each have one vote. Only Parcels having a beneficial use of the Easement

or Irrigation Improvements in question (hereinafter the "Benefited Parcel Owners") shall be entitled to vote on matters related thereto. For purposes of this paragraph, "beneficial use" of the Irrigation Improvements shall be deemed to begin upon connection to the Irrigation Improvements by a Parcel.

3.5.1. In the event the Benefited Parcel Owners shall determine by majority vote that an Irrigation Improvement is in need of repair, replacement, maintenance or reconstruction (hereinafter collectively "Maintenance"), the Benefited Parcel Owners shall share equally in the cost of such Maintenance, based upon the number of votes as provided hereinabove. Each vote shall equate to a share in said cost; provided, however, Declarant shall not be assessed any Maintenance Cost under the provisions of this Agreement. When a decision is made to perform Maintenance to an Improvement, the Benefited Parcel Owners shall establish an account for said purpose. The account shall be managed by a Parcel Owner or a designated management company, as agreed upon by a majority of votes by the Benefited Parcel Owners. Each Benefited Parcel Owner shall pay its share of the estimated cost of the work into said account within thirty (30) days of written request. In the event the amount paid into the account is not enough to pay the actual cost of the approved Maintenance, each Benefited Parcel Owner shall pay its share of any shortage into the account. If any Benefited Parcel Owner fails to pay its share of the cost of Maintenance when due, the remaining Benefited Parcel Owners, individually or collectively, may pay the defaulting Parcel Owner's share and may record a lien against the defaulting Parcel Owner's real property in favor of the Parcel Owner(s) who advanced the payment. Said lien may be enforced pursuant to the law of the State of Washington. The lien does not have to be foreclosed or otherwise enforced within any specific time period.

3.5.2. No Parcel Owner may upgrade or perform Maintenance on the Irrigation Improvements without majority approval by Benefited Parcel Owners.

3.5.3. In the event any Parcel Owner(s) disturb the surface above any of the Irrigation Improvements on the Easement for the benefit of their own Parcel(s), or through excessive wear and tear, or for any reason damage the Irrigation Improvements, the Parcel Owner(s) responsible for such damage shall be responsible for repairing and restoring such damaged Irrigation Improvement to its prior condition, at that Parcel Owner(s)' sole cost and expense.

4. **No Protest Clause.** No owner of all or any part of the Property may at any time in the future object to, protest or otherwise attempt to interfere with, prevent or block the use of any portion of the Easement for residential purposes. This paragraph is intended to prevent the owners of all or any portion of the burdened Property and any part thereof from bringing any claim that the use of the Easement by any portion of the benefited property will overburden the easement. This paragraph is intended to be construed as liberally as possible and is intended to ensure that all portions of the benefited Property have the ability to use any part of Easement H and Easement I for any purpose allowed herein including, but not limited to access and utilities for residential purposes regardless of the number of residential parcels created in the future.

5. **Hold Harmless and Indemnification.** Every owner of any Benefited or Burdened Property ("Indemnitor") shall defend, indemnify and hold the owners of the other Benefited or Burdened Properties ("Indemnitee") harmless from any and all damages, claims and causes of action which may accrue to or be suffered by any Indemnitee by reason of, arising out of, or resulting from the use by the Indemnitor of the above improvements or the Easement or the use by the Indemnitor's employees, agents, lessees, licensees, invitees, and guests, except to the extent caused by or results from the negligence of Indemnitee or its guests, lessees, agents, licensees, invitees or employees. In the event of concurrent negligence of any such property owner, or their respective guests, lessees, licensees, agents, invitees or employees, each such owner shall be responsible only to the extent of its own negligence and that of its guests, lessees, licensees, agents, invitees and employees.

6. **Eminent Domain.** If any Easement described herein, or any part thereof, is taken by any governmental agency in the exercise of its power of eminent domain, the award granted under such proceedings or any settlement in lieu thereof, for the taking of such property shall be payable to the fee owner of the portion of the Easement area which is taken. If all or any part of the Easement area is taken, this grant shall terminate with respect to the portion so taken and the obligations hereunder of the then owners of the Easement area shall automatically cease and terminate when possession is transferred to the condemning agency with respect to any portion of the Easement area so condemned;



provided, however, that nothing herein prevents the owner(s) of the Benefited Property from seeking compensation from the condemning agency, only, for loss of the Easement.

**7. Easement Runs with the Land and Binding Effect.** The Easement granted and the benefits, restrictions, obligations and covenants established herein shall run with and shall bind and be obligatory upon the properties described herein; provided that, anything herein to the contrary notwithstanding, no rights in or to the general public are created hereby. This Easement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, assigns and legal representatives.

**8. Legal Expenses.** If any party is required to bring or maintain any action (including assertion of any counterclaim or cross-claim, or claim in any proceedings in bankruptcy, receivership, or any other proceeding instituted by a party hereto or by others), or otherwise refers this Easement to an attorney for the enforcement of any of the terms and conditions of this , the substantially prevailing party shall, in addition to all other payments required, receive from the other all the costs incurred, including costs of title examination, discovery and reasonable attorney fees and including costs and reasonable attorney fees on any appeal.

**9. Governing Law.** This Easement shall be interpreted, construed and enforced according to the laws of the State of Washington.

**10. Time of Performance.** Time is of the essence of this Easement and of all acts required to be done and performed by the parties hereto, including, but not limited to, the proper tender of each of the sums required by the terms hereof to be paid.

**11. Invalidity.** In the event any portion of this Easement should be held to be invalid by any court of competent jurisdiction, such holding shall not affect the remaining provisions hereof unless the court's ruling includes a determination that the principal purpose and intent of this Easement are thereby defeated.

**12. Interpretation.** This Easement has been reviewed by both parties and each party has had the opportunity to consult with independent counsel with respect to the terms hereof and has done so to the extent that such party desired. No stricter construction or interpretation of the terms hereof shall be applied against either party as the drafter hereof.


**13. Counterparts.** This Easement may be executed in counterparts, each of which shall be deemed to be an original instrument. All such counterparts together shall constitute a fully executed Easement.

**14. Amendment.** This Easement may not be modified or amended except by the written agreement of the parties; provided, however, that so long as the Declarant owns any of the Recital A, Recital B or Recital C property Declarant shall be allowed and shall have the ability to modify and or amend this easement Declaration at any time for any purpose, including but not limited to adding benefited property, adding additional easements and adding purposes of use of easements, without the consent of any other owners of the property legally described in Recital A, Recital B and Recital C.

IN WITNESS WHEREOF, the parties have executed this Easement as of the day and year first above written.

**DECLARANT:**

THORP LANDING, LLC

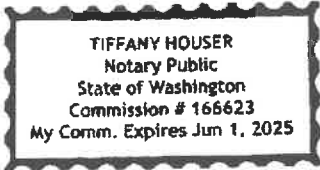
  
\_\_\_\_\_  
By: Joel Breear  
Its: Managing Member

STATE OF WASHINGTON )

County of Kittitas ) ss.  
)

I certify that I know or have satisfactory evidence that Jed Greear is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as a Managing Member of THORP LANDING, LLC, a Washington limited liability company, the company that executed this instrument as the free and voluntary act of said company for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 25<sup>th</sup> day of May, 2022.



Printed Name: Tiffany Houser  
Notary Public in and for the State of Washington  
My commission expires: 6/1/2025

