

After Recording Return To:
McCullough Hill PLLC
701 Fifth Avenue, Suite 6600
Seattle, WA 98104
Attn.: Courtney Kaylor

TEMPORARY TIEBACK EASEMENT AGREEMENT

Grantor: Derek L. Cheshire and Eileen L. Cheshire, husband and wife

Grantee: Long View Bella, LLC, a Washington limited liability company

Legal Description (Abbreviated) Lot 2, Cheshire Short Plat, City of Mercer Island File #SUB20-002, King County Recording #20220627900011

Assessor Tax Parcel Number: 302405-9036

Recording # of Document Assigned, Released or Modified N/A

recording requested by First American Title as an accommodation only

NO consideration

TEMPORARY TIEBACK EASEMENT AGREEMENT

This Temporary Tieback Easement Agreement (this "Agreement") is entered into this 5th day of JAN, 2024, by and between Derek L. Cheshire and Eileen L. Cheshire, husband and wife (collectively, "Grantor"), and Long View Bella, LLC, a Washington limited liability company ("Grantee"), with respect to the following:

RECITALS

A. Grantor owns the real property legally described as follows (the "Grantor Property"):

Lot 2, Cheshire Short Plat, City of Mercer Island File Number SUB20-002, recorded at King County Recording Number 20220627900011, in King County, Washington.

B. Grantee owns the real property legally described as follows (the "Grantee Property"):

Lot 1, Cheshire Short Plat, City of Mercer Island File Number SUB20-002, recorded at King County Recording Number 20220627900011, in King County, Washington.

C. Grantee intends to construct a residence on the Grantee Property ("Grantee's Project"), and in connection with the Grantee's Project, Grantor has agreed to permit Grantee to place tieback anchors on, under or within a portion of the Grantor Property, on the terms set forth herein.

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

AGREEMENTS

1. Grant of Tieback Easement. Grantor hereby conveys to Grantee and its successors and assigns in title or interest to all or any portion of the Grantee Property a nonexclusive temporary easement ("Tieback Easement") under the Grantor Property for the installation of underground tiebacks, anchors, cables and soil nails (collectively, "Tiebacks"). The easement rights contained in this Agreement include (i) the right for Grantee to secure a permit from City of Mercer Island for the installation of the Tiebacks on the Grantor Property, and (ii) activities incidental to the installation of the Tiebacks such as, at Grantee's option, measurement, soil testing, monitoring, adjustment, maintenance, repair, removal and

detensioning of the Tiebacks. Tieback anchors shall be placed below all existing improvements on the Grantor Property and shall not penetrate or damage any existing improvements on the Grantor Property. The Tiebacks shall not be structural members to support Grantee's Project. No cash consideration shall be due or paid to Grantor or its successors or assigns for the Tieback Easement.

2. Duration. The Tieback Easement shall be effective as of the date of mutual execution hereof and shall expire upon the first to occur of December 31, 2025 or substantial completion of Grantee's Project on the Grantor Property ("Termination Date"). "Substantial Completion" of Grantee's Project shall be deemed to have occurred when all Tiebacks have been detensioned.

3. Approved Plans. Grantor has approved plans prepared by Ground Support PLLC showing the number and location of proposed Tiebacks on the Grantor Property ("Approved Plans"). Grantor's review and approval of such plans is solely for Grantor's purposes and shall not relieve Grantee from complying fully with the requirements of this Agreement. Following completion of Grantee's Project, Grantee shall cause the Tiebacks (to the extent they were initially tensioned) to be de-tensioned and left in place.

4. Right of Access. Prior to installation of Tiebacks, Grantor will permit Grantee reasonable access to the Grantor Property in order for Grantee's contractor to monitor and inspect the existing improvements on the Grantor Property to determine a "baseline" condition.

5. Construction. All work to be performed by Grantee or its agents, contractors or subcontractors on the Grantor Property pursuant to the Tieback Easement shall be performed at Grantee's sole cost and expense and shall be performed (i) in a careful and workmanlike manner; (ii) in accordance with all applicable laws, codes, regulations, and ordinances, and (iii) free of all claims or liens. Grantee or Grantee's contractor will provide Grantor with quarterly updates and a final report at the end of construction of the improvements on the Grantor Property as compared to the baseline. If the final report shows material damage to the Grantor Property that has been caused by Grantee or Grantee's contractors, agents or employees, Grantee shall promptly repair said damage, provided however, that this paragraph does not purport to protect Grantor to the extent that the damage was caused by or resulting from the gross negligence or willful misconduct of Grantor, its contractors, agents or employees.

6. Disposition of Tiebacks. Following completion of the installation of the Tiebacks covered under terms of this Agreement, Grantee shall provide Grantor with a copy of plans showing the actual location of the Tiebacks and any concrete casings that extend into and under the Grantor Property. Such plans shall include information as to depth and length of the Tiebacks and any concrete casings on the Grantor Property. Any Tiebacks remaining within the Grantor Property shall be deemed abandoned by Grantee and shall become the

property of Grantor. Grantor may remove, destroy, cut through, or leave the abandoned Tiebacks in place, provided, however, that Grantor shall not remove the Grantee's anchors while stressed.

7. Indemnity

7.1 General. Grantee shall indemnify and hold Grantor harmless from any and all personal injury and/or property damage, losses attributable thereto, attorneys' fees and costs arising out of, related to or in any way connected with Grantee's installation, use, maintenance or removal of the Tiebacks or the exercise by Grantee, its employees, agents, contractors, licensees, invitees, subcontractors or other persons claiming by or through Grantee of any rights granted to Grantee hereunder. Without limitation, if any mechanics' lien is filed against the Grantor Property as a result of any contractor, subcontractor or other person performing work on behalf of Grantee, Grantee shall promptly take all action necessary to cause the release of such lien within fifteen (15) days of the date upon which it is imposed on the Grantor Property. Grantee's indemnification obligation hereunder shall survive any termination of this Agreement. The foregoing indemnity shall not apply to any damage or injury caused solely by the negligence of Grantor, and to the extent caused by the concurrent negligence of Grantor and Grantee, shall only apply to the extent of Grantee's negligence. Grantee waives any immunity under Title 51 RCW and warrants that such waiver has been specifically negotiated.

7.2 Hazardous Substances. Grantee shall not store, generate, dispose of or otherwise allow or cause the release or migration of any hazardous substances in, on, to or under the Grantor Property. Except as otherwise provided, Grantee represents and warrants to Grantor that Grantee's intended exercise of the rights hereunder does not and will not involve the use, production, disposal or bringing onto the Grantor Property of any Hazardous Substances.

(a) As used herein, the term "Hazardous Substance" includes any substance, waste or material defined or designated as hazardous, toxic or dangerous (or any similar term) by any federal, state or local statute, regulation, rule or ordinance now or hereafter in effect, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, or the Washington Model Toxics Control Act, RCW 70.105D.010 *et seq.*

(b) Grantee shall promptly comply with all statutes, regulations and ordinances, and with all orders, decrees or judgments of governmental authorities or courts having jurisdiction, relating to the use, collection, treatment, disposal, storage, control, removal or cleanup of Hazardous Substances in, on or under the Grantor Property or any adjacent property to the extent Grantee is responsible for the use, collection, treatment, disposal, storage, control, removal or clean up of such Hazardous Substances, or its incorporation in any improvements, at Grantee's expense.

(c) After notice to Grantee and a reasonable opportunity for Grantee to effect compliance with this Section 8.2, Grantor may, but is not obligated to take such actions and incur such costs and expenses to effect such compliance as it deems advisable to protect its interest in the Grantor Property; provided, however, that Grantor shall not be obligated to give Grantee notice and an opportunity to effect such compliance if (i) such delay might result in material adverse damage to Grantor or the Grantor Property or its residents, (ii) Grantee has already had actual knowledge of the situation and a reasonable opportunity to effect such compliance, or (iii) an emergency exists.

(d) Whether or not Grantee has actual knowledge of the release or migration of Hazardous Substances on the Grantor Property or any adjacent property as the result of Grantee's use of the Grantor Property, Grantee shall reimburse Grantor for all costs and expenses incurred by Grantor in connection with any compliance activities; provided, however, Grantee's reimbursement obligations hereunder shall be limited to costs and expenses that are directly attributable to Grantee's construction activities in, on, under, above, or adjacent to the Grantor Property. To the extent that Grantee has reimbursement obligations under the preceding sentence, Grantor shall make a claim therefor within three (3) months after Grantor incurs the costs and expenses for which it seeks reimbursement from Grantee. In no event shall Grantor have the right to make any claim more than six months after Grantee has received its temporary certificate of occupancy for Grantee's Project. Any such reimbursement shall be limited to Grantor's actual and documented out of pocket costs in connection with such compliance activities.

(e) Grantee shall notify Grantor immediately of any release or migration of any Hazardous Substance in, on, to, under or from the Grantor Property. Grantee shall indemnify, defend and hold harmless Grantor against any and all losses, liabilities, suits, obligations, fine, damages, judgments, penalties, claims, charges, cleanup costs, remedial actions, costs and expenses (including, without limitation, consultant fees, attorneys' fees and disbursements) which may be imposed on, incurred or paid by, or asserted against Grantor or the Grantor Property by reason of, or in connection with (i) any misrepresentation, breach of warranty or other default by Grantee under this Agreement, (ii) the acts or omissions by Grantee under this Agreement, or (iii) the acts or omissions of Grantee, or any agent, contractor, or other person for whom Grantee would otherwise be liable, resulting in the release or migration of any Hazardous Substance. This indemnity and Grantee's other duties under this Section 8 shall survive the termination of this Agreement.

8. Covenants Running with the Land. This Agreement and the easements, agreements, covenants, conditions and restrictions contained herein shall run with the land and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns, including without limitations, subsequent owners of the Grantor Property and/or the Grantee Property and all persons or entities claiming through and/or under them.

9. Notices. All notices provided for herein may be delivered in person, sent by Federal Express or other overnight courier service or mailed in the United States mail postage prepaid and, if mailed, shall be considered delivered three (3) business days after deposit in such mail. The addresses to be used in connection with such correspondence shall be the taxpayer addresses listed in the King County Treasurer's website for the Grantor Property and the Grantee Property, or at such other address as a party shall from time to time direct.

10. Amendment/Waiver. This Agreement shall not be modified, amended, or terminated without the prior written approval of Grantee and Grantor, their successors and assigns. No waiver of any other provisions of the Agreement shall be effective unless it is in writing and signed by the person or entity against whom it is asserted, and any such written waiver shall only be applicable in the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

11. Severability. If 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, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement so long as the overall intent of this Agreement is unchanged.

12. Attorneys' Fees. In any suit, action or appeal therefrom, to enforce this Agreement or any term or provisions thereof, or to interpret this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief that may be granted, its costs incurred therein, including reasonable attorneys' fees.

13. Default. If either party fails to perform any obligation or make any payment required under this Agreement, the non-defaulting party may (a) bring suit to recover its actual damages, (b) bring suit to specifically enforce this Agreement and to recover any incidental damages or (c) pursue any other rights or remedies available at law or in equity.

14. Governing Law. This Agreement shall be governed and construed under the laws of the State of Washington.

15. Representation and Warranty. Each party hereby represents and warrants to the other that (a) it has the legal right, power and authority to enter into this Agreement and to perform in accordance with its terms and provisions; (b) the individual(s) signing this Agreement on its behalf have the authority to bind the party and to enter into this Agreement; and (c) it has taken all required action(s) to legally authorize the execution, delivery, and performance of this Agreement.

17. Counterparts. This Agreement may be executed and delivered in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

GRANTOR:



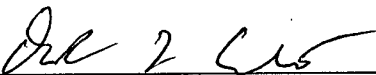
DEREK L. CHESHIRE



EILEEN L. CHESHIRE

GRANTEE:

LONG VIEW BELLA, LLC, a Washington limited liability company

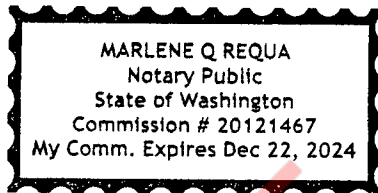
By: 

Derek L. Cheshire
Title: Manager

[ACKNOWLEDGMENTS ARE ON NEXT PAGE]

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

This record was acknowledged before me on JAN 5, 2024, by Derek L. Cheshire and Eileen L. Cheshire.

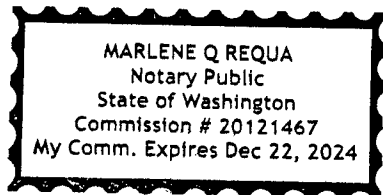


Marlene Q. Requa
Notary Public for the State of Washington
residing in Renton, WA
(City) (State)
Print name: MARLENE Q. REQUA
Commission expires: 12-22-2024

Stamp

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

This record was acknowledged before me on JAN 5, 2024, by Derek L. Cheshire, as MANAGER of Long View Bella, LLC, a Washington limited liability company.



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