

After recording return to: Jon Garlinghouse & Cynthia Allyn
147 E. Hilliard Ln. Eugene, OR 97404

MT-19116P ROAD AND BRIDGE MAINTENANCE AGREEMENT

THIS AGREEMENT is made between JON J. GARLINGHOUSE and CYNTHIA CATHERINE ALLYN, hereinafter referred to as "GARLINGHOUSE" and TOM W. DAIN and DARLENE K. DAIN, hereinafter referred to as "DAIN".

RECITALS:

WHEREAS, Garlinghouse is the owner of the real property described on EXHIBIT "A" and EXHIBIT "C" attached hereto and by this reference made a part hereof.

WHEREAS, Dain is the owner of the real property described on EXHIBIT "B" attached hereto and by this reference made a part hereof.

WHEREAS, the parties desire to explain and define their respective duties regarding the use and maintenance of an existing private road and bridge over real property described on EXHIBIT "C" and by this reference made a part hereof (hereinafter referred to as "PRIVATE ROAD"). The easement for the existing private road is referred to in various recorded documents as follows:

1. Easement recorded December 11, 1978 in Volume M78, Page 27809, Microfilm Records of Klamath County, Oregon.
2. Easement and right of way agreement as disclosed by memorandum recorded May 7, 1979 at Vol. M79, Page 11935 Microfilm Records of Klamath County, Oregon.
3. Deed recorded October 26, 1984, at Vol. M84, Page 18408, Microfilm Records of Klamath County, Oregon.
4. Deed recorded June 24, 1985 at Vol. M85, Page 9567, Microfilm Records of Klamath County, Oregon.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing recitals, which are by this reference made a part of this Agreement, and in consideration of the mutual agreements and covenants set forth more fully hereafter, it is agreed as follows:

1. The parties agree that each of the property owners of the real property described on EXHIBITS "A" and "B" shall at all times be required to jointly maintain said private road, roadway and the bridge over Crescent Creek located in said roadway in a good and serviceable condition at least in conformance with the minimum county requirements for such road and bridge, including,

but not limited to grading and drainage, during all seasons of the year. The owners of each of the parcels described on EXHIBITS "A" and "B" attached hereto shall pay one-half (1/2) of such maintenance costs. Should additional property owners become obligated under the terms of this Agreement, then the percentage share of costs each property owner shall pay will be determined by a fraction, the numerator of which is "one" and the denominator of which is the total number of properties whose owners have agreed to share in the maintenance of the roadway and bridge. In the event that damage occurs to the road or bridge from the negligence or extraordinary use of the roadway by any of the property owners, then such property owner shall be responsible for repairing the damages caused to the roadway by such negligence or extraordinary use. Extraordinary use shall include, but is not necessarily limited to commercial or industrial use of the roadway, the transportation of any timber products or the use of the roadway by any off-road vehicles in a manner inconsistent with the ordinary use of said road as contemplated by this Agreement, that is, for ingress and egress to the respective properties from the existing public road, known as the Pine Creek Loop Road.

2. The parties agree that in the event a dispute arises over the cost of repairs or maintenance of the roadway, said dispute shall be settled by the rules and regulations of the American Arbitration Association.

3. This Road and Bridge Maintenance Agreement is granted subject to all prior easements or encumbrances of record.

4. This Road and Bridge Maintenance Agreement applies to the easement set forth in the recitals above and concerns the existing roadway over the property described on EXHIBIT "C" and is appurtenant to the properties described on EXHIBITS "A" and "B".

5. This Road and Bridge Maintenance Agreement is not personal or in gross, but is to be appurtenant to each and every portion of the real properties owned by Garlinghouse and Dain as described on EXHIBITS "A", "B" and "C".

6. This Road and Bridge Maintenance Agreement shall run with the land and shall be binding on and shall inure to the benefit of all parties signing hereto, their heirs, successors or assigns.

7. Should additional property owners become liable under this Agreement for maintenance costs of the roadway, their agreement shall be evidenced by a writing, recorded in the Official Records of Klamath County, Oregon, which writing refers to this

recorded Road and Bridge Maintenance Agreement, is signed by the party who desires to become obligated and has attached to it a legal description of the party's real property to which this obligation is to become attached.

IN WITNESS WHEREOF, the parties hereto have executed this Road Maintenance Easement on this 27th day of January, 1988.

Jon J. Garlinghouse
Jon J. Garlinghouse

Cynthia Catherine Allyn
Cynthia Catherine Allyn

Tom W. Dain
Tom W. Dain

Darlene K. Dain
Darlene K. Dain

STATE OF OREGON

County of Lane) ss

The foregoing instrument was acknowledged before me this 4th day of February, 1988, by JON J. GARLINGHOUSE.

Steve Brown
Notary Public For Oregon
My Commission Expires: 4/24/89

STATE OF OREGON

County of Lane) ss.

The foregoing instrument was acknowledged before me this 4th day of February, 1988, by CYNTHIA CATHERINE ALLYN.

Bonnie A. Nade
Notary Public For Oregon
My Commission Expires: 1-21-92

STATE OF OREGON

County of Klamath) ss.

The foregoing instrument was acknowledged before me this 27 day of January, 1988, by TOM W. DAIN and DARLENE K. DAIN.

Steve Brown
Notary Public for Oregon
My Commission Expires: 9-27-91

PARCEL 1:

A parcel of land located in the SE1/4 of Section 18, Township 24 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Beginning at the Southeast corner of said Section 18; thence North 01 degrees 03' 41" East along the East line of said Section 18, a distance of 560.00 feet to a 1/2 inch iron rod; thence North 89 degrees 08' 04" West along a line parallel with the South line of said Section 18, a distance of 365.00 feet to a 1/2 inch iron rod; thence North 01 degrees 03' 41" East along a line parallel with the said East line, 434.66 feet to a 1/2" iron rod; thence continuing along said parallel line, 42 feet more or less to the center thread of Crescent Creek; thence Westerly along the center thread of Crescent Creek, 515 feet more or less to a point on the Westerly right of way of an easement and right of way recorded May 7, 1979 in Volume M79, page 11935, Microfilm Records of Klamath County, Oregon; thence Southerly along said right of way, 40 feet more or less to a 1/2" iron rod; thence continuing Southerly along said right of way, South 18 degrees 02' 08" West, 171.21 feet to a 1/2 inch iron rod; thence continuing along said right of way along the arc of a 130.00 foot radius curve to the left, 141.41 feet (the chord bears South 13 degrees 07' 37" East, 134.54 feet to a 1/2 inch iron rod); thence continuing along said right of way along the arc of a 95.68 foot radius curve to the right, 75.73 feet; (the chord bears South 21 degrees 36' 51", 73.77 feet to a 1/2 inch iron rod); thence South 01 degrees 03' 41" West along said right of way, 80.75 feet to a 1/2 inch iron rod on the Northerly right of way of an easement recorded December 11, 1978 in Volume M78, page 27809, Microfilm Records of Klamath County, Oregon; thence North 89 degrees 08' 04" West along said Northerly right of way, 455.00 feet to a 1/2 inch iron rod; thence North 01 degrees 03' 41" East along a line parallel with the East line of said Section 18, a distance of 397.15 feet to a 1/2 inch iron rod; thence continuing North 01 degrees 03' 41" East along said parallel line, 25 feet more or less to the center thread of said Crescent Creek thence Northwesterly along said center thread, 300 feet more or less to a point that lies North 01 degrees 03' 41" East, 60 feet from a 1/2 inch iron rod which is North 89 degrees 08' 04" West 1575.00 feet, and North 01 degrees 03' 41" East 1089.38 feet from the point of beginning; thence South 01 degrees 03' 41" West, 60 feet to said last mentioned iron rod; thence continuing South 01 degrees 03' 41" West along a line parallel with the East line of said Section 18, 529.38 feet to a 1/2 inch iron rod; thence North 89 degrees 08' 04" West along a line parallel with the South line of said Section 18, a distance of 1058.67 feet to a point on the North-South centerline of said Section 18; thence South 01 degrees 01' 37" West along said centerline, 560.00 feet to the South 1/4 corner of said Section 18; thence South 89 degrees 08' 04" East along the South line of said Section 18, a distance of 2633.33 feet to the point of beginning.

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EXCEPTING THEREFROM a parcel of land located in the SE1/4 of Section 18, Township 24 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Commencing at the Southeast corner of said Section 18; thence North 89 degrees 08' 04" West along the South line of said Section 18, a distance of 870.00 feet to a 1/2 inch iron rod; thence North 01 degrees 03' 41" East along a line parallel to the East line of said Section 18, a distance 560.00 feet to a 1/2 inch iron rod; thence North 89 degrees 08' 04" West along a line parallel with the South line of said Section 18, a distance of 455.00 feet to a 1/2 inch iron rod; at the true point of beginning, thence North 01 degrees 03' 41" East along a line parallel with said East line, 397.15 feet to a 1/2 inch iron rod; thence continuing North 01 degrees 03' 41" East 25 feet, more or less to the center thread of Crescent Creek; thence Northwesterly along said center thread, 300 feet more or less to a point that lies North 01 degrees 03' 41" East, 60 feet from a 1/2 inch iron rod which is North 89 degrees 08' 04" West 1575.00 feet, and North 01 degrees 03' 41" East 1089.38 feet from the Southeast corner of Section 18; thence South 01 degrees 03' 41" West, 60 feet to said last mentioned iron rod; thence continuing South 01 degrees 03' 41" West along a line parallel with the East line of said Section 18, 529.38 feet to a 1/2 inch iron rod; thence North 89 degrees 08' 04" West along a line parallel with the South line of said Section 18, a distance of 1058.67 feet to a point on the North-South centerline of said Section 18; thence South 01 degrees 01' 37" West along said centerline, 560.00 feet to the South 1/4 corner of said Section 18; thence South 89 degrees 08' 04" East along the South line of said Section 18, a distance of 1763.33 feet; thence North 01 degrees 03' 41" East along a line parallel to the East line of said Section 18, a distance 560.00 feet to a 1/2 inch iron rod; thence North 89 degrees 08' 04" West along a line parallel with the South line of said Section 18, a distance of 455.00 feet to a 1/2 inch iron rod and the point of beginning.

EXHIBIT 17 PAGE 2 OF 2

A parcel of land located in the SE1 of Section 18, Township 24 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Commencing at the Southeast corner of said Section 18; thence North 89° 08' 04" West along the South line of said Section 18, a distance of 870.00 feet to a $\frac{1}{4}$ inch iron rod; thence North 01° 03' 41" East along a line parallel to the East line of said Section 18, a distance of 560.00 feet to a $\frac{1}{4}$ inch iron rod at the true point of beginning; thence North 89° 08' 04" West along a line parallel with the South line of said Section 18, a distance of 455.00 feet to a $\frac{1}{4}$ inch iron rod; thence North 01° 03' 41" East along a line parallel with said East line, 397.15 feet to a $\frac{1}{4}$ inch iron rod; thence continuing North 01° 03' 41" East 25 feet, more or less to the center thread of Crescent Creek; thence Easterly along said center thread, 475 feet more or less to a point on the Westerly right of way of an easement and right of way recorded May 24, 1979 in Volume M79, page 11935, Microfilm Records of Klamath County, Oregon; thence along the arc of a 170.00 foot radius curve to the right, 40.00 feet more or less to a $\frac{1}{4}$ inch iron rod at the point of tangency; thence South 18° 02' 08" West along said right of way, 171.21 feet to a $\frac{1}{4}$ inch iron rod; thence continuing along said right of way along the arc of a 130.00 foot radius curve to the left, 141.41 feet (the chord bears South 13° 07' 37" East, 134.54 feet to a $\frac{1}{4}$ inch iron rod); thence continuing along said right of way along the arc of a 95.68 foot radius curve to the right 75.73 feet, (the chord bears South 21° 36' 51" East, 73.77 feet to a $\frac{1}{4}$ inch iron rod); thence South 01° 03' 41" West along said right of way, 80.75 feet to the true point of beginning.

TOGETHER WITH a non-exclusive easement and right of way for ingress and egress to said parcel from Pine Creek Loop, a dedicated street, over a strip of land 60 feet in width, the centerline of which is described as follows:

Commencing at the Southeast corner of said Section 18; thence North 89° 08' 04" West along the South line of said Section 18, a distance of 840.00 feet to the point of beginning for said easement; thence North 01° 03' 41" East, 640.65 feet; thence along the arc of a 125.68 foot radius curve to the left, 99.48 feet (the chord bears North 21° 36' 51" West, 96.90 feet); thence along the arc of a 100.00 foot radius curve to the right, 108.78 feet, (the chord bears North 13° 07' 38" West, 103.49 feet); thence North 18° 02' 08" East, 171.21 feet; thence along the arc of a 200.00 foot radius curve to the left, 61.87 feet, (the chord bears North 9° 10' 24" East, 61.62 feet); thence North 00° 16' 40" East, 268.72 feet to the Southerly right of way of Pine Creek Loop Road as shown on the official plat of Tract 1052, CRESCENT PINES. The Southerly terminus of said easement being the South line of said Section 18 and the Northerly terminus being the Southerly right of way said Pine Creek Loop Road.

The above legal description is based upon survey map provided by B. A. Sutton, Surveyor, which was based upon Survey No. 2495 and No. 1039, on file in the Klamath County Engineer's Office.

EXHIBIT E

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PARCEL 2:

A strip of land 60 feet in width, the centerline of which is described as follows:

Commencing at the Southeast corner of said Section 18; thence North 89 degrees 08' 04" West along the South line of said Section, 840.00 feet to the point of beginning; thence North 01 degrees 03' 41" East, 640.65 feet; thence along the arc of a 125.68 foot radius curve to the left, 99.48 feet (the chord bears North 21 degrees 36' 51" West, 96.90 feet); thence along the arc of a 100.00 foot radius curve to the right, 108.78 feet, (the chord bears North 13 degrees 07' 38" West, 103.49 feet); thence North 18 degrees 02' 08" East, 171.21 feet, (the chord bears North 9 degrees 10' 24" East, 61.62 feet); thence North 00 degrees 18' 40" East, 268.72 feet to the Southerly right of way of Pine Creek Loop Road as shown on the official plat of Tract 1052, CRESCENT PINES. The Southerly terminus of said strip being the South line of said Section 18 and the Northerly terminus being the Southerly right of way of said Pine Creek Loop Road.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company
 of February A.D., 19 88 at 11:33 o'clock A M., and duly recorded in Vol. M88 day
 of Feeds on Page 2682

FEE \$35.00

Evelyn Biehn,
 By Sam Smith County Clerk

EXHIBIT C