

Rt. Branden  
cc

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EASEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 21 day of May, 2003, by and between RDN Limited Partnership, an Oregon Limited Partnership, and Joe P. Jarvis and Ruth Jarvis, hereinafter collectively called "Grantors", and Applegate Development Corporation, hereinafter called "Applegate",

WITNESSETH:

WHEREAS, Grantors are the record owners of the real property in Klamath County, State of Oregon, described on the attached Exhibit "A", and have the right to grant the easement hereinafter described, relative to said real property, and

WHEREAS, Grantee is the record owner of the real property in Klamath County, State of Oregon, described on the attached Exhibit "C", and has the right to grant the easement hereinafter described, relative to said real property, and

WHEREAS, the parties wish to grant certain easement rights to the other for the mutual benefit of the lands described on Exhibits "A" and "C" hereto attached,

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. GRANTORS' GRANT OF EASEMENT: Grantors convey to Grantee, its successors and assigns, a perpetual, non-exclusive easement across Grantors' property particularly described on Exhibit "B" attached hereto, said property being a part of the property described on Exhibit "A". The easement

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granted above is for roadway purposes, only, and includes the right of Applegate, its agents, contractors and invitees to enter upon the property described in Exhibit "B" attached hereto, to grade, level, and fill, and construct, reconstruct, maintain and repair a road thereon. The easement herein granted is for the benefit of Grantee's property described on Exhibit "C" attached hereto, and shall be appurtenant thereto.

Grantors reserve the right to enter upon the land described in Exhibit "B" attached hereto, and any road built thereon, for the purpose of ingress and egress to Grantors' property described on Exhibit "A" attached hereto.

2. APPLGATES' GRANT OF EASEMENT: Applegate conveys to Grantors, their heirs, successors and assigns, a perpetual, non-exclusive easement for roadway purposes, only, over and across that portion of Applegate's property that is improved with a road incorporating the land described in Exhibit "B" attached hereto. The easement herein granted is for the benefit of Grantors' property described on Exhibit "A" attached hereto, and shall be appurtenant thereto.

3. MUTUAL RESTRICTION: Use of the roadway that will be built over the land described on Exhibit "B", and a portion of the land described on Exhibit "C", shall be limited to use as a road, and the parties hereto, covenant to and with each other that they shall not use the roadway for parking of any vehicle, equipment, or other item which could impair access to the properties described on Exhibits "A" and "C". The parties shall cooperate during periods of joint use so that each party's use shall cause a minimum of interference to the

other, provided, however, in case of conflict, Grantors' right of use shall be dominant.

4. INDEMNITY: Grantee agrees to indemnify and defend Grantors from any loss, claim or liability to Grantors arising in any manner out of Grantees' use of the easement. Grantee assume all risks arising out of its use of the easement and Grantors shall have no liability to Grantee, its successors, assigns and invitees, for any condition existing thereon.

5. COSTS: Grantee agrees to construct the roadway, at its expense, and to pay for the costs of any modifications to Grantors' property described on Exhibit "A" required by construction of the roadway, or required by any governmental agency, including, but not limited to, Oregon Housing & Community Services. Grantee shall pay for all such modifications, including, but not limited to, the removal and replacement of shrubs, trees and sprinklers, to Grantors' satisfaction and to leave the property of Grantors in as good or better condition as it existed prior to construction of the roadway. Grantee shall also provide and be solely responsible for the costs of installation of curb and gutter in relation to construction of the easement roadway should Grantors desire such improvement upon the easement roadway.

6. NON-USE: The easements granted herein shall be perpetual and shall not terminate for periods of non-use by the dominant tenant of the easement.

7. TERMINATION: The easements granted herein may be terminated upon written agreement by Grantors and Grantee, their heirs, successors and assigns.

8. PRIOR EASEMENTS: The easements granted herein are subject to all prior easements and encumbrances of record.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this 21 day of May, 2003.

RDN Limited Partnership, an Oregon Limited Partnership

By Dale Niedermeyer  
Dale Niedermeyer, General Partner

Joe P. Jarvis  
Joe P. Jarvis

Ruth Jarvis  
Ruth Jarvis

"Grantors"

Applegate Development Corporation, an Oregon corporation

By David S. Mac Ivor  
David S. Mac Ivor, President

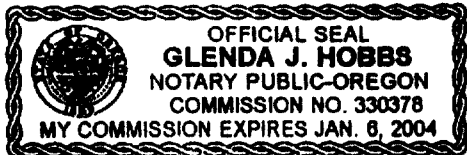
(NOTARIAL ACKNOWLEDGEMENTS ON NEXT PAGE)

34432

STATE OF OREGON )  
 )  
 County of Jackson )

ss.

On this 6<sup>th</sup> day of May, 2003 personally appeared before me, Dale Niedermeyer, who being duly sworn, stated he is the General Partner of RDN Limited Partnership and that said instrument was signed on behalf of the partnership freely and voluntarily and for the purposes above set forth.

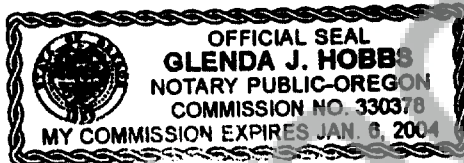


Glenda J. Hobbs  
 NOTARY PUBLIC FOR OREGON  
 My commission expires: 1/6/04

STATE OF OREGON )  
 )  
 County of Jackson )

ss.

On this 6<sup>th</sup> day of May, 2003 personally appeared before me, Joe P. Jarvis and Ruth Jarvis, and acknowledged the foregoing instrument to be their voluntary act and deed.

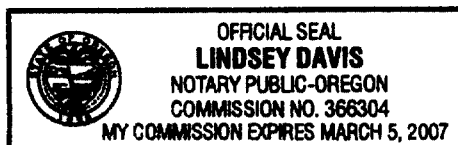


Glenda J. Hobbs  
 NOTARY PUBLIC FOR OREGON  
 My commission expires: 1/6/04

STATE OF OREGON )  
 )  
 County of Klamath )

ss.

On this 21 day of May, 2003 personally appeared before me, David S. Mac Ivor, who being duly sworn, stated he is the President of Applegate Development Corporation and that said instrument was signed on behalf of the corporation by authority of its board of directors; and he acknowledged said instrument was its voluntary act and deed.



Lindsey Davis  
 NOTARY PUBLIC FOR OREGON  
 My commission expires: 3/5/07

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A portion of Tract 31 ENTERPRISE TRACTS, in the County of Klamath, State of Oregon, more particularly described as follows:

Commencing at the Northeast corner of Lot 37, ENTERPRISE TRACTS, thence South 00 degrees 15' 30" East, along the centerline of Avalon Street, 355.75 feet; thence South 56 degrees 38' 10" East, 36.03 feet to a point on the East boundary of said street for the true point of beginning; thence South 56 degrees 38' 10" East, 108.05 feet; thence South 73 degrees 31' 10" East, 41.51 feet; thence North 79 degrees 52' East, 103.20 feet; thence North 70 degrees 29' 20" East, 154.58 feet; thence North 89 degrees 25' 40" East, 82.78 feet; thence North 1 degree 24' 20" West, 31.01 feet; thence North 89 degrees 25' 40" East, 50.00 feet; thence North, 134.58 feet, to a point on the Southwesterly boundary of the U.S.R.S. "A" Canal; thence along said canal boundary North 81 degrees 17' West, 23.93 feet; thence 94.98 feet along the ARC of a curve right (which arc has a radius of 433.10 feet and a long chord of North 78 degrees 00' 07" West, 94.79 feet; thence South 00 degrees 15' 30" East, 59.01 feet; thence South 89 degrees 44' 30" West, 395.00 feet to a point on the East boundary of Avalon Street; thence along said boundary South 00 degrees 15' 30" East, 132.87 feet to the true point of beginning.

OWNERS

DENNIS ENSOR O.L.S. C.W.R.E.  
SANDIE ENSOR

**IRU SURVEYING, INC. LINE**

2333 SUMMERS LANE  
KLAMATH FALLS, OREGON 97603  
PHONE: (541) 884-3691

**34434**

JOHN HEATON L.S.I.T.  
CHAD ENSOR L.S.I.T.


**EXHIBIT "B"**

**MAY 23, 2001**

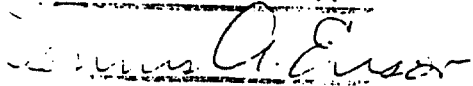
**LEGAL DESCRIPTION**

A TRACT OF LAND BEING A PORTION OF TRACT 31 OF "ENTERPRISE TRACTS", SITUATED IN THE SW1/4 OF SECTION 34, T38S, R9EWM, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST RIGHT OF WAY LINE OF AVALON STREET, FROM WHICH THE NORTHWEST CORNER OF LOT 1 BLOCK 1 OF "SUNNYLAND" BEARS S00°15'30"E 257.06 FEET; THENCE S59°50'27"E 107.33 FEET; THENCE S73°31'10"E 46.29 FEET; THENCE N77°36'41"E 147.92 FEET TO A POINT ON THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED IN DEED VOLUME M92, PAGE 30738 OF THE KLAMATH COUNTY DEED RECORDS; THENCE, ALONG THE SAID SOUTH LINE, S70°29'20"W 53.07 FEET, S79°52'00"W 103.20 FEET, N73°31'10"W 41.51 FEET AND N56°38'10"W 108.05 FEET TO THE POINT OF BEGINNING, CONTAINING 1220 SQUARE FEET, MORE OR LESS, WITH BEARINGS BASED ON RECORD OF SURVEY 2954 ON FILE AT THE OFFICE OF THE KLAMATH COUNTY SURVEYOR.

  
DENNIS A. ENSOR O.L.S. 2442

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

  
OREGON  
JULY 25 1990  
DENNIS A. ENSOR  
2442

EXPIRES 12/31/01

**EXHIBIT "B"**

**EXHIBIT "C"**  
**LEGAL DESCRIPTION**

All of ENTERPRISE TRACT NO. 26, EXCEPT the South 697 feet and EXCEPT the East 260 feet; all of ENTERPRISE TRACT NO. 31, EXCEPT that portion which is included in the plat of SUNNYLAND.

ALSO EXCEPTING THEREFROM the following 5 parcels of property:

**PARCEL 1:**

Beginning at the Northeast corner of Lot 9, ELM PARK in Klamath County, Oregon; thence North 0 degrees 53' West 246.95 feet to a point on the South line of a Canal; thence along the South line of said Canal and along the arc of a 714.22 foot radius curve to the left (the chord of which bears North 55 degrees 55' West 93.57 feet) a distance of 93.63 feet; thence South 0 degrees 05' East 300.63 feet to a point on the North line of said Lot; thence North 89 degrees 06' East 80.87 feet to the place of beginning, being situated in the SW1/4 of Section 34, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

**PARCEL 2:**

Beginning on the North line of Lot 9, ELM PARK in Klamath County, Oregon, at a point which is 80.87 feet South 89 degrees 06' West from the Northeast corner of said Lot; thence North 0 degrees 05' West 300.63 feet to a point on the South line of a Canal; thence along the South line of said Canal and along the arc of a 714.22 foot radius curve to the left (the chord of which bears North 65 degrees 25' West 143.05 feet) a distance of 143.29 feet; thence South 0 degrees 05' East 362.19 feet to a point on the North line of said Elm Park; thence North 89 degrees 06' East 130.01 feet to the place of beginning, being situated in the SW1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

**PARCEL 3:**

Beginning on the North line of ELM PARK in Klamath County, Oregon, at a point which is 210.88 feet South 89 degrees 06' West from the Northeast corner of Lot 9, ELM PARK; thence South 89 degrees 06' West 170.52 feet to a point; thence North 0 degrees 05' West 400.59 feet to a point on the South line of a Canal; thence along the South line of said Canal and along the arc of a 714.22 foot radius curve to the left to a point which is North 0 degrees 05' West 362.19 feet from the point of beginning; thence South 0 degrees 05' East 362.19 feet to the place of beginning, being situated in the SW1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

## PARCEL 4:

Commencing at the Northeast corner of Lot 37, Enterprise Tracts, Klamath County, Oregon; thence South 0 degrees 15' 30" East, along the centerline of Avalon Street, 355.75 feet; thence South 56 degrees 38' 10" East, 36.03 feet to a point on the East Boundary of said street for the true point of beginning; thence South 56 degrees 38' 10" East, 108.05 feet; thence South 73 degrees 31' 10" East, 41.51 feet; thence North 79 degrees 52' East, 103.20 feet; thence North 70 degrees 29' 20" East, 154.58 feet; thence North 89 degrees 25' 40" East, 82.78 feet; thence North 1 degrees 24' 20" West, 31.01 feet; thence North 89 degrees 25' 40" East, 50.00 feet; thence North 134.58 feet, to the Southwesterly boundary of the U.S.R.S. "A" Canal; thence along said canal boundary North 81 degrees 17' West, 23.93 feet; thence 299.22 feet along the arc of a curve right (which arc has a radius of 433.10 feet and a long chord of North 61 degrees 29' 30" West 293.30 feet); thence North 41 degrees 42' West, 183.35 feet to the Southeasterly boundary of Eberlein Avenue; thence along said boundary South 47 degrees 52' 54" 30" West, 144.93 feet to the East boundary of Avalon Street; thence along said boundary South 0 degrees 15' 30" East, 348.87 feet to the true point of beginning.

## PARCEL 5:

A Parcel of land, situated in Tract 31 Enterprise Tracts, in Klamath County, Oregon; being more particularly described as follows:

Beginning at a 1/2" rebar marking the Northwest corner of Block 1, Sunnyland Subdivision, said point also being on the Easterly right-of-way line of Avalon Street; thence North 00 degrees 15' 30" West 237.85 feet, along the Easterly right-of-way line of Avalon Street, to a 1/2" rebar; thence South 56 degrees 38' 10" East 99.79 feet to a 1/2" rebar; thence South 73 degrees 31' 10" East, 47.66 feet to a 1/2" rebar; thence North 79 degrees 52' 00" East, 108.29 feet to a 1/2" rebar; thence North 70 degrees 29' 20" East, 50.00 feet to a 1/2" rebar; thence South 89 degrees 24' 00" East 54.07 feet to a 1/2" rebar; thence South 00 degrees 11' 48" East, 183.24 feet to a 1/2" rebar; thence South 89 degrees 45' 30" West, 20.00 feet to a 1/2" rebar; thence South 00 degrees 11' 48" East, 20.00 feet to a 1/2" rebar on the Northerly boundary of Sunnyland Subdivision; thence South 89 degrees 45' 30" West, 316.48 feet, along the Northerly boundary of Sunnyland Subdivision to the place of beginning.