

**M05-70431**

Klamath County, Oregon

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Pages 4 Fee: \$36.00

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## COVER SHEET

**DOCUMENT:** Party Wall Agreement

**GRANTOR:** Robert E. Chase and Sally A. Chase

**GRANTEE:** Theodore N. Emard and Dorothy L. Emard

**CONSIDERATION:** \$ 0.00

**DATE:** 12/01/05

**LEGAL DESCRIPTION:** See Attached

#36-A

## PARTY WALL AGREEMENT

AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between ROBERT E. CHASE AND SALLY A. CHASE of KLAMATH FALLS, OREGON and THEODORE N. EMARD AND DOROTHY L. EMARD, TRUSTEES of KLAMATH FALLS, OREGON, hereinafter referred to as Owners.

WITNESSETH:

CHASE  
WHEREAS, ROBERT E. CHASE & DOROTHY L. / is the owner of certain property located within the City of \_\_\_\_\_, County of KLAMATH, State of OREGON, more particularly described as:

Unit 10115, (Wright Avenue) Tract No. 1365, FALCON HEIGHTS CONDOMINIUMS STAGE 2, according to the official plat thereof on file in the office of the Clerk of Klamath County, Oregon.

(hereinafter referred to as Parcel "A"); and

WHEREAS, THEODORE N. EMARD & DOROTHY / is the owner of certain property located within the City of \_\_\_\_\_, County of KLAMATH, State of OREGON, more particularly described as follows:

Unit 10117, (Wright Avenue) Tract No. 1365, FALCON HEIGHTS CONDOMINIUMS STAGE 2, according to the official plat thereof on file in the office of the Clerk of Klamath County, Oregon.

(hereinafter referred to as Parcel "B"); and

WHEREAS, the parties desire to enter into a party wall agreement related to that certain wall, the approximate centerline of which is located on the common boundary of Parcel "A" and Parcel "B" (hereinafter "Common Wall").

NOW, THEREFORE, it is agreed, upon the exchange of mutual consideration, the adequacy and receipt of which is acknowledged by each of the parties hereto as follows:

1. The Common Wall between Parcels "A" and "B" shall be a party wall in all respects, and the parties shall have the right to jointly use such wall subject to the terms and conditions hereinafter set forth. To the extent not inconsistent with the provisions of this Agreement, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
2. The respective owners of said Parcels "A" and "B" shall equally bear the cost of maintaining said Common Wall and in the event that such Common Wall should be injured or damaged by a cause other than the intentional act of negligence of either owner of Parcel "A" or "B", the same shall be repaired or rebuilt at the equal cost of the owners of Parcel "A" and Parcel "B," provided that any sum received from insurance against such injury or damage shall first be applied to such repair or rebuilding. For the purpose of erecting or

repairing the Common Wall as may be reasonably required, each party is licensed by the other to enter on the other party's premises to do work necessary to exercise the rights provided herein.

3. If the negligence or intentional act of the owner of Parcel "A" or Parcel "B" shall cause damage to such Common Wall, then such owner shall bear the entire cost of repair or rebuilding or said Common Wall.

If either such owner shall neglect or refuse to pay his or her share of such rebuilding or repair within a reasonable time, then the other owner may have such Common Wall repaired or rebuilt and shall be entitled to a mechanic's lien on the Parcel owned by whichever owner shall have so failed to pay his or her share. In addition, such owner failing to pay his or her share shall pay all costs and expenses, including reasonable attorney's fees of the other owner which may be incurred in enforcing such other owner's rights hereunder. The right to a mechanic's lien hereunder granted to such owner, which lien shall comply with the terms of this agreement, shall be in addition to any other rights that such owner may have pursuant to applicable law.

4. Notwithstanding any other provision of this Agreement, an owner who by his or her negligence or willful act causes the Common Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
5. No owner of either of the above described Parcels shall alter or change said Common Wall in any manner, except as to interior decoration not affecting the structure of such Common Wall, or to repair said Common Wall in accordance with the provisions of this agreement, and such Common Wall shall always remain in the same location as now exists, unless otherwise agreed in writing by the owners of the above described Parcels on which said Common Wall is located for party wall purposes. The easement hereby created shall be perpetual and the covenants contained herein shall run with the land, i.e., both of the above described Parcels, and shall inure to the benefit of, and be binding upon the heirs, personal representatives, successors in interest, and assigns of the parties hereto.
6. In the event of any dispute arising concerning the described Common Wall or this Agreement, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

IN WITNESS WHEREOF, the undersigned have executed this agreement the day and year first above written.

Owner(s) of Parcel "A"

Robert E. Chase  
ROBERT E. CHASE

Sally A. Chase  
SALLY A. CHASE

STATE OF:

COUNTY OF:

Owner(s) of Parcel "B"

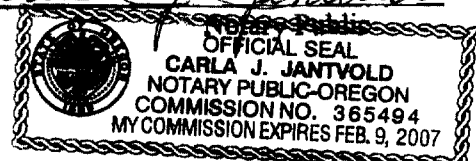
Theodore N. Emard  
THEODORE N. EMARD, TRUSTEE

Dorothy L. Emard  
DOROTHY L. EMARD, TRUSTEE

The foregoing party wall agreement was acknowledged before me this

15<sup>th</sup> day of December, 2005, by  
Theodore N. Emard and Dorothy L. Emard, Trustee

My Commission Expires: 02/09/07  
(SEAL)

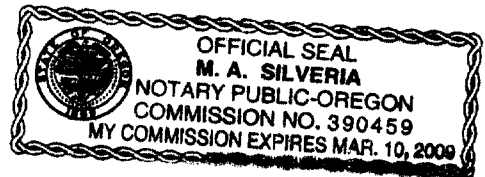


STATE OF: Oregon  
COUNTY OF: Klamath

The foregoing party wall agreement was acknowledged before me this  
5<sup>th</sup> day of December, by  
Robert E. Chase + Sally A. Chase

M. A. Silveria  
Notary Public

My Commission Expires: 3/10/09  
(SEAL)



STATE OF:  
COUNTY OF:

The foregoing party wall agreement was acknowledged before me this  
\_\_\_\_\_ day of \_\_\_\_\_, by  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:  
(SEAL)

STATE OF:  
COUNTY OF:

The foregoing party wall agreement was acknowledged before me this  
\_\_\_\_\_ day of \_\_\_\_\_, by  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:  
(SEAL)