

2007-002416

Klamath County, Oregon



02/12/2007 03:19:05 PM

Fee: \$56.00

MTCT8030KR

**EASEMENT NO. 1:**

**GRANTOR:**

Manuel O. Rocha and  
Linda M. Rocha  
1363 Haskins Road  
Bonanza, OR 97623

**GRANTEE:**

George L. Armstrong and  
Helen K. Armstrong, as Trustees For  
Armstrong Family Living Trust  
P.O. Box 384  
Cottonwood, CA 96022

**MAIL TAX STATEMENTS TO:**

No Change

**EASEMENT NO. 2:**

**GRANTOR:**

George L. Armstrong and  
Helen K. Armstrong, as Trustees For  
Armstrong Family Living Trust  
P.O. Box 384  
Cottonwood, CA 96022

**GRANTEE:**

Manuel O. Rocha and  
Linda M. Rocha  
1363 Haskins Road  
Bonanza, OR 97623

**MUTUAL EASEMENT AGREEMENT**

THIS AGREEMENT made and entered into this 2nd day of February, 2007, by and between **MANUEL O. ROCHA and LINDA M. ROCHA**, as tenants by the entirety (hereinafter referred to as "ROCHA"), and **GEORGE L. ARMSTRONG and HELEN K. ARMSTRONG, as Trustees for ARMSTRONG FAMILY LIVING TRUST** (hereinafter referred to as "ARMSTRONG").

**WITNESSETH:**

WHEREAS ROCHA is the record owner of the following described real property located in the County of Klamath, State of Oregon, to-wit:

**Township 38 South, Range 11 East of the Willamette Meridian:**

**Section 31:** N½NE¼, SAVING AND EXCEPTING THEREFROM: A tract of land situated in the NW¼NE¼ of Section 31, Township 38 South, Range 11 E.W.M., more particularly described as follows: Beginning at a P K Nail on the centerline of Haskins Road from which the North quarter corner of Section 31 bears N. 00°47'49" E. 176.36 feet; thence S. 89°12'11" E. 30.00 feet to an iron pin; thence continuing S. 89°12'11" E. 364.40 feet to an iron pin; thence S. 13°19'24" W. 338.19 feet to an iron pin; thence S. 45°30'16" W. 149.03 feet to an iron pin; thence N. 89°21'11" W. 186.20 feet to an iron pin; thence continuing N. 89°12'11" W. 30.00 feet to a P K Nail on the centerline of Haskins Road; thence N. 00°47'49" E. 436.06 feet to the point of beginning, including the area within

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Haskins Road, with bearings based on recorded Survey No. 1713 (all iron pins mentioned are a 5/8 inch rebar with a Tru-Line Surveying Plastic Cap).

Property ID. Nos. R27928 and R609318  
Map Tax Lot: R-3811-00000-04401-000  
Property ID No.: R456090  
Map Tax Lot: R-3811-00000-04500-000

and has an unrestricted right to grant the easement hereinafter described as **Easement 1** relative to the real estate; and ARMSTRONG is the record owner of the following described real property in that county and state, to-wit:

**Township 38 South, Range 11 East of the Willamette Meridian**

**Section 29:** SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$

Property ID No.: R456018  
Map Tax Lot: R-3811-00000-04200-000

**Section 32:** N $\frac{1}{2}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$

Property ID No. R456198  
Map Tax Lot: R-3811-00000-05100-000

and has an unrestricted right to grant the easement hereinafter described as **Easement 2** relative to the real estate; and

WHEREAS, there is an existing roadway that runs generally in an easterly direction from Haskins Roads along the southerly boundary of the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31<sup>1</sup>, a portion of which leaves the southerly boundary of the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31 at a point approximately one-half way across the south line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31, then runs into the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said section in an easterly direction, more or less, then finally comes into the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 32, at a point near, but east of, the SE corner of said quarter section; and

WHEREAS, a Boundary Line, Joint Use, and Easement Agreement was recorded April 19, 1979, at Volume M79, Page 8800, of the Deed Records of Klamath County, Oregon, granting a non-exclusive easement over and across that the portion of said roadway that crosses into the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31; and

WHEREAS, ROCHA desires to grant to ARMSTRONG a perpetual and non-exclusive easement for ingress to and egress from property owned by ARMSTRONG as specifically described above, over and across the balance of the existing roadway running on the southerly boundary of the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31; which existing roadway is situated north of the southerly boundary said N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31, owned by ROCHA as specifically described above, and

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<sup>1</sup> All references to section numbers refer to real property located in T. 38 S., R. 11 E.W.M., Klamath County, Oregon

WHEREAS, ROCHA is further desirous of granting to ARMSTRONG a perpetual and non-exclusive utility easement over and across the southerly 30.00 feet of the N½NE¼ of Section 31, which easement shall underlie said roadway easement ; and

WHEREAS, there is a cinder pit currently in existence, located on property owned by ARMSTRONG as more specifically described above; and

WHEREAS, ARMSTRONG desires to grant to ROCHA a perpetual and non-exclusive right and easement for the following purposes:

1. For purposes of removal by ROCHA of 30 yards of cinder (gravel) per year for personal and residential use; and
2. For use of the existing roadway across ARMSTRONG's property for purposes of said removal;

NOW, THEREFORE, in consideration of the granting of these mutual easements and of the mutual covenants and promises herein contained:

#### **EASEMENT 1**

The ROCHA hereby grants, assigns and sets over to the ARMSTRONG an easement as follows, to-wit:

A perpetual and non-exclusive easement and right-of-way for roadway and utility purposes over and across the southerly 30.00 feet of the N½NE¼ of Section 31, T. 38 S., R. 11 E.W.M., Klamath County, Oregon.

SUBJECT HOWEVER to the limitation that ARMSTRONG should not have the right to build a new roadway over said boundary line where there is reasonable and sufficient roadway access already in place, as established by the Boundary Line, Joint Use, and Easement Agreement recorded April 19, 1979, in Volume M79, Page 8800, of the Deed Records of Klamath County, Oregon.

SUBJECT FURTHER to the covenant that the speed of vehicles operated by ARMSTRONG or its invitees shall be reasonable and prudent at all times, and in no event shall not exceed speeds of ten (10) miles per hour, and shall be operated in such a manner as to take into consideration the safety and welfare of ROCHA, including, but not limited to, to cause the least amount of dust and debris to be raised in such operation.

The ARMSTRONG shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the ARMSTRONG's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

In causing utilities to be installed in the easement hereinabove granted, ARMSTRONG hereby agrees that such installation shall be done in a reasonable and workmanlike fashion, and that the premises shall be returned, as reasonably as is practicable, in as good repair and condition as when received.

Except as to the rights herein granted, the ROCHA shall have the full use and control of the real property owned by ROCHA and described above.

The ARMSTRONG hereby agrees to save and hold the ROCHA harmless from any and all claims of third parties arising from the use of the rights herein granted.

*Armstrong's*

*x MDR x L.M.R.*

Easement 1 described above shall continue for perpetuity always subject, however, to the specific conditions, restrictions and considerations set forth herein.

During the existence of this Easement 1, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, including normal wear and tear, shall be the responsibility of the Both parties equally.

During the existence of Easement 1, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

## **EASEMENT 2**

The ARMSTRONG hereby grants, assigns and sets over to the ROCHA the following right and easement:

1. A perpetual and non-exclusive right to remove 30 yards of cinder (gravel) per calendar year from the cinder (gravel) pit located on property owned by ARMSTRONG and more particularly described above; and
2. A perpetual and non-exclusive 30.00 foot easement and right-of-way for roadway purposes over and across an existing roadway commencing at the Southwest Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 32, then continuing easterly along the southern boundary of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 32, to its terminus at said cinder (gravel) pit located in Section 32, and the reasonable use of any and all existing roadways as are necessary to exercise the right granted herein to remove cinder (gravel).

It is hereby agreed by and between the parties that no additional consideration shall be paid by ROCHA to ARMSTRONG for the annual removal of the 30 yards of cinder (gravel).

ROCHA shall have all the rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for ROCHA's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Relative to the removal of cinder (gravel) as anticipated by this Easement 2, the parties hereto agree that the following shall apply:

x MOR  
x LMR,

1. ~~ROCHA may exercise the right granted to him herein as many times as is reasonably necessary to remove the 30.00 yards of cinder (gravel) to which he is entitled during any one calendar year;~~
2. ROCHA shall give ARMSTRONG ten (10) business days' prior written notice on each occasion of his intention to exercise his right to remove said cinder (gravel), which notice shall include the date upon which ROCHA intends to start removal of material; and
3. ROCHA shall have a period of two (2) weeks from the start date set forth in said written notice within which to remove such material, after which his right to remove the same on that occasion shall lapse.
4. ROCHA shall be permitted to remove cinder (gravel) on two (2) separate occasions in any calendar year, after giving the requisite notice.

Except as to the rights herein granted, ARMSTRONG shall have the full use and control of the real property owned by ARMSTRONG and described above.

ROCHA hereby agrees to save and hold ARMSTRONG harmless from any and all claims of third parties arising from ROCHA's use of the rights herein granted.

Easement 2 described above shall continue for perpetuity always subject, however, to the specific conditions, restrictions and considerations set forth herein.

During the existence of this Easement 2, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

#### **GENERAL PROVISIONS**

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations.

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IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

*Manuel O. Rocha*  
Manuel O. Rocha

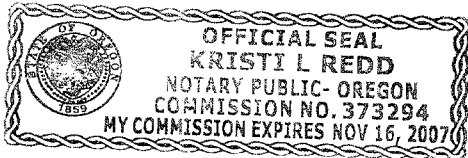
*Linda M. Rocha*  
Linda M. Rocha

George L. Armstrong, Trustee for  
Armstrong Family Living Trust

Helen K. Armstrong, Trustee for  
Armstrong Family Living Trust

STATE OF OREGON; County of Klamath ) ss.

The foregoing Mutual Easement Agreement was acknowledged before me this 2<sup>nd</sup> day of February, 2007, by Manuel O. Rocha and Linda M. Rocha



*Kristi L. Redd*  
NOTARY PUBLIC FOR OREGON  
My Commission expires: 11/16/2007

STATE OF OREGON; County of Klamath ) ss.

The foregoing Mutual Easement Agreement was acknowledged before me on the \_\_\_\_\_ day of February, 2007, by George L. Armstrong and Helen K. Armstrong, as Trustees of Armstrong Family Living Trust.

NOTARY PUBLIC FOR OREGON  
My Commission expires:

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

Manuel O. Rocha  
Manuel O. Rocha

Linda M. Rocha  
Linda M. Rocha

George L. Armstrong Trustee  
George L. Armstrong, Trustee for  
Armstrong Family Living Trust

Helen K. Armstrong Trustee  
Helen K. Armstrong, Trustee for  
Armstrong Family Living Trust

STATE OF OREGON; County of Klamath ) ss.

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Kristi L. Redd  
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Kristi L. Redd  
NOTARY PUBLIC FOR OREGON  
My Commission expires:

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA )

COUNTY OF

Shasta )

On Feb. 8, 2007

DATE

before me,

Heidi Brown, notary public

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared,

George L. Armstrong and Helen K. Armstrong

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ /they executed the same in ~~his~~ ~~her~~ /their authorized capacity(ies), and that by ~~his~~ ~~her~~ /their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Heidi Brown

NOTARY PUBLIC SIGNATURE

(SEAL)



## OPTIONAL INFORMATION

THIS OPTIONAL INFORMATION SECTION IS NOT REQUIRED BY LAW BUT MAY BE BENEFICIAL TO PERSONS RELYING ON THIS NOTARIZED DOCUMENT.

TITLE OR TYPE OF DOCUMENT

Mutual Easement Agreement

DATE OF DOCUMENT

NUMBER OF PAGES

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER'S NAME

SIGNER'S NAME

RIGHT THUMBPRINT

RIGHT THUMBPRINT