

MT079083-KR

After recording return to:

Paul J. Taylor
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Bend, OR 97709

*Being rerecorded to amend legal description
in Volume 2007, page 010745

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Klamath County, Oregon

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Fee: \$51.00

2007-011549

Klamath County, Oregon



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ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT is made and entered into effective May 16, 2007, by and between Doris Ribble, as Trustee of the Doris Ribble Trust, u/a/d July 21, 2004 ("Ribble"), and Pamela Hayden ("Hayden").

RECITALS

A. Ribble and Hayden are the owners of adjoining real property located in Klamath County, near Chiloquin, Oregon. Their respective properties are depicted on Exhibit A attached. The legal descriptions of the properties are attached hereto as Exhibit B (Ribble's property) and Exhibit C (Hayden's property). Each of Ribble's property and Hayden's property is referred to in as a "Property," and collectively as the "Properties."

B. To provide for the access of each party to their respective properties, the sixty (60) foot wide access easement described on Exhibit A has been dedicated along the Northern boundary Hayden's property, immediately adjacent to Ribble's property.

C. The parties desire to subject the above described Properties to the terms, covenants, conditions and restrictions as imposed by this Road Maintenance Agreement (the "Agreement")

1. **ROADWAY.** The roadway ("Roadway") consists of an approximately 1,311-foot gravel road located within the access easement created by that certain Access Easement Agreement, of even date herewith, recorded June 14, 2007 in the official Records of Klamath County, Oregon. The Roadway is not a public road, and will consist of such other additions or improvements as may be unanimously approved by the owners of the Properties. Hayden and Hayden's invitees utilize the entire Roadway for access to the commercial hotel establishment located on the Western portion of Hayden's property. Ribble's primary use of the Roadway shall be for access to the Ribble Property via a driveway located approximately two hundred (200) feet from the Eastern end of the Roadway, with occasional access to Ribble's Property allowed at other points along the Roadway as provided for in the Access Easement Agreement.

2. REPAIRS AND MAINTENANCE.

a. Repair and maintenance of the Roadway shall be the responsibility of Hayden. The Roadway shall be maintained to standards similar to other driveways in the area and as appropriate for the nature in which the Properties have been put use. All repairs and/or maintenance, including, but not limited to snow removal, shall be conducted in such a manner so

as not to unreasonably interrupt use of the Roadway by either party. It shall require the unanimous consent of the owners of the Properties to increase the level of development for the Roadway, including, but not limited to, the addition of improvements such as lighting, fencing, gates or drainage ditches, that are not in well-maintained existence as of the date of this Agreement.

b. Each Property Owner agrees to share in the costs of the maintenance and repair of the Roadway to the standards provided in Section 2.a., above. Notwithstanding the foregoing, Ribble shall not share in the cost of snow removal for the Roadway. The costs of maintenance and repair of the Roadway shall be allocated 92.3% to Hayden and 7.7% to Ribble. Ribble shall pay its share of any Roadway maintenance and/or repair costs within forty-five (45) days of written notice of expenditure from Hayden, which notice shall be accompanied by a copy of the invoice for the repair and/or maintenance cost indicating payment has been made. Subject to Section 3, below, regarding emergency repairs, any single expenditure in excess of \$1,000 shall require the prior written approval of all of the owners of the Properties.

c. Nothing in this Agreement shall operate to reallocate the responsibility for utilities or other services used on or about the Roadway prior to the date of this Agreement.

3. EMERGENCY REPAIRS. In the event that severe weather or other occurrence renders the Roadway impassable, and a Property owner is not available for a decision on the repair of the Roadway, any owner may make or arrange for repair of the Roadway necessary to restore access, and pay the expense of such repair. In such event, each Property's owner shall be liable for their portion of such emergency repair expense, as provided in Section 2.b., above, and shall reimburse the owner who incurred the emergency repair expense within forty-five (45) days of notice from the paying owner of the amount of each Property's share, which notice shall be accompanied by a copy of the invoice for the repair and/or maintenance cost indicating payment has been made.

4. LIENS FOR NON-PAYMENT OF REPAIR AND MAINTENANCE COSTS.

a. If either Property owner fails to reimburse the other owner for expenses incurred relating to the repair and maintenance of the Roadway, then all such costs and expenses, together with interest thereon at the rate of twelve percent (12%) per annum, and all other costs, fees and charges allowed by law shall be a lien and charge on the land, and shall be a continuing lien upon the Property against which each such cost, expense and repair is incurred. Such lien shall exist and be executed, recorded and foreclosed in the manner provided by law. No particular form of lien shall be required as long as it states the names of the parties, identifies the Property, describes the repairs or improvements made, and states the amount of the obligation. Such lien shall be superior to all other liens except first mortgages, first trust deeds, or the vendor's lien of a land sale contract, property taxes, and other liens having priority as a matter of law.

b. In addition to any other remedies provided by law, either owner may bring an action at law against the owner personally obligated to pay the same or foreclose a lien upon the non-paying Owner's Property. No such action or a judgment entered therein shall be a waiver of

the lien of the Owner. No Owner may waive or otherwise escape liability for the maintenance costs and expenses provided for herein by non-use of the Driveway.

5. EXPENSES AND ATTORNEY'S FEES. In the event that any suit or action shall be brought to enforce any provision contained in this agreement to collect any money due hereunder or to foreclose a lien, the non-prevailing party in such suit or action shall pay to the prevailing party all costs and expenses which the prevailing party shall incur in connection with such suit or action, including a foreclosure title report, and such amounts as the court may determine to be reasonable as attorney's fees therein, including attorney's fees in connection with any appeal from a decision of the trial court or an intermediate appellate court.

6. NONEXCLUSIVENESS AND ACCUMULATION OF REMEDIES. Election by an owner to pursue any remedy provided for the violation of any provision of this Agreement shall not prevent concurrent or subsequent exercise of another remedy permitted thereunder or which is permitted by law. The remedies provided in this agreement are not intended to be exclusive but shall be in addition to all other remedies, including actions for damages or suits for injunctions or for specific performance available under applicable law.

7. AMENDMENT AND REPEAL. Any provision of this Agreement may at any time be amended or repealed, or provisions may be added by unanimous written consent of the owners of the Properties. Any amendment or repeal of a provision of this agreement or any additional provision shall become effective only upon the filing in the official records of Klamath County, Oregon, of a certificate signed by all Owners setting forth in full the amendment, amendments, additional provision or repeal approved as provided in this section.

8. CHANGE IN PROPERTY USE. In the event that either Property owner desires to change the use of that owner's Property, said owner shall, prior to changing the use, consult with the other Property owner regarding the potential impact of the changed use on the Roadway, and the reallocation of maintenance and repair expenses, if necessary, between the Properties. The parties will mutually amend this Agreement as reasonably necessary to account for any such reallocation.

9. MEDIATION/ARBITRATION. The parties agree that any dispute that may arise under this Agreement will be submitted to a mediator agreed to by both parties as soon as such dispute arises, but in any event prior to the commencement of litigation or arbitration. Such mediation will occur in Klamath Falls, Klamath County, Oregon, and the mediator's fees and expenses will be shared equally by the parties who agree to exercise their best efforts in good faith to settle all disputes. The parties agree to submit all complaints, disputes and controversies that may arise out of or in connection with this Agreement, and which are not resolved through mediation pursuant to the preceding sentence, to binding arbitration under the laws of the State of Oregon, and in accordance with the then-current rules of the Arbitration Service of Portland, Inc. The decision of the arbitrator(s) will be final and binding upon both parties.

8. COVENANTS RUN WITH LAND. The Agreement is appurtenant to and runs with the land, for the benefit of each Property. This Agreement shall be binding upon the original owner of each Property, and upon their heirs, successors and assigns.

Doris Ribble Trust u/a/d July 21, 2004

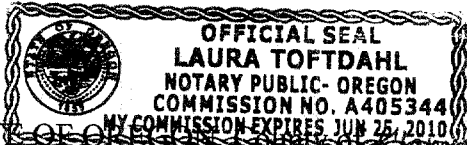
Pamela Hayden

By: Doris R. Ribble
Doris Ribble, Trustee

Pamela Hayden
Pamela Hayden

STATE OF OREGON, County of Deschutes ss.

This instrument was acknowledged before me on June 7, 2007, by Doris Ribble as Trustee of the Doris Ribble Trust u/a/d July 21, 2004.



STATE OF OREGON, County of Deschutes ss.

Laura Toftdahl
Notary Public for Oregon
My Commission expires: 6/25/2010

This instrument was acknowledged before me on May 16, 2007, by Pamela Hayden.

Sharon L. Brown
Notary Public for Oregon
My Commission expires: 2-13-11



EXHIBIT A

Easement Description

The North 60 feet of the East 1311 feet of a tract of land situated in the ~~S 1/2 of the NE 1/4~~ Section 3 and of Section 4, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, which tract of land is more particularly described as follows:

Beginning at a point on the South line of the S 1/2 of the NE 1/4 of said Section 4, said point being Westerly a distance of 661 feet from the East quarter corner of said Section 4, as marked by an iron axle (as per recorded Survey No. 207); thence Northerly, (North by Deed Volume M-67, Page 6000, as recorded in the Klamath County Deed Records) at right angles to said South line of the S 1/2 of the NE 1/4 300 feet; thence Westerly (West by said Deed Volume M-67, Page 6000) parallel to said South line of the S 1/2 of the NE 1/4 to the thread of Spring Creek (135 feet, more or less, to the waters edge by said Deed Volume M-67, Page 6000; thence Northwesterly along the thread of said Spring Creek, to a point that bears South 36° West from a 5/8 inch iron pin on the Northeasterly bank of said Spring Creek, said iron pin bears North 60° 27' 09" West a distance of 1651.55 feet from the said quarter corner; thence North 36° East to said 5/8 inch iron pin; thence North 67° 28' 51" East 506.97 feet to a 5/8 inch iron pin; thence along the arc of a curve to the right (radius point bears South 27° 19' 58" East 994.45 feet and central angle = 10° 17' 37") 178.66; thence North 72° 59' 12" East 30.29 feet; thence along a compound curve to the right (radius = 1103.04 feet and central angle = 12° 30' 49") 240.91 feet to a 5/8 inch iron pin; thence continuing along the arc of said curve (radius point bears South 04° 29' 59" East 3002.00 feet and central angle = 05° 25' 28") 284.22 feet; thence South 89° 04' 31" East 262.23 feet to the East line of the said NE 1/4 as established by said Survey No. 207; thence South 00° 24' 23" West, along said East line 295.40 feet, more or less, to the Westerly right of way line of U.S. Highway 97 (Dalles-California Highway); thence Southwesterly along said Westerly right of way line to the South line of the NE 1/4 of said Section 4; thence Westerly to the point of beginning.

EXHIBIT B

Ribble's Property

PARCEL 1:

Beginning at the Northwest corner of Section 3, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, as established by the Bureau of Land Management in a Dependent Resurvey in 1959, said corner being a 2 ½ inch iron post with a brass cap; thence South 89° 53' East, 452.10 feet to a point of on the North line of Section 3; thence South 13.20 feet to an unrecorded monumentation, being an axle firmly set in a mound of stones; thence South 0° 25' 45'' West 2654.26 feet to unrecorded monumentation; thence South 87° 09' 38'' West, 145.34 feet to a record corner established in CS #2459, filed July 1977; thence North 5° 16' 36'' West, 2685.80 feet to the point of beginning.

EXCEPTING that portion conveyed to the State of Oregon for Highway 97.

ALSO EXCEPTING the portion conveyed from Spring Creek Ranch Motel, LTD, to Pamela Hayden in Deed Volume M01 at Page 6869, Microfilm Records of Klamath County, Oregon.

PARCEL 2:

The NE ¼ of the SW ¼ of the NE ¼ of Section 4, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 3:

Government Lots and 1 and 2 of Section 4, Township 34 South, Range 7 East of the Willamette Meridian, lying Easterly of the thread of Spring Creek, Klamath County, Oregon.

PARCEL 4:

The SE ¼ of the NE ¼ of Section 4, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, lying Northeasterly of the thread of Spring Creek.

EXCEPTING that portion conveyed from Oliver S. Pitts to Marvin A. Albee, et al., in Deed Volume 210, Page 89, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING that portion conveyed from O.S. Pitts, et al., to the State of Oregon in Deed Volume 199, Page 355, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING the portion conveyed from Spring Creek Ranch Motel, LTD, to Pamela Hayden in Deed Volume M01 at Page 6869, Microfilm Records of Klamath County, Oregon.

EXHIBIT C

Hayden's Property

Beginning at a point on the South line of the S 1/2 of the NE 1/4 of said Section 4, said point being Westerly a distance of 661 feet from the East quarter corner of said Section 4, as marked by an iron axle (as per recorded Survey No. 207); thence Northerly, (North by Deed Volume M-67, Page 6000, as recorded in the Klamath County Deed Records) at right angles to said South line of the S 1/2 of the NE 1/4 300 feet; thence Westerly (West by said Deed Volume M-67, Page 6000) parallel to said South line of the S 1/2 of the NE 1/4 to the thread of Spring Creek (135 feet, more or less, to the waters edge by said Deed Volume M-67, Page 6000; thence Northwesterly along the thread of said Spring Creek, to a point that bears South 36° West from a 5/8 inch iron pin on the Northeasterly bank of said Spring Creek, said iron pin bears North 60° 27' 09" West a distance of 1651.55 feet from the said quarter corner; thence North 36° East to said 5/8 inch iron pin; thence North 67° 28' 51" East 506.97 feet to a 5/8 inch iron pin; thence along the arc of a curve to the right (radius point bears South 27° 19' 58" East 994.45 feet and central angle = 10° 17' 37") 178.66; thence North 72° 59' 12" East 30.29 feet; thence along a compound curve to the right (radius = 1103.04 feet and central angle = 12° 30' 49") 240.91 feet to a 5/8 inch iron pin; thence continuing along the arc of said curve (radius point bears South 04° 29' 59" East 3002.00 feet and central angle = 05° 25' 28") 284.22 feet; thence South 89° 04' 31" East 262.23 feet to the East line of the said NE 1/4 as established by said Survey No. 207; thence South 00° 24' 23" West, along said East line 295.40 feet, more or less, to the Westerly right of way line of U.S. Highway 97 (Dalles-California Highway); thence Southwesterly along said Westerly right of way line to the South line of the NE 1/4 of said Section 4; thence Westerly to the point of beginning.