

MTC13910-8944

2007-014369
Klamath County, Oregon



00029159200700143690060068

Attachment B to the Memorandum of Agree

08/15/2007 11:20:34 AM

Fee: \$46.00

| | |
|---|----------------------|
| AFTER RECORDING RETURN TO: City Recorder City of Klamath Falls 500 Klamath Avenue Klamath Falls OR 97601 | CLERK'S STAMP |
|---|----------------------|

AGREEMENT FOR WATER UTILITY EASEMENT

GRANTOR: Baney Corporation

GRANTEE: The City of Klamath Falls, a municipal corporation

RECITALS:

A. Baney Corporation, the Grantor, is the owner of a parcel of real property situated in Klamath County, Oregon described as: Lot 3 of Tract 1430 of Timbermill Shores, and located in the SE One-Quarter of Section 32, Township 38 South, Range 9 East, Willamette Meridian, City of Klamath Falls, Klamath County, Oregon.

B. The Grantor and Grantee have determined that it is necessary and advisable to create a public utility easement in lot 3 of Tract 1430 of Timbermill Shores, Klamath County, Oregon, adjacent to the Southeasterly right-of-way of Klamath Avenue.

C. The 10-foot-wide public utility easement described herein is intended for access to the water meter for the City of Klamath Falls Water Department.

1. AGREEMENT FOR EASEMENT

410 AMT

Attachment B to the Memorandum of Agreement

THE GRANT OF EASEMENT

In consideration of certain benefits including, but not limited to:

A utility easement granted by the owner of lot 3 providing a utility easement adjacent to the Southeasterly right-of-way line of Klamath Avenue,

the Grantor hereby conveys to Grantee a perpetual, non-exclusive utility easement across the property of Grantor. The utility easement is described as:

A 10.00 foot wide utility easement situated in lot 3 of Tract 1430 of Timbermill Shores, and located in the SE One-Quarter of Section 32, Township 38 South, Range 9 East, Willamette Meridian, City of Klamath Falls, Klamath County, Oregon, and being more particularly described as follows:

Commencing at the corner common to lots 2 and 3 of said Tract 1430, said point being on the Southeasterly right-of-way line of Klamath Avenue; thence along said right-of-way line North 38°57'46" East 88.63 feet to the True **Point of Beginning**. Thence continuing along said right-of-way line North 38°57'46" East 29.90 feet; thence leaving said right-of-way South 51°02'14" East, 10.00 feet; thence South 38°57'46" West 29.90 feet; thence North 51°02'14" West 10.00 feet to said right-of-way line and the point of beginning.

Containing approximately 299 square feet, more or less.

Bearings are based on Tract 1430, Timbermill Shores.

Said utility easement shall be known as the "Water Utility Easement" below in this document.

2. AGREEMENT FOR EASEMENT

THE WATER UTILITY EASEMENT

The terms of this Water Utility Easement are as follows:

1. This Water Utility Easement shall be used for public and private water utility purposes and any uses incidental thereto along, upon, across and under the Easement area.

Construction of structures that might interfere with the construction or use of a water utility pipe and its appurtenances is prohibited unless expressly approved by the City of Klamath Falls Public Works Director. In conjunction with such use, Grantee may construct, reconstruct, maintain and repair the water utilities and appurtenances thereon, and do other work incidental to the construction, use and operation of the water utility.

2. Grantor, his successors and assigns, reserves the right to use, construct, and maintain the property located upon the Water Utility Easement in any manner that Grantee reasonably determines will not interfere with the intended use of the Easement by the Grantee; however, in case of conflict, Grantee's right of use shall be dominant.

3. Grantee by receiving this Easement agrees to indemnify and defend Grantor from any loss, claim or liability to Grantor arising in any manner out of Grantee's use of the Easement. Grantee assumes all risks arising out of its use of the Easement and Grantor shall have no liability to Grantee or others for any condition existing thereon.

4. This Water Utility Easement shall be perpetual and shall not terminate for periods of non-use by Grantee. The Water Utility Easement may be terminated upon written agreement by Grantor and Grantee, their heirs, successors and assigns. The rights, covenants and obligations of this Easement shall bind, burden and/or benefit the successors, assigns, heirs or beneficiaries under a deed of trust as to all properties benefited or burdened by this Easement.

5. This Water Utility Easement is granted subject to all prior easements or encumbrances of record.

3. AGREEMENT FOR EASEMENT

Attachment B to the Memorandum of Agreement

6. That during construction of the water utility, the Grantee will allow access to the Water Utility Easement over Lot 3 and, further, allow the use of a temporary construction easement that is 30 feet in width, adjoining, parallel with and lying Southeasterly of the Southeasterly right-of-way line of Klamath Avenue adjacent to said lot 3.

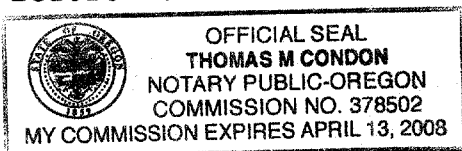
IN WITNESS THEREOF, the grantor has caused this instrument to be executed this 9 day of August 2007.

By: [Signature] For: _____
Baney Corporation

STATE OF OREGON)
 Deschutes) ss. AUGUST 9, 2007.
County of Klamath)

CURTIS A. BANEY personally appeared before me and acknowledged that he had legal authority to execute the same and acknowledged that the foregoing instrument is the voluntary act and deed of the same person.

Before me:



[Signature: Thomas M. Condon]
Notary Public for Oregon
My Commission expires: APRIL 13, 2008

4. AGREEMENT FOR EASEMENT



1004 Main Street
Klamath Falls, Oregon 97601-5813
541.884.3042
Fax 541.885.2105

July 31, 2007

Timbermill Shores- Lot 3 - 10.00' wide
Utility Easement

Project No. 30056

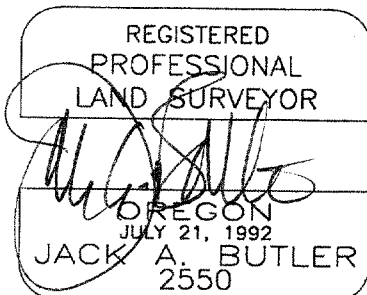
EXHIBIT "A"

A 10.00 foot wide parcel of land situated in lot 3 of Tract 1430 of Timbermill Shores, and located in the Southeast One-Quarter of Section 32, Township 38 South, Range 9 East, Willamette Meridian, City of Klamath Falls, Klamath County, Oregon, and being more particularly described as follows:

Commencing at the corner common to lots 2 and 3 of said Tract 1430, said point being on the Southeasterly right-of-way line of Klamath Avenue; thence along said right-of-way line North $38^{\circ}57'46''$ East 88.63 feet to the True **Point of Beginning**. Thence continuing along said right-of-way line North $38^{\circ}57'46''$ East 29.90 feet; thence leaving said right-of-way South $51^{\circ}02'14''$ East, 10.00 feet; thence South $38^{\circ}57'46''$ West 29.90 feet; thence North $51^{\circ}02'14''$ West 10.00 feet to said right-of-way line and the point of beginning.

Containing approximately 299 square feet, more or less.

The Basis of Bearings is per the plat of Tract 1430, Timbermill Shores.



RENEWAL: 12-31-07

P:\Pine Cone LLC\030056\Survey\Documents\Lot 3 Utility Easement Exhibit A 2007.07.31.doc



KLAMATH AVENUE

POINT OF BEGINNING

N38°57'46"E
88.63'

POINT OF COMMENCEMENT

LOT 2

N38°57'46"E 29.90'

N51°02'14"W
10.00'

299 S.F.

S38°57'46"W 29.90'

N38°57'46"E
171.43'

S51°02'14"E
10.00'

LOT 4

LOT 3

SCALE



(FEET)
1 INCH = 10 FT

| | | |
|--------------|--------------|----------|
| DESIGNED BY: | CHECKED BY: | JAB |
| DRAWN BY: | APPROVED BY: | |
| LAST EDIT: | PLOT DATE: | 07/31/07 |
| DATE | BY | REV# |
| | | REVISION |
| | | CK'D |
| | | APPR. |



1004 Main St.
Klamath Falls, Oregon
97601-0813
(541)864-0000
(541)864-0100 Fax
wspacific.com

TIMBERMILL SHORES, INC.
TRACT 1430, LOT 3 UTILITY EASEMENT
EXHIBIT "B"

KLAMATH FALLS

SCALE:
1"=10'

PROJECT NO.
30056

DRAWING FILE NAME:
30056-Surv-PT00

OREGON

1 SHEET 1