

2007-021609
Klamath County, Oregon



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12/31/2007 10:01:10 AM

Fee: \$46.00

After Recording Return to:
Noble Plans LLC
PO Box 954
Klamath Falls, OR 97601

**AGREEMENT FOR RECIPROCAL ACCESS
AND PARKING EASEMENT**

This Agreement is made effective December 29, 2007, by and between NOBLE PLANS LLC ("Noble Plans") and JOHN J. WITHEY and PATRICIA WITHEY, also known as Patty A. Withey, (collectively, "Withey").

RECITALS:

A. Noble Plans is the owner of the real property located in the City of Klamath Falls, Klamath County, Oregon, being more particularly described on the Exhibit A attached hereto and made a part hereof (the "Noble Plans Property").

B. Withey is the owner of the real property located in the City of Klamath Falls, Klamath County, Oregon, being more particularly described on the Exhibit B attached hereto and made a part hereof (the "Withey Property").

C. Noble Plans and Withey, and their predecessors in interest, have shared an existing parking area and access thereto, for many years. The existing parking area is mostly located on Parcel 1 of the Noble Plans Property and partly located within the westerly portion of the Withey Property (the "Parking Area").

D. The parties desire to memorialize the terms of their agreement regarding parking and access and create a reciprocal easement for their mutual benefit covering the Parking Area.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth herein, the parties agree as follows:

1. Conveyance of Reciprocal Easement. Noble Plans hereby grants to Withey, and Withey hereby grants to Noble Plans, a reciprocal, non-exclusive easement for parking purposes within and upon the Parking Area, together with the right of ingress and egress to and from the public streets at the existing approaches, curb cuts and aprons provided therefor.

2. Use of Parking Area. The Parking Area may be used by the parties, their tenants, agents, contractors, guests, customers, or invitees for parking purposes only and travel to and from parking spaces within the Parking Area. The parking for Withey, their tenants, agents, contractors, guests, customers, and invitees, is restricted to the parking spaces along the easterly border of the Parking Area. The parties shall endeavor to keep the driveways within the Parking Area clear for unobstructed traffic circulation within the Parking Area to and from the parking spaces and the public streets.

3. Maintenance. The parties shall jointly maintain the Parking Area and driveways to the Parking Area in proportion to the use made of the Parking Area by each party, as provided in ORS 105.170, *et seq.*

4. Duration. The duration of the reciprocal easement created hereby and the provisions herein shall be perpetual and this Agreement shall be a burden on and benefit to the Noble Plans Property and the Withey Property and shall run with the land.

5. Binding Effect. This Agreement is binding upon each party, their respective heirs, successors, and assigns.

6. Arbitration. Any dispute or claim which arises out of which relates to this Agreement, or the interpretation or breach thereof, shall be resolved by arbitration in accordance with the then effective arbitration rules of Arbitration Service of Portland, Inc., or the then effective commercial arbitration rules of the American Arbitration Association, whichever organization is selected by the party which first initiates arbitration by filing a claim in accordance with the filing rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

7. Costs and Attorney Fees. If arbitration is instituted with respect to this Agreement, or any appeal from a decision thereof, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, costs, and expenses incurred in preparation for and at the arbitration proceeding and in any appeal or review, such amounts to be set by the arbitrators and by the court or courts, including any appellate court, in which such matter

is tried, heard, or decided, including the court which hears any exceptions made to an arbitration award submitted to it for confirmation as a judgment with respect to attorney fees incurred in such confirmation proceedings. The term "costs" and "expenses" shall include, in addition to statutory costs and disbursements, all costs of discovery and depositions, expert witness fees, and out-of-pocket expenses incurred by the prevailing party.

8. Governing Law. This Agreement shall be governed by the laws of the State of Oregon.

9. Indemnification. Each party agrees to indemnify and defend the other from any loss, claim or liability of the other party arising in any manner out of such party's use of the Parking Area.

10. Modification. This Agreement shall not be altered or modified in any manner other than by written agreement signed by all of the parties, their successors, or assigns, and duly recorded in the public records of Klamath County, Oregon.

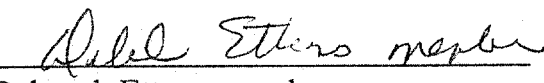
11. Waiver. Failure at any time to require performance of any provisions of this Agreement shall not limit a party's right to enforce the provision. Any waiver of any breach of any provision shall not be a waiver of any succeeding breach or a waiver of any provision of this Agreement.

12. Unenforceability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the validity of the remaining provisions of this Agreement shall not be affected thereby.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

NOBLE PLANS LLC

By: 
Terry Etters, member

By: 
Deborah Etters, member

John J. Withey
John J. Withey
Patricia A. Withey
Patricia Withey, a/k/a Patty A. Withey

STATE OF OREGON)
) ss.
County of KLAMATH)

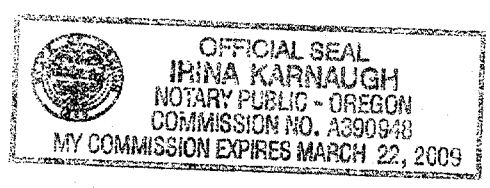
The foregoing instrument was acknowledged before me this 29th day of December, 2007, by Terry Etters and Deborah Etters the members of Noble Plans LLC, on behalf of the corporation.

Irina Karbaugh
NOTARY PUBLIC FOR OREGON
My Commission Expires: MAR 22, 2009

STATE OF OREGON)
) ss.
County of KLAMATH)

On this 29th day of December, 2007, personally appeared the above-named John J. Withey and Patricia Withey, a/k/a Patty A. Withey, and acknowledged the foregoing instrument to be their voluntary act and deed.

Irina Karbaugh
NOTARY PUBLIC FOR OREGON
My Commission Expires: MAR 22, 2009



PARCEL 1

A parcel of land in Block 242, MILLS SECOND ADDITION TO THE CITY OF KLAMATH FALLS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:

Beginning at the intersect point of the Easterly line of said property and the Southerly right of way line of the relocated Klamath Falls-Lakeview Highway, which is 40 feet distant Southerly from (when measured at angles to) the centerline of the said relocated highway; said point also being North 55° 50' 30" West 201.20 feet from the intersection of the Southerly right of way line of said Highway and the Northerly right of way line of Shasta Way; thence North 55° 50' 30" West along said relocated right of way line 94.53 feet more or less to the East line of Lot 2, Block 2 of the Re-subdivision of Block 242, MILLS SECOND ADDITION; thence South 0° 19' 30" East along said East line of said subdivision 167.14 feet more or less to the Northerly line of Shasta Way; thence North 89° 40' 30" East 30.51 feet along said Northerly line of Shasta Way to an iron pin; thence North 22° 19' 30" East 123.12 feet more or less to the point of beginning.

PARCEL 2

The Westerly 80.42 feet of Lots 4 and 5 and the Westerly 80.42 feet of the South 20 feet of Lot 3, Block 2, Resubdivision of Block 242, MILLS SECOND ADDITION TO THE CITY OF KLAMATH FALLS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

AND ALSO Lot 1, Block 2; ALSO the following described portion of Lots 2 and 3, Block 2; Beginning at a point on the West line of said Lot 3 which point is North 0° 05' East a distance of 20 feet from the Southwest corner of said Lot; running thence East along the North line of the South 1/2 of said Lot 3, a distance of 80.42 feet, more or less, to a point 27.58 feet West of the East line of said Lot 3; thence North 98.24 feet, more or less, to a point on the Southwesterly side of South 6th Street; thence North 55° 15' West along the Southwesterly side of South 6th Street, a distance of 48.89 feet, more or less, to the Northwest corner of said Lot 2; thence South along the West line of Lot 2, 106.1 feet, to the Southwest corner of Lot 2; thence West along the line between Lots 1 and 3, 40 feet to the Southwest corner of Lot 1; thence South along the East line of Martin Street 20 feet to the point of beginning.

All lying in Block 242 of MILLS SECOND ADDITION TO THE CITY OF KLAMATH FALLS, Oregon, according to the Supplemental Plat of the Westerly portion of Block 242 MILLS SECOND ADDITION to the City of Klamath Falls, Oregon.

EXCEPTING AND RESERVING from the above described property that portion thereof conveyed by Frank Ferrari, et ux., to the State of Oregon by Deed recorded in Book 148, page 201, Deed Records of Klamath County, Oregon.

PARCEL 3

The Easterly 27.58 feet of Lots 2, 3, 4 and 5, Block 2 of the Supplemental Plat of the Westerly portion of Block 242, MILLS SECOND ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

EXCEPTING THEREFROM the Northeasterly strip deeded to the State of Oregon for the widening of South Sixth Street.

PARCEL 1

A parcel of land lying in Block 242, MILLS SECOND ADDITION to the City of Klamath Falls, Oregon, the said parcel being described as follows: Beginning at the intersection point of the Easterly line of said property and Southerly right of way line of the relocated Klamath Falls-Lakeview Highway (Sixth Street), which is 40 feet distant Southerly from (when measured at right angles to) the center line of said relocated highway; said point also being North 55° 50' 30" West a distance of 68.16 feet from the intersection of said Southerly right of way line and the Northerly right of way line of Shasta Way; thence North 55° 50' 30" West a distance of 132.09 feet, more or less, to the Northeasterly corner of that parcel of property conveyed to Mary F. Parks, in Deed Volume 161, page 193, Deed Records of Klamath County, Oregon; thence Southwesterly along the Easterly boundary of said Parks property 123.5 feet, more or less, to the Northerly right of way line of Shasta Way; thence South 89° 40' 15" East along said Northerly line a distance of 136.44 feet, more or less, to the Southeasterly corner of that parcel of property conveyed to J.J. Beardsley in Deed Volume 126, page 491, Deed Records of Klamath County, Oregon; thence Northeasterly 52.99 feet to the place of beginning, EXCEPT that portion conveyed to State of Oregon for highway purposes in Deed Volume 219, page 301, Deed Records of Klamath County, Oregon.

PARCEL 2

A parcel of land lying in Section 33, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and being a portion of that property described in that deed to the State of Oregon, by and through its State Highway Commission, recorded in Volume 147, page 125, Deed Records of Klamath County, Oregon; the said parcel being described as follows:

Beginning at the Southerly line of said property at a point 55 feet Easterly of the Southwest corner of said property; thence Westerly along said Southerly line 55 feet to said Southwest corner; thence Northerly along the Westerly of said property to a line parallel with and 40 feet Southwesterly of the center line of the Klamath Falls-Lakeview Highway; thence South 55° 50' 30" East parallel with said center line 47 feet; thence Southerly in a straight line to the point of beginning.

The centerline of the Klamath Falls-Lakeview Highway is referred to in that deed to the State of Oregon, by and through its State Highway Commission, recorded in Volume 219, page 301, Deed Records of Klamath County, Oregon.

Tax Account No: 3809-033DC-16000-000
Tax Account No: 3809-033DC-16100-000

Key No: 633238
Key No: 633247

EXHIBIT

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