

EB

EASEMENT

2009-004096

Klamath County, Oregon



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03/23/2009 03:02:11 PM

Fee: \$41.00

SPACE RESERVE
FOR
RECORDER'S

Between

Dilligaf Investments, LLC &
PremierWest Bank
P.O.Box 2869, White City, OR 97503

And

Sessler Metals, Inc.
6315 Climax Avenue
Klamath Falls, OR 97603

After recording, return to (Name, Address, Zip):

Sessler Metals, Inc.
6315 Climax Avenue
Klamath Falls, OR 97603

THIS AGREEMENT made and entered into on March 10, 2009, by and
between Dilligaf Investments, LLC and PremierWest Bank
hereinafter called the first party, and Sessler Metals, Inc.

, hereinafter called the second party, WITNESSETH:

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

~~Parcel 2 of LP-43-97-~~

A parcel of land situated in Section 3, Township 39 South, Range 9
East of the Willamette Meridian, Klamath County, Oregon, more
particularly described as follows: Parcel 2 of Land Partition 43-97,
filed October 8, 1997, in Klamath County, Oregon. TOGETHER WITH an
Easement dated August 28, 1997, recorded September 10, 1997 in
Volume M97 page 29569, Deed records of Klamath County, Oregon, and
an Easement dated August 18, 1997, recorded September 11, 1997 in
Volume M97 page 29720, Deed records of Klamath County, Oregon.

[which may be referenced herein as "Parcel 2"]

and has the unrestricted right to grant the easement hereinafter described relative to the real estate; and the second party is the record
owner of the following described real property in that county and state, to-wit:

~~Parcel 3 of LP-43-97-~~

A parcel of land situated in Section 3, Township 39 South, Range 9
East of the Willamette Meridian, Klamath County, Oregon, more particularly
described as follows: Parcel 3 of Land Partition 43-97, filed October 8,
1997, in Klamath County, Oregon. TOGETHER WITH an Easement dated
August 28, 1997, recorded September 10, 1997 in Volume M97 page 29569,
Deed records of Klamath County, Oregon, and an Easement dated August 18,
1997, recorded September 11, 1997 in Volume M97 page 29720, Deed records
of Klamath County, Oregon.

[which may be referenced herein as "Parcel 3"]

other good and valuable consideration

NOW, THEREFORE, in view of the premises and in consideration of \$ 1.00 and ✓ by the second party to the
first party paid, the receipt of which is acknowledged by the first party, it is agreed:

The first party hereby grants, assigns and sets over to the second party an easement, to-wit:

See attached Exhibit A regarding location and Exhibit B
regarding purpose, terms, conditions and limitations.

(Insert a full description of the nature and type of easement granted by the first party to the second party.)

(OVER)

The second party 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 second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate. The second party agrees to save and hold the first party harmless from any and all claims of third parties arising from the second party's use of the rights herein granted. The period of this easement shall be perpetual, always subject, however, to the following specific conditions, restrictions and considerations:

See attached Exhibit B, which is incorporated herein by this reference. To the extent the terms, conditions, or language of Exhibit B conflicts with the remainder of this Easement, Exhibit B shall control.

If this easement is for a right-of-way-over-or across the real estate, the center line of the easement is described as follows:-

See - Attached

and the second party's right of way shall be parallel with the center line and not more than 5 feet distant from described on Exhibit "A"

During the existence of this easement, 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, shall be the responsibility of (check one): ☐ the first party; ☒ the second party; ☐ both parties, share and share alike; ☐ both parties, with the first party responsible for _____% and the second party responsible for _____. (If the last alternative is selected, the percentages allocated to each party should total 100.) During the existence of this easement, 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. 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 all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors. IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

Donald McLaughlin, Managing Member of Dilligat Investments

FIRST PARTY

STATE OF OREGON, County of Jackson

This instrument was acknowledged before me on 3-17-09

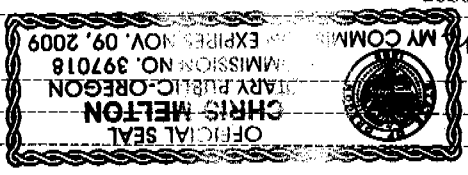
by Dan McLaughlin

This instrument was acknowledged before me on

by

as

of



Notary Public for Oregon

My commission expires 11-9-09

Charles S. Kujawski, President of Sessler Metals, Inc.

Karl K. Quirke, Secretary of Sessler Metals, Inc.

STATE OF OREGON, County of Klamath

This instrument was acknowledged before me on

by

This instrument was acknowledged before me on

by Charles S. Kujawski and Karl K. Quirke

as President and Secretary

of Sessler Metals, Inc.

Notary Public for Oregon

My commission expires Oct. 10, 2011

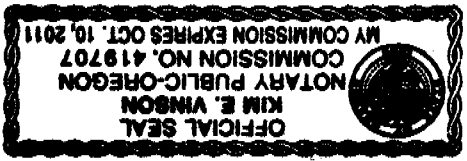


EXHIBIT "A"
TO EASEMENT

LEGAL DESCRIPTION
OF
10-FOOT WIDE UTILITY EASEMENT

A ten-foot wide strip of land over and across PARCEL 2 of LAND PARTITION 43-97 situated in the SW 1/4 SW 1/4 of Section 3, T 39 S R 9 E, W. M., Klamath County, Oregon and being five feet in width on each side of the following described centerline:

Beginning at a point on the West Line of said PARCEL 2 from which the Southwest Corner of said PARCEL 2 bears S 00° 09' 48" W, 46.00 feet; thence S 55° 18' 00" E, 37.21 feet; thence S 89° 14' 33" E parallel with the South Line of Said PARCEL 2, 298.35 feet to a point on the East Line of said PARCEL 2.

Note: At this time (March 6, 2009) there exists a 1-1/2" PVC water line that may not lie totally within the above-described 10-foot strip.

Parties Initials:

Dilligaf Investments, LLC
Premier West
Sessler Metals, Inc.

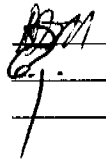
Handwritten initials "DM" and a signature over three horizontal lines.

EXHIBIT "B-1"
TO EASEMENT

Water Line Utility Maintenance Easement - Purpose, Terms and Limitations

Whereas a 1.5-inch PVC (material) pipe for the purpose of transmitting water is currently located underground at the approximate center of the easement strip described on Exhibit "A" located on Parcel 2, and said pipe is presently used to supply water to Parcel 3;

The easement herein is 1) to provide the owner of Parcel 3 with the right (according to the terms hereof) to receive water across such easement by means of that pipe and to provide access to the water supply pipe within the Easement strip for the purpose of the repair and maintenance of the existing water pipe and for no other purpose.

No other utility is authorized to be installed within the easement by Second Party and no other purpose for access to Parcel 2 is given to Second Party;

No alteration, upgrade, improvement or change of the water pipe, including, but not limited to the size, location, capacity or type of water supply pipe is provided for by this easement; only the repair and maintenance of the existing pipe in the existing location, unless the express prior consent in writing of First Party is obtained, which consent First Party has no obligation to give.

The use of the water supplied through the water pipe over the Easement strip is for the sole benefit of Parcel 3 and shall not inure to the benefit of or be used in any manner to or for the use or benefit of any other property, person or entity.

The use of the Easement shall be for reasonably necessary maintenance and repairs to the water supply pipe. Except as provided herein below, Second Party shall give prior reasonable written notice to First Party of any intent to make use of the Easement for access to do such repair and maintenance, and such access shall be at reasonable times and dates agreeable to First Party, which do not unreasonably interfere with First Party's other use of or operations on or concerning Parcel 2. All such access, maintenance and repair shall be conducted in a manner that minimizes interference with First Party's use of and operations on or concerning Parcel 2.

- A limited exception to the "prior written notice requirement" provided for in the previous paragraph shall apply in the case of an "emergency." An emergency shall be limited to a situation substantially similar to the following: a rupture in the water line that leaves Second Party without water to their property. In the event of an emergency, Second Party shall be provided prompt access to repair and alleviate the emergency condition, but the conduct of such repair shall otherwise conform to the other requirements stated herein, including minimization of interference with First Party's other reasonable use of Parcel 2.

EXHIBIT "B-2"
TO EASEMENT

All work, maintenance and repair work on the Easement shall be performed at Second Party's expense, shall be performed in a safe and workman-like manner, and shall conform to any and all applicable laws and regulations. Second Party and Parcel 3 shall indemnify and hold First Party and Parcel 2 harmless from any and all claims or liability of or arising out of the repair and maintenance of the Easement or the ownership, use or possession of the water pipe and water supply transmitted over the easement, and shall keep Parcel 2 free for any lien or encumbrance of, relating to or in any manner connected therewith.

If in the course of any such repair, maintenance or use of the Easement by, on behalf of or through Second Party, the condition of Parcel is altered, affected or damaged, then Second Party shall be responsible at Second Party's expense for returning Parcel 2 to its condition prior to such repair or maintenance. If in the course of any such repair, maintenance or use of the Easement by, on behalf of or through Second Party, any personal property upon Parcel 2 of First Party, or their guests, visitors, agents, tenants, assigns and the like is damaged or destroyed, then Second Party shall be responsible at Second Party's expense for the repair or replacement of such damaged or destroyed property.

It is understood and agreed that First Party may improve, upgrade and alter the surface material over the Easement Strip, including, but not limited to paving, repaving or resurfacing the ground over the easement and that such conduct shall not be a violation of the Easement of Second Party's rights hereunder. Thereafter Second Party's responsibility to return Parcel 2 to its condition prior to the repair/maintenance/use at Second Party's expense shall extend to the new and improved condition of the Easement made by First Party hereunder.