

2009-007858

Klamath County, Oregon



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Fee: \$56.00

AFTER RECORDING, RETURN TO

Melvin D. Ferguson
Attorney at Law
514 Walnut Avenue
Klamath Falls, Oregon 97601

AGREEMENT TO VACATE AND GRANT EASEMENT

Grantor: Marjorie May David as Personal Representative for the Estate of Lars
Holger Strid, Klamath County Circuit Court Case No. 0800903CV

Grantee: Melinda I. McGuire

Consideration: Mutual covenants

**AGREEMENT
TO
VACATE AND GRANT EASEMENT**

THIS AGREEMENT is made this 21 day of April, 2009 by and between Marjorie May David as Personal Representative for the Estate of Lars Holger Strid, Klamath County Circuit Court Case No. 0800903CV, 2810 Highland Bluff Drive, Red Bluff, California 96080 (hereafter referred to as "Grantor") and Melinda I. McGuire, 129 Hillside Avenue, Klamath Falls, Oregon 97601 (hereinafter referred to as "Grantee").

RECITALS

A. Grantor is the owner of that real property described on the attached Exhibit A which by reference is incorporated herein.

B. Grantee is the owner of that real property described on the attached Exhibit B which by reference is incorporated herein.

C. Grantee is entitled to an easement across Parcel I of that property owned by Grantor. Said easement is more specifically described in a deed from J. U. Hemmi to Karl M. Rose dated January 27, 1927 and recorded February 8, 1927 at Volume 75, page 166, Records of Klamath County, Oregon as follows:

"Also conveying herewith an easement for driveway by auto or team across the southerly and easterly side of said Lot 4 in said Block 11 of said addition, conveniently wide for such drive from the alley in the rear of said Lot 4, to be used only for a driveway."

D. In anticipation of a sale of that property owned by the Grantor, referenced as Exhibit A hereto, and in order to redefine the easement granted for the benefit of the property owned by Grantee, the parties hereto desire to extinguish or terminate that easement now benefitting Grantee which is referenced in Recital C above. In consideration thereof the parties desire that Grantor grant a new easement for the benefit of the property now owned by Grantee.

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WHEREFORE the parties agree as follows:

AGREEMENT

1. Termination.

Grantee releases and terminates that driveway easement granted under that document recorded February 8, 1927 at Volume 75, page 166, Records of Klamath County, Oregon and referenced in Recital C above.

2. Grant of Access Easement/Consideration.

In consideration of the release of said easement by Grantee, Grantor grants and conveys to Grantee a perpetual, nonexclusive, rent free easement (the "access easement") for ingress and egress over and across that property described on Exhibit A, attached hereto, from Old Fort Road on, over and through that portion of Grantor's property more specifically described as follows:

"Beginning at a 5/8" rebar, said point being the most Northeasterly corner of that property described in that deed recorded at Volume 75, page 166 Records of Klamath County, Oregon; thence, along the North line of said described property, North 89°41'04" West, 18.33 feet; thence, leaving said North line, South 00°18'56" West, 17.15 feet to the Northerly right-of-way line of Old Fort Klamath Road; thence, along said Northerly right-of-way line, North 47°13'15" East, 25.10 feet to the point of beginning.

Containing 157 square feet more or less."

3. Benefitting Party.

This easement is for the benefit of that property owned by Grantee, described on the attached Exhibit B, and her successor in interest.

4. Purpose.

The purpose of this access easement is to provide year round pedestrian and vehicular access to and from that property described on Exhibit B by Grantee and her successors in interest. Nothing in this access easement is intended to prohibit use of the access easement by Grantor or its successors in interest provided such use does not interfere with the use of the access easement by Grantee or her successors in interest.

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5. Improvements to Easement Property.

Grantor and Grantee and their successors in interest have the right, but not the obligation, to construct, at their sole expense, improvements upon the easement property to make the easement property suitable for vehicular and pedestrian use. Any improvements on the easement property made by either Grantor or its successors in interest or Grantee, or her successors in interest, shall be subject to the prior written approval of the opposite party.

6. Damage to Easement Property.

Grantor and its successor in interest and Grantee and her successors in interest shall be responsible for any damage they may cause to the easement property. The party responsible for such damage shall promptly make all needed repairs, restoring the easement property to its condition prior to the damage.

7. Governing Law.

This agreement shall be governed by the laws of the State of Oregon.

8. Easement Runs with Land.

This grant of easement shall run with the land and shall be binding on and inure to the benefit of the parties of this agreement and their respective successors in interest.

9. Entire Agreement.

This agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

10. Attorney Fees.

If any suit or action is instituted to interpret or enforce the provisions of this agreement, to rescind this agreement, or otherwise with respect to the subject matter of this agreement, the party prevailing on an issue will be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in the preparation, prosecution or defense of such suit or action as determined by the trial court, and if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

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11. Recording.

After the execution of this document by both parties it shall be recorded in the deed records of Klamath County, Oregon.

GRANTOR

GRANTEE

Estate of Lars Holger Strid

By:

Marjorie M. David

Marjorie May David
Personal Representative

Melinda I. McGuire

Melinda I. McGuire

STATE OF CALIFORNIA)

County of Butte)

) ss

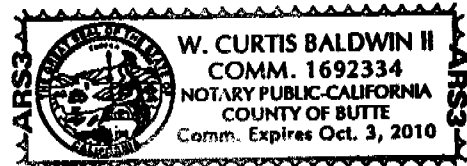
On April 20, 2009 before me, W. Curtis Baldwin II, Notary Public, personally appeared Marjorie May David who provided me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

W. Curtis Baldwin II



This area for official notarial seal

STATE OF OREGON)

County of Klamath)

) ss.

This instrument was acknowledged before me on ^{May}~~April~~ 19, 2009, by Melinda I. McGuire.



Vicki Swindler

Notary Public - State of Oregon

My commission expires: 10-8-09

Exhibit "A"

Real property in the County of Klamath, State of Oregon, described as follows:

PARCEL I

A PORTION OF LOTS 4, 5, 6, BLOCK 11, DIXON ADDITION TO THE CITY OF KLAMATH FALLS, IN THE COUNTY OF KLAMATH, STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST SIDE OF HILLSIDE AVENUE AT A POINT 36 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 6, BLOCK 11, DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON; RUNNING THENCE SOUTH ALONG THE EAST SIDE OF SAID HILLSIDE AVENUE A DISTANCE OF 37 FEET; THENCE EAST AND PARALLEL WITH THE NORTH LINE OF SAID LOT 6 TO THE NORTHWESTERLY LINE OF FORT KLAMATH ROAD TO A POINT WHERE SAID LINE INTERSECTS WITH A LINE DRAWN EAST FROM SAID POINT OF BEGINNING AND PARALLEL WITH THE NORTH LINE OF SAID LOT 6; THENCE WEST TO THE POINT OF BEGINNING, BEING A TRACT OF LAND FRONTING 37 FEET ON SAID HILLSIDE AVENUE AND EXTENDING ACROSS LOTS 6, 5 AND 4 OF SAID BLOCK 11 TO FORT KLAMATH ROAD, SITUATE IN SOUTHWEST QUARTER OF SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, TOGETHER WITH AN EASEMENT FOR A DRIVEWAY ACROSS THE SOUTHERLY AND EASTERLY SIDE OF SAID LOT 4, BLOCK 11, CONVENIENTLY WIDE FOR A DRIVE FROM THE ALLEY IN THE REAR OF SAID LOT 4.

PARCEL II

LOT 3 BLOCK 11, DIXON ADDITION TO KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL III

LOTS 4, 6 AND 7 IN BLOCK 12 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL IV

LOTS 8 AND 9 IN BLOCK 12 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON. EXCEPTING THEREFROM PORTIONS CONVEYED TO STATE OF OREGON BY AND THROUGH ITS STATE HIGHWAY COMMISSION, PORTION LOT 8 BY DEED RECORDED SEPTEMBER 22, 1944 IN VOLUME 169, PAGE 194; AND PORTION OF LOT 9 BY DEED RECORDED OCTOBER 04, 1944 IN VOLUME 169, PAGE 458, DEED RECORDS OF KLAMATH COUNTY, OREGON.

PARCEL V

LOTS 10 AND 11 IN BLOCK 12 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE RECORDS OF KLAMATH COUNTY, OREGON.

NOTE: This legal description was created prior to January 1, 2008.

Tax Parcel Number: R375356 and R375338 and R375436 and R375463 and R375472 and R375481 and R375490 and R375506 and R375515

EXHIBIT "B"

Real property in the County of Klamath, State of Oregon, described as follows:

ALL THAT PORTION OF LOTS 4, 5 AND 6 OF BLOCK 11 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, LYING WITHIN THE FOLLOWING BOUNDS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 4, RUNNING THENCE IN A STRAIGHT LINE WEST ALONG THE NORTH SIDES OF SAID LOTS 4, 5 AND 6 TO THE NORTHWEST CORNER OF SAID LOT 6; THENCE RUNNING SOUTH ALONG THE WEST LINE OF SAID LOT 6 A DISTANCE OF 36 FEET; THENCE RUNNING EAST AND PARALLEL WITH THE NORTH LINE OF SAID LOTS 4, 5 AND 6 UNTIL THIS LINE INTERSECTS WITH THE NORTHWESTERLY SIDE LINE OF FORT KLAMATH ROAD; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY SIDE OF FORT KLAMATH ROAD UNTIL THIS LINE INTERSECTS WITH THE WEST SIDE LINE OF THE ALLEY; THENCE NORTH ALONG THE WEST SIDE LINE OF SAID ALLEY A DISTANCE OF 30.5 FEET TO THE POINT OF BEGINNING.

Tax Parcel Number: R375347