

2009-011490

Klamath County, Oregon



08/27/2009 08:11:10 AM

Fee: \$36.00

Mark Ahalt
409 Pine St. Suite 304
K-Falls, OR 97601

DRAINAGE AGREEMENT

Returned @ Counter

This Drainage Agreement (this "Agreement") is made and entered into as of this 10 day of August, 2009, by and between **JBO Properties, LLC**, ("JBO") and the **State of Oregon**, acting by and through the Oregon University System, on behalf of the Oregon Institute of Technology ("OIT").

RECITALS

A. Immediately prior to the execution and recordation of this Agreement, JBO conveyed to OIT the real property that is depicted on Exhibit A attached hereto as Parcel 2, which real property is legally described as Parcel 2 of Land Partition 3-09 situated in the S1/2 of Section 17, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, according to the official plat thereof on file at the Office of the Klamath County Clerk (the "OIT Property"). The OIT Property consists of 104.69 acres.

B. JBO has retained ownership of the real property that is depicted on Exhibit A as Parcel 1, which real property is legally described as Parcel 1 of Land Partition 3-09 situated in the S1/2 of Section 17, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, according to the official plat thereof on file at the Office of the Klamath County Clerk (the "JBO Property"). The JBO Property consists of 30.9 acres.

C. As shown on Exhibit A, a natural drainage swale (the "Drainage Swale") is located along the common boundary between the JBO Property and the OIT Property.

D. The purpose of this Agreement is to assure JBO and OIT, and their respective successors, heirs and assigns, that the owners of the OIT Property and the JBO Property will be provided with access to, and allowed to use, both sides of the Drainage Swale for drainage and retention use if such is required for the development of their respective properties. The intention of the parties is that both property owners will use and share the Drainage Swale equitably without restricting either property owner to the use of only such property owner's side of the Drainage Swale.

NOW, THEREFORE, the parties agree as follows:

1. JBO and OIT agree that both property owners will be provided with access to the Drainage Swale for drainage and retention use if such is required for the development of their respective properties. Neither property owner will withhold access to and use of their side of the Drainage Swale.

2. If, at such time as either property is developed, a more precise legal description (e.g., metes and bounds description) is required, or if a local governmental jurisdiction requires an easement agreement to be recorded, both property owners agree to execute and record a more precise description and/or easement agreement provided that the cost of preparing and recording such additional documentation shall be paid solely by the property owner that is developing its property.

3. At the time either property owner is developing its property, such property owner shall have the right to add to the capacity and retention of a stormwater system in the Drainage Swale area provided that the entire cost of such addition shall be paid solely by the property owner that is developing its property.

4. Either party shall have the right to specifically enforce the terms of this Agreement by suit in equity.

5. If an action is instituted to enforce any term of this Agreement, the prevailing party shall recover from the losing party reasonable attorney fees incurred in such action as set by the trial court and, in the event of appeal, as set by the appellate courts.

6. This Agreement shall run with the land and all of the terms, provisions and conditions hereof shall be binding on and inure to the benefit of the heirs, successors and assigns of JBO and OIT.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

JBO:

JBO Properties, LLC

By: John O'Connor
John O'Connor 8-20-09

Its: Pres.
By: Rhonda G. O'Connor
Rhonda G. O'Connor 8-26-09
Its: Secretary

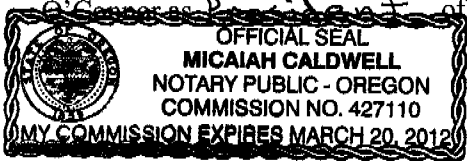
OIT:

The State of Oregon, acting by and through the Oregon University System, on behalf of the Oregon Institute of Technology

By: Mary Ann Zemke 8/10/09
Mary Ann Zemke
As: Interim VP of Finance and Administration

STATE OF OREGON)
) ss:
COUNTY OF Klamath)

This instrument was acknowledged before me on August 20, 2009, by John
O'Connor as President of JBO Properties, LLC.



Micaiah Caldwell
Notary Public for Oregon
My Commission Expires: 3-20-2012

STATE OF OREGON)
) ss:
COUNTY OF Klamath)

This instrument was acknowledged before me on August 26, 2009, by
Rhonda G. O'Connor as Secretary of JBO Properties, LLC.



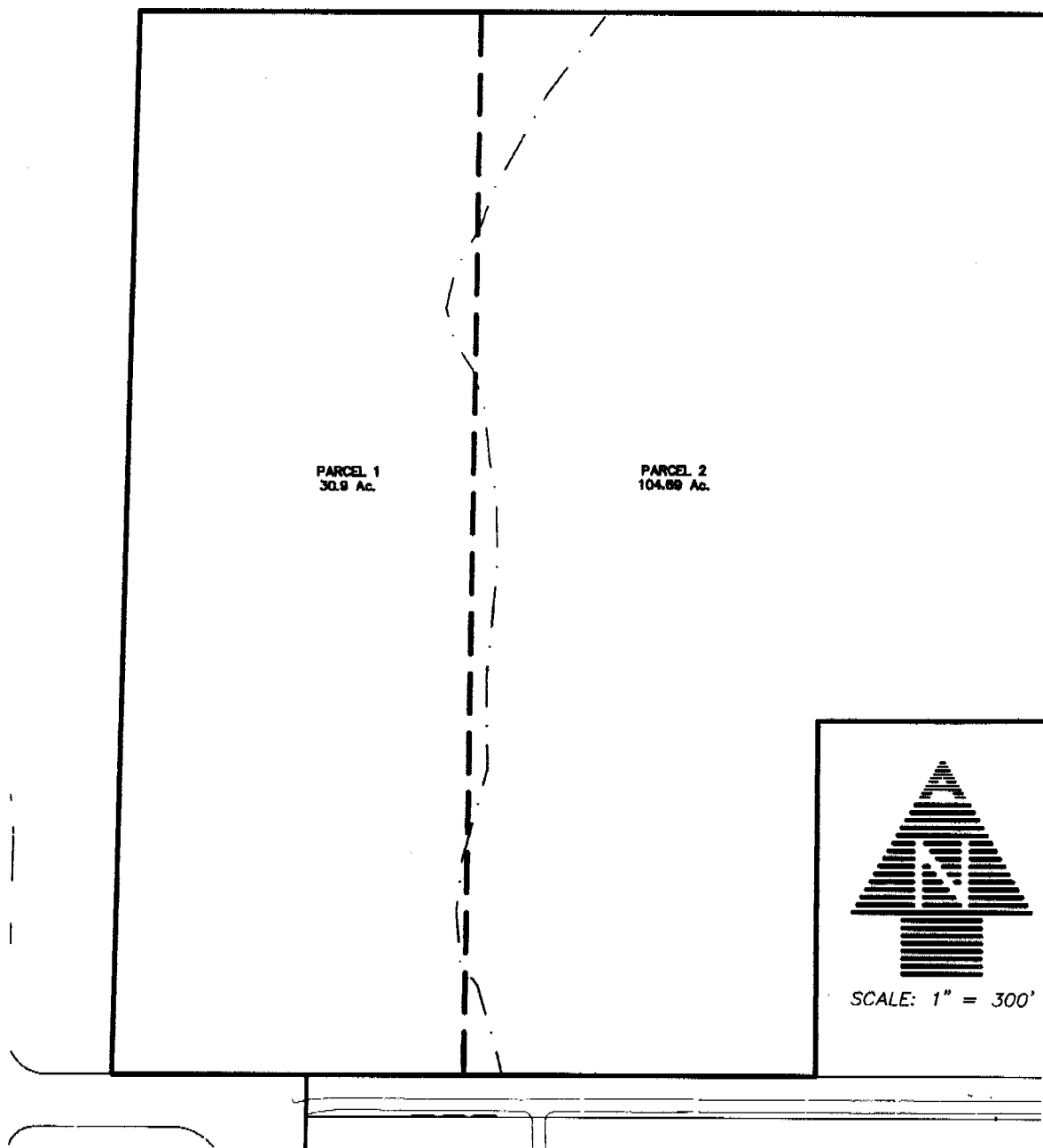
Micaiah Caldwell
Notary Public for Oregon
My Commission Expires: 3-20-2012

STATE of OREGON)
) ss:
COUNTY of Klamath)

This instrument was acknowledged before me on Aug. 10, 2009,
by Mary Ann Zemke, as Interim VP of Finance and Administration of the Oregon Institute of
Technology.



Kay Mc Cartty
Notary Public for Oregon
My Commission Expires: 07-05-12



ADKINS



CONSULTING
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

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APRIL, 2009

DRAINAGE

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