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12/30/2009 09:10:58 AM

Fee: \$47.00

GRANT OF ACCESS AND UTILITY EASEMENT

RECITALS:

1. **Robert G. Gunderson Jr.** is the owner of that real property described in that deed recorded on Microfilm Volume 2005, Page 63136, Klamath County Oregon deed records, referred to herein as the **Gunderson Property**

Kurt J. and Karla M. Straube and Gary and Angie McCartney, referred to herein as Straube/McCartney are the owners of that property described in that deed recorded on Document No. 2008-014478, Klamath County Oregon Deed Records, referred to herein as the **Straube/McCartney Property**.
3. A driveway access from Highway 58 serving the **Gunderson Property** and the **Straube/McCartney Property** exists in the southeast corner of the Gunderson Property.
4. **Straube/McCartney** desire an easement over a portion of the **Gunderson Property** as depicted in the attached Exhibit "A".

GRANT OF EASEMENT

1. **EASEMENT CREATED.** **OWNER** hereby grants a perpetual, nonexclusive easement to serve the **Straube/McCartney Property** over the following described area:

BEGINNING at a point on the east line of Section 18, Township 24 South, Range 7 East, Willamette Meridian, North 0°42'04" East 546.81 feet from the one-quarter corner between Section 17 and 18, Township 24 South, Range 7 East, Willamette Meridian, said point being on the northerly right of way line of State Highway 58; thence along said northerly right of way line North 53°05'51" West 59.26 feet; thence leaving said northerly line North 36°14'52" East 18.68 feet; thence North 77°00'28" East 38.04 feet to a point on the aforementioned east line of Section 18; thence along said east line South 0°42'04" West 59.21 feet to the point of beginning, all in Klamath County, Oregon.

2. **EASEMENT PROVISION.** The terms of this easement are as follows:

- 2.1 **PURPOSE.** The easement is for access, utilities and maintenance of the common driveway area serving the **Gunderson Property** and the **Straube/McCartney Property**.
- 2.2 **USE OF BURDENED PROPERTY.** The owner or occupiers of the **Gunderson Property** shall have the right to use their property, including the area described in the easement, for any purpose so long as the owner or occupiers do not interfere with the use of the easement as granted by this instrument.

No building, shrub, tree or other physical impediment shall be placed within the Easement area by any person in such a manner as to preclude its use as a common access, utility and maintenance area for said **Straube/McCartney Property**.

- 2.3 **PRIVATE GRANT.** The easement created by this instrument does not constitute a dedication or grant for public use.

constitute a dedication or grant for public use.

2.4 MAINTENANCE AND REPAIRS. The cost of normal maintenance or repair of the property within the easement area shall be apportioned equally between the owners or occupiers of said **Gunderson Property** and **Straube/McCartney Property**. The cost for exceptional or unusual maintenance or repair occasioned solely by the actions of the owner or occupier(s) of one parcel or any future divisions thereof only shall be borne exclusively by the owner or occupier(s) necessitating the repair or maintenance.


3. ENFORCEMENT. If any suit, action, or other proceeding or appeal therefrom, is instituted to enforce, compel or clarify any right or obligation created in this instrument, the prevailing party shall be entitled to receive from the adverse party, in addition to costs and disbursement, an award of reasonable attorney fees to be set by the trial or appellate court.

4. SUCCESSORS IN INTEREST, RECORDATION. The provision of this instrument touch and concern, and relate to the use of said **Gunderson Property** and **Straube/McCartney Property** and are intended to be covenants and restrictions running with the land. This document shall, therefore, be recorded in the Deed Records of Klamath County, Oregon.

All the provisions of this instrument, including the benefits and burdens, are binding on and enure to the heirs, successors, assigns, transferees, and personal representatives of all parties who own said **Gunderson Property** and **Straube/McCartney Property**.


Dated this 20th day of AUGUST, 2009.

GRANTOR


Robert G. Gunderson Jr.

STATE OF OREGON)
)ss
County of Klamath)

On this 20th day of AUGUST, 2009 personally appeared before me the within named Robert G. Gunderson Jr. and acknowledged the foregoing to be his voluntary act and deed.


Notary Public for Oregon

My Commission expires: 11/16/2010

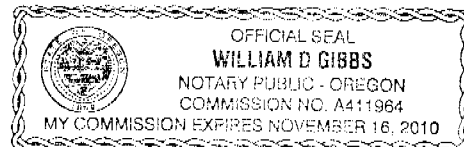


EXHIBIT "A"

24-07-18A TAX LOT 2100
GUNDERSON

SCALE: 1" = 30'



EASEMENT AREA
1648 SQ. FT.

C/L HIGHWAY 58

RIGHT OF WAY

EDGE ASPHALT

EDGE ASPHALT

RIGHT OF WAY

Existing Driveway

Existing Driveway

Existing Driveway

Existing Driveway

S 00°42'04" W 101.93'

24-07-17
TAX LOT 200
STRAUBE/MCCARTNEY

59.21'

N 53°05'51" W 59.26'

38.04'

N 77°00'28"E

N 36°14'52"E

18.68'

N 36°14'52"E

18.68'