

2011-005837

Klamath County, Oregon

**AFTER RECORDING RETURN TO:**

City Recorder  
500 Klamath Avenue  
Klamath Falls, OR 97601



00101664201100058370050057

05/11/2011 03:31:26 PM

Fee: \$57.00

**GRANTOR:**

Pelican Pointe Assisted Living, LLC  
615 Washburn Way  
Klamath Falls, OR 97603

**GRANTEE:**

City of Klamath Falls  
500 Klamath Avenue  
Klamath Falls, OR 97601

**EASEMENT FOR PEDESTRIAN ACCESS AND SIDEWALK**

**PELICAN POINTE ASSISTED LIVING, LLC**, Grantor, in consideration of the terms and conditions of this Easement, the sufficiency of which is hereby acknowledged, does hereby grant and convey to the **CITY OF KLAMATH FALLS, OREGON** (Grantee), a perpetual, exclusive easement for the purpose of public use of the pedestrian access and sidewalk around an existing willow tree off of Washburn Way and all necessary appurtenances in, into, upon, over, across and under a seven (7) foot wide strip of land legally described and depicted on Exhibit A, attached hereto and incorporated herein (the "**Easement Area**").

Additional terms of the Easement are as follows:

1. **Consideration.** Grantee has paid to Grantor the sum of \$0.00. The actual consideration for this transfer consists of or includes other property or value given which is part of the whole consideration. Grantee shall bear the costs of recording this Easement.

2. **Property Burdened.** The Easement Area lies within the real property owned by Grantor that is legally described on Exhibit B (the "**Property**"):

3. **Restrictions.** Grantor shall not erect any buildings or structures within the Easement Area that would inhibit access to Grantee's said pedestrian access and sidewalk or cause damage to it. Grantor retains the right to utilize the Easement Area for landscaping, except for trees that in Grantee's judgment would interfere with the already existing landscaping and pedestrian access and sidewalk. Grantor agrees that any other use of the Easement Area or the ingress/egress area permitted by Grantor shall not interfere with Grantee's use and enjoyment of those areas as authorized herein.

4. **Indemnification by Grantee.** Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings asserted by third parties against Grantor and Grantor's heirs, successors and assigns (including attorneys' fees, costs and expenses) that arise from or out of the Grantee's use of the Easement Area or the Property at any time.

5. **Entry.** This Easement shall include the right of ingress and egress over the Property and Grantor's adjoining lands for the purposes of Grantee's and the Public's use and enjoyment of this Easement and the perpetual right of Grantee and the Public to enter upon the Property at any necessary time.

6. **Easement Use and Maintenance of the Property.** Grantor agrees to use due care in any use of the Easement Area and in the construction, installation, repair, replacement and maintenance of the Easement Area as provided for herein so as not to unreasonably disturb Grantee's use of its property. Grantor agrees to maintain the Easement Area, as to the condition at the time of execution of this Easement, including, but not limited to, the replacement of any sod, landscaping, paving or other improvements that existed within the Easement Area.

7. This Easement, and the rights and obligations granted and imposed herein, shall run with the Property, including any division or partition of the Property. The rights, covenants and obligations of this Easement shall bind, burden and/or benefit all subsequent purchasers of the Property, the Grantee, and the heirs, successors and assigns of both.

IN WITNESS WHEREOF, We have hereunto set our hands this 20<sup>th</sup> day of APRIL, 2011.

GRANTEE:  
CITY OF KLAMATH FALLS

By: [Signature]  
Rick Whitlock, City Manager

Attest: [Signature]  
Elisa D. Olson, City Recorder

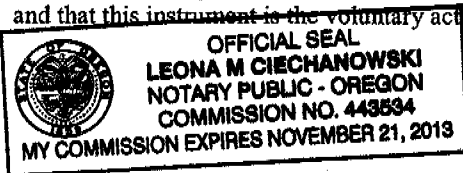
GRANTOR:  
PELECAN POINTE ASSISTED LIVING, LLC

By: [Signature]  
Name/Title: DALE C. BURKHARDT, MGR

BY: [Signature]  
NAME/TITLE: GERALD E. EVIN, MGR.

STATE OF OREGON )  
County of WASHINGTON ) ss.

On APRIL 26, 2011, personally appeared GERALD EVIN, who, being first duly sworn, did acknowledge that he/she is the MANAGER of Pelican Pointe Assisted Living, LLC, that the foregoing instrument was signed on behalf of Pelican Pointe Assisted Living, LLC, that he/she is authorized to execute this instrument and that this instrument is the voluntary act and deed of that entity.



WITNESS my hand and official seal.

[Signature]

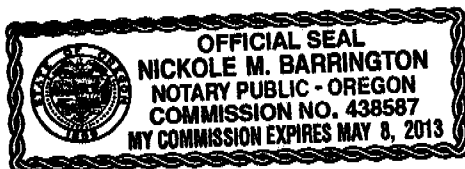
SIGNATURE OF NOTARY PUBLIC

Notary Public for OREGON

My Commission Expires: 11/21/2013

STATE OF OREGON )  
County of Klamath ) ss.

On the 3<sup>rd</sup> day of May, 2011, personally appeared Rick Whitlock and Elisa D. Olson, who, each being first duly sworn, did acknowledge that the former is the City Manager and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation, and that the foregoing instrument was signed on behalf of said municipal corporation, that this instrument is the voluntary act and deed of said municipal corporation.



WITNESS my hand and official seal.

[Signature]

SIGNATURE OF NOTARY PUBLIC

Notary Public for Oregon

My Commission Expires: 5-8-2013

### Easement Description

A strip of land 7.00 feet in width situated in the SW1/4 of the NW1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being 3.50 feet on each side of the following described centerline:

Beginning at a point on the east right of way line of Washburn Way from which a 5/8" iron rod marking the northwest corner of Parcel 1 of Land Partition 69-07 bears South 00°24'06" West 176.40 feet; thence 18.51 feet along the arc of a 43.17 foot radius curve to the right, the long chord of which bears North 36°17'18" East 18.37 feet; thence 20.64 feet along the arc of a 12.60 foot radius curve to the left, the long chord of which bears North 01°38'14" East 18.41 feet; thence 19.42 feet along the arc of a 53.56 foot radius curve to the right, the long chord of which bears North 34°54'36" West 19.31 feet, to the point of terminus on the east right of way line of Washburn Way, the sidelines of said strip to be extended or shortened to terminate on the east right of way line of Washburn Way, with bearings based on Klamath County Survey 7530.

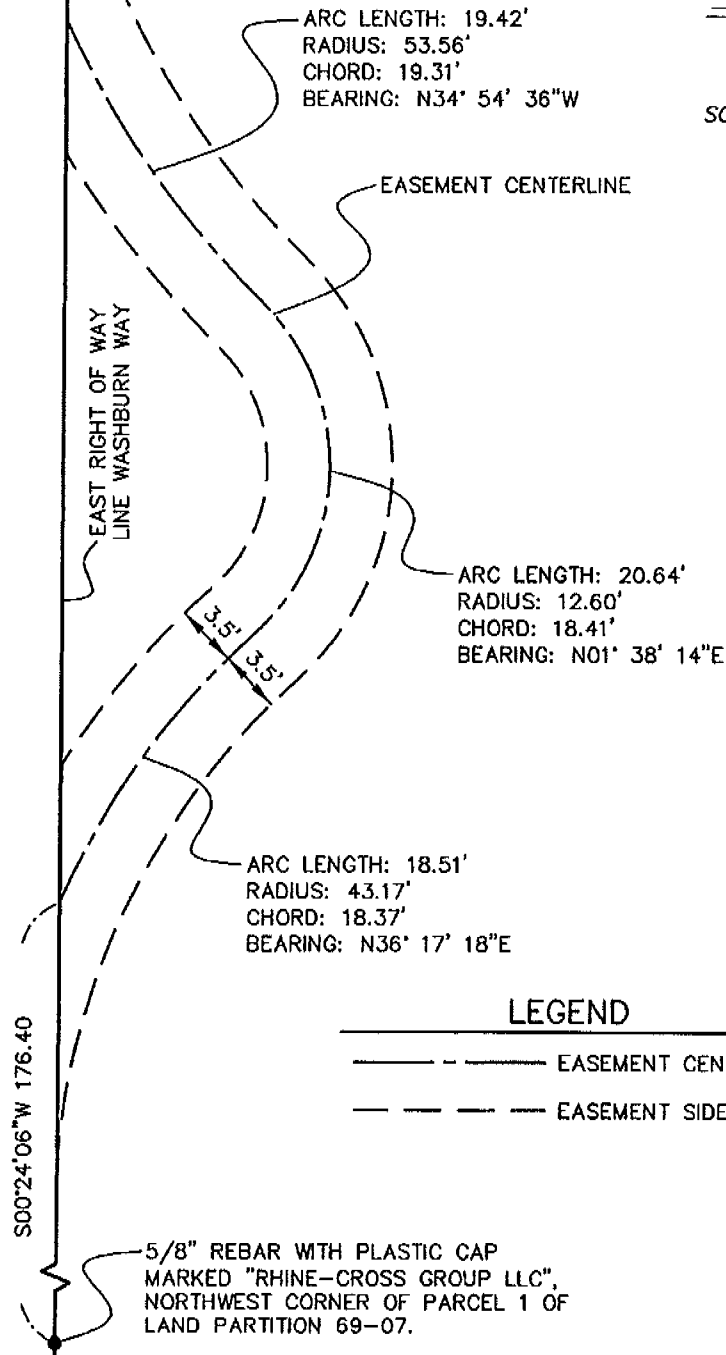
2964-01

2/17/10



SCALE: 1" = 10'

W A S H B U R N   W A Y



#### LEGEND

— — — — — EASEMENT CENTERLINE

— — — — — EASEMENT SIDELINES

**ADKINS**

SINCE 1983



CONSULTING  
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

2950 Shasta Way • Klamath Falls, Oregon 97603 • (541) 884-4666 • FAX (541) 884-5335  
Klamath Falls, Oregon

DECEMBER 2010

SIDEWALK EASEMENT

2964-01

PEDESTRIAN ACCESS  
EASEMENT  
EXHIBIT MAP

Exhibit B

PARCEL 1:

That portion of Tract 40B lying South and Westerly of the U.S.B.R. "A" Canal and Easterly of Washburn Way and all of Tract 40C, ENTERPRISE TRACTS, in the County of Klamath, State of Oregon.

EXCEPTING THEREFROM that portion deeded to Klamath County in Book 335, Page 87, tract deeded to Fred A. Lewis, et ux., in Book 336, Page 157, and parcel deeded to United States of America for canals and laterals recorded June 25, 1909 in Book 27, Page 236 and in Book 38 at Pages 209 and 210, all Deed Records of Klamath County, Oregon, and that portion of Tract 40C described as follows:

Beginning at a one-half inch iron pin on the East right-of-way line of Washburn Way, said point being North 00 degrees 20'00" East along the centerline of Washburn Way and along the West line of Section 34 a distance of 332.19 feet and South 89 degrees 33'03" East a distance of 30.00 feet from the 5/8-inch iron pin marking the West one-quarter corner of Section 34; thence North 00 degrees 20'00" East along the East right-of-way line of Washburn Way a distance of 285.00 feet to a one-half inch iron pin; thence South 89 degrees 33'03" East parallel with the North line of "Mills Gardens" subdivision a distance of 472.43 feet to a one-half inch iron pin; thence continuing South 89 degrees 33'03" East a distance of 29 feet, more or less, to the Westerly right-of-way line of the U.S.B.R. "A" Canal; thence Southeasterly along said Westerly line to the North line of "Mills Gardens" subdivision; thence North 89 degrees 33'03" West along the North line of "Mills Gardens" subdivision (South 89 degrees 45' West by said subdivision plat) a distance of 20.96 feet, more or less, to a two-inch iron pipe; thence continuing North 89 degrees 33'03" West along said subdivision line a distance of 606.40 feet to the point of beginning.

ALSO EXCEPTING THEREFROM any portion lying within the boundaries of Washburn Way.

PARCEL 2:

A tract of land situated in Tracts 40B and 40C, ENTERPRISE TRACTS, in the NW ¼ of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at an iron pin located North 0 degrees 24' West a distance of 792.2 feet from the two-inch pipe marking the initial point of "Mills Gardens" subdivision, said initial point being North 0 degrees 24' West a distance of 15.0 feet and North 89 degrees 45' East a distance of 30.0 feet from the West quarter corner of said Section 34 according to the officially recorded plat of said "Mills Gardens" subdivision; thence North 0 degrees 24' West a distance of 85.0 feet to an iron pin; thence North 89 degrees 36' East a distance of 100.0 feet to an iron pin; thence South 0 degrees 24' East a distance of 85.0 feet to an iron pin; thence South 89 degrees 36' West a distance of 100.0 feet, more or less, to the point of beginning.

EXCEPT THEREFROM that portion lying within the boundaries of Washburn Way.