

2011-006547

Klamath County, Oregon



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05/26/2011 03:43:14 PM

Fee: \$47.00

After recording return to:
Brandsness, Brandsness & Rudd, P.C.
411 Pine Street
Klamath Falls, OR 97601

Access Easement Agreement

This Easement Agreement (this Agreement) is entered into by the undersigned as of May 10, 2011.

A. Anita Reynolds (Grantor) is the owners of real property situated in Klamath County, Oregon, (hereafter referred to as Grantor's Property), and described as:

That portion of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 7, Township 38 South, Range 11, East of the Willamette Meridian, Klamath County, Oregon, lying Southeasterly of Highway 140.

Also that portion of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 7, Township 38 South, Range 11, East of the Willamette Meridian, Klamath County, Oregon, lying Southeasterly of Highway 140.

B. John Attard (Grantee) is the owner of real property situated in the County of Klamath, (hereafter referred to as Grantee's Property), and described as:

The W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ in Section 7, Township 38 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

C. The Grantee has been heretofore obtaining access to the Grantee's Property via an Unnamed Roadway.

D. Grantor and Grantee wish to set out and clarify their rights with regard to the Unnamed Roadway as it crosses Grantor's Property.

Now therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easement. Grantor hereby grants and conveys to Grantee a perpetual 30 foot non-exclusive easement (the Easement), in favor of and appurtenant to Grantee's Property over and across that strip of land as now exists on the land and will exist in the future, for that portion of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 7, Township 38 South, Range 11, East of the Willamette Meridian, lying Southeasterly of Highway 140. Also that portion of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 7, Township 38 South, Range 11, East of the Willamette Meridian lying Southeasterly of Highway 140.

2. Damage. Each party shall be solely responsible, at such party's sole cost and expense, to repair any damage to the Easement Area or the improvements thereto, caused by such party or its owners, employees, tenants, agents, contractors, customers, licensees, or invitees. Ordinary and reasonable use of the Easement Area will not constitute damage to the Easement Area.

3. Control. Grantor shall be solely responsible for the construction, maintenance, and repair of the Easement Area, subject to the Grantee's payment toward regular maintenance costs. If Grantor fails to promptly construct, maintain, or repair the Easement Area, and such failure prevents Grantee from receiving the benefits of this Agreement, Grantee shall be entitled to undertake such construction, repair, or maintenance, and collect one-half of the costs of such from Grantor. However, before undertaking any maintenance on the Easement Area, Grantee must give Grantor at least five days written notice.

4. Reasonable Use. At all times, each party shall use the Easement Area, and cause its owners, employees, tenants, agents, contractors, customers, licensees, and invitees to use the Easement Area, in such a way that such use: (a) is in accordance with all applicable rules, regulations, and standards of any applicable governmental agency or entity, and (b) does not unreasonably prevent, hinder, or interfere in any way with the free flow and passage of vehicular or pedestrian traffic in the Easement Area or the use of the Easement Area by others. In no event may the use of the Easement Area by Grantee or their owners, employees, tenants, agents, contractors, customers, licensees, or invitees (c) unreasonably interfere with Grantor's normal and customary use of Grantor's Property or any other adjacent property owned by Grantor, (d) create undue noise and dust. At all times, Grantee, or Grantee's owners, employees, tenants, agents, contractors, customers, licensees, or invitees may not exceed a speed of 10 miles per hour when travelling in the Easement Area.

5. Taxes. Grantor shall pay when due all real property taxes, assessments, and other charges related to the Easement Area.

6. Title. Grantor warrants that it has marketable fee simple title to the Grantor Property, subject to no encumbrances that will unreasonably interfere with Grantee's use of the Easement Area. Grantor shall obtain from any holder of a lien, mortgage, or other encumbrance affecting the Grantor Property, a subordination agreement in a commercially reasonable form and content to ensure that in the event of a foreclosure, the Easement will not be extinguished but shall survive and continue to encumber the Grantor Property.

7. Reservation. Grantor reserves all rights of ownership in and to Grantor's Property which are not inconsistent with the Easement, including without limitation the right to grant further easements on or over or across Grantor's Property. Grantor further reserves the right to use Grantor's Property for all uses not inconsistent with the Easement and the uses permitted herein.

8. Breach. In the event any party shall fail to perform its obligations under this Agreement, any other party may require such performance by suit for specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon law. In no event may this Agreement be terminated due to failure of a party to perform under this Agreement

9. Notices. Any demand or notice allowed under this Agreement shall be deemed given three days after it is mailed by United States First Class Mail with postage prepaid to the property owner of record at the address of record or at the time of delivery if any other method is used.

10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11. Attorney Fees. If any legal action or proceeding arising out of or relating to this Agreement is brought by any of the parties hereto, the prevailing party shall be entitled to receive from the opposing party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing party, at trial and on appeal.

GRANTOR

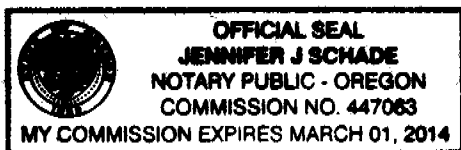
GRANTEE

By Anita Reynolds
Anita Reynolds

By John Attard
John Attard

STATE OF OREGON)
) ss.
County of Klamath)

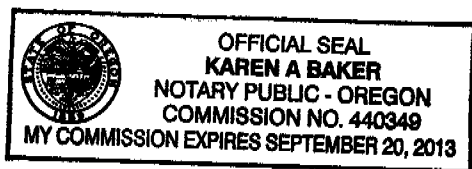
Personally appeared before me this 10th day of May 2011 the above-named Anita Reynolds and acknowledged the foregoing instrument to be her voluntary act and deed.



Jennifer Schade
Notary Public for Oregon
My Commission expires: 3-1-14

STATE OF OREGON)
) ss.
County of Klamath)

Personally appeared before me this 23 day of MAY 2011 the above-named John Attard and acknowledged the foregoing instrument to be his voluntary act and deed.



Karen A Baker
Notary Public for Oregon
My Commission expires: 9-20-2013