

2012-000491

Klamath County, Oregon



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01/19/2012 01:41:55 PM

Fee: \$72.00

Ridgewater's Name and Address:

Ridgewater Development, LLC
5115 Running Y Road
Klamath Falls, Oregon 97601

After recording return to:

Gibson, Dunn & Crutcher LLP
333 South Grand Avenue, 46th Floor
Los Angeles, CA 90071
Attn: Irene Hymanson

PERMANENT RELOCATABLE ACCESS EASEMENT AGREEMENT

WHEREAS, Ridgewater Development, LLC, a Delaware limited liability company, having an address at 5115 Running Y Road, Klamath Falls, Oregon 97601 ("**Ridgewater**") is the owner of Parcel 1 ("**Parcel 1**") and Parcel 2 ("**Parcel 2**") of Land Partition 16-11, recorded concurrently herewith, and more particularly described on Exhibit E-1, attached hereto (collectively, the "**Property**"). Ridgewater, in its capacity as owner of Parcel 1 is hereinafter referred to as "**Parcel 1 Owner**" and, in its capacity as owner of Parcel 2, is hereinafter referred to as "**Parcel 2 Owner**."

WHEREAS, Ridgewater is the owner of that certain real property more particularly described on Exhibit E-2, attached hereto (the "**PUD Land**"). Ridgewater, in its capacity as the owner of the PUD Land is referred to as "**PUD Owner**".

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

A. Parcel 1 Owner hereby GRANTS, BARGAINS, SELLS and CONVEYS to Parcel 2 Owner and PUD Owner, their respective successors and assigns, a permanent and perpetual, non-exclusive right of way and appurtenant access easement (the "**Parcel 1 Easement**") in, under, upon, about, over and through that portion of the property described on the attached Exhibit E-3, hereto and incorporated herein by reference, which lies over Parcel 1.

B. Parcel 2 Owner hereby GRANTS, BARGAINS, SELLS and CONVEYS to Parcel 1 Owner and PUD Owner, their respective successors and assigns, a permanent and perpetual, non-exclusive right of way and appurtenant access easement (the "**Parcel 2 Easement**"; together with the Parcel 1 Easement, the "**Easement**") in, under, upon, about, over and through that portion of the property described on the attached Exhibit E-3, hereto and incorporated herein by reference, which lies over Parcel 2.

1. The Easement granted hereby shall be limited to a roadway with a width of approximately 60 feet and, to the extent reasonably possible, generally following the existing cinder road on the Property located near the area described on Exhibit E-3 with the condition that the roadway may be relocated, as agreed upon by the then current owners of the Property and applicable government entities, to allow for future access between the PUD Land, Parcel 1 and/or Parcel 2, as applicable, and Lakeshore Drive.

2. The Easement granted hereby shall be for ingress and egress, to, from, upon and over the Property to provide access to and egress from the Property and the PUD Land.

3. The owners of the Property and the PUD Land may construct a permanent street or road on the Property.

4. None of Parcel 1 Owner, Parcel 2 Owner, or PUD Owner shall interfere with the others' construction of such permanent street or road within the Easement.

5. This Easement shall be amended only by a written and recorded instrument signed by the parties or the then current owners of Parcel 1, Parcel 2 and the PUD Land.

6. Each of Parcel 1 Owner, Parcel 2 Owner and PUD Owner covenant and agree that the servitudes, easements, rights, rights-of-way, privileges, agreements, covenants and restrictions and all other terms, conditions and provisions hereof shall run with the land and shall be binding upon their respective successors and assigns and all other persons or entities having or hereafter acquiring any right, title or interest in the Property or the PUD Land, and all other persons and entities claiming by, through or under Parcel 1 Owner, Parcel 2 Owner or PUD Owner and their respective successors and assigns and shall inure to the benefit of each owner thereof.

7. This Easement shall be governed by and construed and enforced in accordance with the laws of the State of Oregon.

8. This Easement shall not be effective until that certain Land Partition 16-11 is recorded in the Official Records of Klamath County, Oregon.

[Signatures Appear on the Following Page]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Permanent Relocatable Access Easement Agreement as of January 18, 2012.

PARCEL 1 OWNER:

RIDGEWATER DEVELOPMENT, LLC,
a Delaware limited liability company

By: 

Name: Derek Smith

Title: Senior Vice President

By: 

Name: Cary Kleinman

Title: Vice President and Secretary

PARCEL 2 OWNER:

RIDGEWATER DEVELOPMENT, LLC,
a Delaware limited liability company

By: 

Name: Derek Smith

Title: Senior Vice President

By: 

Name: Cary Kleinman

Title: Vice President and Secretary

PUD OWNER:

RIDGEWATER DEVELOPMENT, LLC,
a Delaware limited liability company

By: 

Name: Derek Smith

Title: Senior Vice President

By: 

Name: Cary Kleinman

Title: Vice President and Secretary

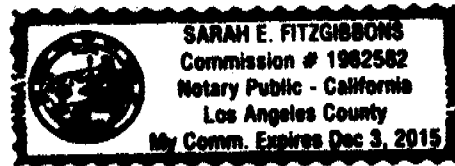
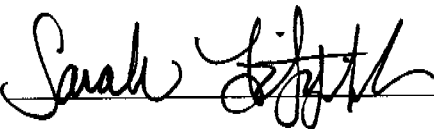
State of California
County of Los Angeles)

On January 18, 2012 before me, Sarah E. Fitzgibbons, Notary Public, personally appeared Derek Smith and Cary Kleinman, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the written instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons or the entity upon behalf of which the persons 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



(Seal)

EXHIBIT E-1

LEGAL DESCRIPTION OF THE PROPERTY

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

PARCELS 1 AND 2 OF LAND PARTITION 16-11, RECORDED CONCURRENTLY HERewith, BEING A REPLAT OF PARCEL 3 OF MINOR LAND PARTITION NO. 81-34 LOCATED IN THE SW 1/4 OF SECTION 15, SECTION 22, THE SW 1/4 OF SECTION 23, THE NW 1/4 & SW 1/4 OF SECTION 26, AND THE NE 1/4 OF SECTION 27, T37S R8E, W.M. KLAMATH COUNTY, OREGON.

EXHIBIT E-2

LEGAL DESCRIPTION OF THE PUD LAND

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

PARCEL 1:

LOTS 3, 4, 10, 16, 17, 19, 22, 23, 31, 33-37, 39-44, 46-51, 53, 55-60, 62-64, 67, 68, 71, 73, 77, 79, 81, 84, 85, 87-94, 105-107 AND 108 OF TRACT 1472, RIDGEWATER SUBDIVISION, PHASE 1, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL 2:

LOTS 115-133, 140, 141, 144-152, 173-179, 182-186, 188, 191, 192, 199-202, 224-227, 229, 240, 242-247, 249, 251, 252, 254-278, 280, 281 AND COMMON AREAS B, C, E AND F OF TRACT 1496, RIDGEWATER SUBDIVISION, PHASE 1, 1ST ADDITION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL 1 OF LAND PARTITION 39-10, BEING A RE-PLAT OF LOTS 153 THROUGH 172 OF TRACT 1496, RIDGEWATER SUBDIVISION, PHASE 1, 1ST ADDITION, SITUATED IN THE NW 1/4 OF SECTION 36, TOWNSHIP 38 SOUTH, RANGE 8 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

PARCEL 1 OF LAND PARTITION 38-10 BEING A RE-PLAT OF LOTS 203 THROUGH 223 OF TRACT 1496, RIDGEWATER SUBDIVISION, PHASE 1, 1ST ADDITION, SITUATED IN THE NE 1/4 OF SECTION 35, TOWNSHIP SOUTH, RANGE 8 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

PARCEL 3:

LOTS 1-19 OF TRACT 1507 BEING A REPLAT OF LOTS 109-114, 124-136, 142, 193, 198, COMMON AREA A AND COMMON AREA D OF TRACT 1496, RIDGEWATER SUBDIVISION, PHASE 1, 1ST ADDITION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL 4: (THE TIMBERS, PHASE 1)

LOTS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 thru 26, 27, 28, 29, 30, 31, 32, 33, 34, AND COMMON AREA A TRACT 1506, THE TIMBERS, PHASE 1, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL 5: (FUTURE DEVELOPMENT RW)

IN TOWNSHIP 38 SOUTH, RANGE 8 EAST OF THE WILLAMETTE MERIDIAN,
KLAMATH COUNTY, OREGON.

SECTION 26: THE SOUTHEAST QUARTER, SOUTH HALF NORTHEAST QUARTER,
NORTHWEST QUARTER NORTHEAST QUARTER.

SECTION 35: ALL THAT PORTION OF SECTION 35 LYING NORTHEASTERLY OF
HIGHWAY 140.

EXCEPTING THEREFROM TRACT 1472, RIDGEWATER SUBDIVISION, PHASE 1,
ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE
COUNTY CLERK OF KLAMATH COUNTY, OREGON.

ALSO EXCEPTING THEREFROM TRACT 1496, RIDGEWATER SUBDIVISION, PHASE 1,
1ST ADDITION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE
OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL 6: (FUTURE DEVELOPMENT RW)

IN TOWNSHIP 38 SOUTH, RANGE 8 EAST OF THE WILLAMETTE MERIDIAN,
KLAMATH COUNTY, OREGON.

SECTION 26: THE SOUTHWEST QUARTER LYING NORTHEAST OF HIGHWAY 140.

PARCEL 7: (FUTURE DEVELOPMENT RW)

IN TOWNSHIP 38 SOUTH, RANGE 8 EAST OF THE WILLAMETTE MERIDIAN,
KLAMATH COUNTY, OREGON.

SECTION 25: SOUTH HALF SOUTHWEST QUARTER, NORTHWEST QUARTER
SOUTHWEST QUARTER, SOUTHWEST QUARTER NORTHWEST QUARTER, THAT
PORTION OF THE SOUTHEAST NORTHWEST AND NORTHEAST SOUTHWEST LYING
SOUTHERLY AND WESTERLY OF LAKESHORE GARDEN SUBDIVISION.

SECTION 36: NORTHWEST QUARTER AND THAT PORTION SOUTHWEST QUARTER
LYING NORTHEASTERLY OF HIGHWAY 140.

EXCEPTING THEREFROM TRACT 1472, RIDGEWATER SUBDIVISION, PHASE 1,
ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE
COUNTY CLERK OF KLAMATH COUNTY, OREGON.

ALSO EXCEPTING THEREFROM TRACT 1496, RIDGEWATER SUBDIVISION PHASE 1,
1ST ADDITION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE
OFFICE OF THE COUNTY CLERK, KLAMATH COUNTY, OREGON.

EXHIBIT E-3

LEGAL DESCRIPTION OF: ACCESS EASEMENT

8/04/2011

A strip of land being 60 feet wide, 30 feet on each side of the following described centerline, said strip of land situated in the E1/2 of the E1/2 of Section 22, the SW1/4 of the SW1/4 of Section 23 and the NW1/4 of Section 26, all in Township 38 South, Range 08 East of the Willamette Meridian; said centerline described as follows:

Commencing at the north ¼ corner of said Section 26, Thence, along the west boundary line of Tract 1472, RidgeWater Subdivision Phase 1, a duly recorded Subdivision, South 00°45'53" West, 1896.42 feet to the TRUE POINT OF BEGINNING; Thence, leaving said west line, North 32°55'25" West, 160.44 feet; Thence North 35°23'54" West, 327.06 feet; Thence North 40°02'57" West, 630.93 feet; Thence North 38°56'02" West, 523.50 feet; Thence North 40°00'21" West, 399.34 feet to a point of curvature; Thence along the arc of a 500 foot radius curve to the left, through a central angle of 15°53'13" (the long chord of which bears North 47°56'57" West, 138.20 feet) an arc distance of 138.64 feet; Thence North 55°53'34" West, 495.25 feet; Thence North 62°07'07" West, 223.08 feet; Thence North 66°05'53" West, 486.34 feet; Thence North 68°46'07" West, 183.21 feet to a point of curvature; Thence along the arc of a 108.59 foot radius curve to the left, through a central angle of 114°39'58" (the long chord of which bears South 53°53'54" West, 182.82 feet) an arc distance of 217.32 feet; Thence South 04°24'06" East, 104.04 feet to a point of curvature; Thence along the arc of a 133.20 foot radius curve to the right, through a central angle of 122°32'36" (the long chord of which bears South 56°52'12" West, 233.60 feet) an arc distance of 284.89 feet; Thence North 54°36'02" West, 220.40 feet; Thence North 41°12'16" West, 381.81 feet to a point of curvature; Thence along the arc of a 1019.70 foot radius curve to the right, through a central angle of 50°21'12" (the long chord of which bears North 16°01'40" West, 867.59 feet) an arc distance of 896.15 feet to a point of compound curvature; Thence along the arc of a 3186.15 foot radius curve to the right, through a central angle of 19°41'51" (the long chord of which bears North 18°59'52" East, 1089.96 feet) an arc distance of 1095.34 feet to a point of reverse curvature; Thence along the arc of a 500.00 foot radius curve to the left, through a central angle of 38°04'50" (the long chord of which bears North 09°48'23" East, 326.23 feet) an arc distance of 332.31 feet; Thence North 09°14'02" West, 302.24 feet; Thence North 04°32'42" West, 328.72 feet; Thence North 07°37'01" West, 265.85 feet to a point of curvature; Thence along the arc of a 75.86 foot radius curve to the right, through a central angle of 27°57'08" (the long chord of which bears North 11°10'32" East, 36.64 feet) an arc distance of 37.01 feet to a point on the southerly right-of-way line of Lakeshore Drive and the terminus of said strip of land; said point bears South 42°27'07" East, 4914.69 feet to from said north ¼ corner of Section 26.

Sidelines of said strip are to lengthen or shorten to the west line of said RidgeWater Subdivision and the southerly right-of-way line of said Lakeshore Drive.

Contains 11.07 acres, more or less.

