

Michael Spencer
Return to County

2012-003212
Klamath County, Oregon



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03/28/2012 09:23:26 AM

Fee: \$57.00

RECORDING COVER SHEET

ORS 205.234

This cover sheet has been prepared by the person presenting the attached instrument for recording. Any error in this cover sheet DOES NOT affect the transaction(s) contained in the instrument itself.

1. AFTER RECORDING, RETURN TO:

Required by ORS 205.180(4) & 205.238

Boivin, Uerlings & Dilaconi, P.C.
Attn: James R. Uerlings
803 Main Street, Suite 201
Klamath Falls, OR 97601

2. TITLE(S) FOR THE TRANSACTION(S):

Required by ORS 205.234(1)(a)

Agreement for Reciprocal Access Easement

3. DIRECT PARTY / GRANTOR(S):

Name(s) and Address(es)

Required by ORS 205.234(1)(b)

Quinn Jackson
2545 Watson Street
Klamath Falls, OR 97603

4. INDIRECT PARTY / GRANTEE(S):

Name(s) and Address(es)

Required by ORS 205.234(1)(b)

Donald William Eck
Trustee of the Donald William Eck Trust
4252 Clinton Avenue
Klamath Falls, OR 97603

**5. UNTIL A CHANGE IS REQUESTED,
ALL TAX STATEMENTS SHALL BE
SENT TO:**

Name(s) and Address(es)

For an instrument conveying or contracting to convey fee title, the information required by ORS 93.260

Donald William Eck
Trustee of the Donald William Eck Trust
4252 Clinton Avenue
Klamath Falls, OR 97603

6. TRUE AND ACTUAL CONSIDERATION PAID:

\$500.00

AGREEMENT FOR RECIPROCAL ACCESS EASEMENT

Grantor: Quinn Jackson
2545 Watson Street
Klamath Falls, OR 97603

Grantee: Donald William Eck
Trustee of the Donald William Eck Trust
4252 Clinton Avenue
Klamath Falls, OR 97603

After recording, return & send tax statements to:
Donald William Eck
Trustee of the Donald William Eck Trust
4252 Clinton Avenue
Klamath Falls, OR 97603

Consideration: \$500.00

THIS EASEMENT AND MAINTENANCE AGREEMENT (the "Agreement") is made as of this ____ day of March, 2012, by and between Quinn Jackson (the "Grantor") and Donald William Eck, as Trustee of the Donald William Eck Trust (the "Grantee"). The true and actual consideration paid is \$500.00.

RECITALS

- 1) Grantor owns the real property (hereinafter "Parcel 1") located at 2545 Watson Street, Klamath Falls, Oregon, more particularly described as follows:

Parcel 2 of Land Partition 23-97 filed in December 16, 1997 in the office of the County Clerk of Klamath County, Oregon being in Lot 29 of Piedmont Heights, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.
- 2) Grantee owns certain real property (hereinafter "Parcel 2") described as follows:

The East 134 feet of Lot 26, Piedmont Heights, in the County of Klamath, State of Oregon.
- 3) There currently exists a private paid driveway, as diagramed on the attached Exhibit A (the "Drive") that runs across the southerly boundary of Parcel 1 and provides a portion of Grantee's access to Parcel 2. Grantee wishes to obtain easements for vehicular and pedestrian access over and across the Drive in order to access Parcel 2. Grantor is willing to grant the desired easement on the terms and conditions described in this Agreement.

THEREFORE, the parties agree as follows:

AGREEMENT

1. Grant of Easement.

1.1 Grant by Grantor to Grantee. In consideration of the payment by Grantee to Grantor of \$500.00, the Grantor grants to Grantee a nonexclusive easement for pedestrian and vehicular ingress and egress to Parcel 2 over that portion of the Drive that is located on the Grantor's Parcel 1 in the location where it currently exists, as shown on Exhibit 1, and for a non-exclusive easement for underground utilities to Parcel 2. The

easement is granted as a right appurtenant to Parcel 2, that shall run with the land. The easement is granted for the benefit of Grantee and its successors and assigns, subject to the restrictions, covenants and charges set forth in this Agreement.

2. Rights and Restrictions.

2.1 Grantee ("Permitted User") will have the nonexclusive right to use the easement described in this Agreement for vehicular and pedestrian ingress and egress only to Parcel 2 and for underground utilities to Parcel 2. The Grantee, his heirs, successors and assigns, shall not use the Drive for commercial vehicles of any kind, except for occasional use by delivery or construction vehicles. Nothing contained herein shall, in any way, limit Grantor's ownership or use of the Drive in any manner, nor shall the installation of any underground utility impede or in any way interfere with Grantor use of the Drive, access to his Parcel nor the use or enjoyment of his Parcel.

2.2 As further covenants, none of the parties, their heirs, successors or assigns, shall:

2.2.1 Take or permit any action which causes the easement to be dedicated for public use or maintenance; or

2.2.2 Locate or permit any fence or other barrier which would unreasonably prevent or obstruct the use or the passage of pedestrian or vehicular traffic for the purposes herein permitted within or across the easement; provided, however, that the foregoing provisions shall not prohibit maintenance activities or landscaping, berms or planters, nor limited curbing or other forms of traffic controls by Grantor.

2.3 The parties, their heirs, successors and assigns, shall equally share in the costs to maintain, repair or replace the easement in the same safe, attractive condition and state of repair as it currently is and in compliance with all applicable laws, rules, covenants, conditions, regulations, orders and ordinances, and this Agreement. Such maintenance, repair and/or replacement shall include, but not be limited to:

2.3.1 Cleaning, paving, repaving, sealing and patching;

2.3.2 The installation and maintenance of proper draining;

2.3.3 The removal of rubbish;

2.3.4 All property taxes and assessments; and,

2.3.5 The providing of insurance for the easement area.

Provided, that should any of the aforementioned costs and/or expenses be incurred due to the intentional or reckless conduct of one party, their heirs, successors and assigns, or the other, or due to delivery and/or construction activities on Parcel 1 and/or Parcel 2 (including installation of underground utilities) that alters, damages or prematurely accelerates or causes the need for repairs or repaving of the easement, that party, their heirs, successors and assigns, shall solely be responsible for paving, repair, patching and/or other such maintenance and the payment thereof.

2.4 No party, their heirs, successors or assigns, shall place, locate or permit any obstacle, vehicle, portable structure, construction equipment, or any other item on the easement area without written consent of both parties.

3. General Provisions.

3.1 No breach of the provisions of this Agreement shall defeat or render invalid the lien or any mortgage(s) or deed(s) of trust now or hereunder executed which affects the parties' respective interests pursuant

to this Agreement; provided, however, that upon any sale under foreclosure of any mortgage(s) or under the provisions of deed(s) of trust, any purchaser at such sale and its successors and assigns shall hold any and all property interest so purchased subject to all of the provisions of this Agreement.

3.2 The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that owner may have hereunder, or at law or equity, and shall not be deemed a waiver of any subsequent breach or default in any such terms, covenants or conditions.

3.3 In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sums, as the court may adjudge reasonable, as attorney's fees at trial, on appeal of such suit or action and on any petition for review and/or in any bankruptcy proceeding, in addition to all other sums provided by law.

3.4 Each party shall defend, indemnify and hold the other harmless from any claim, loss, liability or expense (including reasonable attorney's fees) arising out of or in connection with the parties' own negligence or failure to comply with the terms, restrictions and provisions of this Agreement.

3.5 This Agreement supersedes and replaces all written and oral agreements previously made or existing with respect to the matters set forth above.

3.6 This Agreement will be governed and construed in accordance with the laws of the State of Oregon. Any suit or action brought to enforce the terms and provisions of this Agreement shall be brought exclusively in the Circuit Court for the State of Oregon for the County of Klamath.

3.7 Notices given under this Agreement shall be in writing and will be deemed given and effective when delivered in person to the other party three (3) business days after being deposited in the U.S. mail, postage prepaid and sent by registered or certified mail to the other parties' address for notices. The address of each party's parcel shall be used for each party's respective notice address. Any notice under this Agreement may be given by physical delivery.

3.8 Except as otherwise set forth herein, this Agreement may not be modified, amended or terminated except by the written agreement of the parties. A party may waive one or more of its rights under this Agreement, in writing signed by the party, and such writing need not be recorded. Otherwise, no modification or amendment of any provision of this Agreement shall be binding unless signed by both parties and recorded in the real property records for Klamath County.

3.9 The covenants, conditions and obligations created hereunder shall be perpetual, shall run with the land and shall be binding upon the parties, their heirs, successors and assigns.

3.10 Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Parcels, or of any portion thereof, to the general public or for any public use or purpose whatsoever.

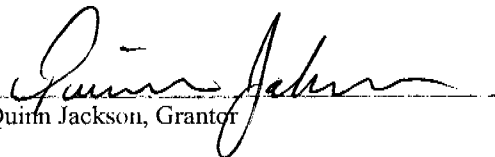
3.11 Whenever performance is required of any party hereunder, that party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress by reason of fire or other casualty, or any cause beyond the reasonable control of the party, that the time for performance, as herein specified shall be appropriately extended by the amount of delay time actually caused. The provisions of this section shall not operate to excuse any of the parcel owners from the prompt payment of any monies required by this Agreement.

3.12 Invalidation of any provision contained in this Agreement, or of the application thereof to any party by judgment or court order shall, in no way, affect any of the other provisions hereof or the application thereof to any other party and the same shall remain in full force and affect.

3.13 Time is of the essence of this Agreement.

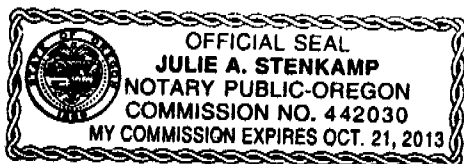
3.14 Each party shall, in a timely fashion, take all actions and execute with acknowledgment, or affidavit (if required) any and all documents, amendments and other writings, including but not limited to amendments to this Agreement and grants of additional easements, that may be reasonable and necessary or proper to achieve the purposes and objectives of this Agreement.

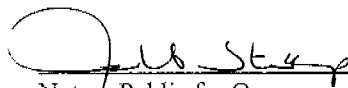
IN WITNESS THEREOF, the parties hereby execute this Agreement.



Quinn Jackson, Grantor

STATE OF OREGON)
) ss
County of Klamath)

This instrument was acknowledged before me this 9th day of March, 2012 by Quinn Jackson.

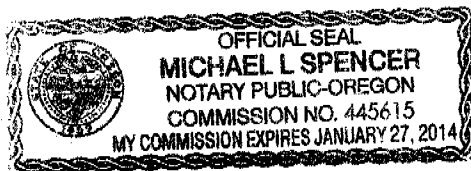


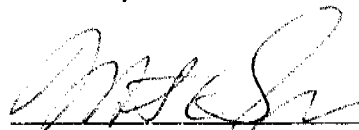

Notary Public for Oregon
My Commission expires: 10/21/2013


Donald William Eck, as Trustee for the
Donald William Eck Trust, Grantee

STATE OF OREGON)
) ss
County of Klamath)

This instrument was acknowledged before me this 8 day of November, 2012 by Donald William Eck, as Trustee for the Donald William Eck Trust.




Notary Public for Oregon
My Commission expires: 1-27-2014