

2013-005005
Klamath County, Oregon



00135527201300050050070078

05/08/2013 02:53:24 PM

Fee: \$67.00

TRUST DEED

TRAIN MOUNTAIN HOLDINGS B, LLC

P.O. BOX 742

LACONNER, WA 98257

Grantor's Name and Address

4649 Hastings St.
Burnaby, V5C 2K6 CANADA

DOUGLAS VANDERSPEK

Beneficiary's Name and Address

After recording, return to (Name, Address, Zip)

Justin Throne, Attorney

250 Main St

Klamath Falls, OR 97601

SPACE RESERVED FOR RECORDERS USE and/or as fee/file/instrument/microfilm/reception No. _____, Records of this County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____, Deputy.

THIS TRUST DEED, made on May 6, 2013, between
TRAIN MOUNTAIN HOLDINGS B, LLC, an Oregon limited liability company

AMERITITLE OF KLAMATH FALLS

, as Grantor,

, as Trustee, and

DOUGLAS VANDERSPEK

, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee, in trust, with power of sale, the property in
KLAMATH County, Oregon, described as:

SEE EXHIBIT 1

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof, and all fixtures now or hereafter attached to or used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of \$464,000 pursuant to the terms contained in the Promissory Note which are incorporated as Ex. 2 Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest, if not sooner paid, to be due and payable on APRIL 30, 2016.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the property, or all (or any part) of grantor's interest in it without first obtaining the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable. The execution by grantor of an earnest money agreement** does not constitute a sale, conveyance or assignment.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement thereon; and not to commit or permit any waste of the property.
2. To complete or restore promptly and in good and habitable condition any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require, and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and other hazards, as the beneficiary may from time to time require, in an amount not less than \$ \$250,000, written by one or more companies acceptable to the beneficiary, with loss payable to the latter. All policies of insurance shall be delivered to the beneficiary as soon as issued. If the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep the property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property before any part of such taxes, assessments and other charges becomes past due or delinquent and promptly deliver receipts therefor to beneficiary. Should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof. For such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described. All such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and shall constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust, including the cost of title search, as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation, and trustee and attorney fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed or any suit or action related to this instrument, including but not limited to its validity and/or enforceability, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney fees. The amount of attorney fees mentioned in this paragraph in all cases shall be fixed by the trial court, and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking which are in excess of the amount required to pay all reasonable costs, expenses and attorney fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby. Grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation promptly upon beneficiary's request.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 86A.505 to 86A.506.

*WARNING: 12 USC 1701j-3 regulates and may prohibit coverage of this option.

**The publisher suggests that such an agreement address the issue of obtaining beneficiary's consent in complete detail.

67 AMT

9. At any time, and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; or (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may, at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder, or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in grantor's performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such event, the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.753 may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed, together with trustee and attorney fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of: (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney; (2) to the obligation secured by the trust deed; (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority; and (4) the surplus, if any, to the grantor, or to any successor in interest entitled to such surplus.

16. Beneficiary may, from time to time, appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants to and agrees with the beneficiary and the beneficiary's successors in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto, except as may be set forth in any addendum or exhibit attached hereto, and that the grantor will warrant and forever defend the same against all persons whomsoever.

WARNING: Unless grantor provides beneficiary with evidence of insurance coverage as required by the contract or loan agreement between them, beneficiary may purchase insurance at grantor's expense to protect beneficiary's interest. This insurance may, but need not, also protect grantor's interest. If the collateral becomes damaged, the coverage purchased by beneficiary may not pay any claim made by or against grantor. Grantor may later cancel the coverage by providing evidence that grantor has obtained property coverage elsewhere. Grantor is responsible for the cost of any insurance coverage purchased by beneficiary, which cost may be added to grantor's contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date grantor's prior coverage lapsed or the date grantor failed to provide proof of coverage. The coverage beneficiary purchases may be considerably more expensive than insurance grantor might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are (choose one):*

(a) primarily for grantor's personal, family or household purposes (see Important Notice below).

(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein.

In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may each be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument the day and year first written above.

***IMPORTANT NOTICE:** Delete, by lining out, whichever warranty (a) or (b) is inapplicable. If warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary **MUST** comply with the Act and Regulation by making required disclosures. For this purpose use Stevens-Ness Form No. 1319, or the equivalent. If compliance with the Act is not required, disregard this notice.

see attached Grantor Signature/Notary page

STATE OF OREGON, County of Province of Ontario
This instrument was acknowledged before me on MAY 6th, 2013
by JOSEPHAS VANDERSPER
This instrument was acknowledged before me on _____
by _____
as _____
of _____

Notary Public for Ontario, CANADA
My commission expires _____

REQUEST FOR FULL RECONVEYANCE (To be used only when obligations have been paid.)

TO: _____ Trustee
The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed, the estate now held by you under the same. Mail the reconveyance and documents to _____

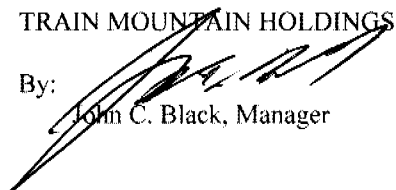
DATED

Do not lose or destroy this Trust Deed OR THE NOTE which it secures.
Both should be delivered to the trustee for cancellation before reconveyance is made.

Beneficiary

TRAIN MOUNTAIN HOLDINGS B, LLC, an Oregon limited liability company

By:


John C. Black, Manager

State of Oregon
County of KLAMATH

This instrument was acknowledged before me on May 8, 2013 by John C. Black, Manager of TRAIN MOUNTAIN HOLDINGS B, LLC, an Oregon limited liability company.




(Notary Public for Oregon)

My commission expires 11/16/2015

EXHIBIT 1

Parcel 1:

That portion of the SE1/4 of the SW1/4 of Section 20, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, lying Southerly of State Highway #422; EXCEPT the West 660 feet thereof. AND EXCEPT that portion conveyed to the State of Oregon for highway purposes by deed recorded July 17, 2002 in Volume M02 on Page 40625, records of Klamath County, Oregon.

Parcel 4:

The SW1/4 of Section 29, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 8:

The E1/2 of the SE1/4 of Section 28, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, lying West of the Dalles-California Highway #97 and Southwesterly of Chiloquin-Agency Highway #422, and that portion of the N1/2 of the NE1/4 of the NE1/4 and the N1/2 of the S1/2 of the NE1/4 of the NE1/4 lying west of Highway #97; and the N1/2 of the S1/2 of the NW1/4 of the NE1/4 in Section 33, Township 34 south, Range 7 East of the Willamette Meridian, Klamath County, Oregon. EXCEPT that portion taken by the State of Oregon for highway purposes under Klamath County Case No. 90-2779 CV and recorded January 5, 1993 in M93, page 121, records of Klamath County, Oregon.

Parcel 14:

Government Lots 2, 3, 6, 7, 11, 14 and a portion of Government Lots 12, 13, 19, 20, and 22, lying Easterly of State Highway #62 in Section 5, Township 35 South Range 7 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 15:

Government Lots 3, 4, 5 and 6 in Section 4, Township 35 South Range 7 East of the Willamette Meridian, Klamath County, Oregon.

Exhibit 1

Page 1 of 2

Parcel 20:

That portion of Government Lots 17 and 21 in Section 4, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, lying between Chiloquin Secondary Highway #422, also known as the South leg of the Chiloquin Cut-over on the West and the new Dallas-California Highway #97 on the East. EXCEPT that portion taken by the State of Oregon for highway purposes under Klamath County Case No. 90-0492 CV and recorded May 21, 1991 in Volume in M91, page 09622, records of Klamath County, Oregon.

Parcel 25:

A parcel of land situated in Government Lot 2, Section 9, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Northwest corner of said Government Lot 2, said point of beginning, also being the North one-quarter corner of said Section 9; thence North $89^{\circ}38'24''$ East along the North line of said Section 9, 280.00 feet; thence South 311.14 feet; thence South $89^{\circ}38'24''$ West 280.05 feet, more or less, to the West line of said Government Lot 2; thence North $00^{\circ}00'30''$ East along the West line of said Government Lot 2, 311.14 feet to the point of beginning.

Parcel 28:

A parcel of land situated in Government Lots 2, 7 and 10, Section 9, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Commencing at the Northwest corner of said Government Lot 2 (said point also being the North one-quarter corner of said Section 9); thence South $00^{\circ}00'30''$ West along the West line of said Government Lot 2, 311.14 feet, to the true point of beginning of this description; thence from said point of beginning North $89^{\circ}38'24''$ East 280.05 feet; thence South 638.03 feet; thence East 502.11 feet, to a point on the Westerly right of way line of U.S. Highway #97; thence South $04^{\circ}02'34''$ West along the Westerly right of way of said U.S. Highway #97 1020.29 feet, to a point on the South line of said Government Lot 10; thence North $89^{\circ}59'02''$ West along the South line of said Government Lot 10, 710.46 feet, to the Southwest corner of said Government Lot 10; thence North $00^{\circ}00'30''$ East along the West lines of Government Lot 10, Government Lot 7 and Government Lot 2, 1653.82 feet to the true point of beginning. EXCEPT that portion lying within said Government Lots 2 and 7.

Exhibit 1

Page 2 of 2

EXHIBIT 2

\$464,000

May ____, 2013

PROMISSORY NOTE

1. The undersigned, RAILROAD INSTITUTE, an Oregon non-profit corporation, promises to pay to the order of DOUGLAS VANDERSPEK, at _____, the sum of FOUR HUNDRED SIXTY-FOUR THOUSAND and no/100 (\$464,000) DOLLARS, with interest thereon at .20 percent (.20%) per annum from date until paid. Payments of annual interest only payments for all accrued interest earned through the month of May shall be made on or before June 1st of each calendar year beginning June 1, 2014 and continuing on June 1, 2015. The entire unpaid balance of the note including all accrued interest shall be due and payable on or before April 30, 2016.

2. All payments owed on this note shall be applied first to interest then accrued and the remainder to principal, and the undersigned shall have the right to prepay all or any portion of this note at any time without penalty. Any prepayment shall not excuse or postpone payment of the regular annual interest only payments provided for above.

3. Douglas Vanderspek agrees to waive repayment of this balance of this note and contribute the unpaid balance owing under the note to Railroad Institute in one or more installments at such time as Timberlake Railroad, LLC, or its successors and assigns have provided Railroad Institute with fee title to the North and South bound tracks which connect with Railroad Institute's tracks located to the north and south of the Timberlake Railroad, LLC property or at such time as Timberlake Railroad, LLC or its lawful successors or assigns has granted to Railroad Institute a permanent and perpetual 24-hour a day non-gated trackage easement in a form satisfactory to Douglas Vanderspek across Timberlake Railroad LLC's property providing for unobstructed continuous train travel throughout train mountain for the benefit of all train mountain users. If the recording of fee title or a permanent and perpetual easement has not occurred by April 30, 2016, Douglas Vanderspek shall have no further duty or obligation to make such a donation and may demand payment in full of the promissory note including all accrued interest thereon.

4. If any installment is not paid as agreed, all principal and interest shall become immediately due and collectible at the option of the holder of this note. In the event of such nonpayment, the undersigned promises to pay all reasonable costs of collection, including reasonable attorneys' fees, even though suit or action is not filed, and if suit or action is filed, the undersigned promises to pay in addition to costs and disbursements provided by statute, such additional sum as the court may adjudge reasonable as attorneys' fees, both in the trial court and on any appeal.

5. This note shall be secured by a first deed of trust granted by Railroad Institute with respect to certain properties held by Railroad Institute, or its wholly owned subsidiaries Train Mountain Holdings A LLC, Train Mountain Holdings B LLC, and Train Mountain Holdings C LLC. In event of default Douglas Vanderspek may institute foreclosure to recover principal, interest, and costs of collection against one or more of the legal parcels owned by Railroad Institute or its subsidiaries identified above. The parcel(s) to be foreclosed may be selected by Douglas Vanderspek in his sole discretion provided however Douglas Vanderspek agrees to consult with the Railroad Institute board before commencing foreclosure to determine which properties might be foreclosed with the least resulting impact to the non-profit purposes of Railroad Institute.

Exhibit 2

Page 1 of 2

6. If for any reason Railroad Institute Inc. should dissolve and transfer its assets to another entity, this note shall become immediately due and payable at the option of Douglas Vanderspek.

RAILROAD INSTITUTE

By: _____
John Black, President

TRAIN MOUNTAIN HOLDINGS A LLC

By: _____
Railroad Institute, its sole member

TRAIN MOUNTAIN HOLDINGS B LLC

By: _____
Railroad Institute, its sole member

TRAIN MOUNTAIN HOLDINGS C LLC

By: _____
Railroad Institute, its sole member

Exhibit 2

Page 2 of 2