

2017-001898

Klamath County, Oregon



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02/22/2017 03:48:59 PM

Fee: \$82.00

EASEMENT
COVER SHEET

Grantors: Stanley J. Pence, Sr.
12636 Turnstone Dr.
Klamath Falls, OR 97601

Beverly A. Pence
12636 Turnstone Dr.
Klamath Falls, OR 97601

Grantees: Erin Leigh Thompson-Hamilton
515 S. G Street
Lakeview, OR 97630

Stanley J. Pence, Sr.
12636 Turnstone Dr.
Klamath Falls, OR 97601

Beverly A. Pence
12636 Turnstone Dr.
Klamath Falls, OR 97601

Consideration: Love and Affection

**After recording
return to:** Barbara M. DiIaconi
Barbara M. DiIaconi, Esq., P.C.
121 South 8th Street
Klamath Falls, OR 97601

Returned at Counter

ACCESS EASEMENT

This Easement is executed by Stanley J. Pence, Sr. and Beverly A. Pence, as Trustees of the Pence Loving Trust dated May 24, 1990 ("Grantors") and Erin Leigh Thompson-Hamilton and Stanley J. Pence, Sr. and Beverly A. Pence, ("Grantees").

Recitals

Grantors own fee title to the parcel of land described in Exhibit A (the "Grantors' Tract"). Grantees own fee title to an adjoining tract of land described in Exhibit B (the "Grantees' Tract"). In connection with the development of the Grantees' Tract, Grantees have requested Grantors to establish an easement for the benefit of the Grantees' Tract.

Grant

Therefore, in consideration of the premises and other valuable consideration, the receipt and sufficiency of which are acknowledged, Grantors and Grantees agree as follows:

1. Grant of Easement. Grantors grant to Grantees for the benefit of the Grantees' Tract, a private, perpetual, nonexclusive easement (the "Easement") over and across the strip of land situated on the Grantors' Tracts on the currently existing roadway (the "Easement Area"). The Easement will be used solely for the purposes of providing vehicular and pedestrian access to and from the Grantees' Tract (the "Road"); the Easement may be used for such ingress and egress purposes only by Grantees, its successors in ownership of the Grantees' Tract, and the tenants, invitees, agents, and employees of the Grantees and such successors (collectively, the "Users"), such use to be in common with use of the Easement Area by the owner of the Grantors' Tracts and its tenants, invitees, agents, employees, successors, and assigns. No above-ground structures, barriers, fences, buildings, or other improvements of any kind will be installed in the Easement Area, other than roadway surfaces and improvements. Grantors reserve the right to install improvements in the Easement Area from time to time, together with the right to grant to third parties any of such reserved rights, as long as such use does not unreasonably interfere with Grantees' permitted use of the Easement. No Users of the Easement will park any vehicles in the Easement Area. The grant of the Easement is made subject to all exceptions to title on file or of record in the Official Records of Klamath County, Oregon.

2. Nature of Easement. The Easement granted herein will be appurtenant to, and for the benefit of, the Grantees's tract. Any conveyance of fee title to the Grantees' Tract [or any portion that is a legal lot within the Grantees' Tract] will include a conveyance of the Easement, regardless of whether the Easement is specifically identified in the instrument of conveyance.

3. Maintenance. The owner of the Grantees' Tract (the "Owner") will, at their sole cost and expense, repair any damage to the Easement Area caused by any Users. Should the Owner fail to correct any deficiency in its compliance with such repair obligation, Grantors will have no obligation to maintain or repair the Easement Area, and Owner and any parties claiming

by, through, or under Owner will be deemed to have elected to use the Easement at their sole risk. Owner, after reasonable notice to Grantors, may make repairs and surface improvements to the Easement Area from time to time at its sole risk and expense.

4. No Dedication. Nothing contained herein will be deemed to be a gift or dedication of any portion of the Easement Area to the general public, for the general public, or for any public use or purpose whatsoever.

5. Indemnity; Attorney Fees. Owner will indemnify and hold Grantors harmless from and against all claims, damages, losses, causes of action, costs, and expenses (including, without limitation, attorney fees), which may be asserted against or incurred by Grantors as a result of any act or omission of Owner or its agents, contractors, employees, tenants, or invitees related to the use of the Easement Area by any Users. In the event of any litigation or other proceedings brought to enforce or interpret this Easement, the prevailing party in such proceedings will be entitled to recover from the other party the reasonable attorney fees and other costs incurred by the prevailing party in the proceedings or any appeal therefrom.

6. Successors. This Easement will be binding on, and inure to the benefit of, the owners of the Grantors' Tract and the Grantees' Tract and their respective heirs, successors, and assigns.

7. Relocation. The owner of the Grantors' Tract will have the right, at their option, to relocate the Easement Area to another course over and across the Grantors' Tract from time to time, provided that:

7.1 the party electing to relocate the Easement Area provides the owner of the Grantees' Tract with 30 days advance notice of its intent to exercise its relocation option;

7.2 the party electing to undertake the relocation pays all expenses associated with the documentation and recording of the amendment to effect such relocation;

7.3 the relocated Easement Area provides access to the Road consistent with the access previously provided, and connects to the Grantees' Tract at the same point of the initial Easement Area; and,

7.4 the party electing to undertake such relocation improves the relocated Easement Area to the condition of the Easement Area existing prior to the relocation, including the relocation of any utility lines installed in the Easement Area.

8. Amendment. This Agreement may only be amended by written instrument executed by the then current Owners of the Grantors' and Grantees' Tracts.

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9. **No Partnership.** None of the terms or provisions of this Easement will be deemed to create a partnership between or among the parties, nor will it cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended nor will it be construed to create any third-party beneficiary rights in any person who is not an owner of the Grantees' or Grantors' Tract.

10. **Consents.** Whenever the consent or approval of a party is required to be given hereunder, such consent or approval will not be unreasonably withheld, delayed, or conditioned unless the provision in question expressly stipulates another standard of approval.

11. **Notices.** Any notice required or permitted by this Easement must be in writing and given by delivering the same in person to the recipient or by sending the same by registered or certified mail, return receipt requested, with postage prepaid, to the address of the Grantors' or Grantees' Tract, as applicable, as shown on the current records of the tax assessor for Klamath County, Oregon, with respect to the Tract in question.

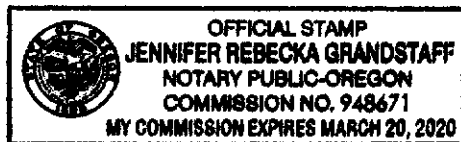
Executed to be effective as of the 22nd day of February 2017.

GRANTORS:

Stanley J. Pence, Sr.
STANLEY J. PENCE, SR., as
Trustee for the Pence Loving Trust
dated May, 24, 1990

Beverly A. Pence
BEVERLY A. PENCE, as
Trustee for the Pence Loving Trust
dated May 24, 1990

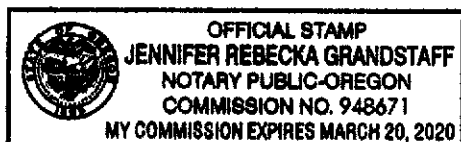
Subscribed and sworn to before me by Stanley J. Pence on this 22nd day of February, 2017.



[Signature]
Notary Public for Oregon

My Commission Expires: 3-20-20

Subscribed and sworn to before me by Beverly A. Pence on this 22nd day of February, 2017.



[Signature]
Notary Public for Oregon

My Commission Expires: 3-20-20

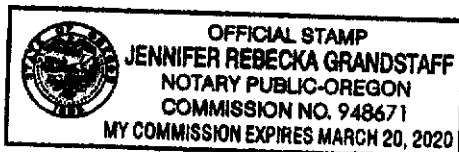
GRANTEES:

Erin Leigh Thompson-Hamilton
ERIN LEIGH THOMPSON-HAMILTON,
as to an undivided 85% interest, and
Stanley J. Pence and Beverly A. Pence as Tenants
by the Entirety, as to an undivided 15% interest,
together as Tenants in Common

Beverly A. Pence
BEVERLY A. RENCE, as Tenant by
the Entirety with Stanley J. Pence, as
to an undivided 15% interest, together
as Tenants in Common, and Erin Leigh
Thompson-Hamilton, as to an undivided
85% interest

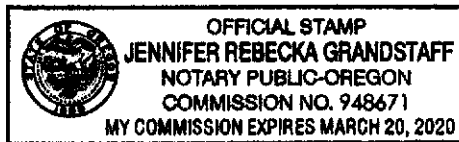
Stanley J. Pence
STANLEY J. PENCE, as Tenant by
the Entirety with Beverly A. Pence, as
to an undivided 15% interest, together
as Tenants in Common, and Erin Leigh
Thompson-Hamilton, as to an undivided
85% interest

Subscribed and sworn to before me by Erin Leigh Thompson-Hamilton on this 22nd day
of February, 2017.



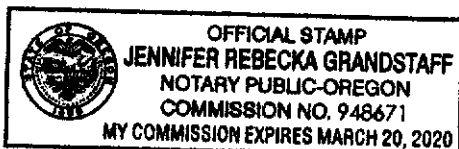
Jennifer Rebecka Grandstaff
Notary Public for Oregon
My Commission Expires: 3-20-20

Subscribed and sworn to before me by Stanley J. Pence on this 22nd day of
February, 2017.



Jennifer Rebecka Grandstaff
Notary Public for Oregon
My Commission Expires: 3-20-20

Subscribed and sworn to before me by Beverly A. Pence on this 22nd day of
February, 2017.



Jennifer Rebecka Grandstaff
Notary Public for Oregon
My Commission Expires: 3-20-20

Exhibits:

- A. Grantors Tracts
- B. Grantees Tract

PARCEL I

The S ½ SW 1/4 of section 22, Township 40 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

Subject, however to rights of the public in and to any portion of said premises lying within the limits of roads an highways.

PARCEL II

The South Half of the Northeast Quarter of Section 22, Township 40 South, Range 11 East, Willamette Meridian.

Subject to rights of the public over existing roads.

PARCEL III

The South half of the Southwest quarter of Section 22, Township 40 South, Range 11 East, Willamette Meridian.

Subject to rights of the public over existing roads.

PARCEL IV

Beginning at the Southeast corner of the NW1/4SE1/4 of Section 16, Township 41 South, Range 12 East of the Willamette Meridian; thence North 125 feet to the Depot Road; thence in a southwesterly direction along said Depot Road 100 feet, more or less, to the Northeast corner of a Tract deeded to Leo King and Mildred King, recorded in Volume 196, page 95, records of Deeds of said County; thence South along the East boundary of the last mentioned tract, 93 feet, more or less; thence East 92 feet to the place of beginning.

SUBJECT TO: Easements and rights of way of record and those apparent on the land.

PARCEL V

PARCEL 1:

In Township 40 South, Range 11 East of the Willamette Meridian:

Section 15: The SW1/4 of the SE1/4
SAVING AND EXCEPTING THEREFROM the following described parcel:
Beginning at the Southwest corner of said SW1/4 of SE1/4 and running thence North 350 feet; thence West 800 feet; thence South 350 feet, more or less, to the South line of said SW1/4 of SE1/4; thence Easterly 800 feet, more or less, to the point of beginning.

PARCEL 2:

A portion of the SW1/4 of the SE1/4 in Township 40 South, Range 11 East of the Willamette Meridian, described as follows:

Beginning at the Southeast corner of said SW1/4 of SE1/4 and running thence North 350 feet; thence West 800 feet; thence South 350 feet, more or less, to the South line of said SW1/4 or SE1/4; thence Easterly 800 feet, more or less, to the point of beginning, in Section 15.

PARCEL 3:

In Township 40 South, Range 11 East of the Willamette Meridian:

Section 22: N1/2 of the NE1/4

Subject, however, to the following:

1. Rights of the public in and to any portion of the above described property lying within the public roads and highways.
2. Unrecorded Contract, including the terms and provisions thereof and such other exceptions as may appear necessary upon the recording thereof, between Winema Peninsula, Inc., as Vendor, and Robert C. Johnson, vendee, as disclosed by Deed recorded December 28, 1973 in Book M-73 at Page 16529. (Affects Parcels 1, 2, and 3), which Grantees do not agree to assume and pay and Grantors agree to hold them harmless thereon.

PARCEL VI

PARCEL 1:

The Southwest quarter of the Southeast quarter of Section 15, Township 40 South Range 11 East, Willamette Meridian.

SAVING AND EXCEPTING THEREFROM the following described property:

Beginning at the Southwest corner of said SW1/4 of SE1/4 and running thence North 350 feet; thence West 800 feet; thence South 350 feet, more or less, to the South line of said SW1/4 of SE1/4; thence Easterly 800 feet, more or less, to the point of beginning.

PARCEL 2:

A portion of the SW1/4 of SE1/4 of Section 15, Township 40 South, Range 11 East, Willamette Meridian, described as follows:

Beginning at the Southeast corner of said SW1/4 of SE1/4 and running thence North 350 feet; thence West 800 feet; thence South 350 feet, more or less, to the South line of said SW1/4 of SE1/4; thence Easterly 800 feet, more or less, to the point of beginning.

PARCEL 3:

The North half of the Northeast quarter of Section 22, Township 40 South, Range 11 East, Willamette Meridian.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the _____ day
of _____ A.D., 19____ at _____ o'clock _____, and duly recorded in Vol. _____,
of _____ on Page _____.

By _____

EXHIBIT B

Erin Leigh Thompson-Hamilton, as to an undivided 85% interest and Stanley J. Pence, Sr., and Beverly A. Pence, as Tenants by the Entirety, as to an undivided 15% interest, together as Tenants in Common.

The $W\frac{1}{2}$ of the $W\frac{1}{2}$ of Section 23; the $SW\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $NW\frac{1}{4}$ OF Section 23; and the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ of Section 26; All in the Township 40 South , Range 11 East of the Willamette Meridian, Klamath County, OR.