



00227628201800102320070079

08/27/2018 08:48:53 AM

Fee: \$112.00

John Budden  
Returned at Counter**DECLARATION OF PRIVATE ROADWAY**

This Declaration, made and entered on the date last signed below by and between Brent R. Budden and Theresa Budden, husband and wife, owners of the following described property,

The SW1/4 SE1/4 of Section 10 and the NW1/4 NE1/4 except the South 465.44 feet thereof of Section 15, and exempting therefrom that portion thereof conveyed to Klamath County, a political subdivision of the State of Oregon for Old Fort Road by Warranty Deed dated February 25, 1983 recorded March 19, 1983 in Vol. M-83, Page 4585, Microfilm Records of Klamath County, Oregon, which property is situate in Township 38 South Range 9 EWM, Klamath County, Oregon,

hereinafter known as the "Servient Property" and Axel Fredstrup and Solveig Fredstrup, husband and wife, owners of the following real property,

Parcel 1 of Land Partition 33-17 being a replat of Parcel 1 of "Land Partition 56-06" being situate in the N1/2 of Section 15, Township 38 South Range 9 EWM, Klamath County, Oregon

hereinafter known as the "Benefitted Property";

WHEREAS, the owners of the Servient Property had access and public utility easement recorded July 25, 2018 at 2018-008820 being Creation of an Access and Public Utility Easement, Klamath County deed records, the legal description of which is a 60' wide access and public utility easement across a portion of SW1/4 SE1/4 of Section 10 and the NW1/4 NE1/4 of Section 15, T38S, R9EWM, Klamath County, Oregon, described as follows:

Beginning at the 1/4 Corner Common to Said Sections 10 and 15; Thence N89°36'38"E 402.22 feet to the Westerly right of way line of Old Fort Road; Thence, along the said Westerly right of way line on the arc of a curve to the left (radius point bears S75°09'01"E 435.48 feet and central angle equals 08°03'15") 61.22 feet; Thence, leaving the said Westerly right of way line, S89°36'28"W 390.83 feet to a point on the East line of Parcel 1 of "LAND PARTITION 56-06"; Thence, N00°04'34"E, along the said East line, 60.00 feet to the pint of beginning, with bearings based on said "LAND PARTITION 56-06" on file at the Office of the Klamath County Clerk.

Declarants hereby declare that the development, use, maintenance, repair and extension of use of the roadway shall be held, managed and assessed under provisions of this Declaration.

DECLARATION  
ARTICLE 1

Section 1. Declarants shall mean and refer to Brent R. Budden and Theresa Budden, husband and wife, and Axel Fredstrup and Solveig Fredstrup, husband and wife.

Section 2. Association shall mean and refer to Wonder Ranch Homeowner's Association.

Section 3. Board or Board of Directors shall mean and refer to owners of one or more parcels which presently exist or may hereinafter be lawfully created, having access or frontage to the easement described above or which may subsequently be extended.

Section 4. Member shall mean and refer to every person or entity who has ownership of a parcel or lot fronting or having lawful access to the above described easement. One parcel owned by more than one persons or entities, their ownership unit shall be entitled to but one vote, each parcel shall be separately assessed.

Section 5. Partition Map shall mean and refer to the map entitled "Land Partition 33-17". The same shall be filed and recorded in the Klamath County Deed Records.

Section 6. Property shall mean and refer Servient and Benefitted Property described above.

Section 7. Common area shall mean the roadway described within the grant of easement referenced above, and any extension thereof.

Section 8. Lot shall mean and refer to any parcel that will be created out of the Servient Parcel of the Benefitted Parcel.

Section 9. Owner shall mean or refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot, but excluding those having such interest mainly as security for the performance of an obligation.

## ARTICLE II MEMBERSHIP IN THE ASSOCIATION

Section 1. Membership. Every owner of a Lot which is subject to this Declaration shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration. Ownership of a Lot shall be the sole qualification for membership. Membership in the Association shall lapse and terminate when a member shall cease to be an Owner.

Section 2. Voting Rights. Each member of the Association shall be entitled to one vote with respect to any Association matter. When more than on person or entity owns any Lot, their vote shall be exercised as they among themselves determine, but in no event will a split vote, nor more than one vote, be cast with respect to any Lot.

### ARTICLE III PROPERTY RIGHTS

Section 1. Title to the Easement Area. Except as set forth in Section 3 below, the Declarants hereby covenant for themselves, their successors, and assigns that they will convey fee simple title to the Easement Area as requested by the Association free and clear of any covenants of title, mortgages, liens, or encumbrances.

Section 2. Easements. Lot owners shall have a perpetual easement of ingress and egress and utility access for all purposes over the above described property. Declarants hereby reserve the right for themselves, their successors and assigns, and for the Association and its assigns to grant easements over the Easement Area, to public authorities and utility companies for installation of pipes, lines, conduits, and the like to serve the property, and to adjacent property owners provided that any such adjacent owners is willing to be bound by the terms hereof, including the liability for maintenance assessments.

Section 3. Power to Convey the Easement Area. The Declarants hereby reserve for themselves, their successors and assigns, and for the Association and its assigns to dedicate or convey the Easement Area to Klamath County, or such municipal corporation having jurisdiction over public roads, or to convey the Easement Area to an adjacent property owner, said power to dedicate and convey to be subject to the prior express written consent of authorities having jurisdiction. Any such dedication or conveyance of the Easement Area will be subject to the perpetual easements set forth in Section 2 above and further will provide for the maintenance, repair, and replacement of the Easement Area, including the removal of snow and ice and for the cost of liability insurance, if any, for the Easement Area.

### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarants for each Lot owned by them, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay the Association: (1) Annual Assessments or Charges; and (2) Special Assessments for Capital Improvements; such as assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and cost of collection thereof, including reasonable attorneys fees as hereinafter provided, shall be a charge on a Lot and shall be a continuing lien on the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the lot owner at the time when the assessment accrued. The personal obligation for delinquent assessment shall pass from an owner to such owner's successor in title by such successor's acceptance of the deed or by any other means of conveyance of such Lot for which any such assessments are delinquent.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for any or all of the following expenses: for the maintenance, repair, and

replacement of the Easement Area, including the removal of snow and ice and for the cost of liability insurance for the Easement Area.

Section 3. Annual Assessments. After consideration of current maintenance costs and future needs of the Association with regard to the Easement Area, the Board shall fix the annual assessment to be paid by each owner to the Association. The Board shall prepare a budget upon which the annual assessments for the ensuing year will be based, and a copy of such budget, together with a notice of annual assessment will be submitted to each member at least thirty (30) days prior to the commencement of each annual assessment period.

The Board may, after consideration of future costs for capital improvements to said road, establish a reserve fund for such purposes with the monies necessary for such reserve fund to be part of the annual assessment.

Section 4. Special Assessments for Capital Improvement. In addition to the annual assessments authorized above, the Association may level, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, the cost of any construction or reconstruction, unexpected repair, or replacement of the Easement Area, provided that such special assessment shall have the assent of the Owners of at least a majority of the Lots at a meeting duly called for this purpose.

Section 5. Uniform Rules of Assessment. Both annual and special assessments shall be charged equally to each Owner and to any adjacent property owner who may have been granted an easement of ingress and egress over the Easement Area, and may be collected on such basis as the Board deems practicable except that such assessments will be collected no less frequently than on an annual basis.

Section 6. Date of Assessment of Annual Assessments. Assessments may be made by the Board of Directors upon application for access or egress to the Easement Area by the owner of a lot, or when title to the Easement Area has been transferred to the Association, whichever occurs first.

As to each Lot, the annual assessment provided for herein shall be prorated and the liability for such assessment commences when title to such a Lot is conveyed by the Declarants.

The due dates of the Annual Assessments shall be established by the Board of Directors as set forth above. The Association shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Nonpayment of Assessment, Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at

the rate of twelve (12%) per cent per annum and the Association may bring an action at law against the owner or any other person personally obligated to pay the same or foreclose the lien against the property, and the interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No owner or other person liable for payment of any assessment may waive or otherwise escape from liability for the assessments provided for herein by non-use of the Easement Area or by abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- (a) all properties dedicated to and accepted by a local public authority;
- (b) the Easement Area;
- (c) Ranch Road;
- (d) The Servient Property until individual lots shall be partitioned or subdivided from the remaining portion of the Servient Property.

## ARTICLE V INSURANCE

Section 1. Insurance. The Board of Directors shall maintain comprehensive general liability insurance, to the extent obtainable, covering the Association and each owner of lessee or occupant of a Lot against any negligent act of commission or omission attributable to them which occurs on or in the Easement Area. All insurance premiums for such coverage shall be paid for by the Association.

## ARTICLE VI CONDEMNATION

Section 1. Condemnation. In the event of a taking or a diminution in value in connection with or by eminent domain of all or part of the Easement Area, the award made for such taking or diminution shall be payable to the Owner of the Easement Area.

## ARTICLE VII GENERAL PROVISIONS

Section 1. The Provisions of this Declaration shall run with and bind the land in perpetuity and shall insure to the benefit of and be enforceable by the Association or the owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, or assigns in perpetuity. The provisions of this Declaration may be amended by an instrument signed by not less than sixty-six and two-thirds (66 2/3) percent of the owners. In no event, however, may any



amendment of this Declaration modify or change any limitation or condition imposed on the property by the local authority without the express written consent of same.

Section 2. In the event that any governmental authority requires the modification of any provision contained in this Declaration, the Declarants shall have the power and authority to amend any provision herein to conform to the governmental requirements. For the purpose of effectuating such amendments, each owner of any Lot, by acceptance of a deed therefor, whether or not is shall be so expressed in such deed, hereby appoints Brent R. Budden or Theresa Budden as his or her attorney-in-fact with full power to execute a supplemental Declaration on behalf of said owner.

Section 3. This Declaration shall be recorded in the Klamath County Clerk's Office (Division of Land Records) by the Declarants prior to the conveyance by the Declarants of a Lot.

IN WITNESS WHEREOF, Brent R. Budden and Theresa Budden, husband and wife, and Axel Fredstrup and Solveig Fredstrup, husband and wife, the "Declarants" have executed this document on the date so stated below.

DECLARANTS:

Dated: 8/27/2018

Brent R. Budden  
Brent R. Budden

Theresa T. Budden  
Theresa Budden

STATE OF OREGON     )  
                                  )ss.  
COUNTY OF KLAMATH )


Subscribed and sworn to before me this 27<sup>th</sup> day of August, 2018 by Brent R. Budden and Theresa Budden.

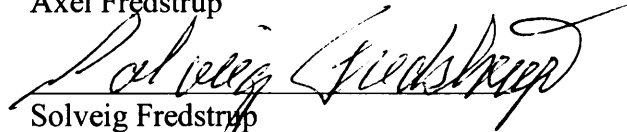


Ellen Kay Dunlap  
Notary Public, Oregon  
My Commission Expires: 11/8/2019

\*\*\*\*\*

Dated: 8/25/18


  
Axel Fredstrup

  
Solveig Fredstrup

STATE OF OREGON     )  
                                  )ss.

COUNTY OF ~~KLAMATH~~ )  
                  Jackson

Subscribed and sworn to before me this 25 day of August, 2018 by Axel  
Fredstrup and Solveig Fredstrup.

  
Notary Public, Oregon  
My Commission Expires: 4/29/22

