

**2020-011879**

**Klamath County, Oregon**

**09/18/2020 10:10:01 AM**

**Fee: \$122.00**

After recording, return to:

Justin Hurley Braswell  
2870 Nansen Drive  
Medford, OR 97504

### **RECIPROCAL ACCESS EASEMENT**

THIS RECIPROCAL ACCESS EASEMENT is made this 22<sup>ND</sup> day of April, 2020, by and among KLAMATH FALLS HOLDINGS, LLC, an Oregon limited liability company ("Klamath Falls Holdings") and FAYWORKS LLC, an Oregon limited liability company ("Fayworks").

#### **RECITALS:**

A. Klamath Falls Holdings owns the real property in Klamath County, Oregon, described on Exhibit "A" attached hereto and made a part hereof ("Parcel A").

B. Fayworks owns adjacent real property in Klamath County, Oregon, described on Exhibit "B" attached hereto and made a part hereof ("Parcel B").

C. Klamath Falls Holdings has applied for a building permit in connection with the construction of a structure located on property adjacent to Parcel A.

D. In connection with approval of the building permit, Klamath Falls ("City") requires that Klamath Falls Holdings enter into an access easement between Parcel A and Parcel B.

E. The parties hereto desire to establish a reciprocal easement concerning access to their respective properties upon the terms and conditions set forth below.

#### **NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1. Grant of Access Easements. Klamath Falls Holdings and Fayworks hereby grant to each other a non-exclusive, perpetual easement, appurtenant to their respective Parcel A and Parcel B, for the purpose of vehicular and pedestrian ingress, egress and access to and from their respective properties from and to 4<sup>th</sup> Street in the City of Klamath Falls, Oregon, over, upon, across, and through the access road described and depicted on Exhibit "C" ("Easement Area"). The Easement Area shall not be obstructed by any party.

2. Reservation of Rights. Each party hereto reserves all rights to their respective properties not specifically granted to the other party, including but not limited to, the nonexclusive right of ingress and egress.

3. Construction. Klamath Falls Holdings shall construct a driveway on the Easement Area. The cost of such improvements shall be shared between the parties on a pro rata basis based on each party's square footage of the actual driveway being constructed. The design and construction costs of such improvements shall be approved by each party prior to construction.

4. Repairs and Maintenance. The parties hereby agree and acknowledge that ORS 105.175(3) shall govern the parties' repair and maintenance obligations. Except for emergencies, the parties agree that no maintenance, repairs, improvements or rebuilding of the driveway on the Easement Area shall commence or be performed by either party without thirty (30) days' written notice to the other party.

5. Indemnification/Insurance. Each party shall cause the Easement Area to be covered by its respective individual liability policy or the liability policy of its tenant, if any, and each shall indemnify, defend, and hold the other harmless from any loss, claim or liability arising out of the use of the easement by such party, or its tenants, agents, guests, contractors or other invitees of every kind and description.

6. Nature of Easements.

6.1 Not Severable From Property. Each and all of the easements and rights granted or created herein are appurtenances to the affected properties described herein and none may be transferred, assigned, or encumbered except as an appurtenance to the properties benefited thereby.

6.2 Binding Effect. The easements contained in this Agreement are made for the direct, mutual, and reciprocal benefit of the parties hereto, create mutual equitable servitudes over each property described herein in favor of the other property described herein, and constitute covenants running with the land; and shall bind every person or entity having any fee, leasehold or other interest in any portion of the properties described herein.

6.3 Effect of Conveyance. The acceptance of any transfer or conveyance of title or all or any part of any interest in either property described herein shall be deemed to require the prospective grantee to agree not to use, occupy, or allow any lessee or occupant of such property to use or occupy such property in any manner which would constitute a violation or breach of any of the easements and covenants contained herein.

7. Enforcement/Injunctive Relief. In the event of any violation of any of the terms or covenants provided herein either party, or their respective successors and assigns, shall have in addition to the right to collect damages the right to enjoin such violation or threatened violation in a court of competent jurisdiction.

8. Attorneys Fees. In the event of a controversy or dispute concerning any terms or provisions of this Agreement, and in the event an action or suit is instituted as a result thereof, the prevailing party shall be entitled to be awarded reasonable attorneys fees to be set by the court or courts in which the matter is tried or heard, including any appear therefrom.

9. Duration and Termination. The benefit and burden of the easements and covenants contained in this document shall run with the land and shall be of perpetual duration. This Agreement may not be terminated or amended except by a written document executed by all of the owners of the properties described herein and duly recorded in the Official Records of Klamath County, Oregon.

10. Not a Public Dedication. Nothing contained in this declaration shall, or is intended to, constitute a gift or dedication of any portion of the properties to the general public or for the benefit of the general public, or for any public purpose whatsoever. It is the intention of the parties that this easement will be strictly limited to and for the purposes expressed herein.

11. Successors. These easements shall inure to the benefit of, and be binding upon, the parties and their respective heirs, executors, representatives, successors and assigns. The term "party" or "parties" shall refer to the original parties and their respective heirs, executors, personal representatives, successors, and assigns.

12. Waiver. No waiver or breach of this Agreement in one instance shall constitute or be construed as a waiver of the same or any other breach in any other instance.

13. Applicable Law. This easement shall be construed and enforced in accordance with the laws of the State of Oregon.

14. Exhibits and Recitals. The recitals above and exhibits attached are incorporated herein and made a part hereof to the full extent as though each were set forth in its entirety in the body hereof.

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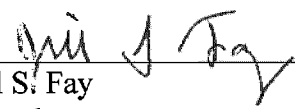
Effective the day and year first hereinabove set forth.


KLAMATH FALLS HOLDINGS, LLC,  
An Oregon limited liability company

  
By: Justin Hurley Braswell  
Its: Manager

("Klamath Falls Holdings")

FAYWORKS LLC  
An Oregon limited liability company

  
By: Jill S. Fay  
Its: Member

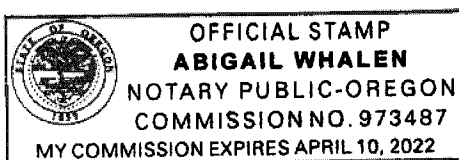
  
By: Jonathan D. Fay  
Its: Member

("Fayworks ")

STATE OF OREGON            )  
  )ss.  
County of Jackson         )

On this 22<sup>nd</sup> day of April, 2020, personally appeared the above-named JUSTIN HURLEY BRASWELL, who being sworn, stated that he is a managing member of KLAMATH FALLS HOLDINGS, LLC, an Oregon limited liability company, and that the foregoing instrument was voluntarily signed on behalf of said limited liability company and by authority of its Operating Agreement.

Before me:



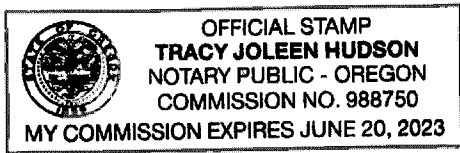
  
Notary Public for Oregon

STATE OF OREGON            )  
  )ss.  
County of Klamath            )

On this 24<sup>th</sup> day of April, 2020, personally appeared the above-named JILL S. FAY, who being sworn, stated that she is a member of FAYWORKS LLC, an Oregon limited liability company, and that the foregoing instrument was voluntarily signed on behalf of said limited liability company and by authority of its Operating Agreement.

Before me:

Tracy Hudson  
Notary Public for Oregon

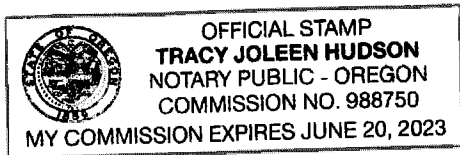


STATE OF OREGON            )  
  )ss.  
County of Klamath            )

On this 24<sup>th</sup> day of April, 2020, personally appeared the above-named JONATHAN D. FAY, who being sworn, stated that he is a member of FAYWORKS LLC, an Oregon limited liability company, and that the foregoing instrument was voluntarily signed on behalf of said limited liability company and by authority of its Operating Agreement.

Before me:

Tracy Hudson  
Notary Public for Oregon



**EXHIBIT "A"**

**Klamath Falls Holdings Property**  
**(Parcel A)**

Lot 10, TRACT 1430, TIMBERMILL SHORES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon

380932AC Tax Lot 10700

**EXHIBIT “B”**

**Fayworks Property**  
**(Parcel B)**

Lot 9, TRACT 1430, TIMBERMILL SHORES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon

380932DA Tax Lot 900

**EXHIBIT "C"**

**Easement**

**ACCESS EASEMENT**

**APRIL 2, 2020**

**LEGAL DESCRIPTION**

A PORTION OF THAT TRACT OF LAND DESCRIBED AS PARCEL 2 IN DEED TO KLAMATH FALLS HOLDINGS, LLC, RECORDED AS DOCUMENT NO. 2018-004199, KLAMATH COUNTY DEED RECORDS, ALSO BEING A PORTION OF LOT 10, TRACT 1430 - TIMBERMILL SHORES, KLAMATH COUNTY PLAT RECORDS, LOCATED IN THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 38 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, CITY OF KLAMATH FALLS, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE MOST EASTERLY CORNER OF SAID PARCEL 2, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF 4TH STREET, SAID POINT BEARS NORTH 51°28'58" WEST 16.00 FEET FROM THE MOST EASTERLY CORNER OF SAID LOT 10; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 2 SOUTH 39°04'11" WEST 68.80 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE NORTH 10°07'53" WEST 33.75 FEET; THENCE NORTH 38°31'02" EAST 46.50 FEET TO SAID SOUTHWESTERLY RIGHT-OF-WAY LINE; THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE SOUTH 51°28'58" EAST 26.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 1,483 SQUARE FEET, MORE OR LESS.

THE BASIS OF BEARINGS IS THE OREGON COORDINATE REFERENCE SYSTEM, BEND-KLAMATH FALLS ZONE.

THE TRACT OF LAND DESCRIBED ABOVE IS SHOWN ON THE ATTACHED EXHIBIT MAP AND BY THIS REFERENCE MADE A PART THEREOF.



RENEWS: 6/30/2020



