

2021-006933

Klamath County, Oregon

05/04/2021 09:18:00 AM

Fee: \$122.00

MAINTENANCE AGREEMENT

DATE: 4/28, 2021

PARTIES: After recording return to:
A+ Land Company, LLC

("A+ Land")

an Oregon limited liability company
13751 Hill Road
Klamath Falls, OR 97603

Matthew Howard and Denise Howard
6563 Jake Road
Klamath Falls, OR 97601

(collectively "Howard")

RECITALS

A. A+ Land is the beneficial owner of Parcel 2 of LP 45-17, being a replat of Parcel 2 of LP 47-08 in the NE 1/4, Section 32, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon (the "A+ Land Property").

B. Howard is the owner of Parcel 1 of LP 45-17, being a replat of Parcel 2 of LP 47-08 in the NE 1/4, Section 32, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon (the "Howard Property").

C. The A+ Land Property is the dominant estate and receives a beneficial interest in an irrigation pipe easement dated January 4, 2012 and recorded at 2012-000177 in the real property records, Klamath County, Oregon.

D. The irrigation pipe easement consists of two additional documents, the first is a 50'x50' and 20' strip created on land partition 47-08 and a 30' strip created on land partition 45-17 across the Howard Property. A map of said easement and land partitions are attached hereto and incorporated herein as Exhibit A consisting of three pages.

E. The parties desire to enter into this shared maintenance agreement of the irrigation infrastructure between the respective parcels.

AGREEMENT

WHEREFORE, for valuable consideration received, which is hereby acknowledged and subject to the conditions set forth in this agreement, it is mutually agreed as follows:

1. A+ Land, its heirs, successors, and assigns, shall be solely responsible for the maintenance, repair and replacement of any irrigation appurtenances, which solely serves the benefit of the A+ Land Property and shall repair and pay for, at its sole expense, any damage done to the Howard Property and such maintenance, repair, replacement and shall pay one-half (1/2) of all future costs of maintenance, repair, replacement, and improvement of the pipes and other equipment, which serves both the A+ Land Property and the Howard Property.

2. Howard, its heirs, successors, and assigns, shall be solely responsible for the maintenance, repair and replacement of the irrigation pipes and equipment, which solely serves the Howard Property and shall repair and pay for, at its sole expense, any damage done to the A+ Land Property and such maintenance, repair, replacement and shall pay one-half (1/2) of all future costs of maintenance, repair, replacement, and improvement of the irrigation pipe and appurtenances, which serves both the A+ Land Property and the Howard Property.

3. In the event that any repair or replacement of the irrigation pipe or appurtenances, jointly serving both properties, are needed, the parties expressly agree to fully cooperate in allowing such repair or replacement to be made as soon as necessary. Equipment, equipment operators, and supplies can be obtained to make such repairs and replacement. The parties further agree to pay for or arrange for the payment of their respective share of the costs of said repair or replacement as soon as reasonably possible.

4. **Notices.** If, in the opinion of any party, repair and/or replacement of the irrigation equipment and shared transmission line are necessary, written notice shall be provided to the other party, in writing, describing the maintenance, repair, or replacement to be undertaken and the cost thereof, if known. If the party receiving notice does not object, in writing, within fifteen (15) days of receipt of the notice, then the cost of said repair and/or replacement shall be divided equally between the parties.

5. **Access.** The parties agree and grant each other access over their respective properties for the purposes of maintenance, repair and replacement of the irrigation delivery system. Such access right shall include the right to enter upon the Howard Property to check for any leaks or to assess the irrigation equipment and pipe structure.

5. **Fulfillment of Parties' Obligations.** In the event either party fails to fulfil their obligations under this Agreement, the other party may perform on behalf of the defaulting party and advance funds for the account of the defaulting party. Any funds so advanced will be a debt of the defaulting party due to advancing party, bearing an interest rate of 9% per annum, which shall become immediately due and payable, with interest.

6. **Rights to Run with the Land.** The rights herein shall run with the land and will automatically transfer with the sale of the parties' real property. Neither this Agreement or any rights, interests, or obligations under this Agreement may be assigned by any party without the written consent of the other party. No further extension of rights to third parties to access or use the irrigation equipment shall be made without the express written consent of the other party.

7. **Miscellaneous.**

7.1 **Binding Effect.** This Agreement will be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and permitted assigns.

7.2 **Assignment.** Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other parties, which consent will not be unreasonably withheld.

7.3 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or will be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.

7.4 Electronic and Facsimile Signatures. Electronic and facsimile transmission of any signed original document, and retransmission of any signed electronic or facsimile transmission (including pdf or any electronic signature complying with the U.S. Federal E-Sign Act of 2000, e.g. www.codesign.com). Such delivery will be the same as delivery of an original. At the request of any party, the parties will confirm electronic or facsimile transmitted signatures by signing an original document.

7.5 Construction. The captions used in this Agreement are provided for convenience only and will not affect the meaning or interpretation of any provision of this Agreement. All references in this Agreement to "Section" or "Sections" without additional identification refer to the Section or Sections of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Whenever the words include or including are used in this Agreement, they will be deemed to be followed by the words without limitation.

7.6 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

7.7 Further Assurances. Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, to carry out the intent and accomplish the purposes of this Agreement.

7.8 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

7.9 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Oregon, without regard to conflict-of-laws principles.

7.10 Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement will be brought against any of the parties in Klamath County Circuit Court of the State of Oregon.

7.11 Severability. If any provision of this Agreement is invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired.

///

///

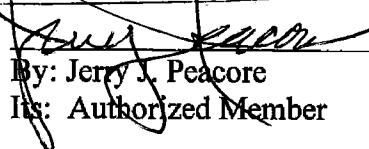
///

///

///

7.12 Entire Agreement. This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

A+ Land Company, LLC


By: Jerry J. Peacore
Its: Authorized Member

Howard

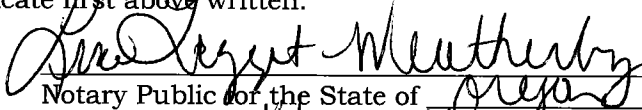

Matthew Howard


Denise Howard

State of Oregon ss

County of Klamath this 28 day of April, in the year 2021, before me, Lisa Legget-Weatherby, a Notary Public in and for said state, personally appeared Jerry J. Peacore, LLC known or identified to me to be the Managing Member in the Limited Liability Company known as fw Member of A+ Land Company LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

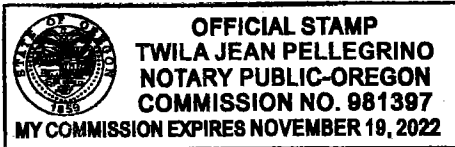
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for the State of Oregon
Residing at: Klamath
Commission Expires: 10/1/2023



State of Oregon } ss
County of Klamath }

On this 28 day of April, 2021, before me, Twila Jean Pellegrino, a Notary Public in and for said state, personally appeared Matthew Howard and Denise Howard, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Twila Jean Pellegrino
Notary Public for the State of Oregon
Residing at: Klamath County, Oregon
Commission Expires: 11-19-2022



SCALE: 1" = 200'

EXISTING 50'x50'
NON-EXCLUSIVE
EASEMENT FOR PUMP,
IRRIGATION LINE, POWER
AND ACCESS TO PUMP
PER LP 47-08

PARCEL 1
LP 47-08

EXISTING 20' WIDE
NON-EXCLUSIVE EASEMENT
FOR IRRIGATION LINE,
POWER AND ACCESS TO
PUMP PER LP 47-08

SOUTH 10.11 FEET OF WEST
180.00 FEET LYING NORTH OF
HILL ROAD RIGHT OF WAY

10'

180'

HILL ROAD

29 28

32 33

PARCEL 2
LP 47-08

EASEMENT
SKETCH

EXHIBIT A



() RECORD PER LP 47-08
[] CALCULATED

GROUND ACCESS & UTILITY EASEMENT

1/4

DISTRICT CERTIFICATE

EASEMENTS

THIS SURVEY WAS COMPLETED AT THE REQUEST OF ALLIANCE COMPANY, LTD. THE PURPOSE OF THIS LAND PARTITION IS TO REPEAT PARCEL 2 OF LAND PARTITION 47-03 WITH THREE PARCELS AS SHOWN HEREON.

THE BASIS OF RECORD FOR THIS SURVEY IS LAND PARTITION 47-03.

LAND PARTITION 45-17
A+ LAND COMPANY, LLC
A REPLAT OF PARCEL 2 OF LP 47-08
IN THE NE QUARTER SECTION 32,
TOWNSHIP 39 SOUTH, RANGE 10 EAST
WILLAMETTE MERIDIAN, CLATSOP COUNTY, OREGON
NARRATIVE

DECLARATION

THIS IS TO CERTIFY THAT AP LAND COMPANY, LLC, A LIMITED LIABILITY COMPANY OF THE STATE OF OREGON, IS THE OWNER OF CERTIFICATE, THAT SOME OTHER CHASE THE SAME, TO BE EXERCISED AND FLATTED AS SHOWN AND DOES FOR ITSELF, IT, INVESTORS, SUCCESSORS AND ASSAULT HEREBY GRANT A JOE RECREATION EASEMENT OVER PARCELS 1 BENEFITTING PARCEL 2 AND A JOE ACCESS AND EGRESS EASEMENT SERVING ALL PARCELS OF THIS PLAT AND EASEMENT SERVING PARCELS AS NECESSARY.

Martha Fenech
JERRY A. FENECH
MEMBER
MARALEA FENECH
MEMBER

STATE OF (Neom.) } ss. **gls** **Day of April** 2004
COUNTY OF (Neomath) }

BE IT REMEMBERED THAT ON THE **gls** **Day of April** 2004
PERSONALLY APPEARED BEFORE ME, **gls** **PLAINTIFF** AND COUNSEL TO ME, **gls** **DEFENDANT**,
THE IDENTICAL PERSON DESCRIBED IN AND WHO EXECUTED THE ABOVE INSTRUMENT,
AND WHO ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FREELY AND
VOLUNTARILY AS SUCH OFFICER ON BEHALF OF **MY LAND COMPANY, LLC**.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIRMED MY OFFICIAL
NOTARY SEAL THIS DAY AND DATE FORTH AFORE.

[illegible]

Continuation of FD-302 of
Date 7-5-77
Page 179

NOTARY PUBLIC FOR OREGON
MY COMMISSION EXPIRES 12/05/19

ACCESS & UTILITY

SCALE 1"=30'

I DO HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT OF LAND PARTITION 45-17 AS SURVEYED AND PLATED.

[Signature]

CHARLES A. O'CONNOR

04/01/2019

I DO HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL
PLAN OF LAND PARTITION 45-17 AS FILED WITH THIS DEPTCE.

Michelle Long Dino Foster
COUNTY CLERK BY DEPUTY

BY DEPUTY

APPROVED BY: Mark Williams 4/17/2017
KAMAHN COUNTY RELIGIOUS DIRECTOR DATE

APPROVED BY: Mark Williams 4/17/2017
KAMAHN COUNTY CLERK DATE

APPROVED BY: Mark Williams 4/17/2017
KAMAHN COUNTY SHERIFF DATE

DATE 1 OCT 1968

SURVEYOR'S CERTIFICATE

OF OREGON, HEREBY CERTIFY THAT I HAVE PARTICIPATED, PLANTED, THE LAND SHOWN AS LAND PARCEL 43-17, 17 PLATE IN THE NE 1/4 OF SECTION 32, TOWNSHIP 39 SOUTH, RANGE 10 EAST 11N, 11E MERIDIAN, CLATSOP COUNTY, OREGON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ADKINS

of May 2018

2/28/

FINAL JP-445-17

3488-01

2018-2020

EXHIBIT A
2 2