

**IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON**

ORDER NO.

12-2-1-7

(IN THE MATTER OF AUTHORIZING A
(MODIFICATION OF AN EASEMENT OVER A
(PORTION OF THE TRIANGLE LAKE
(STOCKPILE SITE, MORE SPECIFICALLY
(SPECIFICALLY DESCRIBED AS TAX LOT
(1101 ON MAP 16-07-18-42

WHEREAS, Lane County owns property fronting on Oregon Highway 36 in the Blachly area of Lane County, known as the Triangle Lake Stockpile Site, more specifically described as Tax Lot 1101 on Lane County Assessor's Map 16-07-18-42 and as generally depicted on Attachment 1 to this Order; and

WHEREAS, said property is subject to an existing easement for a private road that allows access to properties located to the west of said County property that do not front on said Highway 36 as generally depicted on Attachment 2 to this Order; and

WHEREAS, Rick McMullen and B. F. Hopfner-McMullen own property adjoining said County Property on the west identified as Tax Lot 2200 on Lane County Assessor's Map 16-07-18-00 to which said easement is appurtenant, and they also own property identified as Tax Lot 2202 on Lane County Assessor's Map 16-07-18-00 which is located on the east side of said Highway 36 opposite the county-owned property; and

WHEREAS, the McMullens wish to develop Tax Lot 2202 with a new dwelling, but cannot do so without placement of water and septic utility lines within the private road easement to access said Tax Lot 2200 which will meet the requirements for a well and septic system to serve the new dwelling; and

WHEREAS, the private road easement as currently written does not specifically allow utility lines to be placed within the easement and the McMullens wish the modification of the easement for financing purposes and to allow the permits to be obtained for the proposed new dwelling; and

WHEREAS, the additional right to be added to the easement will pose little, if any burden on the measurable market value or use of the County Stockpile Site, and the McMullens have agreed to pay \$1,000 to defray the administrative costs of processing the Easement Modification document.

WHEREAS, ORS 271.310 provides that the County may sell, exchange, convey or lease all or any part of its interest in property to a governmental body, private corporation or individual whenever the public interest may be furthered; and

NOW THEREFORE,

IT IS ORDERED that the Board authorizes the execution of the Modification of Easement document in the form as shown on "Exhibit A",

IT IS FURTHER ORDERED that this Order shall be entered into the records of the Board of Commissioners of the County.

ADOPTED this 1st day of February, 2012.

APPROVED AS TO FORM

Date: 1-20-12 Lane County


OFFICE OF LEGAL COUNSEL


Sid Leiken, Chair,
Board of County Commissioners

After Recording Return to:
Lane County Public Works
Right of Way Management
3040 North Delta Highway
Eugene, OR 97408
Send Tax Statements to:
(The above address)

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

MODIFICATION OF EASEMENT

WHEREAS, LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called GRANTOR, is the owner of real property located in Lot 4 of Section 18, Township 16 South, Range 7 West, Willamette Meridian, Lane County, Oregon to wit:

That portion of said Lot 4 conveyed to Lane County by Bargain and Sale Deed recorded August 22, 1972 in Reel 600R of Lane County Official Records, as Document 14935 in the Lane County Office of Deeds and Records in Lane County, Oregon, and more particularly identified as Lane County Assessor's Tax Lot 1101 on Map 16-07-18-42; and

WHEREAS, Rick McMullen and B.F. Hopfner-McMullen, hereinafter called GRANTEE, are the owners of land which adjoins said Lane County property along its west and south sides to wit:

That portion of Lot 4 of Section 18, Township 16 South, Range 7 West, Willamette Meridian, Lane County, Oregon, described as Parcel # 1 in the Bargain and Sale Deed recorded February 15, 2002 as Document 2002-012606 in the Office of Deeds and Records in Lane County, Oregon, and which is more particularly identified as Tax Lot 2200 on Lane County Assessor's Map 16-07-18-00; and

WHEREAS, GRANTOR's property is subject to an easement in favor of GRANTEE's property for a certain private road running over and across the southerly side of GRANTOR's property as reserved in the Warranty Deed to the State of Oregon recorded February 4, 1939 in Book 199 of Deeds Page 26, Lane County, Oregon Deed Records Lane County; and

WHEREAS, GRANTEE now wishes to utilize said private road easement for installation of underground septic leachate pressure lines, domestic water supply lines, electric lines and appurtenances thereto to serve other property now owned by GRANTEE and described as Parcel # 3 in the above-referenced deed recorded February 15, 2002, and more particularly described as Lane County Tax Lot 2202 on Map 16-07-18-00; and

WHEREAS, it is mutually agreed between GRANTOR and GRANTEE that the permitted uses of said easement are modified and expanded under the following terms and conditions:

- 1) The easement may be used for underground installation of septic leachate pressure transmission lines, domestic water supply lines electric service lines and appurtenances thereto to interconnect said facilities between Grantee's two parcels as identified above.
- 2) No leachate disposal shall be permitted within the easement area.

- 3) Any facilities to be installed in said easement area shall be placed no less than 30 inches below existing ground level and shall be within the existing traveled way for the private road easement.
- 4) The repair and maintenance of said facilities, once installed, shall be the sole responsibility of GRANTEE or their successors in interest.
- 5) The surface of the easement area shall be restored as nearly as possible to its pre-installation condition once the installation has been completed.
- 6) GRANTEE shall notify the Lane County Department of Public Works-Road Maintenance Division in writing at 3040 North Delta Highway, Eugene, Oregon 97408, 48 hours prior to undertaking any excavation within the easement area.
- 7) GRANTEE agrees to indemnify, defend and hold Lane County, its Commissioners, agents, officers and employees harmless from all damages, losses and expenses and to defend GRANTOR from all claims, proceedings, lawsuits and judgments arising out of or resulting from GRANTEE's use of said easement area.
- 8) GRANTEE shall sufficiently document the location of any underground lines that may be installed within the easement area so that their location may, upon written request from GRANTOR, be marked on the ground if necessary in connection with the maintenance and operation of GRANTOR's stockpile site currently located on GRANTOR's property. GRANTEE further agrees to install a tracer wire to aid in locating the installed lines by electronic means and shall mark the terminal ends of said tracer wire(s) to assure their recoverability at a later date.
- 9) This agreement shall run with the land and shall be binding upon the parties, their heirs and/or successors in interest in perpetuity.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

In all other respects, the terms and conditions of said easement shall remain unchanged.

The true and actual consideration for this Agreement is: \$ **No Monetary Consideration.**

IN WITNESS WHEREOF, the undersigned have executed this instrument this 15th day of February, 2012

Commissioner

Commissioner

Commissioner

Commissioner

STATE OF OREGON)

ss.

County of Lane)

On February 15th, 2012, personally appeared SIDNEY W. LAKEW,
KAYE STEWART, JAY BOZIEVICH

who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon and that said instrument was signed and sealed in behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

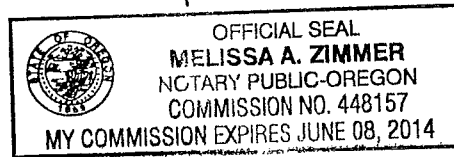
Notary Public for Oregon

My Commission Expires

June 8, 2014

GRANTEE

Rick McMullen
Barbara Hopfner-McMullen



STATE OF OREGON)

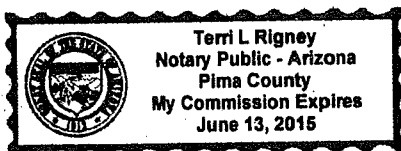
ss.

County of Lane)

On DEC 28, 2011, personally appeared the above-named _____

Rick McMullen
BARBARA Hopfner-McMullen

and acknowledged the foregoing instrument to be YES voluntary act before me.



Notary Public for Oregon

My Commission Expires: JUNE 13, 2015

McMullen Properties

2201
7.28 AC

EAST 760'

2200
10.02 AC

EAST (801.6')
S89°22'21"E 868.20'

2403
39.64 AC

S89°22'21"E 1301.21'

County Owned Property

SEE MAP
16071843

LOT 7
1536

2202
0.81 AC

22.51'
S0°39'10"W

112.74'
N66°37'19"E

688°50'10"W
317.42'

743.71'

407.8'

260'
S66°24'W

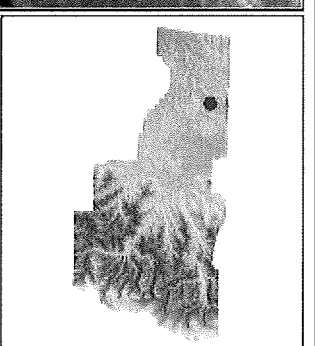
01.922'

995.47'
N0°6'42"E 1277.72'

1219.72'

NO 2341'E

ATTACHMENT 2



Lane County Triangle Lake Stockpile Site
Tax Lot 16-07-18-42-1101