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P.O. Box 417  
Hood River, OR 97031

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## ROAD AND STORMWATER FACILITIES MAINTENANCE AGREEMENT

GRANTOR: Rick and Paula Zimmerman, husband and wife  
GRANTEE: Napali Heights Short Plat and Napali Road  
ABBREV LEGAL DESCRIP: Lots 1-4 of Short Plat SP 06-21  
(additional legal descriptions on page 1)  
ASSESSOR'S TAX PARCEL ID # 03-07-2600-0501/00  
REF. NOS. OF DOCUMENTS RELEASED OR ASSIGNED: \_\_\_\_\_

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THIS AGREEMENT made this 11<sup>th</sup> day of July, 2007 for the purpose of establishing a policy and procedure for maintenance of Napali Road, a private road, together with certain stormwater facilities common to the parcels of property described herein and between the owners of record, hereinafter referred to as "Owners," of the following described parcels of real property located in Skamania County, Washington and described as:

Lots 1 through 4 of Short Plat SP-06-\_\_\_ in NW 1/4 SE1/4 Sec. 26, T3N, R7E, W.M., Skamania County, Washington as shown on the map thereof recorded in Book \_\_\_, Page \_\_\_ of Short Plats, AF # 2007166909, records of Skamania County.

The landowners agree to provide for the maintenance of Napali Road and all private roads and stormwater facilities common to the above-described real property as follows:

### A. RIGHTS AND USE OF ROAD.

That each Owner shall use Napali Road and all roads designated as a private road as that term is defined in Skamania County Code Ch. 12.03 in a manner which does not interfere with the use of the same by the other Owners; that is to say that none of the Owners shall block the road or in any way restrict or obstruct the rights of travel in the other Owners upon such road. No actions shall be taken by any Owner which would result in the damage, destruction, or erosion of the road. An Owner who causes damage to the road surface shall be solely responsible for the costs of repair therefor.

### B. TYPE AND FREQUENCY OF MAINTENANCE OF ROAD.

That Napali Road and all private roads shall be maintained in as satisfactory and useable condition as is practical. Said maintenance shall consist of, at minimum, the annual filling of all potholes, ruts, gullies, etc. that restrict travel on said roads, rocking or graveling and grading of the roads as

the landowners unanimously desire, and the provision of trenching along the sides of said roads to provide for surface water runoff, where necessary and deemed appropriate by all Owners.

C. RIGHTS AND USE OF STORMWATER FACILITIES.

Certain stormwater drainage facilities and systems, including catch basins, storage structures, drains, flow control manholes, detention ponds, pipes and other appurtenances have or will be constructed to control stormwater drainage within Napali Heights. All easements necessary for the common utilization of the stormwater facilities have been recorded on the face of the Napali Heights Short Plat. No actions shall be taken by any Owner which would result in the damage or destruction, or impeding the operation of the stormwater facilities. An Owner who causes damage to the facilities shall be solely responsible for the costs of repair therefor.

D. TYPE AND FREQUENCY OF MAINTENANCE OF STORMWATER FACILITIES.

Not less than annually, the stormwater facilities described herein shall be inspected, cleaned out, mowed and repaired if necessary, and all accumulated sediment, leaves, weeds, debris and other obstructions removed. Further, and without limiting the generality of the foregoing, the flow control manhole sump shall be cleaned when sediment levels exceed 25% of the sump depth as measured from the bottom of the catch basin to invert of the lowest pipe into or out of the basin, but in no case less than a minimum of 12" clearance from the sediment surface to the bottom orifice plate. After every major storm, the internal control structure of the flow control manhole shall be inspected to ensure the cross is securely attached to the manhole wall and in an upright position, that the bottom orifice plate is attached and no other holes other than those shown in the original design exist, and the orifice hole is not plugged or restricted and that the upper weir (overflow) is not restricted by debris.

The detention pond shall be inspected annually to determine depth of accumulated sediment. If sediment exceeds 3" of accumulated depth near the control structure, the sediment must be removed. The pond side slopes shall also be inspected for signs of erosion. If damage over 2" deep is observed, it must be repaired with compacted soil and reseeded. The pond shall also be inspected for growth of trees and brush. If growth is observed the pond must be mowed. All poisonous or nuisance vegetation which may constitute a hazard to maintenance personnel or the public shall be removed. The pond shall also be inspected for any evidence of oil, gasoline, contaminants, or other pollutants, and if present, clean up and removal must be coordinated with the local water quality response agency.

E. METHOD OF ASSESSING COSTS.

Costs for the road and stormwater facilities maintenance described herein, including labor and materials, shall be assessed equally among all Owners served by said road and facilities, regardless of lot size. The Owners hereby agree to share said costs on the foregoing basis, to pay the same when due and to hold each other harmless from their respective obligations of their share of the total maintenance or repair costs. The Owners agree to elect each year on an annual basis one of the Owners owning at least one of the lots served by said private road to act as manager for the purpose of supervising the maintenance or repair to be accomplished within said year, and the manager so elected shall be vested with the authority and responsibility of overseeing the maintenance or repair, submitting the pro rata costs to each of the other Owners, and ensuring the materials and labor involved are paid for by the Owners. The election shall occur prior to January 31 of each calendar year, and the manager positions shall be held until December 31 of the year in which elected, or until replaced by a new elected manager.

F. DISBURSEMENT OF FUNDS.

Upon agreement of a majority of the Owners to perform maintenance activities, funds shall be disbursed within thirty (30) days of billing to any provider of maintenance service or materials by the Owner designated as manager.

E. NON-PAYMENT OF COSTS - REMEDIES.

Any Owner who becomes delinquent in the payment of funds under this agreement for a period of thirty (30) days or more shall contribute a late penalty of \$1.00 per day to the maintenance account for each day of delinquency. After ten (10) days written notice to the Owner, any or all of the other Owners shall be entitled to seek any remedy available at law including a suit for money owed.

F. ATTORNEY'S FEES.



In the event that a suit or action is brought to enforce compliance with any of the terms, covenants or conditions of this agreement, or to enforce payment of any sums which may become due hereunder, or any portion thereof, the prevailing party shall receive, in addition to all other costs and disbursements provided by law, such sum of money as the Court shall adjudge reasonable as attorney's fees in said suit or action, including attorney's fees and costs on appeal.

G. APPURTENANCE TO THE LAND.

This agreement shall be binding on all heirs, successors or assigns of any Owner and shall be appurtenant to the parcels of land herein described.

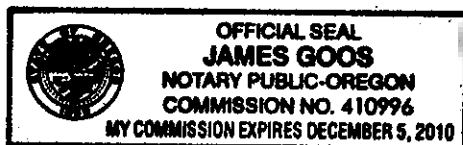
H. SEVERABILITY.

If any provision of this agreement is held invalid for any reason, the remainder of this agreement is not affected.

 - Owner  
 - Owner  
\_\_\_\_\_- Owner  
\_\_\_\_\_- Owner

STATE OF OREGON )  
County of MULTNOMAH ) ss.

On this day personally appeared before me RIKS ZIMMERMAN and PAULA ZIMMERMAN to me known to be the individual(s) described in and who executed the within and acknowledge to me that THEY signed the same as THEY free and voluntary act and deed for the purposes therein mentioned.



[Signature]  
Notary Public for PORTLAND  
My commission expires: DEC 5, 2010

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this day personally appeared before me \_\_\_\_\_ and \_\_\_\_\_ to me known to be the individual(s) described in and who executed the within and acknowledge to me that \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed for the purposes therein mentioned.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_