

After Recording Return to:
Campbell & Popkin, LLC
1580 N. Roosevelt Drive
Seaside, OR 97138

**ROAD MAINTENANCE AGREEMENT
(Partition Plat 2020-_____)**

Section 1. Description of Property Containing Road

John S. Banta, in his capacity as personal representative of the Estate of John A. Banta, Clatsop County Circuit Court Case No. 19PB07036 (hereafter "PR"), has partitioned the Estate's property formerly located at 1060 McCormick Gardens Road, Gearhart, OR 97138, and created three parcels therein. The partition is Partition Plat 2020-_____, recorded as Instrument No. _____ in the deed records of Clatsop County, Oregon (hereinafter "PP-2020").

This Road Maintenance Agreement (hereinafter "Agreement") shall only affect the parcels/properties created in PP-2020. As a condition of approval of PP-2020, Clatsop County is requiring PR to establish a road maintenance agreement for the road ("Road") being created by plat thereof. A visual depiction of the Road is shown on the attached Exhibit A.

Section 2. Purpose of Agreement and Parties to Agreement.

It is the purpose of this Agreement to provide for the maintenance of the Road and to allocate the costs incurred in maintaining the Road equally among the property owners benefitted by such Road.

Section 3. Requirement to Maintain Road

At such time as individual parcels/properties within PP-2020 are conveyed from the Estate, maintenance obligations will shift to the individual parcel/property owner(s), as set forth herein ("Owners").

Section 4. Improvement of the Road

All improvements or modifications of the Road from the date of this Agreement shall be borne by the Owners, their successors and assigns.

Section 5. Payment of Cost of Maintenance

Each Owner shall be responsible for an equal share of the maintenance and repair costs. (Example: There are 3 parcels, each Owner pays 1/3).

Section 6. Damage to Road

If any or all of the Road is damaged due to unreasonable use or negligence or intentional conduct by an Owner, their successors and assigns, or by someone acting on behalf of or under the direction and control of an Owner, such Owner shall pay all costs necessary to restore the Road to its pre-damaged condition.

Section 7. Determination of Repair

When fifty percent (50%) or more of the Owners subject to this Agreement, in the exercise of their reasonable judgement, determine that the Road is in need of maintenance or repair, firm bids for the cost of the maintenance or repair shall be obtained and sent to each Owner. Within thirty (30) days following the mailing of the costs of repair, each Owner shall pay their proportionate share of the costs, computed in accordance with this Agreement. If the Owners of fifty percent (50%) or more of the parcels/properties object to the costs or to the determination of the need for maintenance or repair, all parties subject to this Agreement agree to arbitrate the issues presented pursuant to the arbitration provisions of Oregon Law, ORS Chapter 33, as may from time to time be modified or changed. The Owners shall appoint a single arbitrator, who shall be an individual who has been involved in real estate matters similar to the subject of this Agreement.

Each Owner shall contribute their proportionate share of the total costs of any repair or maintenance or upkeep of the Road unless otherwise provided.

Section 8. Lien for Cost of Repair

If an Owner fails to pay their share of the maintenance costs, the remaining Owners are granted a lien upon that Owner's property. The amount owed by the non-paying Owner shall bear interest at the rate of nine percent (9%) per annum and the remaining Owners may file suit to recover the amount owed or to foreclose the lien granted by this Agreement by judicial foreclosure.

Section 9. Costs of Suit

If any arbitration or suit of action is initiated to contest the use, maintenance or repair obligations contained herein or to collect amounts owed for the obligations or in a manner relating to this Agreement, the prevailing parties in the litigation or arbitration, including any subsequent proceedings from the arbitration award and including any appeal from the arbitration or court proceeding, shall be entitled to reasonable attorney fees and expert witness fees in addition to other reasonable costs of the suit or arbitration.

Section 10. Binding Effect

This Agreement shall run with the land described herein and shall bind and inure to the benefit of the Owners and their heirs, personal representatives, administrators, successors and assigns, and shall bind and inure to any future increases in parcels/properties by additional partition of the affected parcels/properties.

Section 11. Enforcement

This Agreement and the rights and burdens set forth herein this Agreement may be enforced at law or in equity through any available remedy by the owner of any parcel/property subject to this Agreement.

Section 12. Effect of the Sale of Property

Any grantee or contract vendee of any parcel or property subject to this Agreement shall, upon acquiring their interest in such parcel or property, be obligated by, subject to and have the rights detailed in this Agreement.

Section 13. Modification

PR reserves the right to modify this Agreement at any time prior to any parcel/property being conveyed to a third party. After the conveyance of one parcel/property, all Owners may, upon a two-thirds (2/3) vote of all Owners, change or modify the terms of this Agreement.

IN WITNESS WHEREOF, THE UNDERSIGNED, BEING THE Declarant herein, has executed this Agreement this _____ day of _____, 2020.

**John S. Banta, Personal Representative of
the Estate of John A. Banta**

STATE OF OREGON)
) ss.
County of Clatsop)

Personally appeared the above-named **John S. Banta, in his capacity as personal representative of the Estate of John A. Banta, Clatsop County Circuit Court Case No. 19PB07036**, and acknowledged the foregoing instrument to be his voluntary act on the _____ day of _____, 2020. Before me:

Notary Public for Oregon