

After recording, return to:
Michael Vial, Esq.
Vial Fottheiringham LLP
17355 SW Lower Boones Ferry Road, Suite A
Lake Oswego, OR 97035

Grantor: Walter W. Kastner, Jr. Family Trust
Grantees: Holly Heights Home Owners Association

Tillamook County, Oregon
08/31/2023 01:55:57 PM
2023-003948

DEED-ESAMD

\$15.00 \$11.00 \$61.00 \$10.00 - Total = \$97.00



00237957202300039480030035

I hereby certify that the within
instrument was received for record and
recorded in the County of Tillamook,
State of Oregon.

Tassi O'Neil, Tillamook County Clerk

AMENDMENT TO PRIVATE ROAD & PUBLIC UTILITY EASEMENT AGREEMENT

This Amendment ("Amendment") to that certain Private Road & Public Utility Easement Agreement recorded at Book 390, Page 104 in the deed records of Tillamook County, Oregon, and attached hereto as Exhibit A (the "Agreement") is made and entered into this ___ day of August, 2023, by and between the WALTER W. KASTNER, JR. FAMILY TRUST ("Owner A"), and HOLLY HEIGHTS HOME OWNERS ASSOCIATION, ("Owner B") the Oregon non-profit corporation responsible for administering the Holly Heights Subdivision ("Subdivision"), together with their respective successors and assigns. As used herein, Owner A and Owner B, and each of their respective successors and assigns, shall be referred to collectively as the "Parties", or individually as a "Party".

RECITALS

- A. The Agreement was originally entered into between Todd and Holly Bates, husband and wife, and referred to in the Agreement as "Owner A" and Burt Bates and Todd and Holly Bates, husband and wife and referred to in the Agreement as "Owner B."
- B. Owner A, the Walter W. Kastner, Jr. Family Trust, the successor in interest to Todd and Holly Bates, husband and wife, owns those certain real properties described as Tax Lot 3400 Tillamook County Assessor's Map No. 1S-10-32 and Tax Lot 2800 Tillamook County Assessor's Map 1S-10-32, and more particularly shown and described in Exhibit A to the Agreement.
- C. Owner B, the Holly Heights Home Owner Association, is the successor in interest to Burt Bates and Todd and Holly Bates, husband and wife, and is the homeowners association responsible for the management of the Holly Heights Subdivision, a subdivision of Tax Lot 200, Assessor's Map No. 2S 10 5BA, and more particularly shown and described in Exhibit B to the Agreement. The Holly Heights Subdivision was inaccurately described as a subdivision of Tax Lot 200, Assessor's Map No. 1S 10 5BA in Recital B and Paragraph A of the Agreement.
- D. The Agreement provides an easement for certain access rights in favor of Owner B across a private road ("Road") owned by Owner A and more fully described in the Agreement.
- E. The Parties now wish to amend the agreement in order to grant Owner B the right to restrict and enjoin Owner A from granting further Road access rights to certain other property owners as described below.

- F. The Parties intend that all other provisions of the Agreement remain in full force and effect.
- G. The Parties intend that this Amendment, and the Agreement as amended, shall be binding on each of their respective successors and assigns.
- H. The monetary consideration for this amendment is zero dollars (\$0). Non-monetary consideration includes the continued use, maintenance, and quiet enjoyment of the Road and properties owned and managed by the Parties.

AMENDMENT

Now, therefore, Section B of the Agreement is amended to read as follows:

B. Owner A continues to own said land to be used as a vehicle access and for public utilities, reserving the right to use the subject Land in all ways, including the granting of an access easement to adjoining tax lots, and the further subdividing of Lot 19 of Holly Heights subdivision, which do not unreasonably interfere with Owner B's right of vehicular access and public utilities needed to construct and maintain their services, except that no grant of an access easement to, or in favor of, Tax Lot 100, as shown on Tillamook County Assessor's Map 02S10W05BB NETARTS as of July 1, 2023, or any future subdivisions thereof, may be made without the written approval of Owner B's Board of Directors.

WALTER W. KASTNER, JR. FAMILY TRUST

Walter W. Kastner, Jr.
Walter W. Kastner, Jr., Trustee

Date: 8-31-2023

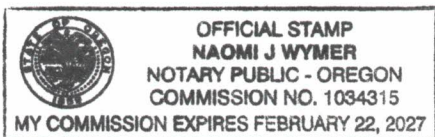
HOLLY HEIGHTS HOME OWNERS ASSOCIATION

Shannon Farrier
Shannon Farrier, President

Date: 8-31-2023

STATE OF OREGON)
) ss.
County of Tillamook)

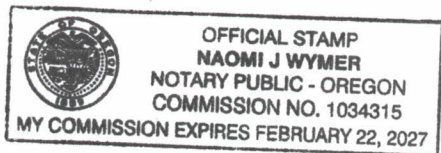
The foregoing instrument was acknowledged before me this 31 day of August, 2023,
by Shannon Farrier, President of The Holly Heights Home Owners Association, on its behalf.



Naomi J Wymer
Notary Public for Oregon
My Commission Expires: 2/22/27

STATE OF OREGON)
) ss.
County of Tillamook)

The foregoing instrument was acknowledged before me this 31 day of August, 2023,
by Walter W. Kastner, Jr., Trustee of the Walter W. Kastner, Jr. Family Trust.



Naomi J Wymer
Notary Public for Oregon
My Commission Expires: 2/22/27