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Easement Agreement for Access

Date: August 9, 2012

Grantor: WILLIAM BUFARD CARLILE, AKA BUFARD CARLILE, Individually and as Trustee for the Opal Carlile Trust

Grantor's Mailing Address:

William Bufard Carlile
3207 CR 1320
Lampasas, TX 76550
Lampasas County

Grantee: STEPHEN WRIGHT

Grantee's Mailing Address:

3406 Shinoak Dr.
Austin, TX 78731
Travis County

Dominant Estate Property: 94.726 acres of land, more or less, being out of the E. E. Jones Survey, Abstract No. 434, and being the 94 acre tract as conveyed to A. L. Shipp by T. J. Kirby, et ux by deed recorded in Vol. 161, page 247, Deed Records, Lampasas County, Texas, and being the same 94 acre tract as conveyed to J. C. Ferguson by deed dated October 11, 1949, recorded in Vol. 91, page 121, Deed Records of Lampasas County, Texas.

Easement Property: Being a road in place over and across 323.5 acres, more or less, in Lampasas County, Texas, and consisting of the following survey to wit, being known as the North one-half (N1/2) of Survey No. 16, Block No. 3, H & T C Ry. Co. Patent No. 356, Volume 27, dated October 25, 1925, Certificate No. 334, described by metes and bounds as follows:

BEGINNING at an old st md on the S line of the J. Carnsner Survey the recognized NW cor of this original survey;
THENCE a Sp. O. Brs S 30 W 13-1/2 vrs an elm N 30 E 6-3/4 vrs;
THENCE with said line N 72 E 1035 vrs old st md the NW cor of the E. E. Jones Pre. whence a LO 18 in. In dia. brs S 54 W 126 vrs;
THENCE with W line of said Jones S 590 vrs Donaldson Creek, 650 vrs old SW cor where a large Sp. O. With old mark, brs S 10 W 40 vrs;
THENCE with the established S line of said Jones Survey N 87-1/2 E (recrossing said creek) 1382 vrs old SE cor on W line of the Thos. Avant Pre.; whence a LO brs S 87-1/2 W 49-1/2 vrs;
THENCE S 19 E 100 vrs SW cor of Avant;
THENCE with old S line N 74 E 395 vrs cor of this original sur a Lone Oak brs S 40 W 31-1/2 vrs a do S 34 W 18-1/2 vrs;
THENCE S 19 E 120 vrs another original cor on N line of the I. Hunter Pre. Where a small cedar brs S 30 E 24-3/4 vrs;
THENCE S 71 W 535 vrs NW cor of Hunter whence two LO br N 78 W 64-3/4 vrs and 128-1/2 vrs;
THENCE with the W line of Hunter S 19 E 327 vrs for SE cor of this sur whence two LO brs S 1 W 67 vrs and S 4 E 65-1/2 vrs;
THENCE W 2410 vrs a st for SW cor on W line of this original survey two Sp. O brs S 30 E 29-1/2 vrs and S 85 E 29 vrs;
THENCE N with said line 857 vrs to beginning;

and being the same property described in a deed dated June 23, 1950, from J. H. Fox et ux to Bufard Carlile et ux, recorded in Volume 93, page 410, Deed Records of Lampasas County, Texas and also being the same property described as Tract Three in deed dated March 21, 2003 from William Bufard Carlile, Independent Executor of the Estate of Opal Carlile, deceased to William Bufard Carlile, Trustee of the Opal Carlile Estate Trust recorded in Volume 386, page 469, Deed Records, Lampasas County, Texas.

Easement Purpose: For providing free and uninterrupted pedestrian and vehicular ingress to and egress

from the Dominant Estate Property, to and from County Road 1320.

Consideration: Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: None.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property for the Easement Purpose and for the benefit of the Dominant Estate Property, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part thereof, except as to the Reservations from Conveyance and Exceptions to Warranty, to the extent that such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Character of Easement.* The Easement is appurtenant to and runs with all or any portion of the Dominant Estate Property, whether or not the Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Easement is nonexclusive and irrevocable. The Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own the Dominant Estate Property or any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Easement.* The duration of the Easement is perpetual.

3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to continue to use and enjoy the surface of the Easement Property for all purposes that do not interfere with or interrupt the use or enjoyment of the Easement by Holder for the Easement Purposes. Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Easement in conjunction with Holder and the right to convey to others the right to use all or part of the Easement in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement and the other users agree to bear a proportionate part of the costs of improving and maintaining the Easement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain a road reasonably suited for the Easement Purpose within the Easement Property. However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.

5. *Improvement and Maintenance of Easement Property.* Improvement and maintenance of the

Easement Property will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder must maintain the Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove a road with all culverts, bridges, drainage ditches, sewer facilities, and similar or related utilities and facilities under or across any portion of the Easement Property (collectively, the "Road Improvements"). All matters concerning the configuration, construction, installation, maintenance, replacement, and removal of the Road Improvements are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the Road Improvements or for the road to continue onto other lands or easements owned by Holder and adjacent to the Easement Property, subject to replacement of the fences to their original condition on the completion of the work. On written request by Holder, the owners of the Easement Property will execute or join in the execution of easements for sewer, drainage, or utility facilities under or across the Easement Property.

6. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

7. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

8. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

9. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

10. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

11. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.

12. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.

13. *Indemnity.* Each party agrees to indemnify, defend, and hold harmless the other party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this agreement by the indemnifying party.

14. *Entire Agreement.* This agreement and any exhibits constitute the entire agreement of the parties concerning the grant of the Easement by Grantor to Grantee. There are no representations, agreements, warranties, or promises that are not in this agreement and any exhibits.

15. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

16. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

17. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

18. *Time.* Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

19. *Limitations.* Nothing in this agreement shall grant any right to Grantee to any area of the easement property other than that specifically granted in this easement. No portion of this agreement shall be construed to give access to or any right or title to any portion of the of Grantor=s property other than that specifically defined herein as being necessary to maintain the road across the Grantor=s property that is already in place as of date of the execution of this agreement.

WILLIAM BUFARD CARLILE, Individually and as Trustee
of the Opal Carlile Trust

STEPHEN WRIGHT

STATE OF TEXAS)

This instrument was acknowledged before me on _____, 2012, by William Bufard Carlile Individually and as Trustee of the Opal Carlile Trust.

Notary Public, State of Texas

STATE OF TEXAS)

This instrument was acknowledged before me on _____, 2012, by Stephen Wright.

Notary Public, State of Texas

PREPARED IN THE OFFICE OF:

MARTIN, MILLICAN
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LAMPASAS, TX 76550
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lw/real/wright stephen/16938/easement agreement