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11-10-64

vol 11-65, page 5020

28990

File Nos. 35942  
35944

INDENTURE OF ACCESS

THIS INDENTURE, made and executed this 14<sup>th</sup> day of December, 1965, by and between the STATE OF OREGON, by and through its State Highway Commission, hereinafter called "State"; and HAROLD CLOAKE and CRYSTAL L. CLOAKE, husband and wife, hereinafter called "Owners";

1. WHEREAS, by deed executed on June 15, 1964, and recorded in Book of Deeds Volume 354 at page 525, for Klamath County, Oregon, State acquired a parcel of land located in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 2, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon, from the then owners, First Federal Savings and Loan Association of Klamath Falls, a corporation; Everett D. Peery and Lorys Peery, husband and wife; and Matt J. Koffler and Verla M. Koffler, husband and wife. Said deed, as a part of the consideration, conveyed to State all of the grantors' abutters' easements of access from their remaining abutting lands to the southerly side of the Crest Street-Patterson Street Section of the Klamath Falls-Lakeview Highway, Primary State Highway No. 20, except that there was reserved for the use of said remaining abutting lands, a right of access at a point opposite Highway Engineer's Centerline Station 102+95, of a width of 35 feet and unrestricted as to use; and

2. WHEREAS, by deed executed on April 17, 1964, and recorded in Book of Deeds for Klamath County, Oregon, Volume 352 at page 433, State acquired a parcel of land located in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 2, Township 39 South, Range 9 East, Willamette

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Meridian, Klamath County, from the then owners, Lee S. McMullen and Grace R. McMullen, husband and wife. Said deed, as a part of the consideration, conveyed to State all of the grantors' abutting easements of access from their remaining abutting lands to the southerly side of the Crest Street-Patterson Street Section of the Klamath Falls-Lakeview Highway, Primary State Highway No. 20, except that there was reserved for the service of said remaining abutting lands, a right of access at a point opposite Highway Engineer's Centerline Station 102+14, of a width of 35 feet and unrestricted as to use; and

3. WHEREAS, State's grantors in each instance were granted said right of access subject to the right of State to construct at any future time a frontage road or roads within the present or hereafter acquired right of way, whereupon all rights of direct access reserved to and from said public way, that are on or adjacent to any such frontage road or roads, shall cease, but grantors, their heirs and assigns, shall have access to the frontage road or roads for any lawful purpose; and

4. WHEREAS, Owners, by Warranty Deed dated August 3, 1964, and recorded in Book of Deeds for Klamath County, Volume 355 at page 353, acquired the remaining abutting lands of State's grantors, as set out in paragraph 1 above; and

5. WHEREAS, by deed executed on August 6, 1964, Owners acquired the remaining abutting lands of State's grantors, as set out in paragraph 2 above, said deed being recorded in Book of Deeds for Klamath County, Volume 355 at page 354; and

6. WHEREAS, Owners have requested that the aforementioned rights of access to the southerly side of said highway at points opposite Highway



Engineer's Centerline Stations 102+95 and 102+14, be cancelled, and in lieu thereof there be substituted rights of access at points opposite Highway Engineer's Centerline Stations 102+01 and 102+85 on the southerly side of said highway, of a width of 40 feet and unrestricted as to use; and

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7. WHEREAS, State is willing to grant Owners' request.

NOW, THEREFORE, this Indenture witnesseth that for and in consideration of the grant hereinafter made by State, Owners do hereby sell, relinquish and transfer unto State, their easements of access to, from and between their abutting property and the right of way of the relocated Klamath Falls-Lakeview Highway, Crest Street-Patterson Street Section, on the southerly side thereof at points opposite Highway Engineer's Centerline Stations 102+14 and 102+95. In consideration of the relinquishment and conveyance by Owners of their rights of access as hereinabove set out, State does hereby grant and convey unto Owners, their heirs and assigns, easements of access and rights of ingress, egress and regress to, from and between the right of way of the relocated Klamath Falls-Lakeview Highway and Owners' property abutting on the southerly side thereof at points opposite Highway Engineer's Centerline Stations 102+01 and 102+85, of a width of 40 feet and unrestricted as to use; PROVIDED, HOWEVER, State reserves the right to construct or otherwise provide at any future time a public frontage road or roads, whereupon all rights of direct access herein granted to and from said highway, that are on or adjacent to any such frontage road or roads, shall cease, but Owners, their heirs and assigns, shall have access to the frontage road or roads for any lawful purpose.

Except as herein modified, said deeds of June 15, 1964, and April 17, 1964, shall remain in full force and effect and the rights of access

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herein granted shall be subject to all the provisions of said deeds as fully as if set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

APPROVED:

[Signature]  
Assistant State Highway Engineer

APPROVED AS TO FORM:

[Signature]  
Chief Counsel  
[Signature]  
Staff Attorney

ATTEST:

[Signature]  
Secretary

STATE OF OREGON, by and through  
its State Highway Commission

By [Signature]  
Chairman

By [Signature]  
Commissioner

By [Signature]  
Commissioner

STATE

[Signature]  
Harold Cloake

[Signature]  
Crystal L. Cloake

OWNERS



STATE OF OREGON

County of Marion

ss

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On this 14th day of December, 1965, before me appeared GLENN L. JACKSON, KENNETH N. FRIDLEY, and DAVID B. SIMPSON, to me personally known, who each being duly sworn, did say that he, the said Glenn L. Jackson, is Chairman of the State Highway Commission of the State of Oregon, and that he, the said Kenneth N. Fridley, and he, the said David B. Simpson, is State Highway Commissioner of the State of Oregon; that the seal affixed to said instrument is the seal of the State Highway Commission, and that the said instrument is signed and sealed in behalf of said State by said Commission, and that the said Chairman and the said Commissioners acknowledge said instrument to be the free act and deed of said State, by said State Highway Commission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Cecil H. Head

Notary Public for Oregon  
My commission expires: November 5, 1966

STATE OF OREGON

County of Klamath

ss

On this 3rd day of November, 1965, personally came before me, a notary public in and for said county and state, the within named

Harold Clarke and Lepta J. Clarke, husband and wife, to me personally known to be the identical persons described in, and who executed the within instrument, and who each personally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.

Lincoln

Notary Public for Oregon  
My commission expires: 1/1/68

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of State of Oregon

On 27 day of Dec., A. D. 1965 at 10:45 o'clock A. M., and

duly recorded in Vol. M-65 of Deeds on Page 5020

DOROTHY ROGERS, County Clerk

Fee \$7.50 Collect

By Dorothy Rogers

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