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File 36570

7403

VOL. MU PAGE

## INDENTURE OF ACCESS

THIS INDENTURE OF ACCESS, made and executed this 29th day of August, 1967, by and between the STATE OF OREGON, by and through its State Highway Commission, hereinafter referred to as "State", and Don E. Wescom and Maxine Wescom, hereinafter referred to as "Owners";

WHEREAS, by deed recorded August 13, 1964, in Volume 355 at Page 287 of Klamath County Deed Records, State acquired from John F. Offel and others, certain lands lying in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 1, Township 39 South, Range 9 East, W.M., Klamath County, Oregon, which deed reserved to the grantors of said deed, access rights to the Northerly side of the relocated Klamath Falls - Lakeview Highway opposite Engineer's Station 132+48; and

WHEREAS, Owners, by deed recorded in Volume 361 at Page 103 of Klamath County Deed Records, acquired the fee title to that portion of the property adjoining said highway which will be affected by the access changes herein made; and

WHEREAS, Owners have requested that their access rights opposite said Station 132+48 be cancelled and in lieu thereof there be substituted access rights to the Northerly side of said highway, at a point opposite Engineer's Station 132+07, and

WHEREAS, Owners have further requested that State grant to them additional access rights to the Northerly side of said highway at a point opposite Engineer's Station 132+83, and

WHEREAS, the Federal Congress enacted the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4; the U. S. Department of Commerce through its Bureau of Public Roads, has issued Rules & Regulations to implement Title VI thereof as Title 15, Code of Federal Regulations, Part 8; said Bureau requires inclusion of language from Appendix C of said 15 C.F.R. 8.5 (b) (5), (7) and (10), as appears below; and

WHEREAS, State has indicated a willingness to make the access changes requested by Owners.

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NOW, THEREFORE, THIS INDENTURE WITNESSETH, that for and in consideration of the grant hereinafter made by State, Owners do hereby transfer and relinquish unto State, its successors and assigns, their rights of access to and from the Northerly side of the relocated Klamath Falls - Lakeview Highway, opposite Highway Engineer's center line Station 132+48, reserved in the above-mentioned deed, recorded August 13, 1964, AND ALSO, as a part of the consideration for the grant hereinafter made and in compliance with the requirements of the Bureau of Public Roads, Owners, for themselves, their personal representatives, heirs and assigns, do hereby covenant and agree "as a covenant running with the land" that (1) no person, on the ground of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in connection with the construction of any improvements on said lands and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) that such discrimination shall not be practiced against the public in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing), constructed or operated on, over or under the space of the right of way, and (4) that Owners shall use the premises in compliance with all other requirements imposed pursuant to Title 15, Code of Federal Regulations, Commerce and Foreign Trade, Subtitle A, Office of the Secretary of Commerce, Part 8 (15 C.F.R., Part 8), and as said Regulations may be amended; that in the event of breach of any of the above nondiscrimination covenants, State shall have the right to terminate these accesses and to re-enter and repossess said accesses and the facilities thereon, and hold the same as if said accesses had never been made.

Owners further represent and warrant that their access rights opposite said Station 132+48 are not presently being used by others, there being no outstanding leases, easements or other rights which will be affected by the termination of said

access rights.

State, in consideration of the relinquishment, covenants and warranties herein made by Owners, 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' land abutting on the Northerly side thereof, at points opposite Stations 132+07 and 132+83, in widths of 35 feet and unrestricted as to use.

EXCEPT as herein modified, said deed recorded August 13, 1964, shall remain in full force and effect and the access rights herein granted shall be subject to all the provisions of said deed as fully as if set forth herein.

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

Don E. Wescom (SEAL)  
Don E. Wescom

Maxine Wescom (SEAL)  
Maxine Wescom

STATE OF OREGON, by and through its  
STATE HIGHWAY COMMISSION

By Glen Jackson  
Chairman

By Paul W. Hill  
Commissioner

By Don B. Simpson  
Commissioner

ATTEST:

Floyd Queen  
Secretary

APPROVED:

W. K. Kline  
Assistant State Highway Engineer

APPROVED AS TO FORM:

J. E. Holbe  
Chief Counsel

J. J. Connerich  
Staff Attorney

STATE OF OREGON

County of Klamath

July 20, 1967

Personally appeared the above named Don E. Wescom and Maxine Wescom, and acknowledged the foregoing instrument to be their voluntary act. Before me:

Harold E. Carter  
Notary Public for Oregon

My Commission expires 11-11-67

STATE OF OREGON

County of Marion

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ss  
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On this 29th day of August, 1967, before me appeared Glenn L. Jackson, David B. Simpson and Fred W. Hill, 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 David B. Simpson and he, the said Fred W. Hill 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 A. Head  
Notary Public for Oregon

My Commission expires November 5, 1970

NOTARY PUBLIC, STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Oregon State Highway Commission  
this 21st day of September, A.D. 1967, at 2:25 o'clock P. M. and  
recorded in Vol. M 67, of Deeds on Page 7403  
DOROTHY ROGERS, County Clerk

Fee \$ 6.00

By Cecil A. Head