

98664

## DEED

KNOW ALL MEN BY THESE PRESENTS, That the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, Grantor, for the consideration of the sum of Three Hundred Twenty-five and No/100 DOLLARS (\$325.00) hereby conveys unto FOOTHILLS DEVELOPMENT COMPANY, an Oregon corporation, Grantee, the following described property, to wit:

## PARCEL 1 (Parcel 8 of File 23064)

A parcel of land lying in Lots 7 and 8, Block 79, BUENA VISTA ADDITION TO KLAMATH FALLS, Klamath County, Oregon; the said parcel being described as follows:

Beginning at the Northeast corner of said Block 79; thence South along the East line of said Block 79, a distance of 70 feet; thence Northwesterly in a straight line 130 feet, more or less, to the Northwest corner of Lot 7 of said Block 79; thence East along the North line of said Block 79, a distance of 110 feet to the place of beginning, containing 3,850 square feet.

## PARCEL 2 (Parcel 11 of File 23064)

A parcel of land lying in Lots 10, 11 and 12, Block 121, BUENA VISTA ADDITION TO KLAMATH FALLS, Klamath County, Oregon; the said parcel being described as follows:

Beginning at the Northeasterly corner of said Block 121; thence Southerly along the Easterly line of said Block 121, a distance of 45 feet; thence Westerly in a straight line 160 feet, more or less, to the Northwesterly corner of said Lot 10; thence Easterly along the Northerly line of said Block 121, a distance of 160 feet to the place of beginning.

The parcel of land to which this description applies contains 0.10 acre.

It is understood that this conveyance is made and delivered upon the following express conditions, reservations and restrictions:

1. That there is reserved unto the State of Oregon, its successors, and assigns, all minerals, as defined in ORS 273.775(1), and all geothermal resources, as defined in ORS 273.775(2), together with the right to make such use of the surface as may be reasonably necessary for prospecting for, exploring for, mining, extracting, reinjecting, storing, drilling for, and removing such minerals and geothermal resources; provided, however, that the right hereby reserved to use the surface for any of the above activities shall be subordinate to that actual use of the surface of the premises deeded herein, or any part thereof, being made by the surface rights owner at the time that the State's lessee conducts any of the above activities. In the event such use of the premises by a surface rights owner would be damaged by one or more of the activities described above, then such owner shall be entitled to compensation from State's lessee to the extent of the diminution in value of the real property, based on the actual use by the surface rights owner at the time the State's lessee conducts any of the above activities.
2. That the above described land shall never be used for the placing or maintenance of any advertising sign, display or device, except such sign, display or device used to advertise the activities on said land, or the lease of said land or any portion thereof. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents or employees to enter upon said land and remove, destroy or obliterate any unauthorized sign, display or device, without liability for damage or injury thereto, and to recover the cost of such removal, destruction or obliteration from the owner of said land.
3. That no junk, scrap, junked motor vehicles or parts thereof, debris, trash, waste or other such materials shall be placed on said land for whatever purpose in

Tax statements are to be sent to the following address:

1111 Broadway  
Vancouver, WA 98660

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any manner so as to be visible from a state highway, provided that such items as listed above can otherwise be placed on said land without violating any applicable law, ordinance or regulation. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents or employees to enter upon said land and remove or destroy any unauthorized junk, scrap or other material mentioned above and recover the cost of such removal or destruction from the owner of said land.

4. That this property shall not be used for the operation of any garbage dump or sanitary land fill. If such use is made of the property, Grantor may, at its election, enter upon said land and restore it to the condition that existed prior to said use for garbage dump or sanitary land fill purposes and recover the cost thereof from the owner of said land.

5. That this conveyance is made upon the further condition, which shall constitute a covenant running with the land, that Grantor shall not at any time become liable to Grantee, its assigns or successors in interest for damages to the land herein described or any buildings, structures, improvements or property of any kind or character now or hereafter located upon said land or for any injuries to any owner, occupant or any person in or upon said land or for any interference with the use and enjoyment of said land or for damages which except for this covenant might constitute a nuisance caused directly or indirectly by noise or air pollutant emissions from transportation vehicles using the highway or transportation facility adjacent to said land. Any reference in this covenant to the highway or transportation facility adjacent to said land refers to the highway or transportation facility as it now exists and also as it will exist with future improvements. Grantee for itself and for those who may hold title to any of said land under or through it, hereby covenants not to sue Grantor for any of said injuries or damages.

6. That Grantee assumes the obligation for all costs and legal encumbrances, if the property should later be declared an archeological site, subject to Federal and State Antiquity law. Cost of the removal and re-interment of any human remains which may be found on the site shall also be an obligation of Grantee.

It is understood that the conditions, reservations, restrictions and covenants herein set out have been considered in determining the amount of consideration of this conveyance.

The rights and remedies herein reserved or provided shall not be exclusive and shall not be in derogation of any other right or remedy which Grantor may have. The restrictions, rights, and conditions herein contained shall run with said land and shall forever bind Grantee, its successors and assigns. Where any action is taken to enforce the above mentioned conditions, Grantor shall not be liable for any trespass or conversion as to any real or personal property. Where legal proceedings are commenced by Grantor to enforce the foregoing restrictions or for the recovery of the aforementioned removal or destruction costs, the successful party shall be entitled to reasonable attorney fees and court cost.

Dated this 17 day of April, 1981.

APPROVED AS TO FORM:

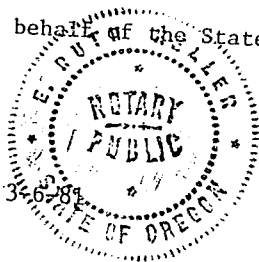
James S. Seeger  
Asst. Attorney General and Counsel

STATE OF OREGON, by and through its  
DEPARTMENT OF TRANSPORTATION,  
Highway Division

By J. B. Boyd  
J. B. Boyd, Right of Way Manager

STATE OF OREGON, County of Marion

April 17, 1981. Personally appeared J. B. Boyd, who being sworn, stated that he is the Right of Way Manager for the State of Oregon, Department of Transportation, Highway Division, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:



E. Ruth Kallen  
Notary Public for Oregon  
My Commission expires Oct. 5, 1981

The above deed is hereby accepted by Grantee in accordance with the terms and conditions set out therein.

FOOTHILLS DEVELOPMENT COMPANY, an  
Oregon corporation

By Harold C Lacy  
President

By Cyrus Clara Lacy  
Secretary

3-6-81

klm/ *(signature)*

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of \_\_\_\_\_

this 21st day of April A. D. 19 81 at 2:56 o'clock p. M., and  
duly recorded in Vol. M81, of Deeds on Page 7150

EVELYN BIENN, County Clerk

By Albert A. Jensen

Fee \$10.50.

1050 collect