

KNOW ALL MEN BY THESE PRESENTS, that Walter E. Heller Western, Inc., grantor(s), in consideration of the sum of _____ Dollars (\$ 0 —) and other valuable consideration, referred to in the attached Exhibit A, receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF KLAMATH FALLS, OREGON, grantee, a permanent non-exclusive easement for the purpose of installing, inspecting, repairing, maintaining, altering and operating a City sewer line and all necessary appurtenances in, into, upon, over, across and under a strip of land described as follows:

See Exhibit B.

together with the right of ingress and egress over grantor's adjoining lands for the purposes of this easement.

Grantor shall not erect any structures, nor plant any trees or shrubs, within the easement area which would inhibit access to said City sewer line or cause damage to it.

The City, its successors or assigns, shall not be liable to grantor for damage to the above described premises occurring incidental to the proper use of this easement. Provided, however, in the event of damage to premises outside of and adjacent to the above described parcel(s) caused by the City, its successors and assigns, the party causing such damage shall repair same and place said premises in as good condition as they were immediately prior to such damage. The City shall, after installation of the sewer, return the easement area to its original grade and existing prior condition.

This document shall be binding upon all subsequent purchasers of the above described parcel(s), the City, and the heirs, successors and assigns, of both.

IN WITNESS WHEREOF, the undersigned corporation has caused its corporate name to be signed and its corporate seal to be affixed hereunto by its officers duly authorized thereunto by order of its Board of Directors.

DATED March 22, 19 83

WALTER E. HELLER WESTERN INCORPORATED

Frank L. Clarke, Vice President

TAX LOT NUMBER: 3909-0540-1900

5023

STATE OF OREGON)
COUNTY OF ~~KLAMATH~~) SS.
Multnomah

March 22, 1983.

Personally appeared Frank L. Clarke and _____
who, being duly sworn, each for himself and not one for the other, did say that
the former is the Vice- president and that the latter is the
_____ secretary of Walter E. Heller Western Incorporated
a corporation, and that the seal affixed to the foregoing instrument is the
corporate seal of said corporation and that said instrument was signed and
sealed in behalf of said corporation by authority of its board of directors;
and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

Karin L. Atkins
Notary Public for Oregon
My commission expires: 12-4-84

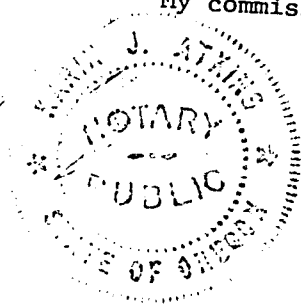
TAX LOT NUMBER: 3909-0540-1900

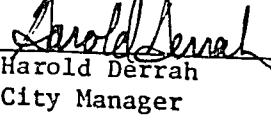
EXHIBIT A

FOR AND IN CONSIDERATION of the sanitary sewer easement herewith transferred by Walter E. Heller Western, incorporated (Grantor) to the City of Klamath Falls over Grantor's lands, more particularly described as set out in Attachment A hereto, the City of Klamath Falls, pursuant to Resolution adopted at the meeting of the City Council March 21, 1983, hereby makes the following agreements:

- 1) The location of the sewer line across Grantor's property will not adversely affect City subdivision or site plan reviews regarding the placement or location of streets, driveways, parking areas or landscaped areas (all of which may lie within the easement area), it being understood that such improvements must otherwise conform to applicable City Land Development Ordinance requirements.
- 2) Subject only to available capacity of the sewer line and to the maximum number of lots allowable on Grantor's property pursuant to applicable land development ordinances, there will be no limitation on the number of hook-ups to the line from Grantor's property. The available excess capacity of the line at the point it crosses Grantor's property will be approximately 1 million gallons per day upon completion. It being understood that over time such excess capacity will decrease as additional users connect to the system. Further, no unusual design problems are anticipated in Grantor's providing service connections from Grantor's lower property elevations to the City sewer line; provided, however, City makes no warranties as to the possible need of Grantor to design industrial pre-treatment facilities for such connections pursuant to applicable local, state or federal rules or regulations.
- 3) Subject to available capacity and land development ordinance standards, Grantor shall be permitted to make hook-ups to the sewer line so that all of Grantor's present land through which the sewer line will pass may be fully served. Such hook-ups will be permitted as soon as:
 - a) The line is operable, and
 - b) Grantor has delivered to the City Grantor's Consent to Annexation of the property to be served.

Even though receipt of such Consent to such Annexation shall result in immediate eligibility to hook-up, it shall not result in annexation until the earliest of:

- a) Grantor requests annexation (in addition to consenting).
 - b) City water, fire protection and police protection would be available to the property to be annexed upon annexation.
 - c) January 1, 1994.
- 4) None of the above shall constitute any connection fee waiver by the City. However, neither Grantor nor Grantor's lands shall be charged for any portion of the construction costs for the above mentioned sewer line to be placed within the easement herewith granted. Grantor's property is not a part of the LID formed for such construction.
 - 5) This Agreement shall inure to the benefit of Grantor, its successors, assigns and grantees of Grantor's property.


Harold Derrah
City Manager

A parcel of land located in the Southeast Quarter of the Southeast Quarter of Section 5, Township 39 South, Range 9 East of the Willamette Meridian in the County of Klamath, State of Oregon, and being a portion of Government Lots 4 and 5, said Section, Township and Range, more particularly described as follows: Beginning at a point which is South a distance of 208.71 feet and East a distance of 285.0 feet from the Northwest corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5, said point being on the South line of that certain parcel of land, conveyed by the City of Klamath Falls to H. A. Micshelm et ux., by deed dated November 8, 1948, recorded November 16, 1948 in Volume 226 at page 423, Deed Records of Klamath County, Oregon; thence continuing East along the South line of said parcel a distance of 192.42 feet to Southeast corner thereof; thence North along East line of said parcel a distance of 208.71 feet to North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence East along said North line a distance of 389.88 feet to a point; thence South 0° 43' West a distance of 460.7 feet to a point on Northwestern line of a parcel of land deeded to Great Northern Railway Co., by Deed recorded October 21, 1927 in Volume 76 at page 635, Records of Klamath County, Oregon; thence South 28° 43' West, along said Northwestern line a distance of 590.02 feet to Northeasterly corner of a parcel of land deeded to California Oregon Power Co. by deed recorded December 16, 1953 in Volume 264 at page 436, Records of Klamath County Oregon; thence West along North line of said parcel a distance of 296.75 feet to a point, said point being East a distance of 285.0 feet from West line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence North and parallel to said West line and 285.0 feet distance East therefrom, a distance of 761.29 feet, more or less to point of beginning.

Together with a parcel of land located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 39 South, Range 9 East of the Willamette Meridian, and being a portion of Government Lots 4 and 5, said Section, Township and Range, more particularly described as follows:

Beginning at a point on the North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ which is East along said line a distance of 477.42 feet from Northwest corner thereof; thence continuing East along said North line a distance of 389.88 feet to a point; thence South 0° 43' West a distance of 460.7 feet to a point on the Northwestern line of a parcel of land deeded to Great Northern Railway Co., by deed recorded October 21, 1927 in Volume 76 at page 635, Records of Klamath County, Oregon; thence South 28° 43' West along said Northwestern line a distance of 590.02 feet to Northeasterly corner of a parcel of land deeded to California Oregon Power Co., by deed recorded December 16, 1953 in Volume 264, page 436, Records of Klamath County, Oregon; thence West along North line of said parcel a distance of 521.75 feet to East line of a parcel of land deeded to Klamath County for road purposes by deed recorded November 17, 1948 in Deed Volume 226 at page 429, Records of Klamath County, Oregon; thence North along East line of said parcel to a point which is South along said line a distance of 208.71 feet from North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$, said point being Southwest corner of a parcel of land deeded by City of Klamath Falls to H. A. Mitschelm et ux., recorded November 16, 1948 in Deed Volume 226 at page 422, Records of Klamath County, Oregon; thence East along South line of said parcel a distance of 417.42 feet; thence North along East line thereof 208.71 feet to the point of beginning.

EXCEPTING THEREFROM that portion described in Deed recorded November 25, 1971 in Volume M-71 at page 12415, Microfilm Records of Klamath County, Oregon.

EXHIBIT B
SEWER EASEMENT

5025

A strip of land lying in Section 5, T39S, R9E, W.M., Klamath County, Oregon, and being a portion of that property described by Vol. M82, Page 3511, Parcel 2, of the official deed records of Klamath County. Said strip of land being more particularly described as follows:

Beginning at a 4" x 4" concrete monument which is the Southwest corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 5, T39S, R9E, W.M.; thence S 88° 45' 34" E 60.00 feet to a 3/4" pipe; thence N 01° 24' 00" E along the West line of a parcel of land described by Vol. M72, Page 1287, Parcel 2, of the official deed records of Klamath County, 565.70 feet to the true point of beginning; thence N 42° 39' 49" E 1027.05 feet to a point; thence N 89° 02' 30" W 21.43 feet to a point bearing S 89° 02' 30" E 238.54 feet from a 2" pipe; thence S 42° 39' 49" W 994.59 feet to a point on the West line of a parcel of land described by Vol. M72, Page 1287, Parcel 2, of the official deed records of Klamath County; thence continuing along said West line S 01° 24' 00" W 24.26 feet to the true point of beginning.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record .

this 5th day of April A. D. 1983 at 9:30 A. M.,
duly recorded in Vol. M83, of Deeds on p. 5022.

EV LYN BIEHN, Clerk

By Lue Lewis

Fee \$20/00

*City of Klamath Falls
Planning Dept.
P.O. Box 237
KFO 97601*