

W 06217
MORTGAGE

This is a mortgage, made this 15th day of June, by GREATER KLAMATH DEVELOPMENT CORP., an Oregon corporation, hereinafter called "Mortgagor" to WALTER E. HELLER WESTERN INCORPORATED, a California corporation, hereinafter called "Mortgagee".

For value received by Mortgagor from Mortgagee, Mortgagor does hereby grant, bargain, sell, convey and mortgage to the Mortgagee, and Mortgagee's successors and/or assigns, all of the following described real property situated in Klamath County, Oregon, and described as follows:

A parcel of land located in the Southeast quarter of the Southeast quarter of Section 5, Township 39 South, Range 9 E.W.M., 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 the 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 Northwesterly line of a parcel of land deeded to Great Northern Railway Co. by deed recorded October 21, 1927, in Volume 76 page 635, records of Klamath County, Oregon, thence South 28°43' West, along said Northwesterly line, a distance of 590.02 feet to the 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 the North line of said parcel, a distance of 521.75 feet to the East line of a parcel of land deeded to Klamath County for road purposes by deed recorded November 17, 1948, in Volume 226, page 429, records of Klamath County, Oregon; thence North, along the East line of said parcel, to a point which is South along said line, a distance of 208.71 feet from the North line of said Southeast quarter of Southeast quarter, said point also being the Southwest corner of a parcel of land deeded by City of Klamath Falls, to H.A. Nitschelm, et ux, recorded on November 16, 1948, in Volume 226 page 422, records of Klamath County, Oregon; thence East, along the South line of said parcel, a distance of 417.42 feet; thence North, along the East line thereof, 208.71 feet to the point of beginning.

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Together with all and singular, the tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging or in anywise appertaining and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom and including but not limited to any party wall agreements, easements and rights of way, water rights and other rights and privileges owned or enjoyed by Mortgagor with respect to the mortgaged property or any part thereof and any and all fixtures upon the mortgaged property at the time of the execution of this mortgage or at any time now or hereafter thereon, together with all furniture, appliances, equipment and supplies used in the operation of the premises, and any replacements thereof.

This conveyance is intended to secure the payment of a certain Promissory Note in the amount of \$110,000 plus interest executed by Mortgagor to Mortgagee;

And the Mortgagor hereby covenants with the Mortgagee, that the Mortgagor is lawfully seized in fee simple of the mortgaged property; that the Mortgagor has good right and lawful authority to encumber or sell and convey the same; that the mortgaged property is free from all encumbrances, except easements of record and that the Mortgagee shall quietly enjoy and possess the same, and that the Mortgagor and the successors in interest and assigns of the Mortgagor will forever warrant and defend the title to the mortgaged property unto the Mortgagee against any and all lawful claims of all persons whomsoever;

And the Mortgagor hereby agrees as follows:

1. To pay unto the Mortgagee, and Mortgagee's successors and/or assigns, all sums that may now or hereafter be or become owing by Mortgagor to Mortgagee, together with interest thereon at the applicable rate of interest in lawful money of the United States of America.
2. To keep the mortgaged property in as good or better condition and repair as of the date hereof; not to commit nor to permit any waste on the mortgaged property; to comply with all laws, rules and regulations made by governmental authority and applicable to the mortgaged property; to keep the mortgaged property free from statutory liens of every kind; and not to do nor permit to be done anything which shall impair the security created by this mortgage.
3. To pay, before they become delinquent, all taxes and assessments of every type or nature that may be levied, assessed or imposed upon the mortgaged property, or any part thereof, or upon this mortgage or the interest of the Mortgagee hereunder, or upon any note or indebtedness secured hereby, notwithstanding any law heretofore or hereafter enacted imposing payment of the whole or any part of such taxes upon the Mortgagee, and upon any breach of this covenant or the passage of

any applicable law imposing payment of the whole or any part of any of such taxes upon the Mortgagee and making this covenant legally inoperative, or upon the rendering of a decision by a court of competent jurisdiction that this covenant is legally inoperative, then in any such event the debt hereby secured, without any deduction, at the option of Mortgagee shall become immediately due, payable and collectible, notwithstanding anything contained in this mortgage, the note secured hereby, or in any law heretofore or hereafter enacted.

4. To insure and keep insured the buildings, if any, now upon or hereafter erected upon the mortgaged property against loss by fire (with extended coverage) in such forms of insurance as may be required by the Mortgagee, in a sum equal to the maximum insurable value of such buildings, or 80% of the replacement value of such buildings, whichever is greater, in some responsible insurance company, or companies, to be selected by the Mortgagor and approved by the Mortgagee, and cause the policy or policies to be made payable in case of loss to the Mortgagee and Mortgagee's successors and/or assigns, and delivered as collateral and further security for the payment of the indebtedness hereby secured, it being agreed that in the event of loss or damage, if the loss is total, any insurance proceeds shall be applied by Mortgagee, at its option, either toward the cost of repairing and rebuilding or in the reduction of any indebtedness secured hereby. In the event of foreclosure of this mortgage or sale of the mortgaged property as herein provided, all interest of the Mortgagor in and to any insurance policies shall pass to the purchaser or grantee of said property.

5. In case of failure to pay the taxes and assessments referred to above before the same become delinquent or any interest or penalty which accrues thereon, or to obtain insurance referred to above and deliver the policy or policies as aforesaid, or in case there exists or shall arise at any time any claim of a lien or encumbrance upon the mortgaged property, or any part thereof, which is prior to this mortgage, except as expressly stated herein, or in case there shall exist at any time during the continuance of this mortgage any statutory lien on the mortgaged property, or any part thereof, or in case Mortgagor fails to keep current any permitted prior mortgage or trust deed, Mortgagee may pay such taxes and assessments, or obtain such insurance, or pay such claim, lien, encumbrance or statutory lien or mortgage or trust deed, and the sum or sums so advanced shall immediately be due and payable and shall, with interest thereon at the highest of interest per annum ever applicable to any obligation secured hereby, be deemed to be secured hereby. If Mortgagee obtains insurance, it may obtain a policy insuring its interest only and not any interest of Mortgagor.

6. The Mortgagee may appear in or defend any action or proceeding at law or in equity purporting to affect the security

hereof, and in such event Mortgagee shall be allowed and paid, and Mortgagor hereby agrees to pay, all costs, charges and expenses, including costs of evidence of title and attorneys' fees in a reasonable sum, incurred in any such action or proceeding in which Mortgagee may appear, including fees on appeals, if any.

7. In case of condemnation of the mortgaged property, or any part thereof, by paramount authority, any portion or all of any condemnation award to which Mortgagor shall be entitled is hereby assigned by the Mortgagor to the Mortgagee, who is hereby authorized to demand, sue for, collect, receive and receipt for the same and apply the net proceeds of the same, less costs and expenses of any litigation, toward the payment of the indebtedness hereby secured.

8. In case of default in the payment of the indebtedness secured by the terms of this mortgage or in the repayment of any disbursements authorized by the terms of this mortgage and actually made by the Mortgagee, the Mortgagee may at once proceed to foreclose this mortgage for the amount due; or in case of such default, or in the event of the violation, non-performance or breach of any of the covenants, conditions, agreements or warranties herein, or if Mortgagor shall assign or attempt to assign the rents, issues or profits of any part thereof of the property mortgaged hereby without the written consent of the Mortgagee, or in the case of the actual or threatened demolition or removal of any building or improvement on or to be erected upon the mortgaged property without the written consent of Mortgagee, the entire indebtedness owing by or chargeable to the Mortgagor under any provision of this mortgage or intended to be secured hereby, although the time for payment thereof shall not have arrived and suit may immediately be brought without notice to Mortgagor, and a decree be had to sell the mortgaged property, or any part or parts thereof, either together or in parcels, with all of the appurtenances, or any part thereof, in the manner described by law.

9. In the event of default, Mortgagee shall have the right to a court appointed receiver, without regard to the solvency of the Mortgagor, the actual value of the mortgaged property or any other collateral available to Mortgagee or the equity of Mortgagor in any of such property, or the commission of actual waste or damage to the mortgaged property. Such receivership shall be for the purpose of preserving the mortgaged property, preventing waste and protecting all rights accruing to Mortgagee by this agreement and any other agreements between the parties. In addition, if any part of the loan was for the purpose of improving the Mortgagee property, the receiver may make any and all further improvements, whether on site or off site, as Mortgagee may determine to be necessary to complete the develop-

ment and construction of the improvements. All costs and expenses incurred in connection with the appointment of such receiver or in any of the foregoing actions shall be charged against Mortgagor and shall be enforced as a lien against the mortgaged property.

10. Upon the commencement of any proceedings to collect the indebtedness or disbursements secured hereby, or any part thereof, by foreclosure of this mortgage or otherwise, the prevailing party shall be entitled to recover from the loser in addition to the costs and charges allowed by law, a reasonable sum as and for an attorneys' fee, including a reasonable amount as attorneys' fees incurred in any appeal of any judgment or decree in any such suit or action of any court, and it is agreed that this mortgage shall stand as security therefor. It is also agreed that Mortgagor will pay the cost of any title report or supplemental title reports obtained by Mortgagee in connection with any default of Mortgagor, and this mortgage shall secure payment thereof.

11. In the event of a sale of the mortgaged property, or any part or parts thereof, under and by virtue of the provisions of this mortgage, the purchaser or purchasers thereof shall have immediate and peaceable possession of the same and that if Mortgagor remains in possession after the effective date of such sale, such possession shall be construed as a tenancy at sufferance only, giving unto the purchaser all remedies, by way of summary possession or otherwise, conferred by law in such case.

12. A waiver of any of the terms of this mortgage or other agreement between the parties shall not at any time thereafter be held or considered to be a waiver of the same terms or of any other terms of this mortgage or of any other agreement between the parties.

13. The invalidity or inapplicability of any one or more covenants, conditions, agreements, phrases, clauses, sentences or paragraphs of this mortgage shall not affect the remaining portions of the mortgage or any part thereof, and in such event this mortgage shall be construed as if such invalid or inapplicable covenants, conditions, agreements, phrases, clauses, sentences or paragraphs, if any, had not been inserted herein. The covenants herein contained shall bind, and the benefits and advantages hereof shall inure to successors and assigns of the parties hereto.

15. Upon a full and complete performance of the covenants and agreements herein contained, this mortgage shall be null and void; otherwise it shall be and remain in full force and effect.

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enforcing Mortgagee's rights hereunder, or independently hereof at Mortgagee's option, without any obligation to marshal assets or to look to any particular security in any order or priority of enforcement, and that all remedies mentioned or provided for herein or at law or equity are cumulative and in addition to whatever other rights Mortgagee may have by other agreement or otherwise. Upon any default on any obligation secured hereby, Mortgagee may, at its option proceed directly to foreclose or otherwise enforce its rights hereunder without first proceeding against any surety, endorser, guarantor or other collateral.

15. Upon a full and complete performance of the covenants and agreements herein contained, this mortgage shall be null and void; otherwise it shall be and remain in full force and effect.

IN TESTIMONY WHEREOF, Mortgagor has hereunto caused this instrument to be executed the day and year first above written.

GREATER KLAMATH DEVELOPMENT CORP.

By [Signature]
By [Signature]
SECRETARY

STATE OF OREGON)
County of Klamath) ss.

This certifies that on this 15 day of June, 1983, before me, the undersigned, a notary public in and for said county and state, personally appeared John J. Novak and Richard W. Sexton, both to me personally known, who being duly sworn, did say that the former is the president and the latter is the secretary of Greater Klamath Development Corp. and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and they acknowledged said instrument to be the free act and deed of said corporation.

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

Return to KCTCo. 4094
Mail tax statements to
grantees 125 N. 8th St.
Klamath Falls, OR 97601

Notary Public for Oregon
My Commission Expires: 8-5-83

STATE OF OREGON; COUNTY OF KLAMATH; ss
I hereby certify that the within instrument was received and filed for record on the 16th day of June A.D., 19 83 at 12:28 o'clock P M and duly recorded in Vol M83, of Mortgages on page 9396

FEE \$ 24.00

EVELYN BIEHN COUNTY CLERK
by [Signature] Deputy