

66431

AGREEMENT AND EASEMENT

THIS AGREEMENT AND EASEMENT is made this 9th day of September, 1986, between Howard C. Hassett and Mary A. Hassett ("Hassett" herein) and Fairbanks Motel Associates, A Washington Limited Partnership ("FMA" herein).

1. Granting Clause. In consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, Hassett does hereby grant, bargain, sell, convey and warrant to FMA the following easement appurtenant within the easement area described on Exhibit A attached hereto and incorporated by this reference (the "Easement Area"):

A nonexclusive perpetual easement across, along, in, upon and under the real property described in Exhibit B attached hereto and by this reference made a part hereof (the "Easement Parcel"), for the purpose of installing, constructing, operating, maintaining, removing, repairing, replacing and using a storm sewer with all connections, manholes and aboveground and underground appurtenances thereto necessary or appropriate for the operation of a storm sewer line upon and under the Easement Parcel (herein the "sewer line"), connected to the property of FMA described on Exhibit C attached hereto (the "dominant estate") together with the nonexclusive right to enter upon said Easement Parcel at any time will all necessary men, material and equipment and the right of ingress to and egress over the Easement Parcel and the right to alter the physical structure and remove buildings, landscaping and other items on, about or over the Easement Area for the foregoing purposes.

Hassett further agrees that Hassett will not without FMA's consent alter the Easement Area and the Easement Parcel or make use of or permit the use of the Easement Area and the Easement Parcel in any manner inconsistent with the uses or purposes of the easement granted hereby or which would have the effect of interfering with Grantee's enjoyment of the easement granted hereby. The duration of this easement shall be perpetual, constitute a burden on the Easement Area and the Easement Parcel, inure to the benefit of the Grantee, its successors and assigns and be binding on the Easement Area and the Easement Parcel, Hassett and Hassett's successors and assigns.

2. Costs of Construction and Maintenance. Hassett agrees to construct and maintain the sewer line and bear and promptly pay all costs and expenses of construction and maintenance of the sewer line. Hassett warrants that Hassett shall complete construction of the sewer line and shall have secured all necessary approvals for operation of the sewer line and shall have the sewer line operational no later than November 15, 1986.

3. Specifications. Hassett shall construct the sewer line in accordance with the specifications of the City of Klamath Falls, Oregon

SEP 26 PM 2 22

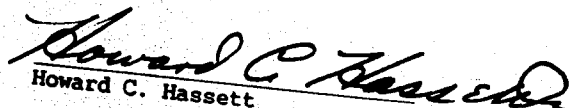
for the project and in accordance with such additional or other specific and reasonable requirements, conditions and specifications applicable to Hassett's property as may be communicated to Hassett for the purpose of protecting FMA's facilities thereon and to avoid hazardous conditions. Hassett shall at all times perform its obligations hereunder in accordance with the requirements (as from time to time amended) and all applicable statutes, orders, rules and regulations of any public authority.

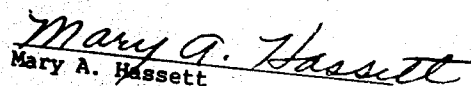
4. Release and Indemnity. Hassett hereby releases, indemnifies and promises to defend and save harmless FMA from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorneys' fees incurred by FMA in defense thereof, asserted or arising directly or indirectly on account of out of acts or omissions of Hassett and Hassett's servants, agents, employees and contractors in the exercise of the rights granted herein; PROVIDED, HOWEVER, this paragraph does not purport to indemnify FMA against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of FMA's agents or employees.

5. Assignment and Duration. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective heirs, successors and assigns and perpetually burden the Easement Area and the Easement Parcel in favor of the dominant estate.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING THIS INSTRUMENT, THE PERSON ACQUIRING THE EASEMENT SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Dated as of the date and year first above written.


Howard C. Hassett


Mary A. Hassett

Fairbanks Motel Associates,
A Washington Limited Partnership

By: Super 8 Motels
Northwest, Inc.,
General Partner

By: *Gerald L. Whitcomb*

Gerald L. Whitcomb,
Chairman

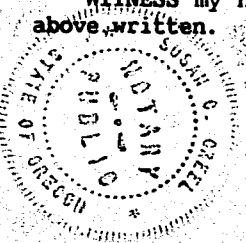
STATE OF OREGON)

) ss.

COUNTY OF KLAMATH)

On this 26TH day of September, 1986, before me, a Notary Public in and for the State of Oregon, duly commissioned and sworn, personally appeared Gerald L. Whitcomb, to me known to be the Chairman of Super 8 Motels Northwest, Inc., the general partner of Fairbanks Motel Associates, A Washington Limited Partnership, the Partnership that executed the within and foregoing instrument, and acknowledged the foregoing instrument to be the free and voluntary act and deed of said corporation, as general partner of said partnership, for the uses and purposes therein mentioned and on oath stated that both said corporation and he was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate above written.



Susan C. Creel
NOTARY PUBLIC in and for the State
of Oregon, residing at Klamath Falls
My Appointment Expires: 6-21-88.

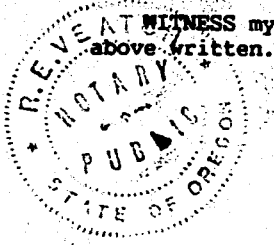
STATE OF OREGON)

) ss.

COUNTY OF KLAMATH)

On this 24 day of September, 1986, before me, a Notary Public in and for the State of Oregon, duly commissioned and sworn, personally appeared Howard C. Hassett and Mary A. Hassett, to me known, and acknowledged the foregoing instrument to be their free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate above written.



R.E. Veat
NOTARY PUBLIC in and for the State of Oregon,
residing at KLAMATH FALLS
My Appointment Expires: 4-6-89.

EXHIBIT A

17515

STORM SEWER
ACROSS
HOWARD HASSETT PROPERTY

A 16.0 foot wide easement located in the NE 1/4 NE 1/4 of Section 19, T.38S., R.9E., W.M.; being 8.00 feet on each side of the following described centerline:

Beginning at a point on the south boundary of Parcel 2 as described in Deed Volume M86, Page 6386 of Klamath County Deed Records, from which point the southeast corner of said Parcel 2 bears South 89° 49' East 156.00 feet distant, thence North 0° 06' East 268.35 feet, more or less, to the northerly boundary of Parcel 1 as described in Deed Volume M81, Page 1433 of Klamath County Deed Records.

EXHIBIT B

The following described parcels of real property situate in Klamath County, State of Oregon:

1. Beginning at a point which is South 0°06' West a distance of 477.4 feet and North 89°49' West a distance of 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian; thence North 0°06' East a distance of 154 feet to a point; thence North 89°49' West a distance of 336 feet, more or less, to a point on a line which is parallel to and distant 192.77 feet at right angles from the Northeasterly right of way of the Dalles-California Highway; thence South 38°52' East a distance of 200 feet, more or less, to a point which is North 0°06' East a distance of 211.1 feet, from the North line of Byrd Avenue in Chelsea Addition; thence South 89°49' East a distance of 210.2 feet to the place of beginning, being in the NE¼ of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.
2. A piece or parcel of land situated in the Northeast Quarter of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, and more particularly described as follows:

Beginning at an iron pipe which is South 0°06' West 323.4 feet and North 89°49' West 234.2 feet from the Northeast Section Corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, which point of beginning is also the Northeast corner of that certain tract of land conveyed to Elmer W. and Flora M. Zigler on page 238 Deed Volume 278 of the records of Klamath County, Oregon; thence North 89°49' West along the northerly boundary of said tract of land conveyed on page 238 Deed Volume 278, a distance of 334.8 feet to an iron pipe set at its intersection with a line which is parallel to and 192.77 feet Northeasterly of, when measured at right angles to, the Northeasterly right of way line of the Dalles-California Highway (US97) as the same is now located across the said Section 19; thence North 38°52' West parallel to and 192.77 feet distant from said Northeasterly highway right of way line a distance of 147.25 feet to an iron pipe; thence South 89°49' East a distance of 427.3 feet to an iron pipe; thence South 0°06' West a distance of 114.35 feet, more or less, to the point of beginning.

EXHIBIT C

17517

DESCRIPTION OF PROPERTY

The following described real property situate in Klamath County, Oregon:

PARCEL 1:

Beginning at an iron pin on the North line of Byrd Avenue of Chelsea Addition, a subdivision of Klamath County, State of Oregon, which iron pin is at a point South 0°06' West along the East section line of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, a distance of 688.5 feet and North 89°49' West along the North line of Byrd Avenue a distance of 444.4 feet from the iron axle (with Ball Race) which marks the Northeast corner of said Section 19; thence running North 89°49' West along the North line of Byrd Avenue a distance of 77.2 feet to an iron pin which lies on the Northeastly right of way line of State Highway No. 97, 95 feet at right angles from the Northeastly leg of same; thence North 38°52' West along the Northeastly right of way line of State Highway No. 97 (NOTE: The State Highway bearing of this line shows North 39°07½' West) a distance of 130.55 feet to a point; thence North 51°08' East at right angles a distance of 192.77 feet to an iron pin; thence South 38°52' East 15 feet to an iron pin; thence South 0°06' West parallel to the section line a distance of 211.1 feet, more or less, to the point of beginning, in the NE¼ of Section 19.

PARCEL 2:

A parcel of land lying in the NE¼ of NE¼ of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, and being more particularly described as follows: Beginning at a point in the North line of Byrd St. of Chelsea Addition to the City of Klamath Falls; said point being 688.5 feet South and 234.3 feet West from the Northeast corner of said Section 19; thence North 89°49' West along the North line of said Byrd St. a distance of 208.71 feet; thence North 0°11' East a distance of 208.71 feet; thence South 89°49' East a distance of 208.71 feet; thence South 0°11' West a distance of 208.71 feet to the point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of
of September

A.D., 19 86 at

2:22

Deeds

o'clock

P

M.,

and duly recorded in Vol.

the

26th

day

on Page

17512

M86

By

Evelyn Biehn, County Clerk

[Signature]

FEE \$25.00

KCTC