

COVENANTS, CONDITIONS AND RESTRICTIONS FOR KFI INDUSTRIAL PARK

mle 28181

These Covenants, Conditions and Restrictions are made this 22nd day of September, 1992 by the City of Klamath Falls, Oregon (hereinafter referred to as "City"). The City is the current owner and developer of the KFI Industrial Park, an industrial park located in the City of Klamath Falls, County of Klamath, State of Oregon and adjacent to the Klamath Falls International Airport. KFI Industrial Park is being developed on industrially zoned land and encompasses and includes that real property described in Exhibit "A" attached hereto and incorporated herein by this reference. To insure the orderly development of the industrial park, to establish architectural, sign, lighting and landscaping controls and to establish certain regulations and restrictions relating to the use and occupancy of property in the industrial park, the City as the sole owner of real property in KFI Industrial Park, hereby makes these Covenants, Conditions and Restrictions (hereinafter known as "CC&R's") which shall be imposed on all real property in the industrial park and which shall run with the land, benefiting and burdening the real property described in Exhibit "A". References to the term "industrial park" in these CC&R's shall mean the property known as KFI Industrial Park and described by Exhibit "A".

SECTION 1. ARCHITECTURAL CONTROLS

1.1. Architectural control over the construction or erection of any building, structure, facility or improvement within the industrial park or over any landscaping or plantings within the industrial park shall be exercised exclusively by the City during the time that the City holds an interest in the industrial park, as that term is defined by paragraph 6.1. below.

1.2. Any party proposing to construct or erect a building, structure, facility or other improvements within the industrial park (including any exterior alteration, addition, destruction or modification to any such building, structure, facility or improvements) shall follow the procedures and shall be subject to the approvals required by paragraphs 1.3. through 1.7. below. The term "Improvements" as used in these CC&R's shall include outbuildings, private roads, driveways, taxiways and aprons, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, electrical and gas distribution facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas and all other structures or exterior landscaping, vegetation or ground cover of every type and kind, above the land surface. Failure to follow such procedures or obtain such approvals as required by paragraphs 1.3. through 1.7. below shall be deemed a breach of these CC&R's.

1.3. Any party proposing to utilize, improve or develop real property within the industrial park, as described by paragraph 1.2. above, shall submit the below listed items for review. Such party shall hereafter be referred to as "the developer". During the time that the City holds an interest in the industrial park, the below listed items shall be submitted to the City. Thereafter, the below listed items shall be submitted for review to the KFI Industrial Owners' Board (IOB):

- a. A site plan showing the location, size, configuration and layout of any building, structure or facility (or, where applicable, any alteration, addition, modification or destruction thereto) including appurtenant facilities for parking, tanks, storage, loading, deliveries, and vehicular and pedestrian traffic and circulation.
- b. Architectural plans and drawings showing the nature, style and dimensions of any building, structure facility, fence, wall, barrier or deck (or, where applicable, any alteration, addition, modification or destruction thereof), including the exterior material types, colors, appearance and type of screening for roof-mounted fixtures and the type of screening for exterior equipment and for tanks and other exterior storage areas.
- c. A landscape plan showing the nature, type, size, location and layout of all landscaping, vegetation or ground cover proposed to be planted, installed (or, where applicable, removed or destroyed).
- d. A topographical plan showing the elevation, slope and grade of any site work (including the nature, location and utilization of any removal or filling of soil) proposed to be done in conjunction with any proposed improvement, development, modification or destruction of any building, structure or facility or of any planting, installation or removal of any landscaping, vegetation or ground cover.

1.4. All plans and drawings identified in paragraph 1.3. above shall be submitted for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied by an architectural review fee according to the schedule adopted by the City (or, where applicable, IOB) in an amount not to

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exceed FIVE HUNDRED DOLLARS (\$500.00) for each application. No plans shall be reviewed until the architectural review fee is paid in full. Within thirty (30) days following receipt of such plans and drawings, and the full amount of the architectural review fee, the City (or, where applicable, IOB) shall review the plans and shall inform the developer in writing whether the plans conform to the development concept for the industrial park. In the event the developer is not notified as to the conformity of the plans within the thirty (30) day review period, the plans are conclusively presumed to be approved as submitted. In the event any aspect of any of the plans does not conform to the industrial park development concept, the developer shall resubmit those non-conforming portions of the plans for review in accordance with the procedures outlined in paragraph 1.3 above, and this paragraph. No additional architectural review fee shall be required upon resubmission of any plans or drawings. No work may be performed relating to any building, structure, facility, landscaping, vegetation, ground cover or other improvements unless and until all aspects of all plans required under paragraph 1.3. above, have been approved by the City (or, where applicable, IOB).

1.5. The development concept for the industrial park shall be initially determined exclusively by the City in accordance with applicable statutes, ordinances, regulations, zoning and other governmental land use controls. Guidelines setting forth various aspects of the development concept, in addition to these CC&R's, may be published from time to time by the City, but the City shall not be required to do so. The City shall not be limited in its requirements for development to the published guidelines. The City shall have the right to alter, rescind or amend any published guidelines without prior notice to any party; provided however that once approval has been given pursuant to paragraph 1.4 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such guidelines shall be in general conformity with these CC&R's and shall further the objectives of these CC&R's. At such time that IOB assumes the City's responsibilities for architectural review, IOB shall administer such architectural controls in general conformity and spirit with the overall development concept utilized by the City. The architectural controls shall not apply to any interior construction, development or landscaping.

1.6. All work related to any building, structure or facility or any landscaping, vegetation, ground cover or other improvements within the industrial park shall be performed in strict conformity with the plans and drawings approved under paragraph 1.4. above. The City (or, where applicable, IOB) shall have the right to inspect any such work to determine its conformity with the approved plans and drawings, and reserves the right to order a stop to all work, if, in good faith, it believes that any such work is non-conforming. In the event that it is determined in good faith by the City (or, where applicable, IOB) that certain work in non-conforming, a stop work notice may be issued, without the necessity of court order, which shall require the developer to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of these CC&R's. Neither the City nor IOB (nor any officer, director, employee, agent or servant of either) shall be responsible for any damages, loss, delay, cost or legal expense occasioned through a stop work notice given in good faith even if it is ultimately determined that such work was in conformity with the approved plans and drawings.

1.7. Any condition or provision of these CC&R's may be waived by the City (or, where applicable, IOB) in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the industrial park. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under paragraphs 1.2. through 1.6. The granting of a waiver as to one developer or property owner shall not automatically entitle any other developer or property owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of the City (or, where applicable, IOB) and delivered to the party claiming the benefit of such waiver.

SECTION 2. DEVELOPMENT STANDARDS

2.1. In the event that any of the Development Standards, Signs and Exterior Lighting Standards or Use Restrictions respectively set forth in Sections 2, 3 and 5 of these CC&R's should conflict with a more restrictive standard or requirement set by the City of Klamath Falls Community Development Ordinance (CDO) the more restrictive standard or requirement of the applicable City of Klamath Falls CDO shall control. Any such conflicting provision of these CC&R's shall be deemed amended to the extent necessary to bring such provision into conformity with the applicable more restrictive CDO. In the event any provision of these CC&R's conflicts with any less restrictive standard or requirement of the City of Klamath Falls, the more restrictive provision of these CC&R's shall govern. All applicable governmental enactments, ordinances and regulations, whether now existing or hereafter created, are, if more restrictive than or not in conflict with these CC&R's, deemed to be a part of these CC&R's.

In the event an amendment of any ordinance or regulation of the City of Klamath Falls creates less strict standards than imposed in these CC&R's, the more strict standards of the CC&R's shall govern.

In the event an amendment of any ordinance or regulation of the City of Klamath Falls creates more strict standards than imposed by these CC&R's, the more strict standards of the ordinance or regulation shall govern.

Nothing in these CC&R's shall be deemed to restrict any owner from obtaining a variance from the City of Klamath Falls relating to any requirement of the CDO affecting that owner's property in the industrial park.

2.2. In addition to authorized buildings, structures, facilities or other improvements, properties in the industrial park shall contain only those private roads and streets, sidewalks, paths or walkways and such parking, storage, loading and delivery facilities allowable under the site plan for each property. Minimum setback requirements relating to construction or erection of any building, structure or facility shall be:

- a. Thirty-five feet (35') from a property line fronting upon any public street.
- b. Twenty-five feet (25') for all other required yards (rear and interior side yards); except
- c. All fencing shall be set back twenty-five feet (25') along the front yard.

Exceptions to Setback Requirements - Architectural features such as overhangs, planters and other similar architectural additions to a building, structure or facility are permitted to extend into the respective required setback areas but shall not encroach into any setback area more than a maximum of two feet (2').

2.3. The maximum height of any building (excluding equipment such as exhaust stacks) shall be forty-five feet (45'). However, in all cases, the airport clear zone and approach zone height limitations shall be the final controlling factors in determining maximum structure height.

2.4. The maximum coverage for buildings, structures, facilities or other improvements within a particular property within the industrial park shall be as follows:

- a. No more than forty percent (40%) of the total property area shall be covered with buildings, structures or other facilities (excepting those facilities listed in subparagraph [c] below).
- b. At least fifteen percent (15%) of the total property shall be landscaped with an attractive combination of trees, shrubs, turf and other vegetation or ground cover.
- c. No more than forty-eight percent (48%) of the total property shall be covered with private roadways, parking facilities, driveways, pathways, walkways or storage, loading or delivery areas.

The location, layout and nature of the utilization of any property for the above purposes shall be subject to the architectural review procedure set forth in Section 1 above.

2.6. Parking Facilities:

- a. All parking facilities, streets, roads, sidewalks, driveways, paths and walkways, storage, loading or delivery areas allowable on any property shall be surfaced to provide dust free, all weather surfaces. Use of crushed stone as a surface is acceptable. Any parking, loading or delivery facilities shall be designated by lines painted on the paved surface indicating the nature and extent of such facilities. Each property owner shall provide adequate off-street employee and business parking, loading and delivery facilities to accommodate all operations or uses relating to the property. Areas used for parking shall be landscaped.
- b. Minimum required parking spaces shall be one (1) for every two (2) employees employed during peak operations.

2.7. Exterior storage areas for materials, supplies, inventory or vehicles and equipment (including above-ground tank storage) shall be visually screened from public view. Said screening shall form a complete opaque screen up to a point of six feet (6') in vertical height, in accordance with the development concept of the City (or, where applicable, IOB).

Since roofs will be highly visible from aircraft using the airport, roofs shall be attractively designed and constructed. All equipment located on roofs shall be screened from street level views. Signs, letters, designs or other graphics shall not be painted or placed on roofs. Materials used for roofs shall have a non-glare surface. All roof utilities shall be designed to minimize noise.

2.8. Each property owner shall provide all landscaping, vegetation or ground cover for that owner's property. All such landscaping, vegetation and ground cover shall be planted in conformity with the landscape plan required under paragraph 1.3.c. above and shall cover the minimum area required by paragraph 2.4. or 2.5. above. All unpaved areas not utilized for parking, private roadways, buildings or storage shall be landscaped with an effective combination of trees, turf, shrubbery and ground cover. All required

landscaping, vegetation and ground cover shall be planted or installed within nine (9) months after the first issuance of a certificate of occupancy for any building, structure, facility or phase of development on that owner's property. The failure to make such plantings and perform such landscaping in accordance with the applicable landscape plans shall be deemed a breach of these CC&R's.

2.9. All undeveloped areas proposed for future expansion shall be maintained in a weed-free condition and shall be landscaped as required by the City (or, where applicable, IOB).

2.10. Underground installation of power, electrical, telephone and other utility lines from the property line to buildings is encouraged but not required.

2.11. Plans which provide for metal-clad buildings will be approved only on the condition that such buildings are constructed so as not to have the appearance of a metal building. Any metal-clad building must be specifically approved in writing by the City (or, where applicable, IOB). Metal siding installed above eight feet (8') high architectural block wainscot is acceptable.

2.12. No partition or subdivision of any property may be made which would reduce the size of any resulting property to an area less than five (5) acres in size.

- 2.13. **Building Materials and Engineering.**
- a. **General.** Exterior materials that may be used are concrete, exposed aggregate concrete, glass, brick, natural stone, wood and metal under certain circumstances (see d. below).
 - b. **Exterior and Details.** All exterior surfaces shall have a finished treatment. The use of two (2) or more colors is strongly encouraged to enhance the building and create design accents. Trim colors shall complement the primary building color. The use of canopies, parapets and facias will be encouraged to break up large, uniform wall surfaces. Such features shall be in proportion to wall heights and building mass.
 - c. **Temporary Buildings.** Trailers, mobile offices and other temporary structures will not be permitted, except for use during construction. All buildings shall be of permanent type.
 - d. **Metal-Clad Buildings.** All proposed metal-clad buildings or metal building features will be carefully reviewed by the City (or, where applicable, IOB). The intent of the review is to promote projects which are compatible with existing development and which will maintain an attractive appearance through time. Plans for all metal-clad buildings shall be reviewed prior to manufacture. The building design, material, finishing specifications and a sample of the exterior metal surface shall be submitted to the City (or, where applicable, IOB) at the time of preliminary plan review.
 - i. Appropriate materials for exterior metal paneling shall be anodized or factory finished aluminum, weathering steel, and galvanized or otherwise coated steel. All galvanized or coated steel shall have a factory-applied baked paint finish. An unpainted galvanized finish shall not be permitted.
 - ii. The baked paint finish shall be resistant to chalking, fading and film failure. Weathering steel will be allowed to develop its natural oxide coloring. No exterior finish which causes glare will be permitted.
 - iii. Ribbed wall panels shall have an architecturally pleasing profile. Panels with a corrugated, crimped, or any ribbed pattern presenting an agricultural or military appearance shall not be permitted.
 - iv. All sheet metal paneling shall be of sufficient gauge and quality to provide a rigid exterior surface.
 - v. All structural supports shall be concealed. Only interior fasteners shall be permitted.
 - vi. A parapet, fascia or comparable architectural detail shall be provided to screen pitched roofs, roof-mounted utilities.
 - vii. An exterior concrete wainscoting shall be included in all metal buildings. The wainscoting protects the wall system from vehicle damage and presents an attractive exterior appearance.

SECTION 3. SIGNS

3.1. No exterior sign may be constructed, installed, attached, erected or utilized on, over or about any lot or any building, structure or facility in the industrial park without the prior written approval of the City during the time the City holds an interest in the industrial park. The procedures and guidelines listed in paragraphs 3.2. through 3.4. below, shall be followed in obtaining such approval. Following the City's termination of interest in the industrial park, IOB shall exercise all approval powers over exterior signs.

Failure to obtain the approval under paragraph 3.2. below shall be deemed a breach of these CC&R's.

3.2. Plans for any proposed exterior sign shall be submitted by the developer to the City (or, where applicable, IOB) prior to construction, installation, attachment, erection or utilization of such sign. Such plans shall show the nature, size, shape, style, color, material type, mode and method of illumination, purpose and proposed location for such sign.

3.3. After submission of such plans, the City (or, where applicable, IOB) shall review the plans and shall within thirty (30) days notify the submitting party in writing of its approval or disapproval of any proposed exterior sign. In the event the developer is not notified as to the conformity of the plans within the thirty (30) day review period, the plans are conclusively presumed to be approved as submitted. Any aspect of any proposed exterior sign plan not approved shall be resubmitted until approved. All exterior signs constructed, installed, erected, attached or utilized in the industrial park shall be in strict conformity with the approved plans for each sign. Any deviation from the approved plans shall subject the owner of such sign or lighting to the immediate removal of any non-complying sign.

3.4. The following shall be general standards concerning signs in the industrial park. Such standards may be waived by the City (or, where applicable, IOB) or may be supplemented by other additional standards developed from time to time by the City (or, where applicable, IOB) to coordinate signing with the industrial park development concept. Such supplemental standards may be set forth as written guidelines to property owners but neither the City nor IOB shall be required to do so:

- a. No sign shall contain any moving parts nor contain any flashing, rotating or animated feature.
- b. Other than signs permitted by subparagraph iii. below, there shall be a maximum of one (1) sign per property; such sign not to exceed one hundred (100) square feet in area.
- c. Free standing corporate identification signs and directional signs shall meet the following size criteria:
 - i. Corporate identification signs:

Type A:	3' x 9'
Type B:	4' x 6'
 - ii. Directional identification signs:

1' x 3'

 Such signs shall provide only information relating to:
 - a. the name of the company or business; and
 - b. the location, identification or direction of buildings or facilities.
- d. Other signs, designating the location of present or future building users, occupants or tenants or designating a building or facility for sale or rent shall be permitted upon the prior written approval of the City (or, where applicable, IOB), such approval not to be unreasonably withheld.
- e. No banners or advertising devices (other than permitted signs) shall be erected, constructed, attached, installed or utilized in, on, over or about the industrial park. Flags and flag poles shall be permitted, provided such are approved pursuant to paragraph 3.2. above.

SECTION 4. SURFACE WATER DETENTION

Design of any on-site storm drainage system in the industrial park shall be subject to the review and written approval of the City (or, where applicable, IOB). Storm water detention facilities and/or trash and oil separators may be required by the City (or, where applicable, IOB).

SECTION 5. USE RESTRICTIONS

5.1. The following are the permitted uses and activities within the industrial park when in association with manufacturing, repairing, compounding, processing or stored;

- a. Office;
- b. Public service or utility use;
- c. Research laboratory;
- d. Wholesale distributor or outlet;

including any accessory uses normally and reasonably incidental to the above listed permitted uses.

5.2. In addition to those uses excluded by the CDO, as amended from time to time by the City, the below listed uses shall not be permitted, under any circumstances, within the industrial park.

- a. Dwelling for a caretaker or watchman working on the property;
- b. Any residential use of the property;
- c. Retail sales facility;
- d. Food or beverage service facility other than vending-type machine service within buildings, employee or customer cafeterias, and lunchrooms or restaurants, snack shops and delicatessens whose primary business is directed toward food or beverage service for

employees and customers of those business concerns located within the industrial park.

- e. Saw mill;
 - f. Fuel storage yard other than necessary to service manufacturing and distribution activities;
 - g. Stockyard, slaughterhouse or rendering plant;
 - i. Service station utilized for public use.
- 5.4. The performance standards as to noise levels, vibration, smoke and particulate matter, odors, heat and glare shall be as follows:
- a. Air Quality. Any facility locating on park property shall comply with all State of Oregon Department of Environmental Quality air pollution control regulations referenced in the Oregon Administrative Rules (OAR) and amendments thereto. No open burning shall be permitted.
 - b. Water Quality. No liquid waste disposal will be allowed on the site, into adjacent drainage ditches, or onto adjacent property. The discharge of treated or untreated sewage and/or other waters into the sanitary sewage system shall conform to the codes and ordinances of the appropriate local and state jurisdiction.
 - c. Noise, Odor, Heat and Glare. All owners must comply with the state DEQ and City of Klamath Falls noise standards. No objectionable noise, odor, heat or glare which is detectable beyond the property line will be permitted.
 - d. Vibration. No vibration which is discernible without instruments shall be permitted beyond the owner's property boundaries, except for vibrations associated with highway vehicles and aircraft.
 - e. Waste Material. All materials, including wastes, shall be stored and all properties maintained in a manner which will not attract or aid the propagation of insects, birds or rodents or in any way create a health hazard.

5.5 Each industrial park owner shall have the responsibility for keeping all buildings, structures, improvements and facilities located on that owner's property in good repair and properly maintained. In addition to the requirements of paragraph 2.8. above, any landscaping, plantings, vegetation or ground cover on each owner's property shall likewise be properly maintained and all noxious weeds shall be controlled or eradicated.

5.6. No animals of any type (except for properly caged research animals or guard dogs) shall be kept in, on or about the industrial park.

5.7. Each industrial park owner shall maintain and utilize receptacles located out of public view for the collection and storage of garbage, trash, rubbish, refuse or any other waste materials. No portion of any property in the industrial park shall be utilized as a dumping ground or storage area for garbage, trash, rubbish, refuse or other waste material unless the standards specified in this paragraph are met. Except for use in ongoing construction, no fill shall be storage or collected within the industrial park.

5.8. No activity or condition shall be conducted or shall exist on any property in the industrial park which shall be violative of any governmental statute, ordinance, regulation or which shall create either a nuisance to adjoining property (or their owners, occupants and users) or to the general public.

5.9. No improvement, activity or condition shall restrict the right of any property owner to utilize any solar collection and generation equipment or impede the effectiveness of such solar collection and generation equipment.

5.10. All radioactive, corrosive or poisonous gases, chemicals, substances or compounds shall be properly and safely stored and no such chemical, gas, substance or compound shall be permitted to discharge, escape or enter upon any property not owned, leased or occupied by the party responsible for such discharge, escape or entry.

5.11. All types of fuel, gas and other flammable substances shall be stored in appropriate safety containers so as to prevent their leakage, escape or discharge or their becoming a hazard to life or property.

5.12. If the owner of any property allows the generation, release, storage or deposit, over, beneath or on the park of any hazardous substances, as defined by CERCLA, 42 USC §9601(14), pollutants or contaminants as defined in CERCLA, 12 USC §9604(a)(2), or hazardous wastes as defined by RCRA, 42 USC §6903(5) ("Hazardous Substances"), then the owner of the property agrees to do so safely and in compliance with all applicable laws and regulations and the owner of the property shall indemnify, hold harmless and defend the City and any other affected owner from any and all claims, losses, damages, response costs and expenses arising out of or in any way relating to the generation, release, storage or deposit of hazardous substances by owner or arising out of owner's operations, including, but not limited to:

- a. claims of third parties, including governmental agencies, for damages, response costs, injunctive or other relief;
- b. the cost, expense or loss to the City and other affected owners of any injunctive relief, including preliminary or temporary

- injunctive relief, applicable to the City and any other affected owner or the park;
- c. the expense, including fees of attorneys and experts, of reporting the existence of hazardous substances or hazardous waste to any agency of the State of Oregon or the United States as required by applicable laws and regulations;
 - d. any and all expenses or obligations, including attorneys' fees, incurred at, before and after any trial or appeal therefrom or any administrative proceeding or appeal therefrom whether or not taxable as costs, including, without limitation, attorneys' fees, witness fees (expert and otherwise), deposition costs, copying and telephone charges and other expenses, all of which shall be paid by the owner when accrued.

SECTION 6. KFI INDUSTRIAL OWNERS' BOARD

6.1. The City, as developer and original owner of all property in the industrial park, shall exclusively exercise all architectural, landscaping, signing and lighting controls as well as those other duties prescribed under these CC&R's so long as the City holds title to any property in the industrial park or until the City elects to terminate its interest in the industrial park as set forth in paragraph 6.2. below (whichever occurs first).

6.2. Paragraph 6.1. notwithstanding, the City's interest in the industrial park shall terminate at such time that all property within the park has been sold or transferred to other parties. In addition, the City reserves the right to terminate its architectural control over the industrial park at any time. At such time that the City's control over the industrial park is terminated, the City shall cause to be recorded in the Official Records of Klamath County, Oregon a declaration stating that the City no longer desires to exercise any further controls over development in the industrial park. Copies of such declaration shall be provided to each owner of property within the industrial park contemporaneously with recordation of the declaration. Recordation of such a declaration shall formally terminate the City's interest in the industrial park and all rights of architectural, landscaping, signing and lighting controls, as well as any other duties of the City under these CC&R's (except for those duties prescribed by paragraph 6.4. below).

6.3. Upon formal termination of the City's interest in the industrial park, the KFI Industrial Owner's Board (IOB) shall automatically come into existence. IOB shall be governed by a five (5) person board of supervisors. IOB shall succeed to all powers, responsibilities and rights of the City under these CC&R's.

6.4. Election of IOB:

- a. Within thirty (30) days after the commencement date of IOB, the initial board of supervisors for IOB shall be elected. Persons eligible for the initial IOB board of supervisors shall be limited to directors, officers, employees, agents, owners or partners of any corporation, partnership, joint venture or proprietorship owning any property within the industrial park. The City shall solicit from, and then circulate to all property owners, a list of nominees for the five (5) initial board of supervisors' positions within the thirty (30) day IOB organizational period. The City shall then conduct an election of the initial board of supervisors. The five (5) nominees obtaining the five (5) highest vote totals shall constitute the initial board of supervisors.
- b. Each property owner shall have the right to cast one (1) vote per each acre of property owned in the industrial park for each IOB supervisor's position. Any fractional portion of an acre owned which is .5 acre or more shall be deemed one (1) acre for voting purposes. Any fractional portion of an acre owned which is less than .5 acre shall not be deemed an acre for voting purposes. The initial board of supervisors of IOB shall meet within ten (10) days after their election and may at that time adopt any governing documents, including bylaws, guidelines, procedures, rules and regulations, relating to IOB and the industrial park.

6.5. In the event the City is unsuccessful in organizing the board of supervisors of IOB within the thirty (30) day organizational period specified by paragraph 6.3. above, the City shall have no further responsibilities relating to IOB and the IOB board of supervisors shall be organized exclusively by the owners of property within the industrial park. Such failure of organization of the IOB board of supervisors shall not affect the existence of IOB or the effectiveness of the CC&R's.

6.6. The IOB board of supervisors shall determine the legal form of IOB.

SECTION 7. DURATION AND AMENDMENT OF CC&R'S

7.1. These CC&R's shall have a perpetual duration. At the conclusion of thirty (30) years from the date these CC&R's are recorded and at intervals of five (5) years thereafter, these CC&R's may be terminated in their entirety upon the affirmative vote of seventy-five percent (75%) of the total number of votes eligible to be cast by owners of property in the industrial park. The method for

computation and allocation of voting rights on such matters shall be the same as the method identified in paragraph 6.4.b. above.

7.2. These CC&R's may be amended, deleted or repealed during their first thirty (30) years only by the written consent of all property owners and upon recording in the Official Records of Klamath County.

SECTION 8. ENFORCEMENT

8.1. These CC&R's shall be specifically enforceable by the City (or, where applicable, IOB) or by any owner of any property in the industrial park. Any breach of these CC&R's also shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal or the enjoining of any offending improvement or condition.

8.2. In the event that legal suit or legal action is instituted for the enforcement of these CC&R's or for any remedy for the breach of these CC&R's, the prevailing party shall recover that party's reasonable attorney fees incurred in such suit or action (or any appeal therefrom) as adjudged by the trial or appellate court.

SECTION 9. EFFECT OF CC&R'S

9.1. These CC&R's shall run with the land included in the industrial park and shall bind, benefit and burden each property in the industrial park, including any additions thereto. These CC&R's shall inure to the benefit and shall bind the City, all successors and assigns of the City and all owners of any property in the industrial park, their successors, assigns, heirs, administrators, executors, mortgagees, lessees, invitees or any other party claiming or deriving any right, title or interest or use in or to any real property in the industrial park.

CITY OF KLAMATH FALLS, OREGON

George C. Flitcraft
Mayor

ATTEST:

Elisa D. Fritz
City Recorder

STATE OF OREGON)
COUNTY OF KLAMATH) ss.

On the 22nd day of September, 1992, personally appeared George C. Flitcraft and Elisa D. Fritz who, each being first duly sworn, did say that the former is the Mayor and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that the instrument was signed and sealed on behalf of said municipal corporation; and each of them acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:

NOTARY

Elisa D. Fritz
Notary Public for Oregon
My Commission Expires: 03-13-93

SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ and the S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

The N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, the N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15; all that portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ lying Northerly and Easterly of the right-of-way of Modoc Northern Railway Company, as described in Volume 34 of Deeds, page 34, the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, Township 39 South, Range 9 East of the Willamette Meridian, less portion conveyed to the City of Klamath Falls by Deeds recorded in Volume 151 page 182 and on page 328, of Volume 158 of Deeds, and also excepting that portion deeded to City of Klamath Falls as described in Volume 272 page 338, records of Klamath County, Oregon, also excepting therefrom that portion deeded to Klamath County for road purposes in Volume M-79 on page 15456, Deed records of Klamath County, Oregon, also excepting that portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15 heretofore conveyed to Pacific Northwest Instruments, Inc., an Oregon corporation in Volume M-71 on page 9625 Deed records of Klamath County, Oregon.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 22nd day
of Oct A.D., 19 92 at 10:03 o'clock A.M., and duly recorded in Vol. M92,
of Deeds on Page 24718.

Evelyn Biehn County Clerk

By Pauline Mullendore

FEE \$70.00