

#0510 6th & Homedale
Klamath Falls, OR
4/19/93

Aspen Title #01038251

EASEMENT OF RIGHT OF WAY FOR CANAL PURPOSES
(Realty)

THIS INDENTURE is made this 6th day of May, 1993, by ALBERTSON'S REALTY, INC., an Idaho corporation ("Grantor"), to ENTERPRISE IRRIGATION DISTRICT of Klamath County, Oregon ("Grantee").

WHEREAS, Grantor is the owner of an estate in fee simple situated in Klamath County, Oregon, more particularly described in Schedule I attached hereto and by this reference incorporated herein (the "Realty Property"); and

WHEREAS, Grantor has agreed to grant to Grantee an easement for canal purposes across that portion of the Realty Property more particularly described on Schedule II and illustrated on Exhibit "A" attached hereto and incorporated herein (the "Canal Tract").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other value given, the parties hereby agree as follows:

1. Grantor and its successors in interest to the Realty Property grant, bargain, sell and convey to Grantee and its successors and assigns a nonexclusive, perpetual easement across the Canal Tract for the purpose of operating, maintaining, repairing and replacing a covered irrigation canal used for delivering water to the users thereof (the "Canal"), together with the right of ingress and egress by Grantee, its agents, employees, contractors, successors and assigns across the Canal Tract and such portions of the Realty Property as reasonably necessary to perform the acts necessary in the operation, maintenance, repair and replacement of the Canal. Grantee agrees to perform all work related to operating, repairing, maintaining or replacing the Canal in a manner which does not unreasonably interfere with Grantor's use of the Realty Property and to repair any damage to any improvements on the Canal Tract caused by Grantee's use of the rights granted herein. Grantee relinquishes any right to use, maintain or operate an open canal on the Canal Tract and agrees not to enlarge or relocate the Canal without the prior written approval of Grantor.

2. Grantor reserves for itself, its tenants and its successors in interest to the Realty Property, and the agents, employees, licensees and customers thereof, the exclusive, perpetual right (i) to construct, maintain, repair, replace and utilize a driveway, roadway, parking lot and/or other improvements on the surface of the Canal Tract, and (ii) to construct, maintain, repair and replace utility lines and cables over, across and under the Canal Tract, each right being for all purposes connected with the use and enjoyment of the Realty Property; provided, however, that Grantor shall not be required to construct any such improvements or to keep the same in good repair. Grantor, its successors and assigns, shall repair any damage to the Canal caused by Grantor's use of the rights granted herein.

3. Each party agrees to indemnify, defend and hold harmless the other party from and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal), judgments, proceedings and causes of action for injury to or death of any person or damage to or destruction of any property arising out of the performance or non-performance of any of the obligations of the indemnifying party herein, unless caused by the negligent or willful act or omission of the

indemnified person, its agents, contractors or employees.

10245

IN WITNESS WHEREOF, this Easement is executed the day and year first above written.

ALBERTSON'S REALTY, INC., an Idaho corporation

By *William H. Arnold*
WILLIAM H. ARNOLD, Vice President

ENTERPRISE IRRIGATION DISTRICT of Klamath Falls, Oregon

By *Carl Chase*
Its Manager

STATE OF IDAHO)
County of Ada) ss.

On this 3rd day of May, 1993, before me, Anna Anderson
a Notary Public in and for said State, personally appeared William H. Arnold, to me known to be Vice President of ALBERTSON'S REALTY, INC., the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

Anna Anderson
Notary Public for the State of Idaho
Residing at Boise, Idaho
My Commission Expires 4/15/99

STATE OF OREGON)
County of Klamath) ss.

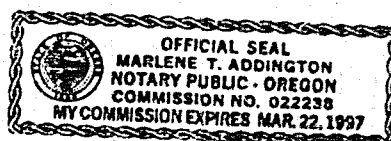
On this 6th day of May, 1993, before me, Marlene T. Addington
a Notary Public in and for said State, personally appeared Don Russell, known or identified to me to be the president of ENTERPRISE IRRIGATION DISTRICT, the irrigation district that executed the within instrument or the person who executed the instrument on behalf of said irrigation district, and acknowledged to me that such irrigation district executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Marlene T. Addington
Notary Public for Oregon
My Commission Expires 3-22-97

AFTER RECORDING, PLEASE RETURN TO:

Rita L. Berry
HAWLEY TROXELL ENNIS & HAWLEY
P.O. Box 1617
Boise, Idaho 83701



CANAL EASEMENT - 2

10246

Owners
Erwin R. Riter, L.S. W.R.E.
Dennis A. Ensor, L.S. W.R.E.

TRU (SURVEYING) LINE

SCHEDULE I

LEGAL DESCRIPTION OF ALBERTSON'S SURPLUS PARCEL

A TRACT OF LAND SITUATED IN THE NE1/4 SE1/4 OF SECTION 2, T39S, R9EW, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE 1/4 CORNER ON THE EAST LINE OF SAID SECTION 2; THENCE N89°43'42"W 30.00 FEET AND S00°00'18"E 426.70 FEET TO THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED VOLUME 113 PAGE 587 OF THE KLAMATH COUNTY DEED RECORDS ON THE WESTERLY RIGHT OF WAY LINE OF MADISON STREET AND BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE N70°19'00"W 426.92 FEET, ALONG THE SOUTH LINE OF THE FOLLOWING TRACTS OF LAND DESCRIBED IN THE KLAMATH COUNTY DEED RECORDS, VOLUME 113 PAGE 587, VOLUME 100 PAGE 619, VOLUME 92 PAGE 213, VOLUME 107 PAGE 614, AND VOLUME 92 PAGE 355 TO THE SOUTHWEST CORNER OF SAID VOLUME 92 PAGE 355, BEING ON THE EAST LINE OF THE PROPOSED ALBERTSON'S PARCEL; THENCE S00°00'26"W 186.48 FEET TO THE SOUTHEAST CORNER OF THE PROPOSED ALBERTSON'S PARCEL; THENCE S88°54'32"W, ALONG THE SOUTH LINE OF THE PROPOSED ALBERTSON'S PARCEL, 232.02 FEET TO A POINT ON THE EAST LINE OF "BAILEY TRACTS No. 2" A DULY RECORDED SUBDIVISION; THENCE ALONG THE LINE DESCRIBED AS PARCEL 1 IN DEED VOLUME M89 PAGE 25,075 OF THE KLAMATH COUNTY DEED RECORDS, S00°20'39"W 166.08 FEET TO AN IRON PIN MARKING THE NORTHWEST CORNER OF LOT 7 BLOCK 1 OF "BEL-AIRE GARDENS", A DULY RECORDED SUBDIVISION; THENCE S89°46'21"E 430.44 FEET TO AN IRON PIN MARKING THE NORTHERLY CORNER OF LOT 3 BLOCK 1 OF SAID "BEL-AIRE GARDENS"; THENCE CONTINUING S89°46'21"E 74.63 FEET (75.00 FEET BY DEED); THENCE N00°00'51"W 100.00 FEET; THENCE S89°46'21"E 129.94 FEET TO THE WESTERLY RIGHT OF WAY LINE OF MADISON STREET; THENCE N00°00'18"W 115.70 FEET TO THE TRUE POINT OF BEGINNING.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Dennis A. Ensor
DENNIS A. ENSOR O.L.S. 2442

OREGON
JULY 25, 1990
DENNIS A. ENSOR
2442

EXPIRES 12-31-93

Owners
Erwin R. Arner, L.S. W.R.E.
Dennis A. Ensor, L.S. W.R.E.

10247

TRU (SURVEYING) LINE

SCHEDULE II

LEGAL DESCRIPTION OF 16 FOOT EASEMENT TO ENTERPRISE IRRIGATION DISTRICT (ACROSS ALBERTSON'S SURPLUS PARCEL)

A 16 FOOT WIDE STRIP OF LAND SITUATED IN THE NE1/4 SE1/4 OF SECTION 2, T39S, R9EW, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE 1/4 CORNER ON THE EAST LINE OF SAID SECTION 2; THENCE N89°43'42"W 30.00 FEET AND S00°00'18"E 426.70 FEET TO THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED VOLUME 113 PAGE 587 OF THE KLAMATH COUNTY DEED RECORDS ON THE WESTERLY RIGHT OF WAY LINE OF MADISON STREET AND BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S00°00'18"E, ALONG SAID WESTERLY RIGHT OF WAY LINE OF MADISON STREET, 16.00 FEET; THENCE S86°12'00"W 402.89 FEET TO THE SOUTHEAST CORNER OF THE PROPOSED ALBERTSON'S PARCEL; THENCE N08°00'26"E, ALONG THE EAST LINE OF THE PROPOSED ALBERTSON'S PARCEL, 16.00 FEET; THENCE N86°12'00"E 402.89 FEET TO THE TRUE POINT OF BEGINNING.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Dennis A. Ensor

OREGON
JULY 25, 1990
DENNIS A. ENSOR
2442

Dennis A. Ensor
DENNIS A. ENSOR O.L.S. 2442

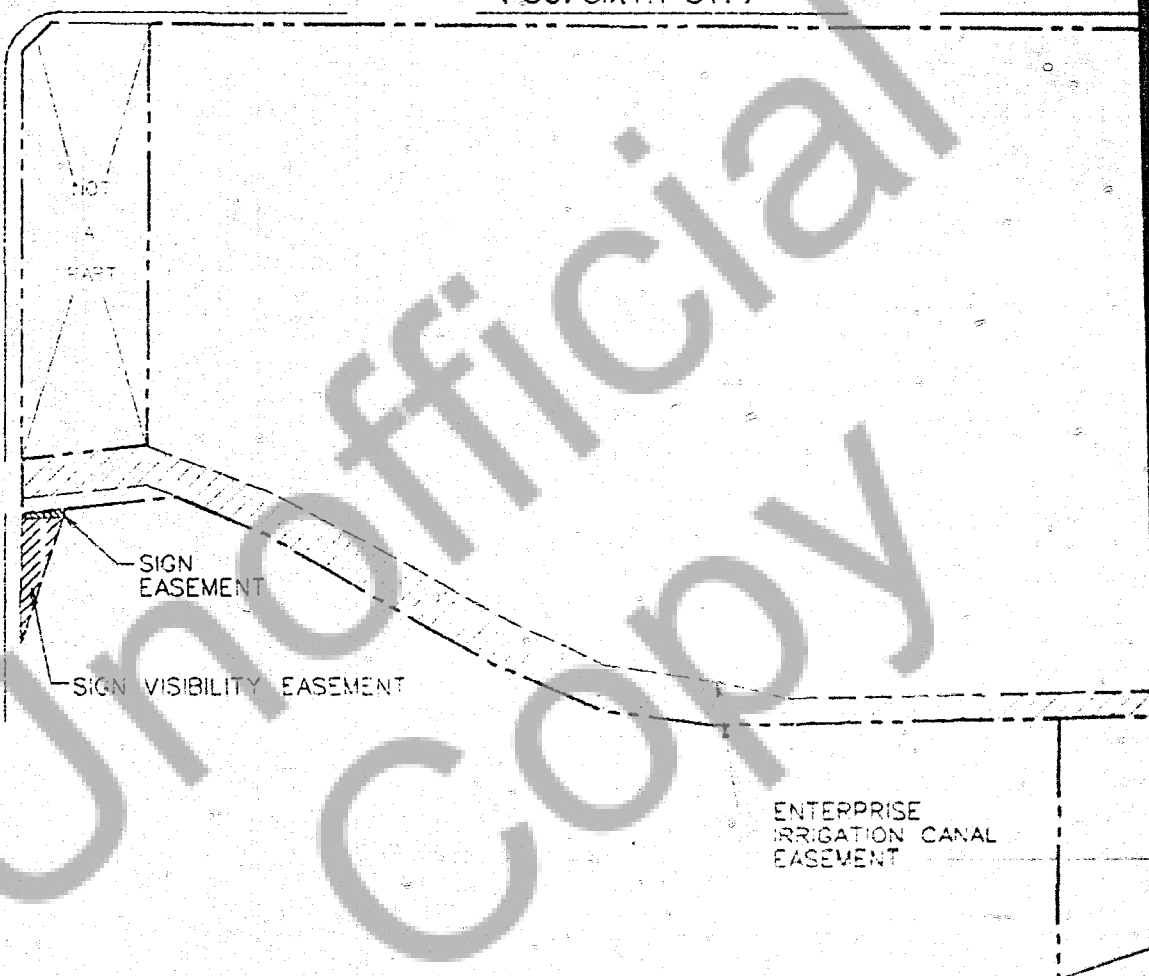
EXPIRES 12-31-93

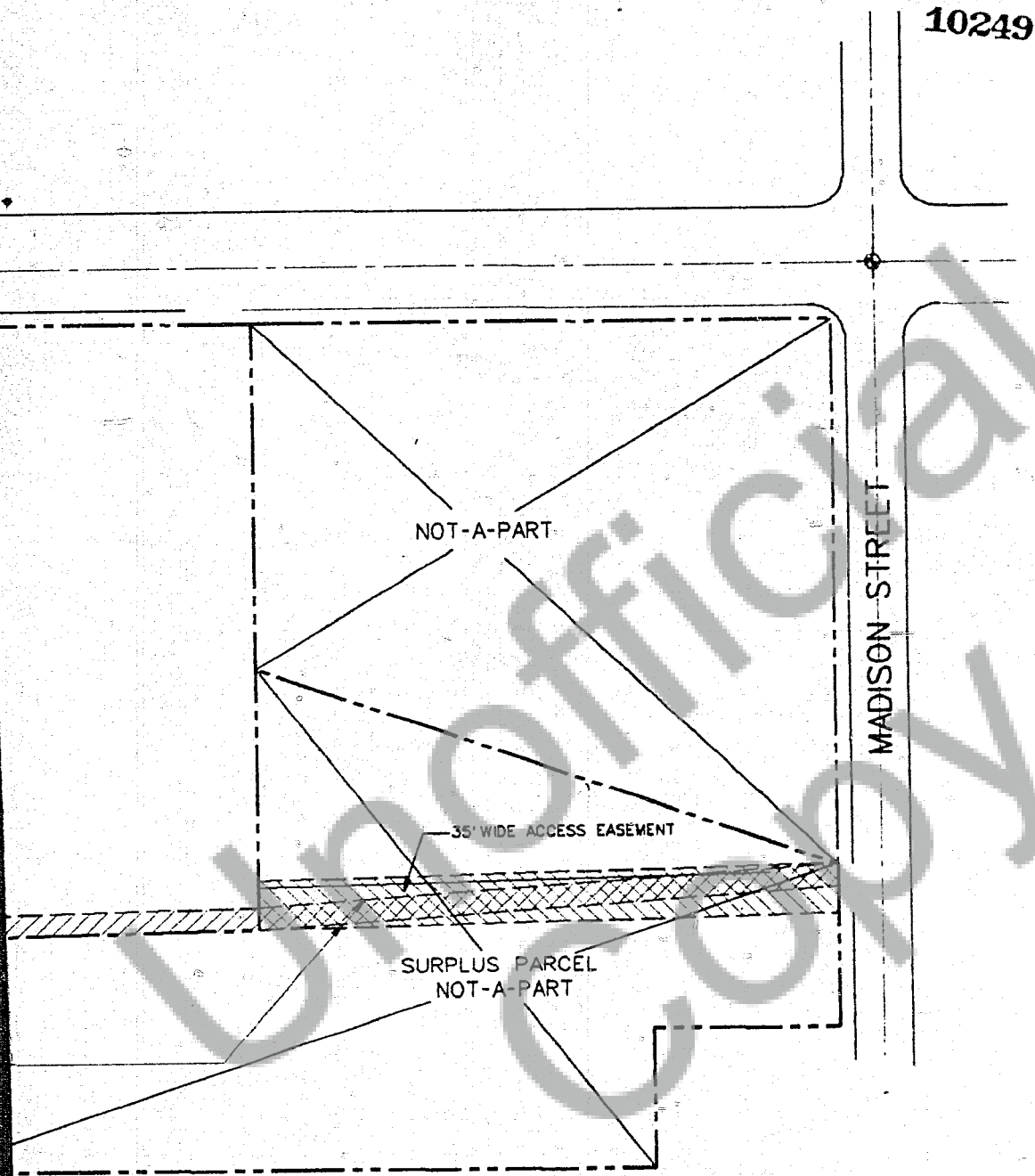
10248

KLAMATH FALLS / LAKEVIEW HIGHWAY

(SO. SIXTH ST.)

HOMEDALE ROAD



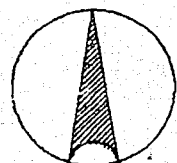


STATE OF OREGON, ss.
County of Klamath

Filed for record at request of:

Aspen Title Co
on this 7th day of May A.D., 19 93
at 3:22 o'clock P M. and duly recorded
in Vol. M93 of Deeds Page 10244
By Evelyn Biehn County Clerk
By Debra M. Mendenhall Deputy.

Fee, \$55.00



NORTH
SCALE: 1"=100'-0"

REVISED

ALBERTSONS NO. 577
S.E.C. HOMEDALE RD. & SO. SIXTH STREET KLAMATH FALLS, OR

150 PARKVIEW BLVD. NW. KAM. NATL



DRAWN
R.W.
DATE
4-28-93

SHEET TITLE
EASEMENT
LOCATION
PLAN

577.3gn