

After recording, return to:

Hopp & Paulson LLP  
168 NW Greenwood  
Bend, Oregon 97701

Vol MQ1 Page 29876

Between

Kenneth S. and Marie M. Curbow

and

BC KOCH, LLC

### EASEMENT AGREEMENT

This agreement made and entered into as of May 17, 2001 by and between Kenneth S. and Marie M. Curbow, Grantor, and BC KOCH, LLC, Grantee.

1. Grantor is the record owner of the following described real property in Klamath County, Oregon:

See Exhibit A

hereinafter referred to as "Parcel A" and has the unrestricted right to grant the easement hereinafter described relative to the real estate.

2. Grantee is the record owner of the following described real property in Klamath County, Oregon:

See Exhibit B

hereinafter referred to as "Parcel B."

3. For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor conveys and warrants to Grantee an easement as follows:

a. **Location of easement.** The location of the easement is a thirty-foot (30') wide strip on Parcel A commencing at the north east corner of Parcel A, running westerly and parallel for 130 feet along the boundary line between Parcel A and Parcel B.

b. **Uses permitted.** The area of the easement shall be exclusively for ingress, egress, and parking for Grantor and Grantee and their invitees. Grantee shall have the non-exclusive use of the easement area for parking and ingress and egress to Grantee's property. In case of conflict of the parking use between Grantor and Grantee, Grantee may by written notice to Grantor designate 50% of the parking spaces for the exclusive use of Grantee and Grantee's invitees. Grantee may change the exclusive use parking spaces by six months' advance written notice to Grantor.

c. **Appurtenant to Grantor's and Grantee's property described above.** The easement granted hereunder shall run with the land as to all property burdened and benefited by such easement, including any division or partition of such property, provided however, that the easement shall remain appurtenant to only that portion of Grantee's property directly adjoining the easement strip. The rights, covenants, and obligations contained in this agreement shall bind, burden and benefit each party's successors and assigns, lessees, mortgagees (or beneficiaries under a deed of trust).

d. **Expenses.** Grantor and Grantee shall be responsible for all repairs and maintenance related to the parking and roadway area based on the relative amount of use by Grantor and Grantee and their invitees. Grantee shall indemnify and defend Grantor from any liability arising out of Grantee's use of the easement.

e. **Termination of easement.** This easement shall be perpetual except that Grantor may terminate this easement after the complete and total destruction of the improvements presently existing on Parcel B. At such time as the presently existing improvements are completely and totally destroyed, Grantee shall record an extinguishment of the easement. If Grantee fails to record such extinguishment of the easement, Grantor may then bring suit to enforce such termination.

f. **Attorney fees.** In the event of any litigation arising out of this agreement, the prevailing party shall recover from the losing party the prevailing party's reasonable attorney fees at trial or on appeal as adjudged by the trial or appellate court.

DATED MAY 17, 2001.

GRANTOR:

Kenneth S. Curbow  
KENNETH S. CURBOW

GRANTEE:

BC KOCH, LLC

BY: Brian W. Koch  
BRIAN W. KOCH, Member

Marie M. Curbow  
MARIE M. CURBOW

BY: Cynthia L. Koch  
CYNTHIA L. KOCH, Member

STATE OF OREGON )  
 )ss.  
County of Klamath )

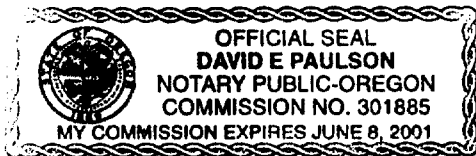
This instrument was acknowledged before me on June 8, 2001, by Kenneth S. and Marie M. Curbow



Alice L. Bishop  
Notary Public for Oregon

STATE OF OREGON )  
 )ss.  
County of KLAMATH )

This instrument was acknowledged before me on MAY 17 2001 by BRIAN W. KOCH AND CYNTHIA L. KOCH as Members of BC KOCH, LLC, an Oregon limited liability company.



David E. Paulson  
Notary Public for Oregon

## EXHIBIT A

A portion of the NE1/4 SW1/4 of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point of intersection of the Northerly line of Ward Street with the Westerly right of way line of the Dalles-California Highway as established by deed to the State of Oregon in Deed Volume 154 page 556, Deed records of Klamath County, Oregon; thence Northeasterly along the Westerly right of way line of said Dalles-California Highway 300 feet to a point; thence Northwesterly at right angles to the Westerly line of said Dalles-California Highway, a distance of 255.0 feet to a point; thence Southwesterly on a line parallel to the Dalles-California Highway 100 feet to the intersection of the Easterly line of the right of way of the Klamath Northern Railway; thence Southeasterly along the Easterly line of said right of way to the intersection with the Northerly line of Ward Street; thence Southeasterly along the Northerly line of Ward Street 171.24 feet, more or less, to the point of beginning. (tax account numbers 2409-30CA-1300 and 2409-20CA-1400)

**EXHIBIT "B"**  
**LEGAL DESCRIPTION**

A parcel of land shown as Parcel "C" on Record Survey No. 2570 platted by Raymond E. Oman on 14 November, 1977 on record with Klamath County Surveyor, and shown on County Tax Maps circa 1977 as Tax Lots 2409-3031-1200-1300, and -1400, and being a part of the OTLRR Depot Grounds, a part of the OTLRR Tracks and a part of Riverview Street vacated 8 May 1935 as shown on the original Plat of Crescent dated 1910, and lying Northwest of the present right of way line of U.S. Highway 97 which has absorbed Railroad Avenue, all situated in the NE1/4 SW1/4 of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and more particularly described as follows:

Beginning at a point along the Northwest right of way line of U.S. Highway 97, 50 feet from the centerline thereof and at the projected centerline of Jones Street; thence along said right of way line, South 38 degrees 58' 09" West 10.00 feet to a point, a railroad spike in the pavement; thence along a line at a right angle to said highway, North 51 degrees 01' 51" West 261.66 feet to a point along the Southeast right of way line of the Klamath Northern Railroad and 50 feet from the centerline thereof, a #5X30 inch steel rod; thence along part of a 1,932.29 foot radius curve left, the chord of which bears North 17 degrees 44' 39" East 36.85 feet to a point, a #5X30 inch steel rod at the intersection of said railroad right of way and the centerline of Riverview Street vacated; thence along said vacated centerline North 38 degrees 58' 09" East 130.65 feet to a point, a #5X30 inch steel rod being the Northwest corner of the Woodsman Motel Parcel; thence along said Motel Parcel, South 51 degrees 01' 51" East 275.00 feet to a point along the Northwest right of way line of U.S. Highway 97 and 50 feet from the centerline thereof, a #5X48 inch steel rod; thence along said highway right of way, South 38 degrees 58' 09" West 155.00 feet to the point of beginning.

State of Oregon, County of Klamath  
Recorded 06/21/01, at 2:16 p.m.  
In Vol. M01 Page 29876  
Linda Smith,  
County Clerk Fee\$ 36<sup>00</sup>