

'01 OCT 9 AM 11:14

mtc 54743  
**DECLARATION OF EASEMENT**

Vol M01 Page 51279

**BY: Mainlander Services Corporation,  
An Oregon Corporation  
25 82<sup>nd</sup> Drive, Suite 200  
Gladstone, OR 97027**

**(Declarant)**

**DATE: October 8, 2001**

**RECITALS**

**A. Declarant is the owner of the following two parcels of real property (Property):**

**A.1. Real property generally described as approximately 40 acres of vacant land and designated as Klamath County, Oregon Tax Assessor's parcel number R-3809-02700-00600-000 (Parcel A), or more specifically described as follows:**

**The SW ¼ SW ¼ of Section 27, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.**

**and**

**A.2. Real property generally described as approximately 23.8 acres of vacant land and designated as Klamath County, Oregon Tax Assessor's parcel number 3809-034BB-00200-000 (Parcel B), or more specifically described in Exhibit A hereto.**

**B. Parcel B is situated between Parcel A and the nearest public right-of-way and public utilities. Parcel A does not currently have its own access to either a public right or to public utilities.**

**C. Declarant may sell or otherwise wish to dispose of its ownership in Parcel B while retaining its ownership to Parcel A and/or later wish to sell its interests in Parcel A to a third party.**

**D. Declarant desires to grant and declare, on the terms and conditions set forth in this Declaration, a perpetual easement in favor of Parcel A over Parcel B, for future uses, which may include future development of Parcel A which are consistent with legally allowed or allowable uses.**

**DECLARATIONS**

**1. Incorporation. The recitals are hereby incorporated and to applied herein as an integral part of this Declaration.**


2. **Easement.** Declarant hereby grants and declares an easement over, across, and under that portion of Parcel B described in Exhibit B hereto (the "Easement"). This easement is for roadway, access and utility purposes. This easement shall run with the land and shall be for the benefit of and appurtenant to Parcel A. For purposes of this Declaration, Parcel A shall be considered the "Dominant Estate" and Parcel B shall be considered the "Servient Estate."

3. **Restrictions.** The owner of the Servient Estate or its agents shall not place or construct any structures or any other improvements over the Easement and shall not otherwise interfere with the right of reasonable access, use or enjoyment by the owner of the Dominant Estate for the purposes described in paragraph 2.

4. **Duration and Effect.** The Easement shall be appurtenant to Parcel A, shall run with the land, shall be binding upon the owner of the Servient Estate and the heirs, legal representatives and assigns of and successors in title to the owner of the Servient Estate and shall be for the benefit of the owner of the Dominant Estate, and the heirs, legal representatives and assigns of and successors in title to the owner of the Dominant Estate.

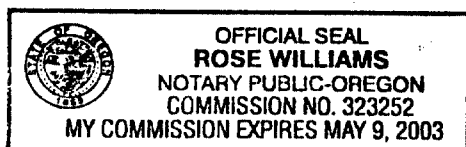
**DECLARANT:**

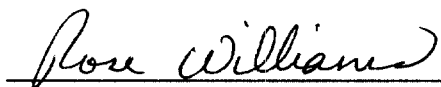
Mainlander Services Corporation

  
By: Mark Chasse  
Its: Vice President

State of Oregon, County of Clackamas

This instrument was acknowledged before me on 5<sup>th</sup> day of October, 2001 by Mark Chasse, Vice President of Mainlander Services Corporation, who appeared personally before me.



  
Notary Public for Oregon  
My Commission Expires: 5-9-03

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**51281**

The NW1/4 NW1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

EXCEPTING the following described parcels of land:

Beginning at the 1/16 section corner in the center of the NW1/4 of Section 34; thence North 89 degrees 25' West 561.1 feet; thence North 0 degrees 19' West 776.3 feet; thence South 89 degrees 25' East 561.1 feet; thence South 0 degrees 19' East 776.3 feet to the point of beginning.

Beginning at the Southwest corner of the said NW1/4 NW1/4; thence North 0 degrees 28' West 253 feet to the Northerly right of way line of the State Highway; thence along said right of way line South 73 degrees 47' 15" East on the long chord of a curve to the right a distance of 188.1 feet; thence on a 1,592.4 foot radius curve right (the long chord of which bears South 67 degrees 29' 15" East 182.1 feet) a distance of 102.2 feet; thence South 73 degrees 31' East 368.5 feet to the North line of a county road; thence South 89 degrees 46' East 70 feet to the East line of I.L.C. Gooding property; thence South 0 degrees 19' East 30 feet to the South line of said NW1/4 NW1/4; thence North 89 degrees 46' West 775.9 feet along the South line of said NW1/4 NW1/4 to the place of beginning.

ALSO SAVING AND EXCEPTING that portion deeded to the State of Oregon by and through its State Highway Commission by Deed recorded January 29, 1965 in Book 359 at Page 112, Deed Records of Klamath County, Oregon.

AND FURTHER SAVING AND EXCEPTING the North 60 feet of the NW1/4 NW1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

AND FURTHER SAVING AND EXCEPTING that portion deeded to Klamath County by Deed recorded September 3, 1992 in Book M92 at Page 20200, Microfilm Records of Klamath County, Oregon.

AND FURTHER SAVING AND EXCEPTING that portion deeded to Klamath County, a political subdivision of the State of Oregon by Deed recorded July 26, 1995 in Volume M95, Page 19438 and re-recorded September 11, 1995 in Volume M95, page 24537, Microfilm Records of Klamath County, Oregon and being described as:

A parcel of land lying in the NW1/4 of the NW1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the West line of the NW1/4 of the NW1/4 of Section 34, said point being South 00 degrees 27' 39" East a distance of 905.67 feet from the Northwest corner of said Section 34; thence South 83 degrees 18' 21" East a distance of 277.41 feet; thence South 61 degrees 13' 36" East a distance of 200.00 feet; thence South 28 degrees 46' 24" West a distance of 125.00 feet to the Northeasterly right of way line of Foothills Boulevard as surveyed and monumented by recorded Survey No. 3173; thence North 61 degrees 13' 36" West along said right of way, 165.30 feet to the beginning of a 205.00 foot radius curve concave to the South; thence Northwesterly along the arc of said curve 143.88 feet (the chord of said curve bears North 81 degrees 20' 00" West 140.95 feet) to a point on the Northeasterly line of that 60 foot strip of land conveyed to the State of Oregon through its State Highway Commission by that deed recorded in Volume 359 at page 112 of the Klamath County Deed Records; thence North 75 degrees 20' 00" West a distance of 78.39 feet to a point at right angles to centerline station 3+00 of the above described strip of land; thence South 14 degrees 40' 00" West along a line to its intersection with the North right of way line of the Klamath Falls-Malin State Highway as shown on recorded Survey No. 1431; thence Northwesterly along said right of way line to its intersection with the West line of the NW1/4 of the NW1/4 of said Section 34; thence North 00 degrees 27' 39" West a distance of 170.08 feet more or less to the point of beginning.

51282

EXHIBIT "B"

EASEMENT DESCRIPTION

**ROADWAY & UTILITY**  
A SIXTY (60) FOOT WIDE ACCESS/EASEMENT LOCATED IN THE NW ¼ OF SECTION 34, TOWNSHIP 38 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, LOCATED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD WITH CAP ON THE NORTH RIGHT-OF-WAY OF FOOTHILLS BOULEVARD WHICH BEARS SOUTH 19°47'09" EAST, 1225.98 FEET FROM A 2" IRON PIPE WHICH MARKS THE NORTHWEST SECTION CORNER OF SECTION 34, TOWNSHIP 38 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN; SAID 5/8" IRON ROD BEING THE POINT OF BEGINNING; THENCE NORTH 61°13'36" WEST, 19.70 FEET ALONG THE NORTHERLY FOOTHILLS BLVD. RIGHT-OF-WAY LINE; THENCE NORTH 28°46'24" EAST, 125.00 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE NORTH 61°13'36" WEST, 40.00 FEET ALONG SAID RIGHT-OF-WAY LINE, TO THE TRUE POINT OF BEGINNING OF THE 60 FOOT WIDE EASEMENT; SAID CENTERLINE BEING DESCRIBED AS FOLLOWS:

THENCE NORTHEASTERLY 156.40 FEET ALONG THE ARC OF A 400.00 FOOT RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS NORTH 39°58'28" EAST, 155.40 FEET AND HAVING A DELTA ANGLE OF 22°24'07"; THENCE NORTH 51°10'31" EAST, 164.74 FEET; THENCE 224.88 FEET ALONG THE ARC OF A 250.00 RADIUS CURVE TO THE LEFT, THE LONG CHORD OF WHICH BEARS 25°24'24" EAST, 217.37 FEET AND HAVING A DELTA ANGLE OF 51°32'15"; THENCE NORTH 00°21'44" WEST, 50.03 FEET; THENCE 168.61 FEET ALONG THE ARC OF A 250.00 FOOT RADIUS CURVE TO THE RIGHT, THE LONG CHORD OF WHICH BEARS NORTH 18°57'34" EAST, 165.44 FEET AND HAVING A DELTA ANGLE OF 38°38'36"; THENCE NORTH 38°16'52" EAST, 237.67 FEET; THENCE 238.94 FEET ALONG THE ARC OF A 954.93 FOOT RADIUS CURVE TO THE LEFT, THE LONG CHORD OF WHICH BEARS NORTH 31°06'47" EAST, 238.32 FEET AND HAVING A DELTA ANGLE OF 14°20'11", TO THE NORTHERLY PROPERTY LINE OF THE UNDERLYING PARCEL, WITH SIDELINES OF SAID EASEMENT EXTENDED OR SHORTENED TO THEIR INTERSECTION WITH THE NORTHERLY PROPERTY LINE OF SAID UNDERLYING PARCEL.

State of Oregon, County of Klamath  
Recorded 10/09/01 at 11:14 a.m.  
In Vol. M01 Page 51279  
Linda Smith,  
County Clerk Fee \$ 36.00