

**AFTER RECORDING RETURN TO:**

City Recorder  
500 Klamath Avenue  
Klamath Falls, OR 97601

**GRANTOR:**

Klamath Cascade Group, LLC  
2918 Edison Avenue  
Klamath Falls, OR 97603

**CLERK'S STAMP:**

State of Oregon, County of Klamath  
Recorded 10/15/2002 9:48 a. m.  
Vol M02, Pg 58619-23  
Linda Smith, County Clerk  
Fee \$ 41.00 # of Pgs 5

**GRANTEE:**

City of Klamath Falls, Oregon  
A Municipal Corporation  
500 Klamath Avenue  
Klamath Falls, OR 97601

**MODIFIED  
PERMANENT DRAINAGE EASEMENT**

**Klamath Cascade Group, LLC**, an Oregon limited liability company (hereinafter referred to as "Grantor"), in consideration of the terms and conditions of this Easement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, does hereby grant and convey to **City of Klamath Falls, Oregon**, a Municipal Corporation (hereinafter referred to as "Grantee"), on behalf of the public, a perpetual Drainage Easement situated on property of Grantor described as Parcel 2 of Klamath County Land Partition 12-00, more particularly described as Parcel 2 on attached Exhibit "B," incorporated herein by this reference. The Drainage Easement is more particularly described as Parcel III on attached Exhibit "A," incorporated herein by this reference.

The terms of this Drainage Easement are as follows:

1. The parties acknowledge that a prior, natural Drainage Easement was previously recorded in the deed records of Klamath County at Volume M00, Pages 22399-22400, as part of the ESI Way right-of-way easement, and the parties do **not** intend that this Drainage Easement supercede or replace that prior drainage easement.
2. The property of Grantor burdened by this Drainage Easement is described as Parcel 2 of Klamath County Land Partition 12-00, the legal description for which is set forth as Parcel 2 on attached Exhibit "B." This Drainage Easement shall be appurtenant to Parcels 1 and 2 on the attached Exhibit "B."
3. This Drainage Easement shall be used for storm water drainage purposes only, in, along and upon the Drainage Easement area, and the right of drainage granted herein shall be limited exclusively to drainage purposes and uses incidental thereto.
4. Grantee agrees to indemnify, defend and hold harmless Grantor from any loss, claim or liability to Grantor arising out of Grantee's use of the Drainage Easement. Grantee assumes all risk arising out of its use of the Drainage Easement.
5. This Drainage Easement shall be perpetual. Provided, however, that the parties agree that it may be appropriate to change the location of this Easement in order to facilitate and accommodate future development of the property bordered by this Easement. Therefore, this Easement may be relocated

by mutual consent of the parties and such consent shall not be unreasonably withheld.

6. This Drainage Easement shall run with the land as to all properties benefitted and burdened by this Drainage Easement, including any division or partition of such property. The rights, covenants and obligations of this Drainage Easement shall bind, burden and/or benefit each party's successors, assigns, heirs or beneficiaries under a deed of trust.

IN WITNESS WHEREOF, the parties have caused this Drainage Easement to be executed on the day and year written below.

GRANTOR:  
KLAMATH CASCADE GROUP, LLC

By: Robert Stewart  
Title: mgr.

Attest: Julie Jackson  
Title: member

GRANTEE:  
CITY OF KLAMATH FALLS

By: J. J. Olson  
City Manager

Attest: Elisa D. Olson  
City Recorder

STATE OF OREGON } ss.

County of Klamath

On the 23 day of September, 2002, personally appeared the above named Bob Stewart acting as operating manager and Julie Jackson member, respectively, for Klamath Cascade Group, LLC, and each being first duly sworn, did say that the instrument was signed on behalf of said corporation; and each of them acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:

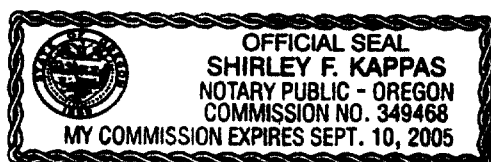


Heather R. Criss  
Notary Public for Oregon  
My Commission Expires: 3-27-04

STATE OF OREGON } ss.  
County of Klamath

On the 30th day of September, 2002, personally appeared Jeffrey D. Ball and Elisa D. Olson, who, each being first duly sworn, did say that the former is the City Manager and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation, and that the instrument was signed on behalf of said municipal corporation; and each of them acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:



Shirley F. Kappas  
Notary Public for Oregon  
My Commission Expires: 9-10-05

58621

Exhibit "A"

PARCEL III (PERMANENT DRAINAGE EASEMENT)

A PARCEL OF LAND LYING IN THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER AND THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 18, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, SAID PARCEL ALSO BEING THAT PORTION WITHIN A STRIP OF LAND LYING ON THE LEFT AND RIGHT SIDE OF THE LINE DELINEATED BY FOLLOWING THE BELOW NOTED STATIONS AND OFFSETS OF THE CENTERLINE OF ESI WAY AS DESCRIBED ABOVE UNDER PARCEL I.

STATION TO STATION  
0+40.18 TO 1+15

LEFT O/S  
108.00'

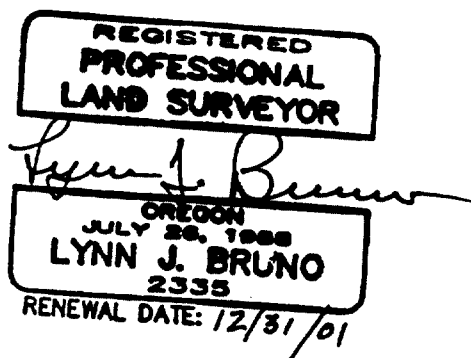
RIGHT O/S

25+90 TO 26+40

105.00

EXCEPTING THEREFROM, PARCEL I AND ALL THAT PORTION OF SAID PARCEL LYING WITHIN THE EXISTING RIGHT-OF-WAY OF ESI WAY.

THE PARCEL OF LAND TO WHICH THIS DESCRIPTION APPLIES CONTAINS 7,615 SQUARE FEET MORE OR LESS.



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## LEGAL DESCRIPTION

### PARCEL 1

Government Lot 2 in Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at the iron pin which marks the center of Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and which point is also the Southeast corner of First Addition to Terminal Tracts and running thence South along the quarter line 1320 feet to the Southeast corner of Government Lot 2; thence West along the South line of Government Lot 2 to its intersection with the East right of way line of the Dalles-California Highway #97; thence Westerly and Northerly following the Easterly right of way line of the Dalles-California Highway #97 to its intersection with the North line of Government Lot 2, which line is also the South line of First Addition to Terminal Tracts; thence East along the North line of Government Lot 2, which line is also the South line of Terminal Tracts, to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon by Deed recorded June 25, 1979 in Volume M79 at page 14975, Microfilm Records of Klamath County, Oregon.

### PARCEL 2

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

The NE1/4 of the SE1/4 of Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, together with the right of ingress and egress to and from the land hereby conveyed, over and upon the road presently located upon the SE1/4 of the SE1/4 of Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. EXCEPTING THEREFROM that portion reserved to W. D. Miller Construction Company by deed dated October 14, 1958, recorded October 21, 1958 in Volume 305, page 166, Deed Records of Klamath County, Oregon.

The SW1/4 of the NE1/4, the NW1/4 of the SE1/4 of Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

A tract of land situated in Government Lot 1, Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at the Northeast corner of said Government Lot 1; thence North 89 degrees 25' West along the North line of said Government Lot 1 to the Northerly right of way line of The Dalles-California Highway; thence Southeastly along said right of way line to the East line of said Government Lot 1; thence North 0 degrees 22' East along the East line of said Government Lot 1 to the point of beginning.

- Continued -

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**PARCEL 2 Continued...**

The SE1/4 of the SE1/4 of Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, LESS area occupied by Highway as described in Book 95, page 181, Deed Records of Klamath County, Oregon; and EXCEPTING THEREFROM a parcel of land in the Southwest corner of said SE1/4 of the SE1/4 of said Section 18, lying South of a line drawn parallel to and 347.77 feet Northeasterly at right angles from the centerline of the paved surface of Highway 97 as now constructed.

A parcel of land lying in the SE1/4 of the SE1/4 Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said parcel lying between the Northeasterly right of way line of The Dalles-California Highway and a line parallel to and 347.77 feet distant Northeasterly from the centerline of The Dalles-California Highway, said parcel being more particularly described as follows:

Beginning at a point on the South line of Section 18, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said point also lying on the Northeasterly right of way line of The Dalles-California Highway; thence Northwesterly along the Northeasterly right of way line of The Dalles-California Highway to a 1 1/2" pipe on the West line of the SE1/4 of the SE1/4 of said Section 18, said 1 1/2" pipe being 1068.93 feet South of the Northwest corner of the SE1/4 of the SE1/4 of said Section 18; thence North along the West line of the SE1/4 of the SE1/4 of said Section 18 to a point which lies 347.77 feet Northeasterly, when measured at right angles, from the centerline of The Dalles-California Highway; thence Southeasterly parallel to and 347.77 feet distant from the center line of The Dalles-California Highway to a point on the South line of said Section 18; thence West along the South line of said Section 18 to the point of beginning.

SAVING AND EXCEPTING those portions deeded to the City of Klamath Falls by Deeds recorded September 14, 1990 in Deed Volume M90 at page 18511, and recorded September 19, 1990 in Deed Volume M90, page 18838, all Microfilm Records of Klamath County, Oregon. FURTHER EXCEPTING any portion lying Southerly of West Campus Drive now known as Dan O'Brien Way.

AND FURTHER EXCEPTING A tract of land located in the SE1/4 of Section 18, Township 38 South Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at the Northwest corner of Parcel 1 of Land Partition 34-97, said corner being on the Southerly right of way line of Northern Heights Boulevard, 50.00 feet from the centerline when measured at right angles to said centerline, said corner also being on the line between Sections 17 and 18; thence South 01 degrees 14' 29" West along said Section line and the West line of said parcel, 310.13 feet to the Northerly right of way line of Dan O'Brien Way, 50.00 feet from centerline when measured at right angles to said centerline; thence along said right of way line and along a non-tangent 868.50 foot radius curve to the left, 257.70 feet, said curve having a central angle of 17 degrees 00' 02", the chord of which bears North 61 degrees 31' 28" West, 256.75 feet to a point on non-tangency; thence leaving said Northerly right of way line the following 4 courses: North 16 degrees 44' 41" East, 60.62 feet; thence along a tangent 150.00 feet radius curve to the right, 147.99 feet, said curve having a central angle of 56 degrees 31' 41", the chord of which bears North 45 degrees 00' 20" East, 142.06 feet to a point of Tangency; thence North 73 degrees 16' 28" East, 119.67 feet to said Section line; thence South 01 degrees 14' 29" West along said Section line 5.30 feet to said Southerly right of way line and the point of beginning. The basis of bearings for this description is per Land Partition 34-97.