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State of Oregon, County of Klamath
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**TRUST DEED, SECURITY AGREEMENT,
 ASSIGNMENT OF LEASES
 AND RENTS, AND FIXTURE FILING**

Southview Properties Development, LLC
 22101 NE 150th Avenue
 Battleground, WA 98604

("Grantor")

Mountain Pacific Construction, Inc.
 2633 Old Midland Road
 Klamath Falls, OR 97603

("Beneficiary")

GPB

THIS TRUST DEED (this "Trust Deed") is made as of the 17th day of ~~September~~ ^{October}, 2003 by Southview Properties Development, LLC, an Oregon limited liability company having its office at 22101 NE 150th Avenue, Battleground, WA 98604 ("Grantor"), to First American Title Insurance Company, having its address at 422 Main Street, Klamath Falls, OR 97601 ("Trustee"), for the benefit of Mountain Pacific Construction, Inc. an Oregon corporation having its office at 2633 Old Midland Road, Klamath Falls, OR 97603 ("Beneficiary").

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.01 below, Grantor irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of the Beneficiary, with power of sale and right of entry and possession, all of Grantor's right, title, and interest in and to the real property located in Klamath County, state of Oregon, and more particularly described in Exhibit A attached hereto and incorporated herein (the "Property");

TO HAVE AND TO HOLD the Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations (as defined in Section 1.01 below) shall be paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed shall be reconveyed.

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

Particular Covenants and Warranties of Grantor

1.01 Obligations Secured. This Trust Deed secures the following, collectively referred to as the "Obligations". The payment of all indebtedness, and the performance of all covenants and obligations of Grantor, under the Settlement Agreement incorporated herein by reference;

1.02 Payment of Indebtedness; Performance of Covenants. Grantor shall duly and punctually pay and perform all of the Obligations.

1.03 Property. Grantor warrants that it holds good and merchantable title to the Property and the Improvements, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in Exhibit B. Grantor covenants that it shall forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons.

1.04 Further Assurances; Filing; Refiling; Etc.

(1) Grantor shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

(2) Grantor, immediately on the execution and delivery of this Trust Deed, and thereafter from time to time, shall cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in such manner and in such places as may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed.

(3) Grantor shall pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental hereto and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments and charges arising out of or in connection with the execution, delivery, filing, and recording of this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

1.05 Compliance with Laws. Grantor represents, warrants, and covenants that:

(1) The Property and all Improvements, if any, have been constructed and maintained, in material compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Property (collectively "Covenants"); and

(2) Grantor and its operations on the Property currently comply, and will hereafter comply, in all material respects with all applicable Laws and Covenants.

1.06 Liens. Grantor shall pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property.

1.07 Impositions

(1) Grantor shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "Impositions"); provided, however, that if by law any such Imposition may be paid in installments, whether or not interest shall accrue on the unpaid balance, Grantor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, or cost attaches.

(2) Grantor may, at its expense and after prior notice to Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may withhold payment of the same pending completion of such proceedings if permitted by law, provided that (a) such proceedings shall suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantor pays the amount or satisfies the condition being contested, and Grantor would have the opportunity to do so in the event of Grantor's failure to prevail in the contest; (c) neither Beneficiary nor Trustee shall, by virtue of such permitted contest, be exposed to any risk of liability for which Grantor has not furnished additional security as provided in clause (d) below; and (d) Grantor shall have furnished to Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from Grantor's failure to prevail in such contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantor shall promptly satisfy any final judgment.

(3) Grantor shall furnish to Beneficiary, promptly on request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

ARTICLE II Condemnation

2.01 Condemnation

(1) Should any part of or interest in the Trust Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or should Grantor receive any notice or other information regarding such action, Grantor shall give immediate notice of such action to Beneficiary.

(2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 6.10 below, Beneficiary shall be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, if the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, shall become immediately due and collectible.

ARTICLE III Events of Default; Remedies

3.01 Events of Default. Each of the following shall constitute an event of default under this Trust Deed and under each of the other Loan Documents:

(1) *Nonpayment.* Failure of Grantor to pay any of the Obligations within 10 days after written notice from Beneficiary of any such nonpayment.

(2) *Breach of Other Covenants.* Failure of Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Settlement Agreement.

3.02 Remedies in Case of Default. If an Event of Default shall occur, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) *Acceleration.* Beneficiary may declare all or any portion of the Obligations immediately due and payable.

(2) *Power of Sale.* Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Property by advertisement and sale under applicable law.

(3) **Foreclosure.** Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property.

3.03 Cumulative Remedies. All remedies under this Trust Deed are cumulative and not exclusive.

3.04 Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Section 3 shall be applied as follows:

(1) **Costs and Expenses.** To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession and the costs of any sale

(2) **Indebtedness.** To pay all Obligations, in such order as Beneficiary shall determine in its sole discretion.

(3) **Surplus.** The surplus, if any, remaining after satisfaction of all the Obligations shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

ARTICLE IV General Provisions

4.01 Time Is of the Essence. Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

4.02 Reconveyance by Trustee. At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

4.03 Notice. Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed shall be in writing and may be delivered by hand, or mailed by first-class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given on the date of mailing; notices given by hand shall be deemed to have been given when actually received.

4.04 Substitute Trustee. In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

4.05 Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding on and inure to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Trust Property or any portion thereof shall at any time be vested in any person other than Grantor, Beneficiary shall have the right to deal with such successor regarding this Trust Deed, the Trust Property, and the Obligations in such manner as Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantor and without impairing Grantor's liability for the Obligations.

4.06 Applicable Law. The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed shall be governed by the laws of the state of Oregon.

4.07 Captions. The captions to the sections and paragraphs of this Trust Deed are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Trust Deed.

4.08 Rights of Prior Mortgagee. If all or any portion of the Trust Property is subject to a superior mortgage or trust deed, the rights of Beneficiary granted under this Trust Deed that have also been granted to such a superior mortgagee or trust deed beneficiary, shall be subject to the rights of the superior mortgagee or trust deed beneficiary. Grantor hereby authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining proceeds and all other sums held by them to Beneficiary to be applied in accordance with this Trust Deed.

4.09 Person Defined. As used in this Trust Deed, the word *person* shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

4.10 Severability. If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Trust Deed, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed.

4.11 ORS 93.040 Warning. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

GRANTOR:**SOUTHVIEW PROPERTIES DEVELOPMENT, LLC**

By: Greg P Bessert, Manager
 Greg Bessert, Manager

STATE OF OREGON)
 Klamath) ss.
 County of ~~Multnomah~~)

This instrument was acknowledged before me on October 7, 2003 by Greg Bessert as the Manager of Southview Properties Development, LLC, an Oregon limited liability company.



[Signature]
 Notary Public for Oregon

**EXHIBIT A
TO
TRUST DEED**

**Description for Parcel I
Southview City Parcel**

A parcel of land situated in the NE¼ and SE¼ of Section 36, Township 38 South, Range 8 East of the Willamette Meridian, the NE¼ of Section 1 Township 39 South, Range 8 East of the Willamette Meridian, and the NW¼ NW¼ of Section 6, Township 39 South, Range 9 East of the Willamette Meridian, all in Klamath County, Oregon and being more particularly described as follows:

Beginning at a point on the north-south centerline of Section 36 from which the NW corner of the SW¼ NE¼ of said section bears North 00°11'27" East 427.59 feet; thence South 89°58'12" East 619.61 feet; thence South 27°18'39" East 3530.91 feet; thence South 62°41'21" West 250.36 feet; thence South 27°18'39" East 1811.20 feet to a point on the south line of the NW¼ NW¼ of Section 6; thence along said south line South 89°28'21" West 199.91 feet to the SW corner thereof; thence along the south line of the NE¼ NE¼ of Section 1 North 89°29'44" West 1330.62 feet to the SW corner of said NE¼ NE¼; thence along the west line of the SE¼ NE¼ of Section 1 South 00°06'44" East 458.90 feet to the northerly right of way line of State Highway 140; thence along said northerly right of way line North 56°12'28" West 194.88 feet; thence leaving said right of way line North 11°59'09" East 364.18 feet to the south line of the NW¼ NE¼ of Section 1; thence along said south line South 89°56'08" West 516.20 feet to the said northerly right of way line of State highway 140; thence along said northerly right of way line North 50°28'23" West 199.25 feet; thence North 59°17'52" West 439.78 feet; thence leaving said northerly right of way line North 36°42'45" West 329.35 feet to the north-south center section line of Section 1; thence along said center section line North 00°04'15" East 722.87 feet to the ¼ corner common to Section 1 and Section 36; thence along the center section line of Section 36 North 00°11'27" East 3508.58 feet to the point of beginning, containing 195.46 acres, more or less, with bearings based on County Survey 6513

2174-01
June 11, 2003

**EXHIBIT A
TO
TRUST DEED**

80340

**Description for Parcel III
Southview County Parcel**

A parcel of land situated in the SE $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 1 Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon and being more particularly described as follows:

Beginning at a point on the north line of said SE $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 1 from which the northeast corner thereof bears South 89°29'44" East 217.54 feet; thence South 00°59'17" East 1195.30 feet to the northerly right of way line of State Highway 140; thence along said northerly right of way line on the arc of a spiral curve to the left, the chord of which bears North 56°12'34" West 123.83 feet; thence North 62°19'36" West 88.77 feet; thence North 56°10'42" West 979.84 feet; thence North 56°09'16" West 182.57 feet to the west line of said SE $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 1; thence along said west line North 00°06'44" West 458.90 feet to the northwest corner of said SE $\frac{1}{4}$, NE $\frac{1}{4}$; thence along the north line of said SE $\frac{1}{4}$, NE $\frac{1}{4}$ South 89°29'44" West 1112.88 feet to the point of beginning, containing 21.33 acres, more or less, with bearings based on County Survey 6513.

2174-01
June 11, 2003

EXHIBIT B

80341

PERMITTED EXCEPTIONS

1. An easement, including the terms and provisions contained therein, in favor of Pacific Telephone and Telegraph Company for a transmission line, recorded in Volume 96, page 70 in the Records of Klamath County, Oregon.
2. An easement, including the terms and provisions therein, in favor of The Pacific Telephone and Telegraph Company for a pole line, recorded in Volume 96, page 75 in the Records of Klamath County, Oregon.
3. An easement, including the terms and provisions therein, in favor of The California Oregon Power Company, for pole and wire line, recorded in Volume 181, page 65 in the Records of Klamath County, Oregon.
4. An Agreement, including the terms and provisions thereof, dated December 6, 1967 and recorded December 18, 1967 in Volume M-67, page 9824, Deed of Records of Klamath County, Oregon, from Donald E. McGhehey and Grace G. McGhehey to Pacific Power & Light Company for the right to deposit spoil materials.
5. Limited access provisions contained in Deed Volume M-69 on page 302, and in M-69 on page 5763 and 5767 and in M-70 on page 9494, records of Klamath County, Oregon the State of Oregon, by and through its Department of Transportation, recorded January 10, 1969, July 2, 1969 and October 22, 1970, Deed of Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
6. Limited access provisions contained in Deed M-72 on page 13518 of the Records of Klamath County, Oregon, State of Oregon, by and through its Department of Transportation, recorded November 22, 1972 Deed of Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
7. An easement, including the terms and provisions therein, in favor of Nena May Sohrakoff for ingress and egress, recorded in Volume M-69 on page 5771, in the Records of Klamath County, Oregon.
8. An easement, including the terms and provisions therein, in favor of various parties, for an access easement, recorded in Volume M-92, page 24107 in the Records of Klamath County, Oregon.
9. A Memorandum of Agreement, including the terms and provisions thereof, between Southview Properties Development, LLC and the State of Oregon, by and through its Department of Transportation, dated August 15, 2002 and recorded on February 20, 2003 in Volume M-03 on page 10267, in the Records of Klamath County, Oregon.