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State of Oregon, County of Klamath
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 Linda Smith, County Clerk
 Fee \$ 31.00 # of Pgs 3

04 DEC 2 AM 11:20

**RESTRICTIVE COVENANT
 LOCAL IMPROVEMENT CONTRACT**
City of Klamath Falls, Oregon

This Agreement is entered into this 17 day of November 2004, by and between the City of Klamath Falls (City) and Edward and Audrey Foust (Owner):

WHEREAS, Owner is the legal owner of the following described real property ("Property"):
(Insert legal description of property or type "See Attached Exhibit A, incorporated by reference herein" and attached as Exhibit A.)

Map and Tax Lot Numbers R-3909-07BD-06900 and 07000
 Property Address: 3210 Diamond Street; and

WHEREAS, Owner desires to develop the Property, which will contribute to the need for, as well as benefit from, the following improvements:

Construction of right-of-way improvements including grading, pavement, alleys, gutters, pathways, sidewalks, storm drains, illumination, traffic control devices and all other improvements necessary to bring the streets into compliance with the City's applicable street standards. (Include any other improvements that would likely be required in the particular instance); and

WHEREAS, a condition of the Owner's land use approval from City for the development of the Property 67-RN-04 is Owner's agreement to participate in the cost of said future improvements;

NOW THEREFORE, In consideration of the foregoing recitals and the conditions and obligations set forth herein:

THE PARTIES HERETO AGREE AS FOLLOWS:

1. City agrees not to require Owner to improve the right-of-way at this time. In the event and at such time as the City initiates the formation of a Local Improvement District (LID) for the funding and construction of the improvements designated above, Owner hereby waives any and all right to remonstrate against formation of a Local Improvement District (LID) by the City for the purpose of improving Diamond Street and assessing the proportionate cost to benefited properties pursuant to the City's right-of-way improvement regulations in effect at the time of such improvement.

The phrase "right to remonstrate against the formation of an LID" refers solely to a property owner's right under the City Charter Section 38 to be counted as part of an extraordinary majority of property owners that can, in certain circumstances, suspend proceedings on formation of an LID for six months. The waiver of this right does not limit or otherwise restrict the ability of a property owner bound by this covenant to appear at any of the required public hearings and testify regarding formation of the LID, whether the boundaries include all benefited property, the equity of the assessment formula, the scope and nature of the project or of the final assessment, or any other issue regarding the LID.

2. City agrees that a LID assessment levied against Owner's Property shall not exceed the benefit conferred upon the Property.
3. In the event that a suit or action is instituted to enforce the terms of this covenant, the prevailing party shall be entitled to recover reasonable attorneys fees and all other fees, costs and expenses incurred in connection with the suit or action, including any appeals, in addition to all other amounts allowed by law
4. This agreement shall run with the Property and shall be binding upon and inure to Owner and Owner's successors in interest to the Property.

31- *RF: Foust*

82890

CITY OF KLAMATH FALLS

OWNER

By: _____

Attest: _____

Dated: _____

[Signature]
Dated: 11-17-04

STATE OF OREGON

County of Klamath)

This instrument was acknowledged before me this _____ day of _____, 2004, by _____

NOTARY PUBLIC FOR OREGON
My commission expires: _____

After Recording Return to:
City Planning Department
226 South 5th Street
Klamath Falls, OR 97601

AFFIDAVIT OF ACKNOWLEDGEMENT

Name of defendant

KINGS

Name of

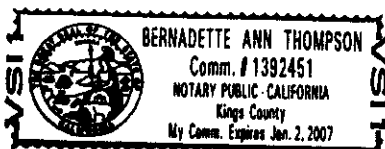
On NOVEMBER 17, 2004 before me,

BERNADETTE ANN THOMPSON

personally appeared Edward FoustAudrey Foust☐ personally known to me

OR

☒ I proved to me, on or about the date of this affidavit, evidence to be the person who is a person who subscribed to the said instrument and acknowledged to me then by of my executed the same in his his authorized capacity and that by the signature on the instrument the person on the entry upon to all of which the person executed the instrument



WITNESS my hand and official seal.

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent acknowledgment of this acknowledgment to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

DESCRIPTION OF AUTHORIZED DOCUMENT

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE OR TITLE OF DOCUMENT

- ☐ PARTNER(S)
☐ ATTORNEY IN FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DATE OF DOCUMENT

DATE OF DOCUMENT

OTHER

SIGNER IS REPRESENTING:
 NAME OF PERSON OR ESTABLISHMENT

RIGHT TO SUBMIT

OR

SIGNED