

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

2007-003649
Klamath County, Oregon



03/05/2007 10:41:21 AM

Fee: \$31.00

LOCAL IMPROVEMENT CONTRACT
City of Klamath Falls, Oregon

This Agreement is entered into this 1st day of MARCH 2007, by and between the City of Klamath Falls (City) and Phill & Lisa Kensler:

WHEREAS, Owner is the legal owner of the following described real property ("Property"):
See Attached Exhibit A, incorporated by reference herein

Map and Tax Lot Numbers: R-3809-034CD—0200
Property Address: Eberlein Ave. near the intersection with Alameda Ave

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 and

WHEREAS, a condition of the Owner's land use approval from City for the development of the Property 30-DR-06 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 Eberlein Ave frontage 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.

CITY OF KLAMATH FALLS

By: _____

Attest: _____

Dated: _____

[Signature]
[Signature]
3-1-07

OWNER

[Signature]
[Signature]
Dated: *3-1-07*

STATE OF OREGON

) ss.

County of Klamath)

This instrument was acknowledged before me this 1st day of MARCH 2007, by Phill & Lisa Kensler.

NOTARY PUBLIC FOR OREGON

My commission expires:

Darcy L Baker
April 24, 2010

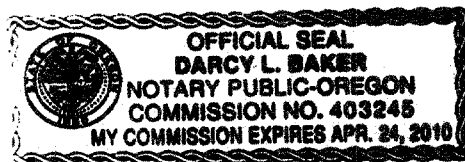


EXHIBIT "A"
LEGAL DESCRIPTION

A parcel of land situated in Lot 22-B, ENTERPRISE TRACTS, a duly recorded subdivision in Klamath County, State of Oregon, being more particularly described as follows:

Beginning at a 1/2 inch iron pin on the North line of said Lot 22-B from which an iron axle marking the Northeast corner of said Lot 22-B bears North 89° 46' 32" East, 969.54 feet said point of beginning also marking the intersection of the Southerly right-of-way line of Eberlein Avenue with the Southwesterly right-of-way line of the Klamath Falls-Malin State Highway No. 50; thence along said highway right-of-way line South 73° 01' 26" East, 207.73 feet to a 5/8 inch iron pin; thence continuing along said right-of-way line South 40° 00' 00" East, 494.80 feet to a 1/2 inch iron pin opposite engineers centerline station 184 + 44.8; thence leaving said right-of-way line South 50° 00' 00" West, 64.24 feet to a 1/2 inch iron pin on the Northerly right-of-way line of Alameda Avenue, a County Road; thence along said County Road right-of-way line North 47° 07' 00" West, 263.85 feet to a 1/2 inch iron pin marking the beginning of a curve to the left; thence along the arc of a 1089.93 feet radius curve to the left (delta = 34° 10', long chord = North 64° 12' 02" West, 640.36 feet) 649.95 feet to a 1/2 inch iron pin; thence North 81° 17' 00" West, 143.10 feet to a 1/2 inch iron pin at the point of intersection of said County Road right-of-way line with the Southerly right-of-way line of Eberlein Avenue; thence North 89° 51' 55" East along said right-of-way line 443.78 feet to the point of beginning.

EXCEPTING THEREFROM a parcel of land situate in Lot 22-B, ENTERPRISE TRACTS, in the County of Klamath, State of Oregon, more particularly described as follows:

Commencing at an iron axle marking the Northeast corner of said Lot 22-B; thence South 89° 46' 32" West along the North line of said Lot 969.54 feet; thence South 73° 01' 26" East along the Southwesterly right of way line of the Klamath Falls-Malin State Highway #50 a distance of 207.73 feet to a 5/8 inch iron pin; thence continuing along said right of way line South 40° 00' 00" East, 134.80 feet to the point of beginning for this description; thence continuing along said right of way line South 40° 00' 00" East, 360.00 feet to a 1/2 inch iron pin; thence at right angles South 50° 00' 00" West, 64.24 feet to a 1/2 inch iron pin on the Northerly right of way line of Alameda Avenue, a County Road; thence North 47° 07' 00" West along said right of way line 263.85 feet to a 1/2 inch iron pin marking the beginning of a curve to the left; thence along the arc of a 1089.93 foot radius curve to the left (delta = 04° 59' 12", long chord = North 49° 36' 36" West, 94.83 feet), 94.86 feet to a point on curve; thence leaving said right of way North 47° 37' 18" East, 112.86 feet to the point of beginning.

Tax Account No: 3809-034CD-00200-000

Key No: 444923