

2008-016579

Klamath County, Oregon



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12/16/2008 03:55:28 PM

Fee: \$26.00

After Recording Please Return to:

City Recorder

500 Klamath Avenue

Klamath Falls, OR 97601

**WAIVER OF RESTRICTIVE COVENANT FOR COLLEGE INDUSTRIAL  
PARK, TRACT 1174, RECORDED AT VOLUME M-79, PAGE 19167-19174**

**RECITALS**

The City of Klamath Falls, Oregon ("City") was at one time the owner of real property situated in the SW ¼ of Section 17, Township 38 South, Range 9 E.W.M., in Klamath Falls, Klamath County, Oregon. In 1979 City subdivided said real property to create Tract 1174 – College Industrial Park (the "Subdivision").

As part of the subdivision process City created a series of Restrictive Covenants applicable to the Subdivision that were recorded in the deed records of Klamath County at Volume M-79, pages 19167-19174.

Restrictive Covenant Subsection I.L. on page 5 of the Restrictive Covenants (at M-79 page 19171) grants to the City the option and right to repurchase lots within the subdivision when building permits for construction of facilities on and improvements to the lots according to "approved plans," have not been secured within 18 months of the closing date for purchase of any such lots.

On April 19, 1995, the City sold Lots 1 and 2, Block 1 of the Subdivision to Klamath Limited Partnership ("Partnership"). Partnership has not obtained building permits to construct facilities on these Lots (despite the purchase over 13 years ago), which has triggered the City's right to exercise its option under the Restrictive Covenants to repurchase the Lots.

Partnership now desires to sell the Lots to another party and Partnership and the prospective purchaser have requested that City waive its option rights as to the Lots and City has agreed to do so.

**WAIVER OF RESTRICTIVE COVENANT**

In consideration of the foregoing recitals:

City hereby forever waives its option and right under Restrictive Covenant Subsection I.L. on page 5 of the Restrictive Covenants (at M-79, page 19171) to repurchase Lots 1 and 2, Block 1 of Tract 1174, College Industrial Park, according to the official plat thereof on file in the records of Klamath County, Oregon. Said waiver is not applicable to any other lots in said subdivision.

This waiver and the rights, obligations and benefits granted and imposed herein, shall run with said Lots 1 and 2, and shall bind, burden and/or benefit the City, Partnership, all subsequent purchasers of said Lots, and the heirs, successors and assigns of City, Partnership and subsequent purchasers.

**CITY OF KLAMATH FALLS**

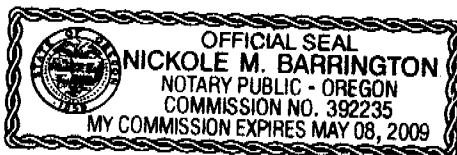
By: [Signature]  
Jeff Ball, City Manager

Attest: [Signature]  
Elisa D. Olson, City Recorder

STATE OF OREGON           )  
  ) ss.  
County of Klamath        )

On the 15th day of December, 2008, personally appeared Jeff 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.

WITNESS my hand and official seal.



[Signature]  
SIGNATURE OF NOTARY PUBLIC  
Notary Public for Oregon  
My Commission Expires: 5-8-2009