



00066774200900073940040047

05/27/2009 03:51:08 PM

Fee: \$36.00

AFTER RECORDING RETURN TO:

City Recorder
500 Klamath Avenue
Klamath Falls, OR 97601

GRANTORS:

Allen L. Deutscher
Marijke M. Deutscher
1401 Marvin Road NE #307-254
Lacey, WA 98516

GRANTEE:

City of Klamath Falls
500 Klamath Avenue
Klamath Falls, OR 97601

**EASEMENT FOR STORM-WATER DISCHARGE LINE(S) AND
MUNICIPAL FIRE HYDRANT**

ALLEN L. AND MARIJKE M. DEUTSCHER, Grantors, in consideration of the terms and conditions of this Easement, the sufficiency of which is hereby acknowledged, do hereby grant and convey to the **CITY OF KLAMATH FALLS, OREGON** (Grantee), a perpetual, exclusive easement for the purpose of installing, inspecting, repairing, maintaining, altering and operating Grantee's underground municipal storm-water discharge line(s) and municipal fire hydrant, together with all necessary appurtenances, in, into, upon, over, across and under a twelve (12) foot wide strip of land legally described and depicted on EXHIBIT A, attached hereto and incorporated herein (the "**Easement Area**"). Grantors and Grantee acknowledge that the storm-water discharge line is currently in place and this Easement accommodates its current placement. The parties further acknowledge that Grantors will be installing the public fire hydrant at their own expense, and the hydrant will be deemed dedicated to the Grantee when the facilities are accepted by Grantee.

Additional terms of the Easement are as follows:

1. **Consideration.** The true and actual consideration for this transfer stated in terms of money is \$0.00; however, the actual consideration consists of other property or value given or received which is the whole consideration. Grantors shall bear the costs of recording this Easement.
2. **Property Burdened.** The Easement Area lies within the real property owned by Grantors that is legally described on the attached Exhibit B (the "**Property**"):
3. **Restrictions.** Grantors shall not erect any buildings or structures or plant any trees or shrubs within the Easement Area that would inhibit access to Grantee's said storm-water line(s) or fire hydrant or cause damage to them. Grantors agree that any use by Grantors of the Easement Area or the ingress/egress area permitted herein shall not interfere with Grantee's use and enjoyment of those areas as authorized herein.
4. **Indemnification by Grantee.** Grantee shall indemnify, defend and hold Grantors harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings asserted by third parties against Grantors and Grantors' heirs, successors and assigns (including attorneys' fees, costs and expenses) that arise from or out of the Grantee's use of the Easement Area or the Property at any time.
5. **Entry.** This Easement shall include the right of ingress and egress over the Easement Area and the Property for the purposes of Grantee's use and enjoyment of this Easement and the perpetual right of Grantee to enter upon the Property at any necessary time, so long as Grantee uses its best efforts to coordinate such access with Grantors so as not to unreasonably interfere with Grantors' ongoing activities or business.

6. **Easement Use and Restoration of Property.** Grantors agree to use due care in any use of the Easement Area and in the construction, installation, repair, replacement and maintenance of the storm-water discharge line and the fire hydrant as provided for herein so as not to unreasonably disturb Grantors' use of their Property.

7. This Easement, and the rights and obligations granted and imposed herein, shall run with the Property, including any division or partition of the Property. The rights, covenants and obligations of this Easement shall bind, burden and/or benefit all subsequent purchasers of the Property, the Grantee, and the heirs, successors and assigns of both.

IN WITNESS WHEREOF, We have hereunto set our hands this 13th day of May 2009.

GRANTEE:
CITY OF KLAMATH FALLS

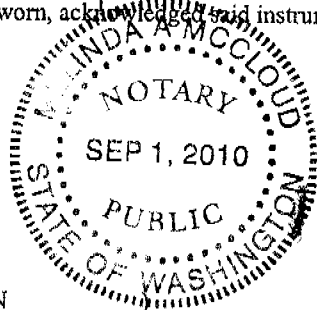
By: [Signature]
Rick Whitlock, Acting City Manager

GRANTORS:

[Signature]
Allen L. Deutscher
[Signature]
Marijke M. Deutscher

Washington
STATE OF ~~OREGON~~)
County of ~~Klamath~~ Thurston) ss.

On the 13th day of May, 2009, personally appeared Allen L. Deutscher and Marijke M. Deutscher, and being first duly sworn, acknowledged said instrument to be their voluntary act and deed.



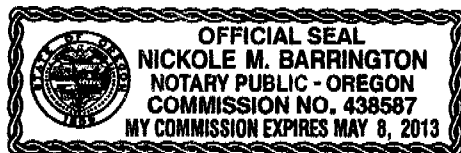
WITNESS my hand and official seal.

[Signature]
SIGNATURE OF NOTARY PUBLIC
Notary Public for Thurston County
My Commission Expires: 9-1-2010

STATE OF OREGON

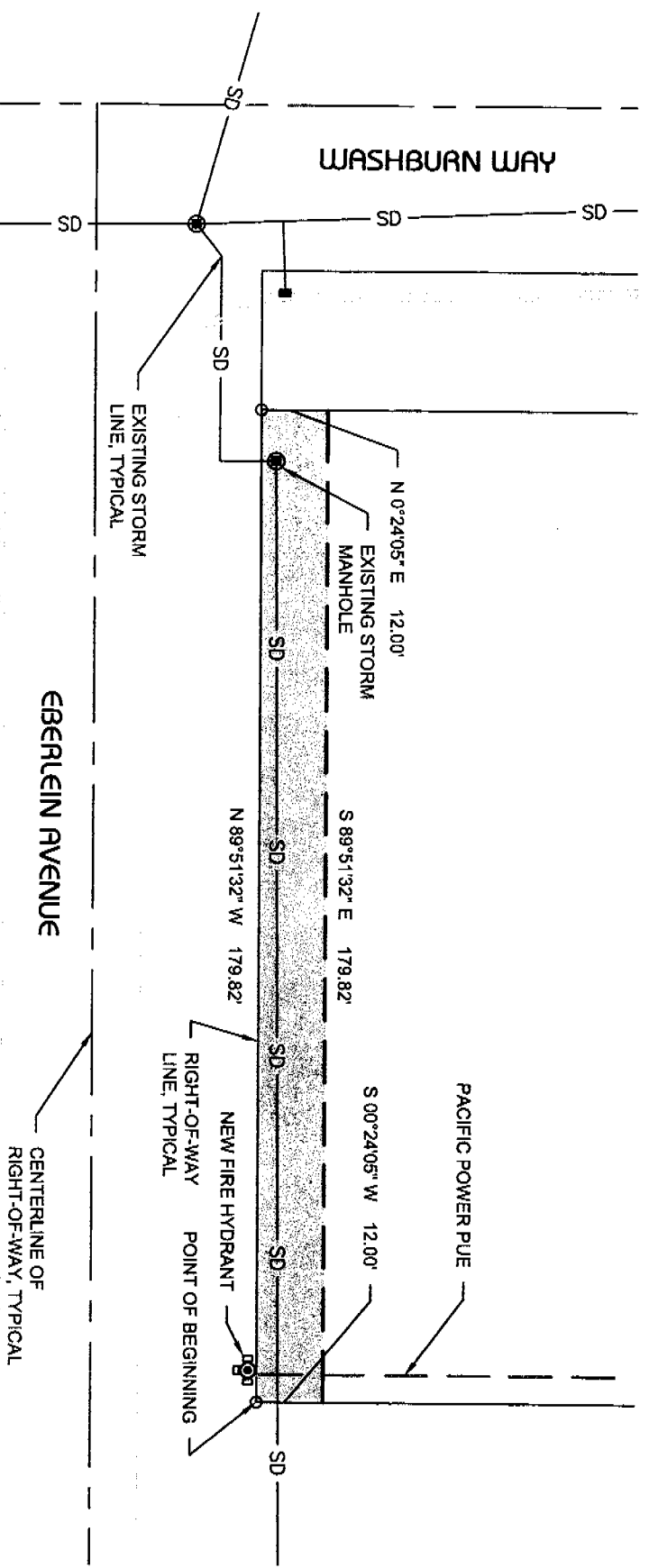
County of Klamath) ss.
)

On the 13th day of May, 2009, personally appeared Rick Whitlock, acting City Manager, who, being first duly sworn, did acknowledge that that the foregoing instrument was signed on behalf of City of Klamath Falls, an Oregon Municipal Corporation and that this instrument is the voluntary act and deed of said municipal corporation.



WITNESS my hand and official seal.

[Signature]
SIGNATURE OF NOTARY PUBLIC
Notary Public for Oregon
My Commission Expires: 5-8-2013



EASEMENT DESCRIPTION:

A 12 FOOT WIDE PUBLIC STORM DRAINAGE AND PUBLIC FIRE HYDRANT EASEMENT OVER A PARCEL OF LAND SITUATED IN THE SW1/4 OF SECTION 34, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, SAID EASEMENT BEING A PORTION OF THAT PROPERTY CONVEYED TO ALLEN L. AND MARIJKE DEUTSCHER BY DEED VOLUME 2008-010244, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF EBERLEIN AVENUE AND THE WEST RIGHT OF WAY LINE OF VACATED ALANDALE STREET, AS SHOWN ON RECORD OF SURVEY NO. 7548 ON FILE IN THE OFFICE OF THE KLAMATH COUNTY SURVEYOR; THENCE N.89°51'32"W., 179.82 FEET ALONG THE NORTH RIGHT OF WAY LINE OF EBERLEIN AVENUE, TO ITS INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF THE U.S.R.S. "B" LATERAL (NOW PART OF WASHBURN WAY RIGHT OF WAY); THENCE N.00°24'05"E., 12.00 FEET ALONG SAID "B" LATERAL RIGHT OF WAY; THENCE S.89°51'32"E., 179.82 FEET ALONG A LINE PARALLEL WITH AND 12.00 FEET NORTH OF THE NORTH RIGHT OF WAY LINE OF EBERLEIN AVENUE, TO A POINT ON SAID WEST RIGHT OF WAY LINE OF VACATED ALANDALE STREET; THENCE S.00°24'05"W., 12.00 FEET TO THE POINT OF BEGINNING. BASIS OF BEARINGS IS RECORD OF SURVEY NO. 7548.



1 INCH = 30 FT

CITY OF KLAMATH FALLS
PUBLIC STORMWATER AND FIRE
HYDRANT EASEMENT

EXHIBIT 'A'

The following described real property in Klamath County, Oregon:

A tract of land 320 feet wide North and South, in ENTERPRISE TRACTS NO. 33A and No. 41B, and lying North of the North line of the country road known as the extension of Eberlein Avenue and bounded on the North by the Northerly line of Wantland Avenue of Darrow Addition to the City of Klamath Falls, Oregon extended East to the right of way of the U.S.R.S Canal; also such fragment of Enterprise Tracts No. 30 lying South of the U.S.R.S. canal, as may remain after conveyance heretofore made by Enterprise Land and Investment Company to the U.S.R.S. for right of way, and to Klamath County, Oregon for road purposes. Together with vacated portions of Allandale and Applewood Streets described as parcels 1 & 2 in Volume 70 Page 4511, Klamath County, recorded June 5, 1970, in the SW 1/4 of Section 34, Township 38 South, Range 9 East of the Willamette Meridian.

EXCEPTING, HOWEVER, those certain parcels heretofore conveyed to the United States of America for right of way of the main canal and "B" Lateral of the United States of America Irrigation System, and to Klamath County, Oregon, for rights of way of roads known as the extension of Eberlein Avenue and Washburn Way.

EXCEPTING ALSO that certain parcel of land deeded by Alfred D. Collier and Ethel F. Collier, husband and wife, to Geo. H. Merryman and Mabel C. Merryman, husband and wife, and George H Merryman, Jr. and Elizabeth F. Merryman, husband and wife, recorded May 2, 1941 in Book 137 at Page 359, Deed Records of Klamath County, Oregon.

EXCEPTING ALSO that certain parcel of land deeded by Alfred D. Collier and Ethel F. Collier, husband and wife, to Klamath County, Oregon, recorded May 11, 1941 in Book 137 at Page 542, Deed Records of Klamath County, Oregon, BUT INCLUDING ALSO the right and privileges reserved in said deed to Alfred D. Collier and Ethel F. Collier, said land being deeded to Klamath County, Oregon, for the use as a county road as therein set forth.

EXCEPT that portion lying East of the centerline of vacated Allandale Street

CODE: 001 MAP: 3809-034CB TL: 08500 KEY: 444344

Exhibit B