

2010-006515

Klamath County, Oregon



05/28/2010 12:28:34 PM

Fee: \$57.00

WHEN RECORDED RETURN TO:

Kimball H. Ferris
Stephen P. Arnot
Bullivant Houser Bailey, PC.
888 SW Fifth Avenue, Suite 300
Portland, OR 97204-2089

**TAX STATEMENTS SHALL BE SENT
TO THE FOLLOWING ADDRESS:**

Evergreen Environmental Development
Corporation, a Washington corporation
111 Wall Street
Spokane, WA 99201

1st 1574683

NO MERGER DEED IN LIEU OF FORECLOSURE

The Grantor, K FALLS TWO LLC, an Oregon limited liability company ("**Grantor**"), conveys and warrants to EVERGREEN ENVIRONMENTAL DEVELOPMENT CORPORATION, a Washington corporation, ("**Grantee**"), the real estate (the "**Property**") legally described as:

See attached Exhibit "A" and incorporated herein by reference

1. Grantee is the owner and holder of the following:

1.01 Promissory Note dated November 17, 2005, with principal amount of \$20,700,000.00 (the "**2005 Note**"); the Note has been modified and all references to the 2005 Note shall be to the 2005 Note, as so amended.

1.02 Promissory Note dated October 30, 2006, with the principal sum of \$925,000 (the "**2006 Note**"); the 2006 Note has been modified and all references to the 2006 Note shall be to the 2006 Note, as so amended.

1.03 The Deed of Trust, Assignment of Rents and Security Agreement (and Fixture Filing) recorded on July 1, 2009, in the records of Klamath County, Oregon as instrument number 2009-009055 (the "**Trust Deed**"), collectively securing the 2005 and 2006 Note.

2. Grantor is in default under the 2005 and 2006 Note and the Trust Deed, because Grantor failed to pay the entire amount owing pursuant to the 2005 and 2006 Note on the maturity date thereof.

3. This Deed is absolute in effect and conveys fee simple title of the Property to Grantee, and does not operate as a mortgage, trust conveyance, or security of any kind.

4. Grantor, by executing this Deed, and the Grantee, by accepting and recording this Deed, do not intend a merger of the fee title herein conveyed with Grantee's interests under the Trust Deed. Rather, it is the intention of the parties that the Property shall remain subject to the lien of the Trust Deed, and the fee ownership of the Property and the lien of the Trust Deed shall remain separate and distinct.

5. The consideration for this No Merger Deed in Lieu of Foreclosure includes, but may not be limited to, Grantor's benefit from remaining in possession of the Property until relinquished at the time of this conveyance, and Grantee's covenant described in paragraph 6 below.

6. By accepting this No Merger Deed in Lieu of Foreclosure, Grantee covenants and agrees that it shall forever forbear from taking any action whatsoever to collect from the Grantor or any Guarantor(s), for any amounts owing on the 2005 and 2006 Note or on any promissory note or other obligation secured by the Trust Deed, other than by foreclosure of the Trust Deed, and that in any proceeding to foreclose the Trust Deed Grantee shall not seek, obtain, or permit any deficiency judgment against Grantor or any Guarantor, whether for any amount of any debt secured by the Trust Deed, costs, attorney fees, or any other amount.

7. Grantee may retain all payments previously made on the debts secured by the Trust Deed, with no duty to account therefore.

8. Grantor waives, surrenders, conveys, and relinquishes to Grantee any equity of redemption and statutory rights of redemption concerning the Property and the Trust Deed.

9. Grantor is not acting under any misapprehension as to the effect of this No Merger Deed in Lieu of Foreclosure, nor under any duress, undue influence, or misrepresentation of Grantee, Grantee's agent or attorney, or any other person. Grantor declares that it is executing this No Merger Deed in Lieu of Foreclosure voluntarily, in good faith, and without duress or undue influence. Grantor has had an opportunity to consult or has consulted with legal counsel and accountants of its own choice regarding the meaning, interpretation and effect hereof, and Grantor fully understands that its execution hereof will extinguish its entitlement to foreclosure, and its right to exercise redemption rights and other rights available generally to debtors. Grantor further understands that the execution and delivery of this Deed may result in income or other tax liability to Grantor.

10. Grantor is in possession of the Property, and except as previously disclosed to Grantee in writing, Grantor does not have any knowledge of facts indicating that any other person or entity is in possession of the Property.

11. This No Merger Deed in Lieu of Foreclosure shall be accepted by Grantee only when it is actually recorded.

12. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF

ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

[SIGNATURES ON FOLLOWING PAGE]

K FALLS TWO LLC, an Oregon limited liability company

By: Western Development Partners, LLC, a California
limited liability company, Member and Manager

Dated: May 22, 2010

By: [Signature]
Steven E. Wilson, Member and Manager

STATE OF Colorado)
~~OREGON~~) ss.
County of Arapahoe)

The foregoing instrument was acknowledged before me this 22 day of May, 2010, by Steven E. Wilson, member and manager of Western Development Partners, LLC., a limited liability company organized under the laws of the State of California, on behalf of the company.



[Signature]
Notary Public for State of Colorado
My commission expires 1-30-11

Exhibit "A"

Real property in the County of Klamath , State of Oregon, described as follows:

PARCEL 1:

PARCELS 1 AND 2 OF LAND PARTITION 41-08 REPLAT OF A PORTION OF TRACT 32 OF ENTERPRISE TRACTS AND LOT 3 OF BLOCK 1 OF HOME ACRES SUBDIVISION, SITUATED IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON. THE UNIT OF LAND IN THE FOREGOING DESCRIPTION WAS CREATED OR ESTABLISHED BY A FINAL LAND PARTITION ENTERED IN ON NOVEMBER 19, 2008 IN 2008-001665, MICROFILM RECORDS OF KLAMATH COUNTY, OREGON.