

91-02419

227 - 1695

ASSIGNMENT OF EASEMENT RIGHTS

(KLUG)

THIS ASSIGNMENT OF EASEMENT RIGHTS, made as of this 27th day of December 1990, by and between PACE GROUP, INC. dba District Utility Services Company, an Oregon corporation ("Assignor") and CAPITAL ASSOCIATES INTERNATIONAL, INC., a Colorado corporation ("Assignee").

RECITALS

1. Assignor is the owner of certain easements and rights-of-way, a copy of which is attached hereto as Exhibit A (the "Easements").
2. Assignee has purchased certain assets of Assignor and as a part of that purchase Assignor and Assignee desire that Assignor transfer to Assignee the Easements.
3. Assignee and Assignor hereby agree to the aforementioned assignment and transfer of the Easements under the terms and conditions as set forth herein.

NOW THEREFORE, for ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

1. Assignor hereby conveys, quit claims, transfers and assigns to Assignee all of its right, title and interest in and to the Easements.
2. This Assignment shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns and all those claiming by, through or under said parties.
3. Assignor warrants that it has right, title and interest in and to the Easements and has the right to assign same to Assignee.

STATE OF OREGON )  
COUNTY OF DESCHUTES ) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT WAS RECORDED THIS DAY:

91 JAN 30 PM 12:08

MARY SUE PENHOLLOW  
COUNTY CLERK

BY:  DEPUTY  
NO. 91-02419 FEE  
DESCHUTES COUNTY OFFICIAL RECORDS

AFTER RECORDING, RETURN TO:  
Karen Yurka  
Stoel Rives Boley Jones & Grey  
900 SW Fifth Avenue, Suite 2300  
Portland, OR 97204-1268

227 - 1696

IN WITNESS WHEREOF, the parties have hereto set their hands as of the day and year above first written.

ASSIGNOR:

PACE GROUP, INC dba District Utility Services Company

By: Scott R. Hannigan  
Its President

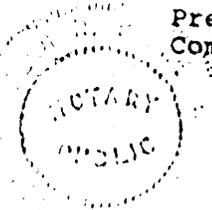
ASSIGNEE:

CAPITAL ASSOCIATES INTERNATIONAL, INC.

By: William M. Cook  
Its Vice President

STATE OF OREGON )  
County of Multnomah ) ss.

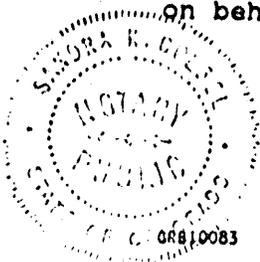
The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of December, 1990 by Scott R. Hannigan, the President of PACE GROUP, INC., dba District Utility Services Company, an Oregon corporation, on behalf of said corporation.



Heidi Van Bralen (FKA Heidi Blake)  
Notary Public  
My Commission Expires: 5/3/92

STATE OF Colorado )  
County of Jefferson ) ss.

The foregoing instrument was acknowledged before me this 27 day of December, 1990 by Wm Conlin of CAPITAL ASSOCIATES INTERNATIONAL, INC., a Colorado corporation, on behalf of said corporation.



Sandra K. Goebel  
Notary Public  
My Commission Expires: 7/24/91

EXHIBIT A

227 - 1697

FACILITY SITE AND ACCESS EASEMENT AGREEMENT

Dated: as of December 27, 1990

BETWEEN: Klug Management, Inc.  
P.O. Box 1207  
Sunriver, Oregon 97709

"GRANTOR"

AND: Pace, Inc., dba District Utility  
Services Company  
851 SW Sixth Ave., Suite 810  
Portland, Oregon 97204

"GRANTEE"

This Facility Site and Access Easement Agreement ("Easement Agreement") is entered into by and between Grantor and Grantee, successor-in-interest to District Utility Services Company, Inc., pursuant to that certain Energy Services Agreement ("Agreement") by and between Grantor and District Utility Services Company, Inc., dated April 4, 1990 which is hereby incorporated by this reference into this Easement Agreement. Grantor owns, leases or otherwise has the right to grant the rights set forth in this Easement Agreement with respect to the real property described on Exhibit A (the "Property").

RECITALS

A. Pursuant to the Agreement, Grantee agreed to design, construct, interconnect, operate, and maintain an energy facility on the Property and to provide energy as requested by Grantor to a convention center, a restaurant, a grocery store and a game room building that are included in the "Core Facilities" (as that term is defined in the Agreement) (the

"Customer Facilities") owned or leased by Grantor and located on the Property.

B. The parties wish to enter into this Easement Agreement to allow Grantee to site an energy facility known as the "DUSCO Facility" as that term is defined in the Agreement and all related wells, pipelines, equipment, fixtures, pipelines, cables, conduits, wires, poles, guys, braces, telephone, water and electric lines, and all other facilities or equipment related to such energy facility and to provide Grantee all rights of access to any portion of the Property, and to any portion of the Customer Facilities as reasonably required to enable Grantee to perform its obligations under the Agreement.

NOW THEREFORE, in consideration of the covenants of the parties contained in the Agreement and in this Easement Agreement, the parties hereby agree as follows:

1. Grant.

1.1 Access and Pipeline Easement. Grantor hereby grants to Grantee nonexclusive pipeline and access easements upon, under, and through the Property (the "Access Easements") for the purposes of access to the DUSCO Facility and each portion thereof now or hereafter located on under, in or over the Property or any portion thereof and for the further purposes of excavating, installing, laying, inspecting, repairing, maintaining, replacing and removing one or more pipelines and related equipment, facilities and fixtures that

may now or hereafter exist or be required (the "Pipelines") to be used for providing water, heating and cooling services to the Customer Facilities and to the facilities of the Association of Unit Owners of the Inn of the Seventh Mountain ("AUO") and each such unit represented thereby ("AUO Facilities"). The initial Pipelines are diagrammed on attached Exhibit B.

1.2 Telephone, Power and Other Easements. Grantor hereby grants to Grantee nonexclusive easements over, under and through those portions of the Property (the "Utility and Service Easements") for the purposes of excavating, erecting, constructing, drilling, operating, maintaining, replacing and removing such telephone, electric and gas lines together with such wires, conduits, poles, guys, anchors and such other utilities or services or facilities as Grantee now or hereafter may deem necessary or beneficial for the efficient performance of Grantee's obligations under the Agreement.

1.3 Third Party Energy Services Easements. Grantor hereby grants Grantee such easements over and across the Property as may be reasonably required from time to time in connection with the provision of energy services to third parties, including but not limited to AUO, from the DUSCO Facility for the purposes of excavating, erecting, installing, laying, inspecting, repairing, maintaining, replacing and removing such pipes, wires, conduits, poles, guys, anchors,

equipment and other facilities in connection with the provision of such services from the DUSCO Facility.

1.4 Relocation of Easements. In the event relocation, expansion or modification of the DUSCO Facility or any portion thereof is ever required under the terms of the Agreement, including Sections 2.3, 3.5 or 3.6, the easements and rights granted herein shall be relocated, expanded or modified from time to time as may be required to accommodate such relocation, expansion or modification. The parties hereto shall execute and acknowledge and record in the records of Deschutes County, Oregon any and all further documents reasonably required to memorialize such relocation, expansion or modification.

1.5 Termination of Easements. The respective easements granted above shall be perpetual, provided that the easements granted herein shall be extinguished one year after the date, if ever, that the DUSCO Facility permanently ceases all operations and no longer provides any energy services from the DUSCO Facility to Grantor, AUO or any third party.

1.6 Repairs or Reconstruction. Grantee hereby confirms that in the event of repair and/or reconstruction of equipment covered by the easement agreement, Grantee will do so in a reasonable manner so as to limit inconvenience or disruption of Grantor's normal building operations and guest or owner enjoyment to the extent Grantee reasonably deems consistent with Grantee's rights and obligations under this

Easement Agreement and the Agreement. Nothing herein shall require Grantee to do so outside of normal business hours or days or incur costs for overtime labor.

2. Grantor's Use of Easements. Grantor shall not erect any building or other improvement on, in or under the area covered by the Access Easement or any Utility Easement or Third Party Services Easement, as any of the same may now or hereafter be located; or do or permit anything else that would interfere with Grantee's rights hereunder without the prior written consent of Grantee, which consent shall not unreasonably be withheld.

3. Miscellaneous.

3.1 Title. Grantor warrants and represents to Grantee that the easements and rights granted herein shall not be disturbed or extinguished by any prior easement holder or encumbrancer or third party interests, and Grantor shall indemnify, hold harmless, and at Grantee's election and with counsel satisfactory to Grantee, defend Grantee and such easements and rights from and against any and all claims, actions, damages, fines or other liability or losses arising out of or related to any breach of the above.

3.2 Assignment; Binding Effect. The easements and other rights provided Grantee herein may be assigned, conveyed, or otherwise transferred by Grantee, in whole or in part, to Capital Associates International, Inc., a Colorado corporation or any other Owner and/or Lessor of the DUSCO Facility and

leased back to Pace, Inc. without any further notice to or approval by Grantor. The parties' respective rights and obligation with respect to other assignments, conveyances or transfers shall be governed by the Agreement. This Facility Site and Access Easement Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

3.3 Notices. Notices allowed or required hereunder shall be in writing and shall be effective when served upon the party to whom such notice is directed, or, if mailed, two days after such notice is deposited in the United States mail, certified or registered, correct postage prepaid, and addressed to the parties at their respective addresses as set forth above, or at such other address as such party shall notify the other party beforehand.

IN WITNESS WHEREOF, the parties have executed this Facility Site and Access Easement Agreement as of the date first written above.

GRANTOR:

KLUG MANAGEMENT, INC.

By: W. S. Klug  
Its: President

GRANTEE:

PACE, INC, dba DISTRICT UTILITY SERVICES COMPANY

By: [Signature]  
Its: PRESIDENT

STATE OF OREGON )  
County of Deschutes ) ss.

This instrument was acknowledged before me on 12/27, 1991, by WARREN KLUG, as President of KLUG MANAGEMENT, INC., on behalf of the corporation.

Sharon A. Thompson  
Notary Public for Oregon  
My commission expires: 1/23/91

STATE OF OREGON )  
County of MULTNOMAH ) ss.

This instrument was acknowledged before me on DECEMBER 28, 1990, by SCOTT R. HANNIGAN, as PRESIDENT of PACE, INC., dba DISTRICT UTILITY SERVICES, an Oregon corporation, on behalf of the corporation.

Karen R. Cavilee  
Notary Public for Oregon  
My commission expires: 11-1-91

EXHIBIT A

(THE PROPERTY)

## PARCEL A:

All of Buildings 24, 25A, R-1, R-2, and R-3, being respectively the restaurant, convention center, ice rink and warming hut, TOGETHER WITH the housekeeping building and maids' service closets in each condominium building as described in those certain Declarations of Unit Ownership for the Inn of the Seventh Mountain, Phases I, II-A, II-B, II-C, II-D, II-E, III-A, III-B, III-C, III-D, III-E, and IV.

TOGETHER WITH all Grantor's right, title and interest, if any, in and to (as lessee, owner, purchaser or otherwise) real and personal property and improvements on the real property described as:

Parcel B: That portion of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Twenty-two (22) Township Eighteen (18) South, Range Eleven (11) East of the Willamette Meridian, Deschutes County, Oregon, which is described as follows:

Beginning at the Northwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section 22, Township 18 South, Range 11 East of the Willamette Meridian, thence South 23°43'15" East 826.29 feet; thence South 69°45'45" West 305.00 feet; thence North 79°45'45" West 300.00 feet thence South 73°09'15" West 855.00 feet; thence North 75°35'45" West 276.00 feet to the west line of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of said Section 22; thence along said West line North 00°48'25" East 995.28 feet to the Northwest corner of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of said Section 22, thence along the North line of said Southeast Quarter, of the Southwest Quarter, South 89°40'45" East 1320.63 feet to the point of beginning, in Deschutes County, Oregon; EXCEPTING THEREFROM the right-of-way of the Century Drive Highway, formerly known as the Century Drive Market Road, as the same is now laid out and established over the Northwestern corner of said Southeast Quarter of the Southwest Quarter of said Section 22.

Excepting therefrom the Right-of-way of the Century Drive Highway, formerly known as the Century Drive Market Road, as the same, is now laid out and established over the Northwestern corner of said SE1/4 of the SW1/4 of said section 22.

Also excepting therefrom that portion conveyed to the State of Oregon, Dept. of Transportation by instrument dated, February 5, 1981 and recorded February 18, 1981 in Book 336 at Page 541 Deed records. 227 - 1705

Parcel C: That portion of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Twenty-two (22), Township Eighteen (18) South, Range Eleven (11) East of the Willamette Meridian, Deschutes County, Oregon, which is described as follows:

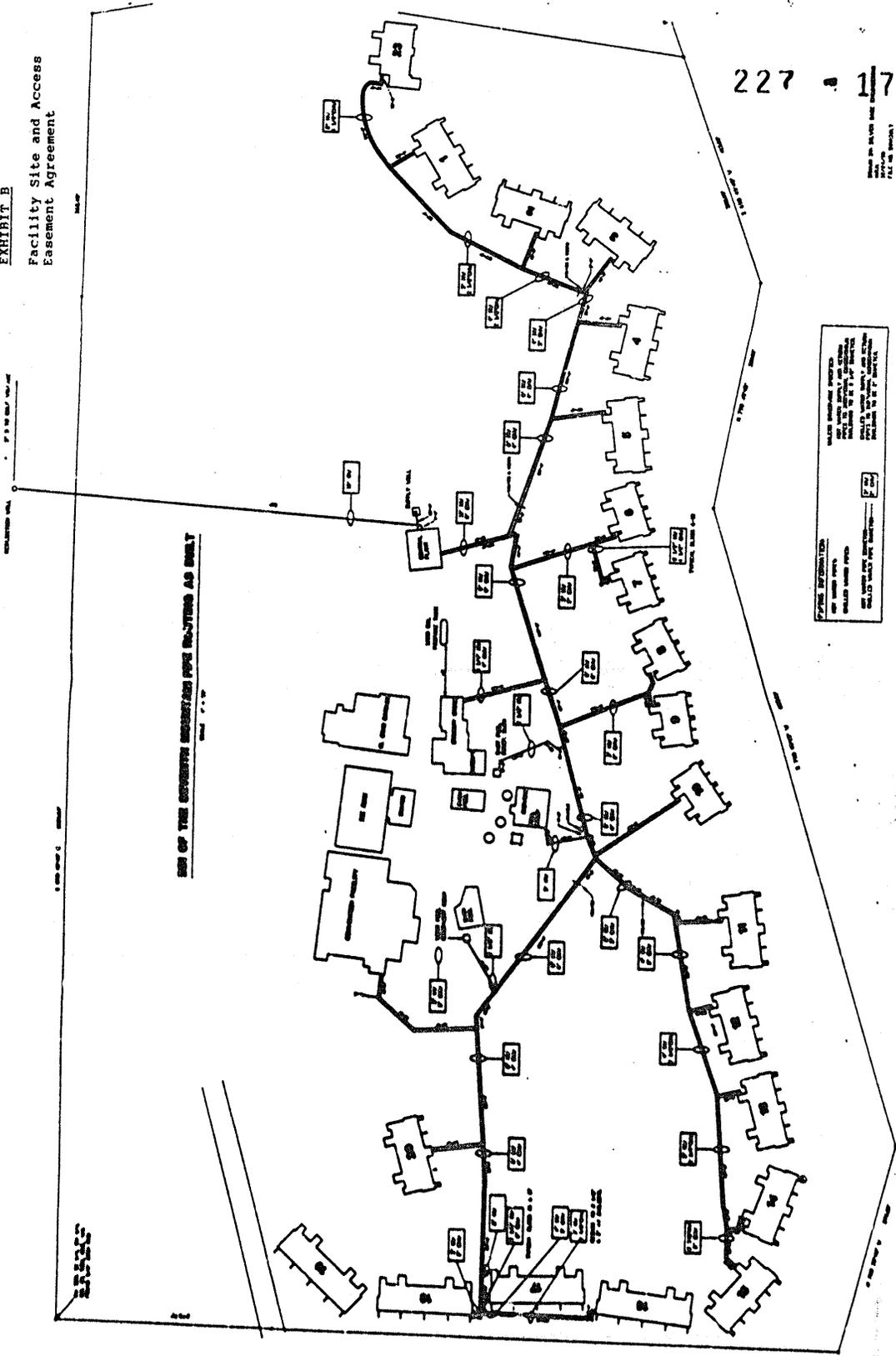
Beginning at the Northwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section 22, Township 18 South, Range 11 East of the Willamette Meridian, thence South 89°49'30" East 362.43 feet along the North line of said Southwest Quarter of the Southeast Quarter; thence South 11°15'45" East 200.00 feet; thence South 51°16'10" East 561.91 feet; thence South 00°30'45" East 80.00 feet; thence South 77°44'15" West 417.00 feet; thence South 69°45'45" West 108.00 feet thence North 23°43'15" West 826.29 feet to the Point of beginning, all in Deschutes County, Oregon.

EXCEPTING, however, from the foregoing property described as Parcels B and C the leasehold estate in that portion of said property which was submitted to Unit Ownership as THE INN OF THE SEVENTH MOUNTAIN.

**EXHIBIT B**  
**Facility Site and Access**  
**Easement Agreement**

227 - 1706

SCALE: AS SHOWN  
DATE: 11/18/83  
FILE NO. 100-100000



**LEGEND**  
ALL DIMENSIONS SHOWN  
ON THIS PLAN ARE IN FEET  
UNLESS OTHERWISE NOTED  
ALL DIMENSIONS ARE TO CENTER  
UNLESS OTHERWISE NOTED

1" = 20' (SEE SCALE)