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RETURN TO:
City Recorder
320 Warner Milne Road
Oregon City, OR 97045

Clackamas County Official Records
Sherry Hall, County Clerk

2004-045747



\$61.00

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05/20/2004 03:23:38 PM

CLACKAMAS COUNTY CLERK
DIANNA W. HALL

TEMPORARY CONSTRUCTION EASEMENT

This TEMPORARY CONSTRUCTION EASEMENT is entered into this 6 day of April, 2004, by and between, property owner **BD Lube** (hereafter referred to as "Grantor") and the City of Oregon City, a Municipal Corporation of the State of Oregon (hereafter referred to as "Grantee").

RECITALS

1. Grantor is the owner of certain real property located in the City of Oregon City, Clackamas County, Oregon, illustrated on Exhibit 'A' attached hereto (hereafter referred to as "Easement Area").
2. Grantor desires to grant to Grantee, for good and valuable consideration a temporary, non-exclusive easement over, under, and across the Easement Area, together with the right to go upon said Easement Area for the purpose of constructing a concrete sidewalk and driveway apron at the right-of-way line.
3. This TEMPORARY CONSTRUCTION EASEMENT is intended to allow the City of Oregon City to undertake the construction of a new sidewalk and driveway apron and all other activities that the Grantee deems necessary and appurtenant to the above noted activities in conjunction with the Molalla Avenue Boulevard and Bikeway Improvements Phase 2 project.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each of the parties, it is agreed as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee a non-exclusive temporary easement over, under, and across the Easement Area, together with the right to go upon said Easement Area for the purpose of constructing a sidewalk and driveway apron.
2. **Term of Easement.** This TEMPORARY CONSTRUCTION EASEMENT shall be temporary and shall terminate when both the City of Oregon City has approved the completion of the project and the Grantor has approved the restoration of the Easement Area.

3. **Grantor's Covenants.** Grantor covenants and warrants that (a) Grantor holds full legal and equitable title to the property; (b) Grantee's rights to the use and enjoyment of the Easement Area shall not be disturbed; (c) no structures of any kind shall be erected by Grantor in the Easement Area; and (d) no trees, retaining walls, or other significant landscaping shall be allowed on the Easement Area while this TEMPORARY CONSTRUCTION EASEMENT is in effect.
4. **Allowed Uses.** Grantee shall have the right to conduct construction and maintenance activities within the Easement Area, so long as such activities do not unreasonably interfere with the use of the adjoining lands by the Grantor.
5. **Restoration.** Upon completion of the identified work by Grantee in the Easement Area, Grantee shall restore the Easement Area to its prior condition, at Grantee's sole cost and expense. Restoration shall be limited to re-grading to previous contours and providing ground cover, grass, or similar vegetation as was removed by the construction process.
6. **Run with the Land.** The terms and provisions of this TEMPORARY CONSTRUCTION EASEMENT shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
7. **Indemnification.** Each party agrees to indemnify and hold the other party harmless from any loss, claim or liability arising in any manner out of such party's use of the Easement Area or the breach of this TEMPORARY CONSTRUCTION EASEMENT. In addition, Grantor agrees to indemnify and hold Grantee harmless from any loss, claim or liability arising from subsurface conditions, hazardous wastes and hazardous substances existing on or under the Easement Area as of the date of this TEMPORARY CONSTRUCTION EASEMENT.
8. **Attorney Fees.** If legal action is commenced in connection with this TEMPORARY CONSTRUCTION EASEMENT, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and in the appeal therefrom. The term "action" shall be deemed to include action commenced in the bankruptcy courts of the United States and any other court of general or limited jurisdiction.

The true consideration for this conveyance is **Eight Hundred Seventy Three** and NO/100 DOLLARS (\$873.00)

This TEMPORARY CONSTRUCTION EASEMENT has been executed as of the date and year first written above.

GRANTOR:

By: David A. Elrod

By: James M. Hurd

STATE OF OREGON)
County of Curry) ss.

This instrument was acknowledged before me on this 12 day of April, 2004,
by Eric McHard (Grantor).



Patricia OAR
Notary Public of Oregon
My Commission Expires: 2-15-2006

GRANTEE:

City of Oregon City
P.O. Box 3040
320 Warner Milne Road
Oregon City, OR 97045-0304

Accepted on behalf of the City of Oregon City on the condition that the easement granted is free
and clear from any taxes, liens, and encumbrances.

Mayor Clive Norris

City Recorder Leilani Branson Crelley

EXHIBIT "A"
TAX LOT 5900 3 2E 5BB

(DEDICATION PARCEL)

A PARCEL OF LAND SITUATED IN LOT 1, BLOCK 1, "C.T. TOOZE ADDITION TO OREGON CITY", IN THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS SCREW WITH WASHER STAMPED "PLS 2427" AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE ALONG THE SOUTH LINE OF SAID LOT 1 (BEING ALSO THE NORTHERLY RIGHT OF WAY LINE OF HILDA STREET AS ESTABLISHED BY PS 26904, CLACKAMAS COUNTY SURVEY RECORDS), SOUTH 62°37'50" WEST 15.13 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED; THENCE CONTINUING ALONG SAID SOUTH LINE SOUTH 62°37'50" WEST 108.84 FEET TO AN ANGLE POINT IN THE SOUTH BOUNDARY OF THAT TRACT OF LAND DESCRIBED IN DEED TO BD LUBE, BY WARRANTY DEED RECORDED AS DOCUMENT NUMBER 98-057180, CLACKAMAS COUNTY DEED RECORDS; THENCE CONTINUING ALONG SAID SOUTH BOUNDARY NORTH 76°26'03" WEST 18.31 FEET TO THE EAST RIGHT OF WAY LINE OF MOLALLA AVENUE; THENCE ALONG SAID EAST RIGHT OF WAY LINE (AS ESTABLISHED BY PS 26904, CLACKAMAS COUNTY SURVEY RECORDS), NORTH 26°41'25" WEST 17.48 FEET (TO POINT "A"); THENCE LEAVING SAID RIGHT OF WAY LINE NORTH 63°18'35" EAST 0.56 FEET; THENCE 5.00 FEET ALONG THE ARC OF A NON-TANGENT 21.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST THROUGH A CENTRAL ANGLE OF 13°19'40" (LONG CHORD BEARS SOUTH 33°22'12" EAST 4.99 FEET); THENCE NORTH 83°57'39" EAST 5.80 FEET; THENCE 14.86 FEET ALONG THE ARC OF A NON-TANGENT 17.00 FOOT RADIUS CURVE CONCAVE TO THE NORTH THROUGH A CENTRAL ANGLE OF 50°04'42" (LONG CHORD BEARS SOUTH 76°04'54" EAST 14.39 FEET); THENCE SOUTH 11°07'27" EAST 4.66 FEET; THENCE SOUTH 54°14'45" EAST 4.11 FEET; THENCE NORTH 63°17'36" EAST 65.10 FEET; THENCE 39.77 FEET ALONG THE ARC OF A 222.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST THROUGH A CENTRAL ANGLE OF 10°15'54" (LONG CHORD BEARS NORTH 68°25'33" EAST 39.72 FEET) TO THE TRUE POINT OF BEGINNING.

CONTAINS 640 SQUARE FEET.

TOGETHER WITH AN EASEMENT FOR PUBLIC UTILITY PURPOSES OVER THE FOLLOWING DESCRIBED TRACT OF LAND:

(PUBLIC UTILITY EASEMENT PARCEL)

A PARCEL OF LAND SITUATED IN LOT 1, BLOCK 1, "C.T. TOOZE ADDITION TO OREGON CITY", IN THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT POINT "A" AS DESCRIBED ABOVE; THENCE ALONG THE AFOREMENTIONED EAST RIGHT OF WAY LINE OF MOLALLA AVENUE NORTH $26^{\circ}41'25''$ WEST 19.90 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE NORTH $63^{\circ}18'35''$ EAST 7.50 FEET; THENCE SOUTH $26^{\circ}41'25''$ EAST 22.94 FEET; THENCE NORTH $89^{\circ}09'57''$ EAST 49.19 FEET TO THE NORTHERLY LINE OF THE ABOVE DESCRIBED DEDICATION PARCEL; THENCE ALONG SAID NORTHERLY LINE THE FOLLOWING SIX (6) COURSES: SOUTH $63^{\circ}17'36''$ 33.62 FEET; THENCE NORTH $54^{\circ}14'45''$ WEST 4.11 FEET; THENCE NORTH $11^{\circ}07'27''$ WEST 4.66 FEET; THENCE 14.86 FEET ALONG THE ARC OF A NON-TANGENT 17.00 FOOT RADIUS CURVE CONCAVE TO THE NORTH THROUGH A CENTRAL ANGLE OF $50^{\circ}04'42''$ (LONG CHORD BEARS NORTH $76^{\circ}04'54''$ WEST 14.39 FEET); THENCE SOUTH $83^{\circ}57'39''$ WEST 5.80 FEET; THENCE 5.00 FEET ALONG THE ARC OF A NON-TANGENT 21.50 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST THROUGH A CENTRAL ANGLE OF $13^{\circ}19'40''$ (LONG CHORD BEARS NORTH $33^{\circ}22'12''$ WEST 4.99 FEET); THENCE SOUTH $63^{\circ}18'35''$ WEST 0.56 FEET TO THE POINT OF BEGINNING.

CONTAINS 561 SQUARE FEET.

ALSO A TEMPORARY CONSTRUCTION EASEMENT OVER THE FOLLOWING TWO (2) DESCRIBED TRACTS OF LAND:

(TEMPORARY CONSTRUCTION EASEMENT PARCEL NO. 1)

A PARCEL OF LAND SITUATED IN LOT 1, BLOCK 1, "C.T. TOOZE ADDITION TO OREGON CITY", IN THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A BRASS SCREW WITH WASHER STAMPED "PLS 2427" AT THE SOUTHEAST CORNER OF THE AFOREMENTIONED LOT 1, BLOCK 1; THENCE ALONG THE EAST LINE OF SAID LOT 1, BLOCK 1, NORTH $08^{\circ}31'22''$ WEST 5.28 FEET; THENCE LEAVING SAID EAST LINE SOUTH $62^{\circ}37'50''$ WEST 16.36 FEET; THENCE 3.85 FEET ALONG THE ARC OF A NON-TANGENT 227.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH THROUGH A CENTRAL ANGLE OF $00^{\circ}58'22''$ (LONG CHORD BEARS SOUTH $72^{\circ}57'42''$ WEST 3.85 FEET); THENCE NORTH $22^{\circ}24'50''$ WEST 5.02 FEET; THENCE 27.31 FEET ALONG THE ARC OF A NON-TANGENT 232.00 FOOT RADIUS CURVE CONCAVE TO

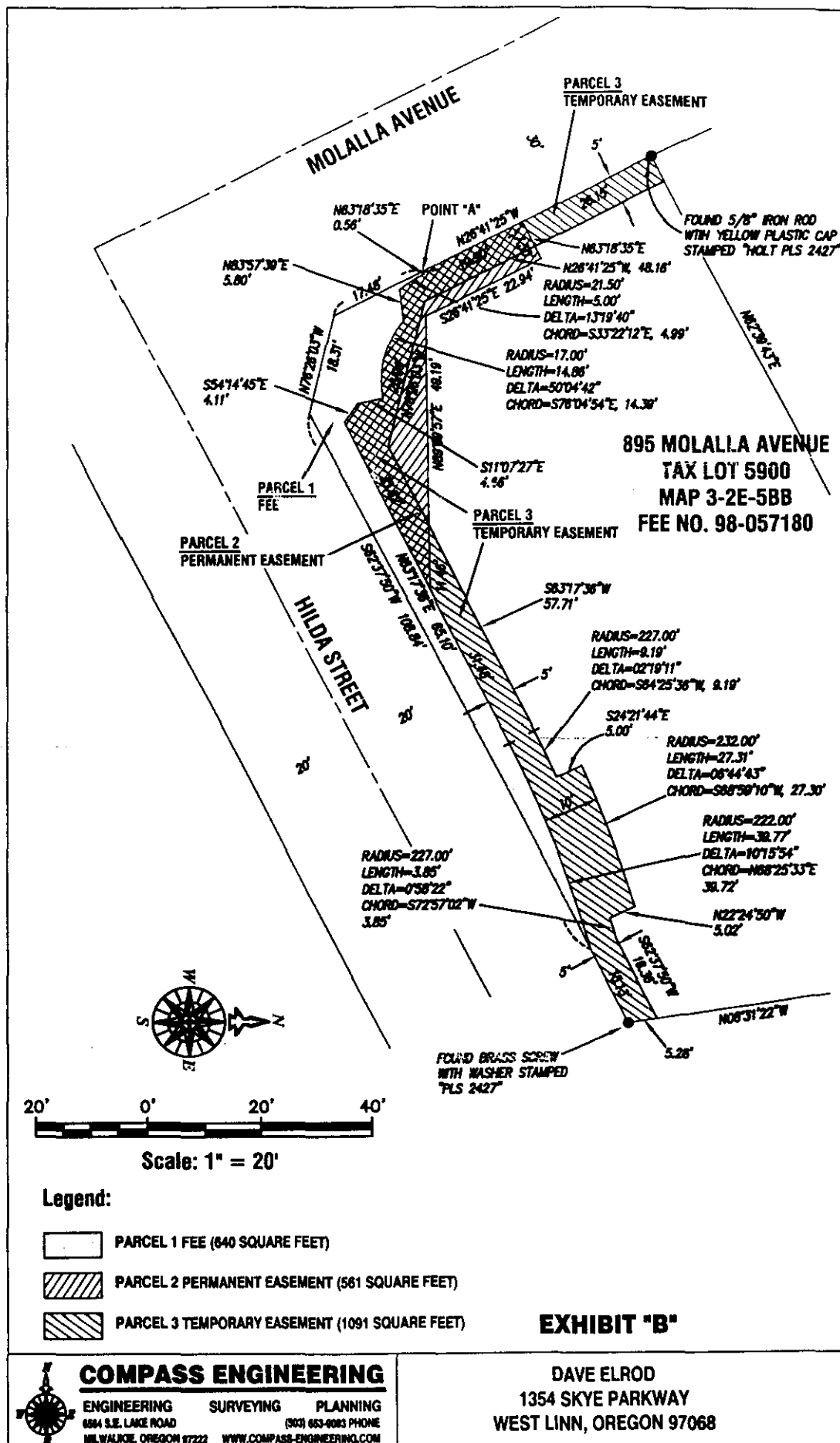
THE SOUTH THROUGH A CENTRAL ANGLE OF 06°44'43" (LONG CHORD BEARS SOUTH 68°59'10" WEST 27.30 FEET); THENCE SOUTH 24°21'44" EAST 5.00 FEET; THENCE 9.19 FEET ALONG THE ARC OF A NON-TANGENT 227.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH THROUGH A CENTRAL ANGLE OF 02°19'11" (LONG CHORD BEARS SOUTH 64°25'36" WEST 9.19 FEET); THENCE SOUTH 63°17'36" WEST 41.79 FEET; THENCE NORTH 89°09'57" EAST 11.46 FEET TO THE NORTHERLY LINE OF THE ABOVE DESCRIBED DEDICATION PARCEL; THENCE ALONG SAID NORTHERLY LINE NORTH 63°17'36" EAST 31.48 FEET; THENCE CONTINUING ALONG SAID NORTHERLY LINE 39.77 FEET ALONG THE ARC OF A 222.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH THROUGH A CENTRAL ANGLE OF 10°15'54" (LONG CHORD BEARS NORTH 68°25'33" EAST 39.72 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF HILDA STREET; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 62°37'50" EAST 15.13 FEET TO THE POINT OF BEGINNING.

(TEMPORARY CONSTRUCTION EASEMENT PARCEL NO. 2)

A PARCEL OF LAND SITUATED IN LOT 1, BLOCK 1, "C.T. TOOZE ADDITION TO OREGON CITY", IN THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "HOLT PLS 2427" AT THE MOST WESTERLY CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO BD LUBE RECORDED AS DOCUMENT NUMBER 98-057180, CLACKAMAS COUNTY DEED RECORDS; THENCE ALONG THE EAST RIGHT OF WAY LINE OF MOLALLA AVENUE (AS ESTABLISHED BY PS 26904, CLACKAMAS COUNTY SURVEY RECORDS), SOUTH 26°41'25" EAST 26.15 FEET TO THE NORTHERLY LINE OF THE ABOVE DESCRIBED PUBLIC UTILITY EASEMENT PARCEL; THENCE ALONG SAID NORTHERLY LINE NORTH 63°18'35" EAST 5.00 FEET; THENCE PARALLEL WITH AND 5.00 FEET FROM THE EAST RIGHT OF WAY LINE OF MOLALLA AVENUE NORTH 26°41'25" WEST 26 FEET, MORE OR LESS, TO THE NORTH LINE OF THE AFOREMENTIONED BD LUBE TRACT; THENCE SOUTHWESTERLY ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

SEE ATTACHED EXHIBIT "B".



COMPASS ENGINEERING

ENGINEERING SURVEYING PLANNING
 6864 S.E. LAKE ROAD (503) 653-9083 PHONE
 MILWAUKEE, OREGON 97222 WWW.COMPASS-ENGINEERING.COM

DAVE ELROD
 1354 SKYE PARKWAY
 WEST LINN, OREGON 97068

Temp. construction
Easement

3-2E - 5BB TL 5900

BD Lube

[DOC# 2004-645747]

P9 item
1112 / 22

CITY OF OREGON CITY

P.O. Box 3040
Oregon City, OR 97045-0304

ADDRESS SERVICE REQUESTED

PRESERVING OUR PAST - BUILDING OUR FUTURE