

6/6

3-2E-5AA
TL 2500

RECORDED IN CLACKAMAS COUNTY
ARDIS STEVENSON, COUNTY CLERK

2002-120837



\$51.00

00391683200201208370060069

12/10/2002 11:16:16 AM

D-E Cnt=1 Stn=9 BEVL
\$30.00 \$11.00 \$10.00

After recording return to:
CITY ENGINEER
CITY OF OREGON CITY
P.O. Box 3040
Oregon City, Oregon 97045

PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that METRO, a municipal corporation and political subdivision of the state of Oregon (hereinafter referred to as "Grantor"), for the consideration hereinafter stated, does forever grant unto the CITY OF OREGON CITY, a municipal corporation, its successors and assigns (hereinafter referred to as "Grantee"), a permanent public utility easement ("Public Utility Easement") over the Premises described as follows, to-wit:

1. Legal description is set forth in EXHIBIT "A" attached hereto, and incorporated by reference herein.
2. A map of the above legal description is set forth in EXHIBIT "B" and incorporated by reference herein.

The consideration paid for this transfer, stated in terms of dollars, is \$1.00. However, the actual consideration includes other property or value given or promised which is the whole of the consideration.

TO HAVE AND TO HOLD the above described perpetual public utility easement unto said Grantee, subject to liens and encumbrances of record as of the date of execution set forth below, in accordance with the conditions and covenants as follows:

1. The Grantee, through its officers, employees and agents, shall have the right to enter upon said lands in such a manner and at such times from this date as may be reasonably necessary for the purpose of installing, constructing and maintaining thereon an auxiliary electrical power generator, including such renewals, repairs, replacements and removals thereof as may be from time to time required. Said right shall be perpetual for so long as Grantee shall operate or cause to be operated the auxiliary electrical power generator (hereafter, the "Public Utilities") for said purposes as herein provided, subject to the terms of Section 6 set forth herein below.
2. Immediately after any construction, maintenance, repair or replacement of said Public Utilities, any disturbed ground surface shall be restored and revegetated with native vegetation according to Grantor's specifications.

3. Grantee's use of the Premises shall be exclusive, but subject to Metro's inspection for compliance hereunder, at any time, without notice.

4. Grantor(s) and his/her/their heirs, successors and/or assigns will not be responsible for damage by others to said Public Utilities.

5. To the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, Grantee shall defend, indemnify, and save harmless Grantor, its officers, employees, and agents from and against any and all actual or alleged claims, demands, judgments, losses, damages, expenses, costs, expenses, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, and/or penalties, which may be imposed upon or claimed against Grantor and which, in whole or in part, directly or indirectly, arise from or are in any way connected with: (i) the act, omission or negligence of Grantee, its officers, directors, agents, employees, invitees, contractors or subcontractors; (ii) the construction, maintenance or operation of the easement set forth herein, whether or not due to the Grantee's own act or omission and whether or not occurring on this easement; and (iii) any breach, violation or failure to perform any of the Grantee's obligations under this Public Utility Easement.

6. This Public Utility Easement is granted on the express condition that the Grantee use the Premises solely for the purposes of installing, constructing and maintaining thereon an auxiliary electrical power generator serving a wastewater pump station located on adjacent City of Oregon City property, including such renewals, repairs, replacements and removals thereof as may be from time to time required. If the Premises is ever used for another purpose by the Grantee without the express written permission of Grantor, or if the Premises ever ceases to be used for said purposes, the Grantor may re-enter and terminate the Public Utility Easement hereby granted.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

///

///

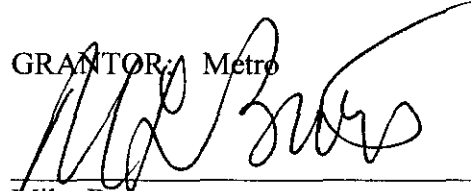
///

///

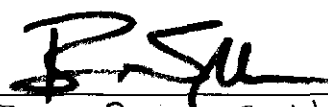
///

IN WITNESS WHEREOF, the undersigned Grantor and Grantee have executed this Public Utility Easement, this 6th day of November, 2002.

GRANTOR: Metro

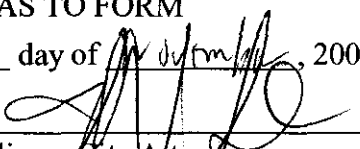

Mike Burton
Executive Officer

GRANTEE: City of Oregon City


By: Brian S. Nakamura
Its: City Manager


APPROVED AS TO FORM

this 6th day of November, 2002

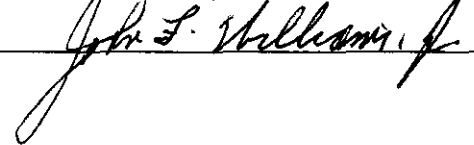

Edward J. Sullivan, City Attorney
City of Oregon City, Oregon

APPROVED AS TO LEGAL DESCRIPTION

this 6th day of November, 2002


_____, P.E., City Engineer
City of Oregon City, Oregon

ACCEPTED on behalf of the City of Oregon City,
OR, this 6th day of November, 2002.



John L. Williams, Jr.
City of Oregon City, Oregon

State of Oregon)
County of Multnomah)^{SS.}

On this 16th day of September, 2002, before me Karen M. Starin, the undersigned Notary Public, personally appeared MIKE BURTON, as Executive Officer of Metro, a municipal corporation, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.



Karen M. Starin
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9-29-02

State of Oregon)
County of _____)^{SS.}

On this _____ day of _____, 2002, before me, a notary public in and for said County and State, personally appeared _____, known to me to be the person whose name _____ subscribed to the within instrument and acknowledged that _____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

LEGAL DESCRIPTION

Beginning at the southeast corner of Lot 21 of Newell Crest, a duly recorded plat in the County of Clackamas, Oregon (Subdivision Plat No. 3170); Thence North $29^{\circ}20'56''$ West a distance of 93.17 feet; Thence South $60^{\circ}39'04''$ West a distance of 16.00 feet; Thence North $29^{\circ}20'56''$ West a distance of 27.10 feet to the Point of Beginning; Thence South $29^{\circ}20'56''$ East a distance of 27.10 feet; Thence South $60^{\circ}39'04''$ West a distance of 20.00 feet; Thence North $29^{\circ}20'56''$ West a distance of 30.00 feet; Thence North $60^{\circ}39'04''$ East a distance of approximately 20 feet to the Southwest Right-of-Way Line of the "Turn-Around" of Newell Crest Drive (located between Lots 21 and 22 of said plat); Thence right along the remainder of an arc of a 30.00' radius curve to the Point of Beginning.

EXHIBIT "A"

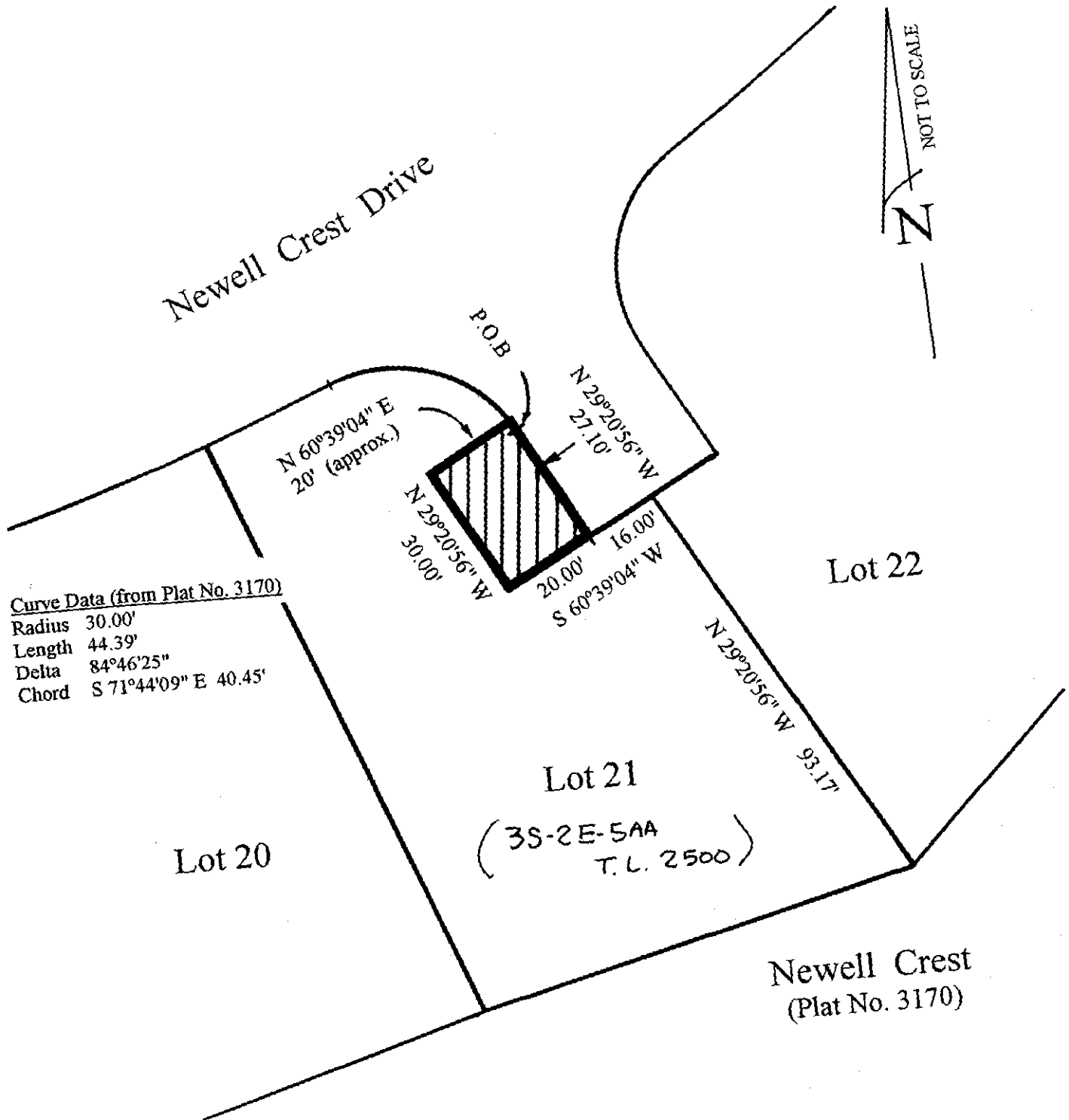



Exhibit "B"

6

**COMMISSION REPORT: CITY OF OREGON CITY
TO THE HONORABLE MAYOR AND COMMISSIONERS**

320 Warner Milne Road----(503) 657-0891

 INCORPORATED 1844	Agenda Item No.: 4.5	Topic: Public Utility Easement through Metro-Owned Property on Newell Crest Drive for Oregon City Non-Park Use
	Report No.: 02-228	
	Agenda Type: DISCUSSION/ACTION	
	Meeting Date: November 6, 2002	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Prepared By: N. Kraushaar	Reviewed By: Nancy J.T. Kraushaar	Approved By: B. Nakamura

RECOMMENDATION:

Staff recommends that the City Commission adopt and accept this public utility easement instrument and authorize the Mayor and City Recorder to execute it.

REASON FOR RECOMMENDATION:

City Commission adoption and acceptance is required to complete easement conveyance.

BACKGROUND:

Oregon City's Newell Crest pump station is not equipped with an auxiliary generator. A generator is needed at the pump station to provide emergency power and reduce the potential for wastewater bypasses resulting from wet well overflows during electrical outages. There is insufficient space to install a generator on the City-owned pump station property. The adjacent property, Lot 21, Newell Crest, is owned by Metro. Staff approached Metro with the desire to obtain an easement on a portion of Lot 21 that measures 20 feet by 30 feet. Metro has agreed to grant the easement and waive Metro staff processing costs, finding that environmental benefit will be realized after the generator is installed.

The attached easement instrument provides the public utility easement needed to construct the auxiliary generator.

Map No. 3-2E-5AA

Tax Lot 2500

(Lot 21 of Newell Crest)

BUDGET IMPACT: FY(s): N/A

Funding Source: N/A

Public Utility Easement

3-ZE-5AA

TL 2500

Burton, Mike (Newell Crest)
(

[Doc. 2002-120837]
12/10/02

Page 1215

ITEM #3