

10P

AFTER RECORDING RETURN TO:

Return a copy to:
Assistant City Recorder, Kelly Burgoyne
P.O. Box 3040
Oregon City, Oregon 97045-0304

Clackamas County Official Records
Sherry Hall, County Clerk

2012-019062



\$92.00

03/30/2012 12:42:52 PM

D-E Cnt=1 Stn=1 JANISKEL
\$50.00 \$16.00 \$16.00 \$10.00

Oregon City: *Grantor*
State of Oregon-DEQ: *Grantee*

CITY OF OREGON CITY, OREGON
EASEMENT AND EQUITABLE SERVITUDES

RE-RECORDED
DOCUMENT COVER PAGE

NOTE: Document has been re-recorded at the request of the City of Oregon City to correct the notary block on page 5 previously recorded as document number 2012-010299.



\$87.00

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02/23/2012 01:29:20 PM

D-E Cnt=1 Stn=1 JANISKEL
\$45.00 \$16.00 \$16.00 \$10.00

Space above this line for Recorder's use.

~~After recording, return to:~~

Oregon DEQ
475 NE Bellevue Drive, Suite 110
Bend, Oregon 97701-7415
Att: Cliff Walkey

After recording, return a copy to:
Kelly Burgoyne, Asst. City Recorder
City of Oregon City
P. O. Box 3040
Oregon City, Oregon 97034

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes is made January 16, 2012 between the Oregon City (“**Grantor**”) and the State of Oregon, acting by and through the Oregon Department of Environmental Quality (“**DEQ**” or “**Grantee**”).

RECITALS

A. Grantor is the owner of certain real property located at 1757 Washington Street in Oregon City, Oregon in Clackamas County Tax Map 2-2E-29, Tax Lot 1403 (the “**Property**”) the location of which is more particularly described in Attachment A to this Easement and Equitable Servitudes, and referenced under the name Amtrak Depot (former Stimson Lumber), ECSI # 2288 in the files of DEQ’s Environmental Cleanup Program at the DEQ Bend, Oregon office. Interested parties may contact the DEQ’s Bend, Oregon office to review a detailed description of the residual risks present at the Property and found in the report titled *Results of Soil and Groundwater Investigation Former Stimson Lumber Mill Facility, Parcel 1, Oregon City, Oregon* (Roy F. Weston, Inc., March 4, 1998). In addition, a complimentary report titled *Phase 2 Remedial Closure Report Amtrak Station 1757 Washington Street Oregon City, Oregon* (Weston Solutions, Inc., July 2011) may also be reviewed for pertinent site information.

B. During April, 2002, the Director of the Oregon Department of Environmental Quality or delegate selected the remedial action for the Property set forth in the Record of Decision (ROD) for the Property [*Record of Decision Selected Remedial Action for Soil at the Former Stimson Lumber Company – Parcel 1 Oregon City, Oregon*]. The remedial action selected requires, among other things, that a plan be developed for long-term maintenance of the cap and recordation of an appropriate covenant governing future use.

9P

C. On July 25, 2011, Grantor entered into an Independent Cleanup Agreement (**Agreement**) with DEQ, under which Grantor agreed to implement the selected remedial action, including the required institutional controls.

D. The provisions of this Easement and Equitable Servitudes are intended to further the implementation of the selected remedial action and thereby protect human health and the environment.

1. DEFINITIONS

- 1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115.
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.8 "Property" means the real property described in Attachment A to this Easement and Equitable Servitudes.

2. GENERAL DECLARATION

Grantor, in consideration of Grantee's issuance of a No Further Action (NFA) determination, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property described in Attachment A to this Easement and Equitable Servitudes, is now subject to and shall in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this Easement and Equitable Servitudes. Each condition and restriction set forth in this Easement and Equitable Servitudes touches and concerns the Property and the equitable servitudes granted in paragraph 3 and easement granted in paragraph 4 below, shall run with the land for all purposes, shall be binding upon all current and future owners of the Property as set forth in this Easement and Equitable Servitudes, and shall inure to the benefit of the State of

Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this Easement and Equitable Servitudes.

3. EQUITABLE SERVITUDES (RESTRICTIONS ON USE)

3.1 **Groundwater Use Restrictions:** Owner shall not extract through wells or by other means or use the groundwater at the Property for consumption or other beneficial use, as long as the hazardous substance concentrations exceed the acceptable risk level for such use. This prohibition shall not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ or to temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner shall conduct a waste determination on any groundwater that is extracted during such monitoring, treatment, or dewatering activities and handle, store and manage waste water according to applicable laws.

3.2 **Soil Cap Engineering Control Use Restrictions:** Except upon prior written approval from DEQ, Owner shall not conduct operations on the Property or use the Property in any way that will or likely will penetrate the soil cap or jeopardize the soil cap's protective function as an engineering control that prevents exposure to contaminated soil, including without limitation any excavation, drilling, scraping, or erosion. Owner shall maintain the soil cap in accordance with the monitoring and maintenance plan as described in the report titled *Phase 2 Remedial Closure Report Amtrak Station 1757 Washington Street Oregon City, Oregon* (Weston Solutions, Inc., July 2011 (July 2011 Weston Phase 2 Closure Report); the DEQ April 2002 Record of Decision (ROD); and, as approved in writing by DEQ (DEQ, January 16, 2012) .

3.3 **Access Restrictions:** Owner shall install and maintain a fence to restrict access to the area capping residually contaminated soils.

3.4 **Land Use Restrictions:** The following operations and uses are prohibited on the Property:

- a. Residential use of any type; and
- b. Agricultural [food-crop] use of any type.

3.5 **Use of the Property.** Owner shall not occupy or allow other parties to occupy the Property unless the controls listed in this Paragraph 3 are maintained and an annual inspection completed as specified in the July 2011 Weston Phase 2 Closure Report, and as approved in writing by DEQ (DEQ, January 16, 2012). Owner shall submit to DEQ the Report's completed Annual Site Inspection Form (see Attachment B) and at least two photographs taken in conjunction with the inspection documenting that the restrictions and prohibitions of this Easement and Equitable Servitudes are intact and continue to protect public health and the environment.

3.6 **Notice of Transfer.** Owner shall notify DEQ at least ten (10) days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property, or the start of any development activities or change in use of the Property that might expose human or ecological receptors to hazardous substances at the Property. Notwithstanding the foregoing, Owner shall not commence any development inconsistent with the conditions or restrictions in this Paragraph 3 without prior written approval from DEQ as provided in Paragraph 3.2 or removal of the condition or restriction as provided in Paragraph 5.1 below.

3.7 **Zoning Changes.** Owner shall notify DEQ no less than thirty (30) days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Oregon City and/or Clackamas County zoning code or any successor code. As of the date of this Easement and Equitable Servitudes, the base zone of the Property Mixed Use Downtown.

3.8 **Cost Recovery.** Owner shall reimburse DEQ's reasonable costs to review and oversee implementation of, and compliance with, the provisions in this E&ES, except that such costs shall not exceed the equivalent of three (3) hours each year unless extraordinary circumstances warrant the expenditure of additional resources. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ shall have the right to enter upon and inspect any portion of the Property to determine whether the requirements of this Easement and Equitable Servitudes have been or are being complied with. DEQ shall have the right, privilege, and license to enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this Easement and Equitable Servitudes, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ shall not be deemed a trespass, and DEQ shall not be subject to liability to Owner for such entry and any action taken to abate, mitigate, or cure a violation.

5. GENERAL PROVISIONS

5.1 Each condition and restriction contained in this Easement and Equitable Servitudes shall be recited in any deed conveying the Property or any portion of the Property, and shall run with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the Deed Records of the County in which the Property is located, certifying that the condition or restriction is no longer required in order to protect human health or the environment.

5.2 Upon the recording of this Easement and Equitable Servitudes, all future Owners, as defined in Paragraph 2.2 above, shall be conclusively deemed to have consented and agreed to every condition and restriction contained in this Easement and Equitable Servitudes, whether or not any reference to this Easement and Equitable Servitudes is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

5.3 Upon any violation of any condition or restriction contained in this Easement and Equitable Servitudes, DEQ, in addition to the remedies described in Paragraph 4 above, may enforce this Easement and Equitable Servitudes, or may seek any other available legal or equitable remedy to enforce this Easement and Equitable Servitudes.

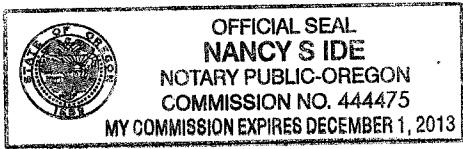
IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitudes as of the date and year first set forth above.

GRANTOR:[Oregon City]

By: David W. Frasher Date: 2-17-12
David Frasher, City Manager

STATE OF OREGON)
County of Clackamas) ss.

The foregoing instrument is acknowledged before me this 17th day of February, 2012, by ~~Kathy Griffin~~ David Frasher and ~~Nancy Ide~~ nd City of Oregon City, on its behalf.



Nancy S. Ide
NOTARY PUBLIC FOR OREGON
My commission expires: 12/01/2013

Approved by Nancy J.T. Kraushaar, P.E., as City Engineer and Public Works Director of the City of Oregon City.

Nancy J.T. Kraushaar
Nancy J.T. Kraushaar

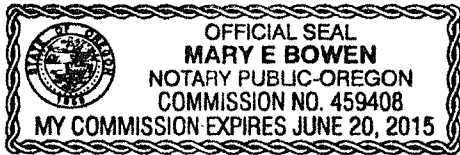
02/16/2012
Date

GRANTEE: State of Oregon, Department of Environmental Quality

By: Sheila Monroe Date: 1/5/12
Sheila Monroe, Cleanup Manager, Eastern Region

STATE OF OREGON)
County of Wasco) ss.

The foregoing instrument is acknowledged before me this 5th day of Jan, 2012, by Sheila Monroe of the Oregon Department of Environmental Quality, on its behalf.



Mary E Bowen
NOTARY PUBLIC FOR OREGON
My commission expires: 6-2015



Exhibit A
1757 Washington Street

DAVID EVANS
AND ASSOCIATES INC.

ORCT0000-0012
JSW
1/16/01
Revised 9/10/01

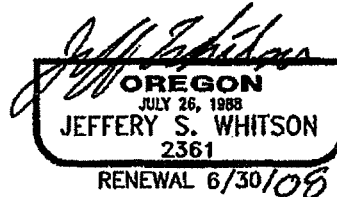
Legal Description
Adjusted Parcel 1 of Partition Plat 1996-30

A portion of Parcel 1 and Parcel 2 of Partition Plat 1996-30, situated in the George Abernethy D.L.C. No. 58 and in the Hiram Straight D.L.C. No. 42, in the northwest and southwest one-quarters of Section 29 in Township 2 South and Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod with yellow plastic cap stamped "KAMPE ASSOCIATES, INC." at the northwesterly corner of said Parcel 1, said iron rod also being on the southeasterly right-of-way line of the Union Pacific Railroad; and running thence tracing said southeasterly right-of-way line and the northwesterly line of said Parcel 1 and continuing along the northwesterly line of said Parcel 2 North 42° 00' 00" East 489.61 feet; thence leaving said southeasterly right-of-way line South 48° 00' 00" East 149.00 feet; thence South 42° 00' 00" West 300.00 feet to the northeasterly line of said Parcel 1; thence tracing said northeasterly line South 56° 37' 37" East 177.73 feet to the southeasterly corner thereof, said corner being on the northwesterly right-of-way line of Washington Street at a point of non-tangent curvature; thence tracing said right-of-way line along the arc of a 1402.39 foot-radius curve to the right, through a central angle of 2° 24' 16", an arc distance of 58.85 feet (the long chord of which bears South 42° 58' 45" West 58.85 feet); thence continuing along said right-of-way line South 44° 10' 53" West 109.02 feet to the southwesterly corner of said Parcel 1; thence leaving said right-of-way line and tracing the southwesterly line of said Parcel 1 North 56° 37' 37" West 323.22 feet to the point of beginning.

Containing an area of 100,260 square feet, more or less.

Based on Partition Plat 1996-30, as it is recorded in the Clackamas County Surveyor's Office.



o:\project\o\orct0000-0012\survey\general files\orct12p1.doc

(2)
x 8

INSPECTION AND MAINTENANCE PLAN PARCEL 1, OREGON CITY, OREGON

The Inspection and Maintenance Plan (IMP) describes activities to be performed to ensure that the selected remedial alternative is implemented in accordance with the requirements proposed in the ODEQ Staff Report and any maintenance is conducted so the integrity of the cap is maintained. The primary tasks outlined in the IMP include annual inspections and performing maintenance as needed.

Annual Inspections

Annual inspections will be conducted to verify that the cap is prohibiting human contact in the area of residual soil concentrations, and water infiltration in this area is also minimized. Following the completion of Phase 1, observed areas of soil erosion or pavement damage would require prompt repair. Following the installation of the columns and grade beams during Phase 2, the area beneath the depot building will be repaved. The depot and building platform will also act as a cap because steel mesh fencing around the perimeter of the building platform will prohibit access to the area of residual soil concentrations. The ability of the fencing to prohibit access to the area of residual soil concentrations will be verified. Cracked or damaged asphalt in the area of residual soil should be noted for repair to limit the infiltration of storm water runoff from the railroad platform that will flow beneath the building.

A form has been developed for inspections following the completion of Phase 2. A copy of the forms is included in this plan. In addition to completing the appropriate form, a minimum of two photos will be submitted to document the current condition of the cap. The completed forms and photo documentation will be submitted to the Oregon DEQ at the following address:

Oregon Department of Environmental Quality
Northwest Region
2020 SW Fourth Avenue—Suite 400
Portland, OR 97201

Maintenance Activities

Maintenance and repairs to the cap will be a requirement of the property owners/operators. Observed areas of cracked and/or damaged pavement would require prompt repair. Potential maintenance items could include repairs to paving, fencing, and drainage structures. In the event that the cap is fully breached and the soil from the area of residual PCP or TPH concentrations is exposed, the need for a site-specific health and safety plan should be evaluated to conduct the repairs. A maintenance report will be completed following significant repairs to the cap and submitted to the Oregon DEQ at the address listed above. Routine maintenance (i.e., removing debris from drainage structures) would not require a report but should be listed on the inspection form.

ANNUAL SITE INSPECTION FORM
FOLLOWING PHASE 2 COMPLETION

AMTRAK DEPOT SITE
1757 WASHINGTON STREET
OREGON CITY, OREGON

Date: _____ Name: _____

1. Integrity of Cap

a) Is access beneath the cap formed by the depot and railroad platform possible?

Yes _____ No _____

b) Is direct contact of residual soil concentrations possible?

Yes _____ No _____

Comments: (required for all yes answers)

2. Potential for Water Infiltration

a) Any signs of water infiltration in the area of residual soil concentrations?

Yes _____ No _____

b) Are drainage features and/or the asphalt cap failing to divert water away from the area of residual soil concentrations?

Yes _____ No _____

Comments: (required for all yes answers)

3. Repairs

If present, describe any cap breaches or repairs, and how the repairs were handled. Use additional sheets, as needed.

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RECORDING COVER SHEET

(Per ORS 205.234 or ORS 205.244)

This cover sheet has been prepared by the person presenting the attached instrument for recording.

Any errors in this cover sheet do not effect the Transaction(s) contained in the instrument itself

Clackamas County Official Records Sherry Hall, County Clerk	2012-009185
	02/17/2012 11:00:26 AM
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\$70.00 \$16.00 \$10.00 \$16.00	\$112.00

After recording return to:
Jeffrey L Kleinman
1207 SW Sixth Ave.
Portland, OR 97204

FIRST AMERICAN 1748118 88

- 1) **Title(s) of Transaction(s)** ORS 205.234(a)
Declaration of Restrictive Covenants Affecting Real Property
- 2) **Direct Party/Grantor(s) and address** ORS 205.125(1)(b) and ORS 205.160
Historic Properties, LLC, 1300 John Adams St., #100, Oregon City, OR 97045
- 3) **Indirect Party/Grantee(s) and address** ORS 205.125(1)(a) and ORS 205.160
City of Oregon City, 625 Center Street, Oregon City, OR 97045
- 3a) **Trustee and address, if any**
None
- 4) **True and Actual Consideration** ORS 93.030
\$None
- 5) **Send Tax Statements to:**
Historic Properties, LLC, 1300 John Adams St., #100, Oregon City, OR 97045

: If this box is checked, the below applies:

If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "Rerecorded at the request of to correct previously recorded in Book and Page , or as Fee Number ."

(Legal description if corrected is attached to included certified document of the original.)

117

RECORDING COVER SHEET

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This space reserved for use by the County Recording Office

After recording return to:

**Jeffrey L Kleinman
1207 SW Sixth Ave.
Portland, OR 97204**

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- 3) Indirect Party/Grantee(s) and address** ORS 205.125(1)(a) and ORS 205.160
City of Oregon City, 625 Center Street, Oregon City, OR 97045
- 3a) Trustee and address, if any**
None
- 4) True and Actual Consideration** ORS 93.030
\$None
- 5) Send Tax Statements to:**
Historic Properties, LLC, 1300 John Adams St., #100, Oregon City, OR 97045

FIRST AMERICAN 1748118 2

: If this box is checked, the below applies:

If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "Rerecorded at the request of to correct previously recorded in Book and Page , or as Fee Number ."

(Legal description if corrected is attached to included certified document of the original.)

After recording return to:
Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

**DECLARATION OF RESTRICTIVE COVENANTS
AFFECTING REAL PROPERTY**

THIS DECLARATION OF RESTRICTIVE COVENANTS AFFECTING REAL PROPERTY ("Agreement") is entered into by HISTORIC PROPERTIES, LLC, an Oregon limited liability company ("Historic"), and the CITY OF OREGON CITY, an Oregon municipal corporation (the "City"), as of February 7, 2012.

RECITALS

A. Historic wishes to purchase and the City is willing to sell to Historic that certain real property located in the City of Oregon City, County of Clackamas, State of Oregon, as more particularly described in Exhibit A attached hereto (the "Sale Property"), and depicted on the map attached hereto as Exhibit B (the "Map").

B. Historic is the fee owner of certain additional real property located adjacent to or near the Sale Property in the City of Oregon City, County of Clackamas, State of Oregon, as more particularly described in Exhibit C attached hereto (the "Additional Affected Property") and depicted on the Map.

C. The City is interested in providing connectivity between the Amtrak Station at 1757 Washington Street and 17th Street and preserving multi-modal capacity and mobility on Washington Street.

D. In order to provide for and promote the development of the Sale Property, the Additional Affected Property, and other adjacent and nearby properties, and in order to better serve the public, the parties wish to provide for the future grant of reciprocal ingress and egress easements and other conditions for development, in accordance with this Agreement.

E. Historic and the City recognize the ingress and egress easements will facilitate circulation and connectivity among the properties and allow for Washington Street access controls that benefit right-of-way capacity and operations.

NOW THEREFORE, as part of the consideration for the City's sale of the Sale Property to Historic, Historic makes and declares the following restrictive covenants which shall run with the land including both the Sale Property and the Additional Affected Property, and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

FIRST AMERICAN 17481186R

1. **Agreement to Future Conditions of Approval.** Historic agrees that, as a condition of approval for the development of the Sale Property, the Additional Affected Property, or any part thereof, the City may in its sole discretion impose conditions of approval requiring the granting of non-exclusive easements in favor of and for the use and benefit of the public, and of the owners of all of the Sale Property and Additional Affected Property and their affiliates, employees, tenants, licensees, invitees, and successors and assigns. The easements shall provide for vehicular, bicycle and pedestrian connectivity between the Sale Property and Additional Affected Property and abutting streets and rights-of-way but shall not include the parking of vehicles accessing properties other than the Sale Property or the Additional Affected Property. The easements shall be over and upon all the paved areas of the Sale Property and the Additional Affected Property as those paved areas may change from time to time. The paved areas subject to such conditions of approval shall include but are not limited to any and all parking areas, driveways, roadways and walkways, all regardless of whether open or covered (such as through underground or other under-building parking areas, and through parking structures).

These easements may be collectively referred to as the "Access Easements." The Access Easements may in part be required to provide ingress and egress to and from that certain property located at 1757 Washington Street, Oregon City (the "1757 Washington Property"), presently occupied by the Amtrak Station and its driveway, in order to provide a connection to and from Washington Street for the Sale Property and the Additional Affected Property. The 1757 Washington Property is more particularly described in Exhibit D attached hereto and is depicted on the Map.

The City may require that the Access Easements granted in favor of and for the use and benefit of the public be executed and recorded prior to commencement of any development activity on any portion of the Sale Property or the Additional Affected Property. The parties agree that Historic may also submit its proposed form of Access Easements in favor of and for the use and benefit of the public at any time following the recording of this Agreement and prior to commencement of any such development activity and that, once the parties reach agreement as to such form, said Access Easements may be promptly executed and recorded.

The City may further require in its conditions of approval, and does require by means of this Agreement, that similarly worded reciprocal Access Easements in favor of and for the use and benefit of the owners of all of the Sale Property and Additional Affected Property and their affiliates, employees, tenants, licensees, invitees, and successors and assigns, shall be entered into and recorded at the time of any sale, transfer or other conveyance of any benefitted or burdened property to a separate owner. The forms of any such agreements for easement shall be reviewed in advance by the City and shall be subject to advance approval by the City for compliance with the terms of this Agreement. The deed effecting any such sale, transfer or other conveyance shall state that the property described in it is subject to the terms and provisions of an agreement for easement recorded the same date. The City agrees that it is willing to review a proposed, general form of such reciprocal Access Easements at Historic's request, at any time following the recording of this Agreement.

2. **Form of Easement Agreements.** Any future conditions of approval requiring Access Easements may in turn require the applicant(s) to submit the actual forms of easement agreement proposed to be used to the City for its review and approval, and to obtain full execution and agreement of the approved easement agreements, prior to commencement of development activity.

3. **Acknowledgment of Requirement for Later Agreements for Easements.** The parties acknowledge that portions of the Sale Property and the Additional Affected Property are likely to be developed at different points in time, and that it may not be feasible to enter into the reciprocal Access Easements between and among property owners described in Section 1, above, when the same person or entity owns both the property to be benefitted and the property to be burdened. Historic therefore agrees on behalf of itself and all its successors and assigns that all site plans and plats of any kind prepared for the development of the Sale Property and the Additional Affected Property shall either clearly refer to or show the areas to be subject to the Access Easements.

4. **Acknowledgment by Historic.** Historic acknowledges and agrees that, as development proposals proceed over time with respect to portions of the Sale Property and the Additional Affected Property, the City may see fit to limit the number of access points to those properties at the time of development approval, and possibly to install a barrier or divider separating the directions of travel on Washington Street. However, it is not the intention of the City to limit the number of access points unreasonably, or to limit such access points solely to the driveway currently serving the Amtrak Station. Historic further acknowledges and agrees that, as development proposals proceed over time with respect to portions of the Sale Property and the Additional Affected Property, the City may condition such development in a manner designed to assure a safe and efficient connection between the 1757 Washington Property and 17th Street for pedestrians and bicycles. The City would anticipate that the benefit of the driveway on the 1757 Washington Property would be extended to the Additional Affected Property and the general public in the future.

5. **Termination.** The provisions of this Agreement and the easements to be created pursuant to those provisions may not terminate unless and until City approves their termination in writing. If City approves any such termination in whole or in part, the parties shall execute and record an instrument evidencing such termination.

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6. **Agreement Runs with the Land.** The provisions of this Agreement and the easements to be created pursuant to those provisions shall be deemed easements, restrictions and covenants running with the land, and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns. Reference herein to Historic and its rights and obligations under this Agreement shall be deemed to include reference to any heirs, successors-in-interest and assignees of Historic. In the event that the Sale Property, the Additional Affected Property, or the 1757 Washington Property is partitioned or subdivided in the future or from time to time, the benefits and burdens of this Agreement and any related easements shall survive, continue and remain appurtenant to all lots and parcels of the subdivided or partitioned properties.

7. **Entire Agreement; Modification of Agreement.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may only be modified, changed or terminated by a written agreement signed and acknowledged by the parties and recorded in the real property records of Clackamas County.

8. **No Waiver.** Failure of the City at any time to require performance of any provision of this Agreement shall not limit the City's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

9. **Attorney Fees.** If any legal action or proceeding arising out of or relating to the enforcement or interpretation of this agreement is brought by either party, the prevailing party shall be entitled to receive from the other party, in addition to any other relief which may be granted, the reasonable attorney's fees, costs and expenses incurred in the action or proceedings by the prevailing party including at trial and on appeal.

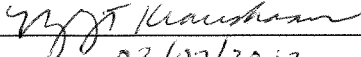
10. **Interpretation.** This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. If any provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid, the remainder of this Agreement shall not be affected and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. The exhibits attached to this Agreement are hereby incorporated by this reference.

11. **Recording.** The fully executed original of this Agreement shall be duly recorded in the Deed Records of Clackamas County, Oregon.

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Approved by Nancy J.T. Kraushaar as City Engineer and Public Works Director of the City of Oregon City

By: 
Date: 02/07/2012

12. **Counterpart Execution.** This Agreement may be executed and acknowledged in counterpart originals and all such counterparts shall constitute one (1) Agreement. Signature pages may be detached from the counterpart originals and attached to a single copy of this Agreement to physically form one (1) document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

HISTORIC PROPERTIES, LLC

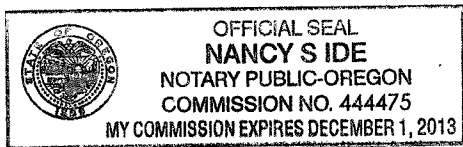
CITY OF OREGON CITY

By: Daniel W. Fowler
Managing Member

By: David W. Frasher
City Manager

STATE OF OREGON)
) ss.
County of Clackamas)

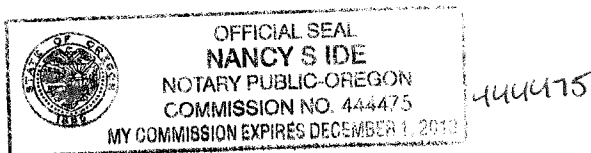
On this 8th day of February, 2012, before me personally appeared Daniel Fowler, who being duly sworn, stated that he/she is the Managing Member of HISTORIC PROPERTIES, LLC, an Oregon limited liability company, and acknowledged the foregoing instrument to be the voluntary act and deed of the limited liability company.



Nancy S. Ide
Notary Public for Oregon
My Commission Expires: 12-01-2013

STATE OF OREGON)
) ss.
County of Clackamas)

On this 7th day of February, 2012, before me personally appeared David W. Frasher, who being duly sworn, stated that he/she is the ^{city manager} of CITY OF OREGON CITY, an Oregon municipal corporation, and acknowledged the foregoing instrument to be the voluntary act and deed of the City, executed by authority of its City Commission.



Dec. 1, 2013

Nancy S. Ide
Notary Public for Oregon
My Commission Expires: 12-01-2013

EXHIBIT "A"




"SALE PROPERTY"

Parcel 2, PARTITION PLAT NO. 1992-164, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

EXHIBIT A
PAGE 1 OF 1

City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

-  Sale Property
-  Additional Affected Property
-  1757 Washington St



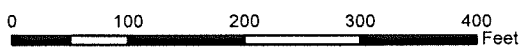
1757 Washington St

SALE Property

Additional
AFFECTED Property

Taxlot	Deed
601	1992-071118
900	2002-011775
1000	2002-011775
1100	1996-063646
1200	1996-063644
1300	1996-063644
1301	1996-063643
1403	2007-107268

Exhibit B



City of Oregon City
 P. O. Box 3040
 625 Center St
 Oregon City, OR 97045
 503-657-0891 phone
 503-657-6629 fax
www.ocity.org



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.

Please recycle with colored office grade paper.

 **TICOR TITLE INSURANCE COMPANY**

TITLE PLANT

1629 SW Salmon • Portland OR 97205
(503) 224-0550 • FAX: (503) 219-2212

REFERENCE ORDER NUMBER: 757010

A tract in George Abernathy and wife Donation Land Claim in Section 29, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point in the center of the 82nd Street Road at the most Southerly corner of that certain tract of land described in deed recorded March 25, 1944 in Book 322, Page 311, Deed Records, said point being North 35° 30' East 1093.10 feet distant and South 70° 56' East 346.90 feet distant and North 36° 59' 10" East 273.76 feet distant and South 58° 01' 30" East 332.85 feet distant from a stone monument set at the intersection of the center line of 14th Street with the center line of Main Street in Oregon City, Oregon, from said beginning point an iron pipe driven on the Northwesterly boundary of the said 82nd Street Road bears North 58° 01' 30" West 30.55 feet distant; running thence North 42° 49' East tracing the center line of said road 155.00 feet to the most Easterly corner of that tract described in deed recorded April 24, 1958 in Book 539, Page 239, Deed Records; thence Northwesterly along the Northeasterly line of said tract 30.55 feet, more or less, to the Northwesterly boundary of 82nd Street Road and the true point of beginning of the tract herein to be described; thence North 42° 49' East along the Northwesterly line of said road 220.00 feet to the most Southerly corner of the tract described in Contract to B.C.K. Co., Inc., which was recorded August 1, 1962 in Book 608, Page 14, Deed Records; thence North 58° 01' 30" West on the Southwesterly line of the last described tract 217.69 feet to the most Easterly corner of that tract of land conveyed to Publishers Paper Co. by deed recorded May 22, 1974, as Recordors' Fee No. 74-13639, Film Records; thence South 42° 49' West 375.00 feet to the most Southerly corner of said Publishers tract; thence South 58° 01' 30" East along the Southwesterly line of that tract conveyed to Dean Landeen, et al, by deed recorded February 8, 1961 in Book 582, Page 732, Deed Records, a distance of 102.69 feet to the most Westerly corner of that tract conveyed to Elvira C. Wilson, by deed recorded June 9, 1965 in Book 658, Page 431, Deed Records; thence North 42° 49' East 155.00 feet to the most Northerly corner of said Wilson tract; thence South 58° 01' 30" East 145.55 feet to the true point of beginning.

TOGETHER WITH the right to construct, maintain and use a spur railroad tract, as reserved in that deed recorded May 16, 1974, Fee No. 74-12991, Records of Clackamas County, Oregon.

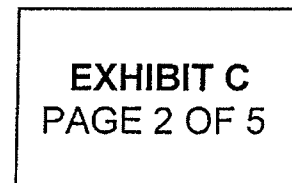
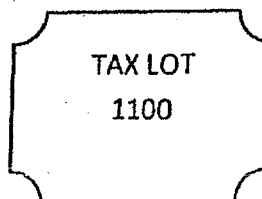
TAX LOTS
900 & 1000

EXHIBIT C
PAGE 1 OF 6

**THAT CERTAIN REAL PROPERTY IN THE COUNTY OF
CLACKAMAS AND STATE OF OREGON DESCRIBED AS FOLLOWS:**

Part of the D.L.C. of George Abernethy and wife in Township 2 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, bounded and described as follows:

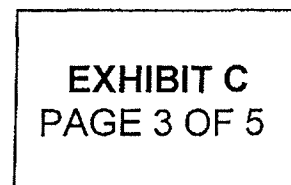
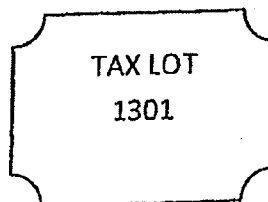
Beginning at a point in the center of 82nd Street Road at the most Southerly corner of that certain tract of land conveyed to Nels L. and Nellie E. Meten by deed recorded in Book 322, page 311, Deed Records, said point being North 35 degrees 30' East 1093.10 feet distant and South 70 degrees 56' East 346.90 feet distant and North 36 degrees 59' 10" East 273.76 feet distant and South 58 degrees 01' 30" East 332.85 feet distant from a stone monument set at the intersection of the center line of 14th Street with the center line of Main Street in Oregon City, Oregon; from said beginning point an iron pipe driven on the Northwesterly boundary of the said 82nd Street Road bears North 58 degrees 01' 30" West 30.55 feet distant; running thence North 42 degrees 49' East tracing the center line of said road 155.00 feet; thence North 58 degrees 01' 30" West 145.55 feet; thence South 42 degrees 49' West parallel to the said 82nd Street Road 155.00 feet to a point in the Southwesterly boundary of the land conveyed to Nels L. and Nellie E. Meten by deed recorded March 25, 1944 in Book 322, page 311, Deed Records; thence tracing the Southwesterly boundary of said Meten tract South 58 degrees 01' 30" East 145.55 feet to the place of beginning.



**THAT CERTAIN REAL PROPERTY IN THE COUNTY OF
CLACKAMAS AND STATE OF OREGON DESCRIBED AS FOLLOWS:**

Description of a parcel of land located in the George Abernethy Donation Land Claim No. 58, in Section 29, Township 2 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon. Beginning at a stone monument at the intersection of centerlines of 14th Street and Main Street in the plat of OREGON CITY, a recorded subdivision, in Clackamas County, Oregon; thence North 35 degrees 30' East, tracing the centerline of Main Street 1093.10 feet to a point; thence South 70 degrees 56' East 346.9 feet to an iron rod driven on the Easterly line of the Southern Pacific Railroad right-of-way; thence South 62 degrees 45' East, along the Northerly boundary of a county road known as 17th Street 175.15 feet to an iron rod and the true point of beginning of the parcel to be described; thence North 37 degrees 10' East, along the Westerly boundary of that tract of land recorded as Fee No. 81-32410 in the County Recorder's Office, 108.00 feet to an iron pipe; thence North 62 degrees 45' West, parallel with the North boundary of the said 17th Street, 135.00 feet to an iron rod; thence South 37 degrees 10' West, 108.00 feet to an iron rod on the said road right-of-way; thence South 62 degrees 45' East, along the said right of way 135.00 feet to the true point of beginning.

EXCEPT THEREFROM that portion deeded to City of Oregon City, a municipal corporation by deed recorded May 13, 1985, Fee No. 85-16196.



**THAT CERTAIN REAL PROPERTY IN THE COUNTY OF
CLACKAMAS AND STATE OF OREGON DESCRIBED AS FOLLOWS:**

Parcel I

Part of the George Abernethy and wife Donation Land Claim No. 58, in Section 29, Township 2 South, Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, described as:

Beginning at a point on the West line of 82nd Avenue which is the most Easterly Northeast corner of that tract of land conveyed to Minnie Hackett in Book 539, page 109; thence North $58^{\circ}01'30''$ West 300 feet, more or less, to the East line of the Southern Pacific Railway Co.; thence Southerly along said East line of the Southern Pacific Railway Co. 273.76 feet, more or less, to the North line of 17th Street; thence South $62^{\circ}45'$ East along the North line of 17th Street 100.15 feet, more or less, to the Southwest corner of that tract of land conveyed to Minnie Hackett in Book 539, page 109; thence North $37^{\circ}10'$ East 224 feet; thence South $62^{\circ}45'$ East to the West line of 82nd Avenue and the point of beginning.

Parcel II

Part of the George Abernethy and wife Donation Land Claim No. 58, in Section 29, Township 2 South, Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, described as:

Beginning at the monument situated at the intersection of the center line of Main and 14th Streets in Oregon City; thence along center line of Main Street, North $35^{\circ}30'$ East 1093.1 feet; thence South $70^{\circ}56'$ East 346.9 feet; thence South $62^{\circ}45'$ East 100.15 feet to the true place of beginning; thence North $37^{\circ}10'$ East 224 feet; thence South $62^{\circ}45'$ East to the Center of the County Road; thence South $42^{\circ}49'$ West along center of County Road about 230 feet to an iron pipe in the center of said road, which is South $62^{\circ}45'$ East from the beginning point; thence North $62^{\circ}45'$ West to the true point of beginning.

TAX LOTS
1200 & 1300

EXHIBIT C
PAGE 4 OF 5

EXCEPT therefrom that tract described as beginning South 62°45' East 75 feet from the true place of beginning of the tract above described; thence North 37°10' East 108 feet; thence South 62°45' East 148.54 feet to the center of 82nd Street; thence South 62°49' West along the center of said road 110.44 feet; thence North 62°45' West 135.5 feet to the place of beginning.

EXCEPT THE following described real property:

Description of a parcel of land located in the George Abernethy Donation Land Claim No. 58, in Section 29, Township 2 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon.

Beginning at a stone monument at the intersection of centerlines of 14th Street and Main Street in the plat of OREGON CITY, a recorded subdivision, in Clackamas County, Oregon; thence North 35°30' East, tracing the centerline of Main Street 1093.10 feet to a point; thence South 70°56' East 346.9 feet to an iron rod driven on the Easterly line of the Southern Pacific Railroad right of way; thence South 62°45' East, along the Northerly boundary of a county road known as 17th Street 175.15 feet to an iron rod and the true point of beginning of the parcel to be described; thence North 37°10' East, along the Westerly boundary of that tract of land recorded as Fee No. 81-32410 in the County Recorder's Office, 108.00 feet to an iron pipe; thence North 62°45' West, parallel with the North boundary of the said 17th Street, 135.00 feet to an iron rod; thence South 37°10' West, 108.00 feet to an iron rod on the said road right of way; thence South 62°45' East, along the said right of way 135.00 feet to the true point of beginning.

TAX LOTS
1200 & 1300

EXHIBIT C
PAGE 5 OF 5



Exhibit A
1757 Washington Street

DAVID EVANS
AND ASSOCIATES INC.

ORCT0000-0012
JSW
1/16/01
Revised 9/10/01

Legal Description
Adjusted Parcel 1 of Partition Plat 1996-30

A portion of Parcel 1 and Parcel 2 of Partition Plat 1996-30, situated in the George Abernethy D.L.C. No. 58 and in the Hiram Straight D.L.C. No. 42, in the northwest and southwest one-quarters of Section 29 in Township 2 South and Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod with yellow plastic cap stamped "KAMPE ASSOCIATES, INC." at the northwesterly corner of said Parcel 1, said iron rod also being on the southeasterly right-of-way line of the Union Pacific Railroad; and running thence tracing said southeasterly right-of-way line and the northwesterly line of said Parcel 1 and continuing along the northwesterly line of said Parcel 2 North 42° 00' 00" East 489.61 feet; thence leaving said southeasterly right-of-way line South 48° 00' 00" East 149.00 feet; thence South 42° 00' 00" West 300.00 feet to the northeasterly line of said Parcel 1; thence tracing said northeasterly line South 56° 37' 37" East 177.73 feet to the southeasterly corner thereof, said corner being on the northwesterly right-of-way line of Washington Street at a point of non-tangent curvature; thence tracing said right-of-way line along the arc of a 1402.39 foot radius curve to the right, through a central angle of 2° 24' 16", an arc distance of 58.85 feet (the long chord of which bears South 42° 58' 45" West 58.85 feet); thence continuing along said right-of-way line South 44° 10' 53" West 109.02 feet to the southwesterly corner of said Parcel 1; thence leaving said right-of-way line and tracing the southwesterly line of said Parcel 1 North 56° 37' 37" West 323.22 feet to the point of beginning.

Containing an area of 100,260 square feet, more or less.

Based on Partition Plat 1996-30, as it is recorded in the Clackamas County Surveyor's Office.

EXHIBIT D
PAGE 1 OF 1

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Jeffery S. Whitson
OREGON
JULY 26, 1988
JEFFERY S. WHITSON
2361
RENEWAL 6/30/05

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(3)