



\$83.00

02117380201800051050060066

01/24/2018 03:05:16 PM

D-E Cnt=2 Stn=9 COUNTER1
\$30.00 \$5.00 \$16.00 \$22.00 \$10.00

After recording return to:

CITY RECORDER
PO BOX 3040
Oregon City, OR 97045
Baron Parker
City Planning No.: SP 17-61
Tax Map/Lot: 3-2E-09C / 800

Grantor: Clackamas Community College

**AMENDED AND RESTATED CITY OF OREGON CITY
PUBLIC ACCESS EASEMENT AND MAINTENANCE COVENANT**

THIS AMENDED AND RESTATED PUBLIC ACCESS EASEMENT AND MAINTENANCE AGREEMENT ("Agreement") is made this 23rd day of January, 2018, between CLACKAMAS COMMUNITY COLLEGE, a municipal corporation of the State of Oregon (the "College"), and the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the "City").

This Agreement repeals and fully replaces the document entitled "City of Oregon City, Oregon Public Pedestrian and Bicycle Easement" recorded on July 14, 2017, Clackamas County Recording Number 2017-047994.

RECITALS

- A. The College is the owner and developer of certain real property located in the City of Oregon City, Clackamas County, Oregon, commonly known as 19600 Molalla Avenue, Oregon City, OR 97045, and tax map and lot 3-2E-09C-800 (the "Development").
- B. The College has developed or will develop at the site a Shared Use Path.
- C. The City has approved plans submitted by the College for the Development.
- D. To protect owners of neighboring property, the City requires the College to enter into this Agreement as a condition to the City's approval of building permits for the Development.
- E. The Shared Use Path is designed and built in accordance with the City's adopted Trails Master Plan using the guidelines for regional trails.
- F. The Shared Use Path meets the standards for accessibility according to the USDA Forest Service guidelines for outdoor recreational trails, as updated or revised.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which

are hereby acknowledged, the City and the College agree as follows:

1. **Covenant to Maintain and Repair.** The College shall, at its sole expense, itself or through qualified independent contractors, at all times maintain the Shared Use Path in good working order, condition and repair, clear of all debris, and in compliance with all applicable state and local rules, regulations, guidelines, and land use approvals.

2. **Easement.** The College hereby grants an easement area for permanent public access and use of the trail, to allow the general public to utilize the trail for recreation and/or transportation purposes as described by Exhibit A and depicted on Exhibit B. No building, structure or utility shall be placed upon, under, or within the Shared Use Path and easement area without written permission from the City.

3. **Signage.** The City shall have the right to install trail system signage on the subject property at any time in the future. The City shall notify the College of intent to install signage at least 30 days prior to beginning work, and agrees to work with the College in good faith on installation details of such signage. Maintenance responsibility for signs shall be with the City.

4. **Failure to Perform Covenant.** If the City, in its sole discretion, determines that the College is not in compliance with the covenant described in Sections 1 and 2, except in the case of an emergency, the City or its designee shall give the College written notice to perform the maintenance and/or repair work specified in the notice. If such work is not performed to the City's satisfaction within 180 days after the date of such notice, or such other time as the City may, in its sole discretion, determine, the City, its employees, independent contractors and designees may exercise their right under the Easement described in Section 2 of this Agreement to enter the Development to perform any and all work required bringing the Shared Use Path into compliance with this Agreement.

5. **City Under No Obligation.** The College, for itself and its successors and assigns, determines that the City, as well as its departments, employees, independent contractors and/or designees shall have no obligation to exercise its rights under this Agreement, including the rights under Section 4 of this Agreement to perform the work required of the College, or to perform any other maintenance or repair of the shared use path. The College also agrees that none of the City, as well as its departments, employees, independent contractors and/or designees shall have any liability to the College or any of the College's successors or assigns in connection with the nonexercise of such rights, relating solely to the maintenance or repair of the shared use path as authorized in Section 4.

6. **The College Obligations.** In addition to the covenants and easement described above, the College agrees to the following additional obligations.

a. Prior to final approval of the Development, the College shall sign and notarize this document and provide to the City to execute, process and record this document in the deed records of Clackamas County. The City shall provide a copy of the recorded document to the College.

b. Upon sale or transfer of the Development, or any portion thereof, the College shall inform the purchaser of the obligations required under this Agreement.

7. Reimbursement. If the City exercises its rights under Section 4 and enters the Development pursuant to the Easement described in Section 2 of this Agreement, the College shall reimburse the City for all of its costs and expenses incurred in connection therewith within thirty (30) days after receipt of an invoice. If the College fails to pay the invoiced amount within such period, such amount shall thereafter accrue interest at the statutory rate. Such amount, together with interest, shall be a lien on the Development which may be foreclosed in accordance with ORS Chapter 88.

8. Indemnification. Subject to the limitations of the Oregon Tort Claims Act, the College agrees to indemnify, defend, and hold harmless the City, its employees, independent contractors and designees harmless from and against any liability, losses, costs, expenses (including reasonable attorney fees), claims or suits arising from the College's failure to perform its obligations under this Agreement. City agrees to indemnify, defend and hold harmless the College, its officers, agents, employees, students or independent contractors and designees from and against any liability, losses, costs, expenses (including reasonable attorney fees), claims or suits arising from the City's performance of activities authorized under this Agreement.

9. Run with the Land. The parties' rights and obligations contained herein shall run with the land and shall be binding upon the College and its successors and assigns. Those rights and obligations shall inure to the benefit of the City, as well as its successors and assigns.

10. Attorney Fees. If legal action is commenced in connection with this Agreement, 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.

11. Assignment. The obligations of the College under this Agreement may not be assigned except in connection with the sale of the property owned by such person (in which case the transferee will be deemed to assume such obligations).

12. Authority. If the College is an entity, the individual executing this Agreement on behalf of the College represents and warrants to the City that he or she has the full power and authority to do so and that the College has full right and authority to enter into this Agreement and perform its obligations under this Agreement.

IN WITNESS WHEREOF, the College and the City have executed this instrument on the date first written above.

[Signature Page Follows]

CLACKAMAS COMMUNITY COLLEGE:**CITY OF OREGON CITY**

By: _____

Alissa Mahar, Vice President,
Clackamas Community College

Address

Clackamas Community College
19600 Molalla Avenue
Oregon City, Oregon 97045

By: _____

Anthony J. Konkol, III, City Manager

By: _____

John M. Lewis, Public Works Director

By: _____

Kattie Riggs, City Recorder

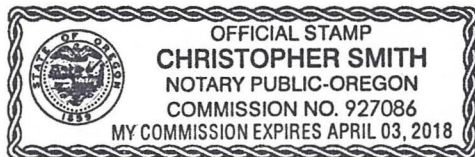
CLACKAMAS COMMUNITY COLLEGE

STATE OF OREGON)

) ss.

County of Clackamas)

Personally appeared the above named, Alissa Mahar, Vice President of Clackamas Community College, and acknowledged the foregoing instrument to be her voluntary act and deed.



Before me:

 Notary Public for Oregon

My Commission Expires April, 03, 2018

Pedestrian and Bike Access Easement
Oregon City School District #62
Clackamas County, Oregon
February 15, 2017
Project No. 2489-001 (F)

EXHIBIT "A"

A 25.00 foot strip of land situated in the south one-half of Section 9, Township 3 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, being a portion of that property conveyed to Clackamas County Area Education District by Deed Document Number 83-02823, Clackamas County Deed Records, being more particularly described as follows:

Beginning on the east line of said property conveyed to Clackamas County Area Education District, at a point which bears North $00^{\circ}26'30''$ West, 144.32 feet from a found Stone with an "X" marking the southeast corner thereof;

thence, South $89^{\circ}21'23''$ West, 134.39 feet;

thence, North $47^{\circ}41'00''$ West, 22.31 feet;

thence, North $42^{\circ}19'00''$ East, 25.00 feet;

thence, South $47^{\circ}41'00''$ East, 12.48 feet;

thence, North $89^{\circ}21'23''$ East, 124.74 feet to said east line of Clackamas County Area Education District property;

thence, along said east line, South $00^{\circ}26'30''$ East, 25.00 feet to the Point of Beginning.

Containing 3,675 square feet.

Bearings are based on the centerline of Glen Oak Road between found monuments at the south one-quarter corner of Section 9 and the southeast corner of Section 9 per Survey Number 2008-277, Clackamas County Survey Records.



RENEWS: 12/31/17



0 50' 100'

SCALE: 1"=100'

CLACKAMAS COUNTY AREA
EDUCATION DISTRICT
DOC. NO. 83-2823

S. DOUGLAS LOOP
(PRIVATE ROAD)

PEDESTRIAN AND BIKE
ACCESS EASEMENT
AREA: 3,675 SQ. FT.

HENRY & JANICE NUTT
DOC. NO. 71-7453

N42°19'00"E
25.00

S47°41'00"E
12.48

N89°21'23"E
124.74

N47°41'00"W
22.31

S89°21'23"W
134.49

144.32

N00°26'30"W

S00°26'30"E 25.00'

EXISTING PEDESTRIAN AND BIKE ACCESS EASEMENT

OREGON CITY SCHOOL DISTRICT #62
DOC. NO. 91-52218

STONE WITH "X"

OREGON CITY SCHOOL DISTRICT #62
DOC. NO. 2012-080636

LODER
ROAD

54.00'

EXHIBIT B

PAGE 1 OF 1

LOCATED IN THE S. 1/2 OF SECTION 9
TOWNSHIP 3 S., RANGE 2 E., W.M.
CLACKAMAS COUNTY, OREGON

DATE	15FEB17
DRAWN BY	SLH2
CHECKED BY	GRA
REVISION	0
JOB NO.	2489-001



WESTLAKE
CONSULTANTS INC.

ENGINEERING ♦ SURVEYING ♦ PLANNING

PACIFIC CORPORATE CENTER
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652
TIGARD, OREGON 97224 FAX (503) 624-0157