

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 06-127

Declaring a Portion of Certain County Real Property Surplus, Reserving a Temporary Road Purposes Easement; and Authorizing Sale of the Property to Lynn K. Woods

The Multnomah County Board of Commissioners Finds:

- a. The County owns certain real property that is a portion of the public right of way for NE 207th Ave, in the City of Fairview, more particularly described in the attached Exhibit A ("the Property").
- b. The Property is steeply sloped and is directly abutting the as traveled portion of NE 207th Avenue on its eastern side between Interstate-84 and NE Wistful Vista. The Property was purchased by the County with Road Funds in 1992.
- c. Presently the Property is necessary for the maintenance and operation of the public right of way for NE 207th Avenue. The County Engineer has concluded however, that the area of the slope, if properly filled, will no longer be needed as support for the road.
- d. The County supports economic development in the East County Cities and recognizes that this proposed sale creates a potential for economic development within the City of Fairview. This location is mentioned in Fairview's long range planning documents as one for possible commercial development.
- e. Two independent appraisals of the site were completed. Both appraisals found that to make the property commercially viable, any party pursuing such a project would have to commit significant resources to fill and compact the slope to make the property level with the directly adjacent property to the east.
- f. Based on these appraisals, the County has determined a reasonable price for the property "as is," with reservation of a road purposes easement for the benefit of the County, to be \$63,750.00.
- g. Ms. Lynn K. Woods owns the real property directly abutting to the east of the Property.
- h. Through negotiations between County Transportation staff and Ms. Woods, she has agreed to purchase the Property for the above price and has signed a Purchase and Sale Agreement with the County to that effect. A copy of said Agreement is attached as Exhibit B.

- i. In addition, the County has agreed to initiate vacation proceedings after Ms. Woods has completed fill activity so that the Property is made level, as reasonably determined by the County Engineer and the road purposes easement is no longer necessary for the safe operation and maintenance of NE 207th Avenue.
- j. The County has prepared a deed, a copy of which is attached as Exhibit C, that provides for the conveyance of the Property to Ms. Woods with reservation of the road purposes easement as described above.

The Multnomah County Board of Commissioners Resolves:

- 1. The Property, subject to above referenced road purpose easement for the benefit of the County, is surplus property.
- 2. The County Chair is authorized to execute all appropriate documents necessary to complete the sale of the Property, including but not limited to, the Purchase and Sale Agreement and Deed, in substantial compliance with the attached Exhibits B and C.
- 3. All net proceeds derived from the sale shall be deposited in the County's Road Fund # 1501 to be used for road capital and signage projects in FY 2007.

ADOPTED this 6th day of July, 2006.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

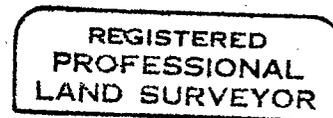
By 
Matthew O. Ryan, Assistant County Attorney

EXHIBIT "A"

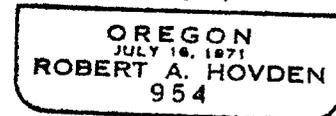
A portion of that certain tract of land conveyed to Multnomah County by deed recorded August 25, 1992 in Book 2580, Page 1495, Multnomah County Deed Records (MCDR), situated in the S.W. one-quarter of Section 28, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, being all of said Multnomah County tract that lies easterly of a line that is 45.00 feet easterly of, when measured at right angle to and parallel with the following described centerline of N.E. 207th Avenue, County Road No. 4998:

Beginning at Engineer's Station 102+57.64 P.S., said station bears N29°54'13"W, a distance of 1347.99 feet from a concrete monument with 4-1/4" brass disc found at the Southeast corner of the J. Zimmerman D.L.C. No. 39; thence along the arc of a 250 foot spiral curve to the left (a=2.4; S=7°30'; the chord of which bears S17°58'57"E, a distance of 249.81 feet) to Engineer's Station 105+07.64 P.S.C; thence along the arc of a 954.93 foot radius curve to the left, through a central angle of 9°43'36" (the chord of which bears S27°50'46"E, a distance of 161.92 feet), an arc distance of 162.11 feet to Engineer's Station 106+69.75 P.C.S.; thence along the arc of a 250 foot spiral curve to the left (a=2.4; S=7°30'; the chord of which bears S37°42'36"E, a distance of 249.81 feet) to Engineer's Station 109+19.75 P.T.; thence S40°12'34"E, a distance of 22.07 feet to Engineer's Station 109+41.82 P.S.; thence along the arc of a 250 foot spiral curve to the right (a=2.4; S=7°30'; the chord of which bears S37°42'35"E, a distance of 249.81 feet) to Engineer's Station 111+91.82 P.S.C.; thence along the arc of a 954.93 foot radius curve to the right, through a central angle of 25°23'03" (the chord of which bears S20°01'03"E, a distance of 419.62 feet), an arc distance of 423.07 feet to Engineer's Station 116+14.89 P.C.S., said station bears S71°31'17"W, a distance of 58.82 feet from the Southeast corner of said J. Zimmerman D.L.C. No. 39.

Containing 1.84 acres or 80,363 square feet more or less.



Robert A. Hovden



RENEWS 7-01-2007

Survey information is based on data per SN 57030, Multnomah County Survey Records, and by said reference is made a part thereof.

As shown on the attached EXHIBIT "B", herein made a part of this document. In the event of a conflict or discrepancy between the map as shown on the attached EXHIBIT "B" and the written legal description, the written legal description shall prevail.

EXHIBIT B
AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (the "Agreement") is made and entered into as of June _____, 2006, by and between Multnomah County, a political subdivision of the state of Oregon (the "Seller"), and Lynn K. Woods (the "Buyer").

I. Recitals

A. The Seller is the owner of undeveloped real property, commonly known as the "207th Avenue Property" and hereinafter referred to as the "Property," directly abutting SE 207th, in the City of Fairview, County of Multnomah, State of Oregon, as more particularly described in the attached "Deed" identified as **Exhibit 1**.

B. Buyer desires to acquire from County the Property. County believes it is in the best interest of the public to sell the Property to Buyer.

C. Presently the Property is steeply sloped away from the shoulder of the paved road for 207th Avenue and the County needs the entire parcel for road maintenance, slope and drainage purposes.

D. Buyer owns the parcel of property that directly abuts the Property to the east, and desires to combine the two parcels, and through the addition of fill to both to make the consolidated parcel viable for future development.

E. If Buyer is successful in completing the fill activity the Parties believe the County will no longer need the Property for slope, drainage maintenance or other road purposes.

F. The Parties believe the public interest is best served by the sale of the Property in advance of the fill activity being completed; provided that the County retains a road purposes easement over, under and on the Property until such time in the reasonable determination of the County Engineer the easement is no longer necessary because the fill has made the Property level.

G. The Board of County Commissioners (Board) has determined the Property to be surplus and available for sale as allowed under ORS 275.030 and to approve the sale as proposed herein.

II. The Parties Agree As Follows:

1. **Purchase and Sale.** The Seller agrees to sell to the Buyer, and the Buyer agrees to purchase from the Seller, the Property on the terms and conditions set forth in this Agreement.

2. **Purchase Price.** The purchase price for the Property shall be \$63,750.00.

3. Escrow and Closing

3.1 Escrow: Sale will be closed in escrow at Stewart Title of Oregon (Escrow Holder), 2020 SW 4th Avenue, Suite 190, Portland, Oregon 97201. The Buyer and the Seller shall deliver a fully executed copy of this Agreement to the Escrow Holder and will execute and deliver into escrow instructions as may be necessary or convenient to implement the terms of this Agreement and to close this transaction.

3.2 Closing Date. The Parties agree to make best efforts to close the transaction not later than July 14, 2006. The date on which the transaction closes is referred to herein as the "Closing Date."

4. Deed. On the Closing Date, Seller shall deliver to Buyer a fully executed bargain and sale deed in substantial compliance with the attached Exhibit 1, conveying the Property to Buyer.

5 Taxes, Prorates, Costs and Expenses. Real property taxes for the Property are not currently applicable. Any other items required to be prorated shall be prorated as of the Closing Date. The Seller shall pay for the standard coverage title insurance policy, and one-half of all escrow fees and costs. The Buyer shall pay recording charges and one-half of all escrow fees. All other costs and expenses shall be allocated between the Buyer and the Seller in accordance with the customary practice in Multnomah County, Oregon.

6. Possession. Buyer shall be entitled to possession immediately upon closing.

7. Property Sold "AS IS." Buyer represents that she or her agents are familiar with the Property and that Buyer has accepted and executed this Agreement on the basis of her own examination and personal knowledge of the Property; that Seller and Seller's agents have made no representations, warranties, or other agreements concerning matters relating to the Property; that Seller and Seller's agents have made no agreement or promise to alter, repair, or improve the Property; and that Buyer takes the Property in the condition, known or unknown, existing at the time of this Agreement, "AS IS."

8. Binding Effect/Assignment Restricted. This Agreement is binding on and will inure to the benefit of Seller, Buyer, and their respective heirs, legal representatives, successors, and assigns. Nevertheless, Buyer will not assign its rights under this Agreement without Seller's prior written consent.

9. Remedies. If the transaction does not close, through no fault of Seller, before the close of business on the Closing Date or if Seller fails to deliver the deed described in Section 4 above on the Closing Date, neither party shall have a claim against the other and this Agreement shall be terminated and shall have no further force or effect.

10. Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be (1) personally delivered (including by

means of a professional messenger service), which notices and communications will be deemed received on receipt at the office of the addressee; (2) sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications will be deemed received three days after deposit in the United States mail, postage prepaid; or (3) sent by overnight delivery using a nationally recognized overnight courier service, which notices and communications will be deemed received one business day after deposit with the courier.

**To Buyer: Lynnia K. Woods
Five Star Storage
20315 NE Sandy Blvd.
Fairview, OR 97024**

**To Seller: Multnomah County Transportation Program
Attn: Mr. Robert Maestre
1600 SE 190th Ave.
Portland, Oregon 97230**

Either party by written notice may designate a different address or contact person for purposes of this Agreement. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

11. Broker. The Seller represents and warrants to the Buyer, and the Buyer represents and warrants to the Seller, that no broker or finder has been engaged by it, respectively, in connection with any of the transactions contemplated by this Agreement, or to its knowledge is in any way connected with any of such transactions.

12. Required Actions of Buyer and Seller. The Buyer and the Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated and shall use their best efforts to accomplish the close of escrow in accordance with the provisions here.

13. Miscellaneous

13.1 Partial Invalidity. If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

13.2 Waivers. No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for

performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

13.3 Entire Agreement. This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter of the Agreement and supersedes all prior understandings with respect to it. This Agreement may not be modified, changed, supplemented, or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted here. The parties do not intend to confer any benefit on any person, firm, or corporation other than the parties hereto.

13.4 Time of Essence. The Seller and the Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision of this agreement.

13.5 Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural, and the masculine shall include the feminine, and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference. If the date on which the Buyer or the Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

13.6 Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the state of Oregon.

13.7 No Attorney Fees. If a party to this Agreement brings any action or suit against another party to this Agreement by reason of any breach of any of the covenants, terms, conditions, or agreements on the part of the other party arising out of this Agreement, there shall be no right for the prevailing party to recover attorney fees.

14. Road Easement; Pending Vacation:

14.1 The Seller will transfer title to the Property to Buyer by bargain and sale deed subject to a road purposes easement that will remain in full force and effect unless and until Buyer has completed the fill activity discussed in Recital F, and the County Engineer reasonably determines there is no longer the need to retain any such easement because the property has been leveled.

14.2 If and when the County Engineer reasonably determines the easement is no longer required, the Seller shall promptly initiate and pursue to completion

proceedings before its Governing Body to vacate the easement in compliance with the applicable provisions of ORS Chapter 368 and MCC 27.054. Buyer will cooperate with Seller to achieve such vacation. Buyer will be responsible for taking whatever action is necessary to obtain the City of Fairview's concurrence in the vacation as required under ORS 368.361. Both parties shall use their best effort to secure vacation of the easement.

14.3 The provisions of this Article 14 shall survive closing and the execution and recording of the deed.

15. Statutory Disclaimer.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES 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 TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

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

BUYER:

SELLER:

Multnomah County

By: 
Lynn K. Woods

By: _____
Diane M. Linn, County Chair

Date of Execution: 6/5/06

Date of Execution: _____

**REVIEWED:
AGNES SOWLE, COUNTY
ATTORNEY**

By: _____
Assistant County Attorney

After recording, return to:

Lynnia K. Woods
Five Star Storage
20315 NE Sandy Blvd.
Fairview, OR 97024

Until a change is requested, all
tax statements shall be sent to:

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BARGAIN AND SALE DEED

Multnomah County, a political subdivision of the State of Oregon, ("GRANTOR"), conveys to Lynnia K. Woods ("GRANTEE"), certain real property, more particularly described in the attached Exhibit A and as shown on Exhibit B.

PROVIDED: The above described conveyance shall be subject to a road purposes easement for the benefit of Grantor over, across and under the entire parcel.

FURTHER PROVIDED: Said easement shall remain in full force and effect unless and until Grantee has completed fill activity and the stabilization of the property and the County engineer reasonably determines there is no longer the need to retain any road purposes easement. At such time as the Multnomah County Engineer reasonably determines the easement is no longer required, Grantor shall promptly initiate proceedings before the Multnomah County Board of Commissioners and make best efforts to vacate the easement in compliance with ORS Chapter 368, and MCC 27.054. Grantee will cooperate with Grantor to achieve such vacation.

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The true and actual consideration paid for this transfer stated in terms of dollars is \$63,750.00.

DATED this ____ day of _____, 2006.

GRANTOR:

MULTNOMAH COUNTY, a political
subdivision of the State of Oregon

By: _____

Name: _____

Title: _____

STATE OF OREGON)
) ss
County of Multnomah)

This instrument was acknowledged before me on _____, 2006, by Grantor herein.

Notary Public for Oregon
My commission expires: _____

REVIEWED:

Agnes Sowle, County Attorney
for Multnomah County, Oregon

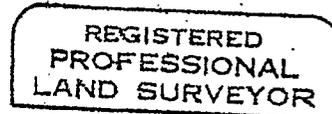
By: _____
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EXHIBIT "A"

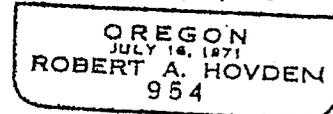
A portion of that certain tract of land conveyed to Multnomah County by deed recorded August 25, 1992 in Book 2580, Page 1495, Multnomah County Deed Records (MCDR), situated in the S.W. one-quarter of Section 28, Township 1 North, Range 3 East, W.M., Multnomah County, Oregon, being all of said Multnomah County tract that lies easterly of a line that is 45.00 feet easterly of, when measured at right angle to and parallel with the following described centerline of N.E. 207th Avenue, County Road No. 4998:

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Containing 1.84 acres or 80,363 square feet more or less.



Robert A. Hovden

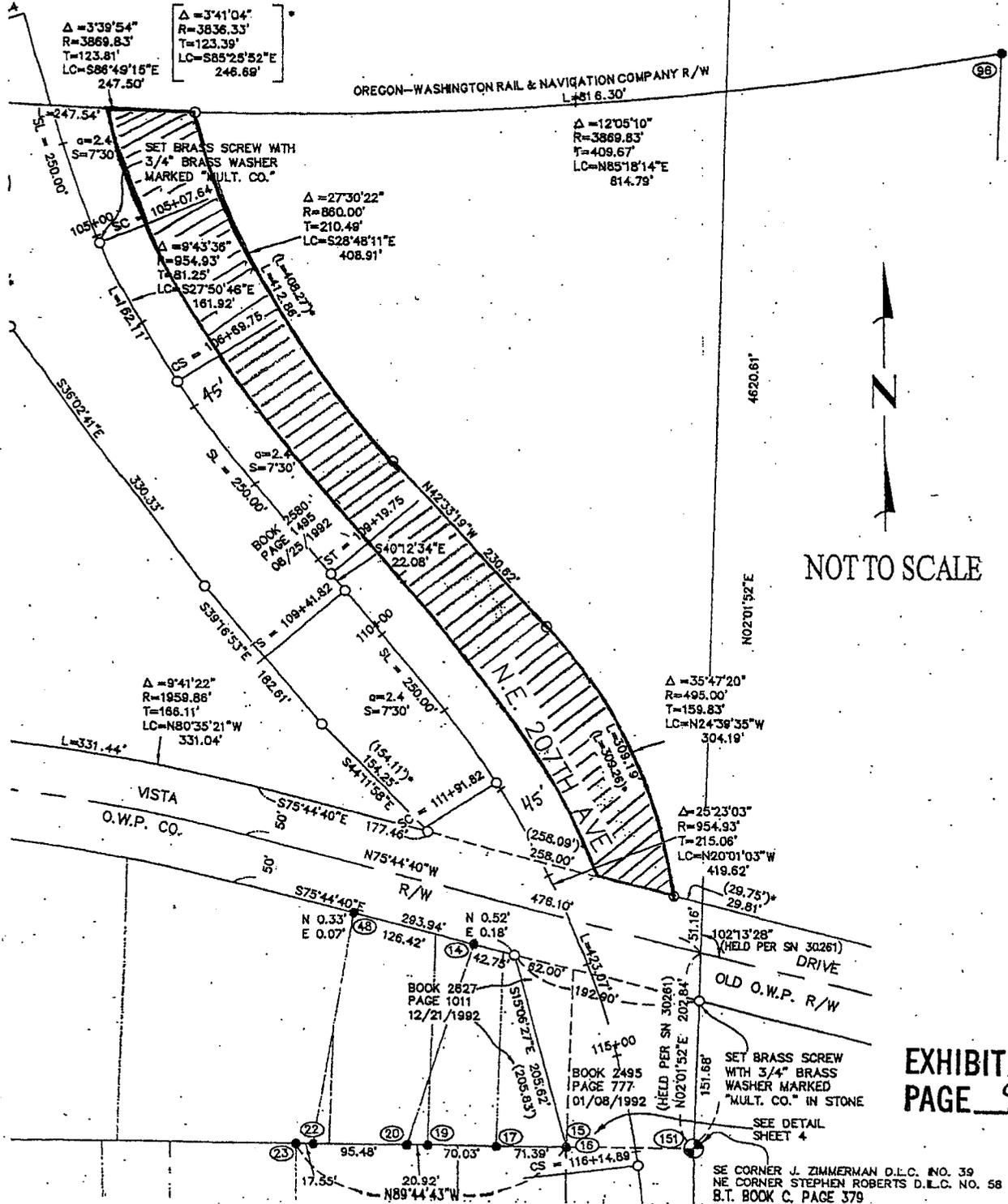


RENEWS 7-01-2007

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As shown on the attached EXHIBIT "B", herein made a part of this document. In the event of a conflict or discrepancy between the map as shown on the attached EXHIBIT "B" and the written legal description, the written legal description shall prevail.

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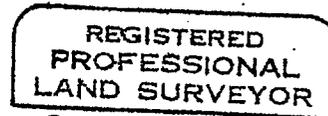
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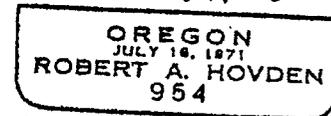
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RENEW 5-7-01-2007

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