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After recording, return to:  
City of Salem  
Parks Division  
555 Liberty Street. SE – Building 14  
Salem, OR 97301

## GROUND LEASE

This agreement is made and executed on <sup>on August 20</sup> May \_\_, 2000, by and between the State of Oregon (“State”), acting by and through its Department of Corrections (“Lessor”) and the City of Salem, Oregon (“Lessee”)

## RECITALS

**WHEREAS**, ORS 270.110 (1) permits the Lessor to lease property to a political subdivision of the State where State land is not needed for public use or where the public interest may be furthered; and

**WHEREAS**, the Lessee has declared an urgent need for additional recreational facilities for the residents of Salem, and the Salem City Council has approved the leasing of the property described below; and

**WHEREAS**, the Capital Planning Commission, the Oregon Department of Corrections and the Oregon Department of Administrative Services have all declared that the property described below is not needed for State use and that the leasing of such property to the Lessee for recreational purposes would serve an important public purpose;

**NOW, THEREFORE**, the parties agree as follows:

## AGREEMENT

### Article 1 Leased Premises

For and in consideration of the mutual promises and covenants set forth in this Lease Agreement, Lessor leases exclusively to Lessee and Lessee leases from Lessor certain real property located in Salem, Oregon as more particularly described in Exhibit A (the “Premises”), together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to the Premises, except as provided in Article 24.

Lessee leases the Premises subject to any and all existing encumbrances, rights, covenants, easements, restrictions, rights of way, other matters of record, and any matter which may be disclosed by inspection or survey. It also leases the Premises subject to applicable zoning and building laws, regulations, and codes. Lessor makes no representations or guarantees concerning the condition of title. If any party has superior rights to the Premises, or if the Premises are subject to rights, restrictions or encumbrances that make Lessee's intended use of the Premises impermissible or undesirable, Lessee's sole remedy shall be the right to terminate this Lease Agreement.

## Article 2

### Term

The Premises is leased for a term of 40 years, commencing on ~~May~~ <sup>August</sup> \_\_\_\_, 2000 and ending on ~~May~~ <sup>August</sup> \_\_\_\_, 2040. Lessee shall additionally have two consecutive options to extend the term of the lease for an additional 10 years each. Each option shall be deemed exercised unless Lessee expressly gives Lessor notice of its intent not to exercise the option prior to the commencement of the respective option term. Notwithstanding the above, Lessee shall give Lessor written notice of its intent to exercise or waive either of the option terms if so requested by Lessor.

## Article 3

### Rent

Lessee hereby agrees to pay to Lessor an annual rent of one dollar (\$1). Such rent shall apply to both the initial and option terms described in Article 2 above. Rent for the initial 40 year term, and for each 10-year option term (if exercised), shall be paid in full on or before the commencement of the initial or respective option terms. There shall be no right to refund or abatement should the Lease Agreement be terminated prior to the natural expiration of its term.

## Article 4

### Condition of the Premises

Lessee has examined the Premises to its own satisfaction and has formed its own opinion as to its condition and suitability to Lessee's intended use. Lessee has not relied on any statements or representations from Lessor concerning any of the following: the size or area of the Premises; the location of corners or boundaries of the Premises; the condition of the Premises; the availability of services to the Premises; the ability of Lessee to use the Premises for its intended use; or any other matter affecting or relating to the Premises. Lessee leases the Premises in its present condition, AS IS, with all defects, if any. Lessee waives, releases and discharges Lessor from all claims, actions, damages, costs and expenses which may arise out of or in any way relate to the physical characteristics or condition of the Premises.

If Lessee discovers a defect or dangerous condition on the Premises it must immediately take such action as is necessary to cure such defect or dangerous condition, or terminate

this Lease Agreement pursuant to Article 21 below. In either event, Lessee shall immediately inform Lessor of the nature of the defect or dangerous condition.

#### **Article 5 Use of Leased Premises**

As a material condition of this Lease, it is intended that the Premises be used by Lessee solely for the purpose of developing, operating and maintaining a community park and/or recreational ballfield facility. The Premises shall be used for no other purpose without the prior written consent of the Department of Corrections, the Director of the State Department of Administrative Services and, if deemed necessary or desirable, the Capitol Planning Commission. Any unauthorized use of the Premises shall be grounds for the immediate termination of this Lease by Lessor.

In no event shall the Premises be used for any unlawful purpose or for any purpose which would constitute a public or private nuisance or waste. If required, it shall be the obligation of Lessee to initiate and secure any zoning change that may be required to use the Premises as required hereunder.

Lessee shall not allow, permit or cause i) the installation of any storage tanks for the purpose of holding petroleum products or hazardous substances on the Premises, or ii) the accumulation of solid wastes (except rubbish placed in designated containers scheduled for normal, scheduled disposal in accordance with all applicable law), or iii) the accumulation, storage, possession or release of "hazardous substances", "pollutants", "hazardous waste" or "toxic materials" in violation of any applicable law, rule or regulation.

Lessee agrees to evacuate the ballfield complex and community park at the request of the Oregon Department of Corrections in the event the Oregon State Penitentiary or the Oregon Women's Correctional Center determines a major emergency will endanger any citizens or others. Evacuation would not be necessary unless an emergency such as major fire, disturbance, escape or other potentially dangerous situation creates an unsafe environment.

#### **Article 6 Improvements**

Lessee shall build, at its own expense, such improvements as Lessee determines are necessary or desirable to operate a safe and functional community park and/or recreational ballfield facility. Lessee shall not commence any work to construct said improvements unless and until Lessor and the Oregon Department of Administrative Services have approved of Lessee's planned improvements. Lessor shall not unreasonably delay or withhold its consent. Lessee shall provide Lessor with such information and documents as Lessor may reasonably request as a part of such approval process. Notwithstanding the above, Lessor's written approval of Lessee's plans shall not be construed as a determination that such facilities are, in fact, safe and functional, nor as an assumption of liability arising out of the design, installation or construction of such facility.

Lessee must complete the design and construction of "substantial improvements" upon the Premises within 5 years of the commencement date of this Lease Agreement. The plans submitted and approved pursuant to the previous paragraph shall expressly designate which proposed improvements shall be completed within such five year period and the term "substantial improvements" as used herein shall mean such improvements.

Subject to the conditions below, Lessee shall have the right, at Lessee's own cost and expense, to cause to be made such alterations, changes, and/or improvements on or to the Premises as Lessee deems desirable, provided that such alterations, changes and/or improvements are consistent with the uses permitted under Article 5 above. Lessee shall obtain all necessary permits, approvals and licenses in connection with such work. Lessor's prior written consent is required prior to any proposed alteration or improvement that will result in a change or alteration to the Premises that Lessee either can not remove, or desires not to remove, at the expiration of the Lease Term. In all other cases, Lessee will inform Lessor of intended alterations and improvements and will give Lessor a reasonable opportunity to provide comments and/or suggestions.

Any alterations and improvements made on or to the Premises shall be done in a good and workmanlike manner, and in conformity with applicable laws, ordinances and regulations.

To the extent permitted by law, Lessee shall protect and indemnify Lessor from any claim or lien arising out of any work or construction performed by Lessee or on Lessee's behalf on or to the Premises.

#### **Article 7 Access Road**

It is the desire of the parties that the Lessee and the State of Oregon reach an agreement concerning the construction of a public road that will provide access to the Premises from State Street to the south and Hawthorne Road to the east. The approximate location of such a road would be upon property owned by the State as depicted on in Exhibit B. All costs of design and construction of such a road would be borne by the Lessee. If, however, the parties cannot reach an agreement concerning the design, location, costs or any other matters related to the proposed access road, or if such a road can not be completed prior to the 5<sup>th</sup> anniversary date of this Lease, then Lessee shall have the right to terminate this Lease. In no event shall either party be liable in the event the parties are unable to reach a final agreement concerning the access road.

#### **Article 8 Railroad Right of Way**

The Premises, as described in Article 1, includes property along the southern boundary of the Premises that is presently owned by Union Pacific and leased to Lessor ("Railroad-Right-of-Way Property"). It is the expectation of the parties that the Railroad Right of Way Property will be conveyed in fee to the Lessor. If for any reason Lessor is

unable to obtain full title to the Railroad-Right-of-Way Property, or otherwise obtain the unconditional right to use and lease the Railroad-Right-of-Way Property for a minimum of 60 years, either Lessor or Lessee may terminate this Lease.

#### **Article 9 Utilities and Services**

Lessor shall not be required to furnish to Lessee any facilities or services of any kind during the term of this Lease. Lessee agrees to furnish to the Premises all water, electricity, gas, garbage, and sewer service necessary for the intended use of the Premises, and shall pay the providers of such services directly.

#### **Article 10 Abandonment**

Lessee shall neither vacate nor abandon the Premises, nor shall Lessee cease to operate a Community Park and/or recreational ballfield facility, at any time during the term of this Lease Agreement. If Lessee does abandon, vacate or otherwise cease such use, Lessor may terminate this Lease. . Lessee's failure to operate a Community Park and/or recreational ballfield facility shall not be deemed an abandonment during the period Lessee is permitted to design and construct substantial improvements as provided in the second paragraph of Article 6.

#### **Article 11 Lessors Right of Entry**

Lessee shall permit Lessor and Lessor's agents to enter all parts of Premises at all reasonable times for the purpose of inspecting the Premises.

#### **Article 12 Maintenance and Repair**

Lessee shall at its own expense maintain the Premises and maintain, repair, and replace all improvements thereon, as necessary to keep them in good order, condition and repair throughout the entire term of this Lease. Such obligation shall include the maintenance of any boundary fences, landscaping, adjoining sidewalks, curbs, walkways, and parking lots in good, safe, and clean condition. Lessee may, at its option and cost, choose to contract with the Oregon State Inmate Work Program or other contractors to perform any of the maintenance and repair obligations hereunder.

Lessee shall at all times observe and comply with all applicable laws now or hereafter made or issued respecting the Premises and Lessee's use thereof. To the extent permitted by law, Lessee shall defend, indemnify and hold Lessor free and harmless from any and all liability, costs, damages, fines, penalties, claims and actions resulting from Lessee's failure to comply with this Article.

**Article 13**  
**Liens**

Lessee shall keep all and every part of Premises free and clear of any and all liens and encumbrances.

**Article 14**  
**Indemnification**

Lessor shall not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises or the improvements including claims based on the design, installation and construction of improvements. To the extent permitted by law, Lessee shall indemnify and hold Lessor harmless against and from all liabilities, obligations, damages, and claims that may be asserted against Lessor by reason of any such injuries or damage, or by reason of any failure of Lessee to perform its obligations under this Lease. Notwithstanding the above, Lessee shall not be required to indemnify or hold Lessor harmless against liability based upon the negligence or unlawful acts of Lessor or those whose activities Lessor is legally responsible.

**Article 15**  
**Notice**

All notices and consents required between the parties shall be in writing, effective when personally delivered to the address specified herein, or if mailed, effective seventy-two (72) hours following mailing to the address for such party specified below or such other address as either party may specify by notice to the other.

Lessor:           Manager: Real Property Services Section  
                      Oregon Department of Administrative Services  
                      State of Oregon  
                      1225 SE Ferry St.  
                      Salem, OR 97310

Lessee:           Parks Operations and Planning Administrator  
                      City of Salem  
                      1460 20<sup>th</sup> Street SE  
                      Building 14  
                      Salem, OR 97301

**Article 16**  
**Sublease and Assignment**

It is the parties' expectation at the time this Lease is executed that Lessee shall never assign this Lease Agreement. In any event, Lessee shall not sublease, assign or

otherwise transfer this Lease, in whole or in part, without the prior written consent of Lessor and the Oregon Department of Administrative Services, Facilities Division. Consent to a sublease, assignment or other transfer shall not be construed as consent to any subsequent sublease, assignment or transfer. No such written consent shall relieve Lessee of any obligations under this Lease, and any sublessee, assignee or transferee shall be considered the agent of Lessee. Unless otherwise agreed, Lessee shall remain liable as between the original parties to this lease agreement as if no such sublease, assignment or transfer had occurred.

#### **Article 17 Eminent Domain**

If, at any time during this lease term, title to the whole or substantially all of the Premises or the improvements shall be taken in condemnation proceedings, or by purchase in lieu of same, this Lease may be terminated by Lessee.

#### **Article 18 Casualty**

If the Premises or improvements thereon are substantially damaged or destroyed by fire or other casualty, Lessee shall either i) at its sole cost and expense proceed with reasonable diligence to repair and restore the Premises to the same condition and character it was immediately prior to such damage or destruction or ii) terminate this Lease.

#### **Article 19 Insurance**

Lessee may be self-insured with regard to the Premises, but shall agree to maintain such reserves as are necessary to protect against claims that would otherwise be covered by i) a Comprehensive General Liability policy covering bodily injury and property damage with coverage limits as described in the self-insurance statement previously supplied by the City of Salem and accepted by the Oregon Department of Corrections, and ii) All Risk Casualty Insurance.

#### **Article 20 Default**

Lessee shall be deemed in default under this Lease if it fails to perform any covenant, term or condition of this Lease.

## **Article 21 Remedies**

In the event of default by Lessee,

- A. After first giving Lessee notice of default, and if such default remains uncured 30 days after such notice, Lessor may cure any default, and Lessee shall immediately thereafter pay Lessor for any costs incurred by Lessor in making such cure,
- B. In the event of any default under Articles 5, 6, 10, 12 or 16, Lessor may terminate this Lease Agreement, except Lessor shall not be entitled to terminate unless it has first given Lessee written notice of said default and a reasonable opportunity to cure such default. The written notice shall expressly state that failure to cure the default may result in termination of the Lease Agreement. For the purposes of this subsection, it is agreed that 30 days shall be presumptively a reasonable period to cure a default.
- C. Lessor may exercise any other available remedy permitted at law or equity.

All remedies conferred on Lessor in this Lease Agreement shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.

In the event of default by Lessor, Lessee may not bring any action for damages. Lessee's sole remedies for any claimed breach by Lessor shall be the right to terminate this Lease and to seek an equitable remedy that will not require the payment of damages.

## **Article 22 Surrender of the Premises**

Upon expiration or termination of this Lease Agreement, all improvements and fixtures on the Premises shall, at the option of Lessor, become the property of Lessor. If Lessor does not wish to take title to any improvements or fixtures, Lessee shall remove such improvements and fixtures unless Lessor has given its prior consent, pursuant to Article 6, to leaving the improvements and fixtures on the Premises after termination. Lessee shall also remove all of its personal property.

## **Article 23 No Partnership**

Nothing in this Lease Agreement shall be construed as creating a partnership or joint venture between the parties, and Lessor assumes no liability hereunder for the operation of the Premises.



**Article 24  
Retained Rights:**

Notwithstanding any other provision of this Lease Agreement, Lessor retains the following rights:

1. The exclusive right to all mineral and geothermal resources on the Premises, as such terms are defined in ORS 273.775; and
2. The right to grant easements, licenses and rights-of-way over, under or across the Premises for the purpose of providing water, gas electricity, telephone, cable, storm and/or sanitary sewer or any other desirable utility or service, upon such terms as Lessor deems desirable. Lessor shall grant such easements, licenses and rights-of-way in a manner that will minimize disruption to Lessee's use of the Premises, but Lessee's rights under this Lease shall be subject to the grantee's rights under such easements, licenses, and rights-of-way.

**Article 25  
Recordation of Lease**

Both Lessor and Lessee shall have the right to record either a copy of this Lease Agreement or a Memorandum of Lease, executed and acknowledged by both parties. The party asserting such right shall pay the recording costs.

**Article 26  
Entire Agreement**

This Lease Agreement constitutes the entire agreement between the parties with regard to the subject matter. No waiver, consent, modification or change or terms of this lease shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Lease Agreement.

IN WITNESS WHEREOF, the undersigned executed this Lease Agreement on the dates indicated below their respective signatures.

STATE OF OREGON, acting by and through the Department of Corrections

By: 

Title: Director

Date of Signature: 5/15/00

CITY OF SALEM

By: Jam Weeks

Title: City Manager

Date of Signature: 8/28/00

APPROVED:

Oregon Department of Administrative Services

By: Bill Nishelberry

Title: RPS Manager

Date of Signature: Aug. 8, 2000

STATE OF OREGON)

) ss.

County of Marion )

On this 15 day of May, 2000, before me personally appeared David S. Cook, who being duly sworn stated that he/she is the Director of the Oregon Department of Corrections, and acknowledged the foregoing instrument to be the voluntary and authorized act of the Department of Corrections, and that he/she executed the foregoing instrument on behalf of said state agency, acting on behalf of the State of Oregon.

Norma Land  
NOTARY PUBLIC FOR OREGON  
My commission Expires: 9/12/2003



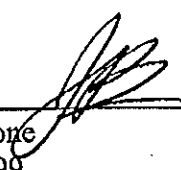


Legal Description for State Prison Ballfield  
Lease Area

A parcel of land located in Section 25, Township 7 South, Range 3 West of the Willamette Meridian, City of Salem, Marion County, Oregon, being more particularly described as follows:

Beginning at the southwest corner of Sorrel Dock, a subdivision recorded in Volume 37, Page 17, Book of Town Plats for Marion County; and running thence:  
North 00° 08' 54" West 481.37 feet along the West Line of said Sorrel Dock and the West Line of Zimmerman Home Tracts, a subdivision recorded in Volume 14, Page 32, Book of Town Plats for Marion County, to the North Line of the Oregon State Penitentiary grounds;  
thence North 88° 03' 00" West 920.32 feet along said North Line of the Penitentiary grounds;  
thence South 18° 35' 18" West 1,491.09 feet to the South Right-of-way of the Southern Pacific Railroad, Geer Line;  
thence North 83° 10' 15" East 1,616.35 feet along said South Right-of-way;  
thence continuing along said Right-of-way along the arc of a 5,689.58-foot radius curve to the right (the chord of which bears North 86° 17' 12" East 618.49 feet) 618.80 feet to the West Right-of-way of Hawthorne Avenue SE;  
thence North 00° 42' 21" East 647.14 feet along said West Hawthorne Avenue SE Right-of-way to the South Line of said Sorrel Dock;  
thence North 88° 32' 18" West 833.98 feet along said South Line of Sorrel Dock to the point of beginning and containing 2,071,708 square feet or 47.56 acres of land, more or less.

Bearings for this description are based on found monuments referenced in CS23136 along the South Boundary of Marion County property and given a bearing of South 88° 42' East from this, the North Line of the State Penitentiary land, is North 88° 03' West per deed recorded in Volume 755, Page 542, Deed Records for Marion County.

Checked By:   
Project No.: None  
January 26, 1999

Legal Description for State Prison Ballfield Access Road  
Lease Area

A Parcel of land situated in the Southeast Quarter of Section 25, Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon, being more particularly described as follows:

Beginning at a point on the North Right-of-way Line of State Street, said point being 1,121.22 feet North  $89^{\circ} 00' 44''$  West and 2,703.18 feet North  $88^{\circ} 52' 15''$  West from the northeast corner of the Webley Hauxhurst Donation Land Claim No. 83; and running thence:  
North  $01^{\circ} 00' 15''$  East 743.68 feet;  
thence along the arc of a 425.00-foot radius curve to the right (the chord of which bears North  $41^{\circ} 52' 24''$  East 556.18 feet) a distance of 606.31 feet to the South Right-of-way of the Southern Pacific Railroad, Geer Line;  
thence along said Right-of-way South  $82^{\circ} 44' 33''$  West 701.29 feet;  
thence South  $64^{\circ} 44' 25''$  East 296.23 feet;  
thence South  $01^{\circ} 00' 15''$  West 626.99 feet;  
thence South  $03^{\circ} 13' 14''$  West 310.30 feet to a point on the before-mentioned North Right-of-way Line of State Street;  
thence along said State Street Right-of-way South  $84^{\circ} 35' 50''$  East 7.46 feet to a point 70.00 feet offset from centerline station 31+44.35 P.C.S.;  
thence continuing along said Right-of-way along an offset spiral curve to the left, centerline values:  $a = 0.039591$  and  $S = 4^{\circ} 00'$  (the chord of which bears South  $85^{\circ} 17' 33''$  East 64.70 feet) a distance of 64.70 feet to the point of beginning and containing 2.69 acres of land, more or less.

Basis of bearings for this description is from County Survey 33398 and 34243.

Checked By: BB  
Project No.: 289216  
August 16, 2000

LEK:PADAILY\DAY03106.WPD

**EXHIBIT B**

# EXHIBIT MAP

BALLFIELD LEASE AREA

ACCESS ROAD  
LEASE AREA

EMERGENCY MANAGEMENT  
RESERVE CENTER LEASE AREA



DATE AUG 7, 2000  
SCALE 1" = 200'

STATE STREET

After recording return to:  
City of Salem Recorder's Office  
555 Liberty St SE, Room 205  
Salem, OR 97301-3503

MEMORANDUM OF GROUND LEASE

This is a Memorandum of a certain unrecorded Ground Lease dated <sup>for August</sup> ~~May~~ \_\_\_, 2000 by and between the State of Oregon ("State"), acting by and through its Department of Corrections ("Lessor") and the City of Salem, Oregon ("Lessee").

For good and valuable consideration, Lessor leased to Lessee certain real property located in Salem, Oregon, more particularly described in Exhibit A to this Memorandum ("the Premises"). The Ground Lease commences on <sup>May</sup> ~~May~~ \_\_\_, 2000 and is for a term of 40 years. Lessee is additionally granted two (2) consecutive options to extend the term of the Ground Lease for additional terms of ten (10) years each.

The Lessee may use the Premises for the purpose of developing, operating and maintaining a community park and/or recreational ballfield facility.

This Memorandum is intended for notice purposes only, and does not constitute a part of the Ground Lease itself.

IN WITNESS WHEREOF, the undersigned executed this Memorandum of Ground Lease on the dates indicated below their respective signatures.

STATE OF OREGON, acting by and through the Department of Corrections

By: [Signature]

Title: Director

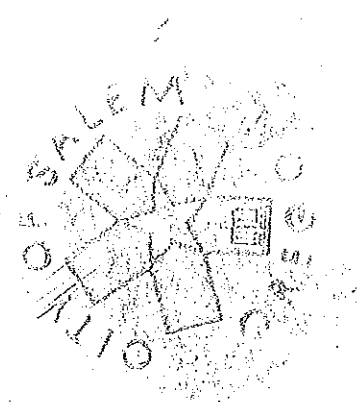
Date of Signature: 5/15/00

CITY OF SALEM

By: [Signature]

Title: City Manager

Date of Signature: 8/28/00



APPROVED:

Oregon Department of Administrative Services

By: Brian Deckerberry

Title: RPS Manager

Date of Signature: Aug. 8, 2000

STATE OF OREGON)

) ss.

County of Marion )

On this 15 day of May, 2000, before me personally appeared David S. Cook, who being duly sworn stated that he/she is the Director of the Oregon Department of Corrections, and acknowledged the foregoing instrument to be the voluntary and authorized act of the Department of Corrections, and that he/she executed the foregoing instrument on behalf of said state agency, acting on behalf of the State of Oregon.

Norma Land  
NOTARY PUBLIC FOR OREGON  
My commission Expires: 9/12/2003



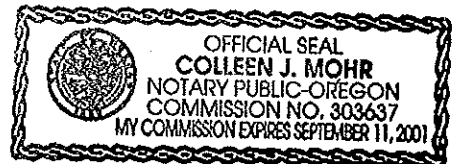
STATE OF OREGON)

) ss.

County of Marion )

On this 8<sup>th</sup> day of August, 2000, before me personally appeared Brian Deckerberry, who being duly sworn stated that he/she is the RPS Manager of the Department of Administrative Services, and acknowledged the foregoing instrument to be the voluntary and authorized act of the Department of Administrative Services, and that he/she executed the foregoing instrument on behalf of said state agency, acting on behalf of the State of Oregon.

Colleen J. Mohr  
NOTARY PUBLIC FOR OREGON  
My commission Expires: 9-11-01



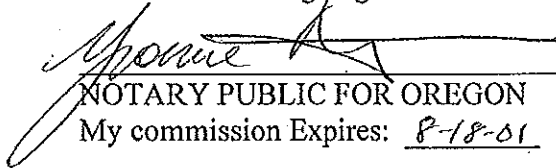


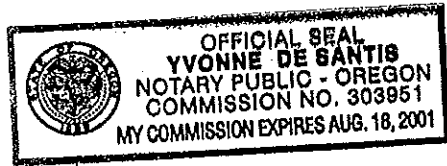
STATE OF OREGON)

) ss.

County of Marion )

On this 28<sup>th</sup> day of AUGUST, 2000, before me personally appeared LARRY WACKER, who being duly sworn stated that he/she is the CITY MANAGER of the City of Salem, and acknowledged the foregoing instrument to be the voluntary and authorized act of the City of Salem, and that he/she executed the foregoing instrument on behalf of said City.

  
NOTARY PUBLIC FOR OREGON  
My commission Expires: 8-18-01




Legal Description for State Prison Ballfield  
Lease Area

A parcel of land located in Section 25, Township 7 South, Range 3 West of the Willamette Meridian, City of Salem, Marion County, Oregon, being more particularly described as follows:

Beginning at the southwest corner of Sorrel Dock, a subdivision recorded in Volume 37, Page 17, Book of Town Plats for Marion County; and running thence:  
North 00° 08' 54" West 481.37 feet along the West Line of said Sorrel Dock and the West Line of Zimmerman Home Tracts, a subdivision recorded in Volume 14, Page 32, Book of Town Plats for Marion County, to the North Line of the Oregon State Penitentiary grounds;  
thence North 88° 03' 00" West 920.32 feet along said North Line of the Penitentiary grounds;  
thence South 18° 35' 18" West 1,491.09 feet to the South Right-of-way of the Southern Pacific Railroad, Geer Line;  
thence North 83° 10' 15" East 1,616.35 feet along said South Right-of-way;  
thence continuing along said Right-of-way along the arc of a 5,689.58-foot radius curve to the right (the chord of which bears North 86° 17' 12" East 618.49 feet) 618.80 feet to the West Right-of-way of Hawthorne Avenue SE;  
thence North 00° 42' 21" East 647.14 feet along said West Hawthorne Avenue SE Right-of-way to the South Line of said Sorrel Dock;  
thence North 88° 32' 18" West 833.98 feet along said South Line of Sorrel Dock to the point of beginning and containing 2,071,708 square feet or 47.56 acres of land, more or less.

Bearings for this description are based on found monuments referenced in CS23136 along the South Boundary of Marion County property and given a bearing of South 88° 42' East from this, the North Line of the State Penitentiary land, is North 88° 03' West per deed recorded in Volume 755, Page 542, Deed Records for Marion County.

Checked By:   
Project No.: None  
January 26, 1999

**REEL: 3166**

**PAGE: 11**

**April 09, 2010, 11:26 am.**

CONTROL #: 269691

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 56.00

BILL BURGESS  
COUNTY CLERK

THIS IS NOT AN INVOICE.

**STATE OF OREGON**  
**GROUND LEASE AMENDMENT**

This Ground Lease Amendment, dated December 20, 2004, is made by and between STATE OF OREGON, acting by and through its Department of Corrections (Lessor) and the CITY OF SALEM, OREGON (Lessee).

Lessor and Lessee are parties to a Ground Lease dated August 28, 2000 (herein referred to as the Lease), covering Premises described in Exhibit A attached to the Original Ground Lease located on Hawthorne Avenue in the City of Salem, County of Marion, State of Oregon.

Lessor and Lessee desire to amend or supplement the Lease.

In consideration of the mutual agreements contained herein, Lessor and Lessee agree that the Lease shall be amended or supplemented as follows:

1. **Legal Description.** The legal description for the Ground Lease is hereby amended. The amended description for the Ground Lease is attached hereto as Exhibit A and by this reference made a part of this document.
2. **Covenants and Restrictions.** Declaration of Covenants and Restrictions for the State Lands Community Park recorded December 21, 2004 on Reel 2416, Page 477, in Marion County Records is hereby attached as Exhibit B and by this reference become a part of the Ground Lease.

Notwithstanding anything to the contrary in the Ground Lease the Lessee specifically agrees to the covenants and restrictions as shown in the attached Exhibit B.

3. **Wetlands.** Lessee (City of Salem) understands and agrees that it shall, at its sole cost and expense, plan, develop, build and maintain such improvements as are now required by Oregon Division of State Lands Permit No 30613-RF and amendments thereto, or such other permits, conditions, amendments or regulations of such agencies and regulatory bodies, including but not limited to the US Army Corps of Engineers, Oregon Department of Environmental Quality, or the Oregon Department of State Lands, having jurisdiction over such matters now or in the future.

Lessee agrees that any costs or expenses, including staff time, incurred by Lessor, or the State of Oregon Department of Administrative Services (DAS), to assist Lessee in complying with said Permit or other such regulations, or any other matter relating to the operation, administration or maintenance of the State Lands Community Park, shall be paid by Lessee. This includes preparing documents and obtaining signatures of Lessor, as landowner, necessary to fulfill said Permit or other related regulations. Lessor will charge Lessee an hourly rate based on its then current Price List of Goods and Services, prepared by DAS. Lessee will reimburse State for the staff actual "straight time" hours on an hourly basis within thirty (30) days of receipt of invoice.

4. **Railroad Right of Way.** Article 8 of the original Ground Lease is hereby deleted in its entirety.

Except as expressly amended or supplemented hereby, all other terms and conditions of the Lease shall remain in full force and effect.

This Lease Amendment shall not become effective nor be binding on the State of Oregon or the Lessee agency until it has been executed, in the signature spaces provided below, by all parties to the agreement.

After recording return to:  
City of Salem Recorder's Office  
555 Liberty St SE, Room 205  
Salem, OR 97301-3503

The parties have executed this Amendment the 10<sup>th</sup> day of February, 2005.

LESSOR: STATE OF OREGON, acting by and through its  
Department of Corrections

By J. J. J. J. J.  
Date 2/7/05

LESSEE: CITY OF SALEM

By Linda Nami  
Asst. City Manager  
Date 1/29/05

APPROVAL: STATE OF OREGON acting by and through its  
Department of Administrative Services

By Valerie S. McPhide  
Facilities Division  
Date February 10, 2005

LIST OF EXHIBITS

1. Exhibit A – Legal Description
2. Exhibit B – Declaration of Covenants and Restrictions

Amgroundleaseball.doc  
11/30/04 cm

Statelands Park  
City of Salem, Oregon  
Revised: MTR 10-07-03

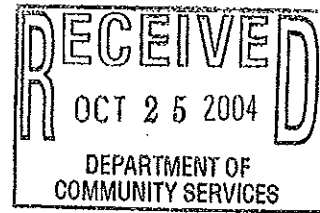


EXHIBIT A

Map #73w25, TL 700

**Park Lease Area**

A parcel of land situated in the Section 25, Township 7 South, Range 3 West, of the Willamette Meridian, Marion County, Oregon, and being a portion of that property conveyed to the State of Oregon, in Volume 193, Page 403, 404, 405; Volume 182, Page 553, 554, 555, 556, 557, and 558 deed records of Marion County, more particularly described as follows, to wit:

Beginning at a point on the South boundary of Lot 16, Block 2, Sorrel Dock, a subdivision recorded in Volume 37, Page 17, Book of Town Plats for Marion County, said point bears North  $87^{\circ}16'59''$  West, a distance of 15.68 feet from the Southeast corner of said Lot 16; thence North  $87^{\circ}16'59''$  West, along the South line of said subdivision, a distance of 834.28 feet, to the Southwest corner of said subdivision; thence North  $1^{\circ}10'13''$  East, along the West line of said subdivision, a distance of 438.13'; thence North  $1^{\circ}11'50''$  East, a distance of 43.24 feet; thence North  $86^{\circ}43'45''$  West, a distance of 920.32 feet, thence South  $19^{\circ}54'33''$  West, a distance of 1491.03 feet, to the South Right-of-way of Union Pacific Railroad; thence North  $84^{\circ}30'26''$  East, along the South Right-of-way of said Railroad, a distance of 31.64 feet; thence North  $84^{\circ}29'31''$  East, along the South Right-of-way of said Railroad, a distance of 182.24 feet; thence South  $62^{\circ}53'27''$  East, a distance of 345.46 feet to the beginning of a 485.00 foot radius non-tangent curve whose center bears South  $67^{\circ}21'17''$  East; thence Northeasterly along said curve through a central angle of  $30^{\circ}41'29''$ , a distance of 259.80 feet, to the South Right-of-way of said Railroad; thence North  $84^{\circ}29'31''$  East along the South Right-of-way of said Railroad, a distance of 137.14 feet; thence North  $84^{\circ}31'23''$  East along the South Right-of-way of said Railroad, a distance of 113.78 feet; thence North  $84^{\circ}31'23''$  East along the South Right-of-way of said Railroad, a distance of 113.78 feet; thence North  $84^{\circ}21'23''$  East along the South Right-of-way of said Railroad, a distance of 683.30 feet; thence North  $85^{\circ}27'16''$  East along the South Right-of-way of said Railroad, a distance of 176.56 feet; thence North  $87^{\circ}05'32''$  East along the South Right-of-way of said Railroad, a distance of 178.73 feet; thence North  $88^{\circ}42'51''$  East along the South Right-of-way of said Railroad, a distance of 177.41 feet;

City of Salem

Statelands Park  
City of Salem, Oregon  
Revised: MTR 10-07-03

thence South 88°50'35" East along the South Right-of-way of said Railroad, a distance of 86.40 feet to the West Right-of-way of Hawthorne Ave; thence North 1°09'25" East, along the West Right-of-way of Hawthorne Ave, a distance of 81.03 feet; thence North 2°12'00" East, along the West Right-of-way of Hawthorne Ave., a distance of 568.04 feet to the point of beginning.

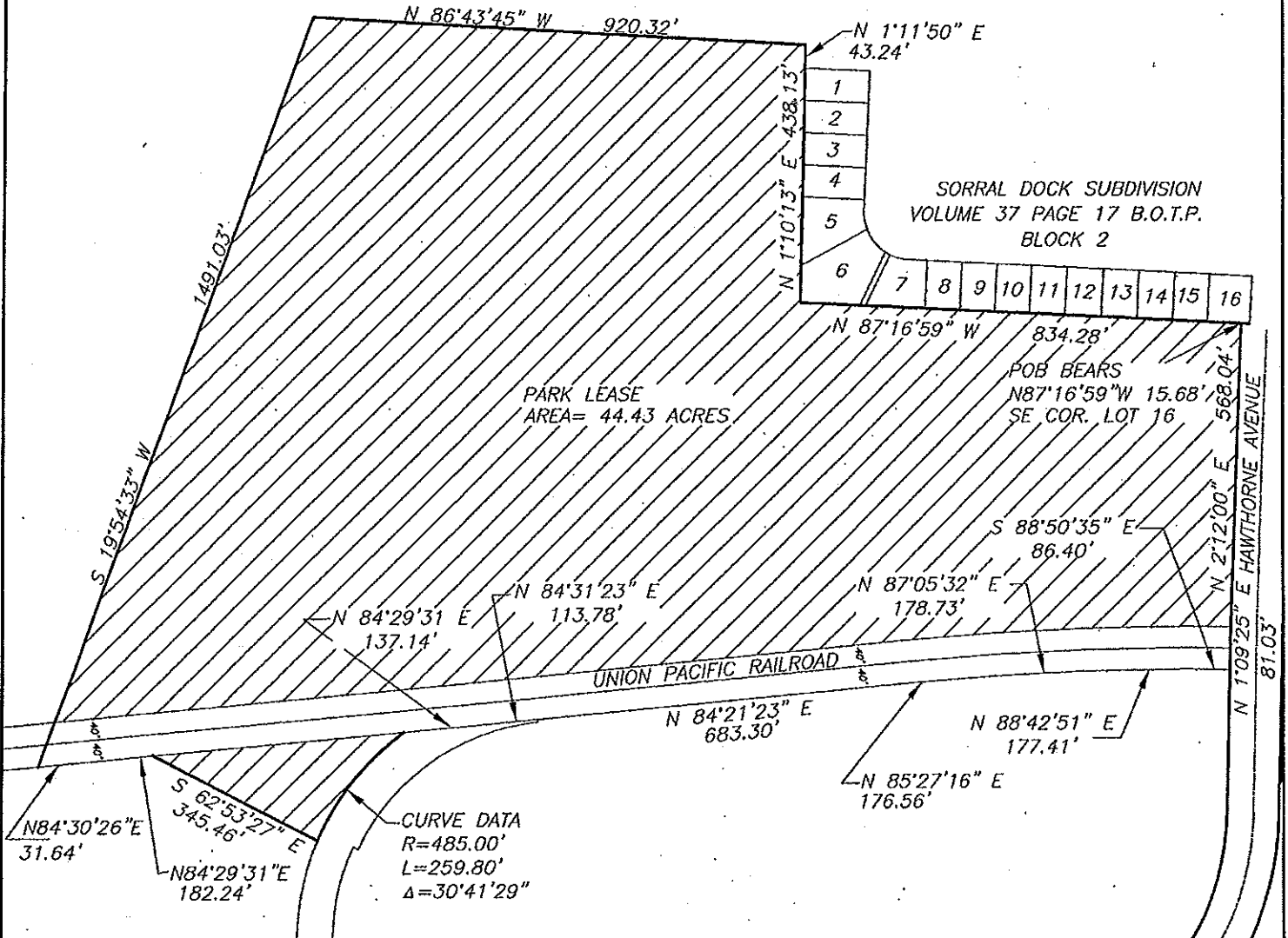
Save and except the Right-of-way of Union Pacific Railroad within the boundary of the above described parcel.

The parcel of land to which this description applies contains 44.43 acres.

The basis of bearings for lines within this description is the Oregon State Plane Coordinates System North Zone, the North American Datum of 1983.



TOWNSHIP 7 SOUTH, RANGE 3 WEST, SECTION 25  
CITY OF SALEM, MARION COUNTY, OREGON



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Marcus T. Reedy*

OREGON  
JULY 21, 1998  
MARCUS T. REEDY  
2871

RENEWAL 12/31/2004

**DAVID EVANS  
AND ASSOCIATES INC.**  
530 Center Street N.E., Suite 605  
Salem Oregon 97301  
Phone: 503.361.8635

PROJECT: EXHIBIT MAP  
TITLE: PARK LEASE AREA  
CITY OF SALEM  
FILE: CTYX0021    DRAWN BY: RJST    DESIGN BY: MTR    SCALE: 1" = 300'    DATE: 10-07-03

SHEET

1



✓ After recording, return to:  
Department of Corrections  
Business and Finance Division  
Administrator, Facilities Services  
1793 13th St SE  
Salem, OR 97302-2595

This Space Reserved for Recorder's Use

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR THE  
STATE LANDS COMMUNITY PARK**

THIS DECLARATION made this 21<sup>st</sup> day of DECEMBER, 2004,  
by the State of Oregon, acting by and through its Department of Corrections ("Declarant").

**RECITALS**

1. WHEREAS, Declarant is the owner of the real property located in Section 25, Township 7 South, Range 3 West, WM, and further described in Exhibit "A" attached hereto and by this reference incorporated herein as the "Property", and desires to create and enhance thereon wetlands to be maintained in accordance with the Permit Number 30613-RF issued by the Oregon Department of State Lands ("Department");
2. WHEREAS, Declarant desires to provide for the preservation and enhancement of the wetland values of the Property and for the maintenance and management of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements and other encumbrances hereinafter set forth, each and all of which is and are for the benefit of the Property.

NOW, THEREFORE, the Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and other encumbrances hereinafter set forth in this Declaration.

## ARTICLE 1 DEFINITIONS

1.1 "Declaration" shall mean the covenants, restrictions, and all other provisions set forth in the Declaration of Covenants and Restrictions.

1.2 "Declarant" shall mean and refer to the State of Oregon, acting by and through its Department of Corrections, its successors or assigns.

1.3 "Removal fill permit" shall mean Permit Number 30613-RF approved by the Department that formally establishes the wetland mitigation and stipulates the terms and conditions of its construction, operation and long-term management.

1.4 "Property" shall mean and refer to all real property subject to this Declaration, as more particularly set forth in Exhibit "A".

## ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Marion County, Oregon and is more particularly described in Exhibit "A".

## ARTICLE 3 GENERAL PLAN OF DEVELOPMENT

Declarant currently manages the Property for the purpose of wetland mitigation. Current management is in accordance with Permit Number 30613-RF.

## ARTICLE 4 USE RESTRICTIONS AND MANAGEMENT RESPONSIBILITIES

The Property shall be used and managed for wetland mitigation purposes in accordance with Permit Number 30613-RF and for purposes consistent with such Permit. Declarant and all

users of the Property are subject to any and all easements, covenants and restrictions of record affecting the Property.

1. There shall be no removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of any vegetation on the Property, nor any disturbance or change in the natural habitat of the Property, other than that required in fulfillment of the terms and conditions of the removal fill permit.
2. There shall be no commercial or industrial activity undertaken or allowed on the Property; nor shall any right of passage across or upon the Property be allowed or granted if that right of passage is used in conjunction with commercial or industrial activity.
3. No domestic animals shall be allowed on the Property.
4. There shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock minerals or other materials, nor any dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the land of the Property in any manner inconsistent with fulfillment of the terms of the removal fill permit.
5. There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards, or other advertising material, or other structures on the Property. However, Declarant reserves the right to make future improvements to the Property for legal purposes, including but not limited to informational signage, placement of site boundary markers and installation of fences.
6. Declarants reserve the right to maintain the Property in accordance with the terms of the removal fill permit. Such maintenance includes, but is not limited to, planting of native vegetation, mowing, grading to achieve wetland hydrology conditions, removal of non-native vegetation and non-native animals, plus other vegetation management or activities needed to fulfill the intent of the mitigation plan. Declarant reserves the right to remove or trim trees and shrubs that interfere with day-to-day operations of the authorized facility, as specified by the removal fill permit or amended by correspondence with the Department.
7. This Declaration may not be construed as a gift or dedication of the Property to the general public, nor as a right of use or access by the general public.

ARTICLE 5

RESOLUTION OF DOCUMENT CONFLICTS

In the event of any conflict between this Declaration and Permit Number 30613-RF, the permit shall control. If any provision of this Declaration is or becomes illegal or unenforceable for any reason, the remaining provisions will remain in full force and effect.

IN WITNESS WHEREOF, the undersigned being Declarant herein, has executed this instrument this 21<sup>st</sup> day of December, 2004

State of Oregon, acting by and through its  
Department of Corrections

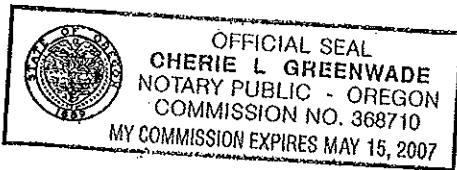
By: [Signature]

Title: Director

STATE OF OREGON            )  
                                          ) ss.  
County of Marion            )

On this 21<sup>st</sup> day of December, 2004, before me personally appeared Max Williams, who being duly sworn stated that he/she is the Director of the OR Dept. of Corrections, and acknowledged the foregoing instrument to be the voluntary act of the Max Williams, and that he/she executed the foregoing instrument on behalf of said state agency, acting on behalf of the State of Oregon.

NOTARY PUBLIC FOR OREGON  
My commission Expires: 5-15-2007



[Signature]  
Signature of Notarial Officer

My Commission Expires: 5-15-2007

EXHIBIT A

Map #73w25, TL 700

A parcel of land situated in the Section 25, Township 7 South, Range 3 West, of the Willamette Meridian, Marion County, Oregon, and being a portion of that property conveyed to Oregon Department of Administrative Services, in Volume 193, Page 403, 404, and 405; Volume 182, Page 553, 554, 555, 556, 557, and 558 deed records of Marion County, more particularly described as follows, to wit:

Beginning at a point on the South boundary of Lot 16, Block 2, Sorrel Dock, a subdivision recorded in Volume 37, Page 17, Book of Town Plats for Marion County, said point bears North  $87^{\circ}16'59''$  West, a distance of 30.68 feet from the Southeast corner of said Lot 16; thence North  $87^{\circ}16'59''$  West, along the South line of said subdivision, a distance of 152.67 feet; thence South  $2^{\circ}37'04''$  East, a distance of 160.55'; thence North  $87^{\circ}22'56''$  East, a distance of 71.00 feet; thence South  $2^{\circ}37'04''$  East, a distance of 99.00 feet, thence North  $87^{\circ}22'56''$  East, a distance of 40.25 feet; thence North  $2^{\circ}12'00''$  East parallel with the West Right-of-way of Hawthorne Ave, a distance of 38.27 feet; thence North  $32^{\circ}12'00''$  East, a distance of 40.00 feet thence North  $2^{\circ}12'00''$  East parallel with the West Right-of-way of Hawthorne Ave, a distance of 175.00 to the point of beginning.

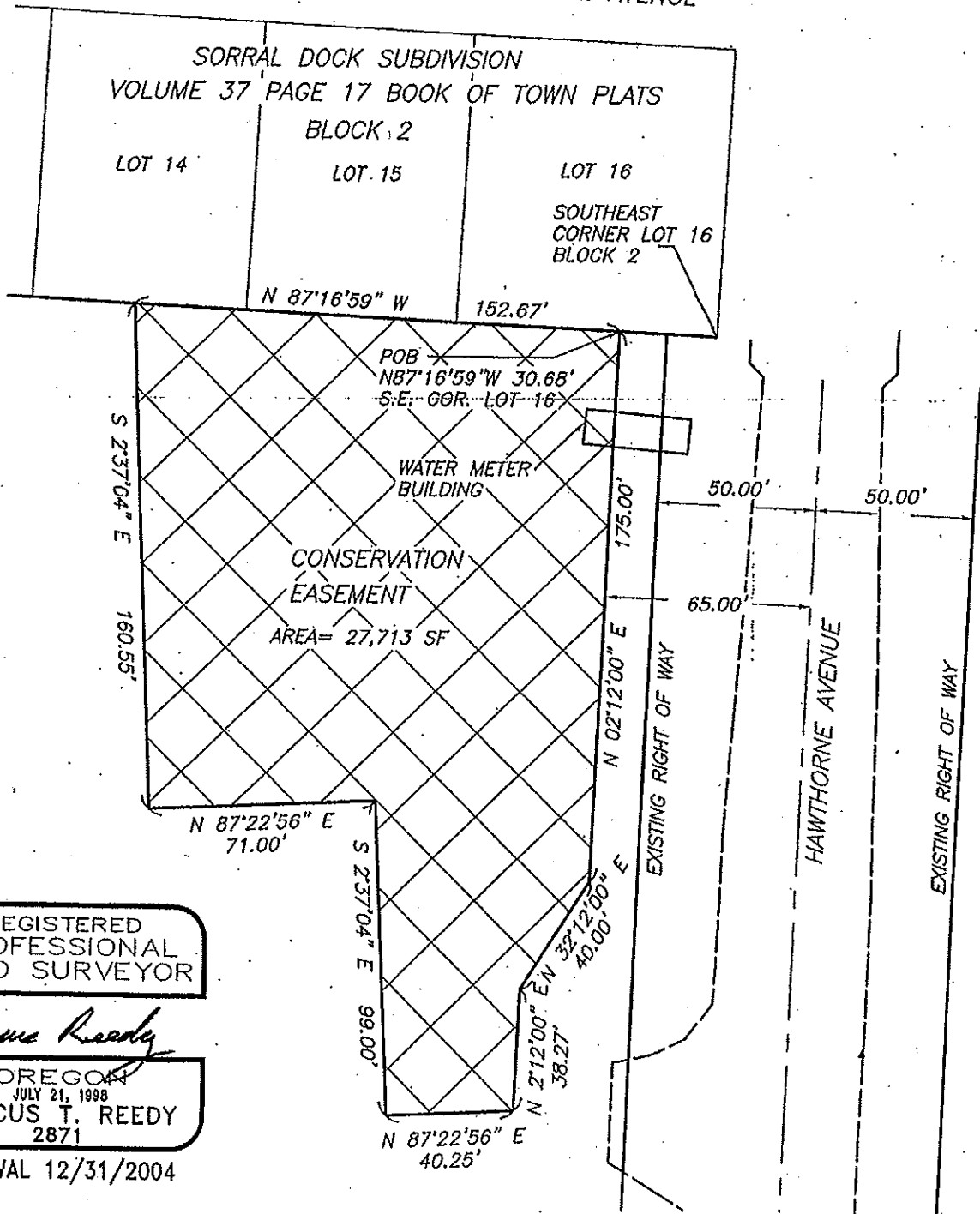
The parcel of land to which this description applies contains 27,713 square feet.

The basis of bearings for lines within this description is the Oregon State Plane Coordinates System North Zone, the North American Datum of 1983.



TOWNSHIP 7 SOUTH, RANGE 3 WEST, SECTION 25  
CITY OF SALEM, MARION COUNTY, OREGON

MONROE AVENUE



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Marcus Reedy*

OREGON  
JULY 21, 1998  
MARCUS T. REEDY  
2871

RENEWAL 12/31/2004



**DAVID EVANS  
AND ASSOCIATES INC.**  
530 Center Street N.E., Suite 605  
Salem Oregon 97301  
Phone: 503.361.8835

PROJECT \_\_\_\_\_ EXHIBIT MAP

TITLE \_\_\_\_\_

FILE CTYX0021      DRAWN BY RJST      DESIGN BY MTR      SCALE 1" = 50'      DATE 10-03-03

SHEET

1

**REEL:2416**

**PAGE: 477**

**December 21, 2004, 11:09 am.**

CONTROL #: 130437

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 51.00

PHIL MILES  
CHIEF DEPUTY CO. CLERK

THIS IS NOT AN INVOICE.

**REEL: 3166**

**PAGE: 12**

**April 09, 2010, 11:26 am.**

CONTROL #: 269691

State of Oregon  
County of Marion

I hereby certify that the attached  
instrument was received and duly  
recorded by me in Marion County  
records:

FEE: \$ 96.00

BILL BURGESS  
COUNTY CLERK

THIS IS NOT AN INVOICE.