

Exhibit A

TEMPORARY PUBLIC ROADWAY EASEMENT AND LIMITED RIGHTS OF ENTRY

GRANTORS: **THE PORT OF PORTLAND**, a port district of the State of Oregon, whose address is P.O. Box 3529, Portland, Oregon 97208-3529.

BURGARD 789 LLC, an Oregon limited liability company, whose address is 1750 NW Naito Parkway, Suite 106, Portland, Oregon 97209

MILLCAN PROPERTIES L.L.C., an Oregon limited liability company, whose address is 8316 N Lombard, Portland, Oregon 97201.

SCHNITZER STEEL INDUSTRIES, INC., an Oregon domestic business corporation, whose address is 299 SW Clay, Suite 350, Portland, Oregon 97201

LAMPROS PROPERTIES, LLC, an Oregon limited liability company, whose address is 9040 N Burgard Way, Portland Oregon 97203

CAMROSE PIPE CORPORATION, a Delaware corporation, whose address is 9040 N Burgard Way, Portland, Oregon 97203

PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation, whose address is 121 SW Salmon Street, Portland, Oregon 97204.

FS PROPERTIES LLC, Oregon limited liability company, whose address is 20200 SW Stafford Rd, Tualatin, Oregon 97062

GRANTEE: **THE CITY OF PORTLAND, OREGON**, a municipality of the state of Oregon, whose address is 1120 SW Fifth Avenue, Suite 800, Portland, Oregon 97204.

RECITALS

A. Grantee plans to construct an extended, elevated overcrossing above the existing railroad grade crossing on North Rivergate Boulevard between approximately July 1, 2019 and June 2021 ("Rivergate Overcrossing Project").

B. Grantors, collectively, constitute all of the owners of that certain real property over which the private road commonly referred to as Time Oil Road is located, as more particularly described below in Section 1.

C. Grantee desires to obtain the right for the public to temporarily use Time Oil Road as a detour due to the Grantee's closure of the nearby North Rivergate Boulevard during construction of the Rivergate Overcrossing Project.

D. In anticipation of the greater wear and tear on Time Oil Road due to increased detour traffic, Grantee is willing to improve Time Oil Road before its use as a detour route, and to repair it after its use as a detour route.

E. Grantors are willing to grant a temporary easement to Grantee over their respective properties as necessary to authorize the public to use Time Oil Road as a detour during Grantee's closure of North Rivergate Boulevard during construction on the terms and conditions set forth below.

AGREEMENT

1. GRANT

In consideration of the improvements required of Grantee by this Temporary Public Roadway Easement and Limited Rights of Entry (this "Easement"), the benefits that will accrue to Grantors as a result of the completed Rivergate Overcrossing Project, and other good and valuable consideration the receipt of which is hereby acknowledged, each Grantor hereby grants to Grantee, for the uses and on the conditions set forth below, including without limitation the satisfaction of Grantee's obligations under Section 5, a temporary non-exclusive easement in gross upon, over and through that portion of such Grantor's property underlying Time Oil Road, as more precisely described in **Exhibit A** and depicted in **Exhibit B** attached hereto (alternatively "Time Oil Road" or the "Easement Area"). There are no intended third-party beneficiaries of this Easement, and no member of the public authorized by Grantee to use the Easement Area shall have any right to enforce any provision of this Easement.

2. GRANTEE'S USE

2.1 General

Grantee shall have the right to use, and to allow the public to use, the Easement Area only for a detour for the Rivergate Overcrossing Project, and for no other purpose without the prior written consent of all Grantors.

3. TERM

Unless terminated earlier by mutual agreement of the parties, by Grantee's abandonment, or for default by Grantee, this Easement shall commence on the later of July 1, 2019 or the date on which Grantee receives written approval of the repairs and improvements required under Section 5 hereof, and shall expire automatically on the day the completed Rivergate Overcrossing Project is opened to the public ("Easement Period"), but in no event later than June 1, 2021. In the event of an abandonment of this Easement by Grantee or early termination, if requested by Grantors,

Grantee shall promptly execute and deliver to Grantors recordable documents sufficient to remove this easement as an encumbrance against the properties owned by each of the Grantors.

4. PRE- AND POST-EASEMENT RIGHT OF ENTRY

4.1 Pre-Easement Right of Entry

Grantors hereby grant Grantee the right to enter the Easement Area immediately following the effective date of this Easement and prior to the Easement Period for the limited purpose of performing Grantee's obligations under this Easement, including without limitation repair and improvement of Time Oil Road obligations as described in Section 5 below ("Pre-Easement Period").

4.2 Post-Easement Right of Entry

Grantors hereby grant Grantee the right to enter the Easement Area for thirty (30) calendar days following the expiration or termination of this Easement for the limited purpose of performing Grantee's obligations under this Easement, including without limitation the restoration of the Easement Area to substantially its prior condition and repairs to Time Oil Road required by this Easement ("Post-Easement Period").

4.3 Application of Easement Terms to Grantee's Access

Grantor and Grantor's Representatives' (defined below) use, occupation, and access to the Easement Area during the Pre-Easement Period and Post-Easement Period shall be in compliance with and subject to all applicable terms and conditions of this Easement, specifically including but not limited to Grantee's restoration and indemnification obligations.

5. PRE-EASEMENT REPAIRS TO TIME OIL ROAD

As a condition of exercising its rights under this Easement, Grantee, at its sole cost and expense, shall repair defects in the Time Oil Road pavement system reasonably detectable by visual inspection prior to the beginning of the Easement Period. Grantee shall maintain at least one lane of traffic on Time Oil Road. Grantee shall ensure that local access to businesses located along Time Oil Road is not unreasonably interrupted during the Pre-Easement Period. Until the conditions set forth in this Section 5 have been satisfied, Grantee shall not have the right to direct or otherwise authorize the public to use Time Oil Road and Grantee's detour signage directing the public to use Time Oil Road shall remain covered. These conditions shall be deemed satisfied only upon inspection and written approval by the Port of Portland and Schnitzer Steel Industries, as representatives of the Grantors. Grantee shall make improvements within the boundaries of Time Oil Road as shown in the attached **Exhibit B**.

6. TRAFFIC CONTROL

The parties are concerned about the back-up of southbound traffic on Time Oil Road at the intersection with North Burgard Way, and possibly elsewhere on Time Oil Road. In the exercise of its discretion, Grantee shall provide, or require its contractor to provide, temporary flaggers or other appropriate traffic control, which may include temporary traffic signals or stop signs, to

facilitate the flow of traffic through that intersection and elsewhere on Time Oil Road during the Easement Period, as well as at any time during the Pre-Easement Period and Post-Easement Period when Grantee is performing work in or otherwise using the Easement Area, provided that temporary flaggers or other appropriate traffic control, which may include temporary traffic signals or stop signs, must be provided when Grantee receives notice from a Grantor or Grantor's lessee by phone to Dan Layden at 503-823-2804 that a traffic delay of more than 20 minutes in duration and more than 400 feet in length has consistently been observed at the approximately the same time on any three consecutive work days. Upon notification, grantee will confirm the situation and if necessary take appropriate action. As between the Grantors and Grantee, Grantee shall be solely responsible during the Easement Period and any time during the Pre-Easement Period and Post-Easement Period when Grantee is performing work in or otherwise using the Easement Area for traffic safety on the Easement Area, including without limitation responsibility for traffic control and roadway conditions. Grantee shall prominently post signs, clearly legible to vehicle operators, at both entrances to Time Oil Road stating: "PRIVATE ROAD – PUBLIC ENTRY PERMITTED FOR NORTH RIVERGATE BOULEVARD DETOUR ONLY – DETOUR TRAFFIC MAY NOT STOP OR PARK EXCEPT IN EMERGENCIES."

7. REPAIR AND RESTORATION OF TIME OIL ROAD

7.1 Grantee Obligation to Repair and Restore

Within thirty (30) calendar days after the expiration or termination of this Easement, Grantee shall repair and restore Time Oil Road as follows: weather permitting, Grantee shall maintain at least one lane of traffic on Time Oil Road during construction of the improvements required by this Easement, and shall ensure that local access to businesses located along Time Oil Road is not unreasonably interrupted during the Post-Easement period.

7.1.1 Repairs

Grantee shall repair all defects, including without limitation, all significant cracks and potholes in the Time Oil Road pavement system, reasonably detectable by visual inspection. Grantee also shall repair any damage to the lighting system, the drainage system, or other components of the Time Oil Road system, if the damage was caused by traffic using this Easement during the Easement term, unless it is judicially determined that such damage was solely caused by the Grantors, their agents, employees or invitees.

7.1.2 Pavement

Grantee shall install a two-inch asphaltic concrete overlay for the full length and width of Time Oil Road. The edge of pavement shall be as described in the attached **Exhibit A**. Notwithstanding subsection 7.1, Grantee may install this overlay at any time of its choosing during the term of the Pre-Easement Period, the Easement Period, or the Post-Easement Period, provided that the Pre-Easement repairs required by Section 5 have been completed by Grantee. If Grantee installs the overlay during this Easement period, Grantee shall ensure that the installation work is performed on a Saturday. The parties acknowledge that use of this Easement by detour traffic without the overlay will cause deterioration of the road. If the overlay is installed after detour

traffic has started using this Easement, Grantee shall inspect and repair any structural defects in the Time Oil Road pavement system that are reasonably detectable by visual inspection and that develop after repairs required by Section 5 are completed by Grantee.

8. REMEDIES

If Grantee fails to discharge its obligations to repair and restore under this Easement, Grantors, or any one or more of them, may exercise whatever remedies they may have against Grantee for breach of contract. Those remedies include without limitation the right, after written notice of the breach(es) to the Grantee with a reasonable opportunity for the Grantee to cure, to perform or contract for the performance of the omitted work, and to recover the reasonable costs of performance from Grantee.

9. PRESERVATION OF ADJACENT WETLANDS

Grantee shall take all reasonable precautions to ensure that its activities, and those of its contractors, under this Easement and the rights of entry do not cause adverse effects on the mitigation wetlands located adjacent to Time Oil Road, shall immediately report to the Port of Portland any release of pollutants or other event that may adversely affect the wetlands, and shall act promptly to mitigate adverse effects and restore the wetland to substantially its pre-event condition. Grantee shall ensure that Grantee's vehicles are not driven into the wetland area, and that equipment and materials are not stored in the wetland area. Grantee shall ensure best management practices, including without limitation silt fencing, are employed to prevent erosion or loose soil from entering the adjacent wetlands. The wetlands constitute habitat for western painted turtles, *Chrysemys picta bellii*, a species listed as "sensitive" by the Oregon State Fish and Wildlife Commission. These semi-aquatic turtles may be active on land at any time between March and October of each year. Grantee shall instruct everyone working in the vicinity of the Easement Area to be alert for the presence of these turtles between March and October, and to take all reasonable actions to avoid harming them.

10. RESTORATION OF EASEMENT AREA

In the event the Easement Area or any landscaping or other improvement located within or adjacent to the Easement Area is disturbed by the Grantee while exercising any rights granted herein or any associated Grantee construction, Grantee shall promptly remove any debris and restore the Easement Area including any disturbed landscaping or other improvement to a condition not less than the condition prior to the exercise of such rights. This provision applies to the activities of the Grantee and its contractor, not the general public.

11. COMPLIANCE WITH LAWS

Grantee shall ensure that activities conducted under this Easement by Grantee, its agents, contractors, and employees comply with all applicable state, federal, and local laws, regulations, agency guidance documents, Port of Portland rules and regulations, and terms of any permits applicable to the Easement Area or Grantors' property, including without limitation environmental and natural resource protection laws and regulations. Grantee shall be solely responsible for

obtaining and complying with any permits required for activities it undertakes under this Easement, including without limitation any construction dewatering and storm water permits that may be required.

12. INDEMNIFICATION

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 9 and the Oregon Tort Claims Act (ORS 30.260 to 30.300), Grantee agrees to indemnify, hold harmless and defend each of the Grantors, together with each Grantors' respective commissioners, directors, officers, members, managers, and employees (individually and collectively, "Indemnified Parties") from and against and to reimburse the Indemnified Parties for all claims, actions, damages, injuries, costs, losses, or expenses incidental to the investigation and defense thereof, arising out of the acts or omissions of, or use or occupancy of the Easement Area, by Grantee, its agents, and employee. Grantee shall require its contractors performing work on the Easement Area or on the Rivergate Overcrossing Project to indemnify, hold harmless and defend each of the Grantors and Indemnified Parties. The foregoing contractual indemnity is in addition to, not in lieu of, any available common law indemnity, and, notwithstanding the foregoing contractual indemnity, Grantee agrees that each of the Grantors and Indemnified Parties is entitled to the full extent of any common law indemnity to which it would be entitled in the absence of a contractual indemnity. Under this Easement, Grantee's total liability to Grantors, whether arising out of tort, contract, indemnity, or any other source, shall not exceed the statutory limit on Grantee's liability for personal injury, death, property damage or destruction under the Oregon Tort Claims Act.

13. INSURANCE

Grantors recognize that Grantee is self-insured. Grantee shall require any contractor employed by the Grantee to perform the activities required or allowed under this Easement to (1) carry commercial general liability insurance, and (2) name each of the Grantors and Indemnified Parties as additional insureds under each of the contractor's commercial general liability policies.

14. GRANTORS' USE

Grantors reserve the right to use the Easement Area for any lawful purpose not inconsistent with Grantee's permitted use, including the installation, maintenance, repair, removal, replacement or relocation of underground utilities and services, access, paths, roadways or driveways, parking lots, shallow-rooted landscaping, and continued operation and development of Grantors' properties.

15. MEDIATION

If any dispute should arise between Grantors and Grantee concerning this Easement or the parties' obligations or activities under this Easement, the aggrieved party shall provide written a notice of dispute to the other parties and the dispute shall be submitted to mediation before a mediator agreed to and compensated equally by the parties, prior to commencement of arbitration or litigation. If the parties fail to agree on a mediator within ten (10) business days following delivery of the notice of dispute, any party may apply to the presiding judge of the Multnomah County Circuit Court for

the designation of a mediator, and that designation of a mediator shall be binding on all parties. If a dispute is not resolved through mediation within sixty (60) days following delivery of the written notice of dispute, the parties are free to pursue whatever legal or equitable remedies may be available to them. Nothing in this section shall be deemed to preclude the parties from agreeing to post-mediation arbitration.

16. ATTORNEY FEES

If suit or action is instituted in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorney fees or, in the event of appeal, as allowed by the appellate court.

17. BINDING

This Easement shall be and hereby is made a part of each conveyance of all or any part of the Easement Area and shall run with the land as to all property burdened by this Easement. As used in this Easement, the terms "Grantee" and "Grantors" shall include the above named Grantee and Grantors, and such parties' successors and assigns.

18. ASSIGNMENT

Grantee may not assign any of its rights under this Easement without the prior written consent of all Grantors.

19. NOTICES

All notices required under this Easement shall be deemed to be properly served if sent by certified mail, return receipt requested, or delivered by hand to the last address furnished by the parties hereto. Until hereafter changed by the parties by notice in writing, notices shall be sent to the following addresses:

The City of Portland
Office of Transportation
1120 SW Fifth Ave., Ste 800
Portland, OR 97204
Attn: Dan Layden

The Port of Portland
Property & Development Services
7200 NE Airport Way
Portland, OR 97208
Attn: Patti Freeman

Burgard 789 LLC
1750 NW Naito Parkway, Suite 106
Portland, OR 97209
Attn: John Dempsey

Millican Properties L.L.C.
8316 N Lombard
Portland, OR 97201
Attn: Andrew Millican

Schnitzer Steel Industries, Inc.
299 SW Clay, Suite 350
Portland, OR 97201
Attn: Art Poole

Portland General Electric Company
121 SW Salmon St.
Portland, OR 97204
Attn: Property Services Department

Lampros Properties, LLC
9040 N Burgard Way
Portland, OR 97203
Attn: Marcus Lampros

Camrose Pipe Corporation
9040 North Burgard Way
Portland, OR 97203
Attn: Bruce Iredale

FS Properties LLC
20200 SW Stafford Rd.
Tualatin, OR 97062
Attn: Rick Franklin

Any notice delivered by certified mail, return receipt requested, shall be deemed received by the addressee on the day of actual receipt as provided on the required return receipt confirmation.

20. CAPACITY TO EXECUTE

The Grantors and Grantee all warrant and represent to one another that this Easement constitutes a legal, valid and binding obligation of that party. The individuals executing this Easement personally warrant that they have full authority to execute this Easement on behalf of the party for whom they purport to be acting.

21. COUNTERPARTS; SIGNATURES

This Permit, and any other amendment to the Permit agreed by the parties, may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. Delivery of the executed Permit, and any future amendment, may be accomplished by facsimile transmission or transmission by email in .pdf or similar format, in which case the facsimile or electronic copy shall be deemed an executed original counterpart of this Permit. Electronic signatures, together with copies of signatures transmitted by facsimile or electronic means, shall be deemed original signatures for all purposes.

22. INTEGRATION

This Easement, including the Recitals and Exhibits which are expressly incorporated herein, constitutes the parties' entire agreement regarding the use of Time Oil Road as a detour, and supersedes all prior and contemporaneous communications and agreements regarding that subject. All terms and conditions of this Easement, including without limitation Section 11, shall be in full force and effect at all times during which Grantee has the right or obligation to use the Easement Area for any purpose allowed or required under this Easement.

23. AMENDMENT

This Easement may not be amended except by written agreement of all parties.

In witness whereof, the parties have hereunto set their hands and seals on the date that appears below.

PORT OF PORTLAND

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF OREGON

ss.

County of Multnomah

This instrument was acknowledged before me on _____, 2019 by _____, as _____ of the Port of Portland, a port district of the State of Oregon.

Notary Public for Oregon

(Seal)

BURGARD 789 LLC

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of

Burgard 789 LLC, an _____ corporation.

Notary Public for Oregon

(Seal)

MILlicAN PROPERTIES L.L.C.

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of

Millican Properties L.L.C., a _____ corporation.

Notary Public for Oregon

(Seal)

SCHNITZER STEEL INDUSTRIES, INC.

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of

Schnitzer Steel Industries, Inc. a _____ corporation.

Notary Public for Oregon

(Seal)

LAMPROS PROPERTIES, LLC

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of

Lampros Properties, LLC, a _____ corporation.

Notary Public for Oregon

(Seal)

CAMROSE PIPE CORPORATION

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of
Camrose Pipe Corporation, a _____ corporation.

Notary Public for Oregon

(Seal)

PORTLAND GENERAL ELECTRIC COMPANY

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of
Portland General Electric Company, a _____ corporation.

Notary Public for Oregon

(Seal)

Notary Public for _____

My commission expires: _____

FS PROPERTIES LLC

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF _____

ss.

County of _____

This instrument was acknowledged before me on _____, 2019 by
_____, as _____ of

FS Properties LLC, a _____ corporation.

Notary Public for Oregon

(Seal)

CITY OF PORTLAND

Date: _____, 2019

By: _____

Name: _____

As Its: _____

STATE OF OREGON

ss.

County of Multnomah

This instrument was acknowledged before me on _____, 2019 by _____, as _____ of the City of Portland, a municipality of the State of Oregon.

Notary Public for Oregon

(Seal)

**EXHIBIT A
ROAD EASEMENT DESCRIPTION**

A STRIP OF LAND SITUATED IN SECTION 35, TOWNSHIP 2 NORTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, BEING A BEST FIT DESCRIPTION OF TIME OIL ROAD BASED ON EXISTING EDGE OF ASPHALTIC CONCRETE PAVEMENT, THE OUTBOUNDS IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE PAVEMENT INTERSECTION OF N RIVERGATE BLVD. AND TIMEOIL ROAD, WHICH IS NORTH 00°00'00" EAST A DISTANCE OF 1,034.13 FEET AND SOUTH 90°00'00" WEST A DISTANCE OF 4,038.79 FEET FROM THE MOST NORTHERLY, NORTHEAST CORNER OF THE WILLIAM GATTON DLC No. 43, BEING A FOUND 4 ¼" BRASS DISC IN CONCRETE; THENCE SOUTH 28°08'17" EAST A DISTANCE OF 60.04 FEET TO THE BEGINNING OF A NON-TANGENT 6.15 FOOT RADIUS CURVE LEFT (THE RADIUS POINT OF WHICH BEARS SOUTH 61°51'43" WEST); THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 148°41'34" (THE LONG CHORD OF WHICH BEARS SOUTH 77°30'56" WEST A DISTANCE OF 11.84 FEET), AN ARC DISTANCE OF 15.96 FEET TO THE END THEREOF; THENCE SOUTH 03°10'10" WEST A DISTANCE OF 53.75 FEET TO THE BEGINNING OF A TANGENT 10.04 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 124°30'36" (THE LONG CHORD OF WHICH BEARS SOUTH 59°05'08" EAST A DISTANCE OF 17.77 FEET) AN ARC DISTANCE OF 21.82 FEET TO THE END THEREOF; THENCE NORTH 58°39'34" EAST A DISTANCE OF 19.78 FEET TO THE BEGINNING OF A TANGENT 11.07 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 86°47'51" (THE LONG CHORD OF WHICH BEARS NORTH 15°15'38" EAST A DISTANCE OF 15.21 FEET) AN ARC DISTANCE OF 16.77 FEET TO A POINT OF NON-TANGENCY; THENCE SOUTH 28°08'17" EAST A DISTANCE OF 50.98 FEET TO THE BEGINNING OF A NON-TANGENT 39.30 FOOT RADIUS CURVE LEFT (THE RADIUS POINT OF WHICH BEARS SOUTH 20°16'23" WEST); THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 108°42'49" (THE LONG CHORD OF WHICH BEARS SOUTH 55°54'59" WEST A DISTANCE OF 63.88 FEET) AN ARC DISTANCE OF 74.57 FEET TO THE END THEREOF, THENCE SOUTH 01°33'34" WEST A DISTANCE OF 357.28 FEET TO THE BEGINNING OF A TANGENT 422.46 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 80°30'01" (THE LONG CHORD OF WHICH BEARS SOUTH 38°41'27" EAST A DISTANCE OF 545.92 FEET) AN ARC DISTANCE OF 593.55 FEET TO THE END THEREOF; THENCE SOUTH 78°56'27" EAST A DISTANCE OF 881.85 FEET TO A POINT; THENCE SOUTH 78°58'48" EAST A DISTANCE OF 1,048.50 FEET TO A POINT; THENCE SOUTH 79°24'11" EAST A DISTANCE OF 520.93 FEET TO THE BEGINNING OF A TANGENT 182.70 FOOT RADIUS CURVE RIGHT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 93°43'17" (THE LONG CHORD OF WHICH BEARS SOUTH 32°32'33" EAST A DISTANCE OF 266.63 FEET) AN ARC DISTANCE OF 298.85 FEET TO THE END THEREOF; THENCE SOUTH

14°19'06" WEST A DISTANCE OF 135.11 FEET TO THE BEGINNING OF A TANGENT 718.84 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 29°40'25" (THE LONG CHORD OF WHICH BEARS SOUTH 00°31'08" EAST A DISTANCE OF 368.14 FEET) AN ARC DISTANCE OF 372.29 FEET TO THE END THEREOF; THENCE SOUTH 15°21'19" EAST A DISTANCE OF 315.87 FEET TO THE BEGINNING OF A TANGENT 240.51 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 25°04'09" (THE LONG CHORD OF WHICH BEARS SOUTH 27°53'23" EAST A DISTANCE OF 104.40 FEET) AN ARC DISTANCE OF 105.23 FEET TO THE BEGINNING OF A TANGENT 464.64 FOOT RADIUS CURVE RIGHT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 08°17'09" (THE LONG CHORD OF WHICH BEARS SOUTH 36°16'53" EAST A DISTANCE OF 67.14 FEET) AN ARC DISTANCE OF 67.19 FEET TO A POINT OF NON-TANGENCY; THENCE SOUTH 13°57'34" EAST A DISTANCE OF 320.79 FEET TO A POINT; THENCE SOUTH 26°58'20" EAST A DISTANCE OF 58.78 FEET TO A POINT; THENCE SOUTH 70°11'10" EAST A DISTANCE OF 48.04 FEET TO A POINT; THENCE NORTH 72°56'54" EAST A DISTANCE OF 49.40 FEET TO A POINT; THENCE SOUTH 55°21'17" WEST A DISTANCE OF 217.38 FEET TO A POINT; THENCE NORTH 29°44'22" EAST A DISTANCE OF 53.95 FEET TO A POINT; THENCE NORTH 06°07'34" WEST A DISTANCE OF 25.86 FEET TO A POINT; THENCE NORTH 18°44'27" WEST A DISTANCE OF 25.59 FEET TO A POINT; THENCE NORTH 12°10'33" WEST A DISTANCE OF 29.64 FEET TO A POINT; THENCE NORTH 04°41'31" WEST A DISTANCE OF 33.90 FEET TO A POINT; THENCE NORTH 09°43'51" WEST A DISTANCE OF 118.98 FEET TO A POINT; THENCE NORTH 11°08'43" WEST A DISTANCE OF 93.15 FEET TO THE BEGINNING OF A TANGENT 468.75 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 12°51'36" (THE LONG CHORD OF WHICH BEARS NORTH 17°34'31" WEST A DISTANCE OF 104.99 FEET) AN ARC DISTANCE OF 105.21 FEET TO THE END THEREOF; THENCE NORTH 24°00'19" WEST A DISTANCE OF 157.16 FEET TO A POINT; THENCE NORTH 15°55'26" WEST A DISTANCE OF 326.80 FEET TO THE BEGINNING OF A TANGENT 739.47 FOOT RADIUS CURVE RIGHT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 30°50'43" (THE LONG CHORD OF WHICH BEARS NORTH 00°30'04" WEST A DISTANCE OF 393.30 FEET) AN ARC DISTANCE OF 398.09 FEET TO THE END THEREOF; THENCE NORTH 14°55'17" EAST A DISTANCE OF 111.12 FEET TO THE BEGINNING OF A TANGENT 175.00 FOOT RADIUS CURVE LEFT; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 94°23'19" (THE LONG CHORD OF WHICH BEARS NORTH 32°16'22" WEST A DISTANCE OF 256.78 FEET) AN ARC DISTANCE OF 288.29 FEET TO THE END THEREOF; THENCE NORTH 79°28'02" WEST A DISTANCE OF 634.90 FEET TO A POINT; THENCE NORTH 78°52'54" WEST A DISTANCE OF 860.14 FEET TO A POINT; THENCE NORTH 78°56'10" WEST A DISTANCE OF 902.72 FEET; THENCE NORTH 77°46'49" WEST A DISTANCE OF 63.46 FEET TO THE BEGINNING OF A TANGENT 420.50 FOOT RADIUS CURVE; THENCE ON SAID CURVE THROUGH A CENTRAL ANGLE OF 79°11'42" (THE LONG CHORD OF WHICH BEARS NORTH 38°10'58" WEST A DISTANCE OF 536.04 FEET) AN ARC DISTANCE OF 581.22 FEET TO THE END THEREOF; THENCE NORTH 01°24'53" EAST A DISTANCE OF 552.92 FEET TO THE POINT OF BEGINNING, CONTAINING 157,003 SQUARE FEET OR 3.60 ACRES MORE OR LESS.

THE BASIS OF BEARING OF THIS LEGAL DESCRIPTION WAS BASED ON THE OREGON NORTH ZONE COORDINATE SYSTEM.

Exhibit B

Please return to:

City of Portland
Bureau of Transportation
1120 SW 5th Ave, Ste 500
Portland, OR 97204

2019-029

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement ("Agreement") is made by and between The Port of Portland, a Port district of the State of Oregon ("Grantor") and The City of Portland, a municipality of the State of Oregon ("Grantee"). Grantor and Grantee are sometimes hereinafter referred to collectively as the "Parties" and each individually as a "Party."

RECITALS

- A. Grantee plans to construct an extended, elevated overcrossing above the existing railroad grade crossing on North Rivergate Boulevard ("Project").
- B. Grantor is the owner of that certain real property at 9619 N Rivergate Blvd ("Grantor's Property").
- C. Grantee wishes to acquire a temporary construction easement over a portion of the Grantor's Property as necessary to accommodate Grantee's construction of the Project.
- D. Grantor is willing to grant a temporary easement to Grantee over a portion of Grantor's Property to use of said portion of Grantor's Property for construction purposes related to the construction of the Project, on the terms and conditions set forth below.

NOW THEREFORE, in consideration of the promises and covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Recitals. The Parties acknowledge that the foregoing Recitals are true and correct.
2. Grant of Easement. Grantor does hereby grant and convey to Grantee, its successors and assigns, a temporary non-exclusive easement on and over a portion of Grantor's Property in the location described within the attached **Exhibit A** and more particularly depicted on the attached **Exhibit B** ("Easement Area").
3. Use of Easement Area. Subject to the terms and conditions of this Agreement, Grantee, its officers, agents, employees, and contractors will have full and free use of the Easement Area for the purposes of competing Project construction. Grantee's use of the Easement Area will not interfere, as reasonably determined by Grantor, with the operations or functions of the Grantor's Property or the occupation of Grantor's Property by any tenants in possession thereof.
4. Installation of Alternate Gate For Tenant Access. Grantee shall install a sliding gate on the north fence surrounding the perimeter of that portion of Grantor's Property located at 9619 N Rivergate Boulevard ("Leased Yard"), as more particularly shown on

Exhibit C ("Alternate Gate"). The Alternate Gate shall be constructed in a good and workman like manner, shall be similar in nature to the existing gate located along the western portion of the Leased Yard, and shall be designed and installed so as to provide functionally equivalent means of ingress and egress for the tenant occupying the Leased Yard. Due to the permanent nature of the Alternate Gate, the Alternate Gate shall be permitted to remain on the Property, under ownership and maintenance of Grantor, following the termination of this Agreement. The Alternate Gate shall be installed by Grantee in a timely manner so as to provide the tenant occupying the Leased Yard with viable alternative access to the Leased Yard while the existing gate is inaccessible during the Project.

5. **Consideration.** Consideration for this Agreement shall be deemed to be the mutual benefit of completion of the construction contemplated hereunder.
6. **Term.** This Agreement and Grantee's rights hereunder will commence no earlier than June 1, 2019 and will terminate automatically, without any action by Grantor or Grantee, no later than May 31, 2022. This Agreement shall commence ten (10) days following the date on which Grantee provides to Grantor, written notice of its intent to commence construction necessitating its use of the Easement Area ("Commencement Date"). Grantee and/or its agent or contractors may, at any time after the Commencement Date and prior to termination, enter upon the Easement Area for the uses described in this Agreement.
7. **Liens.** Grantee will use its best efforts to ensure that no mechanics, materialmen, or other liens are filed against Grantor's Property as a result of the exercise of Grantee's rights under this Agreement. If such lien is filed, Grantee will cause any such mechanics, materialmen, or other liens to be promptly released or, failing such release, Grantee shall provide Grantor with a performance bond or other acceptable surety.
8. **Compliance with Laws.** Grantee shall ensure that activities conducted under this Agreement by Grantee, its agents, and employees (collectively "Grantee's Representatives") and any of Grantee's contractors comply with all applicable state, federal, and local laws, regulations, agency guidance documents, The Port of Portland rules and regulations, and terms of any permits applicable to the Easement Area or Grantor's Property, including without limitation environmental and natural resource protection laws and regulations. Grantee shall be solely responsible for obtaining and complying with any permits required for activities it undertakes under this Agreement, including without limitation any construction dewatering and storm water permits that may be required.
9. **Indemnity.**
 - 9.1 **Grantee's Indemnity Obligations.** Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 9 and the Oregon Tort Claims Act (ORS 30.260 to 30.300), Grantee agrees to indemnify, hold harmless and defend Grantor, together with each of Grantor's commissioners, directors, officers, and employees (individually and collectively, "Indemnified Parties") from and against, and to reimburse the Indemnified Parties for, all claims, actions, damages, injuries, costs, losses, or expenses incidental to the investigation and defense thereof, arising out of

the acts or omissions of, or use or occupancy of the Easement Area, by Grantee or Grantee's Representatives. Grantee shall also require any contractor accessing or using the Easement Area or performing work on the Project to indemnify, hold harmless and defend Grantor and the Indemnified Parties. The foregoing contractual indemnity is in addition to, not in lieu of, any available common law indemnity, and, notwithstanding the foregoing contractual indemnity, Grantee agrees that Grantor and each of the Indemnified Parties is entitled to the full extent of any common law indemnity to which it would be entitled in the absence of a contractual indemnity. The provisions of this paragraph will survive the termination of this Agreement. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, Grantee shall hold harmless, indemnify and defend Grantor and its officers, employees and agents from and against (i) all claims, demands, penalties, and causes of action of any kind or character, not including attorney's fees, in favor of any person on account of personal injury, death, damage to property, or violation of law, which arise out of or result from the acts or omissions of Grantee or its officers, employees, or agents within the Easement Area. The provisions of this paragraph will survive the termination of this Agreement.

9.2 Grantor's Indemnity Obligations. Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 9 and the Oregon Tort Claims Act (ORS 30.260 to 30.300), Grantor shall hold harmless, indemnify and defend Grantee and its officers, employees and agents from and against all claims, demands, penalties, and causes of action of any kind or character, not including attorney's fees, in favor of any person on account of personal injury, death, damage to property, or violation of law, which are caused by the negligent acts or omissions of Grantor or its officers, employees, or agents within the Easement Area occurring during the term of the Easement. The provisions of this paragraph will survive the termination of this Agreement.

- 10. Insurance.** Grantors recognize that Grantee is self-insured. Grantee shall require any contractor employed by the Grantee to perform the activities required or allowed under this Agreement to: (1) carry commercial general liability insurance, auto liability and employer's liability insurance policies, each providing coverage amounts of not less than TWO MILLION DOLLARS AND NO/100 (\$2,000,000.00), together with workers' compensation insurance in the amount required by applicable law; and (2) name the Grantor and each of the Indemnified Parties as additional insureds under each of the contractor's commercial general liability policies.
- 11. Termination for Breach.** The Grantor shall have the right to terminate this Agreement, in whole or in part, in the event Grantee breaches this Agreement and such breach remains uncured for thirty (30) days following Grantor's delivery of written notice of such breach. If Grantee's breach remains uncured, termination shall automatically be effective as of the expiration of such thirty (30) day period.
- 12. Dispute Costs.** In the event that either Party be required to bring any action to enforce any of the provisions of this Agreement, or be required to defend any action brought by the other Party with respect to this Agreement, each Party will be solely responsible

for the payment of its own legal expenses, including but not limited to, attorney's fees and costs.

13. **Notices.** All notices required under this Agreement shall be deemed to be properly served and delivered if sent by certified mail, return receipt requested, delivered by a reputable overnight carrier, or delivered by hand to the last address furnished by the Party to which the notice is being sent. Until hereafter changed by the Parties by notice in writing, notices shall be sent to the following addresses:

To Grantor: The Port of Portland
 Business Development & Properties
 7200 NE Airport Way
 Portland, OR 97218
 Attn: Legal Department

To Grantee: City of Portland
 Attn: Dan Layden
 Bureau of Transportation
 1120 SW 5th Ave, Ste 800
 Portland, OR 97204

14. **Severability.** If any terms, covenant or condition of the Agreement or the application thereof to any person or circumstance will to any extent be invalid or unenforceable, then the remainder of the Agreement or the application of such term, covenant or condition to any other person or circumstance will not be affected thereby, and each such term, covenant and condition will be valid and enforceable to the fullest extent permitted by law.
15. **Governing Law.** This Agreement will be governed by the laws of the State of Oregon.
16. **Authority.** Execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of the Parties hereto.
17. **Amendments and Waivers.** This Agreement may not be amended except by written agreement of all parties. No waiver of any right or obligation hereunder will be effective unless reduced to writing and signed by a duly authorized representative of the Parties.
18. **Time.** Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be that next following regular business day.

[Signature Page Follow]

This Agreement is made and accepted effective this _____, 2019.

GRANTEE

GRANTOR

CITY OF PORTLAND

THE PORT OF PORTLAND

By: _____

By: 

Print Name: _____

Print Name: Curtis Robinhold

As Its: _____

As Its: Executive Director

Date: _____

Date: 4/17/19

APPROVED AS TO FORM:

APPROVED FOR LEGAL SUFFICIENCY
FOR THE PORT:

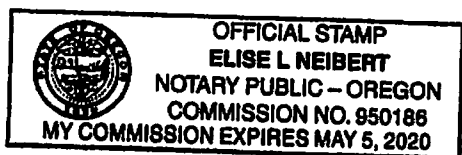
By: _____
City Attorney

By: 
Counsel for Port of Portland

ACKNOWLEDGMENTS

STATE OF OREGON)
)
COUNTY OF MULTNOMAH)

This Temporary Construction Easement Agreement was acknowledged before me on April 17, 2019, by Curtis Rebinheld as Executive Director of the Port of Portland, a port district of the State of Oregon.



Elise L. Neibert
Notary Public for Oregon

My Commission Expires: May 5, 2020

STATE OF OREGON)
)
COUNTY OF MULTNOMAH)

This Temporary Construction Easement Agreement was acknowledged before me on _____, 2019, by _____ as _____ of the City of Portland, a municipality of the State of Oregon.

Notary Public for Oregon

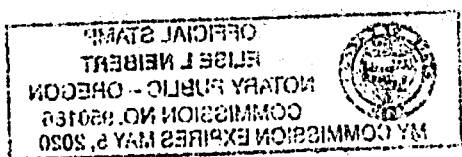
My Commission Expires: _____

Notary Public

Notary Public

Notary Public

[Handwritten signature]



Notary Public

Temporary Construction Easement

A parcel of land lying in Lot 2 of "Rivergate Industrial District", a recorded plat in Multnomah County Plat Records, City of Portland, Multnomah County, Oregon and being a portion of that property described in that Quitclaim Deed to Port of Portland, dated April 3, 2001, recorded April 20, 2001 as Document No. 2001-056183, Multnomah County Deed Records; the said parcel being that portion of said property lying Northerly of a line at right angles to the center line of N. Rivergate Blvd. (N. Bonneville Way) at Engineer's Station 22+63.00 and included in a strip of land variable in width, lying on the Northerly side of said center line, which center line is described as follows:

Beginning at Engineer's center line Station 00+00.00, said station being the centerline intersection of said N. Rivergate Blvd. (N. Bonneville Way) and N. Lombard Street, being in Section 35, Township 2 North, Range 1 West, W.M.; thence North 76°48'09" West 2561.20 feet to Engineer's center line Station 25+61.20, said point being the point of spiral to the right; thence along the spiral to the right having a central radius of 301.05 feet, a central curve length of 271.97 feet and spiral curve data having a length of 140.00 feet and a delta of 51°45'41" to station 31+13.08.

The Northerly line of said easement is described as follows:

<u>Station</u>	<u>to</u>	<u>Station</u>	<u>Width on Northerly side of center line</u>
22+63.00		22+54.26	42.97 feet along the arc of a 252.4' radius curve to the right through a central angle of 12°27'32" to 305.67 feet
22+54.26		22+14.10	305.67 feet in a straight line to 312.75 feet
22+14.10		22+20.72	312.75 feet in a straight line to 350.26 feet
22+20.72		22+93.00	350.26 feet in a straight line to 337.51 feet

Bearings are based on the Record Survey Data Multnomah County Survey Records 58011

This parcel of land contains 2500 square feet, more or less, outside the existing right of way.

Temporary Construction Easement

Together with a second temporary construction easement, the Northerly line of which is described as follows:

<u>Station</u>	<u>to</u>	<u>Station</u>	<u>Width on Northerly side of center line</u>
20+96.50		22+34.00	62.64 feet in a straight line to 62.72 feet

Bearings are based on the Record Survey Data Multnomah County Survey Records 58011
This parcel of land contains 2857 square feet, more or less, outside the existing right of way.

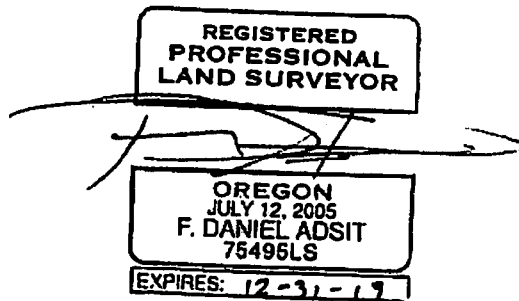
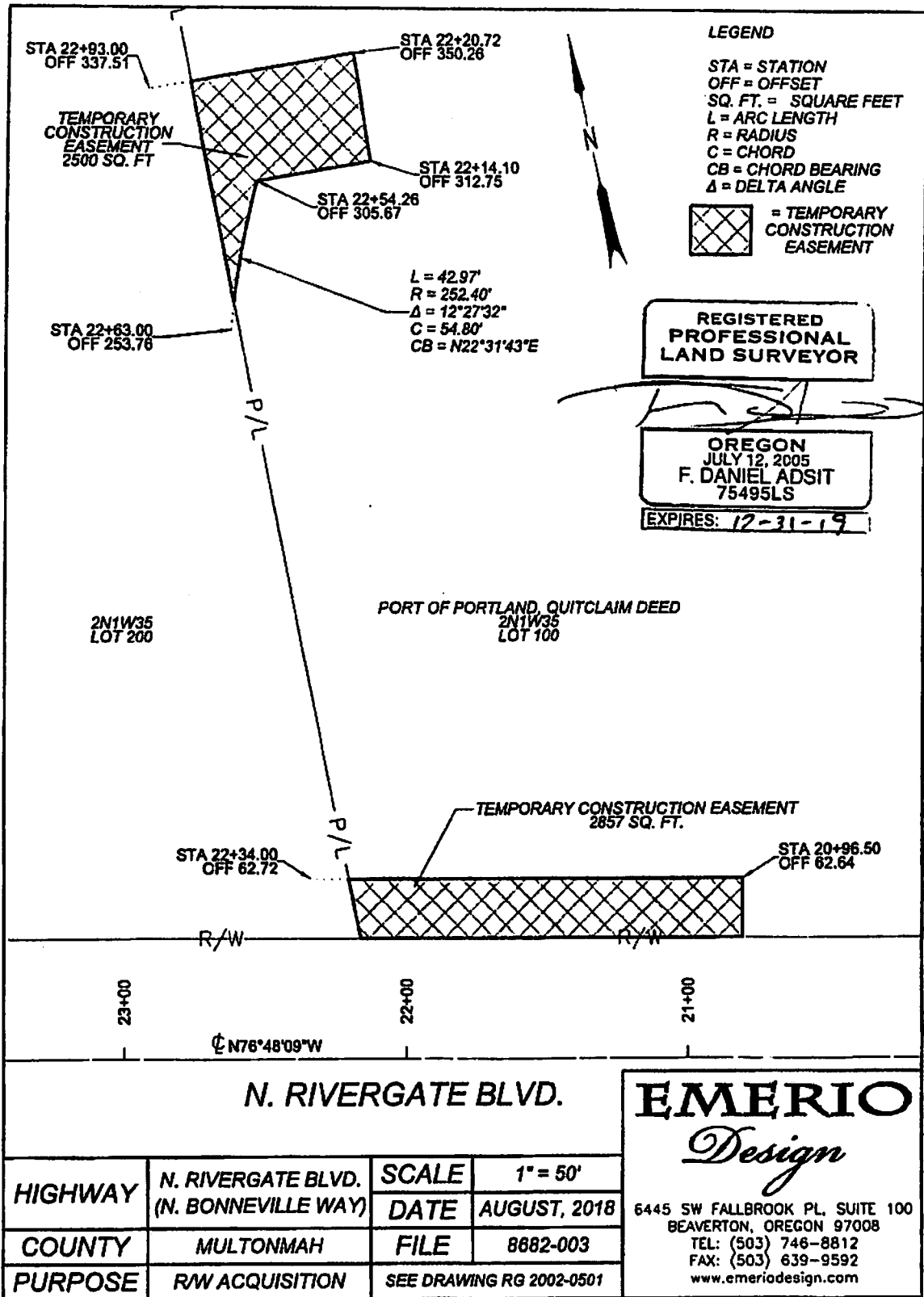


EXHIBIT B



LEGEND

- STA = STATION
- OFF = OFFSET
- SQ. FT. = SQUARE FEET
- L = ARC LENGTH
- R = RADIUS
- C = CHORD
- CB = CHORD BEARING
- Δ = DELTA ANGLE



REGISTERED PROFESSIONAL LAND SURVEYOR

[Signature]
OREGON
 JULY 12, 2005
F. DANIEL ADSIT
 75495LS
 EXPIRES: 12-31-19

2N1W35
LOT 200

PORT OF PORTLAND, QUITCLAIM DEED
 2N1W35
LOT 100

23+00

22+00

21+00

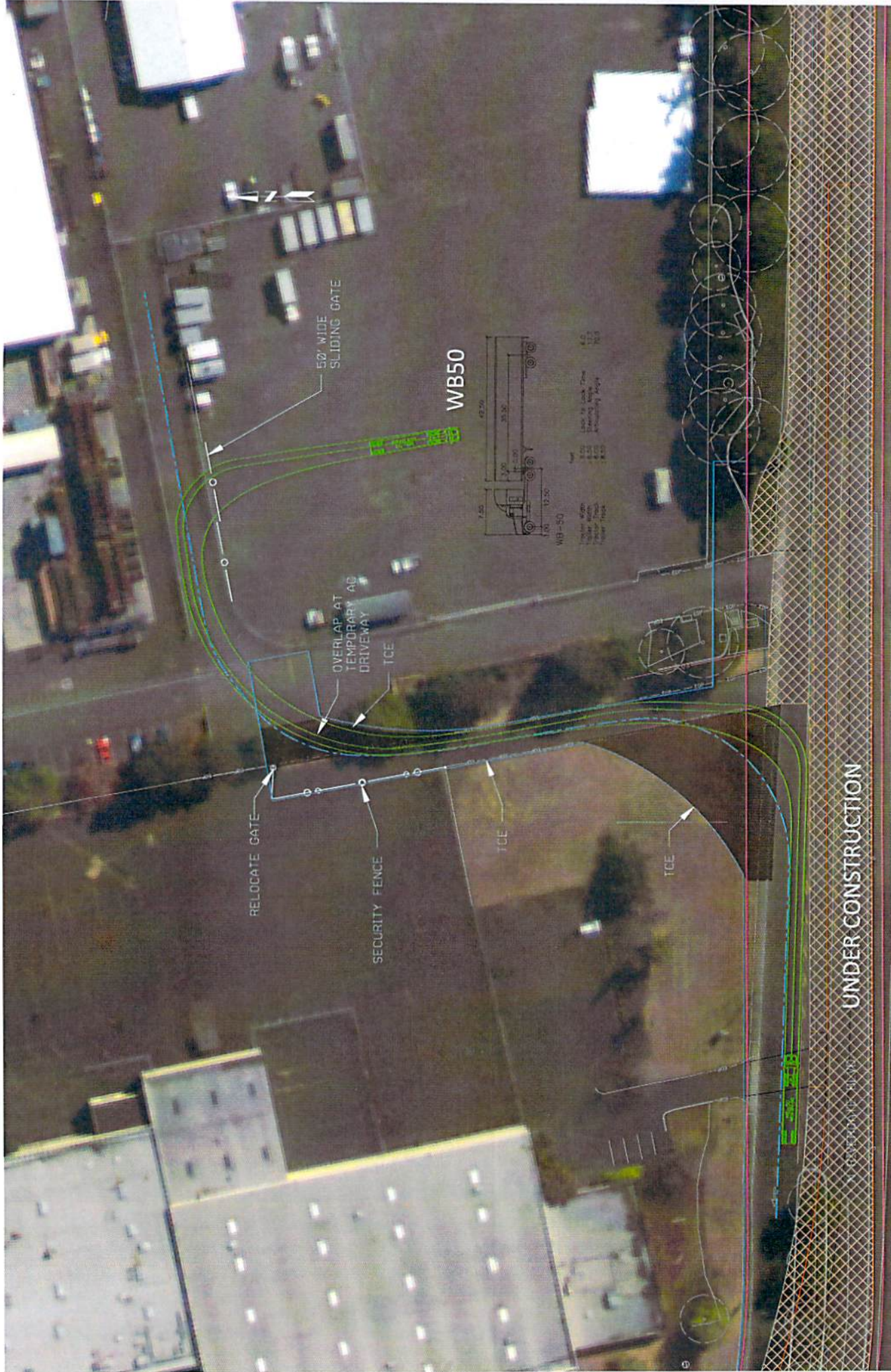
☉ N76°48'09"W

N. RIVERGATE BLVD.

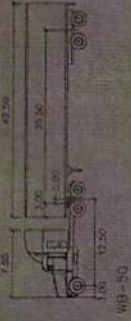
EMERIO
Design

HIGHWAY	N. RIVERGATE BLVD. (N. BONNEVILLE WAY)	SCALE	1" = 50'
		DATE	AUGUST, 2018
COUNTY	MULTONMAH	FILE	8882-003
PURPOSE	R/W ACQUISITION	SEE DRAWING RG 2002-0501	

6445 SW FALLBROOK PL, SUITE 100
 BEAVERTON, OREGON 97008
 TEL: (503) 746-8812
 FAX: (503) 639-9592
 www.emeriodesign.com



WB50



50' WIDE
SLIDING GATE

RELOCATE GATE

SECURITY FENCE

OVERLAP AT
TEMPORARY AD
DRIVEWAY

TCE

TCE

TCE

UNDER CONSTRUCTION



WB50

50' WIDE SLIDING GATE

RELOCATE GATE

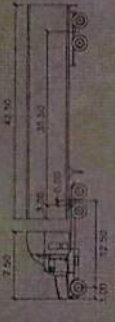
OVERLAP AT TEMPORARY AD DRIVEWAY

SECURITY FENCE

TCE

TCE

UNDER CONSTRUCTION



Acknowledgement and Election Form
City of Portland, Bureau of Transportation

Property Owner: Port of Portland
Site Address: 9619 N Rivergate Blvd, Portland, OR 97203
RW File # 8682-3

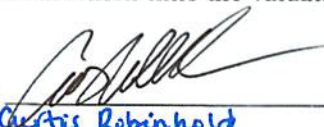

When a public improvement project requires that a government agency acquire or enter upon private property, the owners of that property are entitled to compensation under federal and state law. Federal law is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, PL 91-646, and state law is in Oregon Revised Statutes, 35.510, as amended.

The aforementioned federal and state laws also allow property owners to donate necessary property rights if they wish. To accomplish a donation, you need to acknowledge that the agency has informed you of the right to compensation and that you wish to donate.

By signing this form, you are acknowledging that you have received the brochure entitled *Acquiring Land For Public Projects* and understand it, that you have been presented with the North Rivergate Overcrossing Project plans related to the property in question and have had them explained to you, and that you own or are authorized to act on behalf of¹ the property owner at 9619 N Rivergate Blvd, Portland, OR, 97203.

Following from the above, I elect(s) as follows: (Check applicable box)

- I (we) desire to donate the requested easements.** If this election is made, please sign and return this form along with the signed easements to the City. By making this election you are waiving your right to an appraisal and just compensation and your signature below acknowledges your understanding of this waiver.
- I (we) desire to donate the requested easement as stated above and to obtain an appraisal/valuation for tax purposes only.** If this election is made, please sign and return this form along with the signed easement to the City. By making this election you are waiving just compensation and your signature below acknowledges your understanding of this waiver.
- I (we) desire an appraisal or valuation and to receive compensation according to Federal and State Laws.** If this election is made, please sign below and return this form to **City of Portland, Right-of-Way Acquisition, Attn: Marty Maloney, 1120 SW 5th Ave., Ste. 800, Portland, 97204** at which time the valuation process will begin.

By: Executive Director:  Date: 4/17/19
Curtis Robinhold
Assistant General Counsel:  Date: 4.16.19
Assistant

¹ If acting as a representative of the owner, please include written evidence of authority to do so.