

**EXHIBIT 1
LEASE
SURFACE AREA**

This lease is made and entered into this ____ day of _____, 200__, with an effective date of March 1, 2009 or the date of completion of Tenant's building improvements whichever is sooner (the Effective Date), by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon, (City) and _____, (Tenant).

WITNESSETH

WHEREAS, the City Council has determined that the area is not used for vehicle traffic and will not be needed for public use or purposes for the term of this lease, and the use of such area by Tenant for landscaping and vehicle parking will not interfere with any public utility use of the street area: and

WHEREAS, the City Council is of the opinion that leasing of said area to Tenant for landscaping and vehicle parking will give the best return to the City for use of such area.

NOWHEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

AGREED:

In consideration of the leasing of the premises described below (the Premises) and of the mutual agreements contained herein, each party expressly covenants and agrees as follows:

- 1) **Premises.** City agrees to lease Tenant the Premises more particularly described as City of Portland right of way described as a tract of land being part of Lots 7 and 8, Block 10, "Couch's Addition" situated in the S.W. ¼ of Section 34, Township 1 North, Range 1 East of the Willamette Meridian, City of Portland, County of Multnomah and State of Oregon, being more particularly described as follows: Commencing at the southeast corner of said Lot 8; thence North 22°19'45" West, along the east line of said Lot 8 a distance of 0.38 feet to the POINT OF BEGINNING; thence continuing North 22°19'45" West, along the east line of said Lot 8 a distance of 7.97 feet; thence South 67°40'15" West a distance of 5.89 feet; thence North 22°19'45" West a distance of 4.12 feet; thence South 70°35'57" West a distance of 179.24 feet to the west line of said Lot 7; thence South 22°19'45" East along the west line of said Lot 7 a distance of 11.31 feet; thence North 70°44'54" East a distance of 185.16 feet to the POINT OF BEGINNING. This tract contains 2,112 square feet more or less square feet, excepting therefrom a one hundred and seventy (170) square foot driveway area to be used for ingress and egress, with the Premises depicted on Exhibit A2 hereto. Tenant shall provide City with an as-built survey of improvements constructed within the

Premise no later than ninety (90) days after a certificate of completion has been issued.

- 2) **Authority.** The lease is entered into in accordance with general authorities provided under ORS 271.430.
- 3) **Term.** The term of this lease shall be thirty (30) years, commencing on *, and terminating at midnight on *, unless sooner terminated under the provisions hereof or extended pursuant to Section 8 below.
- 4) **Rent.**
 - a) Tenant shall pay City as annual rent (Rent) for the Premises the amount of \$14,499.00 per year, payable to the City of Portland, Room 800, 1120 SW Fifth Avenue, Portland, Oregon 97204-1985, attention Right-of-Way Acquisition, or such other place as the City may designate. Rent shall be paid in advance on or before the 10th of January each calendar year throughout the term of this lease, except the first year's rent shall be paid upon the execution of this lease. The obligation to pay Rent shall commence upon the Effective Date of this lease. If a partial calendar year exists at the Effective Date of this lease, the annual Rent shall be prorated and the amount due for the partial year shall be paid upon execution of this lease. All Rent to be paid by Tenant to City shall be in lawful money of the United States of America and shall be paid without deduction or offset, prior notice or demand, and at such place or places as may be designated from time to time by City.
 - b) No payment by Tenant or receipt by City of a lesser amount than any installment or payment of rent or other charges or fees shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or payment of rent or other charges or fees shall be deemed an accord and satisfaction. City may accept such check or payment without prejudice to City's right to recover the balance of such installment or payment of rent or other charges or fees, or pursue any other remedies available to City. Payments received shall be credited to the oldest outstanding amount due.
 - c) All amounts not paid by the Tenant when due shall bear interest at the rate of one percent (1%) per month. The interest rate of one percent (1%) on overdue accounts is subject to periodic adjustment to reflect City's then current interest rate charged on overdue accounts.
 - d) Commencing at the beginning of the sixth (6th) full calendar year following the Effective Date, and thereafter on the last day of each succeeding five (5) year period throughout the remainder of the Initial Term and any renewal term (hereinafter "Rent Adjustment Date"), rent shall be adjusted to equal the existing Annual Rent increased by the lesser of (i) any percentage increase in the most recently available Consumer Price Index (CPI) as of such Rent Adjustment Date over the CPI as of the Effective date of this Lease, or (ii) forty percent (40%) of the rent paid during the previous five year period. However, in no event shall adjusted rent equal less than Initial Rent. For example, if the CPI as of the date of this Lease were 300.2 and the CPI as of the fifth anniversary of the rent commencement date were 322.8, annual rent for the succeeding five-year period would be determined by multiplying the Initial Rent by 1.075. For purposes of this Section 4.b.

Unless otherwise agreed, CPI means the Consumer Price Index for All Urban Consumers (1982-84 equal to 100), Portland, Oregon for All Items, or a comparable Index published by the United States Bureau of Labor Statistics if such Consumer Price Index be discontinued.

- 5) **Net Lease.** It is the intention and purpose of the respective parties hereto that this Lease shall be a "net lease" to City, all cost or expense of whatever character or kind, general and special, ordinary and extraordinary, foreseen and unforeseen and of every kind and nature whatsoever that may be necessary in or about the operation of the Premises and Tenant's authorized use thereof during the entire Term, or its extension(s), to be paid by Tenant including but not limited to taxes, utilities, insurance, and/or property assessments, if applicable. All provisions of this Lease relating to expenses are to be construed in light of such intention and purpose to construe this Lease as a "net lease."
- 6) **Late Fee.** In addition to all of the remedies provided by this lease, if any rent or other charge required by this lease is not received by City within ten (10) days after it is due, City may impose a late charge equal to the greater of \$100.00 or five percent (5%) of the amount of the delinquent rent or other charge for the month in which the rent or other charge is delinquent. Tenant shall pay any late charges immediately upon billing by City. The imposition by City and/or the payment by Tenant of any late charges shall not waive or cure Tenant's default hereunder. Failure to impose a late charge on one occasion does not effect a waiver of City's right to impose a late charge on subsequent delinquent payments.
- 7) **Permitted Use.** Tenant accepts full responsibility for its use of the Premises from and after the Effective Date during the term hereof. The use of the Premises shall be exclusively for landscaping and parking, all directly associated with Tenant's adjacent business. No other uses by Tenant are allowed. Tenant shall not:
 - a) Use the Premises for any other use, without the prior written consent of City;
 - b) Permit any unlawful activity, occupation, business, or trade to be conducted on the Premises;
 - c) Construct or permit to be constructed any improvements on the Premises without prior written approval of the City;
 - d) Allow any lien to be filed against the Premises by anyone supplying labor or materials for any improvements or by or for the benefit of Tenant;
 - e) Sell or consume or permit the sell or consumption of alcohol or illegal drugs of any kind on the Premises.
 - f) Store gasoline, petroleum produces, explosives or other highly flammable materials on the Premises.
 - g) Commit waste of the Premises; or
 - h) Damage survey monuments, witness corners and other location markers.
 - i) Use that portion of the Premises occupied by the Burnside Bridge, together with the supporting columns associated with the bridge, the airspace above the bridge and that portion of the airspace under the bridge extending downward a distance of 7'6" from the underside of the overhead structure.

8) Option to Renew.

- a) Tenant, if not in default, is given an option to renew the Lease two (2) times for a term of thirty (30) years each time. In order to exercise this option Tenant shall not at any time have been or be in default of the Lease. If Tenant has at any time during the lease term defaulted in its performance of any of the terms and conditions of this lease, then this option is void. Should Tenant elect to renew the term of this lease, it shall give to City its written notice of such election not later than six (6) months prior to the expiration of the original term. If this lease has been assigned, except as provided for herein, or all or a portion of the Premises have been sublet, this option shall be deemed null and void and neither Tenant nor any assignee or subtenant shall have the right to exercise such option during the term of such assignment or sublease. Within thirty (30) days of receipt of Tenant's written notice of election to renew lease, City shall contact Tenant and arrange a suitable time and place to negotiate negotiable changes in the terms and conditions of the lease for the renewal term. The amount of rent during the renewal term shall not be negotiable and shall be the greater of the annual rent for the preceding five year period or the market rate for comparable lease sites as determined by City. In the event City and Tenant cannot agree on other negotiable changes, if any, in the terms and conditions of this lease, within sixty (60) days of City's receipt of Tenant's written notice of election to renew lease, this option shall expire and the lease shall terminate as required by the original lease or any amendments. Any negotiated changes in the terms and conditions of this Lease shall be in writing and shall be effective upon commencement of the renewal term.
- b) At the sole discretion of the City, rent may be adjusted to the market rate for comparable lease sites as determined by the City. Alternatively, the City may elect to adjust the rent in accordance with Section 4(d) above.

9) Nuisance, Waste, Hazardous Substances.

- a) Tenant shall refrain from any use which is improper, immoral, unlawful, objectionable or which is offensive or annoying or interferes or obstructs the rights of City or other tenants or owners, users, or occupants of the Premises, or nearby properties. Tenant shall not create or permit to be created any condition which would: constitute a fire hazard; permit any objectionable noise or odor to be emitted or escape from the Premises; injure the reputation of the Premises; permit the Premises to be used for lodging or sleeping purposes; in any manner result in defacement or injury of the Premises; or be dangerous to persons or property. Tenant shall not install any power machinery on the Premises except under the supervision and with the prior written consent of City. Tenant shall comply at tenant's sole cost and expense with all orders, notices, regulations or requirements of any governmental authority respecting the use of the Premises.
- b) The term "Hazardous Substances", as used in this lease, shall have the meaning set out at ORS 465.200(16)(2003 Ed) or as it may be amended, including asbestos.
- c) Tenant shall, at Tenant's own expense, comply with all laws regulating the use, generation, release, manufacture, refining, production, handling, processing, storage, transportation, or disposal of Hazardous Substances. Tenant shall not cause or permit to occur any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions at, on, under or about the Premises,

or arising from Tenant's use or occupancy of the Premises, including, but not limited to, soil and groundwater conditions.

- d) Tenant shall not cause or permit to occur the use, generation, release, manufacture, refining, production, handling, processing, storage, or disposal of any Hazardous Substance on, under or about the Premises, or the transportation to or from the Premises of any Hazardous Substance without City's prior written approval.
- e) Tenant shall, at Tenant's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities.
- f) Should any governmental authority or any third party demand that a clean up plan be prepared and that a clean up be undertaken because of any release of Hazardous Substances that occurs as a result of Tenant's use or occupancy of the Premises, then Tenant shall, at Tenant's own expense, prepare and implement the required plans and provide all financial assurances in accordance with applicable requirements.
- g) Tenant shall promptly provide all information regarding the use, generation, storage, transportation, release, manufacture, refining, production, handling, processing, or disposal of Hazardous Substances that is requested by City. If Tenant fails to fulfill any duty imposed under this section within a reasonable time, City may do so; and in such case, Tenant shall cooperate with City in order to prepare all documents City deems necessary or appropriate to determine the compliance therewith; and Tenant shall execute all documents promptly upon City's request. No such action by City and no attempt made by City to mitigate damages under any applicable law shall constitute a waiver of any of Tenant's obligations under this section.
- h) Tenant's obligations and liabilities under this section shall survive the expiration or termination of this lease.

10) **Fire Prevention.** Tenant shall exercise due diligence and care and caution to prevent and control fire on the Premises.

11) **Acceptance of Premises.**

- a) Tenant has examined the Premises and accepts them in "as is" condition. No representations or warranties as to the condition of the Premises have been made by City or its officers, agents or employees. City shall have no liability to Tenant for any damage or injury caused by the condition of the Premises.
- b) Tenant accepts the Premises subject to any and all existing permits, licenses, leases, easements, railroad facilities, pipelines, telephone, telegraph, communication, power and signal lines or any other similar facilities, together with any future installations thereof.

12) **Square Footage.** Tenant's signature to this lease verifies the approximate square footage of the Premises as stated herein. The monthly rent and any other charges provided by this lease shall not be adjusted by reason of any claimed variation in square footage by either party.

13) **Alterations and Additions.** Tenant shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof or its contents without first obtaining the written consent of City. If City consents, any alterations, additions or improvements to the Premises by Tenant shall be made by Tenant at Tenant's sole cost and

expense. Upon termination of this lease, Tenant shall upon written demand by City, at Tenant's sole cost and expense, immediately, and with all due diligence, remove any alterations, additions or improvements made by Tenant, designated by City to be removed. Tenant shall immediately and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

14) Tenant improvements.

- a) All work performed by Tenant on the Premises shall be done in strict compliance with all applicable building, fire, sanitary and safety codes, and other applicable laws, statutes, regulations, and ordinances, and Tenant shall secure all necessary permits for the work. To the extent required by law, Tenant shall apply for permits and submit permit plans to the City of Portland, Office of Planning and Development Review, or other appropriate City bureau or government agency, within ten (10) days of obtaining City's written consent to Tenant's plans and specifications. All plans for construction, alteration, or changes shall be signed and sealed by an architect or engineer licensed by the State of Oregon.
- b) City's written approval of the plans, specifications, and working drawings for Tenant's alterations, construction or changes shall create no responsibility or liability on the part of City for their completeness, design sufficiency, or compliance with all laws, rules and regulations of governmental agencies or authorities.
- c) Prior to the commencement of any work by Tenant, Tenant shall first submit the following to City and obtain City's written consent to all of the following, which consent shall not be unreasonably withheld: Tenant's plans and specifications; Tenant's estimated costs; and the names of Tenant's general contractor and major subcontractors.
- d) Tenant shall keep the Premises free from all liens in connection with any work. All work performed by Tenant shall be carried forward expeditiously, shall not interfere with City's work or the work to be performed by or for other tenants, and shall be completed within a reasonable time. All work shall be completed in a good workmanlike manner. City or City's employees or agents shall have the right at all reasonable times to inspect the quality and progress of the work.

15) Maintenance and Repair.

- a) Except for repairs which are City's responsibility, Tenant shall at all times maintain the Premises and all improvements of any kind, which may be erected, installed or made thereon by City or Tenant in a neat condition, free of trash and debris, in good and substantial condition, order and repair.
- b) City shall have no duty to make any repairs which are its obligations under this lease until Tenant has given written notice to City of the repairs to be made or condition to be corrected. City shall have no liability for failure to make any repair required of it if the repair is completed within a reasonable time following the notice from Tenant. Tenant waives the right to make repairs or maintain at City's expense under any law, statute or ordinance now or hereafter in effect.
- c) City shall not be required to make any repair which it deems to be uneconomic. In the event City determines that a repair shall not be made, it shall notify Tenant whose sole

remedy for failure to make such repair shall be its right to terminate this lease on thirty (30) days written notice to City.

- d) If the Premises are located at street level, Tenant shall, at all times, keep the sidewalks in front of the Premises free and clear of ice, snow, rubbish, debris, and obstruction.
 - e) Multnomah County, Oregon, owns and operates an overhead structure immediately above the Premises to be leased herein. Tenant agrees to protect said overhead structure and supporting piers from vehicle damage, and Tenant agrees to vacate Premises as necessary for working or securing access to the said overhead structure and supporting piers whenever called upon to do so by the City or the Multnomah County, Oregon. Tenant shall, in its use of airspace under the structure, allow sufficient vertical and horizontal clearance for the operation, maintenance, ventilation, and safety of the overhead system.
 - f) If Tenant's use of the Premises causes an immediate hazard in the street area or to the overhead structure, Tenant must notify City immediately and if so directed by City make immediate repairs approved by the City. If such repairs are not made in a responsive manner as determined by the City Engineer, then the City, upon such notice to Tenant as is practical under the circumstances, may cause such repairs to be made and bill Tenant for such cost. Failure to make payment within 90 days of billing shall constitute default in accordance with Section 18. The amount of such cost, if not paid to the City, shall become a lien on the interest of Tenant, or any successors or assigns of Tenant's interest in the Lease, in real property of Tenant in the immediate area.
- 16) **Signs and Attachments.** Tenant shall not, without City's prior written consent, place any marks, signs, advertisement, notice, marquee, awning, decoration, antenna, aerial, or any other device or attachment in, on or to the Premises. Any sign or attachment placed upon the Premises by Tenant with City's consent shall be removed at Tenant's expense upon termination of this lease, and all damage caused by the removal shall be repaired at Tenant's expense. Tenant shall properly maintain any signage it installs pursuant to this section. The cost of such installation, operation and maintenance shall be borne by Tenant.
- 17) **Security.** City may, but shall have no obligation to, provide security service or to adopt security measures regarding the Premises, and Tenant shall cooperate with all security measures adopted by City. Tenant may install a security system within the leased Premises with City's prior written consent, which shall not be unreasonably withheld. Tenant shall provide City with an access code or key to any security system at the time of installation and City shall not have any liability for accidentally setting off Tenant's security system. City may modify the type or amount of security measures or services provided to the Building or the Premises at any time.
- 18) **Liens.** Tenant shall keep the Premises free from all liens, including mechanics liens, arising from any act or omission of Tenant or those claiming under Tenant. Tenant shall pay as due all claims for work done, for services rendered or material furnished to the Premises at its request. If Tenant fails to pay any claims or to discharge any lien, City may do so and collect all costs of discharge, including its reasonable attorney's fees. Such action by City shall not constitute a waiver of any right or remedy City may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the

obligation to pay, so long as City's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten (10) days after knowledge of filing, provide City with an executed copy of a discharge of the lien, or deposit with City cash or a sufficient corporate surety bond or other security satisfactory to City in an amount sufficient to discharge the lien plus any costs, attorney's fees or other charges that could accrue as a result of any foreclosure sale or sale under the lien. This lease shall be subject and subordinate to such liens and encumbrances as are on or as City may hereafter impose on the land and building, and Tenant shall upon request of City, execute and deliver agreements of subordination consistent with this section.

19) **Light and Air.** This lease does not grant any rights of access to light or air over any part of the real property in which the Premises are located. City shall not be liable for interference with light and air.

20) **Eminent Domain.**

- a) Either party receiving any notice of an intended taking affecting the Premises or any portion thereof, any service of legal process relating to condemnation or any other notification in connection with any taking, condemnation or purchase, sale or transfer in lieu of condemnation, shall promptly give the other party notice. For purposes of this lease, taking or condemnation includes a sale to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power.
- b) If all or a portion of the Premises, or the building in which it is located, is taken by a corporation or governmental authority having right of eminent domain, by exercise of that right or by purchase, whether the taking be a direct physical taking or an indirect taking compensable by way of severance damages or the like, City shall be entitled to all of the proceeds of the taking and Tenant shall have no claim against City as a result of the taking except for a return of prepaid rent. If the Premises remaining after the taking, if any, are sufficient for practical operation of Tenant's business, as determined by the City, City shall proceed as soon as reasonably possible to make necessary repairs to cause the Premises to be comparable to that existing prior to the taking and Tenant shall pay as rent therefore the amounts reserved hereunder reduced commensurately with the reduction in value of the Premises on account of the taking. Rent shall be abated to the extent that the Premises are untenable during such period of alteration and repair. If the Premises remaining are not sufficient for practical operation of Tenant's business, as determined by the City, this lease shall terminate as of the date possession of the Premises is taken.

21) **Indemnification.**

- a) Tenant shall indemnify and hold harmless City, its officers, agents and employees from any and all liability, damage, expenses, attorney's fees, causes of actions, suits, claims or judgments, arising out of or connected with (1) the use, occupancy, management, or control of the Premises, (2) any failure of Tenant to comply with the terms of this lease or any violation of law or ordinance and (3) the acts or omission of Tenant, its agents, officers, directors, employees, or invitees; provided, however that Tenant shall not be liable for claims caused by the sole negligence of City, its officers, agents or employees. Tenant shall, at its own cost and expense, defend any and all claims, demands, actions or

suits which may be brought against Tenant, or City or its' officers, agents or employees, either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay, and discharge any and all judgments; including attorney fees and costs, that may be recovered against Tenant, or City or its' officers, agents, and employees, in any such action or actions in which they may be party defendants.

- b) Tenant shall give City prompt written notice in case of casualty or accident on the Premises. Tenant, as a material part of the consideration to City, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises from any cause other than City's sole negligence, and Tenant waives all claims in respect thereof against City.
- c) City and its officers, agents, and employees shall not be liable for any latent defect in the Premises. In addition to the indemnity provided above, Tenant agrees to indemnify, defend and hold harmless City, and its' officers, agents and employees, from and against all damages, costs, liabilities, and expenses caused by, arising out of, or in connection with, the use, generation, release, manufacture, refining, handling, processing, storage, transportation, or disposal of Hazardous Substances as defined in by ORS 465.200(16)(2003 Ed) or as it may be amended including asbestos. Damages, costs, liabilities and expenses shall include any amounts claimed to be owed by any regulatory or administrative agency.

22) **Liability Insurance.**

- a) Tenant shall maintain commercial general liability and property damage insurance, including automobile liability, that protects Tenant and City and its officers, agents, and employees as additional insureds from any and all risks, claims, demands, actions, and suits for damage to property including without limitation personal injury, including death, arising directly or indirectly from Tenant's activities or any condition of the Premises, whether or not related to an occurrence caused or contributed to by City's negligence. The insurance shall protect Tenant against the claims of City on account of the obligations assumed by Tenant under this lease and shall protect City and Tenant against claims of third persons. The insurance shall provide coverage for not less than \$1,000,000 for personal injury to each person, \$1,000,000 for each occurrence, and \$1,000,000 for each occurrence involving property damages; or a single limit policy of not less than \$1,000,000 for each occurrence, and \$1,000,000 covering all claims per occurrence. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of this lease. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds City and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage shall apply as to claims between insured on the policy. The insurance shall provide that the insurance shall not terminate or be cancelled without thirty (30) days written notice first

being given to the City. If the insurance is cancelled or terminated prior to termination of the lease, Tenant shall provide a new policy with the same terms. Tenant agrees to maintain continuous, uninterrupted coverage for the duration of the lease. The insurance shall include coverage for any damages or injuries arising out the use of automobiles or other motor vehicles by the Tenant.

- b) Tenant shall maintain on file with the City, a certificate of insurance certifying the coverage required by this section. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance and to maintain a current certificate of insurance on file, shall be cause for immediate termination of this lease by City.

23) Waiver of Subrogation.

- a) City and Tenant each agree to waive claims arising in any manner arising in favor of either City or Tenant and against the other for loss or damage to their property located within or constituting a part or all of the building in which the Premises are located to the extent the loss or damage is covered by liability insurance the party is required to carry under this Lease. The waiver also applies to Tenant's directors, officers, employees, shareholders and agents and to City's officers, agents and employees. The waiver does not apply to claims arising from the willful misconduct of City or Tenant.
- b) Tenant acknowledges that City is self-insured and that City will not obtain any insurance policy under this Lease. If Tenant is unable, despite its best efforts, to find an insurance company that will issue a policy containing a waiver meeting the requirements of this section at reasonable commercial rates, then it shall give City written notice within thirty (30) days after the commencement date of this Lease. Upon the date of issuance of such notice, both parties shall be released from their obligation of waiver of subrogation.

24) Workers' Compensation Insurance. Tenant shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended.

25) Assignment and Subletting.

- a) Tenant shall not assign this lease or any interest herein and shall not sublet the Premises or any part thereof, or any right or privilege pertinent thereto, and shall not sell or otherwise transfer any controlling ownership interest in any corporate Tenant, or permit any other person (the agents, employees and invitees of Tenant excepted) to occupy or use the Premises or any portion thereof, without first obtaining the written consent of City. Consent by City to one assignment, subletting, transfer, occupation or use by another person shall not be deemed to be consent to any subsequent assignment, subletting, transfer, occupation or use by another person. Notwithstanding language in this Lease to the contrary, Tenant may *upon thirty (30)-days prior notice to City* (i) mortgage its leasehold interest and/or (ii) assign its leasehold interest to an entity that owns Tenant, or is controlled by Tenant or is under common control with Tenant, without City's consent, *and (iii) within fifteen (15)-days of such occurrence, provide City with a notice mortgage and/or assignment including all relevant documents identifying mortgagee and/or assignee including an address and contact information.*

- b) Consent to an assignment, sublet, transfer, occupation or use shall not release the original named Tenant from liability for the continued performance of the terms and provisions on the part of Tenant to be kept and performed, unless City specifically and in writing releases the original named Tenant from liability.
- c) Any assignment, subletting, transferring, occupation or use without the prior written consent of City shall be void and shall, and at the option of City, terminate this lease. This lease shall not, nor shall interest herein, be assignable, as to the interest of Tenant, by operation of law, without the prior written consent of City.
- d) City shall not unreasonably withhold its consent to any assignment, subletting, transfer, occupation or use provided the rent paid by the assignee or subtenant is not less than the rent required by this lease and the proposed use by assignee or subtenant is compatible with City's normal standards for existing use of the Premises. If Tenant proposes an assignment of the Lease that requires City consent, City shall have the option of terminating this lease and dealing directly with the proposed assignee.
- e) If an assignment, subletting, transfer, occupation or use is permitted, the net value of any rent received by Tenant as a result of such transaction shall be paid to City promptly following its receipt by Tenant. Tenant shall pay any costs incurred by City in connection with a request for assignment, subletting, transfer, occupation or use including reasonable attorneys' fees.

26) **Assignability.** The covenants and conditions herein contained, subject to the sections as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties.

27) **Entry by City.**

- a) City, on behalf of itself or Multnomah County, reserves, and shall at any and all times have, upon notice to Tenant, the right to enter the Premises to inspect the same or the Bridge structure over the premises, to post notices of non-responsibility, to repair, reconstruct or construct the Premises or the Bridge structure over the Premises that City may deem necessary or desirable, without abatement of rent and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, providing that the entrance to the Premises shall not be unreasonably blocked thereby, and further providing that the business of Tenant shall not be interfered with unreasonably.
- b) Tenant hereby waives any claims for damages or for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby pursuant to this section.
- c) Any entry to the Premises obtained by City by any means shall not under any circumstances be construed or deemed to be forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.

28) **Default by Tenant.** The following shall be events of default:

- a) Failure of Tenant to pay any rent or other charge required by this lease within ten (10) days after it is due.

- b) Failure of Tenant to comply with any term or condition or to fulfill any obligation of this lease other than payment of rent or other charges, within ten (10) days after written notice by City specifying the nature of the default with reasonable particularity. However, if the default is of such a nature that it cannot be completely remedied within the ten (10) day period, Tenant shall not be in default if Tenant begins correction of the default within the ten (10) day period and thereafter proceeds with reasonable diligence and in good faith to correct the default as soon as practical and to completion.
- c) The abandonment of the Premises by Tenant or the failure of Tenant to occupy the Premises for fifteen (15) days or more, for one or more of the designated purposes of this lease unless such failure is excused under other sections of this lease.
- d) The bankruptcy or insolvency of Tenant or if a receiver or trustee is appointed to take charge of any of the assets of Tenant, sub-tenants or assignees in or on the Premises or in the event of judicial sale of the personal property in or on the Premises upon judgment against Tenant or any sub-tenant or assignee thereunder unless otherwise directed by order of a bankruptcy court.

29) Remedies On Default by Tenant.

- a) In the event of default, City may elect to terminate Tenant's right to possession of the Premises by notice to Tenant. Following such notice, City may re-enter, take possession of the Premises and remove any persons or property by legal action or self-help, with the use of reasonable force and without liability for damages. City shall have a security interest in Tenant's property on the Premises at the time of re-entry to secure all sums owed or to become owing City under this lease. Perfection of such security interest shall be taking possession of the property or otherwise as provided by law.
- b) Following re-entry by City because of Tenant's default, City may re-let the Premises. City may alter, refurbish or change the character or use of the Premises in connection with any re-letting. Re-letting by City following Tenant's default shall not be construed as an acceptance or a surrender of the Premises. If rent received upon re-letting exceeds the rent received under this lease, Tenant shall have no claim to the excess.
- c) Following re-entry, City shall have the right to recover from Tenant the following charges:
 - i) All unpaid rent or other charges for the period prior to re-entry, plus late charges as provided by this lease.
 - ii) All costs incurred by City by reason of Tenant's default, including, but not limited to the cost of recovering the Premises, of re-letting or attempting to re-let the Premises, including without limitation, the cost of clean up and repair and preparation for a new tenant, the cost of correcting any defaults or restoring any unauthorized alterations, the amounts of any real estate commissions or advertising expenses and the unamortized cost of any improvements installed at City's expense to meet Tenant's special requirements.
 - iii) Reasonable attorney's fees incurred in connection with the default, whether or not any litigation has commenced.
- d) City may institute actions periodically to recover damages as they accrue throughout the lease and no action for accrued damages shall be a bar to a later action for damages subsequently accruing. Nothing in this lease shall be deemed to require City to wait until

the lease terminates to institute action. City may obtain a decree of specific performance requiring Tenant to pay damages as they accrue. Alternately, City may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease.

- e) In the event that Tenant remains in possession following default and City does not elect to re-enter, this lease shall remain in effect and City may enforce all of its rights and remedies hereunder and City may recover all unpaid rent or other charges, plus late charges, and shall have the right to cure any non-monetary default and recover the cost of such cure from Tenant. In addition, City shall be entitled to recover attorney's fees reasonably incurred in connection with the default, whether or not litigation has commenced. City may institute actions to recover such amounts as they accrue and no one action for accrued damages shall bar a later action for damages subsequently accruing.
- f) The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another consistent remedy. Tenant's liability to City for default shall survive termination of this lease.

30) **Trade Fixtures, Default, Remedies.** Without limiting the remedies elsewhere provided by this lease, City's remedies shall include the removal of Tenant's trade fixtures, (as defined under Oregon law), equipment, furnishings, chattels and furniture from the Premises and storage and retention of same until all damages are paid. In such event, the damages recoverable by City from Tenant shall include the cost of removal of the foregoing items, repair and restoration of the Premises, transportation to storage, and storage charges, with interest on all such expenses from the date of expenditure by City until repaid as provided herein together with the other items of damages set forth in this lease. Upon payment of all damages, City shall release the trade fixtures, equipment furnishings, chattels and furniture to Tenant. Provided, however, and without limiting the default sections of this lease, if payment in full of all damages is not received, Tenant's property on the Premises is subject to the lien foreclosure remedies of ORS 87.162 et seq. Tenant waives all rights or claims against City as to the failure or difficulty of mitigation of damages by reason of removal of the foregoing items from the Premises, and Tenant may not then assert that the Premises cannot be leased to a third party because of the removal of the items.

31) **City's Inability to Perform.** City shall not be deemed in default for the non-performance or for any interruption or delay in performance of any of the terms, covenants and conditions of this lease if due to any labor dispute, strike, lockout, civil commotion or operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, or through act of God or other cause beyond the reasonable control of City, providing such cause is not due to the willful act or neglect of City

32) General Provisions

- a) Amendments. Any modifications to this Lease shall be made in writing executed by both parties, and approved by ordinance of the City Council if required.
- b) Administrative Fees. The City reserves the right to require reasonable administrative fees for written consents, estoppel certificates, assignments and other administrative actions that may be required under this lease.
- c) Ambiguity. Both parties have had the opportunity to provide input into the drafting of this Lease and have had the opportunity to review it with counsel, whether or not that opportunity has been exercised. Therefore, the parties agree that it shall not be construed for or against either party in order to resolve any ambiguity.
- d) Americans With Disabilities Compliance. With respect to the Premises, Lessee shall comply, at Lessee's sole expense, with all applicable sections of the Americans With Disabilities Act of 1990 (ADA), as it may be amended, including any duty the ADA may impose on City or Lessee as a result of Lessee's use, occupation, or alteration of the Premises.
- e) Attorneys Fees. In the event of suit to construe or enforce a provision of this Lease the losing party shall pay the prevailing party's reasonable attorney's fees and costs including those incurred in the course of trial, appeal and on review, in addition to all other sums provided by law. In calculating attorneys' fees to be awarded pursuant to this Section, if a prevailing party utilizes in-house counsel, that party is entitled to recover the reasonable market value of the services provided by in-house counsel in and related to the proceeding.
- f) Authority of Tenant. If Tenant is a corporation, each individual executing this lease on behalf of that corporation shall be duly authorized to execute and deliver this lease on behalf of the corporation, in accordance with the bylaws of the corporation, and the corporation warrants and represents that this lease is binding on the corporation.
- g) Choice of Law. This Lease shall be interpreted, construed, and enforced in accordance with, and governed by, the laws of the State of Oregon without regard to any conflict of laws provisions that would require the application of the law of any other jurisdiction.
- h) Consent of City. Whenever consent, approval or direction by City is required under the terms contained herein, all such consent, approval or direction shall be in writing from the City Engineer, Office of Transportation.
- i) Construction. In construing this Lease, if the context so requires, the singular pronoun shall be taken to mean and include the plural, and the masculine shall include the feminine and the neuter. All provisions of this Lease have been negotiated at arms length, and this Lease shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision of this Lease.
- j) Cumulative Rights and Remedies. No right or remedy or election provided by this lease shall be deemed exclusive but shall, whenever possible, be cumulative with all other rights and remedies available at law or in equity.
- k) Entire Agreement. This Lease and the attachments hereto are the entire agreement between the parties and there is no other oral or written agreement between the parties with regard to this subject matter. Subject to the limitation on transfers of Lessee's interest, this Lease shall bind and inure to the benefit of the parties, their respective heirs, successors and assigns.

- l) Exhibits. Exhibits, which are referred to in this lease, are attached hereto and by this reference incorporated herein.
- m) Grammatical Changes. Wheresoever the word City or Tenant is used herein, it relates also to the City or Tenant jointly and severally, if there may be more than one Tenant or City herein, and to their respective heirs, personal representatives, successors in interests and assigns; and the pronouns used herein shall be construed as the context and the sense and general purport of this lease may require.
- n) Headings. Any titles of the several parts and sections of this Lease are inserted for convenience of reference only and shall be disregarded in constructing or interpreting any of its provisions.
- o) Joint Obligation. If there be more than one Tenant, the obligations imposed hereunder shall be joint and several.
- p) No Partnership. Neither anything in this Lease contained nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Lease, other than City and Lessee.
- q) Non Waiver of Governmental Rights. Subject to the terms and conditions of this Lease, by making this Lease the City is specifically not obligating itself or any other agency with respect to any discretionary action relating to development or operation of the improvements to be constructed in association with this lease, including, but not limited to, re-zonings, variances, environmental clearances or any other governmental agency approvals or permits which are or may be required. The City specifically reserves all of its rights to exercise its police power for the benefit of the public, including, but not limited to, its right to enter, inspect, or order the Premises vacated, for the public health, safety or welfare. This Section grants to the City no greater or lesser rights than City has by virtue of its municipality status.
- r) Observance of Law. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county, and municipal authorities, now in force or which may hereafter be in force during the term of this lease.
- s) Partial Invalidity. Any section of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other section of the Lease and other sections shall remain in full force and effect.
- t) Place of Enforcement. Any action or suit to enforce or construe any provision of this Lease by any party shall be brought in the Circuit Court of the State of Oregon for Multnomah County, or the United States District Court for the District of Oregon.
- u) Quiet Possession. Upon Tenant paying the rent reserved hereunder and observing and performing all of the covenants, conditions, and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire term hereof, subject to all sections of this lease.

- v) Recordation. Neither City or Tenant shall record this lease, but a short form memorandum hereof may be recorded at the request of City.
 - w) Section Headings and Capitalization. The section headings to the sections of this lease are not part of the lease and shall have no effect upon the construction or interpretation of any part of it. Capitalization of certain words is provided to assist the reader. Capitalization of words or lack thereof shall have no effect upon the construction or interpretation of this lease.
 - x) Third Parties. City and Tenant are the only parties to this lease and as such are the only parties entitled to enforce its terms. Nothing in this lease gives or shall be construed to give or provide any benefit, direct, or indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of the lease.
 - y) Time of Essence. Time is of the essence of this Lease. All obligations of the Lessee and the City to each other shall be due at the date specified by this Lease.
 - z) Waivers. Acceptance by City of any rental or other benefits under this lease shall not constitute a waiver of any default. Any waiver by City of the strict performance of any of the sections of this lease shall not be deemed to be a waiver of subsequent breaches of a different character, occurring either before or subsequent to such waiver, and shall not prejudice City's right to strict performance of the same section in the future or of any other section of this lease. No waiver by the Lessee or the City of any provision of this Lease or any breach thereof, shall be of any force and effect unless in writing and no such waiver shall be construed to be a continuing waiver.
- 33) **Termination**. This Lease may be terminated only in the event of a default by either Tenant or City after 90-days prior notice with an opportunity to cure by the defaulting party or its lender. In the event that the Lease is terminated for any reason by the City, City's liability to Tenant shall be limited to the refund of prepaid rents, if any.
- 34) **Surrender Upon Termination**.
- a) Upon expiration of the lease term or earlier termination as provided for herein, Tenant shall deliver all keys to City and shall surrender the Premises to City in first class condition and broom clean. Alterations constructed by Tenant pursuant to City's permission shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purposes for which the Premises were let, need not be restored, but all repairs for which Tenant is responsible shall be completed prior to such surrender. Tenant's obligation under this section shall not apply in case of termination of this lease due to destruction of the Premises.
 - b) With the exception of Tenant's movable trade fixtures, all other fixtures placed upon the Premises during the term shall, at City's option, become the property of City. City may elect to require Tenant to remove all fixtures which would otherwise remain the property of City, and to repair any damage resulting from the removal. Should Tenant fail to effect the removals or make repairs, City may do so and charge the cost to Tenant together with late charges as provided by this lease from the date of the expenditure.

- c) Tenant shall remove all furnishings, furniture, and trade fixtures that remain the property of Tenant. Failure to do so shall be an abandonment of the property and Tenant shall have no further rights therein except as provide below. City may elect to proceed as follows with respect to such abandoned property:
 - i) Retain or dispose of the property as City sees fit.
 - ii) Following twenty (20) days written notice to Tenant, remove the property and place it in public storage for Tenant's account, in which case Tenant shall be liable for the cost of removal, transportation and storage, plus interest as provided herein from the date of all expenditures.
 - iii) Should Tenant fail to vacate the Premises when required, City may elect to take legal action to eject Tenant from the Premises and to collect any damages caused by Tenant's wrongful holding over.
 - iv) Tenant's failure to remove property as required by subsection c) of this section shall constitute a failure to vacate to which subsection d) of this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another Tenant or with occupancy by City for any purpose including preparation for a new tenant.
 - v) Tenant shall be responsible for all consequential damages to City as a result of Tenant's failure to surrender the Premises in accordance with the lease, and this clause shall survive the termination of the lease.
 - vi)
- 35) **Holding Over.** If Tenant remains in possession of the Premises or any part thereof after the expiration of the term hereof without the express written consent of City, such occupancy shall be a tenancy from month-to-month with rent in the amount of the last monthly rent, plus all other charges payable hereunder, and upon all terms hereof, applicable to month-to-month tenancy. The hold over tenancy may be terminated at will at any time by City. City shall have the right to adjust the rent payments, charges, or use fees upon thirty (30) days written notice to Tenant. In the event of hold over beyond June 30th of any year, Tenant shall be responsible for payment of real property taxes for the entire year without proration.
- 36) **Notices.** Any notices required or permitted by law or this lease to be given to either party shall be effective upon mailing by United States certified mail, addressed as specified below, or to such other address as either party may specify to the other in writing from time to time during the term of this lease.

To City: CITY OF PORTLAND
Right of Way Acquisition
Office of Transportation
1120 SW Fifth Avenue, Room 800
Portland, Oregon 97204

To Tenant: _____

IN WITNESS WHEREOF, _____, an Oregon limited liability company, pursuant to its Articles of Organization, duly and legally adopted, has caused these presents to be signed by its member, this _____ day of _____, 2006.

TENANT:

By: _____
Name, Title

STATE OF OREGON

County of _____

This instrument was acknowledged before me on _____, 200__, by _____ as a member of _____, an Oregon limited liability company.

Notary Public for State of OREGON

My Commission expires _____

CITY OF PORTLAND

By: _____
Commissioner Sam Adams

By: _____
Gary Blackmer
Auditor

STATE OF OREGON)
)ss.
County of Multnomah)

Personally appeared Sam Adams, who being duly sworn, did say that he is the Commissioner of Public Utilities for the City of Portland, a municipal corporation, and that said instrument was signed in behalf of said corporation by authority of its City Council and acknowledged said instrument to be its voluntary act and deed.

Before me _____
Notary Public for Oregon
My Commission expires _____

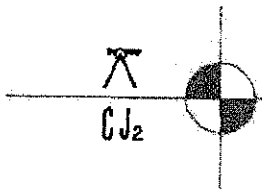
STATE OF OREGON)
)ss
County of Multnomah)

Personally appeared Gary Blackmer, who being duly sworn, did say that he is the Auditor of the City of Portland, a municipal corporation, and that said instrument was signed in behalf of said corporation by authority of its City Council and acknowledged said instrument to be its voluntary act and deed.

Before me _____
Notary Public for Oregon
My Commission expires _____

APPROVED AS TO FORM

Deputy City Attorney



CHASE, JONES & ASSOCIATES INC.
FORMERLY BOOTH & WRIGHT
Land Surveyors & Engineers Since 1883

716 S.E. 11TH AVE PORTLAND, OR 97214
TEL: 503-228-9844

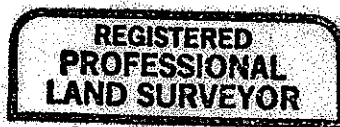
January 24, 2008
#12326

PROPOSED LEASE AREA

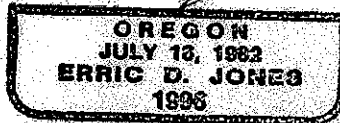
A tract of land being part of Lots 7 and 8, Block 10, "Couch's Addition" situated in the S.W. 1/4 of Section 34, Township 1 North, Range 1 East of the Willamette Meridian, City of Portland, County of Multnomah and State of Oregon, being more particularly described as follows:

Commencing at the southeast corner of said Lot 8; thence North 22°19'45" West, along the east line of said Lot 8 a distance of 0.38 feet to the POINT OF BEGINNING; thence continuing North 22°19'45" West, along the east line of said Lot 8 a distance of 7.97 feet; thence South 67°40'15" West a distance of 5.89 feet; thence North 22°19'45" West a distance of 4.12 feet; thence South 70°35'57" West a distance of 179.24 feet to the west line of said Lot 7; thence South 22°19'45" East along the west line of said Lot 7 a distance of 11.31 feet; thence North 70°44'54" East a distance of 185.16 feet to the POINT OF BEGINNING.

This tract contains 2,112 square feet more or less.

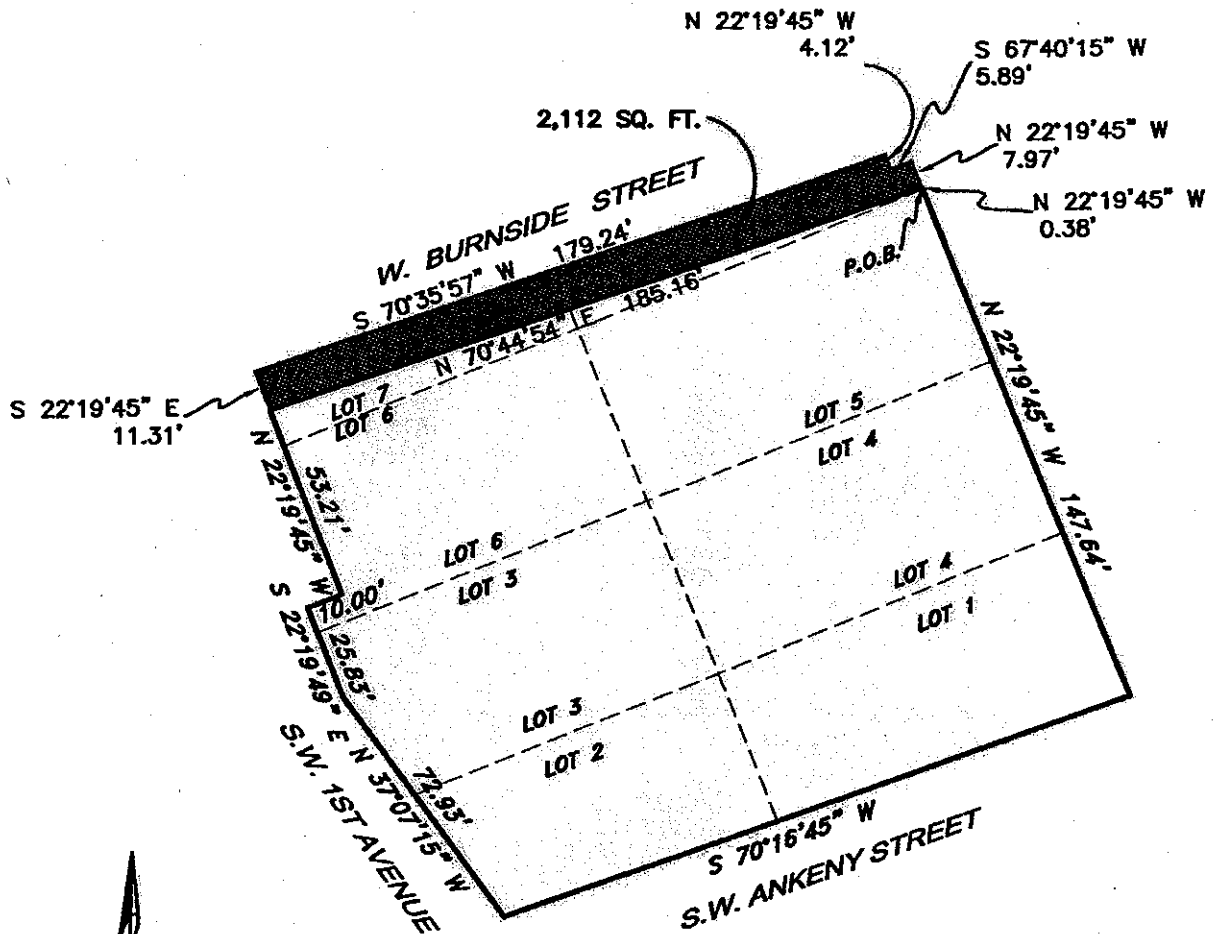


Eric D. Jones



EX-6-30-09

EXHIBIT A Z



PROPOSED LEASE AREA

OF
 A PORTION OF LOTS 7 & 8
 BLOCK 10, "COUCH'S ADDITION"
 SITUATED IN THE
 SW 1/4 OF SECTION 34, T. 1 N., R. 1 E., W.M.
 CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

BY:

CHASE, JONES & ASSOCIATES INC.
 716 S. E. 11TH AVE. PORTLAND, OREGON 97214
 PHONE (503) 228-9844

PROJECT NO.: 12326

SCALE: 1"=50'

DATE: JAN. 24, 2008 1/4 SEC. 3029

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Eric D. Jones

OREGON
 JULY 16, 1982
 ERRIC D. JONES
 1996

EXPIRES: 6-30-09