

Multnomah County Official Records
R Weldon, Deputy Clerk

2015-034465

03/31/2015 11:25:09 AM

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\$75.00 \$11.00 \$10.00 \$20.00

\$116.00

AFTER RECORDING RETURN TO:

City of Portland
1120 SW 5th Avenue, Ste 800
Portland, OR 97204

R/W #7908

Space Above this Line for Recorder's Use

ACCESS AND PUBLIC USE EASEMENT AGREEMENT

This Access and Public Use Easement Agreement (this "Agreement"), dated as of March 31, 2015, is made by Union Station B, LLC, an Oregon limited liability company ("Union Station B"), The Yards Phase C Limited Partnership, an Oregon limited partnership (Yards Phase C"), GSL Yards Phase S Investors, LLC, an Oregon limited liability company ("Yards Phase S"), and the City of Portland, a municipal corporation in the State of Oregon, acting by and through its Bureau of Transportation (the "City"). Union Station B, Yards Phase C, and Yards Phase S are collectively referred to herein as the "Grantors." The Grantors and the City are collectively referred to herein as the "Parties."

Recitals:

A. Union Station B is the owner of certain property located in the City of Portland which is more particularly described on Exhibit A attached hereto and by this reference incorporated herein (the "Property"). The Property consists of Lot 6, Union Station No. 2 ("Lot 6") which was previously leased by Union Station B from the City and Tract A ("Tract A") an undivided interest in which was recently conveyed to Union Station B by the City.

B. Yards Phase C and Yards Phase S each have an undivided interest in Tract A along with Union Station B who collectively own Tract A.

C. Union Station B developed Lot 6 into a multi-family housing project with 321 apartment units (the "Project"). The Project contains a pedestrian way (the "Pedestrian Way") that extends across the Property from NW Ironside Terrace, a private road, to NW Naito Parkway, a public street, and open air public plazas on either side of the Pedestrian Way that runs through Lot 6 (the "Plaza Areas"), both more particularly described on Exhibit B and depicted on Exhibit C attached hereto and by this reference incorporated herein.

D. The City has conveyed the Property to Union Station B with one of the conditions to the conveyance being that the Grantors enter into this Agreement (i) to provide a non-exclusive perpetual right for the public to use the Pedestrian Way and (ii) a non-exclusive perpetual right for the public to use the Plaza Areas.

COMM

WFG Title

Agreement:

Therefore, for good and valuable consideration, receipt of which is hereby acknowledged by the parties, the parties hereto for themselves and for the benefit of the public, hereby agree as follows:

1. Grant of Access Easement to Pedestrian Way.

1.1 Grantors hereby grant and conveys to the City a non-exclusive perpetual access easement for public use for the purpose of ingress and egress through, over and across the surface of the Pedestrian Way more particularly described on Exhibit B and depicted on Exhibit C attached hereto and by this reference incorporated herein (the "Pedestrian Way Easement").

1.2 The Pedestrian Way Easement may be used for ingress and egress by the Parties to this Agreement and by the general public and shall not be obstructed by any party to this Agreement or any member of the general public, except as reasonably necessary in order for Union Station B to conduct maintenance and repair of the Pedestrian Way on, over or under the Pedestrian Way or as otherwise required by governmental authorities. Use of the Pedestrian Way shall be on a regular, continuous, nonexclusive, non-priority basis benefiting the Parties, their successors, assigns, lessees, invitees, guests, tenants, customers, agents and employees and the general public (collectively, "Pedestrian Way Permittees"). However, the rights of any party hereunder shall not lapse in the event of such party's failure to use the Pedestrian Way on a continuous basis.

2. Grant of Public Use Easement of Plaza Areas.

2.1 Union Station B hereby grants and conveys to the City a non-exclusive perpetual easement for use by the general public as an outdoor plaza, over and across the surface of the Plaza Areas more particularly described on Exhibit B and depicted on Exhibit C attached hereto and by this reference incorporated herein.

2.2 The access to the Plaza Areas granted may be used by the City and the general public and shall not be obstructed by the Parties to this Agreement or any member of the general public. Use of the Plaza Areas shall be on a regular, continuous, nonexclusive, non-priority basis benefiting the Parties, their successors, assigns, lessees, invitees, guests, tenants, customers, agents and employees and the general public (collectively, "Plaza Area Permittees"). However, the rights of any party hereunder shall not lapse in the event of such party's failure to use the Plaza Areas on a continuous basis.

3. Maintenance and Repair.

3.1 Maintenance and repair shall be done according to this Agreement and according to the terms of Section 2.7.3 of that certain Amended and Restated Disposition and Development Agreement between the City and GSL Properties, Inc., predecessor in interest to Union Station B, recorded in the Deed Records of Multnomah County, Oregon on September 19, 2000 as Instrument No. 2000-130281, as amended by Amendments Nos. 1 – 6 inclusive (the "Development Agreement"). The parties hereto acknowledge and agree that the terms of such Section 2.7.3 continue in full force and effect.

3.2 Pursuant to the terms of Section 2.7.3 of the Development Agreement, Union Station B, as the owner of Lot 6, shall be responsible for the periodic maintenance and necessary repairs to the Pedestrian Way and the Plaza Areas as though they existed within a public street right-of-way. Required maintenance shall include, but not be limited to the removal of snow, ice and debris within a reasonable time after their occurrence.

3.3 The cost of such maintenance and repair shall be shared in the manner provided for in Section 2.7.3 of the Development Agreement which provides for Union Station B to maintain and repair the Pedestrian Bridge and for the City to pay one-half of the cost of such maintenance and repair.

4. Liability. Union Station B shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from or by reason of its failure to keep the Pedestrian Way and the Plaza Areas in safe condition and good repair. Union Station B shall defend, indemnify, and hold the City of Portland, its officers, agents and employees harmless from any and all liability or claims for damages to persons or property which may arise or result from its failure to maintain, reconstruct and repair the Pedestrian Way and the Plaza Areas.

5. Taxes and Assessments. The easement herein granted is not a dedication of public right-of-way and it is understood and agreed that the City, by accepting this easement, is not accepting any liability for taxes, assessments, or other governmental charges relating to the Pedestrian Way and the Plaza Areas.

6. Development Rights. Grantor reserves all development rights appurtenant to the Pedestrian Way and the Plaza Areas for Grantor and its heirs, executors, and assigns. This reservation of development rights includes, but is not limited to, the right to use the Pedestrian Way and the Plaza Areas for building setbacks, lot coverage, density calculations, and storm water/pervious area.

7. Breach of Obligations by Grantor. In addition to any other remedies provided by Oregon law, in the event that Grantors, or any one of them, fail to perform their obligations under this Agreement, the City shall be entitled to require such performance by suit for specific performance or, where appropriate, through injunctive relief.

8. Notices. All notices given with respect to this Agreement shall be in writing and shall be deemed given upon personal delivery by a nationally recognized delivery services or upon the expiration of the third day after the date of deposit in the United States mail as registered or certified mail, return receipt requested, postage prepaid, addressed to the Parties as follows:

Union Station B, LLC
2164 S.W. Park Terrace
Portland, Oregon 97205

The Yards Phase C Limited Partnership
2164 S.W. Park Terrace
Portland, Oregon 97205

GSL Yards Phase S Investors, LLC
2164 S.W. Park Terrace
Portland, Oregon 97205

Portland Bureau of Transportation
1120 S.W. 5th Avenue, Suite 800
Portland, Oregon 97224
Attn: Right of Way Supervisor

9. Effect of Agreement. The easements granted hereunder shall run with the land as to all property burdened and benefited by such easements, including any division or partition of such property. The rights, covenants and obligations contained in this Agreement shall bind, burden and benefit the parties hereto and each party's heirs, personal representatives, successors and assigns, mortgagees and beneficiaries under a deed of trust.

10. Governing Law. This Agreement shall be governed by the laws of the State of Oregon without regard to the conflict of law principles of Oregon law regardless of where it may have been executed or delivered.

11. Counterparts. This Agreement may be executed in counterparts, and all counterparts, when taken together, shall be deemed a single instrument.

12. Severability. If any provision of this Agreement shall be unlawful, then such provision shall be null and void, but the remainder of this Agreement shall remain in full force and effect and be binding on the parties.

13. Entire Agreement. This Agreement represents the entire agreement between the Parties with respect to the subject matter herein and supersedes all prior negotiations and oral or written communications between the parties concerning the subject matter hereof.

14. Amendment. No provision of this Agreement may be modified or terminated except by an instrument in writing signed by the party against whom enforcement of the modification or termination is sought and the recording of same in the Records of Multnomah County, Oregon. However, the Parties hereto may amend, modify or terminate the easements granted hereunder by an instrument in writing signed by the Parties and recorded in the Records of Multnomah County, Oregon and such amendment, modification or termination, as the case might be, shall bind all members of the general public that may claim a benefit under the terms of this Agreement.

15. Recitals. The recitals are hereby incorporated into this Agreement by reference as if fully set forth herein.

[The remainder of this page intentionally left blank. The next page is the signature page.]

SIGNATURE PAGE – FIRST OF TWO SIGNATURE PAGES

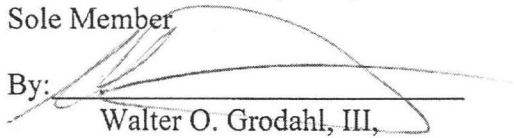
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

UNION STATION B:

UNION STATION B, LLC, an
Oregon limited liability company

By: GSL Union Investors, LLC, Manager

By: GSL Investors Master, LLC,
Sole Member


By: 
Walter O. Grodahl, III,
Authorized Signer

YARDS PHASE C:

THE YARDS PHASE C LIMITED PARTNERSHIP
an Oregon limited partnership

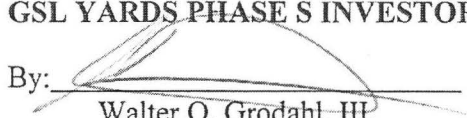
By: GSL YARDS PHASE C INVESTORS LLC,
an Oregon limited liability company,
General Partner

By: GSL INVESTORS MASTER LLC,
an Oregon limited liability company,
sole member

By: 
Walter O. Grodahl, III
Authorized Member

YARDS PHASE S:

GSL YARDS PHASE S INVESTORS, LLC

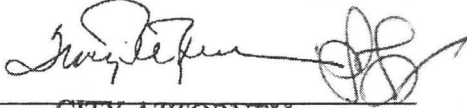
By: 
Walter O. Grodahl, III,
Authorized Signer

SIGNATURE PAGE – SECOND OF TWO SIGNATURE PAGES

CITY:

APPROVED AS TO FORM:

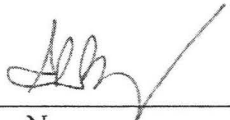
APPROVED AS TO FORM



City Attorney **CITY ATTORNEY**

THE CITY OF PORTLAND, a municipal corporation
in the State of Oregon, acting by and through
its Bureau of Transportation

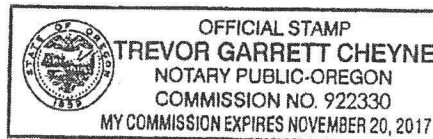
APPROVED AND ACCEPTED:

By: 
Name: _____
Title: _____

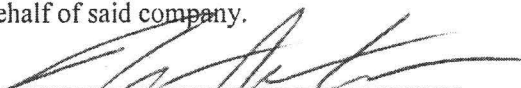
[The acknowledgments appear on the following page.]

ACKNOWLEDGMENTS

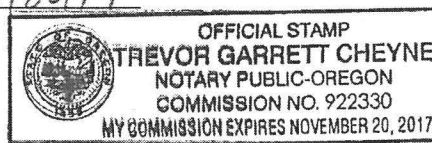
STATE OF OREGON)
) ss.
County of Multnomah)




This instrument was acknowledged before me on March 30 2015, by Walter O. Grodahl, III, the authorized signer for GSL Investors Master, LLC, the sole member of GSL Union Investors, LLC, the manager of Union Station B, LLC, on behalf of said company.


Notary Public for Oregon
My commission expires: 11/20/17

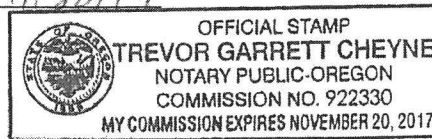
STATE OF OREGON)
) ss.
County of Multnomah)




This instrument was acknowledged before me on March 30 2015, by Walter O. Grodahl, III, the authorized signer for GSL Investors Master, LLC, the sole member of GSL Yards Phase C Investors LLC, the general partner of The Yards Phase C Limited Partnership, on behalf of said partnership.


Notary Public for Oregon
My commission expires: 11/20/17

STATE OF OREGON)
) ss.
County of Multnomah)



This instrument was acknowledged before me on March 30 2015, by Walter O. Grodahl, III, the authorized signer for GSL Yards Phase S Investors, LLC, on behalf of said company.


Notary Public for Oregon
My commission expires: 11/20/17

STATE OF OREGON)
) ss.
County of Multnomah)

On this ____ day of March, 2015, personally appeared _____, who being duly sworn, did say that he/she is the Director or designee for the Bureau of Transportation of the City of Portland, a municipal corporation, and that said instrument was signed on behalf of said corporation by authority of its City Council and acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon
My commission expires: _____

ACKNOWLEDGMENTS

STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me on March __, 2015, by Walter O. Grodahl, III, the authorized signer for GSL Investors Master, LLC, the sole member of GSL Union Investors, LLC, the manager of Union Station B, LLC, on behalf of said company.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me on March __, 2015, by Walter O. Grodahl, III, the authorized signer for GSL Investors Master, LLC, the sole member of GSL Yards Phase C Investors LLC, the general partner of The Yards Phase C Limited Partnership, on behalf of said partnership.

Notary Public for Oregon
My commission expires: _____

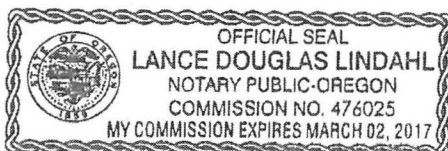
STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me on March __, 2015, by Walter O. Grodahl, III, the authorized signer for GSL Yards Phase S Investors, LLC, on behalf of said company.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
County of Multnomah)

On this 30th day of March, 2015, personally appeared Alex Beprano, who being duly sworn, did say that he/she is the Director or designee for the Bureau of Transportation of the City of Portland, a municipal corporation, and that said instrument was signed on behalf of said corporation by authority of its City Council and acknowledged said instrument to be its voluntary act and deed.



Lance D. Lindaahl

Notary Public for Oregon
My commission expires: March 02, 2017

Exhibit A

Legal Description of Property

Lot 6, Union Station No. 2, in the City of Portland, County of Multnomah and State of Oregon.

TOGETHER WITH an undivided interest in Tract "A", Union Station No. 2, in the City of Portland, County of Multnomah and State of Oregon, as set forth in Agreement recorded October 10, 2001, Recording No. 2001-160825, as amended September 13, 2005, Recording No. 2005-174233.

Exhibit A

Legal Description of Property

Lot 6, Union Station No. 2, in the City of Portland, County of Multnomah and State of Oregon.

TOGETHER WITH an undivided interest in Tract "A", Union Station No. 2, in the City of Portland, County of Multnomah and State of Oregon, as set forth in Agreement recorded October 10, 2001, Recording No. 2001-\160825, as amended September 13, 2005, Recording No. 2005-174233.

EXHIBIT B

Legal Description of Pedestrian Way and Plaza Areas

Jack Carlson
Otak, Inc.
3/20/2015

Union Station No. 2
Pedestrian and Public Use
Easements

EXHIBIT B

Parcel 1-Pedestrian Easement

A tract of land in the northwest one-quarter of Section 34, Township 1 North, Range 1 East, Willamette Meridian, Multnomah County, Oregon, being a portion of Lot 6 and Tract 'A', UNION STATION NO. 2, the said tract being more particularly described as follows:

Beginning at a point on the northeasterly line of said Lot 6, which point bears N.39°57'05"W., a distance of 266.49 feet from the most northerly southeast corner of said Lot 6; thence continuing along said northeasterly line, N.39°57'05"W., a distance of 45.12 feet; thence leaving said northeasterly line, S.63°15'00"W., a distance of 49.92 feet; thence continuing S.63°15'00"W., a distance of 120.03 feet; thence N.74°11'30"W., a distance of 28.23 feet; thence S.63°15'00"W., a distance of 17.02 feet; thence S.26°45'00"E., a distance of 19.09 feet; thence S.63°15'00"W., a distance of 36.85 feet to the southwesterly line of said Tract 'A'; thence S.39°55'10"E. along said southwesterly line, a distance of 10.27 feet; thence leaving said southwesterly line, N.63°15'00"E., a distance of 194.70 feet; thence S.39°57'05"E., a distance of 46.24 feet; thence N.50°02'55"E., a distance of 48.60 feet to the Point of Beginning.

Contains 4,940 square feet, more or less.

Parcel 2-Public Use Easement

A tract of land in the northwest one-quarter of Section 34, Township 1 North, Range 1 East, Willamette Meridian, Multnomah County, Oregon, being a portion of Lot 6, UNION STATION NO. 2, the said tract being more particularly described as follows:

Beginning at a point which point bears N.39°57'05"W. along the northeasterly line of said Lot 6, a distance of 311.61 feet, and S.63°15'00"W., a distance of 49.92 feet from the most northerly southeast corner of said Lot 6; thence continuing S.63°15'00"W., a distance of 120.03 feet; thence N.74°11'30"W., a distance of 28.23 feet; thence S.63°15'00"W., a distance of 7.50 feet to the southwesterly line of said Lot 6; thence N.39°55'10"W. along said southwesterly line, a distance of 37.38 feet; thence leaving said southwesterly line, N.50°04'50"E., a distance of 5.00 feet; thence S.39°55'10"E., a distance of 30.09 feet; thence N.50°02'55"E., a distance of 42.10 feet; thence N.39°57'05"W., a distance of 8.54 feet; thence N.50°02'55"E., a distance of 90.94 feet;

thence S.39°57'05"E., a distance of 57.56 feet; thence N.50°02'55"E., a distance of 2.00 feet; thence S.39°57'05"E., a distance of 10.74 feet to the Point of Beginning.

Contains 6,598 square feet, more or less.

Parcel 3-Public Use Easement

A tract of land in the northwest one-quarter of Section 34, Township 1 North, Range 1 East, Willamette Meridian, Multnomah County, Oregon, being a portion of Lot 6, UNION STATION NO. 2, the said tract being more particularly described as follows:

Beginning at a point which bears N.39°57'05"W. along the northeasterly line of said Lot 6, a distance of 266.49 feet, and S.50°02'55"W., a distance of 48.60 feet from the most northerly southeast corner of said Lot 6; thence S.50°02'55"W., a distance of 135.11 feet; thence S.39°55'10"E., a distance of 22.76 feet; thence S.50°04'50"W, a distance of 5.00 feet to the southwesterly line of said Lot 6; thence N.39°55'10"W. along said southwesterly line, a distance of 101.86 feet; thence leaving said southwesterly line, N.63°15'00"E, a distance of 143.86 feet; thence S.39°57'05"E., a distance of 46.24 feet to the Point of Beginning.

Contains 8,894 square feet, more or less.

Bearings are based on the plat of UNION STATION NO. 2.

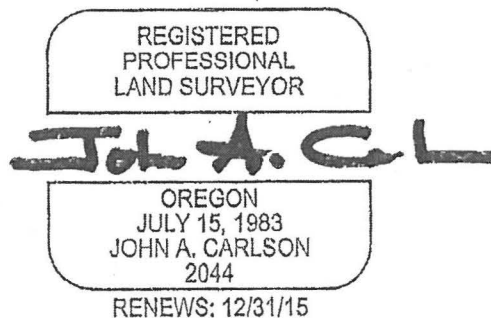
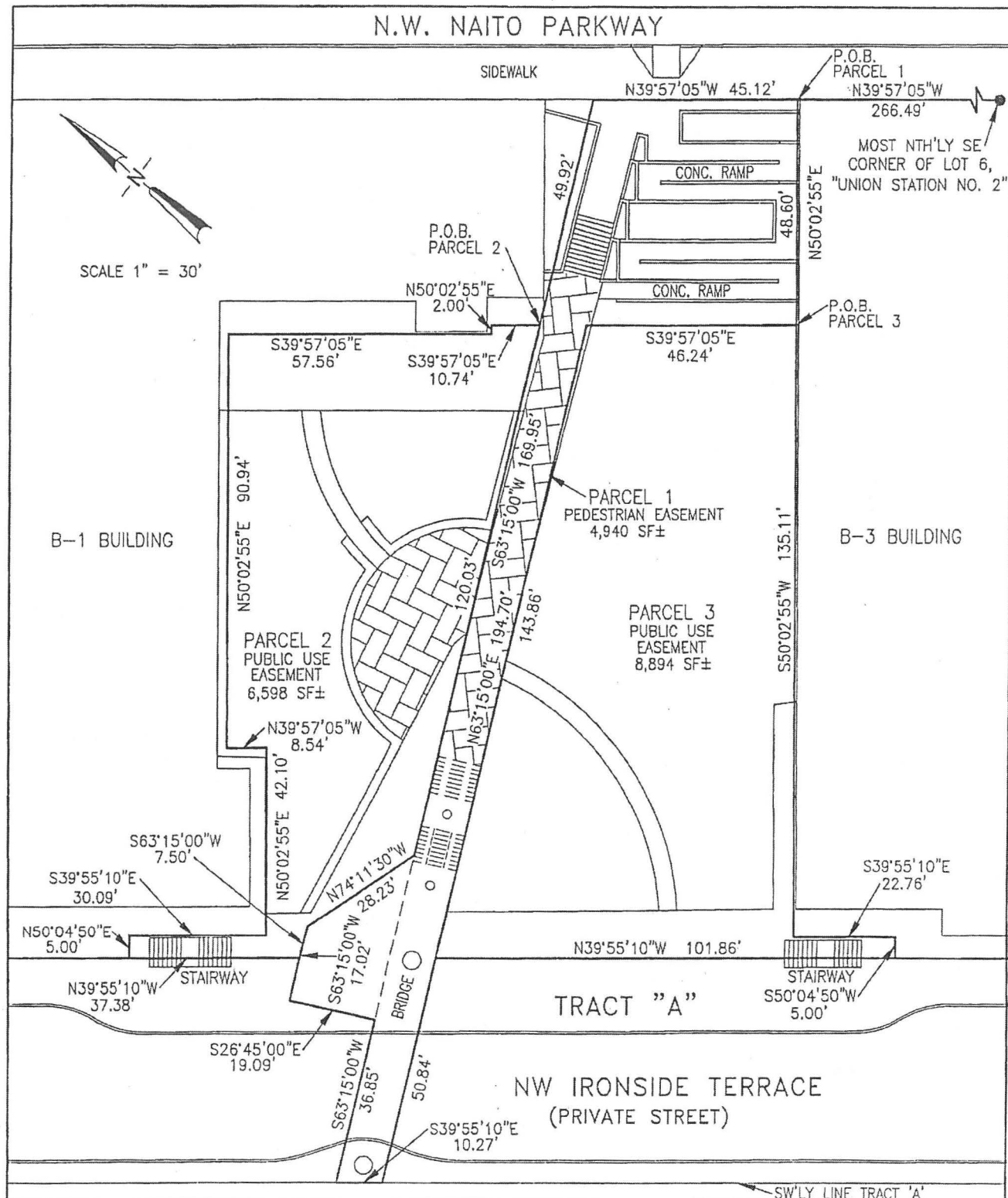


EXHIBIT C

Map of Pedestrian Way and Plaza Areas



J. CARLSON
 Calculated
 M. RUSCH
 Drawn
 J. CARLSON
 Checked By

otak
 808 SW THIRD AVE., STE 300
 Portland, Oregon 97204
 Phone: (503) 287-3825
 FAX: (503) 415-2304
 Incorporated

UNION STATION NO. 2

C-2

Project No. 17563
 File No. 1 OF 1
 Sheet No.